

# Data Protection Policy - GDPR: A Mind Apart Theatre Company Limited

## Rationale

A Mind Theatre Company Limited (A Mind Apart) is committed to a policy of protecting the data rights and privacy of individuals, including learners, staff and others, in accordance with the General Data Protection Regulation (GDPR) May 2018.

The new regulatory environment demands higher transparency and accountability in how organisations and companies manage and use personal data. It also accords new and stronger rights for individuals to understand and control that use, including giving individuals the right to know what information is held about them.

The GDPR contains provisions that A Mind Apart agrees to be aware of as a data controller. Such provisions include the need to enhance the protection of personal data we hold, whether that be of student, parent, staff member, volunteers, or any other individual we come into contact with through our objectives. The GDPR requires that we must ensure that our organisational privacy notices are written in a clear and plain way that staff, volunteers, parents and students will understand.

A Mind Apart needs to process certain information about it's staff, volunteers, students, parents and guardians and other individuals with whom we have a relationship for various purposes including, but not limited to:

1. The recruitment and payment of staff and freelance contractors
2. The administration of programmes of study, courses and qualifications, classes, after-school clubs and holiday clubs.
3. Student enrolment and referral
4. Qualification course work and external accreditation
5. Recording student progress, attendance, conduct
6. Recording student Special Educational Needs, or other medical or health needs (including EHC Certificates) for safeguarding purposes to enable us to support a students development successfully in our sessions.
7. Recording of incidence reports, which may hold personal data
8. Collecting fees and payments of invoices



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9. Complying with legal obligations to funding bodies, Local Authorities we are contracted with, Learning Education Authority, Board of Safeguarding, Government, including Local Government.

To comply with data protection legal obligations, including the obligations imposed by the GDPR, A Mind Apart's management and Board of Directors, with a registered address at 57 Burton Street, Hillsborough, Sheffield. S6 2HH, are committed to ensuring that the organisation is fully compliant with all applicable UK and EU data protection legislation in respect of personal data, as well as safeguarding the "rights and freedoms" of those whose information we hold. We will ensure that all information about individuals is collected and used fairly, stored safely and securely, and not disclosed to any third party unlawfully.

A Mind Apart Theatre Company Limited is registered with the ICO (Information Commissioners Office) under registration reference: Z3313945 and has been registered since 31<sup>st</sup> August 2012. Certificates are on display in the A Mind Apart office in Bike Shed 8, 57 Burton Street Hillsborough, Sheffield, S6 2HH.

## **Compliance**

All staff, freelancers, volunteers and others working with A Mind Apart will be expected to read and comply to this policy as part of their agreement or contract with working with us. Any breach of this policy or of the Regulation itself will be considered an offence and disciplinary action will be taken.

As a matter of best practice, other agencies and individuals working with A Mind Apart and who have access to personal information, will be expected to prove they are working within the UK and GDPR data law in accordance with this policy. It is expected that management and departments who are responsible for dealing with external bodies will take the responsibility for ensuring that such bodies sign a contract which among other things will include an agreement to abide by this policy.

This policy will be updated as necessary to reflect best practice in data management, security and control and to ensure compliance with any changes or amendments to the GDPR and other relevant legislation.

## **General Data Protection Regulation (GDPR)**

The piece of legislation comes in to force on 25<sup>th</sup> May 2018. The GDPR regulates the processing of personal data, and protects the rights and privacy of all living individuals (including children). The purpose of the GDPR is



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to ensure the “rights and freedoms” of living individuals, and to protect their personal data by ensuring that it is never processed without their knowledge and, when possible, their consent.

Under the GDPR, individuals who are the subject of personal data are given a general right to access the personal data which related to them. Individuals can exercise the right to gain access to their information by means of a ‘subject access request’. Personal data is information relating to an individual and may be in hard or soft copy (paper/manual files; electronic records; photographs; videos), and may include facts or opinions about a person.

The GDPR also sets our specific regulations for those working with other organisations such as the Education Sector through the Data Sharing Code of Practice (DPCoP) which can be found at <https://ico.org.uk/for-organisations/guide-to-data-protection/data-sharing/>. Working with the Education sector in a range of ways including Alternative Education Provision and After-School clubs, A Mind Apart works within these regulations when working with schools, Local Authorities and other multi-agencies also working with the students on our services.

## **Responsibilities under GDPR**

### Data Protection Officer

A Mind Apart Theatre Company Limited (A Mind Apart) is the ‘data controller’ under the terms of the legislation. This means it is ultimately responsible for controlling the use and processing of the personal data.

Appointed employees of A Mind Apart with managerial or supervisory responsibilities are responsible for ensuring that good personal data handling practices are developed, reviewed and encouraged within A Mind Apart, as per their individual job descriptions.

The position of Data Controller

Under the GDPR regulations A Mind Apart has deemed that we are not required to appoint a Data Protection Officer (DPO) under the premises that:

- We are not a public authority.
- Our core activities do not require large scale, regular and systematic monitoring of individuals; and
- Our core activities do not consist of large scale processing of special category data or data relating to criminal convictions and offences.

However, we have chosen to voluntarily appoint a DPO within the organisation, currently the Managing Director, who is available to address any concerns regarding the data held by us and how it is processed, held and used. The Board of Directors will also oversee the appointment and GDPR policy. The DPO can be contacted



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at [jodie@amindapart.org.uk](mailto:jodie@amindapart.org.uk) or 0114 2321172 For full details on the appointment please refer to our 'Data Protection Officer Appointment Statement' (May 2018)

The DPO reports to A Mind Apart's Board of Directors, and amongst other things, is responsible for:

- being accountable for the development and implementation of the data systems used by the organisation and for day-to-day compliance with this policy, both in terms of security and risk management;
- for ensuring that A Mind Apart is GDPR compliant in respect of data processing;
- the implementation of training for all staff members and volunteers in GDPR and data protection and, for those it is relevant to, training in system procedures;
- making sure our data processors (cloud software and server services) are compliant with GDPR and maintain a contract between A Mind Apart and themselves in regards to their services and personal data they have access to. (For the ICO guidance we follow see [https://ico.org.uk/media/for-organisations/documents/1540/cloud\\_computing\\_guidance\\_for\\_organisations.pdf](https://ico.org.uk/media/for-organisations/documents/1540/cloud_computing_guidance_for_organisations.pdf))
- being the first point of contact for any employees of A Mind Apart who require guidance in relation to any aspect of data protection;
- for other procedures, such as a Subject Access Request

The Managers and Coordinators in A Mind Apart are responsible for making sure that day-to-day data protection matters are followed by those within the organisation and relevant contractors and subcontractors (freelancers), that all members and staff and relevant individuals abide by this policy, and for developing and encouraging good information handling.

Employees, volunteers, sub-contractors, freelancers and all other individuals who provide personal data to A Mind Apart are personally responsible for ensuring that the information and consents they have provided to the organisation are accurate and up-to-date.

#### Risk Assessments

A Mind Apart makes sure we are aware of all risks associated with personal data, using a risk assessment process to help us to assess the level of risk. A Mind Apart is also required to carry out assessments of the personal data processing undertaken by other organisations on its behalf and to manage any identified risks, so as to mitigate the likelihood of potential non-compliance with this policy.



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Where personal data processing is carried out by using new technologies, or when a high risk is identified in relation to the “rights and freedoms” of natural persons, A Mind Apart will engage in a risk assessment of the potential impact. More than one risk may be addressed in a single assessment (also known as a Data Protection Impact Assessment (“DPIA”).

If the outcome of a DPIA points to a high risk that A Mind Apart’s intended personal data processing could result in distress and/or may cause damage to data subjects, the matter should be escalated to the DPO and they will decide whether to proceed. If significant concerns have been identified the DPO may escalate the matter to the Information Commissions Office (ICO) and other regulatory authorities.

It is the role of the DPO and A Mind Apart, as the Data Controller, to ensure that appropriate controls are in place to ensure that the risk level associated with personal data processing is kept to an acceptable level, as per the requirement of GDPR and A Mind Apart’s documented risk acceptance criteria.

### **Data Protection Principles**

The legislation places a responsibility on every data controller to process any personal data in accordance with the eight principles. More detailed guidance on how to comply with these principles can be found in the ICO website ([www.ico.gov.uk](http://www.ico.gov.uk)). In order to comply with its obligations, A Mind Apart undertakes to adhere to the eight principles.

#### **1. Process personal data fairly and lawfully.**

A Mind Apart will make all reasonable efforts to ensure that individuals who are the focus of the personal data (data subjects) are informed of the identity of the data controller, the purpose of the processing, any disclosures to third parties that are envisaged; given an indication of the period for which the data will be kept, and any other information which may be relevant.

#### **2. Process the data for the specific and lawful purpose for which it collected that data and not further process the data in a manner incompatible with this purpose.**

A Mind Apart will ensure that data collected is only for specified, explicit and legitimate reasons. When personal data is obtained for specific purposes it will only be used for the reason for which the data was originally collected, unless the individual is informed of any additional processing before it takes place.

#### **3. Ensure that the data is adequate, relevant and no excessive in relation to the purpose for which it is processed.**

A Mind Apart will not seek to collect any personal data which is not strictly necessary for the purpose for which it was obtained. Forms for collecting data will always be drafted with this in mind. If any irrelevant data are given by individuals, they will be destroyed immediately.

#### **4. Keep personal data accurate and, where necessary, up to date.**

A Mind Apart will review and update all data on a regular basis. It is the responsibility of the individuals giving their personal data to ensure that this is accurate. Each individual should notify the organisation if, for example, a change in circumstances mean that the data needs to be updated. It is the responsibility of A Mind Apart to ensure that any notification regarding the change is noted and acted on.

A Mind Apart has a customer portal system for parents and students using our services, to help with this process. We also use a HR system which allows staff and freelancers to keep their information up to date. Both of these systems also allow for individuals to see what data we hold for them.

#### **5. Only keep personal data for as long as necessary.**

A Mind Apart undertakes not to retain personal data for longer than is necessary to ensure compliance with the legislation, and any other statutory requirements. This means A Mind Apart regularly reviews the information we hold and deletes and destroys it when it is no longer required.

A Mind Apart disposes of any personal data in a way that protects the rights and privacy of the individual concerned (e.g. secure electronic deletion, shredding and disposal of hard copy files as confidential waste). A log is kept of the records destroyed and other Data protection tasks performed.

#### **6. Process personal data in accordance with the rights of the data subject under the legislation**

Individuals have various rights under the legislation including a right to:

- Be told the nature of the information A Mind Apart holds and any parties to whom this may be disclosed.
- Prevent processing likely to cause damage or distress.
- Prevent processing for purposes of direct marketing.
- Be informed about the mechanics of any automated decision making process that will significantly affect them.
- Not have significant decisions that will affect them taken solely by automated process.
- Sue for compensation if they suffer damage by any contravention of the legislation.
- Take action to rectify, block, erase or destroy inaccurate data.
- Request that the Office of the Information Commissioner assess whether any provision of the Act has been contravened.

A Mind Apart will only process personal data in accordance with individuals' rights.

**7. Put appropriate and organisational measures in place against unauthorised or unlawful processing or personal data, and against accidental loss or destruction of data.**

All members of staff, volunteers and contractors (freelancers) are responsible for ensuring that any personal data which they hold is kept securely and not disclosed to any unauthorised parties. All those working with and for A Mind Apart are required to sign a confidentiality agreement alongside this policy and to work within our 'Bring Your Own Device Policy' where appropriate.

A Mind Apart will ensure that all personal data is accessible only to those who have a valid reason for using it. A Mind Apart is working towards a paperless system with all data securely stored on servers. Such systems are encrypted and password protected, with 2 way verification being used, limiting access to the systems and using limited user access to specific data where appropriate.

Where we are still maintaining hard copies of personal data and for that in storage still within the correct retention period, data is kept in lockable filing cabinets and storage with controlled access (with the keys then held securely in key cabinet with controlled access):

Security measures A Mind Apart has in place include:

- Keeping all hard copies of personal data in a lockable cabinet with key-controlled access
- Password protecting personal data held electronically, and using 2 way verification sign in where possible.
- Making sure all data is encrypted when stored on servers and when being transferred.
- Archiving personal data which are then kept securely on an encrypted server on in a lockable cabinet/storage.
- Placing any PC's or terminals that show personal data so that they are not visible except to authorised staff.
- Ensuring that PC screens are not left unattended without a password protected screen-saver being used.
- Provide training to all staff and those working with A Mind Apart on security of data and using passwords.

In addition, A Mind Apart maintains appropriate measures for the deletion of personal data according to our data retention and disposal procedures. Manual records are shredded or disposed of as 'confidential waste' and appropriate contract terms put in place with any third parties undertaking this

work. Hard drives of redundant PCs are wiped clean before disposal or if that is not possible, destroyed physically. A log is kept of all data retention periods and records destroyed.

This policy also applies to staff and freelancers who process personal data 'off-site', e.g. when working at home or in the community, and in circumstances additional care must be taken regarding the security of the data.

**8. Ensure that no personal data is transferred to a country or a territory outside the European Area (EEA) unless that country or territory ensures adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.**

A Mind Apart works with cloud computing programmes and data processors. We work closely with them to ensure that no personal data is transferred to a country or territory outside of the EEA that does not ensure adequate levels of protection for the rights and freedoms of data subjects in relation to the processing of personal data. We retain contracts with our data processors and require them to respect the security of the personal data they process and to treat in accordance with the EU and UK law. We risk assess all of our data processors, using a Data Impact Assessment, before entering into contract with them and regard those we have contracts with as being 'low risk' and having adequate safeguarding and levels of protection according to the General Data Protection Regulations Articles 44 – 50. We expect all of our processors to give guarantees and demonstrate compliance with all technical and organisational security measures governing the processing being carried out (a full list of our data processors and cloud providers and their privacy policies are available from the DPO).

**Consent as a basis for processing**

Although it is not always necessary to gain consent from individuals before processing their data, it is often the best way to ensure that data is collected and processed in an open and transparent manner.

Consent is especially important when A Mind Apart is processing any sensitive data, as defined by the legislation.

A Mind Apart understands consent to mean that the individual has been fully informed of the intended processing and has signified their agreement (e.g. via the enrolment form) whilst being of a sound mind and without having any undue influence exerted upon them. Consent obtained on the basis of misleading information will not be a valid basis for processing. Consent cannot be inferred from the non-response to a communication.

A Mind Apart will make sure that;

- Consent is freely given and never given under duress, when the data subject is in an unfit state of mind or provided on the basis of misleading or false information;
- The reason for consent and the method that the consent is given is explicit and specific;
- Consent given is done so in a clear and unambiguous indication of the wishes of the data subject;
- The data subject is informed before giving consent;
- Consent is provided either in a statement or by unambiguous affirmative action;
- Consent is demonstrated by active communication between us, the data controller, and the individual, the data subject, and must never be inferred or implied by omission or a lack of response to communication;
- In relation to sensitive data, consent may only be provided in writing, unless there is an alternative legitimate basis for the processing of personal data.

Explicit consent is required for us to use photos or videos of those we are working with. This can be given via our sign up forms and can be withdrawn at any time through contacting us or changing the consents on the customer portal account. Where permission is not given we will not take photographs of individuals at all. Where students have been photographed (in a performance as part of a group for example, by one of our photographers), photos and videos of students without consent will be deleted and destroyed. Consent for photos and videos is explicit on our sign up forms and make it clear that they may be used for marketing purposes, which may include being used on our social media sites and website. Names are not published with photos unless further and explicit consent is given in writing.

A Mind Apart works closely with employees, freelancers and volunteers to make sure that consent is given where necessary in order to process personal and sensitive data. All individuals working for and with A Mind Apart have been notified of their rights under GDPR, as well as their obligation under the GDPR in regards to our customers, students and parents.

### **Subject Access Rights**

Individuals have a right to access any personal data relating to them which is held by A Mind Apart. As much as possible we work to make any data of our students, parents, staff and customer readily available to individuals through our customer portal. However, there may be data that is not easily accessible to individuals such as qualification achievements, incident reports, photos and videos, personal data received by A Mind Apart from third-parties. Where an individual wishes to request access to all personal data they should apply in writing to the Managing Director. Any staff member (including freelancers) receiving a Subject Access Right should forward this to the Managing Director.

A Mind Apart reserves the right to charge a fee for data subject access requests (currently £15).



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Under the terms of the legislation, any such requests must be complied with within 40 days.

### **Disclosure of Data**

A Mind Apart takes appropriate steps to ensure that no personal data is disclosed to unauthorised parties. This includes friend and family members of the data subject, governmental bodies and, in special circumstances, even the Police. All employees, contractors (freelancers) and volunteers of A Mind Apart are required to attend specific training in order to learn how to exercise due caution when requested to disclose personal data to a third party.

Disclosure is permitted by the GDPR without the consent of the data subject under certain circumstances, namely;

- In the interests of safeguarding national security;
- In the interests of crime prevention and detection which includes the apprehension and prosecution of offenders;
- In the interests of assessing or collecting a tax duty;
- In the interests of discharging various regulatory functions, including the apprehension and prosecution of offenders;
- In the interests of assessing or collecting tax duty;
- In the interests of discharging various regulatory functions, including health and safety;
- In the interests of preventing serious harm occurring to a third party; and
- In the interests of protecting the vital interests of the data subject i.e. only in a life and death situation.

Under the Regulation of Investigatory Powers Act 2000, Lawful Business Practice Regulations, any email sent to or from an A Mind Apart email may be accessed by someone other than the recipient, for system management and security purposes.

The DPO is responsible for handling all requests for the provision of data for these reasons and authorisation by the DPO shall only be granted with support of appropriate documentation.

### **Complaints**

All complaints about the A Mind Apart's processing of personal data may be lodged by a data subject directly with the DPO, by completing the appropriate form providing details of the complaint. The data subject must be provided with the organisations Privacy Policy at this stage.



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Complaints may also be made by a data subject directly to the relevant regulatory body.

All complaints in relation to how a complaint has been handled and any appeals following the submission of a complaint shall be escalated and dealt with by the Board of Directors and the data subject is required to submit a further complaint.

### Procedure for document review

A Mind Apart is the owner of this policy document and as a Data Controller, must ensure that it is periodically reviewed according to the review requirements contained herein.

The latest version of this policy document is available to all students, parents, employees, freelancers, volunteers others working with A Mind Apart via the privacy section of the website and on the HR intranet. All employees ad freelancers must read the policy, signing and dating via the HR intranet when they have done so.

This policy document was approved by A Mind Apart Theatre Company’s Board of Directors and is issued by the Managing Director on a version controlled basis.

Name of Managing Director: Jodie Marshall

Date: 11/05/2018

### Change history record

Issue	Description of Change	Approval	Date of Issue
1	Creating of Document	Board of Directors	111 <sup>th</sup> May 2018
2	{{ insert_detail_of_change_2 }}	{{ insert_manager_name_2 }}	{{ insert_date_3 }}
3	{{ insert_detail_of_change_3 }}	{{ insert_manager_name_3 }}	{{ insert_date_3 }}