



Education & Skills
Funding Agency

Learning Provider Agreement

March 2018

Agreement Details

This agreement is made on (date dd/mm/yyyy):	
Between the Department for Education (DfE), through the Education & Skills Funding Agency (ESFA), an executive agency of the DfE Cheylesmore House, Quinton Road, Coventry, CV1 2WT (“ESFA”, “He”, “His”) and	
<i>Insert name of your organisation:</i>	<i>Company Number (if applicable):</i>
<i>whose registered address is at:</i>	

(“You”, “Your”) on the following terms and conditions.

1. General

(1) This Agreement is provided for organisations that require use and access to the Organisation Portal.

(2) In consideration of You complying with Your obligations under this Learning Provider Agreement for use of the applications contained within the Organisation Portal the ESFA grants You a limited non-exclusive non-transferable revocable licence to Access the Organisation Portal. If You Access the Organisation Portal, You agree to be bound by this Learning Provider Agreement. If You do not agree to this Learning Provider Agreement then You are not permitted to Access the Organisation Portal and should not attempt to do so.

(3) This Agreement supersedes the MIAP Learning Provider Agreement and any previous versions of this Agreement entered into between the parties.

2. Definition

2.1 The following definitions shall have the following meanings:

“Access”	means accessing the Organisation Portal to use the PLR and manage Learners’ details;
“Agreement”	means this agreement between the ESFA and You which includes the numbered Clauses together with the Appendices and any other documents which may be agreed in writing by the Parties and incorporated by reference into the Agreement;
“Authorised Users”	means personnel authorised by a Party to Access the Organisation Portal and who have been issued with a valid username and password;
“Awarding Organisation”	means an organisation that has been recognised by a Regulator to operate as an awarding organisation and to provide regulated qualifications ;
“Awarding Organisation Agreement”	means the agreement between an Awarding Organisation and the ESFA for the purposes of uploading achievement data to the Personal Learning Record (PLR);
“Default”	means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party in connection with or in relation to the subject-matter of this Agreement and in respect of which such Party is liable to the other;
“DPA”	means the Data Protection Act 1998 (as amended);

<p>“Ethical Walls”</p>	<p>means the set of management processes, barriers and disciplines that create a zone of non-communication and physical and organisational separation between a Party to this Agreement operating as a Learning Provider and a Party to this Agreement who operates as both a Learning Provider and an Awarding Organisation to ensure conflicts of interest do not arise in the use of the PLR that could otherwise cause Default of this Agreement or the Awarding Organisation Agreement, as further described in Appendix B;</p>
<p>“Government Classification Scheme”</p>	<p>means the labelling and classification scheme to be applied to information by government departments and agencies as required by HM government in its Security Policy Framework. Information on the Organisation Portal is classified as “Official ” as defined under the Government Classification Scheme.</p>
<p>“Intellectual Property”</p>	<p>means patents, trademarks, service marks, design rights (whether registrable or otherwise), copyright, database right, know-how, and other similar rights or obligations whether registrable or not in any country;</p>
<p>“Learners”</p>	<p>means individuals who are studying for units of learning or qualifications using the services of Your organisation as Learning Provider;</p>
<p>“Learning Provider(s)” or “Provider(s)”</p>	<p>means establishments providing assessment, training, careers advice and guidance or teaching towards qualifications who have signed a Learning Provider Agreement; for the avoidance of doubt this includes Learning Providers (in the UK excluding Isle of Man, Jersey and Guernsey) of the following types:</p> <ul style="list-style-type: none"> • schools (state, independent, academies); colleges; training providers (including private, third sector/voluntary & employers);

	<ul style="list-style-type: none"> • Higher Education Institutions; • Prisons /Offender Learning Institutions; • Armed Forces (Army, Navy, Air Force); • Careers Organisations (to the extent that they are an accredited provider of learning advice services); National Careers Service; • Local Authorities career services and Connexions; Private or independent careers service organisations (e.g. school contracted Information Advice and Guidance services);
“Logon Information”	means the username and password allocated to Authorised Users;
“Learning Records Service” or “LRS”	means part of ESFA which provides the ULN and PLR services;
“Organisation Portal”	means the online system or selection of systems, products, services and applications that the Learning Records Service provides to You for the Permitted Purposes
“Organisation Reference Number”	means the UKPRN unique reference number relevant to You which the ESFA shall provide to You for use of the Organisation Portal; You can obtain or confirm your organisation’s number online by registering at www.ukrlp.co.uk ;
“Organisation Registration Form”	means the form available at http://learningrecordsservice.org.uk that You are required to complete in order to access the Organisation Portal;
“Party” and “Parties”	means the ESFA or You or both of us as the context of the Agreement may dictate;

“Permitted Purposes”	means the purposes for which You may use the information You Access through the Organisation Portal as described in Appendix A;
“Personal Learning Record” or “PLR”	means the information stored in the Organisation Portal about Learners including their record of participation and achievements in lifelong learning and learning goals;
“Privacy Notice” or “PN”	means the notice to be given to Learners about the use of their personal data on the Organisation Portal;
“Service Charter”	means the Learning Provider Service Charter Document which sets out the service levels upon which the ESFA shall provide the use of the PLR;
Education & Skills Funding Agency or ESFA	Means the executive agency of the Department for Education (DfE) and that is responsible for funding the provision of apprenticeships, traineeships and further education in England;
“Super-User”	means up to three of Your nominated Authorised User(s) who will receive notification of changes to the Agreement by the ESFA;
Unique Learner Number or ULN	Means the Unique Learner Number, a unique number assigned to each Learner through the Learning Records Service
Website	means the Learning Records Service website at Gov.UK.; https://www.gov.uk/topic/further-education-skills/learning-records-service

3. Changes to the Agreement

The ESFA reserves the right to change this Agreement from time to time and shall notify Your Super-User as nominated by You. Any changes to this Agreement shall also be displayed online at <https://www.gov.uk/topic/further-education-skills/learning-records-service>

4. The ESFA Responsibilities

- 4.1 The ESFA shall provide You with the means for an Authorised User to Access the Organisation Portal.
- 4.2 The ESFA shall not be liable for any errors, omissions, inaccurate or corrupt information including, but not limited to, any defects caused by the transmission of this information over electronic networks.
- 4.3 The ESFA implements a rigorous data quality and data challenge framework to ensure that data has not been accidentally changed and will work with stakeholders to maximise the quality of data held in the Organisation Portal. The ESFA will publish and consult with stakeholders on key performance measures for assessing its performance on data quality.
- 4.4 The ESFA shall use best endeavours to maintain the Organisation Portal to the service levels as set out in the Service Charter. The ESFA does not guarantee the accuracy, timeliness, completeness, performance or fitness for a particular purpose of the Organisation Portal and the data held within. Further, the ESFA does not warrant that the Organisation Portal will be uninterrupted or error free or that any defects will be corrected.
- 4.5 Save in respect of death or personal injury resulting from His negligence or fraud, the ESFA is not liable for any loss You suffer including, without limitation, indirect, special or consequential loss, or any damages arising from loss of use, goodwill, data or profits, whether in contract, tort or otherwise, arising out of or in connection with use of the Organisation Portal.

5. Your general responsibilities

- 5.1. You agree to input current, complete and accurate information into the Organisation Portal.
- 5.2. You are responsible for protecting the confidentiality of all the information You input into the Organisation Portal and for complying with all guidelines issued by the Learning Records Service from time to time in order to prevent unauthorised access to the Organisation Portal. You agree to immediately notify the Learning

Records Service Business Team, The ESFA, Cheylesmore House, Quinton Road, Coventry, CV1 2WT should You become aware of any unauthorised use of Your UKPRN or any other unauthorised use of the Organisation Portal.

- 5.3. You shall not provide any inaccurate, misleading or false information to the ESFA either in any communication or when you register for access to the Organisation Portal.
- 5.4. You shall notify the ESFA of the name and contact details of the Super-User as soon as practicable after signing this Agreement. You shall promptly inform the ESFA of any changes to Your Super-Users (e.g. change to contact details or contact representative).
- 5.5. You shall control the access by maintenance staff and visitors to the physical area(s) within Your organisation where the Organisation Portal is accessed and You must implement measures to prevent theft of property from such areas.
- 5.6. You shall use reasonable endeavours to ensure that Authorised Users only Access the PLR, on a Learner's behalf, once the Learner's identity has been verified and the Learner has received the Privacy Notice.
- 5.7. The ESFA, Awarding Organisations, Learning Providers and other third parties may not use achievement data or other information obtained from the Organisation Portal for commercial gain.
- 5.8. Mobile devices shall not be used to store, transmit or access any personal data on the Organisation Portal unless the device has been certified to FIPS 140-2 or is CAPS approved, or has been secured using a product which has successfully undergone one of these evaluations.
- 5.9. Where You require Authorised Users to use Mobile Devices to store, access or transmit LRS data, the Learning Records Service Helpdesk must be informed of the proposed devices and the controls to be put in place around their usage.

6. Your responsibility to manage Authorised Users

- 6.1. You must ensure that only Authorised Users may Access the Organisation Portal.
- 6.2. You shall ensure that all Authorised Users Accessing the Organisation Portal:
 - have been appropriately vetted under your organisation's appropriate internal procedures;
 - are given appropriate training both in the use of Organisation Portal to fulfil their working responsibilities and in security awareness to meet their obligations to maintain the confidentiality, integrity and availability of the

Organisation Portal as set out under the Computer Misuse Act 1990, Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Act 1998 and Regulation of Investigatory Powers Act 2000 and Authorised Users must accept the USER Agreement of the Organisation Portal as set out on the Website.;

6.3. ensure the accuracy of content and compliance with privacy standards whilst using the Organisation Portal; and

6.4. comply with the User Agreement.

- 6.5. You shall distribute passwords or other unique secure user information to Authorised Users in a secure and confidential manner and shall use reasonable endeavours to ensure that Authorised Users do not divulge Logon Information to third parties.
- 6.6. You shall only provide access to specific functions within the Organisation Portal to Authorised Users where there is a documented business need to enable them to perform their roles within Your organisation. You must undertake regular cross-checks to ensure that all Authorised Users, particularly those with access to specific functions, have been properly authorised to Access the Organisation Portal.
- 6.7. You must ensure that You authenticate the identity of all Authorised Users at the time that they log onto and access the Organisation Portal and that You regulate the use made by Authorised Users of the Organisation Portal in accordance with applicable law. You must revoke or amend (as relevant) the Access of Authorised Users to the Organisation Portal in the event that such Authorised Users leave Your organisation or are transferred to a new role within Your organisation.
- 6.8. You are responsible for ensuring that Your Authorised Users use of the Organisation Portal complies with this Agreement.
- 6.9. Where computer workstations are used to Access the Organisation Portal, You must put procedures in place to prohibit Authorised Users of such workstations from installing illegal or unauthorised software. You shall ensure that such workstations include functions to identify and remove malicious software and viruses.
- 6.10. Where Authorised Users Access the Organisation Portal using laptop computers, You must ensure that such laptop computers are BIOS password enabled and loaded with an access control and disk encryption package to provide protection from unauthorised access.

- 6.11. Before You permit Authorised Users to use wireless networks to Access the Organisation Portal, You must carry out a risk assessment of the need to authenticate Authorised Users and the need to encrypt all traffic from and to the Organisation Portal where wireless technology is used. In the event that the risk assessment identifies a material risk of unauthorised access to the Organisation Portal through the use of wireless technology, You must not allow Authorised Users to use wireless networks to Access the Organisation Portal.
- 6.12. You shall develop an appropriate procedure for Authorised Users to report security breaches. In the event of a security breach, You shall ensure that a review is undertaken and You must ensure that any countermeasures recommended from such a review are implemented satisfactorily.
- 6.13. You shall use reasonable endeavours to monitor the compliance of Authorised Users with the terms of this Clause 6. In the event that You become aware of any unauthorised use or other Default of this Agreement You must immediately notify the Learning Records Service Helpdesk using the contact details shown at Appendix C and take all reasonable and appropriate steps, including any necessary disciplinary action, both to ensure that such activity ceases and to prevent the reoccurrence of such activity in the future.
- 6.14. You shall keep complete and up-to-date records of all Authorised Users and their details of Access to the Organisation Portal.

7. Content on the Organisation Portal

7.1. In Accessing the Organisation Portal, You acknowledge that You are a Data Controller with responsibility for ensuring that Your use of personal data obtained from the Organisation Portal and the PLR service complies with the Data Protection Act 1998. It is Your responsibility to notify and train Authorised Users that they are responsible for compliance with the DPA. You shall ensure all Authorised Users are personally responsible for complying with the following DPA principles:

- a) Data must be fairly and lawfully processed;
- b) Data must be processed for limited purposes;
- c) Data must be adequate, relevant and not excessive;
- d) Data must be accurate and up to date;
- e) Data must not be kept for longer than is necessary;
- f) Data must be processed in line with the rights of individuals;
- g) Data must be kept secure; and
- h) Data must not be transferred outside the European Economic Area without adequate protection.

Data must not be shared with third party organisations or individuals without prior consent from ESFA.

- 7.2. You agree that any Intellectual Property in the Organisation Portal is owned by the ESFA or third party licensors and that You do not have any right, title or interest in any such Intellectual Property apart from what is granted to You under Clauses 1 and 7 of this Agreement.
- 7.3. Where the Organisation Portal enables You to obtain and process Learner information in the form of possible matches You shall use such information solely in order to assist You to correctly identify a Learner's ULN.
- 7.4. Any Learner information displayed in the form of a possible match must not be used for any purpose other than as set out in this Agreement and You must not share such information with third parties without the prior explicit written consent of the ESFA.
- 7.5. Where Your use of the Organisation Portal enables You to obtain Learner information in the form of possible matches, once You have correctly identified the relevant Learner's ULN You shall delete all extraneous Learner information and you shall ensure that there is no audit trail or evidence in your possession of the presentation and processing of possible matches.
- 7.6. You are permitted to manage Authorised Users to search, view, retrieve and display PL R and Output Data. Authorised Users may securely save PLR for administrative, scholarly or education use or scientific research only. You may not distribute any Personal Learning Records outside of Your secure electronic network.
- 7.7. You may create or modify a PLR as permitted on the Organisation Portal. Where You download PLR from the Organisation Portal You shall not alter, abridge, adapt or modify such PLR except to the limited extent necessary for formatting purposes. You must take reasonable measures to verify the accuracy and completeness of PLR that You create or modify.
- 7.8. You shall only use the information that You obtain from the Organisation Portal for the Permitted Purposes set out in Appendix A.
- 7.9. You shall ensure that Authorised Users shall not use any information obtained from the Organisation Portal for commercial or non-commercial marketing purposes unless the Learner specifically consents and You should be able to demonstrate that the Learner has given such consent.

- 7.10. You are only entitled to use the information provided through the Organisation Portal in accordance with the terms of this Agreement and must not use the information for any malicious, illegal or anti-social activity.
- 7.11. You acknowledge that any personal data stored on the Organisation Portal is considered under the Government Classification Scheme as 'OFFICIAL' and the corresponding objectives are to:
- 7.11.1. handle, use and transmit with care;
 - 7.11.2. take basic precautions against accidental compromise, opportunist or deliberate attack; and
 - 7.11.3. dispose of sensibly by destroying in a manner to make reconstruction unlikely.
- 7.12. You must apply the relevant business impact level (BIL) label for information and ICT systems in accordance with HMG Information Assurance guidance and standards. You are responsible for assessing the BIL for confidentiality, integrity and availability of information assets as independent properties according to the relevant operational environment.

8. Termination

- 8.1. Either Party may terminate this Agreement at any time by providing written notice of termination to the other party. Notice shall be deemed duly given by You if signed by or on behalf of a duly authorised person and sent to the address shown
- 8.2. in Appendix C and to You using the details supplied in the Organisation Registration Form.
- 8.3. In the event of termination of this Agreement, You shall:
 - 8.3.1. cease having Access to the Organisation Portal;
 - 8.3.2. stop using the Organisation Portal; and
 - 8.3.3. securely destroy any information sourced from the Organisation Portal.
- 8.4. For the avoidance of doubt, Access by Authorised Users to the Organisation Portal shall terminate immediately upon termination of this Agreement.

9. Miscellaneous

- 9.1. The ESFA is not required to provide any additional support or further information in respect of the Organisation Portal.
- 9.2. For the avoidance of doubt, the ESFA may take whatever action it reasonably deems necessary if it suspects or detects that You, any Authorised User or Your Learners are involved in any fraudulent activity of any sort relating to the Organisation Portal. Such action may include suspending Your Access to the Organisation Portal and/ or terminating this Agreement.
- 9.3. You acknowledge that Awarding Organisations are the authoritative source of any achievement data held in the PLR. Neither Party to this Agreement shall be deemed to be in default or liable to the other Party in any manner whatsoever for any delays in performance or from failure to perform or comply with the terms of this Agreement due to any event which is beyond the reasonable control of that Party.
- 9.4. No waiver by a Party of any Default of this Agreement shall operate as a waiver of any subsequent or continuing Default.
- 9.5. If any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remaining provisions shall continue in full force and effect as if this

Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

- 9.6. A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.
- 9.7. Save for any representation made fraudulently, this Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and no Party has relied on any undertaking, statement, warranty, undertaking or representation made by any other Party or any other person except for as expressly set out in this Agreement.
- 9.8. This Agreement is governed by the laws of England and Wales and the Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

Terms & Conditions

The signature of Your duly authorised representative below indicates that You agree and accept the terms and conditions of this Organisation Agreement.

The agreement must be signed by an appropriate level of authorisation. The following is a selection of job titles which are deemed to represent a person with appropriate authority – this is not exhaustive.

<ul style="list-style-type: none">• Assistant Head• Assistant Principal• Centre Manager• Chief Executive or CEO• Company Secretary• Contracts Manager• Deputy Head	<ul style="list-style-type: none">• Deputy Principal• Director• Finance or Funding Manager• General Manager• Head of (dept.)• Head (of school)• Managing Director	<ul style="list-style-type: none">• MIS or Data or IT Manager• Operations Manager• Owner or Proprietor• Partner Principal• Registrar• Vice Principal
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Signature:	
Name (please print):	
Position within organisation:	
Organisation legal name:	
Date:	

Organisation's Stamp (if available)

Appendix A – Permitted Purposes and Use of data

You shall only use the information that You obtain through the Organisation Portal and PLR for the Permitted Purposes set out below:

- to Access achievement (prior current/new and destination) for enabling enrolment/entry/progression in education and training;
- to manage eligibility and entitlements, and claims to public funding;
- to support credit accumulation and transfer, to measure learner success;
- to provide information, advice and guidance for career progression, employment opportunities or the next step in learning and availability of public funding;
- to meet legal and regulatory requirements in the provision of education and training.

Appendix B – Ethical Walls

The ESFA makes two types of agreement available for organisations accessing and using the PLR:

- the Learning Provider Agreement – this agreement is for Learning Providers and allows them full access to the PLR; and
- the Awarding Organisation Agreement – this agreement is for Awarding Organisations and provides partial access to the PLR.

However, a number of organisations act in a capacity of both Awarding Organisation and Learning Provider in respect of the use of the PLR. Therefore, the members of the Party to this Agreement operating as a Learning Provider must ensure they do not:

- discuss or provide any information gained from the PLR with any member of the Party operating as an Awarding Organisation; or
- disclose or make available to a member of the Party operating as an Awarding Organisation any information in relation to the PLR that is not in the public domain.

The Learning Provider shall notify the ESFA as soon as possible of any instance of non-compliance with this Agreement. Upon becoming aware of any such non-compliance, the Learning Provider shall, without prejudice to the ESFA rights under this Agreement:

- carry out a review to ascertain the reasons for and extent of such non-compliance;
- take such steps as are necessary to minimise the risk of such non-compliance occurring again; and
- implement procedures for the immediate reporting to the ESFA of any unexpected or unusual requests for access to or copies of documents.

The Learner Provider shall at all times monitor and ensure strict enforcement by all relevant staff and personnel of its obligations in this Agreement and in particular shall:

- implement strict and carefully defined procedures for dealing with a situation where it is felt that the Ethical Walls have been crossed and maintain proper records of such an event; and
- monitor the effectiveness of the Ethical Walls and take all necessary steps where it is found that the Ethical Walls have not been effective.

Appendix C – Useful Contact Details

This agreement must be signed by a duly authorised person within your organisation who has the appropriate authority to enter into a binding contract on behalf of your organisation. The following is a list of roles and functions that are deemed by the ESFA to represent a person likely to have appropriate authority to sign this Agreement. However, sole responsibility to ensure that this contract is signed by an authorised person resides with the organisation applying for access to these services.

Authorised Persons

- Centre Manager
- Chief Executive or CEO
- Company Secretary
- Contracts Manager
- Director
- Finance or Funding Manager
- General Manager
- Head of Department
- Managing Director
- MIS or Data or IT Manager
- Head
- Principal
- Deputy Head
- Assistant Principal
- Deputy Principal
- Registrar
- Vice Principal
- Operations Manager
- Owner or Proprietor
- Partner

Please contact the Learning Records Service Desk if you have any queries regarding this list via the contact details below:

E-mail: irs.support@education.gov.uk
Tel Number: 0345 602 2589
Website: <https://www.gov.uk/topic/further-education-skills/learning-records-service>