



SOVRINTENDENZA
TAL-PATRIMONJU KULTURALI
SUPERINTENDENCE OF CULTURAL HERITAGE

Data Protection Policy

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1. Introduction

The General Data Protection Regulation (GDPR) defines that all public authorities must adhere to the regulations thereof and Member State data protection legislation.

The Cultural Heritage Act 2002 has defined a new cultural heritage framework for Malta. The main objective of this framework is to ensure that Malta's cultural heritage is adequately protected, conserved and promoted.

Within this legal framework, the Superintendence of Cultural Heritage (SCH) was established and given the mission to ensure the protection and accessibility of cultural heritage. The Act also establishes the functions of the Superintendence.

This **Data Protection Policy** sets out the SCH's commitment to protecting the rights and privacy of individuals and details how to ensure compliance with the GDPR and Maltese data protection legislation.

2. Scope & purpose

Personal data means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

Processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

This policy applies to all personal data processing activities undertaken by the SCH and should be read in conjunction with other relevant SCH policies and documents. The SCH may supplement or amend this policy by additional policies and guidelines from time to time.

3. Responsibility for this policy

The SCH is committed to compliance with The General Data Protection Regulation (EU) 2016/679 (GDPR) and the Data Protection Act (Cap 586) regulating the processing of personal data whether held electronically or in manual form, and to the protection of the rights and freedoms of individuals whose information it collects and processes.

The Data Controller is responsible for ensuring that this policy is implemented by all members of staff and any contracted party. All members of staff have a responsibility to comply with the SCH's Data Protection Policy.

4. Data protection principles

All processing of personal data must be conducted in accordance with the data protection principles set out in relevant legislation.

The SCH's policies and procedures are designed to ensure that personal data shall be:

1. processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
2. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1) of the Regulation, not be considered to be incompatible with the initial purposes ('purpose limitation');
3. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
4. accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
5. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) of the Regulation, subject to implementation of the appropriate technical and organisational measures required by the Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');
6. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

5. Rights of Individuals whose data is collected

The SCH implements appropriate policies and procedures, and facilitates training and provides advice to staff, to ensure that data subjects can exercise their rights as follows:

5.1 *Right of access*

The SCH implements procedures to ensure that requests from data subjects for access to their personal data will be identified and fulfilled in accordance with relevant legislation.

5.2 *Right to rectification*

The SCH is committed to holding accurate data about data subjects and will continue to implement processes and procedures to ensure that data subjects can rectify their data where inaccuracies have been identified.

5.3 *Right to erasure (right to be forgotten)*

Data subjects have a right to request the erasure of their personal data in specific circumstances. Where such an objection is received, the SCH will assess each case on its merits.

5.4 *Right to restriction of processing*

The SCH implements and maintains appropriate procedures to assess whether a data subject's request to restrict the processing of their data can be implemented. Where the request for restriction of processing is carried out, the SCH will write to the data subject to confirm the restriction has been implemented and when the restriction is lifted.

5.5 *Right to data portability*

Where the SCH has collected personal data on data subjects by consent or by contract then the data subjects have a right to receive the data in electronic format to give to another data controller. It is expected that this right will apply only to a small number of data subjects.

5.6 *Right to object*

Data subjects have a right to object to the processing of their personal data in specific circumstances. Where such an objection is received, the SCH will assess each case on its merits.

5.7 *Right not to be subject to automated decision making*

Data subjects have the right not to be subject to a decision based solely on automated processing, where such decisions would have a legal or significant effect concerning him or her. Data subjects will be informed when elements of processing include automated decision making or profiling.

5.8 *Right to complain*

The SCH implements and maintains a complaints process whereby data subjects can contact the Data Protection Officer. The Data Protection Officer's role includes working with the data subject to bring complaints to a satisfactory conclusion for both parties. Data subjects are also informed of their right to bring their complaint to the Information and Data Protection Commissioner.

6. Responsibilities of the SCH as Data Controller

6.1 *Ensuring appropriate technical and organisational measures*

The SCH implements appropriate technical and organisational measures to ensure the security of personal data.

6.2 *Maintaining a record of data processing*

The SCH maintains a record of its data processing activities in the manner prescribed by the Regulation. The record is reviewed and signed off by the Data Controller, on at least an annual basis.

6.3 *Implementing appropriate agreements with third parties*

The SCH will continue to put in place appropriate agreements, memoranda of understanding, bilateral agreements or contracts (collectively “agreements”) with all third parties with whom it shares personal data.

6.4 *Transfers of personal data outside of the European Economic Area*

The SCH does not transfer the personal data of its data subjects outside of the European Economic Area unless an adequate level of protection is ensured. Data subjects will be informed where transfers to a third country are in place.

6.5 *Data protection by design and by default*

The SCH will continue to implement technical and organisational measures, at the earliest stages of the design of processing operations, in such a way that safeguards privacy and data protection principles right from the start (‘data protection by design’). By default, the SCH will also continue to ensure that personal data is processed with the highest privacy protection so that by default personal data isn’t made accessible to an indefinite number of persons (‘data protection by default’).

6.6 *Data protection impact assessments*

The SCH will implement procedures and documentation whereby all new types of processing, in particular using new technologies, that result in a high risk to the rights and freedoms of its data subjects shall carry out a data protection impact assessment. As part of this process, a copy of the impact assessment shall be shared with the SCH’s Data Protection Officer. Where the SCH is unable to identify measures that mitigate the high risks identified, the SCH will consult with the Information and Data Protection Commissioner prior to the commencement of processing.

6.7 *Personal data breaches*

The SCH defines a ‘personal data breach’ as meaning a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed (e.g. the most common breach incidents that can occur are correspondence issuing to an unauthorised third party). The

SCH deems any loss of personal data in paper or digital format to be a personal data breach.

The SCH maintains a protocol for dealing with personal data breaches. This protocol establishes the methodology for handling a personal data breach and for notification of the breach to the Information and Data Protection Commissioner and to data subjects where this is deemed necessary.

6.8 *Freedom of Information*

The Freedom of Information Act obliges the SCH to publish information on its activities and to make the information available to citizens. The SCH will continue to maintain procedures to ensure that requests for personal data are correctly dealt with under either Data Protection or FOI legislation.

6.9 *Governance*

Compliance with relevant data protection legislation is monitored through the SCH by the Data Controller who continue to:

- Receive regular reports from the Data Protection Officer, including in relation to breaches of personal data;
- Review data protection impact assessments and approve or not the design of data protection elements of projects;
- Instigate investigations of data protection matters of interest where appropriate.

7. The Data Protection Officer's Responsibilities

The SCH has designated a Data Protection Officer who reports to the Data Controller. The responsibilities of the Data Protection Officer include the following:

- i. Keeping the Data Controller updated about data protection responsibilities, risks and issues;
- ii. Acting as an advocate for data protection within the SCH, including informing and advising staff of their obligations pursuant to GDPR and other data protection legislation;
- iii. Monitoring compliance with data protection legislation;
- iv. Ensuring all data protection policies and policies are reviewed and updated on a regular basis;
- v. Ensuring that appropriate data protection training and advice is made available to all staff members;
- vi. Providing advice where requested in relation to data protection impact assessments and monitoring such assessments to ensure they are completed to an appropriate standard;
- vii. Responding to individuals such as customers and employees who wish to exercise their

- data subject rights;
- viii. Ensuring that the Record of Processing Activity is updated regularly.
- ix. Acting as a contact point for, and cooperating with, the Information and Data Protection Commissioner
- x. Monitoring the process of putting in place appropriate data processing agreements with third parties
- xi. Carrying out any reviews or data protection audits as are required or necessary

8. Responsibilities of Staff

All staff processing personal data on behalf of the SCH have a responsibility to comply with this Data Protection Policy.

8.1 *Training and awareness*

All staff will receive training on this policy. New staff members will receive training as part of the induction process.

In addition, staff are continuously reminded of data protection obligations through Office Notices and emails to staff; informal awareness sessions; poster campaigns; corporate newsletters; and via the intranet.

8.2 *Consequences of failing to comply*

The SCH takes compliance with this policy very seriously. If a staff member knowingly or wilfully fails to comply with any requirement, the SCH may consider disciplinary action.

9. Queries about Data Protection

Members of the public and members of staff who wish to request more information about data protection in the SCH should contact:

Data Protection Officer

SUPERINTENDENCE OF CULTURAL HERITAGE
173, TRIQ SAN KRISTOFRU,
VALLETTA, MALTA

Telephone: 23950000

Email: dpo.sch@gov.mt

Data Controller

SUPERINTENDENCE OF CULTURAL HERITAGE
173, TRIQ SAN KRISTOFRU,
VALLETTA, MALTA

Telephone: 23950000
Email: heritage.superentence@gov.mt

The Information and Data Protection Commissioner
Level 2, Airways House,
High Street,
Sliema, SLM 1549
Telephone: +356 2328 7100
Email: idpc.info@idpc.org.mt

10. Approvals and sign offs

This policy comes into effect on 1 December, 2020.

Document Control	
Approved By	Director Support Services, SCH
Date approved	15/11/2020
Next review date	14/11/2021

This policy will be reviewed on an ongoing basis. The DPO is responsible for initiating each review.

11. Version control

Version	Date	Changes to be made by	Details
1.0	4/11/2020	AM	Draft Data Protection Policy