



The Office of the Ombudsman is an independent and impartial institution that promotes the right to good public administration and investigates citizens' grievance allegations arising from maladministration.

Data Protection Policy

Regular updates can be found on our website
www.ombudsman.org.mt

Last updated: = 10 May 2018



1. Introduction

The Office of the Ombudsman needs to collect, hold and use certain types of information about the Individuals or Service Users who come into contact with it in order to carry out its work. This personal information must be collected and dealt with appropriately whether it is collected on paper, stored in a computer database, or recorded on other material and there are safeguards to ensure this under the General Data Protection Regulations (GDPR).

This policy sets out how we seek to protect personal data and ensure that staff understand the rules governing their use of personal data to which they have access in the course of their work. In particular, this policy requires staff to ensure that the Data Protection Officer (DPO) be consulted before any significant new data processing activity is initiated to ensure that relevant compliance steps are addressed.

Definitions

Business purposes	<p>The purposes for which personal data may be used by us:</p> <p>The discharge of our functions as per the Ombudsman Act 1995 and its subsidiary amendments and legal notices, regulatory, personnel, administrative, financial, payroll and other business purposes.</p> <p><i>Business purposes include the following:</i></p> <ul style="list-style-type: none">- <i>Compliance with our legal, regulatory and corporate governance obligations and good practice</i>- <i>Gathering information as part of investigations and handling of cases lodged with our Office</i>- <i>Ensuring business policies are adhered to (such as policies covering email and internet use)</i>- <i>Operational reasons, such as recording of financial transactions, statistical data, administrative records ensuring the confidentiality of commercially sensitive information.</i>- <i>Investigating complaints and following up on enquiries.</i>- <i>Checking references, ensuring safe working practices, monitoring and managing staff access to systems and facilities and staff absences, administration and assessments</i>- <i>Monitoring staff conduct, disciplinary matters</i>- <i>Outreach and Communication services.</i>
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Personal data	<p><i>Information relating to identifiable individuals, such as service users, job applicants, current and former employees, suppliers and other contacts.</i></p> <p><i>Personal data we gather may include: individuals' contact details, educational background, financial and pay details, details of certificates and diplomas, education and skills, marital status, nationality, job title, and CV.</i></p>
Sensitive personal data	<p><i>Personal data about an individual's racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership (or non-membership), physical or mental health or condition, criminal offences, or related proceedings—any use of sensitive personal data should be strictly controlled in accordance with this policy.</i></p>

2. Data Controller

The Office of the Ombudsman is the Data Controller under the GDPR, which means that it determines what purposes personal information held, will be used for and the purposes that this data will be used for.

3. Scope

This policy applies to all staff. All staff must be familiar with this policy and comply with its terms.

Our policy relating to IT security supplements this policy. We may supplement or amend this policy by additional policies and guidelines from time to time. Any new or modified policy will be circulated to staff before being adopted.

Who is responsible for this policy?

Our Data Protection Officer (DPO) Mr. Gordon Fitz has overall responsibility for the day-to-day implementation of this policy.

4. Disclosure

The Office of the Ombudsman may need to share part of the data with other agencies such as Ministries, departments, local authorities and other bodies in the discharges of its mandate.

5. Fair and lawful processing

The Office of the Ombudsman regards the lawful and correct treatment of personal information as very important to successful working, and to maintaining the confidence of those with whom we deal.

The Office of the Ombudsman intends to ensure that personal information is treated lawfully and correctly.



To this end The Office of the Ombudsman will adhere to the Principles of Data Protection, as detailed in the GDPR.

Specifically, the Principles require that personal information:

- a) Shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met,
- b) Shall be obtained only for one or more of the purposes specified within the GDPR, and shall not be processed in any manner incompatible with that purpose or those purposes,
- c) Shall be adequate, relevant and not excessive in relation to those purpose(s)
- d) Shall be accurate and, where necessary, kept up to date,
- e) Shall not be kept for longer than is necessary
- f) Shall be processed in accordance with the rights of data subjects under the GDPR,
- g) Shall be kept secure by the Data Controller who takes appropriate technical and other measures to prevent unauthorized or unlawful processing or accidental loss or destruction of, or damage to, personal information,
- h) Shall not be transferred to a country or territory outside the European Economic Area without first discussing it with the DPO and specific consent from the data subject is obtained prior to the transfer.

The Office of the Ombudsman will, through appropriate management and strict application of criteria and controls:

- Observe fully conditions regarding the fair collection and use of information
- Meet its legal obligations to specify the purposes for which information is used
- Collect and process appropriate information, and only to the extent that it is needed to fulfill its operational needs or to comply with any legal requirements
- Ensure the quality of information used
- Ensure that the rights of people about whom information is held, can be fully exercised under the GDPR. These include:



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- The right to be informed that processing is being undertaken,
 - The right of access to one's personal information
 - The right to prevent processing in certain circumstances and
 - The right to correct, rectify, block or erase information which is regarded as wrong information.
- Take appropriate technical and organizational security measures to safeguard personal information
 - Ensure that personal information is not transferred abroad without suitable safeguards
 - Treat people justly and fairly whatever their age, religion, disability, gender, sexual orientation or ethnicity when dealing with requests for information
 - Set out clear procedures for responding to requests for information

6. Data collection

The Office of the Ombudsman collects and processes data in the discharge of its mandate arising from the Ombudsman Act XX1 of 1995 and as amended by Act XV1 of 1997, Legal Notices 425 of 2007 and 105 of 2008 and Act XV11 of 2010 and its discharge of its responsibilities towards the Corporate Governance and Financial Administration Regulations:

Service users' data is collected and processed in the handling of complaints, received from the complainants, in investigating any action taken by or on behalf of the Government or other authority, body or person to whom the Ombudsman Act applies. Investigations can be conducted both on the Own Initiative of the Ombudsman or the Commissioners and on the written complaint of an aggrieved person.

Suppliers' and Contractors' Data is collected and processed in the discharge of our sourcing of services and facilitating the functioning of the Office as per The Ombudsman Act of 1995 and subsequent legislation and the discharge of our responsibilities towards Corporate Governance and adherence to the standing financial regulations.

Personnel data is collected and processed in the performance of the respective employment contracts and in adhering with the obligations of the standing employment regulations, income tax and social security regulations.

The Office of the Ombudsman will ensure that data is collected within the boundaries defined in this policy. This applies to data that is collected in person, or by completing a form.



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When collecting data, The Office of the Ombudsman will ensure that the Individual/Service User:

- a) Clearly understands why the information is needed
- b) Understands what it will be used for and what the consequences are should the Individual/Service User decides to withdraw his consent to processing
- c) Has received sufficient information on why their data is needed and how it will be used.

7. Data Storage

Information and records relating to service users, suppliers and staff will be stored securely and will only be accessible to authorised staff.

What information is being collected?	Personal data that may include sensitive data from service users, suppliers, contractors, current and former employees and other contacts that may interact with the Office of the Ombudsman.
Who is collecting it?	The Office of the Ombudsman
How is it collected?	Manually or Electronically
Why is it being collected?	In the course of the discharge of its functions, corporate governance responsibilities and adherence to regulatory, financial and administrative services.
How will it be used?	According to the provisions of the General Data Protection Rules.
Who will it be shared with?	In the case of a complaint or an enquiry some of the data may be shared with the respective department, agency, authority or unit.
Identity and contact details of any data controllers	The Ombudsman, 11 St Paul Street Valletta, VLT1210
Details of transfers to third country and safeguards	Shall not be transferred to a country or territory outside the European Economic Area without first discussing it with the DPO and specific consent from the data subject is obtained prior to the transfer.

Retention period

Service Users data

We shall keep all the information about our complainants and the complaint for a period of five years after making our decision, in order, to resolve any issues or activities surrounding the case or a group of cases or related cases. This is whether we investigate the case or not and whether we issue a final report or not. After this period we shall delete most or all complaint records but for historical and statistical reasons we may retain the complainant details, the nature of the complaint, the name of the organisation complained against and any final decision

Suppliers & Contractors Data

We shall keep our suppliers and contractors data for a period of six years from the end of the year to which the data relates to in line with the requirements of the Commercial Code and VAT requirements.

Personnel

We shall keep all records of employment during the term of employment in view of the standing assessment and continuous staff development procedures. We shall retain all records up to three years subsequent to the date of termination or retirement from employment as per the requirements of the Employment Regulations Act. FSS and SSC returns will be retained for a period of nine years subsequent to the date to which they relate as per Inland Revenue Regulations. Selection process records and job applicants' data will be kept for the duration of the validity of the respective selection process.



8. Data access and accuracy

All Individuals/Service Users have the right to access the information The Office of the Ombudsman holds about them. The Office of the Ombudsman will also take reasonable steps ensure that this information is kept up to date by asking data subjects whether there have been any changes.

In addition, The Office of the Ombudsman will ensure that:

- It has a Data Protection Officer with specific responsibility for ensuring compliance with Data Protection
- Everyone processing personal information understands that they are contractually responsible for following good data protection practice
- Everyone processing personal information is appropriately supervised
- Anybody wanting to make enquiries about handling personal information knows what to do
- It deals promptly and courteously with any enquiries about handling personal information
- It describes clearly how it handles personal information
- It will regularly review and audit the ways it holds, manages and uses personal information
- It regularly assesses and evaluates its methods and performance in relation to handling personal information
- All staff are aware that a breach of the rules and procedures identified in this policy may lead to disciplinary action being taken against them

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 made to the GDPR.

9. Data portability

Upon request, a data subject should have the right to receive a copy of their data in a structured format. These requests should be processed within one month, provided there is no undue burden and it does not compromise the privacy of other



individuals. A data subject may also request that their data is transferred directly to another system. This must be done for free.

10. Right to be forgotten

A data subject may request that any information held on them is deleted or removed, and any third parties who process or use that data must also comply with the request.

In case of any queries or questions in relation to this policy please contact the Data Protection Officer:

Mr Gordon Fitz (Data Protection officer) Tel: 00356 2248 3210

Signed:

A handwritten signature in blue ink, appearing to read "Gordon Fitz", with a long horizontal flourish extending to the right.

Position: Parliamentary Ombudsman, Malta

Date: 10 May 2018



Glossary of Terms

Data Controller – The person who (either alone or with others) decides what personal information (*Office of the Ombudsman*) will hold and how it will be held or used.

General Data Protection Regulation– EU Regulation 2016/679 coming into effect on the 25 May 2018. .

Data Protection Officer – The person(s) responsible for ensuring that The Office of the Ombudsman follows its data protection policy and complies with the GDPR.

Individual/Service User – The person whose personal information is being held or processed by The Office of the Ombudsman.

Explicit consent – is a freely given, specific and informed agreement by an Individual/Service User in the processing of personal information about her/him. Explicit consent is needed for processing sensitive data.

Processing – means collecting, amending, handling, storing or disclosing personal information.

Personal Information – Information about living individuals that enables them to be identified – e.g. name and address. It does not apply to information about organisations, companies and agencies but applies to named persons, such as individual complainants, suppliers or employees within (GROUP).

Sensitive data – refers to data about:

- Racial or ethnic origin
- Political affiliations
- Religion or similar beliefs
- Trade union membership
- Physical or mental health
- Sexuality
- Criminal record or proceedings

Note to include data processing via our website