South Dublin County Council

DATA PROTECTION POLICY

Version Control

VERSION NUMBER	DATE	DETAILS OF REVISIONS
1.0	August 2024	Drafted by JN for Consideration
1.1	August 2024	Reviewed by Michael Murtagh
1.2	30th August 2024	Adopted by SMT

1. Contents

2. Introduction

This Policy sets out the obligations of South Dublin County Council regarding data protection and the rights of staff, members of the public that engage with us, service providers (contractors/sole traders) and business contacts ("data subjects"). This includes obligations in dealing with personal data, in order to ensure that the organisation complies with the requirements of the relevant Irish and EU legislation, namely the General Data Protection Regulation (GDPR) and the Irish legalisation including Data Protection Act (2018), both the regulation and legislation being described hereafter as "the law".

The law defines "personal data" as any information relating to an identified or identifiable natural person (a 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, and 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.

South Dublin County Council is committed not only to the letter of the law, but also to the spirit of the law and places high importance on the correct, lawful, and fair handling of all personal data, respecting the legal rights, privacy, and trust of all individuals with whom it deals.

3. Scope

At South Dublin County Council we take data protection seriously and we aim to be clear about how we process Personal Data. This Policy must always be followed by South Dublin County Council 's employees, agents, contractors or other parties working on behalf of South Dublin County Council .

The policy covers both personal and special categories (special categories) personal data held in relation to data subjects by South Dublin County Council and applies equally to personal data held in manual and automated form. All personal and special categories personal data will be equally referred-to as personal data in this policy, unless specifically stated otherwise.

This policy should be read in conjunction with the associated:

- Standard Operating Procedure for the exercising of Data Subject Rights
- Data Breach Management Policy
- CCTV Policy

4. Part 5 of the Data Protection Act 2018 (Law Enforcement Directive)

The Data Protection Act 2018 came into effect on 25 May 2018 and amends the Data Protection Acts1988 and 2003. Most of the personal data being processed by South Dublin County Council is governed by the GDPR and the Data Protection Act 2018 (excluding Part 5 of the Act). However, there are time that Part 5 of the Act is applicable to South Dublin County Council. This section of the policy outlines when Part 5 may be appliable.

Part 5 of the Data Protection Act 2018 gives effect to the Law Enforcement Directive (LED), which relates to the protection of individuals with regard to the processing of their personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of that data. The LED is a Directive rather than a Regulation, as such, it requires transposition into Irish domestic law to take effect. This transposition is achieved, for the most part through Part 5 of the Act – 'Processing of Personal Data for Law Enforcement Purposes'. The Data Protection Commission (DPC) is set out in Part 5 of the Act as the 'independent supervisory authority' for the LED. Complaints regarding contraventions of the LED regime can be made to the DPC. The Act also gives effect to the GDPR, which applies to the processing of personal data for purposes other than law enforcement.

Examples (not exhaustive) of when South Dublin County Council may process data with the primary purpose of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties include:

- When the Council investigates illegal dumping and processes personal data to attain convictions
- Upon authorisation by An Garda Siochana, when the Council establishes Community CCTV Schemes in an area not owned by the Council

5. The Data Protection Principles

This Policy aims to ensure compliance with the law. The law sets out the following principles with which any party handling personal data must comply. Article 5 in the GDPR states that all personal data must be:

a) Processed **lawfully, fairly and in a transparent** manner in relation to the data subject;
b) 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 not be considered to be incompatible with the initial purposes subject to appropriate safeguards, and provided that there is no risk of breaching the privacy of the data subject.
c) Adequate, relevant, and limited to what is necessary in relation to the purposes for which it is processed;
d) Accurate and where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that is inaccurate, having regard to the purposes for which they are processed is erased or rectified without delay;
e) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is 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 subject to implementation of the appropriate technical and organisational measures required by the law in order to safeguard the rights and freedoms of the data subject;
f) 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;
g) Article 5(2) states that the Controller is responsible for and must be able to demonstrate compliance with the Data Protection Principles.

Lawful, Fair and Transparent Data Processing

The law seeks to ensure that personal data is processed lawfully, fairly, and transparently, without adversely affecting the rights of the data subject. The law states that processing of personal data shall be lawful if at least one of the following applies:

- The data subject has given consent to the processing of his or her personal data for one or more specific purposes;
- Processing is necessary for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject prior to entering into a contract;
- Processing is necessary for compliance with a legal obligation to which the controller is subject;
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

- Processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.
- We may process personal data where it is necessary to safeguard the prevention, investigation, and detection of fraud

South Dublin County Council will ensure that at least one of the conditions outlined above will be satisfied whenever any processing activities take place.

In order to obtain personal data fairly and in a transparent manner, South Dublin County Council will make the data subject aware of the following at the time the data is collected directly:

- Identity of the controller
- Purpose and legal basis for processing. An explanation of the legitimate interest of South Dublin County Council will be provided if it is being used as the legal basis.
- Data subject's rights to withdraw consent, request access, rectification, or restriction of processing.
- Data subject's rights to complain to the Data Protection Commissioner's Office
- Recipients of the personal data.
- Storage periods or criteria used to determine the length of storage.
- Legal basis for intended international transfer of data to a third country or organisation, including the fact that either the receiving country has an adequacy decision from the Commissioner or other appropriate safeguards are in place and how to obtain a copy.

The Data Subject's data will not be disclosed to a third party other than to a party contracted to South Dublin County Council and operating on its behalf and to comply with legal obligations.

Processed for Specified, Explicit and Legitimate Purposes

South Dublin County Council follows this purpose limitation principle and only collects and processes personal data for the specific purposes set out in the "Record of Processing Activities" document held by South Dublin County Council . The purposes for which we process personal data will be informed to data subjects at the time their personal data is collected or not more than a month if obtained from a third party.

South Dublin County Council will not further process personal data in a manner that is incompatible with those purposes unless:

- the consent of the data subject has been obtained, or
- if the further processing is for archiving purposes in the public interest or scientific and historical research or statistical purposes and the appropriate safeguards are in place and there is no risk of breaching the privacy of the data subject.

Adequate, Relevant and Limited Data Processing

South Dublin County Council follows this data minimisation principle and only collect and

process personal data for and to the extent necessary for the specific purpose(s) informed to data subjects.

Accuracy of Data and Keeping Data Up to Date

South Dublin County Council will ensure that all personal data collected and processed is kept accurate and up-to-date and all reasonable steps will be taken without delay to amend or erase that data, as appropriate.

Timely Processing

South Dublin County Council follows this storage limitation principle and does not keep personal data for any longer than is necessary considering the purposes for which that data was originally collected and processed.

Secure Processing / Technical and Organisational measures (TOMs) for the Security of Data

South Dublin County Council will ensure that all personal data collected and processed is kept secure and protected against unauthorised or unlawful processing and against accidental loss, destruction, or damage. The state of technological development, the cost of implementing the measures, the nature of the data concerned and the degree of harm that might result from unauthorised or unlawful processing are all taken into account when South Dublin County Council are determining the security measures that are put in place.

Accountability

Under the GDPR, organisations are obliged to demonstrate that their processing activities are compliant with the Data Protection Principles. The principle of accountability seeks to guarantee the enforcement of the Principles. South Dublin County Council will demonstrate compliance in the following ways:

- By keeping an internal record of all personal data collected, held, or processed as per Article 30 - "Records of Processing Activities". Upon request, these records will be disclosed to the Data Protection Commissioner's Office. The main fields of the record of processing include:
    - Contact details of the Controller/representative/Data Protection Officer
    - List of personal data being processed
    - Categories of data subjects
    - Processing activities
    - Categories of recipients with whom the data will be shared
    - Retention periods
    - Deletion methods
    - International transfers and measures in place to ensure they are lawful
    - Detailed descriptions of the security measures implemented in respect of the processed data
- In order to assess the potential risks arising out of any new processing activity the GDPR requires organisations to conduct a Data Protection Impact Assessment (DPIA). South Dublin County Council will demonstrate its compliance by carrying out Assessments whenever any new processing activity is proposed, especially where it

involves new technologies, resulting in a high degree of risk for data subjects. After the DPIA has been carried out and if all the risks cannot be mitigated, then South Dublin County Council will consult with the Office of the Data Protection Commissioner. The DPIA will be overseen by South Dublin County Council 's Data Protection Officer and the DPIA's will be filed and retained as proof of compliance.

- South Dublin County Council has appointed the Data Protection Officer
- South Dublin County Council maintains a data protection document framework i.e., policies & procedures, training records etc.
- South Dublin County Council ensures that data protection by design is addressed throughout the life cycle of any processing activity but especially at the time of planning the means and type of processing and during the processing itself. Necessary safeguards are integrated into South Dublin County Council 's systems with the use of data minimisation and pseudonymisation as privacy enhancing tools. South Dublin County Council assess the risks of a process and tries to mitigate those risks in order to meet the data protection by design requirements.
- South Dublin County Council also ensures that data protection by default is implemented by choosing the most data protective setting as the default i.e., users will have to opt in to any settings that presents greater risks. By default, only the personal data that is necessary is processed.

6. The Rights of Data Subjects

As part of the day-to-day operation of the organisation, South Dublin County Council 's staff members engage in active and regular exchanges of information with Data Subjects. The law sets out the following rights applicable to data subjects:

- The right to be informed
- The right of access;
- The right of rectification;
- The right to erasure (also known as the "right to be forgotten");
- The right to restrict processing;
- The right to data portability;
- The right to object;
- Rights with respect to automated decision-making and profiling.
- The right to withdraw consent

7. Transferring Personal Data to a Country Outside the EEA

South Dublin County Council may from time-to-time transfer ("transfer" includes making available remotely) personal data to countries outside the Economic European Area (EEA). The transfer of personal data to a "third country" i.e., outside the EEA, will only take place if one or more of the following applies:

- Is a country that the European Commission has determined to have an adequate level of protection for personal data;
- The transfer is to a country (or international organisation) which provides appropriate safeguards in the form of a legally binding agreement between public authorities or bodies; binding corporate rules; standard data protection clauses adopted by the European Commission; compliance with an approved code of conduct approved by a supervisory authority; certification under an approved certification mechanism as provided for in the law; contractual clauses agreed and authorised by the competent supervisory authority; or provisions inserted into administrative arrangements between public authorities or bodies authorised by the competent supervisory authority;
- The transfer is made with the informed consent of the relevant data subject(s);
- The transfer is necessary for the performance of a contract between the data subject and South Dublin County Council (or for pre-contractual steps taken at the request of the data subject);
- The transfer is necessary for important public interest reasons;
- The transfer is necessary for the conduct of legal claims;
- The transfer is necessary to protect the vital interests of the data subjects or other individuals where the data subject is physically or legally unable to give their consent; or
- The transfer is made from a register that, under Irish or EU law, is intended to provide information to the public and which is open for access by the public in

general or otherwise to those who can show a legitimate interest in accessing the register.

8. Data Breach and Incident Handling

The Data Protection legislation impose obligations on data controllers to process personal data entrusted to them in a manner that respects the rights of data subjects to have their data processed fairly. Data controllers are under a specific obligation to take appropriate measures to protect the security of such data. These measures address situations where personal data has been put at risk of unauthorised disclosure, loss, destruction, or alteration. The focus of these measures is on protection of the rights of the affected data subjects in relation to the processing of their personal data.

See also Data Breach Policy.

9. Organisational Measures

South Dublin County Council shall ensure that the following measures are taken with respect to the collection, holding, and processing of personal data:

- All employees, agents, contractors, or other parties working on behalf of South Dublin County Council handling personal data:
  - Will be appropriately trained to do so;
  - Must ensure that all their employees who are involved in the processing of personal data are held to the same conditions as those relevant employees of South Dublin County Council arising out of this Policy and the Regulation
  - Bound to do so in accordance with the principles of the Regulation and this Policy by contract
- All employees, agents, contractors, or other parties working on behalf of South Dublin County Council :
  - Will be made fully aware of both their individual responsibilities and South Dublin County Council 's responsibilities under the Regulation and under this Policy and will be provided with an opportunity to read this Policy. A document stating that this document has been read and understood should be signed by all relevant parties.
  - That need access to and use of personal data to carry out their assigned duties correctly will have access to personal data held by South Dublin County Council .
- Methods of collecting, holding, and processing personal data will be regularly evaluated and reviewed;
- The performance of those employees, agents, contractors, or other parties working on behalf of South Dublin County Council handling personal data shall be regularly evaluated and reviewed.

10. Implementation

Failure of a Data Processor to manage South Dublin County Council 's data in a compliant manner will be viewed as a breach of contract.

Failure of South Dublin County Council 's staff members to process Personal Data in compliance with this policy may result in disciplinary proceedings.

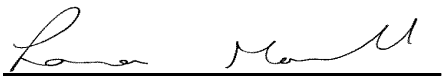
11. Policy Has Been Approved

This Policy will be reviewed and updated on an annual basis, or sooner if required. This Policy has been approved and authorised by:

NAME: Lorna Maxwell

POSITION: Director of Services, Corporate Performance & Change Management

DATE: 30th August 2024

SIGNATURE: 

Appendix 1: Definitions

For the avoidance of doubt, and for consistency in terminology, the following definitions will apply within this Policy.

Data	This includes both automated and manual data. Automated data means data held on computer or stored with the intention that it is processed on computer. Manual data means data that is processed as part of a relevant filing system, or which is stored with the intention that it forms part of a relevant filing system.
Pseudonymous Data	This data is still treated as personal data because it enables the identification of individuals albeit via a key.
Anonymous Data	This data Is rendered anonymous because there is no way that an individual can be identified from this data. Therefore, the GDPR does not apply to such data.
Personal Data	Any information relating to an identified or identifiable natural person (data subject); an identifiable person is one who can be identified, directly or indirectly, by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that person
Special Categories (Special Categories Personal Data)	A particular category of Personal data, relating to: Racial or Ethnic Origin, Political Opinions, Religious, Ideological or Philosophical beliefs, Trade Union membership, Information relating to mental or physical health, information in relation to one's Sexual Orientation, information in relation to commission of a crime and information relating to conviction for a criminal offence.
Data Controller	A person or entity who, either alone or with others, controls the content and use of Personal Data by determining the purposes and means by which that Personal Data is processed.
Data Subject	A living individual who is the subject of the Personal Data, i.e., to whom the data relates either directly or indirectly.
Data Processor	A person or entity who processes Personal Data on behalf of a Data Controller on the basis of a formal, written contract, but who is not an employee of the Data Controller, processing such Data in the course of his/her employment.
Data Protection Officer	A person appointed by South Dublin County Council to monitor compliance with the appropriate Data Protection legislation, to deal with Subject Access Requests, and to respond to Data Protection queries from staff members and service recipients

Relevant Filing System	Any set of information in relation to living individuals which is not processed by means of equipment operating automatically (computers), and that is structured, either by reference to individuals, or by reference to criteria relating to individuals, in such a manner that specific information relating to an individual is readily retrievable.