Data Protection Commissioner

2, Airways House
High Street
Sliema SLM 16
Malta.

Processing of personal data for research and statistics

Where personal data is used for research or statistics purposes, similar processing involving identifiable data falls under the parameters of the Data Protection Act (Cap 440 – hereinafter 'the Act') and therefore shall be carried out in compliance with the general obligations contained therein. However, the law gives special considerations to the processing of data for the research and statistics.

University related research

Where in the course of academic studies, students or academics undertake research projects involving personal data, such information may be processed being considered necessary on public interest grounds.

The information shall only be processed for the research purpose and should be deleted or rendered anonymous once the purpose of the study has been achieved or where the identity of the research subjects is no longer necessary.

Where personal data is used for university related research, the Act does not require the specific approval of the Data Protection Commissioner, unless such information involves sensitive data revealing race or ethnic origin, political opinions, religious or philosophical beliefs, membership of a trade union, health, or sex life. If one of the abovementioned categories is processed, the Act stipulates that similar research requires the approval of the Commissioner upon advice from a research ethics committee recognised for such purposes. The Commissioner recognises the University Research Ethics Committee (UREC) as his advisory body entrusted to approve university related research involving sensitive data.

Given that every project involving human subjects always requires an ethical approval from UREC, the Commissioner reached an agreement whereby UREC approves projects both in terms of ethical and data protection considerations in order to speed up the research process. Such approval is granted on the condition that the researcher abides by the necessary data protection requirements which are contained in the application form submitted by the researcher.

Research projects are primarily evaluated by the respective faculty research ethics committee and then if the application fulfils the necessary criteria, this is forwarded to UREC for approval. Where in the evaluation of specific projects, there is uncertainty on complex data protection issues the Commissioner is always consulted.

In the case of students who are not affiliated with the University of Malta, but who are reading for a foreign qualification and are carrying out research on sensitive personal data locally, these shall still be required to obtain ethical approval from UREC.

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Every six months the UREC shall forward a list of approved projects to the Commissioner for formal endorsement. Meanwhile, the researcher is allowed to proceed with his project immediately upon approval from UREC.

The application form and further information about UREC is available on the following website: http://www.um.edu.mt/urec/

Non-academic research

In cases of non-academic research involving personal data (e.g. research carried out by a business institution or a regulatory body) similar processing is acceptable provided that it satisfies one of the legal criteria contained in the Data Protection Act. If the research is undertaken for business or marketing purposes, under normal circumstances, such processing would require the consent of individuals unless the data is rendered anonymous at collection stage. In cases where an entity carries out research in the exercise of a public or regulatory function, and is therefore legally empowered or obliged to collect such information, the consent from individuals would not be necessary.

Where the research involves sensitive data, similar processing may occur with the explicit consent of the individual or where such research is in the public interest, and with the approval of the Commissioner after consulting a research ethics committee.

For the purposes of approving medical research which is not related to a University (or similar institution), the Commissioner recognises the Health Ethics Committee (HEC), falling under the Superintendent of Public Health, as his advisory body. The HEC is also responsible for the approval of Clinical Trials. The same procedure adopted with UREC for academic research has been applied with HEC. This implies that the researcher submits an initial application at the HEC which is evaluated by the Committee both on ethical and data protection aspects. Every six months the HEC should forward a list of approved projects to the Commissioner for formal endorsement.

Click here for further information about HEC and the relevant application forms: https://ehealth.gov.mt/HealthPortal/others/regulatory_councils/health_ethics_committee/health_ethics_committee.aspx

Use of sensitive data for statistics

In the case of sensitive data processed for the compilation of statistics, this would in principle only be permitted with the explicit consent of participants. However, where similar statistics are necessary in the public interest, such statistics may be collected subject to the direct approval of the Commissioner himself.

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Basic principles and exceptions

Given the above premise, researchers should always use due caution and good practice when processing personal or sensitive information for research and statistics. In those cases where direct one-to-one contact will be made with the participant, the informed consent should always be sought. Where consent is not a prerequisite (e.g. in cases where the researcher is empowered by a specific law), participants should at least be informed on the purposes for which their personal data will be processed and also any recipients to whom it may be disclosed. Participants should also be informed about the right to request access to the personal data and where applicable, the erasure or deletion of such information.

In those cases where personal data is not directly collected from the individual himself, but from other sources, the law provides an exception from the aforementioned requirement to inform the participants if it proves impossible or a disproportionate effort. Another exception relates to the right of access of an individual, which could be inapplicable if the data is solely processed for scientific research and only kept for the necessary period to compile statistics.

Safeguards

Personal details should only be kept for the necessary period of compiling the research. Information should be rendered anonymous at the earliest possible especially once that the research purpose has been achieved. In cases where the identification is necessary even after completion of a specific study (e.g. follow-up research), the use of pseudonyms or coding techniques or even segregation of data should be considered in order to render the information partially anonymous during the period where the identification is not required.

Adequate security mechanisms should also be implemented in order to protect the information from unauthorised access, use or disclosure.