

HEROS Education

GDPR - Data Protection & Retention Policy



Manager Name:

Signed:

Date:

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1: Introduction

As of May 25th 2018 the Data Protection act 1998 as replaced by the General Data Protection Regulations or GDPR, which significantly alters the rights of the data subjects and the obligations of those whom process their data. It also increases the penalties for non-compliance significantly. Please visit the link below for more information on GDPR

<https://gdpr.eu.what-is-gdpr/>

2: Aims:

HEROS Charity aims to ensure that all data/information on employees, staff, students, volunteers, visitors, parents, trustees, donators or beneficiaries that is stored or otherwise processed is done so in accordance with GDPR this policy also applies to all data regardless of format.

3: Who Does GDPR Apply To?

GDPR outlines and defines the roles of “controller” and “processor”. The controller determines how and why personal data is processed and the “processor” acts on the controller’s behalf. Processors have specific obligations and legal liability if there’s a breach.

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4: Personal Data Definitions

Term	Definitions
Personal Data	<p>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:</p> <ul style="list-style-type: none"> • Name • Identification Number • Location Data • Online Identifier (Username) <p>Or to one or more factors specific to the physical, psychological, genetic, mental, economic, cultural, or social identity of that natural person.</p>
Processing & Restriction Of Processing	<p>Any operation or set of operations which is performed on personal data or on sets of personal data, whether 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.</p> <p>The restriction of processing is the marking of stored personal data with the aim of limiting their processing in the future.</p>
Profiling	<p>Any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person. In particular to analyse or predict aspects concerning that natural person’s performance, at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements.</p>
Pseudonymisation	<p>The processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person.</p>
Filing System	<p>Means any structured set of personal data which are accessible according to specific criteria whether centralised, decentralised or dispersed on a functional or geographical basis.</p>
Controller	<p>The natural or legal person, public authority agency other body which, alone or jointly with others, determines the purpose and means of the processing of personal data, where the purposes and means of such processing are determined by Union or Member State Law, the controller or the specific criteria for its nomination may be provided for by Union or Member State Law.</p>

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Personal Data Definitions Extended

Processor	A natural or legal person, public authority, agency, or other body which processes personal data on behalf of the controller.
Third Party	A natural or legal person, public authority, agency or both other than the data subject, controller, processor, and persons who, under the direct authority of the controller or processor, are authorised to process personal data.
Consent	Consent of the data means any freely given, specific informed and unambiguous indication of the data subject's wishes by which he or she by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.
Personal Data Breach	Means 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.
Data Concerning Health	Personal data relating to the physical or mental health of a person, including the provision of health care services, which reveal information about his or her health status.

CEO: Acts as the representative of the data controller on a day-to-day basis and facilitates and authorises any changes made to any policies / procedures within the Charity.

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5: Principles

These principles are relating to the processing of personal data and outline principles that the controller shall be responsible for and be able to demonstrate compliance with.

(5.1) Processed lawfully, fairly and in a transparent manner in relation to the data subject. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.

(5.2) Adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed. (Data Minimisation)

(5.3) 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, are erased, or rectified without delay. (Accuracy)

(5.4) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes which the personal data is processed (Held for no longer than is required, unless stated by law) Personal data may be stored for longer periods insofar as the personal data will be processed for solely archiving purposes in the public interest, scientific or historical research purposes or statistical purposes.

(5.5) 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 organisation measures. (Integrity & Confidentiality)

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6: Lawfulness in Processing

These are further principles regarding lawfulness in relation to data processing.

(6.1) The data subject has given consent to the processing of his or her personal data for one or more explicit reasons.

(6.2) Processing is necessary for carrying out a contract / obligation to which the data subject is part of or to take steps at the request of the data subject prior to entering a contract.

(6.3) Processing is necessary for compliance with legal obligation to which HEROS Charity is obligated to follow.

(6.4) Processing is necessary to protect the vital interest of the data subject or of another natural person.

(6.5) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in HEROS Charity

(6.6) Processing is necessary for the purposes of the legitimate interests pursued by HEROS Charity or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

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7: Conditions for Consent

(7.1) Where processing is based on consent, HEROS Charity shall be able to demonstrate that the data subject has consented to the processing of his or her personal data.

(7.2) If the data subject's consent is given in the context of a written declaration which also concerns other matter the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language.

(7.3) The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw as it is to give consent.

(7.4) When assessing whether consent is freely given, utmost account shall be taken of whether the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

8: Conditions Applicable to Child's Consent In Relation To Information Society Services

(8.1) Where in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or is authorised by the holder of parental responsibility over the child.

(8.2) HEROS Charity shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

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9: Processing Special Categories

(9.1) Processing of personal data revealing racial or ethnic origin, political, opinion, religious or philosophical beliefs, or trade union membership and the processing of genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.

Paragraph 9.1 doesn't apply if one of the following applies:

(9.2) The data subject has given explicit consent to the processing of those personal data for one or more specified purposes.

(9.3) Processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent.

(9.4) Processing relates to personal data, which are manifestly made public by the data subject.

(9.5) Processing is necessary for the reasons of substantial public interest and must respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and interests of the data subject.

(9.6) Processing is necessary for the purposes of preventative or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care.

(9.7) Processing is necessary for reasons of public interest in public health.

(9.8) Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with respecting the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

10: Processing Which Does Not Require Identification:

(10.1) If the purpose for which a controller processes personal data does not or no longer requires identification of a data subject by the controller the controller shall not be obligated to maintain, acquire, or process additional information in order to identify the data subject for the sole purpose of complying with this regulation.

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11: Information Provided Upon Collecting from The Data Subject

Where personal data is collected / obtained from the data subject, HEROS Charity shall at the time of collection provide the data subject with the following information:

(11.1) The identity and contact details of HEROS Charity and where applicable any representative of HEROS.

(11.2) The contact details of the Data Protection Officer (DPO)

(11.3) The purpose of processing for which the personal data is intended as well as the legal basis for processing.

(11.4) The recipients or categories of recipients of the personal data, if any.

In addition to the first paragraph of section 10, HEROS Charity shall at the time when data is obtained, provide the data subject with the following information is needed to ensure that processing is fair and transparent.

(11.5) The period for which the personal data will be stored, or is that is not possible, the criteria used to determine that period.

(11.6) The existence of the right to request from HEROS Charity access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability.

(11.7) Whether the controller intends to further, process the personal data for a purpose other than that for which the data controller shall provide the data subject with information regarding the reason behind the further processing, at this point the data subject has the right to refuse further processing.

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12: Circumstances of Data Not Obtained From The Data Subject

Where personal data is not collected / obtained from the data subject, HEROS Charity shall provide the data subject with the following information no later than one month after obtaining data:

(12.1) The identity and contact details of HEROS Charity and where applicable any representative of HEROS.

(12.2) The contact details of the Data Protection Officer (DPO)

(12.3) The purpose of processing for which the personal data is intended as well as the legal basis for processing.

(12.4) The recipients or categories of recipients of the personal data, if any.

In addition to the first paragraph of section 10, HEROS Charity shall at the time when data is obtained, provide the data subject with the following information is needed to ensure that processing is fair and transparent.

(12.5) The period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

(12.6) The existence of the right to request from HEROS Charity access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability.

(12.7) Whether the controller intends to further, process the personal data for a purpose other than that for which the data controller shall provide the data subject with information regarding the reason behind the further processing, at this point the data subject has the right to refuse further processing.

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13: Right of Access

The data subject shall have the right to obtain their personal data from HEROS Charity and confirmation as to whether data concerning Him/her is being processed and where that is the case, they may also have access to the following information.

(13.1) The purpose of the processing

(13.2) The categories of personal data concerned.

(13.3) The period for which the personal data will be stored, if this is not possible the criteria used to determine that period.

(13.4) The existence of the right to request from HEROS Charity the rectification or erasure of personal data or the implementation of restriction in relation to processing that data.

(13.5) Where the personal data was obtained by other means than the data subject themselves any available information that HEROS Charity withholds regarding the source.

14: Right to Rectification

The data subject has the right to obtain from HEROS Charity without undue delay, the rectification of inaccurate personal data concerning Him/Her. Considering the purposes of the processing, the data subject has the right to have incomplete personal data completed, including by means of providing a supplementary statement.

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15: Right to Erasure / Right To Be Forgotten

The data subject has the right to request that HEROS Charity erases any personal data concerning him/her without undue delay and HEROS Charity has the obligation to erase personal data without undue delay where one of the following applies.

(15.1) The personal data withheld is no longer necessary in relation to the purposes for which they were collected or otherwise processed.

(15.2) Where HEROS Charity has made the personal data public, it is now obligated to pursue the erasure of any personal data relating to the data subject that has been publicly released without undue delay. Considering available technology and the cost of implementation, HEROS Charity will take reasonable steps and technical measures to inform any HEROS Charity representative that the data subject has requested erasure of their data and of any links, copies or replications of the personal data.

16: Right To Data Portability

The data subject has the right to receive the personal data concerning Him/Her, in a structured, commonly used machine-readable format and has the right to transmit the data to another controller without hindrance from the controller to which the personal data has been provided.

(16.1) The processing is carried out by automated means.

(16.2) In exercising his/hers right to data portability pursuant to the above paragraph (16). The data subject shall have the right to have the personal data transmitted directly from HEROS Charity to another controller, where technically feasible.

(16.3) The right is void when processing is necessary for the performance of a task carried out in the public interest.

(16.4) That the right outlines in the above paragraph (16) shall not adversely affect the rights and freedoms of others.

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17: Right to Object

The data subject has the right to object, on the grounds relating to his/her situation. HEROS Charity shall no longer process that data unless HEROS Charity demonstrates a compelling legitimate ground for the processing which override the interests, rights and freedoms of the data subject.

(17.1) Where the personal data is processed for direct marketing purposes, the data subject has the right to object at any time to any processing of data concerning him/her for such marketing.

(17.2) Where the data subject directly objects to the processing for direct marketing purposes, at the latest the first communication with the data subject paragraph (17) and (17.1) shall be explicitly brought to the attention of the data subject.

18: Responsibility of The Controller

Considering the nature, scope, context and purposes of the processing as well as any risks of varying likelihood and severity for the rights and freedoms of natural persons. HEROS Charity shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with this regulation and those measures shall be reviewed and updated as needed.

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19: Processor

Where processing is to be carried out on behalf of a controller, HEROS Charity shall use only processors providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of this policy and ensure the protection of the rights of the data subject.

The processor shall not engage another processor without prior specific or general written authorisation. The processor shall inform the controller of any intended changes concerning the addition or replacement of other processors, thereby giving the controller a chance to object.

(19.1) Ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under appropriate statutory obligation of confidentiality. Respects the conditions referred to in the 2nd paragraph.

(19.2) Taking into account the nature of the processing, assists HEROS Charity by appropriate technical and organisational measures, insofar as this is possible for the fulfilment of HEROS Charity's obligation to respond to requests for exercising the data subject's rights.

(19.3) At the choice of HEROS Charity, deletes or returns all the personal data to HEROS Charity at the end of provision of services relating to processing and deleted existing copies unless stated by law that requires storage of personal data.

20: Processing Under the Authority Of The Controller Or Processor

The processor and any person acting under the authority of the controller or of the processor, who has access to personal data except on instructions from HEROS Charity unless required to do so by law.

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21: Records of Processing

The processor and any person acting under the authority of HEROS Charity or of the processor, who has access to personal data shall not process that data unless under law or instructions from HEROS Charity.

(21.1) The name and contact details of HEROS Charity and, where applicable the joint controller, HEROS Charity's representative and the Data Protection Officer.

(21.2) The purposes of the processing

(21.3) The categories of data subjects and the categories of data.

(21.4) The categories / identification of recipients of the data have been or will be disclosed including recipients in third countries or international organisations.

(21.5) Where applicable any transfers or personal data to a third country or an international organisation, must include identification of that organisation or third country including identification of the specific recipient.

22: Security of Processing

Considering the state of the art, costs of implementation and nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of the natural person. HEROS Charity and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate, the Pseudonymisation and encryption of data.

(22.1) Ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services.

(22.2) Ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident.

(22.3) A process for regularly testing assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

(22.4) HEROS Charity and data processors shall take steps to ensure that any natural person acting under the authority of HEROS Charity or the processor who has access to personal data does not process them except on instructions from the controller unless he/she is required to do so by law.

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23: Notification of A Personal Data Breach To The Supervisory Authority

In the case of a personal data breach HEROS Charity shall without undue delay, where feasible no later than 72 hours after having become aware of it. Notify the personal data breach to the supervisory authority, or head of the charity. Unless the personal data breach, is unlikely to result in a risk. To the rights and freedoms of natural persons. Where the notification is not made within 72 hours, it shall be accompanied by reasons for the delay.

(23.1) The processor shall notify HEROS Charity without undue delay after becoming aware of the personal data breach.

The notification referred to in the paragraph above shall...

(23.2) Describe the nature of the personal data breach including where possible. The categories and approximate number of personal data records concerned.

(23.3) Communicate the name and contact details of the data protection officer or other contact point where more information can be obtained.

(23.4) Describe the likely consequences of the data breach.

(23.5) Describe the measures taken or proposed to be taken by the processor to address the data breach including where appropriate measures to mitigate possible adverse effects.

(23.6) Where insofar it is not possible to provide the information at the same time of the breach, the information may be provided in phases with no undue further delay.

(23.7) HEROS Charity shall document any personal data breaches, comprising the facts relating to the breach, its effects and the remedial actions taken.

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24: Communication of A Data Breach To The Data Subject

When the data breach is likely to result in a high risk to the rights and freedoms of the data subject, HEROS Charity shall communicate the personal data breach to the data subject without undue delay.

The communication to the data subject referred to in the above paragraph of this section shall describe in clear and plain language the nature of the breach.

(24.1) HEROS Charity has implemented appropriate technical and organisational protection methods and those methods were applied to the personal data affected by the data breach in particular those that render the data unintelligible to any person who is not authorised to any person who is not authorised to access it such as encryptions.

(24.2) HEROS Charity has taken subsequent measures which ensure that the high risk to the rights and freedoms of the data subject referred to in the first paragraph are no longer likely to materialise.

(24.3) It will involve disproportionate effort. In such case, there shall instead be a public communication or similar measure whereby the data subjects are informed in an equally effective manner.

(24.4) If HEROS Charity has not already communicated the data breach to the supervising authority, having considered the likelihood of the data breach being of high risk. It may require that all the conditions above are met.

25: Personal Data Breach Procedure

This procedure is based on guidance on personal data breaches produced to the ICO

On finding or causing a breach, or potential breach, the staff member or data processor must immediately notify the CEO who will immediately inform the Data Protection Officer

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25: Data Protection Impact Assessment

Where a type of processing in particular using new technologies and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons. HEROS Charity shall prior to processing carry out an assessment of the impact of the envisaged processing operations on the protection of personal data.

(25.1) HEROS charity shall seek the advice of the data protection officer where designated, when carrying out a data protection impact assessment (DPIA)

(25.2) A data protection impact assessment referred to in the above paragraph shall in particular be required in the case of:

(25.2a) A systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person.

(25.2b) Processing on a large scale of special categories referred to in category 9 or any personal data relating to criminal convictions and offences referred to in category 10 or:

(25.2c) A systematic monitoring of a publicly accessible area on a large scale.

(25.3) The supervisory authority shall establish and make public a list of the kind of processing operations which are subject to the requirement for a data protection impact assessment persistent to the first paragraph in this section. The supervisory authority shall communicate those lists to the board.

(25.4) The supervisory authority may also establish and make public a list of the kind of processing operations for which no data protection impact assessment is required. The supervisory authority shall communicate those lists to the board.

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25: Data Protection Impact Assessment Continued

The assessment shall contain at least:

(25.5a) A systematic description of the envisaged processing operations and the purposes of the processing including, where applicable the legitimate interest pursued by HEROS Charity.

(25.5b) An assessment of the necessity and proportionality of the processing operations in relation to the processes.

(25.5c) An assessment of the risks to the rights and freedoms of data subjects referred to in the first paragraph; and

(25.5d) The measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this policy, taking into account the rights and legitimate interests of data subjects and other persons concerned.

(25.6) Where appropriate HEROS Charity shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security or processing operations.

(25.7) Where necessary, HEROS Charity shall carry out a review to assess if processing is performed in accordance with the data protection impact assessment at least when there is a change of the risk represented by processing operations.

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26: Designation of The Data Protection Officer

HEROS Charity and the processor shall designate a data protection officer in any case where...

(26.1) The processing is carried out by a public authority or body.

(26.2) The core activities of HEROS Charity or their processor, consist of processing operations which by virtue of their nature, scope and or purposes, require regular and systematic monitoring of data subjects on a large scale.

(26.3) The Data Protection Officer shall be designated on the basis of professional qualities and, in particular expert knowledge on data protection law and practices and the ability to fulfil the tasks referred to in 37.

(26.4) The data protection officer may be a staff member of HEROS Charity or a processor or fulfil the tasks on the basis of a service contract.

(26.5) HEROS Charity or the processor shall publish the contact details of the data protection officer and communicate them to the supervisory authority.

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27: Position of The Data Protection Officer

(27.1) HEROS Charity and its processor shall ensure that the data protection officer is involved in a proper and timely manner in all issues which relate to the protection of personal data.

(27.2) HEROS Charity and the processors shall support the data protection officer in performing tasks shown in “39” by providing the necessary resources to carry out those tasks and access to personal data and processing operations and to maintain his/hers expert knowledge.

(27.3) HEROS Charity and processor shall ensure that the data protection officer does not receive any instructions regarding the exercise of those tasks. he/she shall not be dismissed or penalised by HEROS Charity or the processor for carrying out his/hers tasks.

(27.4) Data subjects may contact the data protection officer regarding all issues related to processing of their personal data and to the exercise of their rights under this policy.

(27.5) The data protection officer shall be bound by secrecy or confidentiality concerning the performance of his/her tasks in accordance with law.

(27.6) The data protection officer may fulfil other tasks and duties. HEROS Charity or processors shall ensure that any such tasks and duties do not result in a conflict of interests.

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28: Tasks of The Data Protection Officer

The data protection officer shall have at least the following tasks...

(28.1) To inform and advise the HEROS Charity or the processor and the employees who carry out processing of their obligations pursuant to this policy and to any other state provisions.

(28.2) To monitor compliance with this policy and other state policies and regulations and the organisations policies of HEROS Charity or processor in relation to the protection of personal data including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations and any related audits.

(28.3) To provide advice where requested as regards to a data protection impact assessment and monitor its performance.

(28.4) To cooperate with the supervising authority.

(28.5) To act as a point of contact for the supervisory authority on issues relating to processing, including the prior consultation, and to consult where appropriate regarding any matter.

(28.6) The data protection officer shall in the performance of his/her tasks, have due regard with processing operations, considering the nature, scope, context and purposes of processing.

The GDPR provisions from the ICO were used as a guidance and foundation for this policy as were documents from the NCVO website.

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