

Data Protection Guidelines October 2004

Minimising Groups' exposure to liability

This document is the first in a series of guidelines to be issued by the Scout Association to ensure that all Association Leaders know what is expected from them in view of the Data Protection Act. These guidelines are to be observed until further notice.

What is the Data Protection Act Chapter 440 of the Laws of Malta?

An Act that makes provision for the protection of individuals against the violation of their privacy rights by the processing of personal data. In order to do this, the Act regulates the processing of Personal Data in relation to individuals, including the obtaining, holding, use or disclosure of such information.

Who is currently responsible for data collected by Scout Groups?

Considering the fact that Group Scout Leaders are held accountable for everything concerning their Groups, the current situation is that GSLs are the Data Controllers of each Group. The term Data Controller is the term used by the Law covering the person who either alone or jointly with others determines the purpose and manner for which the Personal Data is to be used.

Data Controllers are to keep in mind the nine principles for 'good information handling'. Personal Data to be:

1. Processed fairly and lawfully
2. Processed in accordance with good practice
3. Collected for specific, explicitly stated & legitimate purposes
4. Processed for reasons compatible with the purpose it was collected
5. Adequate and relevant to the processing purpose
6. Not more than required for the processing purpose
7. Correct and, if necessary, up to date
8. Rectified
9. Not kept for longer than necessary for the processing purpose

What is personal Data?

Personal Data is all the information that the Group holds in relation to each and every member, leader, helper and Group supporter. This covers any information that can be attached to an identified living person. Thus information on companies or legal persons (eg. Clubs) is not classified as personal data. An identifiable person is one who can be identified by reference to one or more properties e.g. identity card number, his physical/mental/economic/cultural or social identity.

The Notification Form

Groups are reminded that no Notification Form is to be submitted to the Office of Data Protection. The Scout Association is currently negotiating an agreement with said Office to relieve some of the paper work from Groups. Groups that have already filed such a Form and have paid any relative fees are to communicate immediately with the undersigned.

Minimising our Risks – steps to be taken by GSLs with immediate effect.

1. All data is to be handled by the GSL or by the Section Leader and not their assistants.
2. Access to data stored on a PC should be limited to the above Scouters and only with respect to their section members. Only the GSL is to have access to all data regarding the Group members.
3. Data stored physical, such as on enrolment forms is to be kept under lock and key and rule 2 applies also in this context.
4. Medical records collected for camping purposes or activity purposes are to be erased after such camp or activity is over. The only medical records that can be kept must relate to a medical condition that is of a permanent nature such as epilepsy and asthma.
5. Records of persons who are no longer members of the Group are to be deleted. Unless permission is sought by the GSL from the past member purely on the ground that he/she could be invited to attend Group activities for past members.
6. Photos to be used on Group websites or for publication – photos taken after the 15th July 2003 can only be used for these purposes if and only if parental consent was given. If one member does not give his/her consent then such photo can not be utilised. The responsibility of collecting said parental consent in this case lies with the editor of said publication and the webmaster.
7. Photos to be displayed at Group HQ or as part Group records - Parental consent is not needed here. Nonetheless each frame is to have clearly visible the date when such photo was taken.
8. Photos to be displayed at public places and / or events – rule 6 applies in this case also.
9. Leaders' contact details – only the Section Leaders' details are to be freely distributed and available. Such details are only to be given to members of that particular Section.
10. Requests re. data collection by current or past members – GSLs are to communicate with undersigned immediately upon having such a request made to them personally or to any of their Group Leaders and only the undersigned is to deal with such request.

Travelling aboard.

Groups are to inform the undersigned immediately in these circumstances. This need arises since the Data Protection Act stipulates that when a data subject (our Group members) is travelling outside Malta, the Office of Data Protection is to ensure that his/her rights are not infringed in that State. The procedure entailed in this regard is quite lengthy and cannot be done away with, especially if the Association member is travelling outside the EU. Failure to comply with this legal requisite might lead to the imposition of fines by the Office of Data Protection against the Group Scout Leader. Such fines will not be covered by the Scout Association nor will the Association allow Groups to pay for such fines, thus the Group Scout Leader would have to pay these fines personally.

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