

## POLICY ON PRIVACY AND DATA PROTECTION

Version	Approval by	Approval date	Effective Date	Next review
1.0	President, National Cancer Society of Malaysia	1 September 2020	1 September 2020	1 December 2022
<b>Policy Statement</b>				
Purpose	This policy sets out an explicit and clear public statement on NCSM's practices pertaining to privacy and data protection			
Scope	This policy covers all activities in which personal data is collected/handled/processed by either NCSM or its collaborative partners.			
<b>Policy Provisions</b>				
<p><b>1. Background</b></p> <p>In 2010, the Parliament of Malaysia passed the Personal Data Protection Act, which subsequently came into force on 15th November 2013. The Act regulates the processing of personal data in commercial transactions and confers rights on individuals ("Data Subjects") in relation to the collection, use and/or retention of their of their personal data as well as defines the responsibilities on the entities processing this data ("Data User").</p> <p>In line with this Act, the Personal Data Protection Code of Practice was developed and launched in 2017. The Code sets standards of conduct in respect of personal data; guides entities engaged in data processing to ensure that in processing, they do not infringe an individual's rights are provided by the Act; and also serves data processing entities to set effective standards and measures in relation to the processing of personal data.</p> <p>In accordance with the Code and NCSM's role as an organisation which is involved in various aspects of processing of personal data (Data User), this institution makes a commitment to adhere to the following policy.</p>				
<p><b>2. Policy</b></p> <p>i) NCSM as a Data User will obtain consent from Data Subjects for all purposes expect for those conditions as stated below:</p> <ul style="list-style-type: none"> <li>a) the performance of a contract entered into with a Data Subject</li> <li>b) in addressing any pre-contractual inquiry of a Data Subject who is a potential customer</li> <li>c) in order to comply with any non-contractual legal obligation that NCSM is subject to</li> <li>d) in order to protect the vital interests of the Data Subject (e.g. disclosing the last known location of the Data Subject where he/she has been reported missing for more than 24 hours)</li> </ul>				

- e) for the administration of justice in accordance with the requirements and processes as set out by the law
  - f) for the exercise of any functions conferred upon any person by the law
  - g) where expressly exempted or otherwise permitted by the Personal Data Protection Act (2010).
- ii) NCSM as a Data User will obtain consent from Data Subjects in a format and manner that is capable of being recorded and maintained in the following manner as determined appropriate and suitable for the determined purpose:
- a) written consent via signature(s) or ticks indicating consent
  - b) opt-in or opt-out consent,
  - c) verbal consent
- iii) NCSM as a Data User will obtain consent from Data Subjects on paper or electronic mediums including but not limited to SMS, email and other internet/social/application based messaging systems.
- iv) NCSM as a Data User, for the avoidance of doubt, deems that any consent given to NCSM by the authorised representatives of the Data Subject, including but not limited to the holders of any power of attorney, trustees, guardians or personal representatives, shall bind the respective Data Subject.
- v) NCSM as a Data User shall ensure that personal data shall only be processed if:
- a) the personal data is processed for a lawful purpose directly related to the activities of NCSM
  - b) the processing of personal data is necessary or directly related to that purpose
  - c) the personal data is adequate but not excessive in relation to that purpose
- vi) NCSM as a Data User shall ensure that personal data sought and held is
- a) relevant in relation to the purpose(s) for which it has been collected
  - b) adequate in relation to the purpose(s) for which it has been collected
  - c) not excessive in relation to the purpose(s) for which it has been collected
- vii) NCSM as a Data User shall ensure to bring to the attention of Data Subjects their Privacy Notice (a publicly available statement clearly expressing the privacy practices of how NCSM uses, manages, discloses and provides Data Subjects with access to personal data collected by NCSM), prior to or as soon as reasonably practicable, when collecting and processing their personal data.
- viii) NCSM as a Data User shall ensure that the Privacy Notice is communicated to the Data Subject either when personal data is first collected, when the Data User first requests the Data Subject for the personal data; or as soon as practicable thereafter.
- ix) NCSM as a Data User will only disclose the Data Subject's personal data pursuant to the terms of its Privacy Notice; the relevant provisions under the Personal Data Protection Act and/or such other applicable laws that NCSM is subject to.

- x) NCSM as a Data User will only disclose personal data to third parties where:
- a) the disclosure is for the purpose declared at the point of the collection of the personal data as stated in the Data User's Privacy Notice
  - b) the disclosure is for a purpose directly related to the purpose declared in the Privacy Notice at the point of the collection of the personal data (i.e. a purpose closely associated to the primary purpose)
  - c) the disclosure is being made to a third party mentioned in the Privacy Notice or to a class or category of third parties as identified in the Privacy Notice
- xi) NCSM as a Data User may disclose personal data of Data Subjects under the following circumstances:
- a) the disclosure has been consented to by the Data Subject
  - b) the disclosure is necessary for the purpose of preventing or detecting a crime, or for the purpose of investigations
  - c) the disclosure is required or authorized by or under any law or by the order of a court
  - d) NCSM acted in the reasonable belief that it had in law the right to disclose the personal data to the other person
  - e) NCSM acted in the reasonable belief that it would have had the consent of the Data Subject if the Data Subject had known of the disclosure of the personal data and the circumstances of such disclosure
  - f) the Government determines the disclosure as being justified in the public interest.
- xii) NCSM as a Data User will taken practical steps to protect all personal data from any loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction.
- xiii) NCSM as a Data User will hold personal data only for as long as necessary for the fulfilment of the purpose. Once that purpose has been fulfilled, NCSM will ensure that the personal data is permanently destroyed/deleted. This, however is not applicable for personal data held in accordance with other applicable statutory provisions for retention of data/records/information for a specified minimum duration under Malaysian law.
- xiv) NCSM as a Data User will take reasonable steps to ensure that the personal data processed by NCSM is accurate, complete, not misleading and kept up-to-date.
- xv) NCSM as a Data User is obliged to provide to Data Subjects access to their personal data held by NCSM as well as to allow the Data Subject to correct their personal data where the data is inaccurate, incomplete, misleading or not up-to-date.
- xvi) NCSM as a Data User has the right to not comply to a data access request when NCSM:
- a) has not been supplied with sufficient information (as reasonably required, i.e. name, identification card number, address, and such other related information as the

- Commissioner may determine) in order to establish the requestor's identity, establish the identity of the Data Subject, or establish the requestor's connection to the Data Subject
- b) has not been supplied with sufficient information as they may reasonably require to locate the personal data to which the data access request relates
  - c) is unable to comply with the data access request without disclosing another person's personal data (unless the other person has consented to the disclosure of the personal data to the requestor)
  - d) is of the view that the burden or expense of providing access is disproportionate to the risks to the Data Subject's privacy in relation to the personal data requested for via the data access request
  - e) is at risk of violating a court order should NCSM provide access to the Data Subject or requestor
  - f) is of the view that that providing access would disclose confidential commercial information of NCSM
  - g) has not received the fees for making a data access request as per the Personal Data Protection (Fees) Regulation 2013 (where and if required by the Data User).

### 3. Policy Definitions

In this section, certain terms referred to in the various sections above are defined clearly for understanding and reference for all relevant parties and stakeholders. While some of the terms may have differing definitions in other sectors including within a legal framework, the definitions below are specifically for the use of the terms within this policy document.

**i) Data Subject** – defined as individual (living human being separate and distinct from companies or other corporate entities) who is the subject of personal data.

**ii) Data User** – defined as an entity who either alone or jointly or in common with other persons processes personal data or has control over or authorizes the processing of any personal data (but does not include a data processor). In this document, this definition is applied to and synonymous with the organisation named National Cancer Society of Malaysia (or NCSM).

**iii) Personal Data** – defined as any information in respect of commercial transactions, which –

- (a) is being processed wholly or partly by means of equipment operating automatically in response to instructions given for that purpose
- (b) is recorded with the intention that it should wholly or partly be processed by means of such equipment
- (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, that relates directly or indirectly to a Data Subject, who is identified or identifiable from that information or from that and other information in the possession of a Data User, including any sensitive personal data and expression of opinion about the Data Subject

**iv) Processing** - in relation to personal data, this is defined as collecting, recording, holding or storing the personal data or carrying out any operation or set of operations on the personal data, including –

- (a) the organization, adaptation or alteration of personal data
- (b) the retrieval, consultation or use of personal data
- (c) the disclosure of personal data by transmission transfer, dissemination or otherwise making available
- (d) the alignment, combination, correction, erasure or destruction of personal data

**v) Sensitive Personal Data** – defined as any personal data consisting of information as to the physical or mental health or condition of a Data Subject, his/her political opinions, his religious beliefs or other beliefs of a similar nature, the commission or alleged commission by him of any offence or any other personal data that may be determined by order of the Government.

**vi) Third Party**- defined as any person other than -

- (a) a Data Subject;
- (b) a relevant person in relation to a Data Subject;
- (c) a Data User other than NCSM;
- (d) a data processor; or
- (e) a person authorized in writing by NCSM to process the personal data under the direct control of NCSM.

#### 4. Policy Application

This policy applies to the following relationships that may arise in the course of activities in which NCSM processes the personal data of individuals:

##### **i) Relationship between NCSM and Individuals**

This policy shall apply to the relationship between NCSM and individuals, including but not limited to:-

- a) individuals who are (or were) customers of NCSM;
- b) individuals that represent customers of NCSM (e.g. parents of minors, trustees and authorised representatives);
- c) individuals that have been identified as potential customers of NCSM
- d) individuals that have applied to be customers of NCSM, whether successfully or otherwise; and
- e) individuals that have entered into ancillary arrangements with NCSM (e.g. guarantors and/or third party security providers) on behalf of another individual or entity.

##### **(ii) Relationship between Data User and Third Party Service Provider**

This policy shall apply to the relationship between NCSM and third party service providers (“data processors”), for example, where the NCSM outsources certain functions (e.g. marketing, debt collection) to third parties and provides the said third parties with the relevant personal data of customers (Data Subjects inclusive).

**(iii) Relationship between the Data User and Personnel**

This policy shall apply to the relationship between NCSM and their personnel, but only to the extent that it involves the processing of personal data of Data Subjects by the personnel of the NCSM.

**Accountability**

Contact Person(s)	Head, PR and Communications Dept Head, Marketing Dept
Compliance Officer	General Manager

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1.0	Dr Saunthari Somasundaram President, National Cancer Society of Malaysia	1 September 2020	1 September 2020	New document

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