

## **Data Protection Policy**

### **1.0 Introduction**

EFAC is committed to processing data in accordance with its responsibilities under the Data Protection Act Kenya 2019. The objective of the Act is to:

- a) To regulate the processing of personal data
- b) To ensure that the principles of personal data of a data subject is guided by the principles set out in section 25
- c) To protect the privacy of individuals
- d) To establish the legal and institutional mechanism to protect personal data, and
- e) To provide data subjects with rights and remedies to protect their personal data from processing that is not in accordance with this Act.

This policy applies to all personal data processed by all EFAC employees and affiliates. The Country Director shall take responsibility for the ongoing compliance with this policy and all enquiries should be directed to he/she.

Section 25, Principles of data protection states:

Every data controller or data processor shall ensure that personal data is-

- a) Processed in accordance with the right to privacy of the data subject;
- b) Processed lawfully, fairly and in a transparent manner in a relation to any data subject;
- c) Collected for explicit, specified and legitimate purposes and not further processed in a manner incompatible with those purposes;
- d) Adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed;
- e) Collected only where a valid explanation is provided whenever information relating to family or private affairs is required;
- f) Accurate and, where necessary, kept up to date, with every reasonable step being taken to ensure that nay inaccurate personal data is erased or rectified without delay
- g) kept in a form which identifies the data subjects for no longer than is necessary for the purposes which it was collected; and
- h) not transferred outside Kenya, unless there is proof of adequate data protection safeguards or consent from the data subject

### **2.0 Lawful, fair and transparent processing**

EFAC will ensure the processing of data is lawful, fair and transparent. Individuals have the right to access their personal data and any such requests made shall be dealt with in a timely manner. All data processing by EFAC must be done on one of the following lawful bases: consent, contract, legal, obligation, vital interests, public tasks and legitimate interests.

Processing shall be lawful only if and to the extent that at least one of the following applies:

- i. The data subject has given consent to the processing of his or her personal data for one or more specific purposes;
- ii. Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- iii. Processing is necessary for compliance with a legal obligation to which the controller is subject;
- iv. Processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- v. 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 data controller;
- vi. 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 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.”

Where consent is relied upon as a lawful basis for processing data, evidence of opt-in consent shall be kept with the personal data. Where communications are sent to individuals based on their consent, the option for the individual to revoke their consent should be clearly available and systems should be in place to ensure such revocation is reflected accurately by EFAC.

## **3.0 Definitions**

### **3.1 Data minimization**

EFAC shall ensure that personal data is adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

### **3.2 Accuracy**

EFAC shall take reasonable steps to ensure personal data is accurate. Where necessary for the lawful basis on which data is processed, steps shall be put in place to ensure that personal data is kept up to date.

### **3.3 Archiving/removal**

To ensure that personal data is kept for no longer than necessary, this process will be reviewed annually.

### 3.4 Security

EFAC shall ensure that personal data is stored securely using modern software that is kept-up-to-date. Access to personal data shall be limited to personnel who need access and appropriate security should be in place to avoid unauthorised sharing of information. This will include paper records being kept in locked cupboards with restricted staff access, and electronic data being held in drives with restricted staff access. When personal data is deleted this should be done safely such that the data is irrecoverable. Appropriate back-up and disaster recovery solutions shall be in place.

### 3.5 Breach

In the event of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data, EFAC shall promptly assess the risk to people's rights and freedoms and, if appropriate, report this breach to the appropriate Data Commissioner.

By signing below, I consent to abide by the Data Protection Policy

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Position: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed by: \_\_\_\_\_

On behalf of EFAC, this date: \_\_\_\_\_

*(for an organization, appendix a list of staff/members that will have direct contact with the EFAC scholars)*