



# **DATA PROTECTION & HANDLING POLICY**

**2022**

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## 1. INTRODUCTION

The Kenyan Government enacted the Data Protection Act, number 24 of 2019 (herein referred to as the “Act”), seeking to protect the privacy of individuals by enforcing responsible processing of Personal Data. This includes embedding principles and practices of lawful processing, minimizing the collection of data, ensuring the accuracy of data and adopting security safeguards to protect Personal Data.

This is a ministry management policy, and any amendments shall be made in consultation with the Elders’ Council. It is to be reviewed every three years as guided by the Senior Pastor.

## 2 POLICY STATEMENT

Nairobi Baptist Church (the “NBC”) is committed to complying with all relevant Kenyan legislation and applicable global legislations on the protection of Personal Data. NBC recognizes that the protection of individuals through lawful, legitimate, and responsible processing and use of their Personal Data is a fundamental human right.

NBC shall ensure that it protects the rights of a Data Subject (as defined below) and that the data it collects, and processes is done in line with the Act.

The NBC staff shall comply with this policy, breach of which could result in disciplinary action, as stipulated in the Human Resource Policy and Procedures Manual

Breach of policy that relates to non-staff shall be guided by the Church Constitution.

## 3 PURPOSE

The policy provides guidance on how NBC will handle the Personal Data it collects. It helps NBC comply with the Act, protect the rights of a Data Subject and protects NBC from ethical and legal risks related to Personal Data Breach.

## 4 SCOPE

This policy applies to Employees of NBC and all NBC’s associated parties, trustees, implementing partners, vendors, contractors and any other third party who process NBC Personal Data (where NBC is the ‘Data Controller’ for the Personal Data being processed, be it in manual and automated forms or if others hold it on their systems on behalf of NBC.

- a) All Personal Data processing NBC carries out for others (where NBC is the Data Processor); and
- b) All formats, e.g., printed and digital data, text and images, documents and records, data and audio recordings.

## 5 DEFINITIONS

- a) **Data Controller** means a natural or legal person, public authority, agency or other body, alone or jointly with others, which determines the purpose and means of the processing of Personal Data.
- b) **Data Processor** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the Data Controller.
- c) **Data Subject** means an identified or identifiable natural person who is the subject of Personal Data.
- d) **Personal Data** means any information relating to an identified or identifiable natural person
- e) **Personal Data Breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored, or otherwise processed.
- f) **Sensitive Personal Data** means data that reveals the natural person’s race, health status, ethnic/social origin, conscience, belief, genetic data, biometric data, property details, marital status, family details including names of the person’s children, parents, spouse or spouses sex, or

the sexual orientation of the Data Subject.

- g) **Processing data** means any operation or sets of operations performed on personal data whether or not by automated means, such as (a) collection, recording, organization, structuring; (b) storage, adaptation or alteration; (c) retrieval, consultation or use; (d) disclosure by transmission, dissemination, or otherwise making available; or (e) alignment or combination, restriction, erasure or destruction.

## **6 TYPE OF PERSONAL DATA PROCESSED BY NBC**

- 6.1** NBC may collect the following Personal Data for membership registration, through a Membership Registration form (see appendix 1):
- (a) their name;
  - (b) their contact details;
  - (c) the date when the Data Subject became a member of NBC;
  - (d) their profession or skills;
  - (e) their marital status and name of spouse if married;
  - (f) their ministry gifts; and
  - (g) their general area of residence to enable NBC place them in small/home groups.
- 6.2** For one (1) day NBC events, NBC may collect Personal Data in an attendance sheet that includes the name, phone number and email, and the NBC assemblies they attend.
- 6.3** For sleep-in activities such as retreats/camps, NBC may collect the Personal Data on the name, contact details, medical allergies and conditions, name and number of next of kin in case of emergency, signature of a Data Subject. If the Data Subject is a minor, the minor will fill a form that includes the above Personal Data and the name and signature of their parent or guardian for consent.
- 6.4** For nomination to a leadership position (Elder) in NBC, OR one being nominated to be a ministry leader, OR, a member co-opted into any of the Elders' Council Committees, NBC shall process data provided in the form under appendix 2.
- 6.5** For persons joining a ministry, some personal bio data information and statement of faith shall be compiled. NBC shall process this data provided in the form under appendix 3.
- 6.6** For persons seeking employment with the Church, personal information shall be collected using the Job Application Form for purposes of equal analysis of suitability of candidates. NBC shall process personal data of persons engaged as employees including: contact details, statutory details such as PIN, NSSF and NHIF data, age, marital status, names of beneficiaries, medical conditions, name and number of next of kin in case of emergency, and signature of a Data Subject.

## **7 PURPOSE & PERIOD FOR WHICH THE PERSONAL DATA IS COLLECTED**

### **7.1 For Membership Register**

NBC shall maintain a membership register as a database on the members of the church. The maintenance of such a database shall be without limitation to time. NBC shall not delete the data on the Data Subjects even after they move to another church or pass away. In the event the Data Subject moves to another church or passes away, NBC shall retain folders indicating that the Data Subject moved to another church or is deceased.

### **7.2 One-day (1) NBC Events**

NBC shall collect data on one (1) day NBC events to maintain an attendance record. NBC keeps records for statutory meetings in an archive. NBC does not have a policy on how long it shall keep other data collected

during one (1) day NBC events but the timeline shall be reasonable and in accordance with the provisions of the Act and any regulations passed in accordance with the Act.

### **7.3 For Sleep-In Activities**

NBC collects Personal Data during sleep-in activities as a safety precaution and to facilitate contact in case of an emergency. NBC does not have a policy on long it shall keep such Personal Data but the timeline shall be reasonable and in accordance with the provisions of the Act and any regulations passed in accordance with the Act.

### **7.4 Leadership Forms**

Leadership forms shall be processed by the Leadership Office, through the Communications and Corporate Affairs Manager, and then filed in the Leadership Office. The Personal Data collected shall be summarized and forwarded to the NBC's elders for their approval and thereafter presented to the Church members for election.

### **7.5 Personal Bio-data Forms**

Personal bio-data forms for persons joining the ministry for the first time shall be processed by pastors in-charge of respective ministries and then filed by the respective pastor.

## **8 CHURCH PERSONNEL WHO HANDLE DATA**

### **8.1 Membership Register**

The officials who maintain the NBC's membership register has varied over the years. Currently, the membership register is maintained:

- (a) At the Assembly level by the Assembly Administrator, or Pastor in-Charge of Discipleship; and
- (b) At the Global level by the Communications and Corporate Affairs Manager under the Leadership Office.

NBC may share Personal Data from the membership register when seeking for Church members with particular expertise to be involved in specific tasks/ministries.

### **8.2 One-day (1) NBC Events**

The NBC's ministry co-workers in the various departments collect Personal Data during one-day (1) NBC events. Thereafter, the Personal Data is submitted to the Ministry Coordinator (who is an NBC administrative staff) of the respective ministry. The Pastor in-Charge of the activity has access to the Personal Data.

### **8.3 For Sleep-in Activities**

The NBC's ministry co-workers in the various departments mobilize and collect the Personal Data for participants of sleep-in activities. The respective ministry co-workers then submit the Personal Data to the Ministry Coordinator (who is an NBC administrative staff) of the respective ministry.

### **8.4 NBC Membership Meetings**

**8.4.1 For Membership Meetings within Assemblies:** The Assembly Administrator handles Personal Data collected during Assembly membership meetings. The Assembly Administrator then files the information with may be accessed by the Lead Pastor of the Assembly, or the Communications & Corporate Affairs Manager, on behalf of the Leadership Office

**8.4.2 For Global Membership Meetings:** Ministry Coordinator in the NBC's Leadership Office handles Personal Data collected during NBC's global membership meetings. The Ministry Coordinator then files the information, which may be accessed by the Communications & Corporate Affairs Manager for recording of minutes of the meeting.

### **8.5 Church Employees:**

The office of Human Resource and Support Services Manager collects personal data of employees. The information is filed in individual personnel files. The data is used to process payroll and related statutory remittances.

**8.6** As much as is possible, information shall be collected electronically

## **9 PRINCIPLES**

NBC shall ensure that data is:

- 9.1** Processed lawfully, fairly and in a transparent manner and in line with the right to privacy.
- 9.2** Collected only for specified, explicit and legitimate purposes and not further processed in a manner incompatible with that purpose.
- 9.3** Adequate, relevant, and limited to what is necessary in relation to the purposes for which it is to be processed.
- 9.4** Accurate and, where necessary, kept up to date.
- 9.5** Not kept in a form which permits identification of a Data Subject for longer than is necessary for the purposes for which the data is processed.
- 9.6** Processed in a manner that ensures its security using appropriate technical and organizational measures to protect against unauthorized or unlawful processing and accidental loss, destruction, or damage.
- 9.7** Not transferred out of Kenya unless there is proof of adequate data safeguards/ measures or consent from the Data Subject.

## **10 DUTY TO NOTIFY**

NBC has a duty to notify a Data Subject of the Data Subject's rights before data processing, including taking of up-close photographs. NBC shall therefore inform the Data Subject of their right:

- a) To be informed of the use to which their Personal Data is to be put.
- b) To access their Personal Data that is in NBC's custody.
- c) To object to the processing of all or part of their Personal Data.
- d) To the correction or deletion of false or misleading data about them.

## **11. LAWFUL AND FAIR PROCESSING OF DATA**

NBC shall only process data where they have a lawful basis to do so. Processing Personal Data will only be lawful where the Data Subject has given their consent for one or more specific purposes or where the processing is deemed necessary:

- a) For the performance of a contract to which the Data Subject is a party (for instance a contract of employment).
- b) To comply with the NBC's legal obligations.
- c) To perform tasks carried out in the public interest or the exercise of official authority.
- d) To protect the vital interests of the Data Subject or another person.
- e) To pursue NBC's legitimate interests where those interests are not outweighed by the interests and rights of a Data Subject.
- f) For historical, statistical, journalistic, literature and art or research

### **11.1 Minimization of Collection of Personal Data**

- a) NBC shall not process any Personal Data for a purpose for which it did not obtain consent. Should such a need arise, then consent must be obtained from the Data Subject.
- b) NBC shall collect and process data that is adequate, relevant, and limited to what is necessary. NBC staff must not access data which they are not authorized to access nor have a reason to access.
- c) Personal Data shall only be collected for the performance of duties and tasks under this policy. The NBC staff shall not ask a Data Subject to provide Personal Data unless that is strictly necessary for the intended purpose.
- d) Staff must ensure that they delete, destroy, or anonymize any Personal Data that is no longer needed for the specific purpose for which they were collected.

### **11.2 Accuracy of Data**

NBC must ensure that the Personal Data it collects and processes is accurate, updated, corrected or deleted (when and if necessary) without delay.

### **11.3 Consent**

Where necessary, NBC shall maintain adequate records to show that consent was obtained before personal processing data. Data will not be processed after the withdrawal of consent by a Data Subject.

### **11.4 Processing Data Relating to A Child**

- a) NBC shall not process data relating to a child unless consent is given by the child's parent or guardian and unless the processing is in such a manner that protects and advances the rights and best interests of the child.
- b) NBC will institute adequate mechanisms to verify the age of a Data Subject and obtain consent before processing the data.

### **11.5 Processing sensitive personal data**

NBC shall process Sensitive Personal Data only when:

- a) The processing is carried out in the course of legitimate activities with appropriate safeguards and that the processing relates solely to the staff or to persons who have regular contact with NBC, and the Personal Data is not disclosed outside NBC without the consent of the Data Subject.
- b) The processing relates to Personal Data that has been disclosed by the Data Subject.
- c) Processing is necessary for:
  - i. The establishment, exercise or defence of a legal claim.
  - ii. The purpose of carrying out the obligations and exercising specific rights of the controller or of the Data Subject.
  - iii. Protecting the vital interests of the Data Subject or another person where the Data Subject is physically or legally incapable of giving consent.

### **11.6 Transferring Personal Data Out of Kenya**

NBC may transfer Personal Data out of Kenya only when:

- a) There is proof of appropriate measures for security and protection of the Personal Data, and the proof is provided to the Data Commissioner (as defined in the Act). Such measures include that data is transferred to jurisdictions with commensurate data protection laws.

- b) The transfer is necessary for the performance of a contract, implementation of pre- contractual measures such as:
- i. The conclusion or performance of a contract to which the Data Subject is part of.
  - ii. Matters of public interest.
  - iii. Legal claims.
  - iv. Protection of the vital interests of a Data Subject.
  - v. Compelling, legitimate interests pursued by the Data Controller or Data Processor which are not overridden by the interests, rights and freedoms of a Data Subject.

NBC may process Sensitive Personal Data out of Kenya only after obtaining the consent of a Data Subject and on receiving confirmation of appropriate safeguards.

NOTE: Data stored on cloud storage is not transfer of data.

## **12. ONWARD REPORTING**

- a) In line with the Act, NBC shall report to the Data Protection Commissioner any Personal Data Breach within seventy-two (72) hours of being aware of the same.
- b) NBC shall communicate the Personal Data Breach to the Data Subject as soon as is practical unless the Data Subject cannot be located.

## **13. TRAINING AND AWARENESS**

- a) NBC shall train staff on the contents and implementation of this policy. Staff who join NBC shall be required to go through an induction process that entails familiarization with this policy.
- b) NBC shall ensure that the requirements of this policy form part of its agreement with its grantees, contractors and third parties who process NBC's data.

## **14. DATA PROTECTION IMPACT ASSESSMENT**

NBC shall undertake a data protection impact assessment whenever they identify that the processing operation will likely result in a high risk to the rights and freedoms of any Data Subject.

## **15. ROLES AND RESPONSIBILITIES**

15.1 All staff must:

- a) Read, understand and comply with the contents of this policy; and
- b) Promptly report any suspicions of breaches of a Data Subject's Personal Data.

15.2 All leaders must:

- a) Ensure staff and third parties are aware of the contents of this policy; and
- b) Conduct risk assessments, and update controls and procedures to mitigate the risk of data breaches.

## **16. GOVERNING LAW**

This policy shall be governed by the Laws of Kenya.

## **APPENDICES**

APPENDIX 1: MEMBERSHIP REGISTRATION FORM (*refer to Membership Policy*)

APPENDIX 2: LEADERSHIP IDENTIFICATION & BIO-DATA FORM (*Refer to Ministry Co-workers Engagement Guide*)

APPENDIX 3: PERSONAL BIO DATA FORM (*Refer to Ministry Co-workers Engagement Guide*)