

ECNL Hot Topic:

Data protection & access to resources: CSOs at the intersection



As technology has advanced, the fundamental right to privacy has gradually evolved to encompass a *right to protection of personal data*. The coming years will undoubtedly see the spread of laws protecting such data. The European Union, for example, already adopted its General Data Protection Regulation.

How do data protection regulations restrict CSO's ability to access and secure resources? When and how can CSOs use personal information of supporters? ECNL has commissioned a research paper *Data Protection Standards for Civil Society Organisations* to help answer these questions.

Why should CSOs care about data protection?

The data that many CSOs hold may be of interest to any number of malevolent actors, including non-state actors. When handling personal data - especially during fundraising efforts - CSOs should keep in mind the following to protect donors and supporters:

- **Obligation triggers.** Data protection regulations apply during various stages of CSO operations affecting potential and existing supporters, including: (1) maintaining databases; (2) communication and marketing; (3) selling and sharing data; (4) "wealth screening" and prospect research.
- **Consent.** Data protection regulations often require CSOs to obtain an individual's consent before using their data, effectively stemming certain fundraising practices.
- **There are benefits.** Data protection standards are there to protect CSOs too. CSOs can rely on data protection laws to defend against requests for information on donors or beneficiaries, or to redact financial disclosure documents. The right to privacy also protects CSOs from arbitrary and unlawful surveillance.
- **Conflicting norms.** CSOs have come under increasing pressure to ensure that their fundraising does not become a vehicle for money laundering or terrorist financing. This pressure has translated into legal obligations to document donations, retain information and report suspicious information, all of which raise potential conflicts with data protection standards.
- **The new normal.** Data protection regulations are here to stay. The challenge for CSOs now is to adopt new fundraising approaches and internal governance procedures that ensure compliance with data protection standards.

Looking ahead: new regulations in Europe - with global consequences

The European Union's General Data Protection Regulation ("the GDPR") will go into effect in May 2018, considerably strengthening data protection in Europe. The GDPR expands individuals' rights, extends the role and enforcement powers of data protection authorities and places a stronger burden on data controllers to be transparent and accountable. The EU has also signalled its intention to promote the adoption of GDPR standards beyond Europe, and more broadly to regulate the acquisition and use of personal data (e.g. it plans to adopt an ePrivacy Regulation in 2018).



These EU reforms are likely to have global consequences since EU data protection law applies to all entities that process EU citizens' data. This includes CSOs based outside of the EU but offering goods or services to EU residents or processing EU citizens' data.

Recommendations for civil society

1. START NOW

Whether you will be subject to the EU GDPR or not, improving data protection within your organisation will minimise risks and begin to engender a culture of data protection and privacy.

2. AIM HIGH

By aiming to apply higher international or regional (e.g., EU GDPR) standards, you can ensure you will always integrate good practices to comply with data protection rules at the national level. This is particularly vital for CSOs acting internationally.

3. LOOK AHEAD

Get legal advice to ensure compliance with the EU GDPR or with your own country's regulations.

Read the full report:

[http://www.ecnl.org/
data-protection-fundraising](http://www.ecnl.org/data-protection-fundraising)



This brief is wholly financed by the Swedish International Development Cooperation Agency (Sida). Sida does not necessarily share the opinions here within expressed. The author bears the sole responsibility for the content.