

# DATA PROTECTION POLICY



**Job Chemwotei**  
**Chief Executive Officer**

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## **1. PURPOSE, SCOPE AND USERS**

The users of this document are all employees of **The Spotfile Records Management Solution**.

The purpose of this data protection policy is to stipulate the rules with regards to collecting, use, sharing and storing (collectively referred to ‘**processing**’ or ‘**process**’) of personal data in accordance with Data Protection Act 2019. It also protects **The Spotfile Records Management Solution** from non - compliance risks associated with the Data Protection Act Kenya.

The risks include:

- Breaches of confidentiality. i.e., suffering a loss of income where it is found that the personal information of data subjects has been shared or disclosed without authorization.
- Payment of hefty fines as a result of non-compliance.
- Damage of reputation. i.e., the organization could suffer a decline in value following an adverse event, for instance a computer hacker gaining access to personal information held by **The Spotfile Records Management Solution**.

This policy demonstrates **The Spotfile Records Management Solution** commitment to protecting the data subject’s privacy rights by:

- Creating an organizational culture that recognizes privacy as a human right as stipulated in Article 31 of the Constitution of Kenya 2010.
- Continuous assessment of internal controls to managing the compliance risk.
- Creating business practices that will provide reasonable assurance that the rights of data subjects are protected and balanced with the legitimate business needs of **The Spotfile Records Management Solution**.
- Creating awareness via training and capacity building to individuals who process personal data so that they can act in accordance with Data Protection Act 2019.
- Appointing a Data Protection Officer who will monitor compliance and implement all the necessary measures.

This policy applies to **The Spotfile Records Management Solution** and all its branches, all contractors, suppliers and other persons acting on behalf of The Spotfile Records Management Solution.

## 2. INTRODUCTION

The right to privacy is a human right recognized and protected in Kenya through Data Protection Act which aims to promote the protection of privacy through the guiding principles applied to the processing of personal information. Through the provision of quality goods and services, The **Spotfile Records Management Solution** is involved in processing of personal data.

## 3. DEFINITIONS

**Data subject** means an identified or identifiable natural person who is the subject of personal data.

**Data controller** means a natural or legal person, public authority, agency or other body which alone or jointly with others determines the purpose and means of processing of personal data.

**Data processor** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller.

**Personal data** means information relating to an identified or identifiable natural person.

**Sensitive personal data** means special category which includes health status, ethnic or social origin, race, family details, biometric data, spouse(s)

**Processing** means any operation performed on personal data including collecting, organization, storage, retrieval, transmission, erasure and deletion.

**Consent** means the manifestation of express indication of agreement to the processing of personal data.

## 4. DATA PROTECTION PRINCIPLES

All employees and persons acting on behalf of **The Spotfile Records Management Solution** will at all times be subject to, and act in accordance with, the following Data Protection Principles:

### 4.1 Accountability

**The Spotfile Records Management Solution** will ensure we effectively adhere to the legislation to avoid damage of reputation or exposure of the organization to claims for damages and fines imposed by the Office of The Data Protection Commissioner. However, **The Spotfile Records Management Solution** will also take appropriate steps and impose sanctions and disciplinary action, against those individuals who negligently or intentionally fail to comply with the principles and responsibilities stated in this policy.

### 4.2 Purpose Limitation

**The Spotfile Records Management Solution** will ensure that personal data is processed only for the intended purpose. Collect only what is relevant and adequate

and Solution to what is necessary in relation to the purpose for which it is processed.

#### **4.3 Accuracy**

**The Spotfile Records Management Solution** will ensure that the data collect and held is up to date and will take reasonable steps to ensure that any inaccurate personal data is erased or rectified without undue delay.

#### **4.4 Integrity and Confidentiality**

**The Spotfile Records Management Solution** will take reasonable steps to implement security safeguards.

This includes ascertaining the integrity of all employees authorized to access personal data and ensure the data is stored in a manner that is not easily manipulated.

All new employees will be required to sign employment contracts containing terms for the use and storage of company data.

Confidentiality agreements (Non- Disclosure Agreements) will also be included to reduce the risk of unauthorized disclosures of personal data. All existing employees will, after the required consultation process has been followed, be required to sign an addendum to their employment contract containing the relevant consent and confidentiality agreements.

Where a supplier who is high risk or deals with our personal data is identified, the identified supplier will need to sign a Data Protection Agreement / non-disclosure Agreement/ Confidentiality Agreement.

**The Spotfile Record's** operators and third-party service providers will sign the agreements as well.

#### **4.5 Lawfulness, Fairness and Transparency**

**The Spotfile Records Management Solution** will ensure that all personal data is processed fairly and lawfully, in a manner that is completely transparent.

**The Spotfile Records Management Solution** will inform the data subject of the reasons for collecting their personal information and obtain written and informed consent prior to the processing of personal data.

Alternatively, where services or transactions are concluded over the telephone or electronic means, **The Spotfile Records Management Solution** will state the purpose for which the data will be used, followed by acquiring the data subject's consent. The

**The Spotfile Records Management Solution** will not share or distribute personal data between separate legal entities, associated organizations or with any individuals that are not involved with facilitating the intended purposes for processing. Where applicable, the data subject must be informed of the possibility that their personal data

will be shared with other (third parties) aspects of the organization's business and be provided with the reasons for doing so.

**The Spotfile Records Management Solution** will process data fairly and in such a manner that does not supersede the rights of the data subjects.

#### **4.6 Storage Limitation**

**The Spotfile Records Management Solution** will manage the security of its filing system to ensure that personal data is adequately protected. To this end, security controls will be implemented in order to minimize the risk of loss, unauthorized access, disclosure, interference, modification or destruction.

**The Spotfile Records Management Solution** will continuously review its security controls which may include testing of protocols and measures put in place to combat cyberattacks on the organisation's IT network.

**The Spotfile Records Management Solution** will ensure that all paper and electronic records comprising personal information are securely stored and made accessible only to authorized individuals.

### **5. RIGHTS OF DATA SUBJECTS**

Where **The Spotfile Records Management Solution** is considered the responsible party for data subjects' personal data, we will ensure that our clients and customers are made aware of the rights conferred upon them as data subjects. **The Spotfile Records Management Solution** will ensure that it gives effect to the following rights:

#### **5.1 The right to access Personal Data**

**The Spotfile Records Management Solution** recognizes that a data subject has the right to establish whether **The Spotfile Records Management Solution** holds personal data related to them including the right to request access to that personal information where we are the responsible party. This is an absolute right.

#### **5.2 The right to correction or deletion**

A data subject has the right to request correction of personal data that is: inaccurate, untrue, outdated, incomplete or misleading.

This request must be supported with relevant supporting documents, and rectification is done within 14 days.

Where the **The Spotfile Records Management Solution** will decline, we shall notify the data subject and provide the reasons for decline.

The right to deletion can also be exercised where the data is irrelevant, excessive or has been obtained illegally.

### **5.3 The right to object to the processing of Personal Data.**

A data subject has the right, on reasonable grounds, to object to the processing of their personal data. In such circumstances, **The Spotfile Records Management Solution** will give due consideration to the request. Right to objection is absolute where it is for direct marketing purposes.

### **5.4 The right to be informed.**

A data subject has the right to be informed at the point of data collection why the data is being collected, how will it be used, how it will be stored, how long it will be stored and whether it will be shared with third parties.

### **5.5 Right to object automated processing or decision.**

A data subject has the right not to be subjected to automated processing.

### **5.6 Right to erasure**

This is also known as the right to be forgotten, **The Spotfile Records Management Solution** expedites this right when the criteria is met as per the Data Protection Act Kenya.

### **5.7 Right to data portability**

**The Spotfile Records Management Solution** recognizes this right.

## **6. CONSENT AND OPT OUT**

The User hereby consents to the collection and processing of their personal information in accordance with this privacy policy. The User agrees that consent is given voluntarily after reading and understanding this privacy policy. The User is able to withdraw consent at any time and must email the Data Protection Officer through: [info@spotfile.com](mailto:info@spotfile.com)

We may send you information about our various services, products or offers that we feel would be of interest to you once you consent. **The Spotfile Records Management Solution** will send you these direct mailings. At any time, you may opt-out of **The Spotfile Records Management Solution** marketing list or update your information.

## **7. SPECIFIC DUTIES AND RESPONSIBILITIES**

### **7.1 Data Protection Officer**

- Monitoring compliance.
- Cooperating with the regulatory authority.
- Record keeping.

- Serving as a primary point of contact for queries.
- Reviewing contracts and agreements.
- Developing and delivering data protection training.
- Organizing and overseeing awareness and sensitization training.
- Implementing all necessary measures.
- Scheduling Data Protection Impact Assessments.
- Informing data subjects of their rights.
- Addressing employees Data Protection related questions.
- Addressing related complaints and requests made by data subjects.

## **7.2 Data Processors and Data Controllers**

- Protect – data controllers/ processors have an obligation to protect personal data and ensure processing activities are lawful.
- Transparency – data controllers/ processors should be open about their processing activities.
- Traceability – data controllers/ processors should ensure personal data can be traced.
- Accountability – obligation to be accountable for the data they are holding.
- Governance – obligation to put internal measures to ensure compliance with the law.

## **7.3 Employees and other persons acting on behalf of The Spotfile Records Management Solution**

- Employees and other persons acting on behalf of **The Spotfile Records Management Solution** will, during the course of the performance of their services, gain access and become acquainted with the personal data of certain clients, suppliers and other employees.
- Employees and other persons acting on behalf of **The Spotfile Records Management Solution** are required to treat personal data as a confidential business asset and to respect the privacy of data subjects.
- Employees and other persons acting on behalf of **The Spotfile Records Management Solution** may not directly or indirectly, utilize, disclose or make public in any manner to any person or third party, either within **The Spotfile Records Management Solution** or externally, any personal data, unless such information is already publicly known or the disclosure is necessary in order for the employee or person to perform his or her duties.

## **8. DATA PROTECTION IMPACT ASSESMENT**

**The Spotfile Records Management Solution** will conduct periodic Data Protection ImpactAssessment to:



- Negate the risk that may arise in the collecting and processing of data.
- Enable accountability.
- Identify the impact entities will have on the privacy of a data subject.
- To provide input on privacy by design.
- Demonstrate and implement the measures to be taken to comply with the Data Protection Act.
- Monitor the effectiveness of internal controls established to manage the related compliance risk.
- Monitor the extent of compliance with Data Protection Act and this policy.

## 9. COMPLAINTS PROCEDURE

Data subjects have the right to complain in instances where any of their rights under Data Protection Act have been infringed. **The Spotfile Records Management Solution** takes all complaints seriously and will address all related Data Protection related complaints in accordance with the following procedure:

- Data Protection complaints must be submitted in writing
- Where the complaint has been received by any person other than the Data Protection Officer, that person will ensure that the full details of the complaint reach the Data Protection Officer within one working day.
- The Data Protection Officer will provide the complainant with a written acknowledgement of receipt of the complaint within two working days.
- The Data Protection Officer will carefully consider the complaint and address the complainant's concerns in an amicable manner. In considering the complaint, the Data Protection Officer will endeavor to resolve the complaint in a fair manner and in accordance with the principles outlined in the Data Protection Act.
- The Data Protection Officer must also determine whether the complaint relates to an error or breach of confidentiality that has occurred and which may have a wider impact on the organisation's data subjects.

- Where the Data Protection Officer has reason to believe that the personal information of data subjects has been accessed or acquired by an unauthorized person, the Data Protection Officer will consult with the organization's governing body where the affected data subjects will be informed of this breach.
- The Data Protection Officer will revert to the complainant with a proposed solution, the organization will provide reasons for any decisions taken and communicate any anticipated deviation from the specified timelines.

If nothing changes then the complainant is allowed to escalate the matter and lodge an official complaint with the Office of the Data Protection Commissioner.

## 10. DISCIPLINARY ACTION

Where a Data Protection complaint or Data Protection infringement investigation has been finalized, **The Spotfile Records Management Solution** may recommend an appropriate administrative, legal and/or disciplinary action to be taken against any employee reasonably suspected of being implicated in any non-compliant activity outlined within this policy. In the case of ignorance or minor negligence, **The Spotfile Records Management Solution** will undertake to provide further awareness training to the employee. Any gross negligence or the willful mismanagement of personal information, will be considered a serious form of misconduct for which **The Spotfile Records Management Solution** may summarily dismiss the employee. Disciplinary procedures will commence where there is sufficient evidence to support an employee's gross negligence.

## 11. CONTACT PERSON

The following person may be contacted in relation to this policy.

**Job Chemwotei – Chief Executive Officer**

Email address: [info@spotfile.com](mailto:info@spotfile.com)

## **12. VALIDITY AND DOCUMENT MANAGEMENT**

This document is valid as of **30<sup>th</sup> July 2024**.

Data Protection Officer:

**NAME:           JOB CHEMWOTEI**

**DESIGNATION: CHIEF EXECUTIVE OFFICER**

**SIGNATURE:** 

**THE SPOTFILE RECORDS MANAGEMENT SOLUTION**