

## Instructions for researchers

### Introduction

Data protection is a fundamental right that safeguards the implementation of the rights and freedoms of data subjects in the processing of personal data. It encompasses the correct processing and protection of personal data against unauthorised processing.

The processing of personal data is guided by the EU's General Data Protection Regulation (EU) 2016/679 and the national Data Protection Act (1050/2018) supplementing it.

### Concept of personal data

The concept of personal data is broad and covers all data relating to a person from which a person can be identified directly or indirectly. Typical personal data include the person's name, personal identity code, address, email address according to the person's name, location data, photo, voice and so on.

Personal data may concern an individual's private or public life. Personal data that are publicly available on the Internet must also be processed in accordance with the requirements of the General Data Protection Regulation.

Pseudonymised personal data that can be linked to a natural person using additional information are also personal data. Pseudonymisation, i.e. the removal of direct identification data (e.g. the name or personal identity code) from data and their separate storage, is, however, an important safeguard measure.

#### **Special categories of personal data and data relating to criminal convictions and offences:**

The so-called special categories of personal data are separately named in the General Data Protection Regulation. These include data revealing

- racial or ethnic origin,
- political opinions,
- religious or philosophical beliefs,
- trade union membership,
- genetic or biometric data for the purpose of uniquely identifying a natural person,
- health,
- data concerning a natural person's sex life or sexual orientation.

Data belonging to special categories of personal data require specific protection as their processing may entail considerable risks to the fundamental rights and freedoms of individuals. Processing of special categories of personal data is in principle prohibited in the General Data Protection Regulation. Their processing requires so-called derogations.

Derogations include:

- Explicit consent, or expression of will, is freely given, specific, informed and unambiguous.

- The data subject has personally made the processed data available specifically publicly (e.g. candidates in different elections).
- Processing is necessary for scientific and historical research or statistical purposes in the public interest.

Data concerning special categories of personal data and relating to criminal convictions and offences may be processed for the purposes of scientific research in accordance with Section 6, Paragraph 7 of the Data Protection Act. Processing of data also requires the implementation of safeguards pursuant to [Section 6, Paragraph 2 of the Data Protection Act](#).

### **Data concerning deceased persons and anonymised data**

The General Data Protection Regulation does not apply to the processing of personal data of deceased persons. However, when writing about deceased persons, expressions that respect the memory of the deceased should be used.

The General Data Protection Regulation does not either apply to situations where personal data are not collected, that is, data from which a person cannot be directly or indirectly identified (anonymised data).

Further information about the concept of personal data:  
<https://tietosuoja.fi/en/what-is-personal-data>

## Legal basis for processing of personal data

The processing of personal data must always have a basis for processing derived from data protection legislation. Some of the bases for processing come directly from the General Data Protection Regulation and some from the national Data Protection Act. The bases for processing must be indicated in connection with data processing (e.g. in a data protection notification when collecting data directly from the data subject or/and in a data protection description). The processing is lawful only if at least one legal basis exists. As a rule, the selected basis cannot be changed after processing has started.

In a scientific study, the bases for processing may be:

**Public interest** (Article 6, Paragraph 1, point e of the General Data Protection Regulation and Article 4 of the Data Protection Act), personal data may be processed for conducting scientific research if the processing is necessary for scientific or historical research or statistical purposes and it is proportionate to the aim of public interest pursued. In commercial studies, which are often financed by enterprises, the applicability of public interest for research should be considered on a case-by-case basis. Public interest may also serve as a basis for processing when personal data are collected directly from the data subject.

Where processing is based on public interest, it is particularly important that the controller implements the necessary safeguards, such as pseudonymisation. Safeguards must always be assessed on a case-by-case basis.

**Consent** (Article 6, Paragraph 1, point a of the General Data Protection Regulation), which must be freely given, specific, informed and unambiguous expression of will by which the person concerned, by stating or through a measure clearly expressing consent, approves the processing of their personal data. Consent can also be requested electronically or orally. However, it must be possible to prove afterwards that consent has been obtained and that it meets the requirements set for consent. Consent can also be audio or video recorded. It should be noted that consent can be informed only if the individual has received

all the information concerning the processing of personal data (a press release and a data protection notification).

The data subject cannot give a general consent that would allow the data concerning them to be used for any purpose and in whichever way. The use purpose or purposes must be specified.

Consent as a legal basis for processing is challenging due to the high requirements set for consent in data protection legislation, but also because the personal data of the person who withdrew consent must, as a rule, be removed. If a person merely interrupts participation in a study, their personal data may continue to be used in the study.

**Legitimate interest** (Article 6, Paragraph 1, point f of the General Data Protection Regulation). This requires a so-called [balance test](#). A legitimate interest may be the basis for processing, for example, when it is a question of a customer-funded study made for a client concerning its personnel (job satisfaction indicator, personnel survey).

Other mentioned bases for processing include **contract or the controller's legal obligation**.

## Protection of personal data

Personal data must be protected at all stages of processing. At Statistics Finland, access to data are primarily given in the Fiona remote access system, which is a data secure operating environment. Researchers process pseudonymised unit-level data on a data secure remote desktop which has applications available for the processing of the data. Only the screen image and keyboard and mouse signals are transmitted between Fiona and the user. The calculation platform has been isolated from the rest of the Internet and the user cannot transfer anything into or out of the environment. The datasets are located only on the servers of the technical maintainer of the remote access system throughout the life cycle of the study.

Personal data may not be sent or requested for delivery in unsecured email. Secure email is used at Statistics Finland. More detailed instructions on using secure email can be found on [Statistics Finland's website](#).

## Identification of risks related to processing

When processing personal data, risks arising to the data subject from processing must always be assessed. Risks refer to what the disclosure of data could entail for the data subject. The risk may be identity theft, financial loss or loss of reputation.

Risks can be avoided by being careful and planning the processing of personal data and their protection in accordance with the life cycle model. The General Data Protection Regulation emphasises technical and organisational safeguards. They refer to adherence to guidelines, training and pseudonymisation of data. Data processing in a data secure processing environment (e.g. Fiona) is also such a safeguard. The adequacy of the safeguard measures must be assessed continuously.

## Data protection impact assessment (DPIA)

A data protection impact assessment must be carried out if the intended processing of personal data is likely to involve significant data protection risks for

the data subject. This may be the case for large amounts of data or for large-scale processing of children's personal data or of special categories of personal data.

Further information can be found on the website of the Office of the Data Protection Ombudsman: <https://tietosuoja.fi/en/impact-assessments>

Impact assessment is attached to the application for licence to use statistical data.

Where a data protection impact assessment reveals that the study presents a high risk to the subject, the assessment must be submitted to the Office of the Data Protection Ombudsman. The data protection impact assessment must also be submitted to the Office of the Data Protection Ombudsman when data belonging to special categories of personal data or criminal convictions and offences are processed and a derogation from certain rights provided for by the General Data Protection Regulation is requested (right of access by the data subject, right to rectification, right to restriction of processing and right to object).

## Life cycle of processing of personal data

The life cycle of the processing of personal data must be planned carefully before the processing of data is started. Before starting the procedure, it is necessary to consider and define:

- Legal basis for processing of personal data
- Personal data to be processed
- Pseudonymisation/anonymisation of personal data
- Processors of data
- Archiving/destruction of data at the end of processing

Statistics Finland does not archive research data. The research data are removed from the Fiona remote access system and destroyed after the study ends, unless separate agreement has been made on the archiving of the data in the agreement concerning the research project.

Further information about archiving on the web page of the Office of the Data Protection Ombudsman: <https://tietosuoja.fi/en/destruction-anonymisation-or-archiving-of-data>.

## Data protection notification and data protection description

The General Data Protection Regulation emphasises the importance of informing data subjects. The information must be provided clearly and understandably. The target group must be taken into account in the provision of information.

Information must be provided before the data collection begins. The information is given in a data protection notification, a data protection description or in some other similar way.

Deviating from the provision of information (a notification to the subject and a data protection notification) is possible if the provision of information is impossible or would cause unreasonable inconvenience or the provision of information would probably prevent or seriously impede the achievement of scientific research purposes. Such reasons may be the size of the data, age and lack of contact information. In such cases, however, the information must be made publicly available, e.g. on the organisation's website.

## Rights of data subjects

Researchers/research organisations are controllers when processing personal data. Requests concerning rights of data subjects are therefore directed immediately to the organisation concerned.

In the Research Services, Statistics Finland acts as the processor of personal data on behalf of a research institute or other client that is the controller. In accordance with the General Data Protection Regulation, Statistics Finland assists in the processing of a request.

As a rule, a data subject has rights in scientific research in accordance with the General Data Protection Regulation (right of access by the data subject, right to rectification, right to restriction of processing and right to object). According to Section 31 of the Data Protection Act, these data subject's rights may be derogated from under certain conditions. If special personal data or personal data relating to criminal convictions and offences are processed in scientific research and a derogation from the rights of the data subject is sought, a data protection impact assessment must be carried out and transmitted to the Data Protection Ombudsman before initiating processing measures.

According to Section 31 of the Data Protection Act, there may be derogations to the data subject's right of access, right to rectification, right to restriction of processing and right to object if:

- The processing is based on an appropriate research plan;
- The study has a responsible person or a group in charge of it; and
- Personal data are used and released only for historical or scientific research or other compatible purposes and otherwise so that data concerning a particular person are not disclosed to outsiders.

Derogations from the data subject's rights are possible only to the extent that such rights are likely to prevent or seriously impede the achievement of those specific purposes and such derogations are necessary for the fulfilment of those purposes. The need to derogate from the rights of the data subject must therefore be assessed on a case-by-case basis.

The rights of the data subject are also restricted to some extent in the General Data Protection Regulation. The rights of the data subject are affected, for example, by the basis on which personal data are processed.

Further information about the rights of the data subject can be found on the website of the Office of the Data Protection Ombudsman at:

<https://tietosuoja.fi/en/what-rights-do-data-subjects-have-in-different-situations>

## Transfer of personal data outside the EU or the EEA

Personal data can be transferred outside the EU/EEA only under certain conditions. Further information about this is available at:

[https://commission.europa.eu/law/law-topic/data-protection/international-dimension-data-protection/rules-international-data-transfers\\_en](https://commission.europa.eu/law/law-topic/data-protection/international-dimension-data-protection/rules-international-data-transfers_en)

Statistics Finland has decided that data collected by it for statistical purposes may only be processed in another EU/EEA country or in a country where a decision made by the European Commission ensures an adequate level of protection.

## Provision of information prior to the application of the General Data Protection Regulation

In surveys started before the application of the General Data Protection Regulation (before 25 May 2018), the person's consent or explicit consent has been the most common basis for processing. If the requested consent is not in compliance with the General Data Protection Regulation, new consent must be requested from persons in accordance with the General Data Protection Regulation. Requesting new consent is possible, for example, when the study is to be repeated at regular intervals and when the person is to be contacted again.

If the data have been collected directly from registers instead of data subjects, the information must be given by updating the data protection description/data protection notification concerning the research data.

The possibility of anonymising the data can also be considered.

## Personal data breach

If there has been a data breach or a suspected one, it must be reported immediately/without delay to the data protection officer of your organisation. Further information about security breaches and how to report them is available on the website of the Office of the Data Protection Ombudsman:

<https://tietosuoja.fi/en/personal-data-breaches>

## Instructions

Further information about the data protection of scientific research can be found on the website of the Office of the Data Protection Ombudsman:

<https://tietosuoja.fi/en/scientific-research-and-data-protection>.