

[DRAFT]



**NIGERIA DATA PROTECTION
REGULATION 2019:
IMPLEMENTATION FRAMEWORK**

[MARCH, 2020]

VERSION 2.2

NIGERIA DATA PROTECTION REGULATION 2019: IMPLEMENTATION FRAMEWORK

1. Background
2. Summary of the NDPR
3. Compliance Approach
4. Compliance Framework
 - 4.1 Forms of Compliance
 - 4.2 Compliance Checklist for Data Controllers
5. Enforcement Framework
 - 5.1 Forms of Enforcement
6. Enforcement Process
7. How Personal Data is to be Handled
 - 7.1 Further Processing
8. Digital Consent
 - 8.1 Types of Consent
 - 8.2 Consent Requirement Under NDPR
 - 8.3 Valid Consent Guide
 - 8.4 Consent to Cookies
9. Data Protection Audit
 - 9.1 Audit Periods
 - 9.2 Audit Filing Fees
 - 9.3 Content of the Audit Report
 - 9.4 Audit Verification Statement by DPCO
10. Transfer of Data Abroad
11. Retention of Records
12. Report of Data Privacy Breach
13. Establishment of Administrative Redress Panel
14. Third Party Processing
15. Data Protection in MDAs
16. Relationship with Attorney-General of the Federation

17. Continuous Public Awareness and Capacity Building

Annexure A- Audit Template for NDPR Compliance

Annexure B- Sample Privacy Policy Template for Public Institutions

Annexure C- Countries with Adequate Data Protection Laws

NIGERIA DATA PROTECTION REGULATION 2019: IMPLEMENTATION FRAMEWORK

1. BACKGROUND INFORMATION

It has been identified that the personally Identifiable information of Nigerian citizens is being processed by unauthorized individuals without their consent. This not only exposes Nigerian citizens data being processed unlawfully, it could also result in processing which could lead to the loss of rights and freedoms of such citizens, leading to harm and distress. To curtail such activity, NITDA has developed the Nigerian Data Protection Regulation (the 'Regulation', or 'NDPR'). The Regulation is made pursuant to Section 6(a,c) of the NITDA Act 2007 and the Section 37 of the 1999 Constitution (as amended).

The NDPR is at present the most comprehensive regulatory framework on data protection in Nigeria. In response to stakeholders encouraging NITDA to ensure the effective implementation and enforcement of the Regulation, we have also developed this NDPR Implementation Framework as a guide to assist Data Controllers and Data Administrators understand the controls and measures they need to introduce into their environments to comply with the NDPR.

The NDPR was issued on 25th January 2019 pursuant to Section 6 (a) and (c) of the NITDA Act, 2007. The NDPR was made in recognition of the fact that many public and private bodies have migrated their respective businesses and other information systems online. These information systems have thus become critical information infrastructure which must be safeguarded, regulated and protected against personal data breaches. The Government further takes cognizance of emerging data protection laws and regulations within the international community geared towards protecting privacy, identity, lives and property as well as fostering the integrity of commerce and industry in the data and digital economy.

2. SUMMARY OF THE NDPR

The Processing of Personal Data is governed by general principle that Personal Data must be:

- a) collected and Processed in accordance with a specific, legitimate and lawful purpose consented to by the Data subject, provided that the Data is:
- b) adequate, accurate and without prejudice to the dignity of human person;
- c) stored only for the period within which it is reasonably needed; and
- d) secured against all foreseeable hazards and breaches such as theft, cyberattack, viral attack, dissemination, manipulations of any kind, damage by rain, fire or exposure to other natural elements.

The NDPR further details those principles as follows:

- a) **Lawfulness of Processing:** The NDPR requires that any processing activity of Personal Data shall be justified by one of the following legal bases:
 - i. consent given by the Data Subject;
 - ii. necessity for the performance of a contract;
 - iii. compliance with a legal obligation to which the Data controller is subject;
 - iv. necessity for the protection of the vital interests of an individual; and
 - v. necessity for the performance of a task carried out in the public interest or in the exercise of official public mandate vested in the controller.
- b) **Data minimization-** Data Controllers are required to collect the minimum required data and avoid collecting data that is not required for the purpose of processing. Data that is not directly related to the stated purpose of collection consented to by the data subject should not be

collected. No data shall be obtained except the specific purpose of collection is made known to the Data Subject. This principle also also to the principle on purpose of collection.

- c) **Accuracy:** The NDPR provides that collected and processed personal data shall be adequate, accurate and without prejudice to the rights and freedoms of the data subject (Art. 2.1(b)). The NDPR prohibits the abuse or inaccurate representation of personally identifiable data, even if such data was obtained with lawful basis. Data controllers and processors are required to simplify the process of personal data by the data subject in order to achieve the objectives of this principle.
- d) **Storage and retention periods:** Data controllers are required to store data only for the period they are reasonably required to so do. Every data controller must state and implement data retention schedules and communicate such to the data subjects or its potential clients.
- e) **Confidentiality and Security:** The right to confidentiality, integrity and availability of own data is sacrosanct with few exceptions or limitations. One of the underpinning principles of the NDPR is that data control must comply with basic minimum standards of information security management. The Regulation also places the onus of security on all persons- who are entrusted with or in possession of personal data, including the data controller and processor. Art. 2 of the Regulation provides that they owe a duty of care to the data subjects, that they are accountable for their acts and omissions in respect of the processing and that must develop security measures to protect data against foreseeable hazards and breaches such as theft, cyberattack, viral attack, dissemination, manipulations of any kind, damage by rain, fire or exposure to other natural elements.
- f) **Rights of the Data Subjects.** The Regulation provides a number of rights for the benefit of Data Subjects, including the following rights:

- i. the right to be informed of the actual or intended Processing activities;
- ii. the right to have the Personal Data rectified;
- iii. the right to object to certain Processing activities;
- iv. the right to have the Personal Data deleted;
- v. the right to request the restriction of the Processing; and
- vi. the right to portability of the Personal Data.

g) **Compliance and Enforcement:** One of the novelties of the NDPR is its compliance framework. The Regulation creates a nouveau class of professionals- Data Protection Compliance Organisations (DPCOs). A DPCO is any entity duly licensed by NITDA for the purpose of training, auditing, consulting and rendering services and products for the purpose of compliance with the Regulation or any foreign Data Protection Law or Regulation having effect in Nigeria (See Article 1.3 (xiii) of the NDPR).

This Framework is therefore aimed at amplifying the NDPR in order to ensure that enforcement of the Regulation is fair and just to all parties.

2.2 Objectives of the NDPR

The objectives of the NDPR are-

- a) to safeguard the rights of natural persons to data privacy;
- b) to foster safe conduct for transactions involving the exchange of Personal Data;
- c) to prevent unauthorized and criminal use of Personal Data; and

d) to ensure that Nigerian businesses remain competitive in international trade through the safe guards afforded by a just and equitable legal regulatory framework on data protection and which is in tune with best practice.

2.3 Scope of the NDPR

The Regulation applies to all transactions intended for the Processing of Personal Data and to actual Processing of Personal Data. The Regulation also applies when the Data subject resides in Nigeria and when the Data subject resides outside Nigeria but is of Nigerian descent.

The NDPR applies to every Data Controller and Data Processor. A data controller is defined by the Regulation as a person who either alone, jointly with other persons or in common with other persons or a statutory body determines the purposes for and the manner in which Personal Data is processed or is to be processed. A data processor (Referred to data administrator in the Regulation) is a person or an organization that processes data on behalf of the data controller.

2.3 Exceptions to NDPR

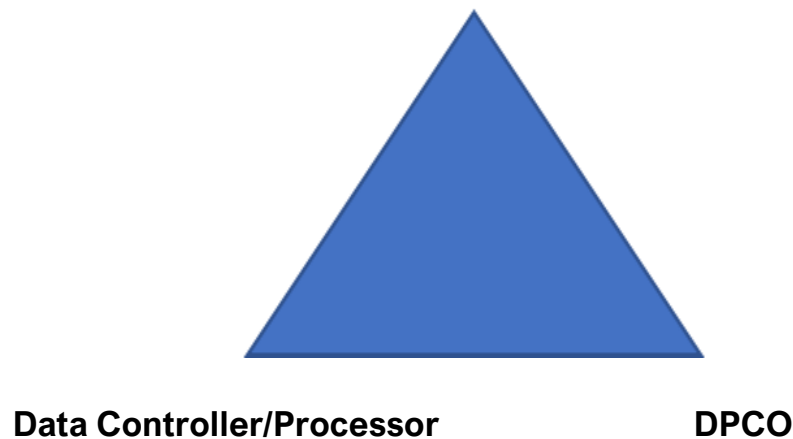
The NDPR shall not apply in the following circumstances-

- i. Use of personal data in furtherance of national security, public safety and order by Agencies of government or those they expressly appoint to carry out such duties on their behalf.
- ii. Criminal and Tax Offence Investigation- The NDPR shall not act in any way to limit the powers of criminal investigators and prosecutors.
- iii. The NDPR does not apply to the use of personal data in domestic affairs. However, where family members, friends or relatives use personal data to commit a crime against the data subject, such action shall be subject of police investigation and criminal prosecution.

3. COMPLIANCE APPROACH

The approach adopted by the NDPR considers the Nigerian context and seeks to be implemented in a non-obstructive, compliance promoting approach. The NDPR uses a triangular compliance model.

NITDA (as National Data Protection Authority)



In this model, NITDA would register DPCOs which will provide auditing and compliance services for Data Controllers. The criteria for licensing DPCOs would be publicly accessible and such licensed DPCOs would be listed on NITDA website. Data Controllers who process personal data of more than 2000 Data Subjects are required to submit a summary of their data protection audit to NITDA on an annual basis.

3.1 Criteria for Licensing as DPCO

A DPCO may be one or more of the following:

- professional service consultancy firm
- an information technology service provider
- an audit firm
- a law firm

which has data protection certification or experience in any of the following-

- a) data science
- b) data protection and privacy
- c) information privacy
- d) information audit
- e) data management
- f) information security
- g) data protection legal services
- h) information technology due diligence
- i) EU implementation of and compliance with GDPR
- j) cyber security/cyber security law
- k) data analytics
- l) data governance

DPCOs are licensed to provide one or more of these services:

- a) Data protection regulations compliance and breach services for Data Controllers and Data Processors
- b) Data protection and privacy advisory services
- c) Data protection training and awareness services
- d) Data Regulations Contracts drafting and advisory
- e) Data protection and privacy breach remediation planning and support services
- f) Information privacy audit
- g) Data privacy breach impact assessment
- h) Data Protection and Privacy Due Diligence Investigation
- i) Outsourced DPO etc.

3.2 When the appointment of a DPO is required

A Data Controller is required to appoint a dedicated DPO where one or more of the following conditions are present:

- a) The entity is a Government Organ, Ministry, Department, Institution or Agency;
- b) The core activities of the organization relate to usual processing of large sets of data subjects per annum;
- c) The organization processes sensitive personal data in the regular course of its business; and
- d) The organization processes critical national databases consisting of personal data.

3.3 DPO in Multinational Company

A DPO appointed for the purpose of compliance with the NDPR must be based in Nigeria and be given full access to the management in Nigeria. Such Nigerian DPO may give reports to a global DPO where such exists.

4. COMPLIANCE FRAMEWORK

4.1 Forms of compliance

- i. **Cooperation.** NITDA will, to the extent practicable and consistent with the provisions of laws of Nigeria and regulatory instruments, seek the cooperation of stakeholders in achieving compliance with the applicable provisions.
- ii. **Assistance.** NITDA may provide technical assistance to stakeholders to help them comply voluntarily with the applicable provisions. This will be through the DPCOs.
- iii. **Self-reporting.** The concerned entity will be required to proactively provide information to show compliance with the applicable provisions.

- iv. **Monitoring and Analytics.** The compliance framework will ensure the proactive monitoring and evaluation of data provided by concerned entities by utilizing analytic tools to identify patterns that reflect non-compliance.

4.2 Compliance checklist for data controllers

The Data Controller is the focal point in the data protection value chain. Most responsibilities for compliance lie with the Data Controller. However, the Data Processors have a duty to provide all information and take all the relevant measures allowing the Data Controller to comply with its regulatory obligations, including, but not limited to providing processing information that is not available to the Data Controller (such as the categories of data processed, the Data retention periods, the identity and exact locations of the sub-Processors, the details of the security measures implemented by the Data Processor etc.).

The following checklist would guide Data Controllers to enhance compliance thereby reducing liabilities and fines:

- i. conduct of Information audit: Article 3.1(7) of the NDPR provides what the audit report should contain.
- ii. lawful bases for processing
- iii. Clear information on the data processing activities: The Regulation provides for information, publicity and clear privacy policy. It states that the information must be provided to the Data Subject in “a concise, transparent, intelligible and easily accessible form, using clear and plain language, in writing, or by other means, including, where appropriate, by electronic means, orally, when requested by the data subject, provided that the identity of the data subject is proven by other means, free of charge except, where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character. The Regulation further provides that “any medium through

which personal data is being collected or processed shall display a simple and conspicuous privacy policy that the class of data subject being targeted can understand.” The business process of each data controller would determine the medium and mode of publicising the privacy policy. For example, an entity that does its business substantially through digital platforms is expected to have a privacy policy on its website and send messages to inform data subjects of certain new developments requiring new or different consent. Publicity of privacy policy may be fulfilled through any one or combination of the following:

- website
- digital media
- posted at conspicuous parts of business premises
- by reading to the affected data subjects; or
- publication in any public media

Whichever mode or medium adopted shall provide a means of exercising verifiable consent of the data subject.

- iv. Data protection-by-design: Data Controllers must show that the systems they use directly or indirectly via the Data Processors are built in accordance with the Data Protection regulatory requirements. This applies to Data retention periods, data security measures, such as encryption, or the insertion of consent and withdrawal of consent functionalities in data subject-facing applications with regard to security. Data Controllers are expected to ensure continuous improvement of their information security architecture to prevent possible data breaches.
- v. Awareness creation on data protection: continuous capacity building for staff, contractors, processors and relevant third parties is a core duty of the Data Controller.

- vi. Develop and circulate an internal data privacy strategy or policy to help staff and vendors to understand the data controller's direction in respect of managing personal data.
- vii. Conduct Data Protection Impact Assessment (DPIA): Where the organization intends on embarking on a project that is likely to result in significant risks to the rights and freedoms of a Data Subject. A DPIA should be conducted to identify possible areas where breaches may occur and devise means of addressing such risks. Organisations are also required to conduct DPIAs on their processes, services and technology periodically to ensure continuous compliance.
- viii. Data breach notification. Every data controller must stipulate a process for notifying NITDA on identified data breaches within seventy-two hours of the breach. The Data Controller is now required to inform the Data subject of breach of his or her Personal Data within seven working days after discovering the breach.
- ix. Appoint a DPO or assign an appropriate person who has responsibility to the top-most hierarchy of the Organisation in respect of data protection.
- x. Update agreement with third party processors to ensure compliance with the NDPR.
- xi. Design system and processes to make data request and access easy for Data Subjects
- xii. Design systems and processes to enable data subjects easily correct or update information about themselves.
- xiii. Design system and processes to enable data subjects easily transfer (port) data to another platform at minimal costs.
- xiv. Process for objection to processing of personal data is clearly communicated to Data Subjects
- xv. Procedure for informing and protecting rights of Data Subject where automated decision is being made on personal data

5. HOW PERSONAL DATA IS TO BE HANDLED

According to Article 2.1.1(a)(i) Data Controllers are to ensure data collected is specific, legitimate, adequate, accurate, stored for the period reasonably needed, purpose of collection stated, secured and unambiguous consent granted by the Data Subject.

5.1 Further Processing

Article 3.1(7)m: ***Where the Controller intends to further process the Personal Data for a purpose other than that for which the Personal Data were collected, the controller shall provide the Data Subject prior to that further processing with information on that other purpose, and with any relevant further information;***

Where a Data Controller wishes to further process data initially collected for a defined, limited purpose, the Data Controller shall consider the following:

- a) Whether there exists a connection between the original purpose and the proposed purpose;
- b) The context in which the data was originally collected;
- c) Possible impact of the new processing on the data subject; and
- d) Existence of requisite safeguards for the data subject.

The above information shall be provided to the Data Subject before the further processing is done. The further processing may be done if the Data Subject gives consent based on the new information or the processing is required in compliance with a legal obligation.

5.2 Data Protection Impact Assessment

DPIA is an assessment done to ascertain the possible implication of certain business decisions in relation to the provisions of the GDPR. DPIA is not

compulsory for all processing operations, however, it may be required for the following types of data processing:

- a. Evaluation or scoring (Profiling);
- b. Automated decision-making with legal or similar significant effect;
- c. Systematic monitoring;
- d. Sensitive data or data of a highly personal nature;
- e. When Data processing relates to vulnerable or differently-abled Data Subjects; and
- f. When considering the deployment of Innovative processes or application of new technological or organizational solutions.

6. DIGITAL CONSENT

‘Consent’ of the Data Subject means any freely given, specific, informed and unambiguous indication of the Data Subject's wishes by which he or she, through a statement or a clear affirmative action, signifies agreement to the processing of Personal Data relating to him or her (Article 1.3iii). Consent may be made through a statement- written, sign or an affirmative action signifying agreement to the processing of personal data.

6.1 Principles governing Consent

- a) Transparency. There must be an explicit privacy policy stating type of data collected, how processed, who processes, security standard etc;
- b) No implied consent. Silence, pre-ticked boxes or inactivity does not constitute consent;
- c) No bundled consent. Separate data consent request from general terms and conditions. There must be consent for different type of data use class;

d) Access to data. The data subject has a right to request and receive the data he/she gave, to know how such data is being used, where it is being transferred and who has access to it.

6.2 When Consent is required

Consent is required in the following circumstances:

- a) for any direct marketing activity, except to existing customers of the Data Controllers who have purchased a good or a service.
- b) for the Processing of Sensitive Personal Data
- c) where Personal Data is used for purposes other than those initially specified to the Data Subject;
- d) where Personal Data relating to a child is Processed, in which case, consent is given by the parent or guardian.
- e) before Personal Data is Processed outside Nigeria in a country which is not in the Whitelist.
- f) before the Data Controller makes a decision based solely on automated Processing which produces legal effects concerning or significantly affecting the data subject.

Special category / higher standard consent: Sensitive Personal Data such as ethnic, political affiliation, religious beliefs, trade union membership, biometric, genetic, sexual orientation, health and such like requires specific, higher consent method.

Exceptions to the above may be cases of: health emergency, national security and crime prevention.

6.3 Types of Consent

a) Explicit Consent: Subject gives clear, documentable consent eg. Tick a box, sign a form, send an email or sign a paper

b) Opt-in Consent: you are out, except you choose to opt-in.

e.g I want to receive XXX newsletter

If the box is left unticked, you will not receive the XXX newsletter

6.4 Valid Consent Guide

- a) Make your consent request prominent, concise, separate from other terms and conditions and easy to understand;
- b) Include the name of your organization and any third parties, why you want the data, what you will do with it and the right to withdraw consent at any time;
- c) You must ask people to actively opt-in. Don't use pre-ticked boxes, opt-out boxes or default settings;
- d) Wherever possible, give granular options to consent separately to different purposes and different types of processing;
- e) Keep records to evidence consent- who consented, when, how and what they were told;
- f) Make it easy for people to withdraw consent at any time they choose;
- g) Keep consent under review and refresh them if anything changes; and
- h) Build regular reviews into your business processes

6.5 Consent to Cookies

The Use of Cookies on a website or other digital platforms requires consent. The consent must be freely given, informed and specific. Consent for Cookies does not necessarily need the ticking of a box or similar methods, the continued use of a website which has met the following requirements would suffice as consent:

- The information must be clear and easy to understand;
- the purpose of the use of the cookies must be provided;
- the identity of the person or entity which is responsible for the use of the cookies must appear;
- the possibility of withdrawal of consent must be easily accessible and be described in the information; and
- this information must always be accessible for the user.

7. DATA PROTECTION AUDIT

7.1 AUDITS CONDUCTED BY NITDA

Data Protection Audit is a systematic investigation or examination of records, process and procedure of Data Controllers and Processors to ensure they are in compliance with the requirements of the GDPR and in accordance with the organisation's data protection policies, processes and procedures. The GDPR requires data controllers and processors to keep and produce a particular class of records, logs or databases in accordance with stipulated rules.

NITDA may, on its own, carry out scheduled audits, or may require report of audits as carried out by DPCOs and may schedule "spot check" or "Special Audits" to ascertain compliance or to identify breaches. Usually these audits or investigations are unscheduled and may be at a "tipoff" or random to ensure compliance with the GDPR and related laws.

7.2 AUDITS CONDUCTED BY THE DATA CONTROLLER

The GDPR provides two types of audits: (i) the initial Data Audit and (ii) the annual data audit. The Initial data audit is provided in Article 4.1(5) while the Annual data audit is an audit showing the continuing state of data processing in the organization.

The reasons for conducting data protection audit include:

- ✓ to assess the level of compliance with the NDPR
- ✓ to evaluate compliance with the organisation's own data protection policy
- ✓ to identify potential gaps and weaknesses in organisation's processes
- ✓ to give requisite advice and/or remedial actions for identified gaps

7.1 Audit Periods

Article 4.1(7) of the Regulation addresses the period when audit report is to be filed by Data Controllers. The Article provides as follows:

(7) On annual basis, a Data Controller who processed the Personal Data of more than 2000 Data Subjects in a period of 12 months shall, not later than the 15th of March of the following year, submit a summary of its data protection audit to the Agency. The data protection audit shall contain information as specified in 4.1(5).

Non-filing of annual audit report by a Data Controller, as required by NDPR, is a *prima facie* case of breach. 15th of March is the latest date for filing of Annual Data Audit Report.

7.2 Audit Filing Fees

Each Controller is expected to file the audit report through a DPCO and pay the following amount as applicable:

Filing Fees for Annual Audit Reports

- | | | |
|----|---|---------|
| A) | Filing of Report of less than 2,000 Data Subjects | N10,000 |
| B) | Filing of Report of 2,000 Data Subjects and above | N20,000 |

7.3 Content of Audit Report

The data protection audit shall contain information as specified in Article 4.1(5) of the Regulation. For clarity, the report shall contain the following:

- a) the identity and the contact details of the Controller;
- b) the contact details of the DPO;
- c) the purpose(s) of the processing for which the Personal Data are intended as well as the legal basis for the processing;
- d) the legitimate interests pursued by the Controller or by a third party;
- e) the recipients or categories of recipients of the Personal Data, if any;
- f) where applicable, the fact that the Controller intends to transfer Personal Data to a third country or international organization and the existence or absence of an adequacy decision by NITDA;
- g) the period for which the Personal Data will be stored, or if that is not possible, the criteria used to determine that period;
- h) the existence of the right to request from the Controller access to and rectification or erasure of Personal Data or restriction of processing concerning the Data Subject or to object to processing as well as the right to Data Portability;
- i) the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
- j) the right to lodge a complaint with a relevant authority;
- k) whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and the possible consequences of failure to provide such data;
- l) the existence of automated decision-making, including profiling and, at least, in those cases, meaningful information about the logic involved, as

well as the significance and the envisaged consequences of such processing for the Data Subject;

m) Where the Controller intends to further process the Personal Data for a purpose other than that for which the Personal Data were collected, the controller shall provide the Data Subject prior to that further processing with information on that other purpose, and with any relevant further information; and

n) Where applicable, that the Controller intends to transfer Personal Data to a recipient in a foreign country or international organization and the existence or absence of an adequacy decision by the Agency.

A standard template for the audit report is attached as Annexure A of this Framework. It should be adopted by DPCO in the course of Audit implementation.

7.4 ROLES OF DPCOs IN DATA AUDITS

The DPCO in the implementation of the NDPR has critical roles to play to ensure the objectives of the Regulation are met. In the performance of data audits, DPCOs are responsible for:

- a) evaluating status of compliance by the organization. NITDA expects DPCOs to base their judgment on verifiable documents and practices in the establishment
- b) appraising Data Subjects Rights Protection. The DPCO should be satisfied that the auditee has clear processes to protect the rights of the data subject. For example, a Data Subject Access Request form shows intent of transparency and accountability.
- c) assess level of awareness by top management, staff, contractors and customers on the NDPR.
- d) Identify current or potential non-compliances
- e) Draw out a remedial plan to remediate identified non-compliances

7.5 AUDITING UNFAMILIAR SYSTEMS OR OPERATIONS

Where a DPCO is contracted to audit a system it is not conversant with in order to practically ascertain the veracity of the claims of the auditee, such scenario is referred to as *Black Box Auditing*. The Auditor's role in such organization is to ensure that the requirements of the NDPR is properly carried out and further verify that data breach or incident management process is properly documented and relevant staff are trained and aware of their responsibilities.

7.6 AUDIT VERIFICATION STATEMENT BY DPCO

A DPCO shall make the following Audit Verification Statement as a pre-condition to the filing of an Annual Audit Report or any other report demanded by NITDA.

I Of a licensed Data Protection Compliance Organisation (DPCO) under Article 4.1(4) of the Nigeria Data Protection Regulation (NDPR) hereby make this statement on oath that the Data Audit Report (DAR) herein filed by (Name of Organisation) is conducted in line with the NDPR and that it is an accurate reflection of the organisation's Personal Data Management practice.

SIGN

LICENSE NUMBER

DATE

7.7 DPCO TERMS OF LICENSE

7.7.1 Terms

Every licensed DPCO shall:

- i. abide by the provisions of the NDPR, this Implementation Framework and other related guidelines and frameworks as may be issued or directed by NITDA from time to time;
- ii. deliver service in a professional and ethical manner;
- iii. ensure every information it provides to NITDA about its client shall be factual and professional;
- iv. Not mishandle or withhold any data or asset of its client unlawfully in the course of its relationship with the client;

- v. Be held liable for conspiracy to commit a crime if an audit filing or communication is later found to be false or misleading, except the DPCO proves its non-involvement in the scheme.

Where a DPCO is found in breach of any of the above, NITDA may

- a) Suspend the license for up to six months;
- b) Withdraw the DPCO's license;
- c) Re-evaluate audit reports earlier submitted by the affected DPCO.

7.8 AUDITOR'S CODE OF CONDUCT

Every DPCO shall ensure all its staff are well aware of the ethical considerations in the performance of Audit under the NDPR. NITDA shall ensure DPCOs become registered with professional associations that regulate ethical conducts of their members and to ensure standardized delivery of services. The following are basic ethical expectations required of DPCOs in the conduct of their business.

- a) Confidentiality:

DPCOs shall handle the information and data of their client in the most confidential manner. A binding non-disclosure agreement shall be signed before embarking on the audit and implementation process.

- b) Conflict of Interest:

DPCOs shall not audit a client where the doing of such would lead to manifest conflict of interest. For example, a DPCO that designed and implemented the data protection system should not conduct the data audit

A DPCO that is engaged to provide financial or systems audit may also perform data audit, however, such must not have been retained as the outsourced DPO or be responsible for the implementation of the data protection compliance.

- c) Honesty:

DPCOs must state verifiable facts and not conjectures, half-truths or concealed facts. The essence of the audit is not to sanction organisations, but to have an idea of where the country's cyber and information management practices can be improved.

Any established falsehood found in a report or communication to NITDA by the DPCO is a ground for immediate withdrawal of license

d) Professionalism

Auditors must perform the service with the highest level of professionalism. Continuous capacity building of staff is a prerequisite for relicensing by NITDA. DPCOs must not undertake any work for which they lack the requisite skills, manpower and capacity.

8. TRANSFER OF DATA ABROAD

Where data is being transferred abroad as stipulated in Article 2.11, the following information is required-

- i. The List of Countries where Nigerian citizens personally identifiable information are transferred in the regular course of business.
- ii. The Data Protection laws of National Data Protection Office/Administration of such countries listed in i) above.
- iii. The privacy policy of the Data Controller, compliant with the provisions of the NDPR.
- iv. Overview of encryption method and data security standard
- v. Any other detail that assures the privacy of personal data is adequately protected in the target country.

NITDA shall coordinate transfer requests with the office of the Attorney-General of the Federation. A 'white-list' of jurisdictions shall be compiled and published on official media of communication. Where transfer to a jurisdiction outside the

White list is being sought, the Data Controller shall ensure there is a verifiable documentation of consent to one or more of the exceptions stated in Article 2.12 of the NDPR.

8.2 Data Transfer to subsidiaries or headquarters outside Nigeria

Where an organization seeks to transfer personal data to another entity within its group of companies or an affiliate company, it would suffice for the organization to provide a Binding Corporate Rule which shall be included in the data audit report or submitted separately to NITDA. The Binding Corporate Rule may be stated in the Company's Data Privacy Policy.

9. RETENTION OF RECORDS

The Regulation does not explicitly provide for a time period because that detail in certain scenarios may be subject to existing laws or contractual agreements. However, where the time frame for storage of the personal data is not specified, the length of storage of data shall be determined by:

- a) The contract term agreed by parties;
- b) Whether the transaction type has statutory implication;
- c) Whether there is an express request for deletion by the Data Subject, where such Subject is not under an investigation which may require the data; and
- d) The cost implication of storage of such data by the Data Controller.

The following should be further guidelines for data controllers and processors in the absence of retention period:

- i. 3 years after the last active use of a digital platform
- ii. 6 years after the last transaction in a contractual agreement
- iii. Upon presentation of evidence of death by a deceased's relative
- iv. Immediately upon request by the Data Subject or his/her legal guardian where no statutory provision provides otherwise

Every data Controller shall specify the duration of storage clearly in its Terms of Service or other binding document. NITDA would consider the above and other circumstances to determine if the data was stored appropriately and for a reasonable length of time.

Personal Data that is no longer in use and after requisite statutorily required storage period shall be destroyed in line with global best practices for such operations. Evidence of destruction of data shall be a valid defense against future allegation of breach by a Data Subject.

10. REPORT OF DATA PRIVACY BREACH

In line with Article 4.1(8) and other relevant provisions, Data Subjects, civil society or professional organisations or any government Agency may report a breach of this Regulation to NITDA through an advertised channel. Upon receipt of this report, the Director General/CEO may direct action to be taken which may include the following steps:

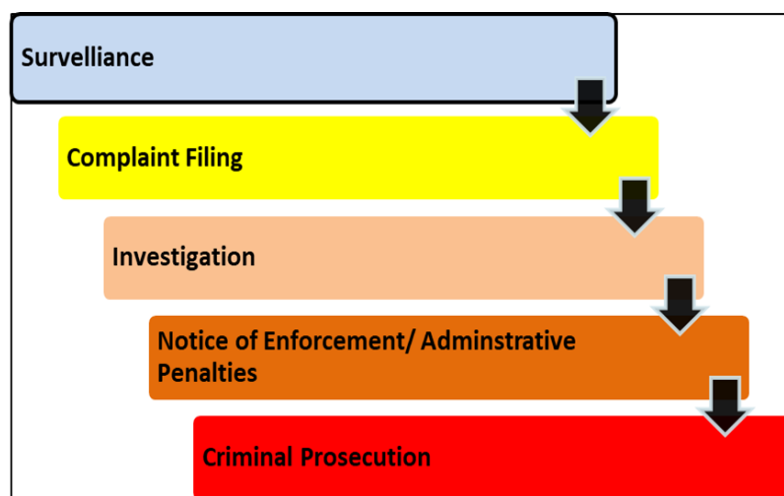
- Contact the Organisation for enquiry;
- Review of earlier filed annual report (if any);
- Data Protection Regulation Compliance Query;
- Administrative Action; and
- Prosecution

Data Controllers and Administrators also have a duty of Self-Reporting Data Breaches. The NDPR requires Data Controllers and Processors to have policies and procedures for monitoring and reporting violations of privacy and data protection policies (See Article 4.1(5j)). Data Controllers and Processors have a duty to report to NITDA within 72 hours of their knowledge of the breach and to notify the data subject within 7 working days except otherwise directed by NITDA.

Notification of Data Breach to NITDA must include the following information:

- i. A description of the circumstances of the loss or unauthorized access or disclosure
- ii. The date or time period during which the loss or unauthorized access or disclosure occurred
- iii. A description of the personal information involved in the loss or unauthorized access or disclosure
- iv. An assessment of the risk of harm to individuals as a result of the loss or unauthorized access or disclosure
- v. An estimate of the number of individuals to whom there is a real risk of significant harm as a result of the loss or unauthorized access or disclosure
- vi. A description of any steps the organization has taken to reduce the risk of harm to individuals
- vii. A description of any steps the organization has taken to notify individuals of the loss or unauthorized access or disclosure, and
- viii. The name and contact information for a person who can answer, on behalf of the organization, the Agency's questions about the loss of unauthorized access or disclosure

11. ENFORCEMENT FRAMEWORK



11.1 Forms of Enforcement

11.1.1 Surveillance

Surveillance refers to specific, deliberate monitoring carried out to identify breach of the NDPR. This routine activity arises out of the understanding that operators or parties are legally obliged to perform specific tasks in order to comply with provisions of NDPR, particularly as it affects Data Subjects. Such Controllers may be in deliberate or unconscious breach of the Regulation. Surveillance will aid NITDA to identify breaches of regulatory instruments or co-opt other stakeholders to identify and report breaches to the Agency.

11.1.2 Complaint Filings

Any person who believes a party is not complying with any of the provisions of the Regulation may file a complaint with NITDA. Such complaints must meet the following requirements:

- a. a complaint must be filed in writing, either on paper or electronically.
- b. a complaint must name the Data Controller or Administrator that is the subject of the complaint and describe the acts or omissions believed to be in violation of the applicable provision(s).
- c. NITDA may prescribe additional procedures for the filing of complaints, as well as the place and manner of filing.

11.1.3 Investigations

NITDA will investigate any complaint filed against a Data Controller or Administrator when a preliminary review of the facts indicates a possible violation of the provision(s) of the NDPR. NITDA may by its officers or through designated DPCO, investigate any complaint filed by third parties and may also do so based on a special audit check or “spot check”. Investigation may include a review of the policies, procedures, or practices of the concerned entity and of the circumstances regarding any alleged violation. At the time of the initial

written communication with the concerned entity, NITDA will indicate the basis of the audit.

11.1.4 Administrative Sanctions

Where NITDA has ascertained through the foregoing tools of enforcement or by the Administrative Redress Panel established pursuant to Article 4.2 of the NDPR, that a party is in breach of the NDPR, NITDA may issue an order for compliance with relevant provisions to curtail further breach. NITDA or a court of competent jurisdiction may prescribe additional sanction in liquidated monetary sum. A decision on the money value shall be based on the following considerations:

- a) Nature, gravity and severity of the breach
- b) the number of data subjects affected,
- c) damage suffered by data subjects
- d) opportunity for curtailment left unexplored and
- e) whether the breach is the first by the offending entity.

NITDA may also issue other administrative orders to include:

- i. Suspension of service pending further investigations;
- ii. Order for parties in breach to appear before a panel to determine liability of officers in line with Article 4.2;
- iii. Issue public notice to warn the public to desist from patronizing or doing business with the affected party;
- iv. Refer the parties in breach to other Self-Regulatory Organization (SRO) for appropriate sanctions.

11.1.5 Criminal Prosecution

Where NITDA has determined that a party is in breach of the NDPR, especially where such breach affects national security, sovereignty and cohesion, it may seek to prosecute officers of the organization as provided for in Section 17(1,3)

NITDA Act 2007. NITDA shall seek a fiat of the Honorable Attorney General of the Federation (HAGF) or may file a petition with any authority in Nigeria, this may include; the Economic and Financial Crimes Commission (EFCC), the Department of State Security (DSS), the Nigerian Police Force (NPF), the Independent Corrupt Practices (and other related offences) Commission (ICPC) or the Office of National Security Adviser (ONSA).

12. ENFORCEMENT PROCESS

Enforcement Activity	Description of Action
<i>Documentation of Breach</i>	<ol style="list-style-type: none"> 1. At this stage it is required that a report, memo, petition or complaint is officially submitted to NITDA through the office of the Director General of NITDA. 2. The Document must be duly signed by an Officer of NITDA or the external complainant. 3. For external complaint; the document must be written and signed by an Individual either in personal capacity or a group (of persons or companies) or registered entity (registered with the CAC).
<i>Request for Additional Information and Investigation</i>	<p>If it appears NITDA is not sufficiently briefed or may need further information to arrive at a conclusion of breach of the NDPR, the following procedure would be employed:</p> <ol style="list-style-type: none"> i. “Request for Additional Information” would be issued to either the complainant, the alleged

	<p>violator or any other party who may be in a position to provide clarity on facts of the allegation of breach.</p> <ul style="list-style-type: none"> ii. Invite relevant parties for an “Investigation Meeting” to elicit facts to establish or disprove breach. iii. “Request for Investigation in partnership with law enforcement agencies.
<p>Continuation or Termination of Enforcement Process</p>	<p>Where NITDA is satisfied that there is a <i>prima facie</i> evidence of breach, NITDA may:</p> <ul style="list-style-type: none"> 1. Request for a response from the violator stating the allegations against them; 2. In the event that NITDA finds the explanations of the alleged violator coherent and sufficient NITDA discontinue the enforcement process
<p>Notice of Enforcement</p>	<p>Where NITDA is satisfied that a breach of NDPR has occurred;</p> <ul style="list-style-type: none"> 1. NITDA will then issue a “Notice of Enforcement” citing the specific breach and demand mandatory compliance within a specific time frame from the date of the service of notice. 2. NITDA may issue an administrative fine or penalty in line with extant laws.
<p>Issuance of Public Notice (OPTIONAL)</p>	<p>NITDA may consider issuing a public statement warning the public and other agencies of Government of the dangers of dealing with a violator who has perpetuated a breach of the NDPR.</p>

<p>Request of Prosecution</p>	<p>A. Where a violator does not take steps to address breach or consult with NITDA as to what steps to be taken to remedy breach after the period stated in the "Notice for Enforcement"; or</p> <p>B. NITDA may file an official Petition or Notice of Prosecution to the Office of the Attorney General of the Federation, stating the following:</p> <ol style="list-style-type: none"> I. Original complaint; II. Enforcement process initiated by NITDA; and III. Implication of the action of the violator to the development of ICT in Nigeria. IV. A copy of the notice will be copied to the Presidency and any other relevant organ of government.
--------------------------------------	--

13. ESTABLISHMENT OF ADMINISTRATIVE REDRESS PANEL

In line with Article 4.2 of the Regulation, NITDA shall establish Administrative Redress Panels (ARP). The ARP shall be composed of accomplished IT professionals, public administrators and lawyers who shall work with the Agency for the purpose of resolving issues related to the Regulation.

The ARP procedure shall give preference to online dispute resolution mechanism. Where it is impracticable to adopt such mechanism, the ARP panel shall be constituted and shall give its opinion within a stipulated period of time.

The rules of procedure of the ARP shall be drawn up by a Panel of experts. The ARP Procedure shall however be designed with the following in mind:

- a) Principles of fair hearing, fairness and transparency

- b) Arguments and case presentations shall be done in writing. The procedure shall limit oral presentation to the barest minimum
- c) The ARP shall in reaching its decision, clearly state the proof of violation, identify some or all the data subjects affected by the breach (in an anonymized, pseudonymized or summarized format), the provision of the Regulation violated and any acts of omission or commission which exacerbated the breach.
- d) In reaching its decision, the Panel may consider whether the indicted entity has a reputation for data or other criminal or corporate breaches in the past; the number of employees in its establishment; the impact of the fine on its overall contribution to the economy. Nothing in this provision shall however limit the powers of the ARP to discharge its duties as expected of a typical quasi-judicial panel

14. THIRD PARTY PROCESSING

Third Party processors may include data processors and other statutory or non-statutory data recipients whom the Controller sends data to for the purpose of delivering service to the Subject.

Data Controllers are required to publish a list of third parties with whom the Data Subject's data may be shared. This publication which must also be included in the audit filing report include:

- a) Categories of Third-party data recipients e.g. credit reference agencies; payment processors; insurance brokers; anti-corruption agencies etc.
- b) third party name
- c) third party jurisdiction
- d) purpose of disclosure e.g. fraud checking; payment processing; dispute management; risk management; statutory requirement etc.
- e) type of data disclosed e.g. name, phone number, address, payment details; salary details etc.

Third Party processors shall be obligated to comply with the NDPR or any other adequate data protection law existent in their country. The Third-party processors are required to do the following-

- i. Process data only based on authorization expressly granted by the Data Controller through a written agreement that specifies roles and obligations of each party in respect to data protection.
- ii. Ensure there is adequate information security and process measures to protect personal data being processed in respect of the Controller.
- iii. Where requested by the Data Subject, the third-party processor shall delete such data on the instruction of the Data Controller.

15. DATA PROTECTION IN MDAs

NITDA shall deploy strategies and programmes to improve electronic governance in public institutions. Federal Public Institutions (FPIs) shall be given more time to comply with the Regulation. NITDA shall coordinate the process of improving Data Protection in FPIs through training and process change management.

Every MDA shall designate a Directorate-level officer as its Data Protection Officer. Such person shall be responsible for:

- Informing and advising the MDA on compliance with NDPR and other applicable data protection laws and policies
- monitoring compliance with the Regulation and with the internal policies of the organization including assigning responsibilities, awareness raising and training staff
- facilitating the cooperation with relevant stakeholders and acting as point of contact with NITDA.

Every FPI shall incorporate a Privacy Policy with its website and digital media platform to assure the privacy of the Data Subjects interacting with the FPI. A

sample Privacy Policy for government Agencies and institutions is available in Annexure A for guidance.

16. RELATIONSHIP WITH ATTORNEY-GENERAL OF THE FEDERATION

In accordance with Article 2.12 of the NDPR, where a Data Controller seeks to transfer data to a foreign country, NITDA shall examine if such country has adequate data protection law or regulation that can guarantee minimum privacy for Nigerian citizens' data. Where there is need for further legal cooperation from a target country, NITDA may approach the office of Attorney-General for that purpose. In such circumstance, such data transfer and storage processes shall be done under the supervision of the Attorney-General.

Generally, Adequacy Decision shall be issued by NITDA in respect of transfer to foreign countries if the information specified in paragraph 6 above are satisfactorily provided by the Data Controller. The Office of the Attorney General may in its supervisory role prohibit the transfer of Nigerian private data to certain countries where it is of the opinion that the country's data protection regime is inadequate or incompatible with the Nigerian law.

NITDA shall generate a list of countries with acceptable data protection laws, this list shall be validated by the Attorney-General. Where a Data Controller seeks to transfer to any country other than the ones listed, then such shall be subject to further processes to ascertain the protection of Nigerian citizens' data

17. CONTINUOUS PUBLIC AWARENESS AND CAPACITY BUILDING

NITDA shall engage in continuous organization of seminars, workshops, conferences and other information dissemination programmes to socialize the NDPR and improve its public acceptance and compliance.

18. APPLICATION OF INTERNATIONAL LAWS

Where the NDPR and this Framework do not provide for specific details on the implementation of Data Protection, the European Union General Data Protection Regulation (EU GDPR) and its judicial interpretations shall of persuasive effect in Nigeria.

19. Definition of Terms

DPO means Data Protection Officer

Data Processor: Data Processor means the Data Administrator as defined in Art. 1.3 of the NDPR. Data Processor is any person or organization that processes personal data on the instruction of the Data Controller or by virtue of relationship with the data controller.

GDPR: means Regulation (EU) 2016/679 of The European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

White list of countries: These are countries that have provided a basic data protection law upon which the rights of Data Subjects can be enforced in such country or in the international courts.

ANNEXURE A

AUDIT TEMPLATE FOR NDPR COMPLIANCE

A. This template is a guideline for Data Controllers and Administrators to show evidence of compliance. The template may be modified in so far as the essence of the reporting is achieved in a concise but comprehensive manner.

B. Responses must be evidenced with documentary evidence.

C. False reporting is a criminal offence. The Controller and DPCO shall be jointly liable except otherwise proven.

No	NDPR Provision	Question	Response	Comments
1		Accountability and governance		
1.1	Art. 1.1 and 1.2	Is your top-management aware of the Nigeria Data Protection Regulation (NDPR) and the potential implication on your organisation?		
1.2	Art. 2.6	Have you implemented any information security standard in your organisation before? If YES, specify.		
1.3	Art. 2.1(d)	Do you have a documented data breach incident management procedure?		
1.4	Art. 1.2	Do you collect and process personal information through digital mediums?		
1.5	Art. 2.6	Have you organised any NDPR awareness seminar for your staff or suppliers?		
1.6	Art. 4.1(5)	Have you conducted a detailed audit of your privacy and data protection practices?		
1.7	Art. 2.5	Have you set out the management support and direction for data protection compliance in a framework of policies and procedures?		
1.8	Art. 2.1	Do you have a Data Protection compliance and review mechanism?		

1.9	Art. 2.6	Have you developed a capacity building plan for compliance with data protection for all staff?		
1.10	Art. 3.1(1)	Do you know the types of personal data you hold?		
		Specify the number of data subjects you handle approximated to the nearest thousand.		
1.11	Art. 4.1(5)	Do you know the sources of the personal data you hold?		
1.12	Art. 4.1(5)	Who do you share personal data with		
1.13	Art. 4.1(2)	Who is responsible for your compliance with data protection laws and processes		
1.14	Art. 1.3	Have you assessed whether you are a Data Controller or Data Processor?		
1.15	Art 4.1(5)	Have you reviewed your Human Resources policy to ensure personal data of employees are handled in compliance with the NDPR?		
1.16	Art. 2.5(d)	Have appropriate technical and organisational measures been implemented to show you have considered and integrated data protection into your processing activities?		
1.17	Art. 4.5	Do you have a policy for conducting Data Protection Impact Assessment (DPIA) on existing or potential projects?		
1.18	Art. 4.5	Does your DPIA Policy address issues such as: a) A description of the envisaged processing operations b) The purposes of the processing c) The legitimate interest pursued by the controller d) An assessment of the necessity and proportionality of the processing operations in relation to the purposes e) An assessment of the risks to the rights and freedoms of Data Subject f) Risk mitigation measures being proposed to address the risk		

2.3	Art. 2.5	Is there a clearly available mechanism (e.g. webpage, etc.) for data subjects that explains how to contact your organisation to pursue issues relating to personal data?		
3	DOCUMENTATION TO DEMONSTRATE COMPLIANCE			
3.1	Art. 3.1	Have you documented your data processing activities?		
3.2	Art. 2.5	Have you included an appropriate privacy notice in each data collection process, including those done through third parties?		
	Art. 4.1(5)	Have you agreed a schedule to review current privacy notices contracts for compliance with NDPR?		
3.3	Art. 2.2	Other than the grounds of Consent of an employee, has your organisation recorded other legal grounds on which it processes its employees' data?		
3.4	Art. 4.1(5)	Have you identified what personal data is collected and whether this is collected directly from the data subject or via a third party?		
	Art. 3.1(7)	Does this inventory include data retention periods or do you have a separate data retention schedule?		
3.5	Art. 1.3	Do you have a register of data breaches and security incidents?		
4	PROCESSING ACTIVITIES			
4.1	Art. 2.2	Have you carried out a comprehensive review of the various types of processing your organisation perform?		
	Art. 2.2	Have you identified lawful basis for your processing activities and documented this?		
	Art. 2.5	Have you explained the lawful basis for processing personal data in your privacy notice(s)?		
4.2	Art. 2.5	Have you reviewed how you seek, record and manage consent?		
	Art. 4.1	Have you reviewed the systems currently used to record consent and have you implemented appropriate mechanisms to ensure an effective audit trail?		

4.3	Art. 2.4	If your organisation offers services directly to children, have you communicated privacy information in a clear, plain way that a child will understand?		
	Art. 2.6	Do you adopt data pseudonymisation, anonymisation and encryption methods to reduce exposure of personal data?		
4.4	Art. 1.3(xix)	Have you identified all the points at which personal data is collected: websites, application forms (employment and other), emails, in-bound and out-bound telephone calls, CCTV, exchanges of business cards and, attendance at events etc?		
4.5	Art. 3.1 (8)	Do you have procedures for regularly reviewing the accuracy of personal data?		
	Art. 3.1(8)	Do you have a system for Data Subjects to erase or amend their personal data in your custody?		
4.6	Art. 2.5(d)	Have you identified all the ways in which personal data is stored, including backups?		
	Art. 2.1.1(a)	Have you evaluated points where data minimisation can be implemented in your data collection process?		
		Have you reviewed your forms and other data collection tools to comply with the NDPR?		
4.7	Art. 2.2	Have you identified the purposes for processing personal data, for determining and authorising internal or external access and all disclosures of data?		
4.8	Art. 3.1	Are your organisational procedures checked to ensure that you can preserve the rights of individuals under the NDPR?		
4.9	Art. 3.1(7)	Is there a clearly available mechanism (e.g. webpage, etc.) for data subjects that explains how to contact the organisation to pursue issues relating to personal data?		
4.10	Art. 2.6	Are all staff trained to recognise and deal with subject access requests?		
4.11	Art. 3.1(5)	Do you have a procedure for dealing with subject access requests from third parties?		

4.12	Art. 4.1(5)	Has your organisation implemented appropriate procedures to ensure personal data breaches are detected, reported and investigated effectively?		
4.13	Art. 4.1(5)	Do you have mechanisms in place to notify affected individuals where the breach is likely to result in a high risk to their rights and freedoms?		
4.14	Art. 2.6	Have you trained all staff who deal with personal data about their responsibilities and data protection procedures?		
4.15	Art. 2.6	Are these responsibilities written into job descriptions?		
4.16	Art. 2.7	Have you contracted with any third-party data processors?		
4.17	Art. 2.7	If so, are such contracts compliant with the requirements of the NDPR?		
4.18	Art. 2.7	Have you agreed a schedule to review current contracts for compliance with NDPR?		
4.19	Art. 2.10	Do you transfer personal data to organisations in countries outside the Nigeria?		
4.20	Art. 2.10	If so, do you have in place appropriate contracts and methods of ensuring compliance?		
4.21	Annexure C	Are the countries you transfer data to in the White List of Countries with adequate Data Protection laws?		
4.22	Art. 2.12	Where the countries are not in the White List have you recorded the basis of transfer?		
4.23	Art. 4.1(5)f	Do you have in place adequate information systems security (e.g. as specified in ISO/IEC 27001) and does it include physical, logical, technical and operational measures that ensure the security of processing of personal data?		

ANNEXURE B

SAMPLE PRIVACY POLICY TEMPLATE FOR PUBLIC INSTITUTIONS

NITDA Privacy Policy

This Privacy policy between The National Information Technology Development Agency of 28 Port Harcourt Crescent, off Gimbiya Street, Garki, Abuja (hereinafter referred to as NITDA) and you, constitutes our commitment to your privacy on our administrative records, websites, social media platforms and premises.

1.0 Your Privacy Rights

This Privacy Policy describes your privacy rights regarding our collection, use, storage, sharing and protection of your personal information. It applies to the NITDA website and all database applications, services, tools and physical contact with us regardless of how you access or use them.

If you have created a username, identification code, password or any other piece of information as part of our access security measures, you must treat such information as confidential, and you must not disclose it to any third party. We reserve the right to disable any user identification code or password, whether chosen by you or allocated by us, at any time, if in our opinion you have failed to comply with any of the provisions of these Conditions. If you know or suspect that anyone other than you know your security details, you must promptly notify us at info@nitda.gov.ng

2.0 Consent

You accept this Privacy Policy when you give consent upon access to our platforms, or use our services, content, features, technologies or functions offered on our website, digital platforms or visit any of our offices for official or non-official purposes (collectively “NITDA services”). This Policy governs the use of NITDA services and

intervention projects by our users and stakeholders unless otherwise agreed through written contract. We may amend this Privacy Policy at any time by posting a revised version on our website, or placing such notice at conspicuous points at our office facilities. The revised version will be effective 7-days after publication.

3.0 Your Personal Information

When you use NITDA Services, we collect information sent to us by your computer, mobile phone or other electronic access device. The automatically collected information includes but not limited to- data about the pages you access, computer IP address, device ID or unique identifier, device type, geo-location information, computer and connection information, mobile network information, statistics on page views, traffic to and from the sites, referral URL, ad data, standard web log data, still and moving images.

We may also collect information you provide us including but not limited to- information on web form, survey responses account update information, email, phone number, organization you represent, official position, correspondence with NITDA support services and telecommunication with NITDA. We may also collect information about your transactions, enquiries and your activities on our platform or premises.

We may also use information provided by third parties like social media sites. Information about you provided by other sites are not controlled by NITDA and we are therefore not liable for how they use it.

4.0 What we do with your personal information

The purpose of our collecting your personal information is to give you efficient, enjoyable and secure service. We may use your information to:

Provide NITDA services and support;

Process applications and send notices about your transactions to requisite parties;

Verify your identity;

Resolve disputes, collect fees, and troubleshoot problems;

Manage risk, or to detect, prevent, and/or remediate fraud or other potentially prohibited or illegal activities;

Detect, prevent or remediate violation of Laws, Regulations, Standards, Guidelines and Frameworks;

Improve NITDA Services by implementing aggregate customer or user preferences;

Measure the performance of the NITDA Services and improve content, technology and layout;

Track information breach and remediate such identified breaches;

Manage and protect our information technology and physical infrastructure;

Contact you at any time through your provided telephone number, email address or other contact details;

5.0 Cookies

Cookies are small files placed on your computer's hard drive that enables the website to identify your computer as you view different pages. Cookies allow websites and applications to store your preferences in order to present contents, options or functions that are specific to you. Like most interactive websites, our website uses cookies to enable the tracking of your activity for the duration of a session. Our website uses only encrypted session cookies which are erased either after a predefined timeout period or once the user logs out of the platform and closes the browser. Session cookies do not collect information from the user's computer. They will typically store information in the form of a session identification that does not personally identify the user.

6.0 How we protect your personal information

We store and process your personal information on our computers in Nigeria. Where we need to transfer your data to another country, such country must have an adequate data protection law. We will seek your consent where we need to send your data to a country without an adequate data protection law. We protect your information using physical, technical, and administrative security measures to reduce the risks of loss, misuse, unauthorized access, disclosure and alteration. Some of the safeguards we

use are firewalls and data encryption, physical access controls to our data centers, and information access authorization controls.

7.0 How We Share your information within NITDA and other users

During your interaction with our website or premises, we may provide other Ministries, Departments, Agencies (MDA), other organs of government, private sector operators performing government functions, with information such as your name, contact details, or other details you provide us for the purpose of performing our statutory mandate to you or third parties.

We work with third parties, especially government agencies to perform NITDA services and implement its mandate. In doing so, a third party may share information about you with us, such as your email address or mobile phone number.

You accept that your pictures and testimonials on all social media platforms about NITDA can be used for limited promotional purposes by us. This does not include your trademark or copyrighted materials.

From time to time we may send you relevant information such as news items, enforcement notice, statutorily mandated notices and essential information to aid the implementation of our mandate. We may also share your personal information in compliance with National or international laws; crime prevention and risk management agencies and service providers.

8.0 Security

We will always hold your information securely. To prevent unauthorized access to your information, we have implemented strong controls and security safeguards at the technical and operational levels. This site uses Secure Sockets Layer/Transport Layer Security (SSL/TLS) to ensure secure transmission of your personal data. You should see the padlock symbol in your URL address bar once you are successfully logged into the platform. The URL address will also start with https:// depicting a secure webpage. SSL applies encryption between two points such as your PC and the connecting server. Any data transmitted during the session will be encrypted before transmission and decrypted at the receiving end. This is to ensure that data cannot be read during transmission.

NITDA has also taken measures to comply with global Information Security Management Systems (ISMS) we therefore have put in place digital and physical security measures to limit or eliminate possibilities of data privacy breach incidents.

9.0 Data Confidentiality Rights

Your information is regarded as confidential and will not be divulged to any third party except under legal and/or regulatory conditions. You have the right to request sight of, and copies of any and all information we keep on you, if such requests are made in compliance with the Freedom of Information Act and other relevant enactments. While NITDA is responsible for safeguarding the information entrusted to us, your role in fulfilling confidentiality duties includes, but is not limited to, adopting and enforcing appropriate security measures such as non-sharing of passwords and other platform login details, adherence with physical security protocols on our premises, dealing with only authorized officers of the Agency.

10.0 Links to Other Websites and Premises

Certain transaction processing channels may require links to other websites or Organisations other than ours. Please note that NITDA is not responsible and has no control over websites outside its domain. We do not monitor or review the content of other party's websites which are linked from our website or media platforms. Opinions expressed or materials appearing on such websites are not necessarily shared or endorsed by us, and NITDA should not be regarded as the publisher of such opinions or materials. Please be aware that we are not responsible for the privacy practices, or content of these sites. We encourage our users to be aware of when they leave our site and to read the privacy statements of these sites. You should evaluate the security and trustworthiness of any other site connected to this site or accessed through this site yourself, before disclosing any personal information to them. NITDA will not accept any responsibility for any loss or damage in whatever manner, howsoever caused, resulting from your disclosure to third parties of personal information.

11.0 Governing Law

This Privacy Policy is made pursuant to the Nigeria Data Protection Regulation (2019) and other relevant Nigerian laws, regulations or international conventions applicable to Nigeria. Where any provision of this Policy is deemed inconsistent with a law, regulation or convention, such provision shall be subject to the overriding law, regulation or convention.

SN	COUNTRY	DATA PROTECTION LAW	COMMENT
1	All EU and European Economic Area Countries	EU- General Data Protection Regulation	Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy Latvia, Lithuania, Luxembourg, Malta, Netherlands Norway, Poland, Portugal, Romania, Serbia Slovakia, Slovenia, Spain, Sweden United Kingdom. Every Country has a Supervisory Authority for the implementation of the GDPR in its domain.
2	Algeria	2018 Algerian law on the Protection of Individuals in the Processing of Personal Data	Autorité National de Protection des Données à Caractère Personnel
3	Argentina	Personal Data Protection Law 2000 (Law No. 25,326) applies to any person or entity in the country that deals with personal data.	Agency for Access to Public Information established pursuant to Decree 746 of 2017
4	Brazil	General Data Protection Law 2018 (LGPD) very similar to GDPR. Brazil also has snippets of privacy laws from the Constitution and other statutes such as Consumer Protection Code 1990; Internet Act 2014 etc.	The Amended LGPD created the National Data Protection Authority (ANPD). The law would take effect in August 2020
5	Mauritius	THE DATA PROTECTION ACT 2017	Mauritius Data Protection Office
6	South Africa	The Protection of Personal Information, Act 4 of 2013	The Information Regulator (DPA)
7	Togo	Protection of Personal data	Togolese Data Protection Authority
8	Tunisia	The Organic Law no. 2004-63 on Personal Data Protection (Tunisian Law)	The National Authority for Protection of Personal Data (DPA)
9	Canada	Private sector is governed by Personal Information Protection and Electronic Documents Act (PIPEDA) 2000 amended in 2008 to include mandatory data breach notification and record-keeping laws. the public sector is governed by the Privacy Act of 1983.	PIPEDA creates the Office of the Privacy Commissioner of Canada
10	Cape Verde	Data Protection Law (Law 133/V/2001 (as amended by Law 41/VIII/2013) and Law 132/V/2001, of 22 January 2001.	The National data protection authority in Cape Verde is the Comissão Nacional de Proteção de Dados Pessoais ('Data Protection Authority').
11	China	Information Technology – Personal Information Security Specification is the latest law on privacy in China. It came into effect in May 2018	Cyberspace Administration of China (CAC) is the data protection authority
12	Cyprus	The Protection of Natural Persons With Regard to the Processing of Personal Data and for the Free Movement of Such Data of 2018.	Commission for personal data protection
13	Israel	The Privacy Protection Regulations (Data Security), 5777-2017,	The Israel Privacy Protection Authority (PPA)
14	Japan	Act on the Protection of Personal Information (APPI)	Personal Information Protection Commission Japan
15	Philippines	Republic Act no. 10173	National Privacy Commission
16	Singapore	Personal Data Protection Act of 2012 (No. 26 of 2012) (the Act)	Personal Data Protection Commission
17	South Korea	The Personal Information Protection Act (PIPA)	Personal Information Protection Commission (PIPC)
18	Albania	Law No. 9887 dated 10.03.2008	Information and Data Protection Commissioner (IDP)
19	Andorra	Law 15/2003 of 18	Data Protection Agency of Andorra
20	Austria	GDPR	Austrian Data Protection Authority
21	Bosnia-Herzegovina	The Law on Protection of Personal Data ('Official Gazette of BiH', nos. 49/06, 76/11 and 89/11) (DP Law)	Personal Data Personal Data Protection Agency in Bosnia and Herzegovina

22	Croatia	Implementation of the General Data Protection Regulation	Croatian Personal Data Protection Agency
23	Faeroe Islands	Data Protection Act	Faroese Data Protection Agency
24	Isle of Man	DATA PROTECTION ACT 2018 Data Protection (Application of GDPR) Order 2018 (SD2018/0143) (GDPR Order) Data Protection (Application of LED) Order 2018 (SD2018/0144) (LED Order) GDPR and LED Implementing Regulations 2018 (SD2018/0145) (Implementing Regulations)	Office of the Data Protection Supervisor
25	Jersey	Data Protection (Jersey) Law, 2018 (DPJL) Data Protection Authority (Jersey) Law, 2018 (DPAJL)	Jersey Office of the Information Commissioner (JOIC)
26	Liechtenstein	Data Protection Act (DSG) of 14 March 2002 (LR-No. 235.1)	The Liechtenstein Data Protection Authority / Datenschutzstelle
27	San Marino	Law n. 71 of 1995 Law n. 70 of 1995 reforming Law n. 27 of 1 March 1983	TBD
28	Slovenia	Draft Slovenian Data Protection Act (ZVOP-2)	Information Commissioner of the Republic of Slovenia
29	Switzerland	Swiss Federal Data Protection Act (DPA)	Federal Data Protection and Information Commissioner (FDPIC)
30	Kenya	Data Protection Act 2019	Office of the Data Protection Commissioner
31	United States of America	Swiss-US Privacy Shield Frameworks State laws such as California Consumer Privacy Act	International Trade Administration (ITA) within the U.S. Department of Commerce
32	Guernsey	The Personal Data (Privacy) Ordinance (Cap. 486) (Ordinance) regulates the collection and handling of personal data. The Ordinance has been in force since 1996, but, in 2012/2013 was significantly amended (notably with regard to direct marketing).	
33	Japan	"The Act on the Protection of Personal Information ("APPI") regulates privacy protection issues in Japan and the Personal Information Protection Commission (the "PPC"), a central agency acts as a supervisory governmental organization on issues of privacy protection. The APPI was originally enacted approximately 10 years ago but was with recently amendments coming into force on 30 May 2017."	
34	Hong Kong	The Personal Data (Privacy) Ordinance (Cap. 486) (Ordinance) regulates the collection and handling of personal data. The Ordinance has been in force since 1996, but, in 2012/2013 was significantly amended (notably with regard to direct marketing).	
35	Malaysia	The Personal Data Protection Act 2010 (PDPA), was passed by the Malaysian Parliament on June 2, 2010 and came into force on November 15, 2013.	
36	Mauritius	Mauritius regulates data protection under the Data Protection Act 2017 (DPA 2017 or Act),	

		proclaimed through Proclamation No. 3 of 2018, effective January 15, 2018. The Act repeals and replaces the Data Protection Act 2004, so as to align with the European Union General Data Protection Regulation 2016/679 (GDPR).	
37	Qatar	The Qatar Financial Centre (QFC) implemented QFC Regulation No. 6 of 2005 on QFC Data Protection Regulations (DPL).	
38	Singapore	Singapore enacted the Personal Data Protection Act of 2012 (No. 26 of 2012) (the Act) on October 15, 2012. The Act took effect in three phases:	
39	South Korea	Personal Information Protection Act, 'PIPA') was enacted and became effective as of 30 September 2011	
40	Taiwan	The former Computer Processed Personal Data Protection Law (CPPL) was renamed as the Personal Data Protection Law (PDPL) and amended on May 26, 2010. The PDPL became effective on October 1, 2012, except that the provisions relating to sensitive personal data and the notification obligation for personal data indirectly collected before the effectiveness of the PDPL remained ineffective. The government later proposed further amendment to these and other provisions, which passed legislative procedure and became effective on March 15, 2016.	
41	Turkey	The main piece of legislation covering data protection in Turkey is the Law on the Protection of Personal Data No. 6698 dated April 7, 2016 (LPPD). The LPPD is primarily based on EU Directive 95/46/EC.	
42	United Arab Emirates	The Dubai International Financial Centre (DIFC) implemented DIFC Law No. 1 of 2007 Data Protection Law in 2007 which was subsequently amended by DIFC Law No. 5 of 2012 Data Protection Law Amendment Law (DPL).	
43	India	On August 24, 2017, a Constitutional Bench of nine judges of the Supreme Court of India in Justice K.S.Puttaswamy (Retd.) v. Union of India [Writ Petition No. 494/ 2012] upheld that privacy is a fundamental right, which is entrenched in Article 21 [Right to Life & Liberty] of the Constitution. This led to the formulation of a comprehensive Personal Data Protection Bill 2018.[1] However, presently the Information Technology Act, 2000 (the Act) contains specific provisions intended to protect electronic data(including non-electronic records or information that have been, are currently or are intended to be processed electronically).	

44	Uruguay	Data Protection Act Law No. 18.331 (August 11, 2008); Decree No. 414/009 (August 31, 2009) (the Act).	Unidad Reguladora y de Control de Datos Personales (URCDP)
----	---------	---	--

REFERENCES

EU General Data Protection Regulation 2016

Data Protection Act 1998

<https://www.cmpe.boun.edu.tr/>

UK Information Commissioner's Office website