

**Process Id# ::** 0006  
**Process Name ::** Unauthorised Disclosure and Offences Policy  
**Date Last Updated ::** 1/7/2019

### **Description ::**

Article 84 of the GDPR sets out that Member States shall lay down role for penalties for infringements of the Regulations. A list of offences are listed in Chapter 7 of the Data Protection Act and are duplicated below. In review it shall be an offence to ::

1. (144) knowingly or recklessly disclose personal data received by a processor, including any employee, to another party without the prior authority of the controller.
2. (145) obtain access to personal data and disclose that data to another person without authorisation. Additional offences include selling personal data or offering to sell personal data.
3. (146) have the body corporate carry out an offence under the Act “committed with the consent or connivance of, or to be attributable to any neglect on the part of” a person of significant responsibility and they will be punished as if guilty of the original offence.

Beyond reputation damage to the organisation and any disciplinary matters arising, there are potentially serious consequences upon conviction of each offence including imprisonment or a fine.

It is important any person acting on behalf of the NSSO and handling personal data respects the gravity of the offence and complies with the data protection policies as advised.

## **Offences under Chapter 7 of the Data Protection Act**

### **Unauthorised disclosure by processor**

144.(1) Personal data processed by a processor shall not be disclosed by the processor or by an employee or agent of the processor, without the prior authority of the controller on behalf of whom the data are processed.

- (2) A person who knowingly or recklessly contravenes subsection (1) shall be guilty of an offence and shall be liable—
  - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.
- (3) Subsection (1) does not apply to a person who shows that the disclosing concerned was required or authorised by or under any enactment, rule of law or order of a court.

### **Disclosure of personal data obtained without authority**

145. (1) A person who, without the prior authority of the controller or processor—

- (a) obtains personal data, and
  - (b) discloses the data or information to another person,
- shall be guilty of an offence and shall be liable—
- (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
  - (ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(2) Subsection (1) does not apply to a person who shows that the disclosing was required or authorised by or under any enactment, rule of law or order of a court.

- (3) A person who sells personal data that were disclosed to the person in contravention of subsection (1) shall be guilty of an offence and shall be liable—
  - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(4) A person who offers to sell personal data obtained without the prior authority of the controller or processor shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both

#### **Offences by directors, etc., of bodies corporate**

146. Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.