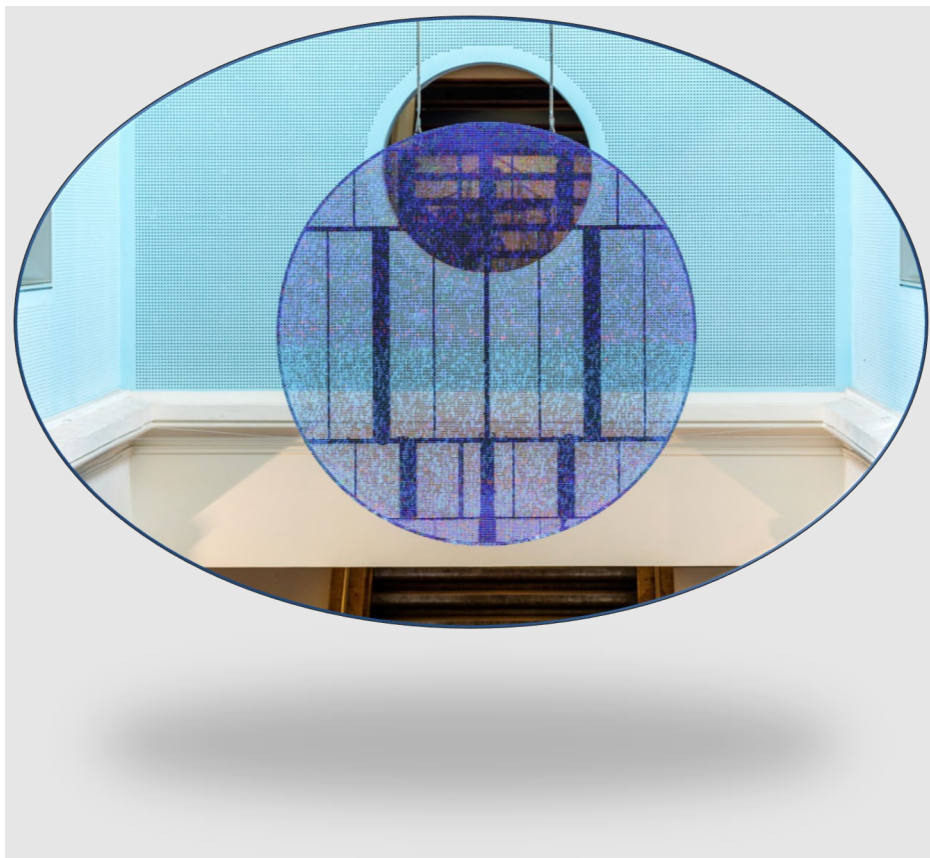

Guidelines on processing personal data

when using social media platforms



Marketing & Communications

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1. Introduction

The processing of personal data is necessary for the business operations of educational and research institutions. It must be carried out with the greatest level of care, as the unfair and unjust use of personal data can cause significant harm to current and prospective students, staff members and other affiliated parties at Maastricht University (hereafter referred to as UM), as well as to UM itself. For this reason, it is of great importance to UM that the personal data it collects are processed and protected carefully.

The Executive Board of UM is responsible for personal data being processed carefully. To ensure that all staff members across the entire UM process personal data carefully when conducting their tasks, the 'Maastricht University Policy on the Processing of Personal Data ('Beleid Verwerking Persoonsgegevens Universiteit Maastricht', hereafter referred to as the UM policy) was adopted. In addition, UM has another policy on the responsible handling of images and recordings¹; in other words, how to deal with the publishing of photos and videos from the university (hereafter referred to as the image and recordings policy).

At the end of 2022, the Executive Board requested the Marketing & Communications Department of Maastricht University Office (M&C MUO) to research the use of social media services by all staff at UM, with a focus on potential privacy risks. These risks could arise if UM uses social media services and software that do not handle personal data in accordance with the General Data Protection Regulation (GDPR).

In these guidelines, M&C MUO describes the measures that UM staff – particularly those working in marketing and communications – should take into account when using social media services.

2. Considerations

These guidelines include explanations, partly using a few concrete examples, about how UM staff² can and should use social media. Every staff member who uses such channels always bears their own responsibility for their social media communications.

The fast growth of the number of social media platforms, combined with their ease of use, the potential reach of messages and the importance of this for UM (business) operations, make social media platforms attractive communication channels. However, these platforms can also have less desirable consequences. These guidelines have been drawn up in order to prevent such negative consequences.

At the time that these guidelines were drafted, UM deployed the following social media platforms:

- Facebook
- X (previously Twitter)
- LinkedIn
- Instagram
- YouTube
- TikTok

¹ 'Policy on images and recordings at Maastricht University' ('Beleid beeldopnames Universiteit Maastricht'), adopted on 17 January 2020.

² By staff, we mean everyone who is employed by or carries out work for UM. Other individuals who carry out work for UM, such as student assistants, interns, agency workers and seconded employees, are also requested to follow these guidelines. Guidelines can be agreed upon with self-employed persons who carry out work for UM.

- WhatsApp Business Account (used to unilaterally send information to participants of an Account and not to converse with participants at all)

Over the past few years, Facebook, TikTok and X have been the subject of various complaints within politics and public opinion. Facebook and TikTok have received complaints about their non-transparent processing of personal data, while X has received complaints due to ethical concerns surrounding the moderation policy of its new owner.

M&C MUO therefore requested a specialised party (ICTRecht) to draw up an analysis of the use of social media services at UM and to describe the privacy risks arising from these.

The results of this analysis were then presented to the Executive Board. Subsequently, the Executive Board decided on 19 June 2023 that UM may continue using social media services under certain conditions. Alongside its decision, the Executive Board also indicated that it was necessary to write up a clear description of the measures that every person who uses social media services on the behalf of UM must take to ensure that the risks of personal data being used in breach of the applicable rules and conditions are limited as far as possible. These guidelines have therefore been drafted to serve as a manual to this end.

3. Link between GDPR, UM policy and image and recordings policy

This document is based on the general UM policy drafted in 2020 and is therefore an extension of this.

The General Data Protection Regulation³ (GDPR) protects the fundamental rights and freedoms of natural persons, particularly regarding their right to the protection of personal data.

The UM policy describes the conditions under which personal data can legally be processed and which measures must be taken to protect personal data during processing.

Furthermore, a link exists with the current UM image and recordings policy, which sets out how images and recordings made during UM events and gatherings should be handled.

Primarily, these guidelines serve to apply the GDPR and UM policy to the ways in which personal data can legally be processed when using social media platforms or services. As already stated, when applying these guidelines, the adjacent image and recordings policy should also be taken into account.

Secondly, these guidelines offer operational instructions to ensure that personal data on social media services are processed in accordance with the policies and regulations stated above.

Scope and objectives of the guidelines

These guidelines apply to the processing of personal data by UM staff who use UM social media services.

As described in the UM policy, personal data only refers to information that concerns identified or identifiable natural persons. This means that information/a data set that only comprises aggregated data

³ The GDPR entered into force on 25 May 2016 and took effect as from 25 May 2018.

does not fall under the scope of these guidelines, as the processing of such data has no influence on the rights and freedoms of natural persons.

As the use of social media services takes place electronically, these guidelines only apply to such use. All other forms of processing personal data for marketing and communications purposes fall under the scope of the general UM policy.

These guidelines serve the objective of describing the measures that UM staff – who work in marketing and communications – must take when using social media services. As such, all involved staff members in particular and UM in general are responsible for optimising the quality of the processing and protection of personal data and for satisfying the relevant privacy regulations and legislation.

Where matters are not covered in these guidelines, the principles of the UM policy apply.

3.1 Basic principles and rationales

To explain the policy principles of processing personal data and the rationales of processing personal data legally, it is necessary to refer to the UM policy. Where an elaboration on the rationales that apply to various personal data processing methods when using UM social media services are described below, the respective rationales will be referred to.

Although the use of most of these rationales is self-evident, that is not always the case for the rationale 'necessary for the protection of legitimate interests'. This rationale requires the strict implementation of three criteria⁴:

1. A real legitimate interest must apply, and not every interest can be considered a *legitimate* interest;
2. The data processing must be *necessary* to protect this interest;
3. A thorough consideration must be made between the interests of the party carrying out the data processing and that of the involved persons (the persons to whom the personal data belongs).

Re 1. A legitimate interest must be formally recognised and protected within the legal framework and may not purely be of a commercial nature. It must be an interest that is recognised societally and that everybody agrees must be legally protected.

Re 2. This processing must satisfy the principles of proportionality and subsidiarity to be able to be deemed *necessary*.

Re 3. A careful consideration of interests must have taken place before this rationale can be called on.

Examples of legitimate interests include: the reporting of public events, the responsibility to evaluate and improve communications to better meet the needs of the target group and the legitimate interest of reputation maintenance by understanding public perceptions.

As UM, we must be able to justify that personal data are processed carefully. Where the rationale of legitimate interest is used for the processing of personal data, it must be ensured that the above three criteria are met. Particularly, by *documenting* how the careful consideration of interests was made. This justification must be able to be shown on the request of a person concerned or of the Dutch Data Protection Authority.

⁴ For an explanation of these conditions and an elaboration of how this rationale can be applied, see: <https://autoriteitpersoonsgegevens.nl/themas/basis-avg/avg-algemeen/grondslagen-avg-uitgelegd#grondslag-gerechvaardigd-belang>

The examples of legitimate interests described above are subject to the conditions as described above and in the UM policy.

4. Types of processing

Before describing the various types of data processing when using social media services, it is advisable to reflect on the question of what can be considered as data processing.

Here, data processing is deemed to include every instance of processing or partial processing of personal data or of partial personal data, whether or not carried out automatically, such as: the collection, recording, ordering, structuring, storage, amendment or adaptation, requesting, consultation, usage, provision through sending, sharing or otherwise making available, aligning or combining, deletion or destruction of data.

To apply the desired level of care and to satisfy one of the most important basic principles of processing personal data (namely, to be able to justify that the personal data were processed legally), a *register* of the processing activities must be kept.

Every separate (not individual) processing instance must be included in this register. In this way, UM staff justify the processing of personal data on behalf of UM. The register should include a description of the intended objective of the processing, a specification of the processing activities and other relevant information.

The information manager (IM) at MUO will monitor and take care of the register for the processing of personal data for the central Marketing & Communications department. Within the management units with separate Marketing & Communications departments or with separate staff for this, the IM of the respective management unit is the contact point for this. The IM also generally functions as the privacy contact person and is there to answer questions, offer explanations and help with the implementation of tasks involving the processing of personal data.

UM uses social media services in the following ways and therefore processes personal data in the following ways:

1. The collection of personal data

Within UM, personal data are collected in a variety of ways. This also applies to personal data that are collected to be used for social media services. Regardless of the way in which a UM staff member collects personal data from people, the staff member must always inform the persons concerned about what will be done with their personal data.

If personal data are collected directly from people, the staff member should inform the person involved when the data are collected.

If the personal data are not directly received from the person concerned, but are received indirectly by UM, then the UM should inform the person concerned about the processes to be carried out as soon as possible after receiving the data. This information should be given to the person concerned within a reasonable period after receipt of the data, but in any case within *one* month at the latest.

2. The posting of content (text, photos and videos, designs)

When content is posted, in principle, no personal data of social media users shall be processed. However, the personal data of UM staff or students may be processed. If this occurs, it is reasonable to obtain the consent of the person involved for the data processing.

The personal data of persons concerned cannot be processed before such consent is received and recorded. For the conditions on obtaining and withdrawing consent, please see the UM policy in general. For specific conditions, please see the image and recordings policy.

In exceptional cases, e.g. if group photos or other types of personal data are used for which it is impossible or would take unreasonable effort to obtain the consent of everyone involved, there is no other option than using the rationale of legitimate interest. In this case, the criteria to make use of this rationale must be satisfied⁵. When applying this rationale to process personal data, a careful consideration of the interests must be recorded and communicated, so that the persons concerned can take note of this.

3. Analysis of personal data

When social media users follow, like, share, click or comment on UM social media posts, their personal data are not yet immediately subjected to processing by UM.

UM only collects and processes the personal data of social media users for analysis once the users concerned have given their consent for this. This consent may be requested from users by having them fill in a form on the website or by their selected cookie banner options. From the moment that UM staff collect the aforementioned data from these persons or apply other data collection methods to carry out analyses to assess the effectiveness of the content posted (e.g. by looking at the interaction figures or by researching the best time to post content), this is considered as personal data processing, for which a rationale is needed.

When making choices to conduct analyses, a consideration of whether it is *necessary* to process personal data must always be made, taking into account the basic principles (see the UM policy).

To the extent that the processing operations are carried out by UM staff themselves, the rationale of 'consent' can obviously be applied. See the previous reference to this.

If data processing, including profiling⁶, is exclusively carried out automatically, and the results of the automatic processing are used to initiate further processing of the data of the same persons, then this processing may only take place with the explicit consent of the persons concerned. Strict conditions apply to obtaining this form of consent. For more information about this, see the UM policy.

⁵ For an explanation of the conditions that apply to make use of the rationale of legitimate interest, please see: <https://autoriteitpersoonsgegevens.nl/themas/basis-avg/avg-algemeen/grondslagen-avg-uitgelegd#grondslag-gerechvaardigd-belang>.

⁶ The GDPR defines profiling as follows (Article 4.4): every instance of the automatic processing of personal data whereby personal aspects of natural persons are evaluated on the basis of their personal data, with the purpose of analysing or predicting their job performance, financial situation, health, personal preferences, interests, reliability, behaviour, location or replacement. This applies to automatic/automated processing, whereby little to no human interference takes place and which is mainly focused on creating profiles to then make reports from. This method increases the risk of breaching the rights and freedoms of natural persons, which therefore calls for restraint.

Through this processing method, the personal data of people other than 'visitors', such as prospective students and other interested parties, are generally also processed. It is therefore common for the personal data of staff, guests/guest speakers, UM contacts and possible other parties to be processed, for instance when content about events (e.g. the opening of the academic year, Dies Natalis, etc.) is posted. The responses to such posts are then analysed. For this processing method, UM applies the rationale of legitimate interest (see above). As this rationale is used, the applicable criteria to this end must be met.⁷

4. Re-targeting and other methods to send information to interested parties

When conducting re-targeting activities, the personal data that has been collected from various sources are linked with one another, with the objective of providing the persons concerned with *contextually rich information* that could be interesting to them. In the case of UM, this could be information about an open day, a new degree programme or an update that could be relevant for the person concerned.

Re-targeting mainly takes place through cookies. As these cookies are not functional and are generally used without the knowledge of the person concerned, and may therefore breach the rights and freedoms of the persons concerned, the persons concerned must be well and clearly informed about this in advance. Make sure that this information is shared with the person concerned *when* their personal data is collected, *not* afterwards. The most obvious rationale behind this processing is the consent of the website visitor. Information provision about this and the obtaining of consent can be arranged via a good cookie banner.

Here too, if automated individual decision-making, including profiling, takes place, then data processing is only permitted if explicit consent has been obtained. See the previous reference for the conditions of this. If a person concerned complains against this form of data processing, UM must immediately stop the processing of the personal data of this person; see also the UM policy.

UM also uses other methods to (continue to) provide parties that are potentially interested in UM with information that could be interesting to them. These guidelines only apply to methods for which social media platforms are deployed. For all other forms (e.g. newsletters via the website, or otherwise), the conditions of the UM policy apply in principle.

Recruiters use adverts on social media as a method to gather parties interested in UM and then ask individuals for their personal data so that they can be provided with relevant information in the future.

The aim of this data processing is to keep these individuals engaged as potential prospective students. To the extent that the processing operations are carried out by UM staff themselves, the rationale of 'consent' can obviously be applied (see the previous reference to this).

If automated decision-making is exclusively used for this process, without any human interference, then explicit consent must be obtained to process the data in this manner.

If UM engages third parties to collect personal data and further process it, to create data files through which the persons concerned are provided with (new) interesting information, then the

⁷ For an explanation of the conditions that apply to make use of the rationale of legitimate interest, please see: <https://autoriteitpersoonsgegevens.nl/themas/basis-avg/avg-algemeen/grondslagen-avg-uitgelegd#grondslag-gerechvaardigd-belang>.

processing of such personal data will largely be done by the respective third party. This party therefore counts as the 'processor' (on behalf of UM), whereby agreements must be made on the manner in which processing may take place. These agreements should be recorded in a processor agreement.

5. Market reputation monitoring and reputation management

To clearly map out the impact of online content and the general online reputation of both the brand and online and offline communication of UM, public data from public sources may be collected to then conduct analyses on. To this end, UM uses the services of third parties in the capacity of data processors, which enable UM to make the collected data searchable. This way, UM can better analyse and map out the effectiveness of its content and the familiarity of its brand.

For these analyses, aggregated data are mainly used. However, personal data will also be processed due to searchability. These personal data must also be processed in accordance with the UM policy and the GDPR.

UM has no direct contact with the owners of the personal data that are processed for this purpose, and therefore it is impossible or would require unreasonable effort to obtain the consent of all persons concerned. For this reason, there is no other option than to apply the rationale of legitimate interest. See the previous reference to this.

Because the services of third parties are used in this type of processing to collect information/(personal) data, and because this may concern large amounts of (personal) data, it is extra important to carry out the methods and processing carefully. For instance, it is primarily necessary to make very clear (written) agreements with the third party about how they collect the (personal) data and that they must do this in a manner that aligns with the UM policy. In addition, the third party that collects (personal) data for UM may not use this data for their own purposes or for the commercial purposes of other parties in any way.

6. WhatsApp as a (unilateral) communications channel to share information on UM

It has not yet been settled as to whether WhatsApp (and similar tools) can be classed as a social media platform, as it is primarily a messaging tool. Nevertheless, platforms such as WhatsApp, and especially the Business Account(s), are indeed used to share unilateral messages and information to participants of a 'group'. These guidelines therefore only refer to this usage. Where messaging tools are used for ordinary, individual dialogue, through which personal data are processed, the general UM policy applies.

It is sometimes useful for a faculty or service centre within UM to create online groups and/or communities in which multiple people can participate. For instance, for onboarding reasons, if a student has applied but has not yet enrolled for a programme and may have questions in the meantime. Here, a group can offer answers and can already create a feeling of community.

The intended messaging tools make use of telephone numbers. Telephone numbers also count as personal data. To process a telephone number and the name associated with it, e.g. to add the person concerned to a WhatsApp group, a rationale is needed. The most obvious rationale for this is consent. This consent can be requested from the individual when they apply or register, for instance. For further conditions on using this rationale, please see the UM policy.

For all types of personal data processing, UM must take into account the policy principles⁸ and thus consider whether it is necessary to process the personal data – and, if so, to what extent and in which level of detail – or whether the data can be processed in an anonymised form.

For other, more general topics concerning the processing of personal data, such as the roles and responsibilities regarding processing personal data, how to respond to breaches of security/data leaks, how to deal with the rights of the persons concerned, etc., please see the UM policy.

5. Conclusion

These guidelines were adopted by the Executive Board of Maastricht University on _____.

These guidelines can be amended at any time and will then be shared with the relevant staff members again. It is the responsibility of the head of every management unit in which the guidelines are applied to ensure that new staff members who work in this field are made aware of the existence of these guidelines.

⁸ See the UM policy