

## DATA PRIVACY ROUNDUP FOR YEAR-END 2022

### 1. OVERVIEW

This is another roundup of the interesting articles, events and guidance released by data protection regulators worldwide which we have found informative and valuable as of the end of 2022 going into 2023.

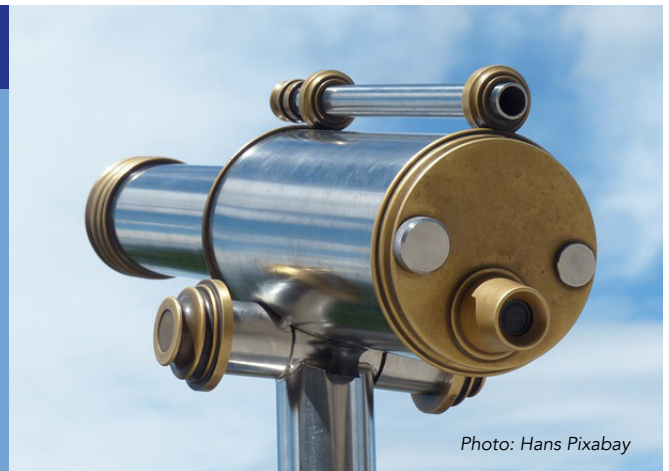


Photo: Hans Pixabay

## 2. WHAT HAS BEEN HAPPENING AT HOME ...

### 2.1. POPIA HAS BEEN IMPACTING THE EDUCATION SECTOR QUITE A BIT ...

In October 2022, [Nelson Mandela Metropolitan University](#) was hit with allegations that it had contravened the cross-border transfer sections of POPIA regarding the personal information of student voters.

Also in October 2022, it was reported [that matric students \(or their parents or legal guardians on their behalf\) would have to sign consent forms](#) if they want their results to be published in the media.

### 2.2 POPIA CODES OF CONDUCT FINALISED

On 27 October, [the Information Regulator announced](#) that the credit and banking sectors' POPIA Codes of Conduct had been officially issued. These Codes formally came into effect on 5 November 2022.



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## 3. WHAT HAS BEEN HAPPENING ABROAD ...

### 3.1. THE BCC AND CC OF DATA BREACHES

This is a classic, classic mistake. As part of an information campaign for a diabetes app, [a data breach occurred that revealed the diabetic status of over 2 000 Italian diabetes patients](#) who were users of the app. The data breach occurred because an employee emailing app users used the 'CC' email function for a mass mailer instead of the 'BCC' function. The company was fined €45 000.

### 3.2. ENFORCEMENT DECISION ON PROFILING USING HEALTH DATA

[This ICO decision](#) is interesting because it involves processing special personal information for direct marketing. What occurred is that Easylife, a UK company which sells home products via catalogues, was

doing profiling for direct marketing purposes using special information. Easylife would analyse customer transactional data and infer that the customer had certain health conditions if they purchased certain products (e.g. arthritis). Easylife's telemarketers would then bombard customers with calls marketing products to treat the customer's supposed health condition. Easylife maintained they were not processing special personal information (health information). The company justified processing their customers' data in this way based on legitimate interest. However, the ICO ruled that Easylife was profiling special personal information (health information) for direct marketing purposes without a valid legal basis. The ICO's ruling was based on a recent judgment by the Court of Justice of the European Union (CJEU). The CJEU held in this case:

*[T]he protections which the GDPR gives to data subjects' special category data, including health data, extend beyond inherently sensitive data to cover data revealing health data indirectly, following an intellectual operation involving deduction and cross-referencing.*

## 4. WHAT NEXT?

Our newsletters will keep providing you with data privacy updates from home and abroad. If you are interested in reading extra insights on the POPIA Portal about the topics raised in this article, you can read about the following:

- processing of special personal information in [Chapter 7](#); and
- cross-border transfer of personal information in [Chapter 14](#).



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