

Fair Processing Notice (Data Protection) for the Law Officers of the Crown

1. The Law Officers (Her Majesty's Procureur and Her Majesty's Comptroller) are the controllers of your personal data.
2. Some of your personal data may be special category data¹, for example personal data relating to criminal convictions or personal data relating to health.
3. No decision will be made based on automated processing² of your personal data.
4. If any of your personal data has *not* been collected from you by the Law Officers or processors acting on their behalf, the source of your personal data is likely to be one or more of these:
 - (a) the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,
 - (b) committees and employees or servants of the States of Guernsey, the States of Alderney, or the Chief Pleas of Sark,
 - (c) Members of the States of Deliberation of Guernsey, the States of Alderney or the Chief Pleas of Sark;
 - (d) courts of the Bailiwick of Guernsey, and their supporting clerical and administration teams (e.g. the Royal Court of Guernsey and Her Majesty's Greffier, the Court of Alderney and the Alderney Greffier, or the Court of the Seneschal of Sark and the Sark Greffier),
 - (e) law enforcement agencies within and outside the Bailiwick of Guernsey,
 - (f) the Ministry of Justice and other departments of the Government of the United Kingdom,
 - (g) public office-holders or statutory and non-statutory bodies (e.g. the Douzaines and Constables of the Parishes of Guernsey, the Director of Income Tax, the States Treasurer, the Guernsey Financial Services Commission, the Alderney Gambling Control Commission and the Sark Electricity Price Control Commissioner) and their employees, servants or representatives when seeking advice from the Law Officers,

¹ Personal data revealing an individual's racial or ethnic origin, political opinion, religious or philosophical belief, or trade union membership; genetic data, biometric data, health data, personal data concerning an individual's sex life or sexual orientation, or personal data relating to the commission or alleged commission of a criminal offence, or proceedings for a criminal offence.

² Processing of personal data by automated means, where a decision affecting the significant interests of the data subject is solely based on such processing.

- (h) persons providing the personal data to the Law Officers in order to request, assist or facilitate the Law Officers to discharge their functions,
 - (i) other clients and individuals seeking the advice or services of the Law Officers, or
 - (j) publicly available sources.
5. The purposes of processing your personal data are:
- (a) To give advice (in particular legal advice) to clients and other persons and bodies who seek that advice, and
 - (b) To enable the Law Officers to discharge their functions.
6. The legal bases for processing your personal data are:
- (a) The processing is necessary for the Law Officers to exercise any right or power, or perform or comply with any duty, conferred or imposed on the Law Officers by an enactment,
 - (b) The processing is necessary in order to comply with an order or a judgment of a court or tribunal having the force of law in the Bailiwick,
 - (c) The processing is necessary –
 - (i) for the purpose of, or in connection with –
 - (A) any legal proceedings (including prospective legal proceedings), or
 - (B) the discharge of any functions of a court or tribunal acting in its judicial capacity,
 - (ii) for the purpose of obtaining legal advice, or
 - (iii) otherwise for the purposes of establishing, exercising or defending legal rights,
 - (d) The processing is necessary for –
 - (i) the administration of justice, or
 - (ii) the exercise of any function of the Crown, a Law Officer of the Crown, the States or a public committee,
 - (e) The processing is necessary for a law enforcement purpose³,
 - (f) The processing is necessary for a historical purpose⁴, or

³ The purpose of: (a) prevention, investigation, detection or prosecution of a criminal offence within or outside the Bailiwick, (b) the execution of criminal penalties within or outside the Bailiwick, (c) safeguarding against or preventing threats to public security or national security, or (d) exercising or performing any power or duty conferred or imposed on a public authority by a criminal proceeds enactment.

⁴ Generally: (a) the purpose of archiving in the public interest, (b) a scientific or historical research purpose, or (c) a statistical purpose.

- (g) The processing is authorised by regulations made under the Data Protection (Bailiwick of Guernsey) Law, 2017.
7. In addition, the following legal bases may apply to processing your personal data, if the data is **not** special category data:
- (a) The processing is necessary for the exercise or performance by the Law Officers of functions of a public nature or tasks carried out in the public interest, or
 - (b) The processing is necessary for the Law Officers to exercise any right or power, or perform or comply with any duty conferred or imposed by law, otherwise than by an enactment or an order or judgment of a court or tribunal having the force of law in the Bailiwick of Guernsey.
8. Your personal data will be disclosed to one or more of the following recipients where necessary for a purpose mentioned in paragraph 6 or 7 of this Notice:
- (a) the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,
 - (b) committees and employees or servants of the States of Guernsey, the States of Alderney, or the Chief Pleas of Sark,
 - (c) Members of the States of Deliberation of Guernsey, the States of Alderney or the Chief Pleas of Sark;
 - (d) courts of the Bailiwick of Guernsey, and their supporting clerical and administration teams (e.g. the Royal Court of Guernsey and Her Majesty's Greffier, the Court of Alderney and the Alderney Greffier, or the Court of the Seneschal of Sark and the Sark Greffier),
 - (e) law enforcement agencies within and outside the Bailiwick of Guernsey
 - (f) the Ministry of Justice and other departments of the Government of the United Kingdom,
 - (g) public office-holders or statutory and non-statutory bodies (e.g. the Douzaines and Constables of the Parishes of Guernsey, the Director of Income Tax, the States Treasurer, the Guernsey Financial Services Commission, the Alderney Gambling Control Commission and the Sark Electricity Price Control Commissioner) and their employees, servants or representatives when seeking advice from the Law Officers,
 - (h) persons providing the personal data to the Law Officers in order to request, assist or facilitate the Law Officers to discharge their functions, and
 - (i) other clients and individuals seeking the advice or services of the Law Officers.

9. If necessary, your personal data may be transferred to recipients in an EU Member State, including the United Kingdom.
10. In addition, it may be necessary for the Law Officers to transfer your personal data to a country for which a European Commission adequacy decision⁵ is in force. At the time this notice was issued these are: Andorra, Argentina, Canada (limited to commercial organisations), Faroe Islands, Israel, the Isle of Man, the Bailiwick of Jersey, New Zealand, Switzerland, Uruguay and the United States (limited to the Privacy Shield framework).
11. It may also be necessary for the Law Officers to transfer your personal data to recipients in other countries. In this case, the Law Officers will ensure that there are appropriate or suitable safeguards applying to the transfer.
12. Your personal data will be stored for a period of time determined in accordance with the Retention Policy which will be published on this website in the near future.
13. Where the Law Officers process your personal data as a competent authority for a law enforcement purpose, you have the data subject right to request from them access to and rectification or erasure of personal data, and restriction of processing of the personal data, in accordance with sections 13 to 17 of the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018.
14. In any other case, you have the data subject rights set out in sections 14 to 24 of the Data Protection (Bailiwick of Guernsey) Law, 2017, summarised below:

a. Right of access

A data subject has the right to be advised as to whether a controller is processing personal data relating to them and, if so, that individual is entitled to one free copy of their personal data (with further copies available at a fee prescribed by the controller). This is known as a Subject Access Request (SAR). Upon receipt of a SAR, the controller has a period of one month to adhere to the request (an extension of two further months can be sought by the controller depending upon the complexity and number of requests submitted by the data subject).

⁵ See section 111(1) of the Data Protection (Bailiwick of Guernsey) Law, 2017.

b. Right to data portability

A data subject has the right to data portability, this means that an individual is able to arrange for the transfer of their personal data from one controller to another without hindrance from the first controller. This right can only be utilized where the processing is based on consent or for the performance of a contract. This right cannot be used for processing by a public authority.

Where a data subject invokes the right to data portability, the data subject has the right to be given their personal data in a structure, commonly used and machine-readable format suitable for transmission from one controller to another. Upon the request of a data subject, the controller must transmit their personal data directly to another controller unless it is technically unfeasible to do so.

c. Exception to right of portability or access involving disclosure of another individual's personal data

A controller is not obliged to comply with a data subject's request under the right of access or right to data portability where the controller cannot comply with the request without disclosing information relating to another individual who is identified or identifiable from that information.

d. Right to object to processing

A data subject has the right to object to a controller's activities relating to the processing of personal data for direct marketing purposes, on grounds of public interest and for historical or scientific purposes.

e. Right to rectification

A data subject has the right to require a controller to complete any incomplete personal data and to rectify or change any inaccurate personal data.

f. Right to erasure

A data subject has the right to submit a written request to a controller regarding the erasure of the data subject's personal data in certain circumstances. These include where:

- The personal data is no longer required in relation to its original purpose for collection by the controller;
- The lawfulness of processing is based on consent and the data subject has withdrawn their consent;

- The data subject objects to the processing and the controller is required to cease the processing activity;
- The personal data has been unlawfully processed;
- The personal data must be erased in order to comply with any duty imposed by law; or
- The personal data was collected in the context of an offer from an information society service directly to a child under 13 years of age.

g. Right to restriction of processing

A data subject has the right to request, in writing, the restriction of processing activities which relate to the data subject's personal data. This right can be exercised where:

- The accuracy or completeness of the personal data is disputed by the data subject who wishes to obtain restriction of processing for a period in order for the controller to verify the accuracy or completeness;
- The processing is unlawful but the data subject wishes to obtain restriction of processing as opposed to erasure;
- The controller no longer requires the personal data, however the data subject requires the personal data in connection with any legal proceedings; or
- The data subject has objected to processing but the controller has not ceased processing operations pending determination as to whether public interest outweighs the significant interests of the data subject.

h. Right to be notified of rectification, erasure and restrictions

Where any rectification, erasure or restriction of personal data has been carried out, the data subject has a right to ensure that the controller notifies any other person to which the personal data has been disclosed about the rectification, erasure or restriction of processing. The controller must also notify the data subject of the identity and contact details of the other person if the data subject requests this information.

i. Right not to be subject to decisions based on automated processing

A data subject has the right not to be subjected to automated decision making without human intervention.

15. However, most personal data processed by or on behalf of the Law Officers falls within the definition of **privileged items** and is exempt from these data subject rights and corresponding controller's duties. Other exemptions and exceptions may apply. As a

result, you may not be able to obtain a copy of your personal data or exercise other data subject rights in relation to your personal data.

16. To exercise any of your data subject rights, please contact:

The Law Officers of the Crown
St James Chambers
St James Street
St Peter Port
Guernsey, GY1 2PA Email: dataprotection.law@gov.gg

Or you can contact:

Data Protection Officer for the Law Officers
The Data Protection Team
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey, GY1 1FH Email: data.protection@gov.gg

17. You may make a complaint in writing to the Data Protection Authority under section 67 of the Data Protection (Bailiwick of Guernsey) Law, 2017 if you consider that the Law Officers have breached, or are likely to breach, an operative provision of that Law or the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018. Ordinance, and the breach involves, affects or is likely to involve or affect any of your data subject rights (see paragraphs 13 and 14 of this Notice) or any personal data relating to you. You may also request the Authority to bring civil proceedings before a court under section 85 of the Law. The Authority's contact details are:

The Data Protection Authority
Guernsey Information Centre
North Esplanade
St. Peter Port
Guernsey GY1 2LQ Email: enquiries@dataci.org