

# Fair Processing Notice – Deputies

Deputies, in our constituency role, process your personal data to carry out our functions as elected representatives, and as necessary to respond to and meet your requests. We also process your personal data to deal with queries or communications from other elected representatives, relevant to a request made by you. We only process your personal data if it is necessary and reasonable to meet your requests.

## 1. The Data Protection Law

Deputies, as individual data controllers, acknowledge our obligations as per the Data Protection (Bailiwick of Guernsey) Law, 2017 (the Law) which provides a number of requirements in terms of processing activities involving personal data. As controllers, we further acknowledge the general principles of processing as well as the rights of a data subject and more information in relation to these provisions are provided within this fair processing notice.

## 2. The Principles of Processing

### a. Lawfulness, fairness and transparency

*Personal data must be processed lawfully, fairly and in a transparent manner.*

Deputies collect the following personal data:

- Basic data about individuals such as name, address, date of birth.

We may also collect special category data which is information from individuals concerning:

- race;
- ethnic origin;
- politics;
- religion;
- trade union membership;
- health information;
- sexual orientation

The purpose for collecting this data is to enable us to carry out our functions as elected representatives in responding to your requests and queries.

Deputies process data in a lawful manner and in accordance with one or more of the following conditions:

- Where consent has been given by the person who the data is about (data subject);
- Where the processing is necessary for the performance of a contract;
- Where the processing is necessary in order to protect the vital interests of the data subject or a third party;
- Where the processing is necessary for the purposes of the legitimate interests of the controller;
- Where the processing is necessary for the exercise or performance of a function that is of a public nature or carried out in the public interest;
- Where it is necessary to comply with Law, duty or judgement of a court.

Where we process special category data, we do so lawfully and in most matters, one or more of the following conditions will apply:

- The data subject has given explicit consent to the processing of the personal data for the purpose for which it is processed;
- The processing is necessary for the controller to exercise any right or power, or perform or comply with any duty, conferred or imposed on the controller by an enactment;
- 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;
- The processing is necessary for a health or social care purpose and is undertaken by a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if the person were a health professional;
- The processing is necessary, for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), or the discharge of any functions of a court or tribunal acting in its judicial capacity, for the purpose of obtaining legal advice, or otherwise for the purposes of establishing, exercising or defending legal rights;
- The processing is necessary for, the administration of justice, or the exercise of any function of the Crown, a Law Officer of the Crown, the States or a public committee;
- The processing is authorised by regulations made by the Committee for this purpose and carried out in accordance with those regulations, or authorised or required by any other enactment and carried out in accordance with the enactment;
- The processing is necessary to protect the vital interests of the data subject or any other individual who is a third party, and the data subject is physically or legally incapable of giving consent, or the controller cannot reasonably be expected to obtain the explicit consent of the data subject.

Personal data is collected in most instances directly from you, the data subject. Where data is obtained indirectly, this will, in most circumstances, be from a Committee of the States of Guernsey or another Deputy. In these circumstances you will be aware at the point of data collection who we may contact to confirm or verify the data you have provided, or to provide us with additional information so that we can respond accordingly to your query. Information

is only shared if we have lawful basis for doing so and in order to meet the purpose for which the information was collected.

#### **b. Purpose limitation**

*Personal data must not be collected except for a specific, explicit and legitimate purpose and, once collected, must not be further processed in a manner incompatible with the purpose for which it was collected.*

We acknowledge our responsibility with regards to this data protection principle and therefore do not further process your personal data in a way which is incompatible with its original reason for processing, unless it is required by law. We do not routinely transfer personal data to a recipient in an authorised or an unauthorised jurisdiction, and in any case, we would not do this without your consent.

#### **c. Minimisation**

*Personal data processed must be adequate, relevant and limited to what is necessary in relation to the purpose for which it is processed.*

We maintain that we will not process any personal data that is not necessary to your query or request, unless we are required to do so by law.

#### **d. Accuracy**

*Personal data processed must be accurate, kept up-to-date (where applicable) and reasonable steps must be taken to ensure that personal data that is inaccurate is erased or corrected without delay.*

We will ensure that all personal data that we hold is accurate and kept up-to-date (where applicable), and any personal data that is inaccurate will be erased or corrected without delay.

#### **e. Storage limitation**

*Personal data must not be kept in a form that permits identification of a data subject for any longer than is necessary for the purpose for which it is processed.*

Deputies maintain records of queries and communications in accordance with individual practice. We do however, seek to abide by a general retention period, which is the length of time that we serve as a Deputy + 6 years.

#### **f. Integrity and confidentiality**

*Personal data must be processed in a manner that ensures its appropriate security, including protecting it against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.*

Personal data is held in hard copy and electronic format.

**Information Access** – we ensure that the information that we process is not accessible to anyone who does not have a need to see it.

**Information Security** – Deputies, in most cases, adopt the information security standards of the States of Guernsey.

### **g. Accountability**

*The controller is responsible for, and must be able to demonstrate, compliance with the data protection principles.*

The contact details for each of the controllers can be found at <https://gov.gg/deputies>

#### Data Protection Officer for Deputies

Tel: 01481 747308

Email: [data.protection@gov.gg](mailto:data.protection@gov.gg)

## 3. Data Subject Rights

### **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 an 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).

### **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 relation 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.

To exercise these data subject rights, please contact either the data protection officer or the controller (as per the contact details provided in 2g).

#### **j. Right to make a complaint**

An individual may make a complaint in writing to the supervisory authority (the Office of the Data Protection Commissioner) if the individual considers that a controller or processor has breached, or is likely to breach, an operative provision of the data protection law, and the breach involves affects or is likely to affect any personal data relating to the individual or any data subject right of the individual (as listed above).

**k. Complainant may appeal failure to investigate or progress and may appeal determinations**

An individual may appeal to the Court where:

- The Supervisory Authority has failed to give the complainant written notice that the complaint is being investigated or not within two months of receiving the complaint;
- The Supervisory Authority has failed to provide written notice of the progress and, where applicable, the outcome of the investigation at least once within three months of providing notice of the beginning of an investigation; or
- Where the individual seeks to appeal against a determination of the Supervisory Authority.