

# Fair Processing Notice

The Guernsey Probation Service (the Controller) provides assessments on individuals who have committed offences to the Criminal Courts and Parole Review Committee. The Probation Service manages Court imposed criminal orders, offending behavior intervention management within the Guernsey prison, and post-custodial orders and licences. The Probation Service informs certain victims of crime about the progress of relevant sentences and provides a communications conduit for certain victims to relevant professional bodies. The Probation Service also provides assessment and intervention to persons presenting a risk of harm, including but not exclusive to those presenting a risk of Domestic Abuse via the Sarnia Programme, who have not been convicted by the Criminal courts.

## 1. The Data Protection Law

The controller acknowledges its obligations as per the data protection law, which provides a number of requirements in terms of processing activities involving personal data. The controller further acknowledges 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.*

In order to provide this service the controller may gather personal data from the data subjects and other departments, agencies or individuals within the authorised jurisdiction if that information is necessary to the delivery of the service. This can include, but is not limited to, the Criminal Courts, other Committee's within the States of Guernsey, third sector organisations, healthcare providers, and equivalent bodies within the authorised jurisdiction. For example it may be necessary to determine whether someone can comply with a Court sentence as a consequence of their health status, or the Service may require information from an English Probation Service if we are managing an Order imposed by an English Court.

Information may be gathered from the unauthorized jurisdiction in the event that there is concern regarding a serious risk of harm presented to the public or an individual, and a professional body within the unauthorized jurisdiction is believed to hold information relevant to the protection of others from serious harm.

Types of information gathered will include

- Basic data about individuals such as name, address, date of birth
- Personal data where it is relevant to the Service's delivery of a function previously defined. For example, employment information/financial information/relationship status if that information is relevant to an individual's offending, likelihood of re-offending or risk of harm to the public; or if that information is relevant to someone's ability to, for example, comply with a Court Order.
- Special category data where that data aids in the delivery of our function as previously defined. For example, health information/sex life or sexual orientation if that information is relevant to an individual's offending, likelihood of re-offending or risk of harm to the public; or if that information is relevant to someone's ability to, for example, comply with a Court Order.

The purpose of gathering personal data, including special category data, is to filter relevant information pertinent to the likelihood of an individual [re-] offending, their risk of harm to the public, and/or for the delivery of a function of the Probation Service as stated in the introduction to this Fair Processing Notice. The purposes for processing within the Probation Service can be broadly divided into two areas:

### **Processing for a Law Enforcement Purpose**

A Law Enforcement purpose is defined within the Data Protection Law and associated Law Enforcement Ordinance, and includes processing for the purpose of:

- The prevention, investigation, detection or prosecution of a criminal offence within or outside the Bailiwick, or
- the execution of criminal penalties within or outside the Bailiwick

Where we are processing special category data for a Law Enforcement purpose we do so lawfully and in most matters one or more of the following conditions apply:

- 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 or otherwise by law.
- 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 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,

- 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.

Personal data and special category data used for a law enforcement purpose is collected directly from you and from a variety of sources. Where appropriate, you will be aware that the processing is taking place. Data may be collected from other competent authorities both locally and in the UK, and occasionally from overseas authorities.

Information is only shared if there is a lawful basis for doing so. The Service may share personal data relevant to the likelihood of [re-] offending and risk of harm to the public, or in order to ensure their duty is met. This may be with the Criminal Courts, legal representatives acting on behalf of the data subject, Parole Review Committee, Prison Services, Police, and any party named as relevant to a Court sentence within a Court Order (e.g. Criminal Justice Drug Service or Mental Health Services where those services are named on Court Orders, and where such disclosure is necessary to enable the execution of the controllers duty to manage those orders).

No automated decision making will take place which involves the personal data, including special category data, of any data subject.

### **Processing for all other Purposes**

Data that is processed for all other purposes that are not a law enforcement purpose are processed in a lawful manner in accordance with the Law and in particular, Schedule 2 Parts I and II. This includes the communication the Service has with victims of serious crime. It also includes the work the Service does with people who may present a risk of domestic abuse, or serious sexual or violent harm who are not subject to criminal Court Orders. The processing condition will vary according to the specific purpose in each case, but in broad terms, one or more of the following conditions apply:

- 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 the exercise or performance by a public authority of a function that is of a public nature, or a task carried out in the public interest.
- The processing is necessary to protect the vital interests of the data subject or any other individual who is a third party.
- In limited circumstances we may also rely on your consent to process your information.

Where we are processing special category data for a purpose other than that of law enforcement, we do so lawfully and in most matters one or more of the following conditions from Schedule 2 parts II and III of the Law will apply:

- 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 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.
- In limited circumstances we may process data based on your explicit consent to the processing of the personal data for the purpose for which it is processed.
- 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.

Where data is obtained from someone other than you, this will be in most circumstances from another Committee area of the States of Guernsey. In these circumstances you will be aware at the point of data collection who we may contact to enable us to complete the necessary work. Information is only shared if we have lawful basis for doing so.

#### **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.*

The controller acknowledges its responsibility with regards to this data protection principle and therefore the controller maintains that it will not further process that personal data in a way which is incompatible to its original reason for processing as specified in section 2a, unless the controller is required to do so by law. The personal data, including relevant special

category data, will be transferred to a recipient in an authorised jurisdiction (as per the definition within the data protection law), in the event that the controller is acting on behalf of that jurisdiction, the jurisdiction is acting on behalf of the controller, or the relevant sentence of the data subject is transferred in statute to the jurisdiction. This means for example that we may transfer your data to an English Probation Service if they are to act on our behalf. Appropriate safeguards are applied in the transfer of data, and in the case of data we are processing for a law enforcement purpose s43 of the Ordinance is followed.

### **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.*

The controller maintains that it will only process the personal data which is detailed in section 2a, and will not process any further personal data that is not necessary in relation to the original reason for processing as specified in section 2a, unless the controller is 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.*

The controller will ensure that all personal data that it holds is accurate and kept up-to-date, and any personal data that is inaccurate will be erased or corrected without delay in accordance with the provisions of the Law or Ordinance as applicable.

### **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.*

Personal data will be kept for a period of five years post the end of the Controller's last formal involvement with the data subject or related case.

Data may be kept for longer if, for example, there is concern regarding the risk of serious physical or sexual harm presented to others and/or child protection concerns such that the keeping of data may be necessary to protect members of the public.

### **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.*

The controller maintains to process all personal data with appropriate levels of security.

Personal data is held in electronic format, with some data kept in hard copy to enable certain working procedures to occur (attendance at meetings/interviews with data subjects for example). Data is destroyed in hard copy once no longer required in that format and in order to minimize the potential for unauthorised access.

In order to prevent unauthorised or unlawful processing, the controller has put in place suitable physical, electronic and managerial procedures for both electronic and hard copy data to safeguard and secure the information that is collected and processed.

#### **g. Accountability**

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

### 3. Contact Details

The contact details of the controller are as follows:

Data Protection Guardian  
Guernsey Probation Service  
Guernsey Information Centre  
North Esplanade  
St Peter Port  
Guernsey  
GY1 2LQ  
Tel: 01481 724337

Email: [probation@gov.gg](mailto:probation@gov.gg)

The contact details for the Data Protection Officer of the Committee for Home Affairs are as follows:

Data Protection Officer  
The Committee for Home Affairs  
States of Guernsey  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

Tel: 01481 717000

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