

# Fair Processing Notice

## BORDER DIVISION



The Border Division is part of the Guernsey Border Agency (GBA), and this sub-privacy notice is intended to make it easier for you to understand what personal data the Border Division process.

The Border Division of the GBA has a wide remit, ranging from the collection of customs duties, to Immigration Control, to uniformed border control and investigations to Cross Border crime such as drug trafficking and people smuggling. Within the division are a number of highly specialised roles that all help to protect the community from harm, protect the Border, collect duties, protect revenues, control the cross-border movement of restricted goods and protect the island's inclusion in the Common Travel Area.

The Chief Officer of Customs and Excise is the '**Data Controller**' for the purposes of the legislation and is required to ensure that the GBA handles all personal information in accordance with the legislation. The GBA is registered with the Office of the Data Protection Authority.

In accordance with the requirements of the legislation a **Data Protection Officer** has been employed by the GBA. The Data Protection Officer is an independent role who is responsible for ensuring that the personal information held is processed in accordance with the prescribed obligations of the legislation.

The Data Protection Officer is available to provide you with advice and assistance if you have any queries or concerns about how the GBA process your personal data. The contact details of the Data Protection Officer can be found near the end of this notice.

Guernsey Border Agency use the Disclosure and Vetting Unit, to handle [Subject Access Requests and other applications](#) under the law. The contact details of the Unit are also included in this privacy notice.

## 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.

Where the Border Division processes your personal data for law enforcement purposes, we must comply with The Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018 (here after called the LEO).

Where the Border Division processes your personal data for general purposes, we must comply with The Data Protection (Bailiwick of Guernsey) Law, 2017 (here after called the Law).

Although the rules for both purposes are similar, they are not identical – for example, your rights may be applied differently when the Border Division process your personal data for law enforcement purposes than when processed under (the Law) general purposes.

**Law Enforcement Purposes include:**

- The prevention, investigation, detection or prosecution of criminal offences within or outside the Bailiwick
- Working with partner agencies to reduce crime, or in respect of customs and immigration regulations
- The execution of criminal penalties, including the safeguarding against and the prevention of threats to public security or harm or the security of the British Isles

When the Border Division process your personal data for law enforcement purposes it could be because you are involved in an incident at the borders or any of the ports of entry into the Bailiwick or it could be because you are involved in a crime that is being investigated or are associated with intelligence that the Border Division have gathered.

**General Purposes include:**

- Protecting the border to prevent the importation of prohibited or restricted goods and ensure compliance with customs and excise controls
- Providing border controls to protect the Bailiwick and Common Travel Area by identifying and denying admission to those attempting to enter in breach of the Immigration rules or to detect and remove foreign nationals in breach of the immigration laws
- Providing border controls to protect and collect revenue yielded from Customs duties, and other indirect taxation initiatives, and to seek to minimise revenue fraud

## 2.The Principles of Processing

### a. Lawfulness, fairness and transparency

Under the Law, personal data must be processed lawfully, fairly and in a transparent manner. Under the LEO the processing of personal data for any law enforcement purposes must also be lawful and fair though transparency requirements may be applied differently due to the potential to prejudice an ongoing criminal investigation in certain circumstances.

From the 1<sup>st</sup> January 2021 additional controls are in place following BREXIT, with the movement of goods between the Bailiwick and the EU. As a result, there are significant changes to the process for moving goods between the Bailiwick.

## What type of personal information?

**The type of personal information we hold will vary depending upon the reason you have had contact with us but it may include:** your name and address; date of birth; contact details (e.g. telephone number, email address); custody records; medical and hospital records; phone and electronic device download data; risk assessment; fingerprints, DNA or photograph; family, lifestyle and social circumstances; education and training details; employment details; financial details; goods or services provided. It may also include:

**“Special Category data”** information about racial or ethnic origin; political opinions; religious or other beliefs of a similar nature; trade union membership; physical or mental health or condition; sexual life; sexual orientation; offences and alleged offences; criminal proceedings, outcomes and sentences; cautions; genetic and biometric data.

This is not an exhaustive list but gives an example of the most common types.

We will use the minimum amount of personal information necessary to fulfil a particular purpose. Your personal information may be held on a computer system, in a paper record, physical file or a photograph, but it can also include other types of electronically held information such as CCTV or body worn video.

## Lawful Basis

When processing your information for a law enforcement purpose we do so lawfully either because it is necessary for the law enforcement purpose or because we are required to do so by law. Where we process more private, special category information, we do so because it is strictly necessary, with appropriate safeguards in place.

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. The only circumstances in which you will not be made aware are those where to advise you would prejudice the law enforcement purpose for which the data is being gathered. Data may be collected from other authorities both locally and in the UK, and occasionally from overseas authorities. Members of the public may also provide information for this purpose.

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, the processing condition will vary according to the specific purpose in each case.

## Where do we get the personal information from?

To carry out the purposes we have described we may obtain personal information from a wide variety of sources, including: Customs declarations and manifests; general maritime and general aviation declarations; details of Importers of goods; Safety and security declarations made by the carrier of goods, such as hauliers, airlines or shipping lines; Import and export licences or supporting documentation; preferential arrangements (free trade agreements); Guernsey Electronic Manifest System (GEMS) declarations; persons appointed to make customs declaration (an agent); economic operators registration and identification (EORI) details; UK transit system; financial details; goods or services provided; Guernsey Police, other law enforcement/regulatory agencies (Guernsey Vetting Bureau; Disclosure and Barring Service); passenger manifests; income tax; UK and international law enforcement agencies and bodies; licensing authorities; legal representatives; prosecuting authorities; advocates; courts; This is not an exhaustive list but gives an example of the most common types.

There may be times where we obtain personal information from sources such as our own CCTV system, body worn video or correspondence. The Border Division may monitor or record and retain telephone calls, texts, emails and other electronic communications to and from the agency in order to deter, prevent and detect inappropriate or criminal activity, to ensure security, and to assist the purposes we have described.

## Who do we share your Personal Information with?

To carry out the purposes described, the Border Division may disclose personal information to a wide variety of recipients, including those from whom personal data is obtained. This may include:

Guernsey Police; and other law enforcement agencies (including international agencies); health and social care; youth offending teams; Probation Service; Prison Service; criminal justice system, Courts/Tribunals, The Office of the Children's Convenor; partner agencies working on crime reduction initiatives; partners in the Criminal Justice arena; Victim Support Service provider; to bodies or individuals working on our behalf such as IT contractors; agencies involved in offender management; States of Guernsey government committees; ombudsmen and regulatory authorities; the media; the Disclosure and Barring Service; international agencies concerned with the safeguarding of international and domestic national security; to other bodies or individuals where necessary to prevent harm to individuals and the GBA insurer and other organisations in delivering their statutory functions.

Disclosures of personal information are made on a case-by-case basis, using the personal information appropriate to a specific purpose and circumstances, and with necessary controls in place.

Some of the bodies or individuals to which we may disclose personal information are situated outside of the European Union. If we do transfer personal data to such territories, we undertake to ensure that there are appropriate safeguards are in place to certify that it is adequately protected as required by the legislation.

## 3. Data Protection Principles

For details of how the GBA comply with data protection principles please see our main Fair Processing Notice, available from [www.gov.gg/GBA](http://www.gov.gg/GBA)

## Contact Details

**The contact details of the controller are as follows:**

The Chief Officer of Customs and Excise

Police Headquarters, Hospital Lane, St Peter Port, Guernsey, GY1 2QN

Email: [hq@guernsey.pnn.police.uk](mailto:hq@guernsey.pnn.police.uk)

**The contact details for the Data Protection Officer for the GBA are as follows:**

Data Protection Officer for the GBA

Sir Charles Frossard House, St Peter Port, Guernsey, GY1 1FH

Tel: +44 (0)1481 220012

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

## 4.Data Subject Rights

**The Data Protection Law and LEO provide you as an individual with certain rights.**

Under Section 15 of the Data Protection (Bailiwick of Guernsey) Law, 2017 (the 'Law'), and Section 13 of the Data Protection (Law Enforcement and Related Matters) (Bailiwick of Guernsey) Ordinance, 2018 (the LEO) individuals can ask whether any information is held about them by an organisation, and request a copy of that information.

In order to access your information held by the GBA you will need to make a request to Bailiwick of Guernsey Law Enforcement. The best way to do this is by completing an application form click [here](#)

The Law and LEO also provide you with other rights, not least the right to complain to the regulatory authority. More information about all your rights can be found at <https://gov.gg/dp> and through the Office of the Data Protection Authority at <https://www.odpa.gg/>.

## 5.Changes to our Privacy Notice

We keep our fair processing notice under regular review. This fair processing notice was last updated on 5<sup>th</sup> October 2021.

If we plan to use your personal information for a new purpose, we will update this notice and communicate the changes before we start any new processing.