

# Fair Processing Notice

## GUERNSEY BORDER AGENCY



Guernsey Border Agency falls under the management of the Committee for Home Affairs and operates under the banner of 'Bailiwick of Guernsey Law Enforcement' which encompasses Guernsey Border Agency and Guernsey Police,. This privacy notice is intended to make it easier for you to understand what personal data we will process, how and why.

The GBA brings together the various work previously carried out by the Customs and Excise, Immigration and Nationality Service with additional responsibilities for assigned cross border crime. It is comprised of the following divisions:

- Border Enforcement
- Immigration and Nationality
- Customs and Excise

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.

Other related fair processing notices can be found as follows:

- The Committee for Home Affairs Fair Processing Notice can be found [here](#).
- The Guernsey Police, Fair Processing Notice can be found [here](#).
- Immigration and Nationality Division, Fair Processing Notice can be found [here](#).

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 GBA 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 GBA 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 GBA 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 GBA process your personal data for Law Enforcement Purposes it could be because you are involved in an incident at the border 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 GBA 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 investigation in certain circumstances.

## 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; 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; offences and alleged offences; criminal proceedings; outcomes and sentences; cautions; physical identifiers; audio recordings and visual images; licenses or permits held; criminal intelligence; references to manual records or files; information relating to safety and health; complaint, incident, civil litigation and accident details. 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 such as in a pocket notebook, physical file or a photograph, but it can also include other types of electronically held information such as CCTV or body worn video.

“Special Category data” is 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. As noted in this section some of the information that we hold about you may be special category data and this will depend upon the reason you have had contact with us.

## 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, appropriate safeguards are in place and one of the following conditions under schedule 2 of the LEO applies:

- 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,
- For the purpose of obtaining legal advice or otherwise for the purpose 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 necessary for a historical or scientific purpose
- 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 data subject has consented to the processing
- The processing is necessary to protect the vital interests of the data subject or any other individual and the data subject is physically or legally incapable of giving consent or the GBA cannot reasonably be expected to obtain the consent of the data subject.
- The processing is necessary for the purposes of preventing fraud or a particular kind of fraud and consists of the disclosure of personal data by the GBA as a member of an anti-fraud organisation;
- The disclosure of personal data by the GBA is in accordance with arrangements made by an anti-fraud organisation.

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, but in broad terms, one or more of the following conditions apply (this list is not exhaustive and will depend upon circumstances):

- 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 to protect someone's life, health and safety.
- the processing is necessary to perform a function that is of a public nature or a task carried out in the public interest.
- the processing is necessary in order to comply with an order or judgment of a court or tribunal.
- the processing is necessary in accordance with legal proceedings.
- the processing is necessary for the administration of justice or for the function of a States or public committee.

## 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: Guernsey Police, other law enforcement/regulatory agencies (Guernsey Vetting Bureau; Disclosure and Barring Service); income tax; UK and international law enforcement agencies and bodies; licensing authorities, for example Driver and Vehicle Licencing; legal representatives; prosecuting authorities; advocates; courts; prison, probation service; housing; partner agencies involved in crime and disorder strategies; voluntary sector organisations; auditors; States Committees; emergency blue light services; individuals themselves; current, past or prospective employers of the individuals; healthcare, social and welfare services or practitioners; education; employees, officers and agents of the GBA; air and sea commercial passenger services; suppliers, providers of goods or services; persons making an enquiry or complaint; financial organisations and advisors; credit reference agencies; survey and research organisations; trade union, staff associations and professional bodies; voluntary and charitable organisations; Ombudsmen and regulatory authorities; the media; and any other relevant bodies.

There may be times where we obtain personal information from sources such as our own CCTV system, body worn video or correspondence. The GBA may monitor or record and retain telephone calls, texts, emails and other electronic communications to and from the Service 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 GBA 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.

The States of Guernsey have a professional relationship with a third party supplier, Agilisys Guernsey Ltd. who provide support to and carry out maintenance on the IT infrastructure of the organisation. For Agilisys to carry out the function which they are contracted to provide, there will be instances where they may have sight of your personal data. The controller will only provide Agilisys with access to your personal data where there is a legitimate and lawful purpose for this access to be given in line with Schedule 2 of the Law and our internal policies and directives.

Your personal data may also be shared with the Scrutiny Management Committee ('SMC') and also the Internal Audit function of the States of Guernsey as may be required for the completion of their relevant functions. Furthermore, any personal data shared with SMC and Internal Audit will be limited and processed in accordance with Sections 5 and 13(b) of the Law.

#### **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.

Under the LEO the law enforcement purpose for which data is collected on any occasion must be specified, explicit and legitimate and personal data collected must not be processed in a manner that is incompatible with the purpose for which it was originally collected.

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

#### **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.

Under the LEO, personal data processed for any of the law enforcement purposes must be adequate, relevant and not excessive 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 2, and will not process any further personal data that is not necessary in relation to the original reason for processing personal data as specified in section 2, 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.

#### **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.

The GBA keeps your personal information as long as is necessary for the particular purpose or purposes for which it is held. Records that contain your personal information relating to criminal investigations; digital-media; custody; contracts will be held as per our Retention and Disposal Policy. In broad terms these are structured according to the offence type or category, for example serious offences of importation of a class A drug, or a failure to declare goods subject to customs duties.

The GBA also follow guidance issued by the College of Policing on the management of Police information and records management. Further information can be obtained from the College of Policing [www.app.college.police.uk](http://www.app.college.police.uk)

Personal information which is placed on the Police National Computer (PNC) is retained, reviewed and deleted in accordance with the Retention Guidelines for Nominal Records on the Police National Computer.

We will regularly review our data to ensure it is still required and is lawful for us to continue to retain it and when it is no longer required we will securely destroy it. We will respect your individual rights under the Law.

#### **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 GBA takes the security of all personal information under our control seriously and complies with the relevant parts of the Law relating to security.

We will ensure that appropriate policy, training, technical and procedural measures are in place. These will include, but are not limited to, ensuring our buildings are secure and protected by adequate physical means. The areas restricted to our officers and staff are only accessible by those holding the appropriate identification and have legitimate reasons for entry. We carry out audits of our buildings security to ensure they are secure. Our systems meet appropriate industry and government security standards.

We carry out regular audits and inspections, to protect our manual and electronic information systems from data loss and misuse, and only permit access to them when there is a legitimate



reason to do so. Our staff training, standard operating procedures and policies contain strict guidelines as to what use may be made of any personal information contained within them.

All individuals with access to electronic and manual records are vetted in a manner commensurate with their role that they are expected to undertake.

The GBA comply with the information security standards of the States of Guernsey and further safeguards are applied to maintain connectivity with national systems and networks.

#### **g. Accountability**

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

The GBA will implement appropriate technical and organizational measure that ensure and demonstrate compliance, this includes internal data protection policies and staff training, internal audits of processing activities and reviews of internal policies. We have also implemented measure that meet the principles of data protection by design and data protection by default.

## **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)

## **3.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/>.

## 4.Changes to our Privacy Notice

We keep our fair processing notice under regular review. This fair processing notice was last updated on 24<sup>th</sup> February 2023.

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.