

# Exemptions from Notification under the Data Protection (Bailiwick of Guernsey) Law, 2001

## Some data controllers do not need to notify.

By working through questions 1 – 9 you will be able to determine if notification is required.

The sequence of questions is such that if there is no possibility of an exemption for you this will be made clear very quickly.

Exemptions are available for:

- (i) Data controllers who process personal data **only** for:
  - Their **own** Staff Administration purposes (including payroll)
  - Advertising, Marketing and Public Relations (for their **own** business)
  - Accounts and Records (relating to running of **own** business)
- (ii) Some Not for Profit Organisations
- (iii) The processing of personal data for personal, family or household affairs (including recreational purposes)
- (iv) The maintenance of a Public Register

## Exemption for Individuals

Individuals who are processing personal data for personal, family or household affairs are exempt from notification and the other provisions of the Data Protection (Bailiwick of Guernsey) Law 2001, (“the 2001 Law”).

## Exemption for Data Controllers

Data controllers who are exempt from notification must comply with the other provisions of the Law.

Further information about compliance can be obtained by contacting this office (see back of this booklet).

Data controllers who are exempt from notification **may** choose to notify voluntarily. Charities and non-profit organisations may notify voluntarily free of charge.

Data controllers who are exempt from notification and have **not** notified the relevant particulars of their processing of personal data are under an obligation under section 24 of the 2001 Law to disclose in writing such particulars free of charge within 21 days of receiving such as request from any individual.

Voluntary notification relieves an exempt data controller from such an obligation.

### 1. Are you processing *Personal Data*?



Q2



No requirement to notify

### 2. Is any of your processing *on computer or other automated equipment such as CCTV*?



Q3



No requirement to notify

### 3. Are you a *Data Controller*?



Q4



No requirement to notify

## Personal data

Personal data means data which relate to a **living** individual who can be identified from those data or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

## Processing

Processing means obtaining, recording or holding the data or carrying out any operation or set of operations on the data. It includes organising, adapting and amending the data, retrieval, consultation and use of the data, disclosing and erasure or destruction of the data. It is difficult to envisage any activity involving data which does not amount to processing.

## Processing on computer or other automated equipment

If none of your processing is carried out on automated equipment there is no requirement to notify. The term 'computer' includes any type of computer however described, for example mainframe, desk top, lap top, palm top etc. It also includes other types of equipment which, although not normally described as computers, nevertheless have some ability to process automatically e.g. automatic retrieval systems for microfilm and microfiche, audio and visual systems, electronic flexi-time systems and telephone logging equipment and CCTV systems.

## Data controller

Data controller means a person who (either alone or jointly or in common with other persons) determines the purpose for which and the manner in which any personal data are, or are to be, processed.

If you are a data processor (any person - other than an employee of the data controller - who processes data on behalf of the data controller) there is no requirement to notify.

#### 4. Are you processing personal data for any of the following purposes ?

- Accountancy/Auditing
- Administration of Justice and Legal Services
- Canvassing Political Support amongst the electorate
- Constituency Casework
- Credit Referencing
- Crime Prevention and Prosecution of Offenders (including use of CCTV for these purposes)
- Debt Administration and Factoring
- Education
- Health Administration and Provision of Health Services
- Mortgage/Insurance Broking/Insurance Administration
- Pastoral Care
- Private Investigation
- Provision of Financial Services and Advice
- Research
- Trading and Sharing in Personal Information
- Pensions Administration
- Accounts and Records\* (See note relating to use of a credit reference agency)



You are required to notify



Q5

#### Non exempt purposes

You will NOT be exempt if you are processing personal data for any of the purposes listed in the column on the left.

This is NOT an exhaustive list but illustrates the most common purposes where there is a requirement to notify.

Data controllers who are unlikely to be exempt include accountants, advocates, consultants, dentists, doctors, employment agencies, financial advisers, schools and solicitors

For information on how to notify please consult page 9 of this guide.

\* Although Accounts and Records is one of the exempt purposes, if you process personal data which has been processed by or obtained from a CREDIT REFERENCE AGENCY, the exemption is not available and you are required to notify.

**5. Are you processing personal data *only* for personal, family, or household affairs (including recreational purposes)?**



No  
requirement  
to notify

**Q6**

**6. Are you processing personal data *only* to maintain a public register?**



No  
requirement  
to notify

**Q7**

**7. Are you a *not for profit* organisation?**



**Q8**

**Q9**

## **Personal, family and domestic**

**Individuals** are exempt from notification if the only data processed are for personal, domestic and household affairs (including recreational purposes).

Examples might be a personal address list, Christmas card list or data held in connection with a hobby.

It does not apply to individuals who hold personal data for business or professional purposes.

## **Public registers**

There is a specific exemption from notification for any processing whose sole purpose is the maintenance of a public register.

The exemption only applies to the information which the data controller is required to publish.

## **Not for profit organisation**

There is a specific exemption from notification for a data controller which is a body or association not established or conducted for profit provided their processing does not fall outside the descriptions in Questions 8 and 9. In any event a non-profit body may notify voluntarily free of charge.

## 8. As a not for profit organisation is all of your processing covered by the following descriptions?

### Your Processing is only

For the purposes of establishing or maintaining membership or support for a body or association not established or conducted for profit, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it.

### Your data subjects are restricted to

- any person the processing of whose personal data is necessary for this exempt purpose.

### Your data classes are restricted to

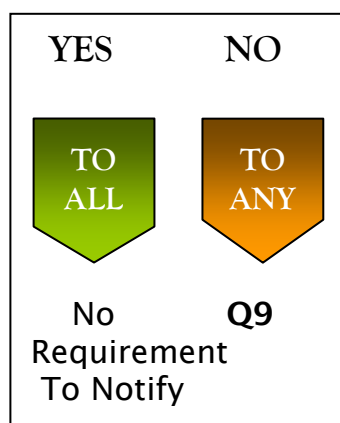
- data which are necessary for this exempt purpose.

### Your disclosures other than those made with the consent of the data subjects are restricted to

- those third parties which are necessary for this exempt purpose.

### Retention of the data

- The personal data are not kept after the relationship between you and the data subject ends, unless and for so long as it is necessary to do so for the exempt purpose.



If the answer is no, but the only additional processing you do is for one or more of the purposes described in Question 9, there is no requirement to notify.

### The exempt purpose for non-profit making organisations

This exempt purpose is intended for small clubs, voluntary organisations, church administration and some charities.

Examples are:

past, existing or prospective members or those who have regular contact with the organisation.

Examples are:

names, addresses, identifiers or eligibility for membership.

Further written guidance on this exemption is available in our Charities Guidance Note.

**However, whether or not you are exempt, charities and non-profit organisations are recommended to notify voluntarily free of charge.**

**9. You do not have to notify if the *only*\*processing you carry out is for one or more of these purposes:**

- Staff administration
- Advertising, marketing and public relations
- Accounts and records

Please read the following information about each of the exempt purposes to determine whether or not you are exempt.

**Staff administration**

This is processing for the purposes of appointments or removals, pay, discipline, superannuation, work management or other personnel matters in relation to your staff.

**Your data subjects are restricted to**

- any person the processing of whose personal data is necessary for staff administration.

**Your data classes are restricted to**

- data which are necessary for staff administration.

**Your disclosures other than those made with the consent of the data subject are restricted to**

- those third parties which are necessary for staff administration.

**Retention of the data**

- The personal data are not kept after the relationship between you and the data subject ends, unless and for so long as it is necessary to do so for staff administration.

**Exemptions for core business purposes**

These purposes are sometimes referred to as the core business purposes.

Typically they would relate to a small business which processes personal data only for these purposes to support its primary activity.

You must read the description of each purpose to ensure that you only process personal data covered by one or more of each description.

\* A *not for profit* organisation may also carry out processing covered by the description in Question 8.

**Staff administration**

The term **staff** includes all employees, office holders, temporary and casual workers, agents and volunteers.

This purpose includes all personnel and work management matters.

Examples are:

past, existing or prospective members of staff

Examples are:

qualifications, work experience, pay and performance.

For example:

Income Tax.

## 9. (continued)

### **Advertising, marketing and public relations**

This is processing for the purposes of advertising or marketing your business, activity, goods or services and promoting public relations only in connection with that business or activity, or those goods or services.

#### **Your data subjects are restricted to**

- any person the processing of whose personal data is necessary for **your** own advertising, marketing and public relations.

#### **Your data classes are restricted to**

- data which are necessary for your advertising, marketing and public relations.

#### **Your disclosures other than those made with the consent of the data subject are restricted to**

- those third parties which are necessary for your advertising, marketing and public relations.

#### **Retention of the data**

- The personal data are not kept after the relationship between you and the customer or supplier ends, unless and for so long as it is necessary to do so for your advertising, marketing and public relations.

### **Exemptions for advertising, marketing and public relations**

This exemption only applies to data controllers who are advertising and marketing their own goods and services.

If you obtain personal data from a third party for the purpose of marketing your own goods and services, you will not lose the exemption.

#### **If you are marketing goods and services for others, you will need to notify.**

Examples are:

past, existing or prospective customers or suppliers.

Examples are:

names, addresses and other identifiers.

## 9. (continued)

### Accounts and records

This is processing for the purposes of keeping accounts relating to any business or other activity carried on by you, or deciding whether to accept any person as a customer or supplier, or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments and deliveries are made or services provided by you or to you in respect of those transactions, or for the purpose of making financial or management forecasts to assist you in the conduct of any such business or activity.

#### Your data subjects are restricted to

- any person the processing of whose personal data is necessary for your accounts and records.

#### Your data classes are restricted to

- data which are necessary for your accounts and records. This excludes personal data processed by or obtained from a credit reference agency.

#### Your disclosures other than those made with the consent of the data subject are restricted to

- those third parties which are necessary for accounts and records.

#### Retention of the data

- The personal data are not kept after the relationship between you and the customer or supplier ends, unless and for so long as it is necessary to do so for your accounts and records.

### Exemption for accounts and records

This exemption covers the administration of customer and supplier records.

It includes processing relating to making a decision about whether or not to do business with a particular customer or supplier **but specifically excludes personal data processed by or obtained from a credit reference agency.**

It **excludes** data controllers who are providing accounting services for their customers.

Examples are:

past, existing or prospective customers or suppliers.

Examples are:

name, address, credit card details.

For example:

external auditors.

## How to Notify

There are three easy ways to notify.

1. By **internet** ([www.dpr.gov.gg](http://www.dpr.gov.gg)) - Complete the notification form on-line, and submit it to us via the website. The direct debit instruction can be completed on-line, printed out and sent to us by post. Alternatively, you may send a cheque or BACS payment quoting your security code, or pay online using the states Online portal at [www.gov.gg](http://www.gov.gg).
2. By **completing** the Request for Notification Form sheet at the end of this guide. This Form should be faxed or posted or alternatively the information can be e-mailed to us. The notification forms will then be sent to you for completion.
3. By **telephone** - you can telephone the Commissioner's office. You will be asked to provide your name, address, contact details and to specify the nature of your activity.

If you choose either the option 2 or 3 you will be sent a draft notification based on the nature of your activity. You should check this draft and amend it if necessary.

You will also be sent a "Part 2" Form which you will have to complete. You should then send the amended draft and completed Part 2 Form back to us with your notification fee or direct debit instruction.

Further information on can be found in a separate Notification Handbook.

# Compliance with the Data Protection (Bailiwick of Guernsey) Law 2001

**Data controllers must comply with the provisions of the 2001 Law even if they are exempt from notification.**

Compliance with the Law involves abiding by the eight Data Protection Principles

## Principles

In summary they require that data shall be:

1. fairly and lawfully processed
2. processed for specified and limited purposes only
3. adequate, relevant and not excessive
4. accurate, and where necessary kept up to date
5. not kept longer than necessary
6. processed in accordance with the data subjects' rights
7. secure
8. not transferred to countries outside the Bailiwick or the European Economic Area\* which do not have adequate data protection.

\* At the time of publication the countries in the EEA are: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, The Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the U.K.

Further information on compliance with the Law is available on the Commissioner's website [www.gov.gg/dataprotection](http://www.gov.gg/dataprotection) or by contacting the Commissioner's office.

Further information about compliance with the Data Protection (Bailiwick of Guernsey) Law 2001 can be obtained via:

E-mail address: [dataprotection@gov.gg](mailto:dataprotection@gov.gg)  
Internet: [www.gov.gg/dataprotection](http://www.gov.gg/dataprotection)  
Telephone: +44 (0) 1481 742074  
Fax: +44 (0) 1481 742077

Post: Data Protection Commissioner's Office  
P.O Box 642  
Frances House  
Sir William Place  
St. Peter Port  
Guernsey  
GY1 3JE

