



THE OFFICE OF THE
**Data Protection
Authority**

The Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law")

Frequently Asked Questions

- **What is GDPR?**

The General Data Protection Regulation (GDPR) is European Union legislation which came into force for European Member States on 25 May 2018.

You can find a full copy of the GDPR [here](#).

- **What is the Bailiwick of Guernsey doing?**

The Bailiwick implemented legislation equivalent to the GDPR on 25 May 2018. This ensures that our citizens have appropriate rights for this digital era and also ensures protection of our 'adequacy' status with the European Commission (protecting the free flow of data to the Islands).

You can find a full copy of the Data Protection (Bailiwick of Guernsey) Law, 2017 (the 2017 Law) [here](#).

- **Who does it affect?**

The 2017 Law applies to the processing of personal data. It places obligations on controllers and processors and provides rights to data subjects.

It does not cover the processing of personal data by an individual for personal, family or household affairs.

- **What is personal data?**

Personal data is any information that relates to a living, identified or identifiable individual.

- **What is the difference between a controller and a processor?**

A controller is responsible for determining the purposes and means of the processing.

A processor processes personal data on behalf of a controller.

- **What about children?**

Children under 13 years of age are recognised in the 2017 Law as requiring a higher level of protection where their data are being processed online. If you are seeking consent in this context, that consent should be given or authorised by a parent (or a person who has parental responsibility).

You can find out about children and consent [here](#).

- **Do I need a Data Protection Officer?**

If you are a public authority you will need to have a data protection officer.

If you are carrying out large-scale and systematic monitoring of data subjects or large scale processing of [special category data](#) as part of your core functions you will need a data protection officer.

You can find out more about data protection officers [here](#).

- **Do I still need to register?**

If you are a controller and do not fall into any of the [registration exemptions](#) you will need to register. This can be done on our website.

The following three groups of entities are exempt from registration until 31 December 2019:

- entities who only process data for accounts and record-keeping for core business purposes, for staff administration and to market their own goods or services;
- entities who only process data under instructions given by another entity;
- entities who have charity or not-for-profit status.

You can find out more about registration [here](#).

- **Will Brexit affect data protection in the Bailiwick?**

The data protection regulatory framework or approach for the Bailiwick of Guernsey will not be directly affected by Brexit. After Brexit, the UK will be considered a ‘third country’ for data protection purposes and will need to ensure adequacy for the purposes of GDPR in the same way as the Bailiwick has done.

To enable Bailiwick organisations to continue to transfer personal data to the UK post Brexit, an Ordinance has been enacted recognising the UK as an authorised jurisdiction for data transfer purposes. This Ordinance will expire on 31 December 2020 or when the European Commission has made a decision on the UK’s adequacy.

The States of Guernsey’s website has a page dedicated to Brexit and what it means for the Bailiwick. This page can be found [here](#).

- **What are the sanctions?**

There has been much talk of the new and significant fines that can be issued. The maximum fine that can be issued is £10,000,000. Our aim is to ensure controllers and processors in the Bailiwick are provided with the information and tools to deliver on their compliance obligations and fines will either be a last resort or where the breach has been deliberate, wilful, repeated, seriously negligent or having caused significant harm.

- **What are the benefits of compliance?**

We aim to elevate the conversation around data protection compliance beyond a tick box exercise. Good data governance is good for your business, productivity and reputation. Businesses that meet customers’ expectations in this digital era will undoubtedly have the edge. The driver for good compliance must go beyond a fear of sanction to enlightened self-interest whereby it is recognised that doing data protection well improves our economic and social well-being as well as opening the door to the future data economy.