

E-NEWSLETTER

Information Commissioner

E-Newsletter 02/20



Welcome to the second newsletter issued by the Information Commissioner (the “Commissioner”) this year. Our newsletters aim to provide you with news, updates, developments and additions to our website in relation to data protection matters and our work as the statutory body responsible for the enforcement of data protection laws. Where relevant, updates on our work in relation to freedom of information is also provided.

AWARENESS EVENTS & COMMUNITY ENGAGEMENT

GDPR TWO YEARS ON

The 25th May 2020 marked the end of the second year since the coming into force of the EU’s General Data Protection Regulation 2016/679 (the “GDPR”). To commemorate the GDPR’s second anniversary, the Commissioner’s office released a two-minute video, highlighting changes brought about by the GDPR. [Click here](#) to view the video.

PRIVACY AWARENESS SCHOOL SURVEYS 2019/2020

A report was issued on the results of surveys carried out in schools in Gibraltar during the 2019/2020 academic year. The surveys form part of an awareness campaign for schools organised by the Commissioner’s office in co-operation with the Department of Education and examine the relationship between the use of digital technology and privacy matters. The Commissioner’s report is available [here](#).

DATA PROTECTION AND COVID-19 INTERVIEW

On 15th April 2020, a member of the Commissioner’s office was interviewed by GBC News in relation to data protection during the current COVID-19 climate. The interview mainly focussed on the added strain experienced by businesses when adopting remote working practices, and on the data protection concerns remote working may pose. The importance of adequate security arrangements, as well as the need to ensure that the collection and processing of personal data remains limited to what is absolutely necessary, were re-iterated throughout. The interview may be viewed [here](#).

SOCIAL MEDIA ENGAGEMENT

The Commissioner’s office makes use of social media platforms to engage with the public. During the second quarter of 2020, the Commissioner’s office carried out the following social media campaigns –

- **Rights of an individual under the GDPR:** Campaign from February to April 2020 on the rights of an individual under the GDPR.
- **Data Protection and COVID-19:** Six-week campaign which ran between April and May 2020 on the unprecedented challenges faced by many as a result of the COVID-19 pandemic.

All social media campaigns are available in PDF format on our [website](#).

DATA PROTECTION GUIDANCE & ASSISTANCE

In order to assist organisations in their efforts to comply with the Data Protection Act 2004 (“DPA”) and the GDPR, the Commissioner’s office often provides guidance on data protection legislation and practicalities relating thereto.

Four guidance notes have been issued this quarter, as described below, as well as updates to already published guidance in respect of Data Protection Impact Assessments.

CONTACT TRACING & LOCATION DATA (COVID-19)

Guidance is provided in respect of the technology to 1) trace contact amongst the population, and 2) map the spread of COVID-19.

EXEMPTIONS

Guidance is provided on the various exemptions to the GDPR.

TEMPERATURE CHECKS (COVID-19)

Guidance is provided in respect of the use, or intended use, of temperature checks to help fight and mitigate the risks of COVID-19.

All Guidance Notes may be accessed and/or downloaded from our [website](#).

CONFERENCES, WORKSHOPS & EVENTS

GLOBAL PRIVACY ASSEMBLY (“GPA”)

On 31st March 2020, the Gibraltar Regulatory Authority, as the Commissioner, was formally accepted as a member of the GPA's permanent International Enforcement Working Group (“IEWG”). The Commissioner's office will actively partake in objectives, tasks and deliverables set by the IEWG, and have already participated in teleconference meetings held on 16th April 2020 and 15th May 2020. The group has discussed the increased use of video conferencing apps and related privacy risks.

MLex MARKET INSIGHT

On 8th April 2020, the Assistant Information Commissioner (the “AIC”), was interviewed by MLex Market Insight. The interview touched upon facial recognition, cookies and GDPR enforcement.



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (“OECD”)

Two members of the Commissioner's office participated in the OECD's online workshop on “*Addressing the Data Governance and Privacy Challenges in the Fight Against COVID-19*” hosted on 15th April 2020 with the support of the GPA. Attended by over 260 participants representing governments, data protection authorities and international organisations, the forum explored frontline responses being considered and adopted worldwide.

INTERNATIONAL CONFERENCE OF INFORMATION COMMISSIONERS (“ICIC”)

The Commissioner's office provided feedback to the ICIC in relation to the ICIC's Strategic Plan. The ICIC connects Information Commissioners, Ombudspersons and other bodies from around the world who are charged with overseeing the implementation of access to public information legislation, such as Gibraltar's Freedom of Information Act 2018. The Commissioner's office also supported a statement adopted by the sixteen members of the Governance Working Group of the ICIC, reiterating the importance of individuals' rights to access information during the pandemic.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION (“UNESCO”)

The Commissioner's office recently completed a national questionnaire for UNESCO, relating to freedom of information legislation, and intended to collect data and information to assist in monitoring the overall global progress in ensuring public access to information.

BRITISH, IRISH AND ISLAND'S DATA PROTECTION AUTHORITIES (“BIIDPA”)

The BIIDPA meetings take place annually and provides participating Data Protection Authorities with an opportunity to discuss the latest developments within their jurisdictions. This year, the Commissioner's office partook in a virtual meeting, held on 18th June 2020. The effects of COVID-19 in addition to communication strategies were discussed.

INVESTIGATIONS

When complaints are received, the Commissioner's office typically encourages parties to resolve matters amicably between themselves. Failing this, and upon receipt of evidence that the parties have been unsuccessful in attempts to reach an amicable resolution, the Commissioner's office will intervene and, where necessary, conduct a full investigation. In this second quarter of 2020, a total of 14 new complaints have been received.

In regard to cases fully investigated (excluding those otherwise resolved e.g. by way of amicable resolution), two investigations have been closed in this quarter (summarised below). 35 cases are ongoing.

[IV21/19] Xapo Gibraltar Limited (“Xapo”)

The investigation concerned a request for erasure of personal data as well as issues relating to the information provided to individuals regarding the retention of their personal data by Xapo.

Articles breached: 5(1)(a), 12 and 13 of the GDPR.

Xapo provided information in response to the request for erasure, although some information was provided outside the prescribed timeframe. Xapo also reviewed their arrangements to provide individuals with the information at Article 13 of the GDPR.

No further action was required, considering the circumstances of the case and corrective action taken.

[IV32/18] Hillside (Gibraltar) Limited

The investigation concerned a Subject Access Request (“SAR”).

Articles breached: Articles 12 and 15 of the GDPR.

Hillside (Gibraltar) Limited did not initially respond to the SAR. However, following the Commissioner’s intervention, Hillside (Gibraltar) Limited responded to the SAR in accordance with Articles 12 and 15 of the GDPR.

No further action was required, considering the circumstances of the case and corrective action taken.

ENFORCEMENT

In most cases where a contravention of the DPA and/or GDPR is identified, data controllers cooperate and agree to review their arrangements to ensure compliance with the DPA and/or GDPR. In circumstances where a data controller does not satisfactorily cooperate with the Commissioner’s office’s requests for action to be taken, the Commissioner may use his enforcement powers, such as for example issuing an Enforcement Notice, Information Notice or Reprimand.

In the second quarter of 2020, the Commissioner’s office have issued one Notice of Intent to issue a monetary penalty to the Royal Gibraltar Police (the “RGP”), in relation to a breach notification from the RGP regarding the accidental disclosure of personal data.

DATA BREACH NOTIFICATIONS

There are certain incidents that organisations need to tell us about.

Where a data controller becomes aware of a personal data breach within their organization, they may be obliged to inform the Commissioner’s office, in accordance with Article 33 of the GDPR (or Section 76 of the DPA in respect of applicable law enforcement processing).

During this second quarter of 2020, a total of 7 data breach notifications were received and subsequently investigated. Three breach notification investigations have now been closed.

QUICK-FIRE ADVICE

The Commissioner’s office notes an increase in enquiries relating to the Register of Data Controllers. Please note that as of 25th May 2018, organisations no longer need to notify the Commissioner’s office of their data processing operations, and the register which previously existed in this regard is no longer accessible.

A register of Data Protection Officers (“DPOs”) does however exist for controllers and processors to register their DPOs. More information about this register can be found [here](#). Please note that any registration forms should be forwarded, by email, to dporegistrations@gra.gi.

Contact us for more information:



privacy@gra.gi



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