

E-NEWSLETTER

Information Commissioner

E-Newsletter 03/20



Welcome to the third newsletter issued by the Information 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

SOCIAL MEDIA ENGAGEMENT

The Information Commissioner makes use of social media platforms to engage with the public. In this quarter, the following social media campaign was published:

- **Privacy Awareness School Survey (2019-20):** A ten-week campaign that commenced in July 2020 highlights the key findings from the two Privacy Awareness School Surveys carried out in schools in Gibraltar during the 2019/20 academic year.

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

DATA PROTECTION MATTERS: THE USE OF CCTV

The Information Commissioner has released a short video laying emphasis on the importance of compliance with data protection legislation when processing personal data via CCTV systems. [Click here](#) to view the video.

CONFERENCES, WORKSHOPS & EVENTS

CENTRE FOR INFORMATION POLICY LEADERSHIP (“CIPL”)

The Information Commissioner attended an event hosted by the CIPL on 17th June 2020, which brought together representatives of international organisations and data protection authorities to discuss “Good and Effective Data Privacy Accountability”.

GLOBAL PRIVACY ASSEMBLY (“GPA”) – DIGITAL EDUCATION WORKING GROUP (“DEWG”)

The Information Commissioner contributed to the DEWG’s implementation of a Resolution on eLearning platforms. In light of the recent increase in the implementation of educational online platforms worldwide, it is the DEWG’s position that this poses real technology and privacy-related challenges.

COUNCIL OF EUROPE CONVENTION 108

The Information Commissioner took part in the Council of Europe’s Convention 108 [virtual conference](#) on 2nd and 3rd July 2020.

THE COMMON THREAD NETWORK

The Information Commissioner attended teleconferences on 3rd July and 9th September 2020, which discussed the implications and impact of COVID-19 on data protection related matters.

GPA – INTERNATIONAL ENFORCEMENT WORKING GROUP (“IEWG”)

The IEWG discussed the issuance of an open letter to all video teleconferencing companies (“VTCs”) to highlight privacy concerns as well as the risks associated with the use of video/teleconferencing software.

The Information Commissioner’s office, alongside other data protection and privacy authorities from around the world, published an open letter on the 21st July 2020 to VTCs, reminding them of their data protection obligations. The COVID-19 pandemic has resulted in a sharp uptake in the use of video teleconferencing software. The open letter provides VTCs with principles to help them identify and address some of the key privacy risks, and better protect people’s personal information. The letter is available [here](#). The Information Commissioner continues to form part of this working group and actively engages on the work undertaken.

GPA – PRIVACY, RIGHTS AND FREEDOMS PROJECT

The Information Commissioner contributed to work carried out by the GPA for the development of a GPA narrative report on the relationship between privacy and other rights and freedoms.

INSTITUTIONAL INSTITUTE OF COMMUNICATIONS (“IIC”) – PRIVACY PODCAST

The IIC hosted a privacy podcast featuring the Privacy Commissioner of New Zealand, John Edwards, in conversation with Gibraltar’s Information Commissioner, Paul Canessa, on 23rd July 2020. The podcast discussed the differing approaches towards contract tracing and guidance for protecting privacy issues during the pandemic. The podcast is available [here](#).

IIC WEBINAR – PRIVACY AND PANDEMIC

The Information Commissioner moderated the IIC-hosted webinar on 29th July 2020, which discussed the evolving privacy and data protection considerations for the Telecoms, Media and Technology sectors. The summary report is available [here](#).

GPA – COVID-19 TASKFORCE SURVEY

The Information Commissioner contributed to work being undertaken by the GPA that seeks to identify relevant experiences and best practices within the GPA community, in regard to the privacy issues that have arisen in the context of the COVID-19 pandemic.

CIPL – PROJECT ON REGULATORY ENFORCEMENT POLICY AND PRACTICE

The Information Commissioner completed a questionnaire as a part of a research project undertaken by the CIPL which aims to understand the extent to which regulators consider, in their enforcement, any relevant compliance mechanisms.

BREXIT – THE END OF THE TRANSITION PERIOD

The Information Commissioner’s office aims to intensify its work in regard to Brexit and the end of the transition period, to assist organisations through this transition. The Information Commissioner has updated relevant guidance on its website ([available here](#)). In addition, the Information Commissioner’s office hosted a series of Brexit related workshops on the 16th, 17th and 18th September 2020.

The aim of the workshops were to learn about, discuss and assist with any concerns and/or queries that organisations had.

WORKSHOPS FOR DATA PROTECTION OFFICERS (“DPOs”)

The Information Commissioner organises periodic data protection workshops for DPOs in Gibraltar, as part of his efforts to promote awareness and provide assistance to data controllers and DPOs in relation to their data protection obligations.

Information regarding previous DPO workshops, including reports that list the participants of each workshop held so far, can be found [here](#).

The Information Commissioner aims to hold a DPO workshop in November 2020. If you would like to participate/attend, please register your interest by emailing dpoworkshops@gra.gi (please note that this workshop may be held virtually due to the COVID-19 pandemic).

INVESTIGATIONS

When complaints are received, the Information Commissioner typically encourages parties to resolve matters amicably between themselves. Failing this, and upon receipt of material demonstrating that the parties have been unsuccessful in attempts to reach an amicable resolution, the Information Commissioner will intervene and, where necessary, conduct a full investigation. In this third quarter of 2020, a total of 15 new complaints have been received, with 24 cases having been resolved/closed and 29 are ongoing.

ENFORCEMENT

In most cases where a contravention of the Data Protection Act 2004 (“DPA”) and/or the EU General Data Protection Regulation 2016/679 (“GDPR”) is identified, data controllers cooperate and agree to review their arrangements to ensure compliance with the DPA and/or GDPR and no further action is necessary. However, where appropriate and proportionate further action is taken. The Information Commissioner may use his enforcement powers, such as issuing an Enforcement Notice, Information Notice or Reprimand.

In the third quarter of 2020 the Information Commissioner issued the **Royal Gibraltar Police** (the “RGP”) with a fine of £5000 in consequence of the unlawful disclosure of personal data, relating to approximately 40 individuals, in breach of data protection legislation. The breach relates to personal data contained in pocketbook entries and witness accounts regarding a police investigation, which were erroneously disclosed to the wrong recipient.

The Information Commissioner was notified of the breach by the RGP in line with their obligations under Part 3, Chapter 4, Section 76 of the DPA which requires notification to the Information Commissioner where a personal data breach is likely to result in a risk to the rights and freedoms of individuals.

The Information Commissioner is of the view that *“the primary role is to ensure compliance with data protection legislation. A fine is only considered for the most serious cases. In this case, the breaches identified in the investigation were considered serious enough to warrant a fine being issued. Amongst other things, the context of the personal data being processed was considered relevant, namely the law enforcement context, where the disclosure of personal data relating to criminal prosecutions can create a real risk of distress for individuals”*.

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 organisation, they may be obliged to inform the Information 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 third quarter of 2020, a total of 5 data breach notifications were received and subsequently investigated. 7 breach notification investigations have been closed in this quarter.

WEBSITE DEVELOPMENTS

A new [section](#) has been uploaded to the Gibraltar Regulatory Authority’s website in relation to the investigations undertaken by the Information Commissioner. The new section includes:

Investigations and Enforcement provides a table listing all the investigations conducted by the Information Commissioner since the onset of the GDPR on 25th May 2018. The table provides short summaries relating to each referenced investigation and includes details of whether any enforcement action has been taken.

Breach Notifications and Enforcement provides a table listing the breach notifications (relating to Article 33 of the GDPR and section 76 of the DPA) received since 25th May 2018, which have seen the Information Commissioner take enforcement action.

Contact us for more information:



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