

E-NEWSLETTER

Information Commissioner

E-Newsletter 04/21

GRA

GIBRALTAR REGULATORY
AUTHORITY

Welcome to the Gibraltar Regulatory Authority's ("GRA") **Q4 2021** e-newsletter. Our newsletters aim to provide you with the latest developments in relation to data protection matters and our work as the Information Commissioner, with statutory responsibility for the enforcement of data protection laws in Gibraltar. Where relevant, updates on our work regarding freedom of information are also provided.

AWARENESS EVENTS & COMMUNITY ENGAGEMENT

SOCIAL MEDIA ENGAGEMENT

Social media engagement during Q4 2021 focused on guidance in respect of –

- the concepts of 'data controllers' and 'data processors'; and
- key findings from the Privacy Awareness School Survey carried out in local Upper Primary and Secondary schools during the 2020/21 academic year.

All published social media campaigns are available in PDF format on the [GRA's website](#).

DATA PROTECTION GUIDANCE & ASSISTANCE

WORKSHOP FOR DATA PROTECTION OFFICERS

The Information Commissioner's office organises periodic Workshops for Data Protection Officers ("DPO Workshops").

The DPO workshops are aimed at assisting Data Protection Officers ("DPOs") in improving their knowledge of data protection law, which is of importance as per Article 37 of the Gibraltar General Data Protection Regulation (the "Gibraltar GDPR") and section 78 of the Data Protection Act 2004 (the "DPA"). During DPO Workshops, presentations focusing on specific topics of interest are delivered, with case studies and/or other material shared and discussed amongst attendees. Reports summarising previous events of this kind are published on the [GRA's website](#).

Preparations are well underway to host our next DPO Workshop in the first quarter of 2022. A recent update was provided to all DPOs on our DPO Workshop mailing list on Wednesday 15th December 2021.

If you have not received the abovementioned update or have not previously attended our DPO Workshops and would like to be included in our DPO Workshop mailing list, please email: dpoworkshops@gra.gi.

AWARENESS-RAISING AUDIOVISUALS

Often adding to the excitement of Christmas is the ease with which images and videos can be shared on social media platforms. With this in mind, the Information Commissioner's office published a video which aims to raise awareness about the importance of recognising the resulting risks to privacy and personal data protection.

[In this video](#), the Information Commissioner's office provides top tips for safeguarding your family's privacy in today's social media culture.

22ND SEPTEMBER 2021 – PRIVSEC GLOBAL – NAVIGATING COMPLEX DSARS

The Director of Information Rights and Operations, Bradley Tosso, participated in a panel with regulatory experts to discuss Data Subject Requests (“DSARs”) technological development and regulatory action. Mr Tosso highlighted DSARs are one of the most common themes investigated by the Information Commissioner’s office, although cases in this area have been dropping since 2019.

The panel highlighted the value of taking a proactive approach towards DSARs with the aim of resolving the request under data protection law as well as any underlying issue/enquiry. Making genuine endeavours to comply with DSARs is fundamental and likely to mitigate regulatory risk.

28TH OCTOBER 2021 - FINCRIME GLOBAL – REGULATOR RHETORIC, TECH REALITIES PANEL

The Director of Information Rights and Operations, Bradley Tosso, participated in a panel with regulatory experts to discuss technological development and regulatory action. The panel discussed the importance of a private-public relationship to encourage compliance. In this regard, Mr Tosso highlighted the Information Commissioner’s commitment to guidance and engagement as part of an effective and modern regulatory regime in support of compliant technological progress.

The panel also highlighted the importance of trust and compliance to be successful in the digital environment.

DATA PROTECTION IN THE EMPLOYMENT CONTEXT GUIDANCE NOTE

Employers need to ensure they have appropriate measures in place to comply with their obligations under data protection law and ensure the rights of individuals are upheld. Employers should be aware of matters that may arise, such as the conditions relating to an employee’s right of access to their personal data, concerns about retention, employee monitoring, and record keeping even after termination of employment.

The Information Commissioner’s office has published [a Guidance Note on Data Protection in the Employment Context](#) to –

- raise awareness amongst controllers and processors of their data protection obligations; and,
- assist them in ensuring compliance.

INTERNATIONAL

7TH OCTOBER 2021 - GLOBAL PRIVACY ENFORCEMENT NETWORK

The Information Commissioner’s office took part in this year’s Global Privacy Enforcement Network Sweep (the “GPEN Sweep”).

The GPEN Sweep is conducted annually, with the aim of gaining a cross-border insight into events and topics of current relevance. This year’s GPEN Sweep explored how the global Data Protection Authority (“DPA”) community engaged with local governments to identify and understand the risks associated with COVID-19 initiatives, and to make recommendations to improve compliance with privacy and data protection laws. It also sought to understand what, if any, enforcement action DPAs might be considering, and what education and outreach activities DPAs have conducted.

For more information, please download the [Press Release from the GRA’s website](#).

18TH – 21ST OCTOBER 2021 - 43RD GLOBAL PRIVACY ASSEMBLY

The Information Commissioner’s office attended the 43rd Global Privacy Assembly (the “GPA”) 2021, hosted virtually by Mexico’s Instituto Nacional De Transparencia, Acceso a la Información y Protección de Datos Personales. The event was attended by more than 90 members and observers to consider key data protection challenges. The event included an [open session](#) for parties from the private and other sectors to attend and become involved.

Opening the session, Elizabeth Denham CBE, outgoing GPA Chair and UK Information Commissioner, praised the work of the privacy community through the pandemic, calling for the GPA to continue to be impactful. Ms Denham said:

“We were already in a data-driven age, even before the pandemic supercharged that acceleration of digital growth. Now data-driven innovation is helping us through health crises, and influencing every facet of society.”

Our community’s work is central to that, ensuring people trust that innovation. But we cannot assume that privacy will always have a seat at the table. Our input into discussions on key societal issues is dependent on an understanding that data protection and privacy supervisors bring a valuable insight, a practical mindset and we can respond promptly.”

Resolutions were discussed and agreed at the conference, providing a shared view on a range of important current topics:

- [Resolution on the Assembly’s Strategic Direction 2021-23](#)
- [Resolution on Data Sharing for the Public Good](#)
- [Resolution on Children’s Digital Rights](#)
- [Resolution on Government Access to Data, Privacy and the Rule of Law: Principles for Governmental Access to Personal Data held by the Private Sector for National Security and Public Safety Purposes](#)
- [Resolution on the Future of the Conference and the Secretariat](#)

Other topics discussed in detail included international enforcement cooperation, regulatory sandboxes, effective tools for secure data transfers, facial recognition, digital identity, the perspective of DPOs and the future of privacy and technology.

GPA’s GLOBAL PRIVACY AND DATA PROTECTION AWARDS 2021

The GRA, as the Information Commissioner, won an international award for the awareness-raising initiatives undertaken in the category of “Education and Public Awareness”. The GRA competed with the work of other authorities worldwide and won the award following an open vote amongst the GPA’s membership.

The GRA’s entry titled *“A layered and multipronged approach to awareness raising”* won the GPA’s People’s Choice Award in this year’s Global Privacy and Data Protection Awards.

The GPA, a premier global forum for data protection and privacy authorities, seeks to provide leadership in data protection and privacy matters at an international level by connecting the efforts of more than 130 data protection and privacy authorities from across the globe. More information is available on the [GPA’s website](#).

The GRA’s success is owed to a layered and multipronged approach to raising awareness about data protection law and privacy, by combining traditional and modern outreach methods to target key sectors of the community.



The full Press Release may be downloaded from the [GRA’s website](#).

27th OCTOBER 2021 – JOINT EXERCISE ON VIDEO TELECONFERENCE PROVIDERS

The GRA completed a joint exercise with other privacy authorities from Australia, Canada, Hong Kong SAR, China, Switzerland and the United Kingdom (the “Joint Signatories”), to address privacy matters surrounding video conferencing (“VTC”). An open letter was sent to five of the biggest VTC companies, namely Microsoft, Google, Cisco, Zoom and HouseParty. The Joint Signatories highlighted concerns about whether privacy safeguards were keeping pace with the rapid increase in the use of VTC services during the global pandemic and provided VTC companies with some guiding principles to address key privacy risks.

All but one VTC company provided a response. The Joint Signatories subsequently reviewed the information provided and further engaged with the VTC companies in a series of video calls to better understand the steps they take to implement, monitor, and validate the privacy and security measures put in place.

The full Press Release may be downloaded from the [GRA’s website](#).

9TH NOVEMBER 2021 – MEXICO’S FEDERAL DATA PROTECTION AUTHORITY WORKSHOP

The Director of Information Rights and Operations, Bradley Tosso, was invited by Mexico’s Instituto Nacional De Transparencia, Acceso a la Información y Protección de Datos Personales to speak at their November 2021 data protection seminar. Mr Tosso participated in a panel on Data Portability alongside other regulatory experts.

The seminar can be viewed [here](#) with Mr Tosso’s intervention commencing at approximately 3 hours 50 minutes.

16TH – 17TH NOVEMBER 2021 - EUROPEAN CASE HANDLING WORKSHOP 2021

This year, the Information Commissioner’s office hosted the European Case Handling Workshop 2021 (the “ECHW”). The ECHW is an annual feature in the calendar of European Data Protection Authorities. Formed as a sub-group of the European Conference of Data Protection Authorities, commonly known as the ‘Spring Conference’, the ECHW provides a platform for international cooperation and focuses on the practical implementation of data protection on a day-to-day basis. In doing so, it provides authorities from across Europe the opportunity to share their case-handling experiences and good practice on pre-determined topics, in an open, inclusive and pragmatic forum.

This year, due to the continuing pandemic, the ECHW was held virtually and saw over 120 participants, from over 30 data protection authorities participate in sessions to address matters relating to data breach notifications, the handling of complaints, enforcement action, and the implications of the European Court of Justice judgment commonly referred to as ‘Schrems II’.



The full Press Release may be downloaded from the [GRA’s website](#).

INVESTIGATIONS

The Information Commissioner conducts investigations surrounding the application of data protection law in Gibraltar. Investigations may be instigated as a result of information obtained that raises compliance concerns, a complaint lodged with our office, or information/complaints referred by another data protection authority or other public body.

In Q4 of 2021, 9 new investigations were initiated, whilst 12 cases have been resolved/closed and 20 are ongoing. In regard to the 12 cases resolved/closed, only 1 was closed following the completion of a full investigation (summarised below).

IV36/20 The Royal Gibraltar Police (“RGP”)

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

Articles breached: Articles 12(2), 12(3), 15 and 24(1) of the EU General Data Protection Regulation 2016/679, which was the relevant data protection legislation at the time of the breach.

The RGP responded to the SAR but did not, within the prescribed timeframe, inform the Complainant that they would be extending the timeframe to respond or provide reasons for the delay. As a result of the investigation, the RGP updated their policies and procedures for the handling of SARs.

No further action was required, taking into account the circumstances of the case and corrective action taken.

DATA BREACH NOTIFICATIONS

Under Article 33 of the Gibraltar GDPR (or Section 76 of the DPA in respect of applicable law enforcement processing), there are certain incidents that organisations need to tell us about.

During Q4 2021, a total of 9 data breach notifications were received and subsequently investigated. 4 breach notification investigations have been closed during this quarter and 15 are ongoing.

FREEDOM OF INFORMATION

THE HANDLING OF FOI REQUESTS

The Information Commissioner’s office has published a flowchart which provides guidance on the process that applies to the handling of requests for information, by relevant public authorities, under the Freedom of Information Act 2018 (“FOIA”).

The flowchart does not intend to capture all the provisions of the FOIA in detail. It does however provide the general framework within which FOI requests should be processed, as well as the steps that public authorities should consider when processing the same.

The flowchart is available on the [GRA’s website](#).



FROM THE
Information Commissioner's Office

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SHOULD YOU WISH TO UNSUBSCRIBE, PLEASE USE THE LINK PROVIDED IN THE BODY OF THE EMAIL YOU HAVE RECEIVED.