

E-NEWSLETTER

Information Commissioner

E-Newsletter 01/21

The logo for the Gibraltar Regulatory Authority (GRA) features the letters 'GRA' in white on a red rectangular background.

GIBRALTAR REGULATORY
AUTHORITY

Welcome to the Gibraltar Regulatory Authority's ("GRA") **Q1 2021** e-newsletter. Our e-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.

BREXIT UPDATE

DATA PROTECTION LEGISLATION

As of 1st January 2021, as a result of the end of the Brexit transition period, the EU General Data Protection Regulation 2016/679 (the "EU GDPR") ceased to have direct effect in Gibraltar. The EU GDPR was replaced by the 'Gibraltar GDPR', with the Data Protection Act 2004 also remaining in force. In effect, the data protection regime in Gibraltar remains largely the same as it was prior to Brexit.

For more information in relation to the effect of Brexit on data protection in Gibraltar, please refer to the [legislation section](#) and the [Brexit section](#) of the GRA's website.

AWARENESS EVENTS & COMMUNITY ENGAGEMENT

DATA PROTECTION DAY 2021

Celebrated internationally every 28th of January, Data Protection Day commemorates the importance of privacy and data protection. This year saw the publication of material and launch of an eight-week long campaign titled "**The Rights of Individuals under the Gibraltar GDPR**". The campaign, which includes a Guidance Note, a set of infographics and a collection of short videos, aims to raise awareness of privacy and data protection, and in particular, the rights that individuals have in relation to their personal data. The campaign content can be found on the [GRA's website](#) and/or the [GRA's YouTube channel](#).

The GRA also contributed to a report published by the Council of Europe, in relation to the Data Protection Day events organised by parties to Convention 108. [Click here](#) for more information.

SOCIAL MEDIA ENGAGEMENT

Social media engagement during Q1 2021 mainly focused on "The Rights of Individuals under the Gibraltar GDPR". **All published social media campaigns are available in PDF format on the [GRA's website](#).**

SAFER INTERNET DAY

Safer Internet Day 2021 was celebrated internationally on 9th February 2021. This year's theme was "**An internet we trust: Exploring reliability in the online world**". A multi-agency campaign was launched locally with various organisations working together in creating an awareness-raising audio-visual. To view the video, please [click here](#).

DATA PROTECTION GUIDANCE & ASSISTANCE

THE RIGHTS OF INDIVIDUALS UNDER THE GIBRALTAR GDPR

As stated earlier, the Guidance Note aims to assist individuals in understanding their data protection rights by providing key procedural information in respect of each. The guidance is equally useful for organisations, to assist them in determining how best to process personal data to ensure the rights afforded to individuals under the applicable data protection legislation are upheld. [Click here](#) to download.

GUIDANCE ON THE CONCEPTS OF DATA CONTROLLER AND DATA PROCESSOR

The Guidance Note provides detailed guidance on the concepts of ‘data controller’, ‘data processor’ and ‘joint controllers’ under the Gibraltar GDPR and the Data Protection Act 2004. Additionally, guidance is provided in respect of the three concepts and the different roles and responsibilities relating to each, as well as information to assist organisations to achieve compliance with the relevant legislation. [Click here](#) to download.

WORKSHOP FOR DATA PROTECTION OFFICERS (“DPOs”)

As part of his efforts to promote awareness and provide assistance to data controllers and DPOs in relation to their data protection obligations, the Information Commissioner periodically organises data protection workshops for DPOs in Gibraltar. A report on the last DPO workshop has been published on the [GRA’s website](#).

Preparations for the next virtual workshop for DPOs, to be held in April 2021, are under way. Please register your interest by emailing dpoworkshops@gra.gi.

INTERNATIONAL

6th January 2021 – OPEN LETTER TO VIDEO TELECONFERENCING (“VTC”) SERVICE PROVIDERS

The GRA and other data protection authorities published an update in relation to their engagement with VTC service providers, following an open letter in July 2020 where the participating authorities expressed privacy concerns relating to the surge in VTC use. Further engagement with the VTC service providers is scheduled to take place and a more substantive public statement is to be made later this year. For more information [click here](#).

INVESTIGATIONS

The Information Commissioner conducts investigations on the application of data protection law in Gibraltar. Investigations may be as a result of information obtained that provokes compliance concerns, a complaint lodged or information/complaint referred by another data protection authority or other public authority. Complaints are managed in accordance with the Information Commissioner’s [complaint procedure](#). Where possible and appropriate, parties are encouraged to resolve matters amicably between themselves. Where relevant, a full investigation is conducted.

In Q1 2021, 6 new investigations were initiated, whilst 17 cases were resolved/closed and 16 are ongoing. In regard to the 17 cases resolved/closed, 4 of these were closed after the completion of a full investigation (summarised below).

AmRes 24/19

Payoneer (EU) Limited (“Payoneer”)

The investigation concerned Payoneer’s procedures to opt out of direct marketing, the processing of personal data through the use of cookies and the sharing of personal data with third parties for marketing purposes.

Sections breached: Regulations 5 and 23 of the Communications (Personal Data and Privacy) Regulations 2006 (the “Privacy Regs”) and Articles 5(1)(a), 5(1)(f), 5(2), 6, 7 and 32 of the EU GDPR.

As a result of the investigation, Payoneer amended their procedures for the processing of personal data for direct marketing purposes and for the obtaining of consent for its use of cookies, to ensure these comply with the relevant requirements of the Privacy Regs and EU GDPR.

Further, Payoneer ceased the sharing of personal data with third parties for marketing purposes.

IV01/19

Gibraltar Car Parks Limited (“GCPL”); Gibraltar Parking Management Services Limited (“GPMSL”); Securitek Limited (“Securitek”)

The investigation concerned the circulation of CCTV footage which appeared to originate from a CCTV system located in the Midtown Coach and Car Park.

- Sections breached by **GCPL**: Articles 5(1)(f), 5(2), 28(1), 28(3) and 33 of the EU GDPR.
- Sections breached by **GPMSL**: Articles 5(1)(f), 5(2), 28(3), and 28(4) of the EU GDPR.
- Sections breached by **Securitek**: Articles 5(1)(f), 5(2), 28(3) of the EU GDPR.

The Information Commissioner issued an Enforcement Notice to GCPL requiring the company to take corrective action to ensure compliance with Articles 28, 5(2) and 5(1)(f) of the EU GDPR. Further, it was required to review its procedures in regard to the notification of personal data breaches, to ensure compliance with Article 33 of the EU GDPR.

C01/20

Gibraltar Car Parks Limited (“GCPL”)

The investigation concerned the breakdown of servers relating to the CCTV system located in the Midtown Coach and Car Park.

Articles breached: Article 5(1)(f), 5(2) and 32 of the EU GDPR.

The company was required to review its arrangements to ensure security measures complied with the EU GDPR.

C31/19

Gibraltar Car Parks Limited (“GCPL”)

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

Articles breached: Articles 12(1), 12(2), 12(4) and 15 of the EU GDPR.

The Information Commissioner issued the company with an Enforcement Notice, a Notice of Intent to issue a monetary penalty and a Penalty Notice.

It was required to take corrective action to ensure their procedures for facilitating SARs complied with the EU GDPR.

ENFORCEMENT

In Q1 2021, the Information Commissioner issued a Penalty Notice in respect of investigation C31/19 above.

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 Q1 2021, a total of 5 data breach notifications were received and subsequently investigated. 5 breach notification investigations have been closed this quarter.

Contact us for more information:



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