



THE OFFICE OF THE  
**DATA PROTECTION  
COMMISSIONER**

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

Explanatory Information for  
Self-Assessment Questionnaire  
Processors

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This document provides additional information to assist in completing the processors' self-assessment questionnaire.

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## Note 1 - European Union (EU) Countries

The following are EU countries :-

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- United Kingdom

## Note 2 - Special Category Data

The Law replaces the concept of sensitive personal data with **special category data**.

Special Category Data	Sensitive Personal Data
Racial or ethnic origin	Racial or ethnic origin
Political opinion	Political opinions
Religious or philosophical belief	Religious or other beliefs
Trade union membership	Trade union membership
Health data	Physical or mental health or condition
Data concerning an individual's sex life or sexual orientation	Sexual life
Genetic data*	Offences or alleged offences
Biometric data*	Criminal proceedings
Criminal data	

\* where used to uniquely identify a natural person

## Note 3 - Data Protection Officers (DPOs)

The Law creates a legal requirement for certain organisations to have a Data Protection Officer and lays down set tasks for that DPO.

The organisations that will require DPOs are :

- Public authorities (except for courts acting in their judicial capacity)
- Controllers or processors whose **core activities** require the regular and systematic monitoring of data subjects on a **large scale**
- Controllers or processors whose core activities consist of processing on a **large scale** of special category data and/or personal data relating to criminal convictions and offences.

Recital 97 of the General Data Protection Regulation (GDPR) specifies that the **core activities** of a controller relate to 'primary activities and do not relate to the processing of personal data as ancillary activities'. 'Core activities' can be considered as the key operations necessary to achieve the controller's or processor's goals. Article 29 Working Party guidance goes on to say that whilst all organisations carry out certain activities, for example paying their employees or having standard IT support activities these are examples of support functions; activities that support the core activity. Whilst it is true to say that these activities are necessary or essential they are not the core activity, but rather ancillary functions.

**Large-scale** is somewhat more difficult to determine and the GDPR does not define this term. The Article 29 Working Party guidance considers that the following can assist in determining whether an organisation's processing is large scale :-

- The number of data subjects concerned - either as a specific number or as a proportion of the relevant population
  - The volume of data and/or the range of different data items being processed
  - The duration, or permanence, of the data processing activity
  - The geographical extent of the processing activity
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#### **Note 4 - Transfer**

A transfer occurs where data is moved from one jurisdiction to another where it is held, stored or acted upon. It is not the same as transit, where data simply passes through a country on its way to another jurisdiction.

Transfer frequently takes the form of the movement of data electronically but data would also be transferred where it was collected on paper and sent overseas to be processed electronically or stored in a relevant filing system. Putting personal data on a web site may involve transfers to the other countries in which the web site is accessed.

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#### **Note 5 - European Economic Area (EEA) Countries & 'Adequate' Jurisdictions**

The European Economic Area comprises EU Member States (as follows) :-

- |                  |           |               |                  |
|------------------|-----------|---------------|------------------|
| • Austria        | • Estonia | • Italy       | • Portugal       |
| • Belgium        | • Finland | • Latvia      | • Romania        |
| • Bulgaria       | • France  | • Lithuania   | • Slovakia       |
| • Croatia        | • Germany | • Luxembourg  | • Slovenia       |
| • Cyprus         | • Greece  | • Malta       | • Spain          |
| • Czech Republic | • Hungary | • Netherlands | • Sweden         |
| • Denmark        | • Ireland | • Poland      | • United Kingdom |

Plus Iceland, Liechtenstein and Norway

Jurisdictions with 'adequacy' for the purposes of the Directive 95/46/EC :-

- Andorra
- Argentina
- Canada
- Faeroe Islands
- Guernsey
- Isle of Man
- Israel
- Jersey
- New Zealand
- Switzerland
- Uruguay

The adequacy of each jurisdiction will be reassessed in accordance with the GDPR although it is unclear at this time when this will take place. As such, the list of adequate jurisdictions may change.

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