



## The Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law")

### Conditions for Lawful Processing

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Section 7 of the Law sets out the requirements for processing to be **lawful**. It refers to Schedule 2 of the Law and the conditions for processing within that Schedule.

**Do not start processing any personal data unless you have clearly established and documented details of the relevant condition/s.**

The majority of conditions require that 'the processing is necessary' in order to be able to rely upon them. If you could reasonably achieve the same purpose without the processing you cannot rely upon that condition.

For personal data not considered to be special category data, a controller must satisfy at least one of the conditions below:

- The data subject has requested or given consent to the processing of the personal data for the purpose for which it is processed
- The processing is necessary for the performance of a contract to which the data subject is a party or that is in the interests of the data subject
- The processing is necessary to protect the vital interests of the data subject or other individual
- The processing is necessary for the purposes of legitimate interests (not applicable for public authorities)
- The processing is necessary for the exercise or performance of a public function or task carried out in the public interest by a public authority

- The processing is necessary for the exercise of a right, power or duty imposed by law
- The information contained in the personal data has been deliberately made public by the data subject
- The processing is necessary for the exercise of a right or power imposed by enactment
- The processing is necessary in order to comply with a court order or judgement
- The processing is necessary for a [health or social care purpose](#)
- The processing is necessary for reasons of public health
- The processing is necessary for the purpose of, or in connection with legal proceedings (including prospective legal proceedings), discharging any court or tribunal functions, obtaining legal advice or otherwise for the purposes of establishing, exercising or defending legal rights
- The processing is necessary for the administration of justice or the exercise of any function of the Crown, a Law Officer of the Crown, the States or a public committee
- The processing is necessary for a law enforcement purpose
- The processing is in the context of not-for-profit organisations that exist for political, philosophical, religious or trade-union purposes.
- The processing is necessary for historical or scientific purposes
- The processing is necessary for the purposes of equal opportunity
- The processing is authorised by regulation or other enactment (see tables at the end of the document)

A controller processing [special category data](#) must satisfy at least one of the conditions below:

- The data subject has given explicit consent to the processing of the personal data for the purpose for which it is processed
- The processing is necessary to protect the vital interests of the data subject or other individual and the data subject is physically or legally incapable of giving consent or the controller cannot reasonably be expected to obtain the explicit consent
- The information contained in the personal data has been deliberately made public by the data subject
- The processing is necessary for the exercise of a right or power imposed by enactment
- The processing is necessary in order to comply with a court order or judgement
- The processing is necessary for a [health or social care purpose](#)
- The processing is necessary for reasons of public health
- The processing is necessary for the purpose of, or in connection with legal proceedings (including prospective legal proceedings), discharging any court or tribunal functions,

obtaining legal advice or otherwise for the purposes of establishing, exercising or defending legal rights

- The processing is necessary for the administration of justice or the exercise of any function of the Crown, a Law Officer of the Crown, the States or a public committee
- The processing is necessary for a law enforcement purpose
- The processing is in the context of not-for-profit organisations that exist for political, philosophical, religious or trade-union purposes.
- The processing is necessary for historical or scientific purposes
- The processing is necessary for the purposes of equal opportunity
- The processing is authorised by regulation or other enactment (see below)

There are circumstances where special authorisation for processing has been granted by the Committee for Home Affairs. These can be used instead of a lawful processing condition, but it must be documented why you are relying on the special authorisation and all conditions must be adhered to.

	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
<b>1.</b>	Personal data relating to the name and address of the registered keeper of an abandoned motor vehicle	The Environment Committee	Enabling or facilitating the owner or occupier of the land on which the vehicle is abandoned to take action to enable the removal or disposal of the vehicle
	<p><b>Conditions</b></p> <p>The following conditions must be satisfied –</p> <ul style="list-style-type: none"> <li>(a) the processing is by way of disclosure by the Environment Committee,</li> <li>(b) the registered keeper is physically or legally incapable of giving consent to the disclosure, or the Environment Committee cannot reasonably be expected to obtain the consent of the registered keeper, and</li> <li>(c) the disclosure is made on terms and conditions determined by the Environment Committee after consulting the Authority.</li> </ul>		

	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
<b>2.</b>	Personal data concerning any employee, debtor or creditor of a STSC-related body, excluding any special category data	STSC or a STSC-related body	Enabling or facilitating STSC to carry out a relevant function of the STSC-related body

<b>3.</b>	<b>Personal data</b> Special category data	<b>Controller</b> Any person acting for or on behalf of – (a) Ofsted, or (b) a person, service or institution in the Bailiwick being inspected by or on behalf of Ofsted	<b>Purposes</b> Enabling or facilitating an inspection relating to any person, service or institution in the Bailiwick carried out by or on behalf of Ofsted further to an approved arrangement
	<b>Conditions</b> The approved arrangement must contain safeguards in relation to any personal data processed for the purpose of the inspection.		

<b>4.</b>	<b>Personal data</b> Special category data	<b>Controller</b> Any person providing confidential counselling, advice, support or other services to the data subject	<b>Purposes</b> Providing or delivering services of the kind specified in column 2
	<b>Conditions</b> The processing – (a) needs to be carried out without the data subject's consent – (i) because the data subject is physically or legally incapable of giving consent, (ii) because the controller cannot reasonably be expected to obtain the consent of the data subject, or (iii) in order not to prejudice the purpose in listed above, and (b) is in the public interest.		

<b>5.</b>	<b>Personal data</b> Health data or criminal data	<b>Controller</b> Any person carrying on insurance business, or acting for or on behalf of such a person	<b>Purposes</b> Enabling or facilitating the person to carry on insurance business
	<b>Conditions</b> The processing – (a) is necessary for a purpose relating to an objective that is in the public interest, and (b) where condition A applies, satisfies condition B.  Condition A applies where-		

<p>(a) the processing is not carried out for the purposes of measures or decisions with respect to the data subject, and</p> <p>(b) the data subject does not have and is not expected to acquire –</p> <p style="padding-left: 20px;">(i) rights against, or obligations in relation to, an insured person under an insurance contract entered into by or on behalf of the controller, or</p> <p style="padding-left: 20px;">(ii) any other rights or obligations in connection with such a contract.</p> <p>Condition B is satisfied if the controller –</p> <p style="padding-left: 20px;">(a) cannot reasonably be expected to obtain the consent of the data subject, and</p> <p style="padding-left: 20px;">(b) the controller is not aware of the data subject withholding consent</p>
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	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
<b>6.</b>	Health data relating to a data subject who is the parent, grandparent, great grandparent or sibling of a member of a pension scheme.	Any person making determinations in connection with eligibility for, and benefits payable under, a pension scheme	Enabling or facilitating the person to make determinations of the kind specified in column 2
<p><b>Conditions</b></p> <p>The processing –</p> <p style="padding-left: 20px;">(a) needs to be carried out without the data subject's consent –</p> <p style="padding-left: 40px;">(i) because the data subject is physically or legally incapable of giving consent, or</p> <p style="padding-left: 40px;">(ii) because the controller cannot reasonably be expected to obtain the consent of the data subject, and</p> <p style="padding-left: 20px;">(b) does not support measures or decisions affecting the significant interests of the data subject.</p>			

	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
<b>7.</b>	Criminal data	Any person	A purpose in connection with any of the following –
			<p>(a) the recruitment of an individual as an employee,</p> <p>(b) the continued employment of an individual,</p> <p>(c) any contract for the provision of services to the controller by another person, or</p> <p>(d) the provision (for payment or not) of goods,</p>

		facilities or services to the public or any section of the public
<p><b>Conditions</b></p> <p>The processing –</p> <ul style="list-style-type: none"> <li>(a) is required or authorised by law, or</li> <li>(b) in the particular circumstances, is justified as being in the public interest.</li> </ul>		

8.	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	Any person	Exercising any right or power, or performing or complying with any duty, conferred or imposed by law on the controller in connection with employment

9.	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	An elected representative	Carrying out any function as an elected representative
<p><b>Conditions</b></p> <p>The processing –</p> <ul style="list-style-type: none"> <li>(a) is carried out pursuant to a request made by the data subject to the elected representative to take action on behalf of the data subject or any other individual, and</li> <li>(b) is necessary for the purposes of, or in connection with, the action reasonably taken by the elected representative pursuant to that request.</li> </ul>			

10.	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	An elected representative	Carrying out any function as an elected representative
<p><b>Conditions</b></p> <p>The processing –</p> <ul style="list-style-type: none"> <li>(a) is carried out pursuant to a request made by an individual other than the data subject to the elected representative to take action on behalf of the data subject or any other individual,</li> </ul>			

	<p>(b) is necessary for the purposes of, or in connection with, the action reasonably taken by the elected representative pursuant to that request, and</p> <p>(c) needs to be carried out without the data subject's consent –</p> <p>(i) because the data subject is physically or legally incapable of giving consent,</p> <p>(ii) because the controller cannot reasonably be expected to obtain the consent of the data subject,</p> <p>(iii) in order to protect or safeguard the significant interests of another individual, in any case where the data subject has unreasonably withheld consent, or</p> <p>(iv) in order not to prejudice the action taken by the elected representative pursuant to that request.</p>
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<b>11.</b>	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	Any person	Responding to a communication to the controller made by an elected representative pursuant to a request made by the data subject
<b>Conditions</b>			
<p>The processing –</p> <p>(a) consists of a disclosure of special category data to the elected representative, and</p> <p>(b) the special category data is relevant to the communication specified above.</p>			

<b>12.</b>	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	Any person	Responding to a communication to the controller made by an elected representative pursuant to a request made by an individual other than the data subject
<b>Conditions</b>			
<p>The processing –</p> <p>(a) consists of a disclosure of special category data to the elected representative,</p> <p>(b) the special category data is relevant to the communication specified above, and</p> <p>(c) needs to be carried out without the data subject's consent –</p> <p>(i) because the data subject is physically or legally incapable of giving consent,</p>			

	<p>(ii) because the controller cannot reasonably be expected to obtain the consent of the data subject,</p> <p>(iii) in order to protect or safeguard the significant interests of another individual, in any case where the data subject has unreasonably withheld consent, or</p> <p>(iv) in order not to prejudice any action taken by the elected representative pursuant to that request.</p>
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<b>13.</b>	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	Any person	The prevention, detection or investigation of any unlawful act or omission
<b>Conditions</b>			
<p>The processing –</p> <p>(a) needs to be carried out without the data subject's consent in order not to prejudice the purpose in listed above, and</p> <p>(b) is in the public interest.</p>			

<b>13A.</b>	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Any personal data	Any controller	Publication of a judgment or other decision of a court or tribunal
<b>Conditions</b>			
<p>The processing –</p> <p>(a) consists of the publication of such a judgment or other decision, or</p> <p>(b) enables or facilitates the publication of such a judgment or decision.</p>			

<b>14.</b>	<b>Personal data</b>	<b>Controller</b>	<b>Purposes</b>
	Special category data	Any person discharging a protective function	Properly discharging the protective function
<b>Conditions</b>			
<p>The processing –</p> <p>(a) needs to be carried out without the data subject's consent in order not to prejudice the purpose listed above, and</p> <p>(b) is in the public interest.</p>			



15.	<b>Personal data</b> Special category data	<b>Controller</b> A police officer	<b>Purposes</b> Exercising or performing any function conferred or imposed on the police officer by any rule of law or customary law
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16.	<b>Personal data</b> Special category data	<b>Controller</b> Public authority	<b>Purposes</b> Identifying or assessing the risk to the Bailiwick of money laundering, terrorist financing, breaches of international sanctions or other forms of financial crime.
<b>Conditions</b> The processing needs to be carried out in order to maintain the reputation and standing of the Bailiwick.			