

## DATA PROTECTION REGULATION (GUERNSEY) UNIT - SYLLABUS

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## ELEMENT 1 – BACKGROUND TO THE CURRENT DATA PROTECTION ENVIRONMENT

### 1.1 - INTRODUCTION TO DATA PROTECTION

The candidate should:

- 1.1.1 understand the need for data protection in the modern world
- 1.1.2 understand the reasons why the misuse of data is undesirable
- 1.1.3 understand the roles that information security and governance play in data protection

### 1.2 - EU DATA PROTECTION DIRECTIVE (95/46/EC)

The candidate should:

- 1.2.1 know that the pre-existing data protection legislation in the European Union was implemented on the basis of the Directive
- 1.2.2 understand that as a Directive the provisions had to be incorporated into national legislation by each member state and that derogations were available from certain provisions (*Article 32*)
- 1.2.3 know the object and scope of the Data Protection Directive (*Articles 1 to 4*)
- 1.2.4 know the principles relating to data quality (*Article 6*)
- 1.2.5 know the data processing requirements, including confidentiality and security (*Articles 7 to 9, 16 & 17*)
- 1.2.6 know the information to be provided to a data subject and their right to access data (*Articles 10 to 12*)
- 1.2.7 know the exemptions and restrictions to the Directive (*Article 13*)
- 1.2.8 understand the data subject's right to object (*Articles 14 & 15*)
- 1.2.9 understand the need for a supervisory authority (regulator) and the information that needs to be supplied to them (*Articles 18 to 21 & 28*)
- 1.2.10 know the judicial remedies, liability & sanctions provided for in the Directive (*Articles 22 to 24*)
- 1.2.11 understand the provisions relating to transfer of personal data to third countries (*Articles 25 & 26*)
- 1.2.12 understand the requirement for Codes of Conduct (*Article 27*)
- 1.2.13 understand the supranational framework implemented by the Directive at an EU level (*Articles 29 to 31 & 33*)
- 1.2.14 know that The Data Protection (Bailiwick of Guernsey) Law, 2001 was largely based on the Data Protection Directive

*All Articles referred to in Element 1.2 relate to the EU Data Protection Directive (95/46/EC)*

### 1.3 - CHANGES IN THE DATA ENVIRONMENT – DRIVEN BY THE EU

The candidate should:

- 1.3.1 understand how increased use of the internet & mobile devices has changed the data environment since 1995
- 1.3.2 know that the Data Protection Directive is being replaced by the General Data Protection Regulation (GDPR)
- 1.3.3 understand that the extra-territorial provisions of GDPR were a key driver for equivalent legislation to be implemented in Guernsey

1.3.4

know that in Guernsey the new legislation is The Data Protection (Bailiwick of Guernsey) Law, 2017 as GDPR has no direct effect in Guernsey

## ELEMENT 2 – GENERAL PROVISIONS OF THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2017

### 2.1 - OBJECTIVES & SCOPE

The candidate should:

- 2.1.1 understand the objectives of the Regulation and its restriction to personal data (*Section 1*)
- 2.1.2 understand both the Material Scope and Territorial Scope of the Regulation (*Sections 2 to 5*)

### 2.2 - PRINCIPLES, PROCESSING & CONSENT

The candidate should:

- 2.2.1 understand the principles relating to processing of personal data and the duty to comply (*Section 6*)
- 2.2.2 understand the concept of lawful and fair processing (*Sections 7 & 8; Schedule 2*)
- 2.2.3 understand the compatibility of further processing (*Section 9*)
- 2.2.4 understand the concept of consent to processing (*Section 10*)
- 2.2.5 understand Anonymisation (*Section 11*)

### 2.3 – EXCEPTIONS, EXEMPTIONS, ORDINANCES & REGULATIONS

The candidate should:

- 2.3.1 understand the general exceptions and exemptions (*Section 96*)
- 2.3.2 understand the avoidance of certain contractual terms relating to health records (*Section 98*)
- 2.3.3 understand the circumstances in which Ordinances may be used (*Sections 103 to 108*)
- 2.3.4 understand the provisions relating to Regulations (*Section 109*)
- 2.3.5 understand the application of the Law to the Crown, Public Committees and the Police (*Schedule 1*)

### 2.4 - TRANSFERS OF PERSONAL DATA TO UNAUTHORISED JURISDICTIONS

The candidate should:

- 2.4.1 know the general prohibition on transfers of data to unauthorised jurisdictions (*Section 55*)
- 2.4.2 understand transfers made subject to appropriate safeguards and the binding corporate rules that may form part of such safeguards (*Sections 56 & 58*)
- 2.4.3 understand that transfers can take place on the basis of specific authorisation by the Data Protection Authority (*Section 57*)
- 2.4.4 understand other mechanisms that can lead to transfers of data (*Section 59*)

### 2.5 - REMEDIES, LIABILITY & PENALTIES

The candidate should:

- 2.5.1 know that a data subject has a right to lodge a complaint with the Data Protection Authority (*Section 67*)

- 2.5.2 understand the judicial remedies that may be sought against a data protection regulator, data controller or data processor; the right to representation of a data subject and the reasons why proceedings may be suspended (*Sections 81 to 95*)
- 2.5.3 understand Civil Proceedings (*Sections 78 to 80*)
- 2.5.4 understand the administrative fines and other penalties that may be imposed by the Data Protection Authority and their limits (*Sections 74 & 75*)

## ELEMENT 3 – THE REGULATOR: THE DATA PROTECTION AUTHORITY

### 3.1 - INDEPENDENT STATUS OF THE REGULATOR

The candidate should:

- 3.1.1 know that in Guernsey the regulator for Data Protection is The Data Protection Authority
- 3.1.1 understand the requirement for the data protection regulator to have independent status (*Section 62*)
- 3.1.2 know the constitution of the data protection regulator and its general functions (*Sections 60 & 61 & Schedule 6*)

### 3.2 – TASKS, POWERS & ENFORCEMENT

The candidate should:

- 3.2.1 know the general powers assigned to the data protection regulator (*Sections 63 & 64 & Schedule 7*)
- 3.2.2 understand the enforcement powers of the data protection regulator (*Sections 68 to 73, 76 & 77*)

### 3.3 – INTERNATIONAL COOPERATION

The candidate should:

- 3.3.1 know that the data protection regulator has a role to play in international cooperation and mutual assistance (*Sections 65 & 66*)
- 3.3.2 understand why international cooperation is important for Guernsey

## ELEMENT 4 – DATA CONTROLLERS & DATA PROCESSORS

### 4.1 - DEFINITION OF DATA CONTROLLER & DATA PROCESSOR

The candidate should:

- 4.1.1 know the definition of both “Data Controller” and “Data Processor” (*from Section 111*)

### 4.2 - GENERAL OBLIGATIONS OF DATA CONTROLLER & DATA PROCESSOR

The candidate should:

- 4.2.1 know the duties of the data controller and data processor and understand the concept of joint controllers (*Sections 30 to 31 & 33 to 36*)
- 4.2.2 understand the requirement for a representative where a controller or processor is not established in the Bailiwick in certain circumstances (*Section 38*)
- 4.2.3 understand the requirement to be registered and to pay a levy to be registered (*Sections 39 & 40*)
- 4.2.4 understand the requirement for data protection by design and default (*Section 32*)
- 4.2.5 understand the general requirements for processing and cooperation with the regulator (*Section 37*)

### 4.3 - SECURITY OF PERSONAL DATA

The candidate should:

- 4.3.1 understand the requirements for security of processing personal data (*Section 41 & 43*)
- 4.3.2 know the records & notifications required in case of personal data breach (*Section 42*)

### 4.4 - DATA PROTECTION IMPACT ASSESSMENT & PRIOR CONSULTATION

The candidate should:

- 4.4.1 understand the requirement for a data protection impact assessment (*Section 44*)
- 4.4.2 understand the requirement for prior consultation following a high-risk impact assessment (*Sections 45 & 46*)

### 4.5 - DATA PROTECTION OFFICER

The candidate should:

- 4.5.1 understand the designation and position of the data protection officer (*Sections 47 to 49*)
- 4.5.2 know the functions & duties of the data protection officer (*Sections 50 & 51*)

### 4.6 - CODES OF CONDUCT & CERTIFICATION

The candidate should:

- 4.6.1 understand the provisions relating to Codes of Conduct (*Section 52*)
- 4.6.2 understand the provisions relating to certification and the bodies that may award certification marks (*Sections 53 & 54*)

## ELEMENT 5 – RIGHTS OF THE DATA SUBJECT

### 5.1 – GENERAL PROVISIONS

- The candidate should:
- 5.1.1 understand the general provisions relating to the rights of the data subject (*Sections 25 to 29*)

### 5.2 – INFORMATION, ACCESS & PORTABILITY IN RESPECT OF PERSONAL DATA

- The candidate should:
- 5.2.1 know the information to be provided where personal data is collected from the data subject (*Section 12*)
  - 5.2.2 know the information to be provided where personal data is not obtained from the data subject (*Section 13*)
  - 5.2.3 understand the right to data portability (*Section 14*)
  - 5.2.4 understand the right of access by the data subject (*Section 15*)

### 5.3 - RECTIFICATION & ERASURE

- The candidate should:
- 5.3.1 understand the right to rectification (*Section 20*)
  - 5.3.2 understand the right to erasure (*Section 21*)
  - 5.3.3 understand the right to restriction of processing (*Section 22*)
  - 5.3.4 know the notification obligation for rectification, erasure and restrictions (*Section 23*)

### 5.4 - RIGHT TO OBJECT

- The candidate should:
- 5.4.1 understand the right to object to processing (*Sections 17 to 19*)

### 5.5 - AUTOMATED INDIVIDUAL DECISION-MAKING

- The candidate should:
- 5.5.1 understand the right to not be subject to a decision based on automated processing (*Section 24*)

### 5.6 - RESTRICTIONS

- The candidate should:
- 5.6.1 understand the restrictions that may be applied to the rights of a data subject (*Section 16*)