

## INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

### Privacy Notice

1. The Inquiry is an independent public inquiry exercising statutory functions in the public interest, established under the Commissions of Inquiry Act 1888 (**the Act**). The Inquiry is the data controller for your personal information. The scope and terms of reference of the Inquiry are set out on our website at <http://coircomp.gi/wp-content/uploads/2022/05/LN-2022034.pdf>.
2. The purpose of this privacy notice is to set out how the Inquiry will use your personal data; who it may be shared with; and your rights.
3. It is made under Articles 13 and/or 14 and Article 30 of the Gibraltar General Data Protection Regulation (**GDPR**) and Data Protection Act 2004 (**DPA 2004**).

### WHAT DATA THE INQUIRY NEEDS TO COLLECT, AND THE LEGAL BASIS FOR PROCESSING IT

#### Purposes of data collection

4. The purposes for which the Inquiry collects and processes your personal data are the effective conduct of the public inquiry into the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police in June 2020 by taking early retirement and discharging the Inquiry's duties pursuant to the Act.
5. The Inquiry is investigating the matters set out in its Terms of Reference and does so by means of a legal process within the framework of the Act. The Inquiry must process personal information for the purposes of its investigations and to enable it to carry out its work, including the conduct of hearings. Such hearings, except in exceptional circumstances and/or as mandated by law, will be held in public and so evidence (including witnesses' personal data) referred to at hearings will become publicly available.
6. Personal information (as defined in Article 4 of the GDPR) is used by the Inquiry in a number of ways – for example, to gather evidence as part of the Inquiry's investigation, to facilitate access to the Inquiry, to enable witnesses to give evidence and to communicate with you and keep you updated on the progress of the Inquiry. Personal information may also be contained in the Report of the Inquiry, which the Commissioner is to provide to the Government pursuant to Legal Notice 2022/034.
7. Personal information may also be used by the Inquiry to comply with the law and with contracts that the Inquiry has entered into.

#### Data collected

8. Personal data is collected, recorded and organised by the Inquiry. Typically, data will be requested by the Solicitor to the Inquiry, in the form of a letter and voluntarily disclosed by relevant individuals or organisations.
9. Personal data processed by the Inquiry can therefore comprise the personal data of:
  - Members of the public;
  - Core Participants, within the meaning of the Core Participants Policy;
  - Other witnesses providing evidence to the Inquiry who are not Core Participants;

- Contracted parties to the Inquiry.

10. The following is a non-exhaustive list of categories of personal data that will be processed in relation to the Inquiry's core function:

- Personal data – typically biographical data such as name, date of birth, personal description, contact details, images and voice recordings.
- Special category data – this will typically include data relating to health, data relating to race/ethnicity, religious beliefs and Trade Union membership. Some special category data may relate to children. In this regard, see the Appropriate Policy Document.
- Personal data relating to criminal convictions and offences – some data in relation to criminal convictions is processed, subject to strict controls. In this regard, see the Appropriate Policy Document.

11. The Inquiry keeps your data secure and only shares it with those who are required to see it as part of the legal process of the Inquiry. All personal information we receive is handled fairly and lawfully in accordance with data protection legislation.

12. Typically, personal data is held in digital format in IT systems with sufficient security standards. The details of the security arrangements are not set out in this Notice to avoid compromising the effectiveness of those arrangements.

## **Legal basis**

### Non-special category personal data

13. For data which does not fall within the definition of special category data (see below), the Inquiry will rely on the legal basis described below for processing.

14. When processing your personal data, the Inquiry will, at all times, consider whether the processing or disclosure of such data is necessary for the Inquiry proceedings and functioning:

#### *a. Core function of the Inquiry*

- The primary legal basis relied on for lawful processing by the Inquiry of personal data is Article 6(1)(e) of the GDPR, processing that is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. The Commissioner has official authority to perform the core function of the Inquiry in order to investigate the matters falling within the Inquiry's Terms of Reference (pursuant to section 3 of the Act).
- In respect of material provided to the Inquiry (in particular, by witnesses) where you as the data subject have given consent to the processing, Article 6(a) of the GDPR will also apply.

#### *b. Contracts*

- For providers of services to the Inquiry, the primary legal basis for processing your personal data will be Article 6(1)(b) (that it is necessary for the performance of a contract to which you are a party).

### Special category personal data

15. Special category, or sensitive, data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or

biometric data (where used for identification purposes), data concerning health or data concerning an individual's sex life or sexual orientation.

16. Processing by the Inquiry potentially extends to all types of special category personal data, but most typically will involve information relating to health and political opinions.

17. In addition to the legal bases for processing personal data generally, outlined above, the legal bases for processing special category data pursuant to Article 9 of the GDPR are:

- That processing is necessary for reasons of substantial public interest (Article 9(2)(g) of the GDPR, read with Schedule 1, paragraph 6 of the DPA 2004), namely the exercise of a function conferred by an enactment/rule of law (the Act), to the extent that it is necessary; and
- That the explicit consent of the data subject (where applicable) has been obtained (Article 9(2)(a) of the GDPR).

#### Criminal conviction personal data

18. Where data relating to criminal convictions/offences is concerned, the lawful basis for processing is article 10 of the GDPR and section 12(5) and Schedule 1, paragraph 6 of the DPA 2004. Namely, data will be processed where it is necessary for the exercise of a function conferred on the Act.

### **WHO WE SHARE YOUR DATA WITH AND WHY**

19. As the Inquiry is publicly accessible, your personal data may be shared with anyone following the proceedings, including the press, when given in evidence. There are clear processes, including robust redactions processes, in place which govern the protection of your personal data. This is to ensure that - save where consent is provided by you, the data subject - only data necessary for the Inquiry's performance of its functions will be disclosed outside the Inquiry or to those instructed by the Inquiry.

20. During the course of undertaking the statutory duties of the Inquiry, your data may be shared by the Inquiry with the following main groups:

- The Commissioner
- Counsel and Solicitors to the Inquiry
- Recognised legal representatives of individuals, corporate bodies and Government bodies and agencies designated as Core Participants in the Inquiry
- Core Participants in the Inquiry
- Expert Witnesses appointed by the Inquiry
- Assessors appointed by the Inquiry
- The HM Government of Gibraltar's Information Technology and Logistics Department, through their provision of IT services
- Third party data processors (such as providers of IT infrastructure or services and the operators of the Inquiry website)
- The public via the Inquiry website or via published reports

21. The majority of personal data submitted to the Inquiry is transferred to IT systems operated by third party Data Processors for the purposes of storing, reviewing and analysing documents and information.

22. The Inquiry has appropriate measures in place with its data processors, which means they cannot do anything with your personal information unless the Inquiry has instructed them to do it. They will not share your personal information with any organisation apart from the

Inquiry, or as directed by the Inquiry. They will hold your data securely and retain it for the period the Inquiry requires.

23. At the conclusion of the Inquiry, data that is to be retained as part of the historic record will be stored by the Secretary to the Inquiry in a suitable location to be designated, although any personal data included will continue to be protected.

24. We may also share data where we are under a legal obligation to do so, or where it is necessary to assist with a criminal investigation.

### **How long will the Inquiry keep your data for?**

25. Personal data will be held by the Inquiry until the conclusion of the Inquiry. At the end of the Inquiry, some of the personal data held by the Inquiry will – where it is considered to form part of the historic record – be transferred by the Secretary to the Inquiry for the purposes of indefinite retention of Inquiry records to a suitable location to be designated.

26. Personal data that is not required for archiving purposes will be destroyed.

### **Your rights**

27. Your rights are as follows:

- You have the right to request information about how your personal data is processed, and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that any incomplete personal data is completed, including by means of a supplementary statement.
- You have the right to request that your personal data is erased if there is no longer a justification for them to be processed.
- You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.
- Where we are relying on your consent, you have the right to withdraw consent to the processing of your personal data at any time.
- If we are not relying on your consent, you may have the right to object to the processing of your personal data. Any objections will be considered in the context of the Inquiry's statutory duties and the necessity of processing personal data for that purpose.
- Where we are relying on your consent, or a contract with you, you have the right to request a copy of any personal data you have provided, and for this to be provided in a structured, commonly used and machine-readable format.

28. The rights and obligations set out in this Notice may be subject to exemptions or limitations, to the extent authorised by the GDPR and the DPA 2004 (including paragraph 10 of Part 2, Schedule 2), to be applied on a case-by-case basis.

### **International transfers**

29. Your personal data may be transferred and stored securely outside of this jurisdiction.

30. Where that is the case it will be subject to equivalent legal protection through the use of Model Contract Clauses.

### **Complaints**

31. If you consider that your personal data has been misused or mishandled, you may make a complaint to the Gibraltar Information Commissioner, who is an independent regulator. The Gibraltar Information Commissioner can be contacted at:

Gibraltar Regulatory Authority  
2<sup>nd</sup> floor, Eurotowers 4  
1 Europort Road  
Gibraltar

Phone: [\(+350\) 20074636](tel:+35020074636)

Email: [info@gra.gi](mailto:info@gra.gi)

32. Any complaint to the Gibraltar Information Commissioner is without prejudice to your right to seek redress through the courts.

### **Contact details**

33. The data controller determines the purposes and means of processing personal data.

34. The Data Protection Officer provides independent advice and monitoring of the Inquiry's use of personal information.

35. The Inquiry is the lead data controller for your personal data. The HM Government of Gibraltar's Information Technology and Logistics Department acts as a joint data controller through provision of IT infrastructure services.

36. The Inquiry's Data Protection Officer is Maurice Turnock, the Secretary to the Inquiry. The Data Protection Officer can be contacted at: [maurice.turnock@coircomp.gi](mailto:maurice.turnock@coircomp.gi).

### **Review of this notice**

37. This notice will be regularly reviewed and may be subject to revision. Please visit our website to check for any updates.

**Issued under the authority of the Commissioner on XX July 2022**