

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

Special Category and Criminal Conviction Personal Data (the ‘Appropriate Policy Document’)

1. This is the “appropriate policy document” for the Inquiry into the Retirement of the Former Commissioner of Police (**the Inquiry**) that sets out how the Inquiry will protect special category and criminal convictions personal data.
2. It meets the requirement at paragraph 5 of Schedule 1 to the Data Protection Act 2004 (**DPA 2004**) that an appropriate policy document be in place where the processing of special category personal data is necessary for reasons of substantial public interest. The specific conditions under which data may be processed for reasons of substantial public interest are set out at paragraphs 6 to 28 of Schedule 1 to the DPA 2004.

Purposes of data collection

3. The purposes for which the Inquiry collects and processes 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 Commissions of Inquiry Act 1888 (**the Act**).
4. The Inquiry is investigating the matters set out in its Terms of Reference set out in the Commission of Inquiry dated 4 February 2022 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, will be held in public and so evidence (including witnesses’ personal data) referred to at hearings will become publicly available.
5. Personal information 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, to communicate with individuals to keep them updated on the progress of the Inquiry, and to manage Inquiry staff. Personal information may also be contained in the Report of the Inquiry.
6. Personal information may also be used by the Inquiry to comply with the law and with contracts that the Inquiry has entered into.

Procedures for securing compliance

7. Article 5 of the Gibraltar General Data Protection Regulation sets out the data protection principles. These are the Inquiry’s procedures for ensuring that the Inquiry complies with them.

Principle 1

8. Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject. The Inquiry will:

- ensure that personal data is only processed where a lawful basis applies, and where processing is otherwise lawful;
- only process personal data fairly, and will ensure that data subjects are not misled about the purposes of any processing; and
- ensure the transparency of processing, including via the information provided in the privacy notice published on the Inquiry website.

Principle 2

9. Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. The Inquiry will:

- only collect personal data for specified, explicit and legitimate purposes, and will inform data subjects what those purposes are in a published privacy notice; and
- not use personal data for purposes that are incompatible with the purposes for which it was collected (unless doing so is permitted by the relevant legislation).

Principle 3

10. Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.

11. The Inquiry will only collect and/or disclose the minimum personal data that it needs for the purpose for which it is collected and/or disclosed in accordance with the Inquiry's Protocol for Receipt and Handling of Documents, Redaction and Records Management. The Inquiry will ensure that the data it collects is adequate and relevant.

Principle 4

12. The Inquiry will ensure that personal data is accurate, and kept up to date where necessary. It will take particular care to do this where its use of the personal data has a significant impact on individuals.

Principle 5

13. Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed.

14. The Inquiry will only keep personal data in identifiable form until the conclusion of the Inquiry. At the end of the Inquiry, the Secretary to the Inquiry will transfer and store some of the personal data for the purposes of retention of the Inquiry records. Personal data that is not required for archiving purposes will be destroyed.

Principle 6

15. Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against

accidental loss, destruction or damage, using appropriate technical or organisational measures.

16. The Inquiry will ensure that personal data is shared only with those who are required to see it as part of the legal process of the Inquiry (which, as part of the Inquiry's duties under the Act, may include the public). The Inquiry will, at all times, consider whether the processing or disclosure of such data is necessary for its proceedings and functioning.

17. The Inquiry will ensure that appropriate organisational and technical measures are in place to protect personal data. These include robust redactions processes that govern the protection of personal data. These processes ensure that – save where consent is provided by the data subject – only personal data necessary for the Inquiry's performance of its functions will be disclosed outside the Inquiry or to those instructed by the Inquiry.

18. The Inquiry's Protocol for Receipt and Handling of Documents, Redaction and Records Management sets out how documents will be handled by the Inquiry, including measures on redaction, records management and security.

Accountability principle

19. The controller shall be responsible for, and be able to demonstrate compliance with, these principles.

20. The Secretary to the Inquiry is the Senior Information Risk Owner for the Inquiry who is responsible for ensuring that the Inquiry is compliant with these principles.

21. The Inquiry will:

- ensure that records are kept of all personal data processing activities, and that these are provided to the Information Commissioner on request;
- carry out a Data Protection Impact Assessment for any high-risk personal data processing, and consult the Information Commissioner if appropriate;
- appoint a Data Protection Officer to provide independent advice and monitoring of the Inquiry's personal data handling, and ensure that this person has access to the Chairman of the Inquiry; and
- have in place internal processes to ensure that personal data is only collected, used or handled in a way that is compliant with data protection law.

Data controller's policies as regards retention and erasure of personal data

22. The Inquiry will ensure, where special category or criminal convictions personal data is processed, that:

- there is a record of that processing, and that that record will set out, where possible, the envisaged time limits for erasure of the different categories of data; and
- where it no longer requires special category or criminal convictions personal data for the purpose for which it was collected, it will delete it or render it permanently anonymous; and
- data subjects receive (via the privacy notice) full privacy information about how their data will be handled, and that this will include the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

Further information

The Inquiry is a data controller. The Inquiry's Data Protection Officer is Maurice Turnock. The Data Protection Officer can be contacted at: maurice.turnock@coircomp.gi.

Issued under the authority of the Commissioner on 22 September 2022