

Data Protection Policy

December 2020

Version Number: 1.0



Policy & Economic Development Unit
Falkland Islands Government

Directorate

Policy & Economic Development

Publication Reference

Document Purpose	Guidance
Document Name	Data Protection Policy
Author	Chloe Anderson-Wheatley
Publication Date	
Target Audience	FIG Directors; FIG Heads of Service, All FIG Employees
Description	Advice on data protection for FIG's records
Superseded Documents	
Timing/Deadlines	
Contact Details	Chloe Anderson-Wheatley Records Manager & Policy Officer Policy & Economic Development Unit The Secretariat Thatcher Drive, Stanley

Document Status

This is a controlled document. Whilst this document may be printed, the electronic version which has been posted on Intranet is the controlled copy. This should not be saved onto local or network drives but should always be accessed from the Intranet.

Contents

1	Introduction	4
2	Definitions.....	4
3	Background	5
4	Roles and Responsibilities.....	5
5	Data Protection Principles	6
5.2	General Provisions.....	7
5.3	Lawful, Fair & Transparent Processing.....	7
5.4	Lawful Purposes	7
5.5	Data Minimisation.....	8
5.6	Accuracy	8
5.7	Retention.....	8
5.8	Data Security	8
5.9	Data Breach	9
6	Distribution and Implementation	9
7	Associated Documentation.....	10
8	Version Control Tracker	10
9	Appendices.....	11
	Appendix 1: Exempt Information.....	11

1 Introduction

- 1.1 All Falkland Islands Government (FIG) staff members must ensure that they are familiar with the contents of this policy, which outlines the standards of practice for managing personal data.
- 1.2 All organisations need to keep records, and the public would rightly expect that FIG maintains records on its activities and decisions that affect the social, economic and political development of the Islands.
- 1.3 Over the course of government procedures, the processing of personal data may be required for administrative, legal or business reasons.
- 1.4 The purpose of this policy is to provide guidance on how personal and special categories of data are to be managed by FIG, as a matter of best practise following recent legislative changes in the UK.

2 Definitions

- 2.1 For the purposes of this policy, the following definitions are applicable.

Controller: *person or entity determining the purpose and means of processing personal data (this includes an organisation and an individual).*

Data Breach: *Accidental or unlawful destruction, loss or alteration, unauthorised disclosure of access of personal data.*

Data Subject: *living individual who is the subject of the data.*

FIGO: *Falkland Islands Government Office, UK*

GDPR: *General Data Protection Regulations.*

ICO: *Information Commissioner's Office.*

Personal Data: *information relating to an identifiable living individual.*

Processing: *Operation performed upon personal data. This includes the collection; organisation; altering; consultation; using; disclosing; final destruction; storage and retention of data.*

Processor: *person or entity that processes data on behalf of controller (this includes any outsourcing related to personal data).*

Record: *information created, received and maintained as evidence and as an asset by an organisation or person, in pursuit of legal obligations or in the transaction of business (BS ISO 15489-1:2016).*

Special Categories of Personal Data: *data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation and criminal convictions.*

Responsible Officer: *in the absence of a Data Protection Officer, this refers to the Chief Executive.*

3 Background

- 3.1 The Data Protection Act 2018 is an Act of UK Parliament which regulates the processing of personal data relating to living individuals, including the obtaining, holding, use or disclosure of such information. In May 2018 the Act was passed by Parliament to repeal the previous Data Protection Act 1998, and supplement the GDPR to provide tighter controls on the management of personal data; including destruction and access to individual's information.
- 3.2 There is currently no Data Protection legislation in force in the Islands; the previous Data Protection Ordinance was repealed in 2012.
- 3.3 GDPR does not automatically apply directly to British Overseas Territories. However, GDPR is listed as a matter of good practice until appropriate legislation has been developed and approved.
- 3.4 As a data controller, FIG will take actions as necessary to comply with legal and professional obligations set out for personal information and data.
- 3.5 Failure to comply with the spirit of the above regulations could result in reputational damage for FIG. This policy applies to all FIG employees who process personal data.

4 Roles and Responsibilities

- 4.1 The Chief Executive through the Directors is the accountable officer responsible for safeguarding and managing personal data stored processed within FIG.
- 4.2 Directors are responsible for ensuring that the personal data which their Directorate processes is managed in accordance with this policy.

- 4.3 The responsible officer has responsibility for ensuring that FIG meets any statutory responsibilities under GDPR and Data Protection Act 2018, and strives to ensure compliance with the spirit of that legislation by applying this policy.

5 Data Protection Principles

- 5.1 FIG will endeavour to adhere to the following data protection principles as listed under Article 5 of GDPR the following principles.

Personal data shall be:

- a. processed lawfully, fairly and in a transparent manner in relation to individuals;
- b. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- c. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d. accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that is accurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals;
- f. 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.

5.2 General Provisions

- 5.2.1 This policy applies to all data processed by FIG and its Directorates.
- 5.2.2 Falkland Islands Government Office (FIGO), based in the UK, has formerly signed up to the ICO as it is an organisation that processes personal data and is directly subject to GDPR and Data Protection regulations in some respects.
- 5.2.3 This policy will be reviewed annually to ensure that it remains fit for purpose and covers the latest legislation.

5.3 Lawful, Fair & Transparent Processing

- 5.3.1 FIG will process all personal data in a lawful, fair and transparent way.
- 5.3.2 Individuals have the right, in accordance with this policy and Access to Information Code of Practice 2016, to access their personal data held by FIG and to ensure it is accurate. Requests to access personal data should be made via writing or email to the government officer responsible for the area of FIG concerned. If this is unclear then requests can be sent to the Director so that it can be passed to the relevant person.
- 5.3.3 Any such requests shall be dealt with in a timely manner by the relevant FIG Directorate. As per Access to Information Code of Practice, FIG will: Acknowledge any requests received within 3 working days of receipt; Respond to requests within 20 working days.

Should the request require extensive research then the individual will be contacted with an explanation and may be subject to a fee.

- 5.3.4 FIG reserves the right to refuse disclosure of personal data if the request covers exempt information [Appendix 1], and may refuse disclosure in other circumstances where the reason for refusal overrides the policy to disclosure; FIG will regard the guidance issued by the ICO when making such decisions.

5.4 Lawful Purposes

- 5.4.1 Personal data collected by FIG will be based on the following lawful purposes: consent, contract, legal obligation, vital interests, public task or legitimate interests.
- 5.4.2 Sensitive personal data may be collected by FIG on the following reasons: explicit consent; vital interest; medical diagnosis; public health; historical/scientific/statistical purposes.

5.4.3 Where consent is the lawful basis for processing data, evidence of opt-in consent shall be kept with the personal data.

5.5 Data Minimisation

5.5.1 FIG shall ensure that personal data is adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

5.6 Accuracy

5.6.1 Reasonable steps to ensure personal data relating to a data subject is accurate.

5.6.2 When required for lawful processing purposes, FIG will put measures in place to keep data up to date and relevant.

5.7 Retention

5.7.1 To ensure that personal data is retained for the appropriate period of time, FIG will follow Directorate retention schedules.

5.7.2 Retention schedules will include the following details: period of time for which records and personal data should be retained; the legal/administrative reasons for storing this data; and the appropriate method of destruction once the retention period is complete.

5.7.3 These schedules are reviewed to ensure that the information remains up to date.

5.7.4 An individual can request for personal data held by FIG to be deleted, otherwise known as the right to erasure, based on certain circumstances. FIG will consider requests if: data is no longer needed for primary purpose it was collected; no longer legally obliged to retain data; there is no prejudice against scientific or historical research, or archiving that is in the public interest.

5.8 Data Security

5.8.1 Personal data and information will only be accessed by authorised persons who have appropriate reasons for viewing or processing data.

5.8.2 Measures will be put in place to ensure that access is controlled and stored in secure and appropriate environments. This is to mitigate the risk of personal information being shared with unauthorised persons.

5.8.3 Data will be securely and safely destroyed so that personal data, in particularly personal sensitive data, is irretrievable once this process is complete.

5.8.4 Appropriate back-up and disaster recovery solutions shall be in place.

5.9 **Data Breach**

5.9.1 In event of data breach, where applicable the relevant authorities will be notified.

5.9.2 If the breach affects data stored or processed at FIGO, then FIG will work with them to assess the risk to people's rights and freedoms and if appropriate report this breach to the ICO.

6 Distribution and Implementation

6.1 This document will be made available to all staff via the FIG Intranet.

6.2 A notice will be sent to all Directors and Heads of Service informing them of the documents release.

7 Associated Documentation

- 7.1 To find out more information on GDPR and Data Protection, visit the ICO's website at: <https://ico.org.uk/>
- 7.2 The following documents, available on Intranet, will provide additional information:

Title	Version
Falkland Islands Government Access to Information Code of Practice	2016 Edition

8 Version Control Tracker

- 8.1 Version control information is as follows:

Version Number	Date	Author Title	Status	Comment/Reason for Issue
1.0	09.12.2020	Records Manager	Approved	New Policy ExCo Approval – 188/20

- 8.2 The Policy & Economic Development Unit is responsible for overseeing and updating the version control amendments for this document.
- 8.3 This policy will be reviewed annually to ensure that it remains fit for purpose and covers the latest legislation.

9 Appendices

Appendix 1: Exempt Information

This Appendix sets out the categories of information that are exempt from disclosure.

It is the same categories of exempt information that is set out in Schedule 3 of the Committees (Public Access) Ordinance 2012.

Paragraph Number in Schedule 3	Category Heading	Conditions and Rules
7	Information about Individuals	Information is exempt information if it is information about an individual who is: <ul style="list-style-type: none">• an employee of FIG or a public body,• an applicant for employment with FIG or a public body• a prospective employee of FIG or a public body• an occupier or former occupier of accommodation provided or funded by FIG or a public body• an applicant for accommodation provided or funded by FIG or a public body• a potential or prospective occupier of accommodation to be provided by or funded by FIG or a public body• (or has been) receiving a service from FIG or a public body• an applicant for a service provided by FIG or a public body• a potential receiver of a service from FIG or a public body• an applicant for financial assistance provided by FIG or a public body• (or has been) receiving financial assistance from FIG or a public body• a potential receiver of financial assistance from FIG or a public body
8	Information about Children	Information about adoption, care fostering, supervision, or education of an individual child

9	Information about others' financial and business affairs	Information about the financial or business affairs (or contemplated financial or business affairs) of a particular person unless it is information that is required to be registered under the Companies Act, Banking Ordinance, Co-operative Societies Ordinance and Offshore Minerals Ordinance
14	Information about the identity of a protected informant	Information about the identity of a person giving (or who has given) information tending to show that there has been or about to be: <ul style="list-style-type: none"> • a criminal offence • a breach of statutory duty • a breach of planning control • a nuisance And the information could be used to identify that person

