

PRIVACY POLICY

DEPARTMENT OF IMMIGRATION AND HOME AFFAIRS

This Privacy Policy explains how the Department of Immigration and Home Affairs (“DIHA”, “we”, “us”, “our”) collects, uses, discloses and protects personal information as a Data Controller in accordance with the Gibraltar General Data Protection Regulation (“Gibraltar GDPR”), the Data Protection Act 2004 (“DPA 2004”) and the Data Sharing (Public Authorities) Act 2021. We are committed to protecting your privacy and handling your personal information responsibly.

In this Privacy Notice when we refer to “**Personal data**” we are referring to any information relating to you as an identified or identifiable natural person (“**data subject**”). When we refer to “**Processing**” we are referring to any operation or set of operations which is performed on personal data or on sets of personal data whether or not by automated means (although we do not use automated means). Processing includes for instance, collecting, recording, organising, structuring and storage of data, amongst other actions.

Whilst we are based and provide services in Gibraltar only, you should note that if you live or work outside Gibraltar, other laws (including the EU GDPR) may be applicable to you.

About us

DIHA, as a government department is a “competent authority” as defined in s.39 DPA as read with Schedule 7 of the Data Protection Act. As an organisation we are required to discharge various statutory functions and powers as delegated by the Principal Immigration Officer, by virtue of various enactments.

Why do we collect information about you

We act as Data Controller of your personal information for the purpose of providing services to you in relation to local and international immigration legislation, including for the following purposes:

- Apostilling documents;
- Issuing and renewing Gibraltar passports;
- Issuing ID cards and Civilian Registration Cards;
- Processing Applications for Gibraltarian Status, Gibraltar visa applications and BOTC Visa
- Conducting biometric enrolment for UK visa applicants;
- Processing Permits of Residence;
- Managing Permanent Residency applications;
- Handling citizenship and nationality matters;
- Registering marriages and civil partnerships;
- Registering births and deaths; and
- Maintaining civil status and identity records.

The type of Personal Information we collect

Throughout your interactions with us, we will require and collect various different types of personal information which pertains to you. However, we will generally collect the following basic types of personal information for the purposes identified above:

- Basic details & Identifiers (for example, your name, date of birth, and place of birth and nationality);
- Contact information (for example, address, contact number, email address and phone numbers);
- ID Card or Passport number (along with the expiry date and country of issue for that identity document, including previous Passport details);
- Proof of Citizenship including birth certificates;
- Proof of Residence (for example, Property Deeds/Assignments, utility bills and other relevant Land Property Services documentation);
- Personal photographs;

- Travel history;
- Marriage certificates;
- Documentation with respect to changes of Civil Status, including but not limited to: Divorce certificates , Deed polls, Court orders and Statutory Declarations Financial information (where necessary for payment purposes); and
- Any other information necessary for providing our public service, including any information we require from you to assess your entitlement.

In addition to the above, we will also collect and store, information which we are compelled under Gibraltar GDPR to treat with greater care than basic personal data ("**Special Category Data**"):

- Your racial or ethnic origin;
- Death certificates;
- GRC/Medical evidence (where relevant for change of sex applications);
- Health and medical information (private medical insurance details and medical history where relevant); and
- Previous convictions (where relevant).

Generally, we will process personal information in a variety of formats, including paper records, electronically on computer systems and in video and audio files.

How we collect personal information about you

We collect personal information about you in a number of ways:

- Information you provide to us directly when you use our services, whether in person, by telephone or by emails;
- Information provided to us by other competent authorities;
- Information we receive from third parties, such as third party service providers and healthcare providers;
- Information collected via CCTV footage for the purposes of keeping our premise secure; and
- Information gathered from publicly available sources.

How do we use your information and what is the legal basis?

How we use your information

We may use your personal data for the purposes identified above, in addition we may use your personal data to:

- verify your identity and prevent user fraud; and
- monitor and improve the services that we provide to you.

What is the legal basis?

As a Data Controller, we must establish and publish the lawful basis which we rely on for processing the personal data we have noted above. We will only use your personal data for the purpose for which we collected it, specifically to discharge our public function as a government department.

Our lawful basis for processing your personal data is Article 6(1)(e) of the Gibraltar GDPR, which allows for processing that is necessary for the performance of a task carried out in the public interest. Additionally, we also rely on section 10(d) of the Data Protection Act 2004 processing that is necessary for the exercise of a function of a Minister or a government department.

Whenever we process your personal data we ensure that we:

- process it lawfully, fairly and in a transparent manner;

- collect it only for valid purposes that we have clearly explained to you and not use it in any way that is incompatible with those purposes;
- hold accurate records and where possible keep your personal data up to date;
- keep it only as long as necessary for the purposes we have told you about; and
- keep it safe and secure, to limit the potential of a personal data breach.

Who do we share your personal information to?

We do not normally share or disclose your personal data with any third parties. However, we may share when necessary to assist in the prevention, investigation, detection or prosecution of criminal offences, and in order to prevent fraud or assist in the recovery of public debt. We may share your data if we are required to do so by law (for example complying with a court order) or to assist law enforcement bodies in the prevention, investigation, detection or prosecution of criminal offences.

Accordingly, we may share your personal information with the following parties:

- Regulatory bodies, auditors, and legal advisors;
- Our Data Processors who process data on our behalf; and
- Law Enforcement Agencies.

We may transfer your data outside of Gibraltar but would only do so if:

- specifically directed by you;
- necessary to comply with a legal obligation or criminal investigation' or
- upon the request of His Majesty's Passport Office

In the event that we do share your personal data, we will use reasonable endeavours to procure that the recipient country or organisation offers the same levels of protection to your Personal Data as the Gibraltar GDPR and the Data Protection Act 2004.

International Data Transfers

In certain circumstances, we may transfer your personal information to countries outside of Gibraltar. Generally, we will only transfer your data to the United Kingdom. Under the Data Protection Legislation in Gibraltar, personal data can flow freely from Gibraltar to the United Kingdom or to the EEA (although the same may not be true for inward transfers to Gibraltar, as Gibraltar is no longer a member of the European Union).

We will generally not transfer your personal information to a "*third country*" outside of the EEA or the United Kingdom. However, should the need arise, we will only perform such transfer where the transfer will be adequately protected by measures such as the following:

- Where the transfer is to a country deemed "adequate" under Gibraltar Legislation; and
- Where 'appropriate safeguards' are provided such as:
 - Binding corporate rules;
 - Standard data protection clauses are made;
 - Approved codes of conduct; or
 - Approved certification measures.

In the absence of any of the above safeguards we may also rely on derogations for specific situations as set out in Article 49 Gibraltar GDPR, in particular:

- With your explicit consent;
- For important reasons of public interest;
- For the establishment, exercise or defence of legal claims; or

- To protect your vital interests or those of a third party (where you are not physically or legally incapable of giving consent).

Finally, we may also perform restricted transfers in 'one-off' cases where a transfer is not repetitive, concerns a limited number of data subjects, and is necessary for the purposes of compelling legitimate interests pursued by us, which are not overridden by your interests or rights and freedoms, and only after we have assessed all relevant circumstances.

How do we secure & maintain your information?

Under the Data Protection Act 2004 and the Gibraltar GDPR, strict principles govern our use of personal data and our duty to ensure it is kept safe and secure.

We are committed to taking appropriate measures which are designed to keep your personal data secure. Our technical, administrative and physical procedures are designed to protect personal data from loss, theft, misuse and accidental, unlawful or unauthorised access, disclosure, alteration, use and destruction.

With this in mind, your personal information is held both in paper and electronic formats.

Please rest assured that we have put in place appropriate security measures (such as password protection and access restrictions) to prevent your personal data from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. We also use encryption for the collection or transfer of sensitive personal data, such as your credit card details when making a payment.

All our records are restricted so that only those individuals who have a need to know can access the information. This might be through the use of technology or other environmental safeguards.

All our employees are subject to the common law duty of confidentiality. This means that any personal data about you will only be used in connection with the purpose for which it was provided, unless we have specific consent from you or there are other special circumstances covered by law. In order to ensure protection of your personal details we also have appropriate access restrictions and audit trails in place so that no one has unauthorised access to your personal data.

How long do we keep your information for?

We will retain your personal information in accordance with applicable laws and regulations and will only retain your personal data for as long as reasonably necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, regulatory, tax, accounting or reporting requirements. We will securely dispose of personal information when it is no longer required for the purposes stated in this Privacy Notice.

Please note that retention periods may be extended if we reasonably believe that there is a prospect of litigation in respect of our relationship with you.

To determine the appropriate retention period for personal data, we consider the amount, nature and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal, regulatory, tax, accounting or other requirements.

What rights do you have?

Under the Data Protection Legislation, we are required to inform you about the existence of the right to request from us access to and rectification or erasure of personal data or restriction of processing of personal data concerning you as a data subject, as well as your right to object to processing, your right to data portability, and your right to lodge a complaint with a supervisory authority. We explain each of these rights below.

Under the Data Protection Legislation in Gibraltar, if you are a natural person (in other words, a human being and not a company), you have the right to:

- (a) **receive information** about the processing of your personal data (and if you did not give it to us, information as to the source). This is the purpose of this Privacy Notice and any other privacy notices we prepare;
- (b) **request access** to your personal data (commonly known as a “**data subject access request**”). This enables you to receive a copy of the personal data we hold about you and certain supplementary information, in order for you to check that we are lawfully processing it;

If you wish to make a DSAR, please write to our Data Protection Officer on -

Email: dpo@gibraltar.gov.gi

Postal address: 7.3.03 Europort, Gibraltar, GX11 1AA

- (c) **request rectification** of incorrect, inaccurate, or incomplete personal data we hold. We want to ensure that your personal data is accurate and up to date. If any of the information that you have provided to us changes (e.g. if you change your email address or name) please let us know the correct details by contacting us on the details at the end of this notice;
- (d) **request, in certain cases, deletion** of your personal data when it is no longer needed or if processing it is unlawful (commonly known as the “**right to be forgotten**”);
- (e) **request, in certain cases, the restriction** of processing of your personal data. This enables you to ask us to suspend the processing of personal data about you if (i) you contest its accuracy and want us to establish its accuracy or the reason for processing it; (ii) the processing is unlawful but you do not wish to exercise your right of erasure; (iii) we no longer need the personal data for our purposes, but you require this to establish, exercise or defend legal claims; or (iv) you have exercised your right to object (see below) pending determination of whether legitimate interests override your rights and freedoms;
- (f) **request, in certain cases, the transfer** of your personal data to you or to a third party in a structured, commonly used, machine-readable format where this is technically feasible and does not adversely affect the rights and freedoms of others (commonly known as the “**right to data portability**”). This right is also limited to cases where processing is based on consent or on contract and is carried out by automated means;
- (g) **object to processing** of your personal data based on legitimate interests (or those of a third party) or on grounds of public task (including profiling based on those grounds) and your particular situation makes you want to object to processing;
- (h) **freedom from direct marketing** (commonly known as “**opting-out**”). Under the right to object, you may also object at any time to processing of your personal data for direct marketing purposes (including profiling to the extent that it is related to such direct marketing). This is an *absolute* right, in the sense that it is always available to you, and you can exercise this right at any time without restriction. You have a choice about whether or not you wish to receive direct marketing information from us. Please note however that we will not contact you for marketing purposes;
- (i) **freedom from automated decision-making, including profiling**. You may request that decisions based on automated processing concerning you or significantly affecting you and based on your personal data are made by natural persons, not only by computers (commonly known as “**human intervention**”). You also have the right in this case to express your point of view and to contest the decision. Please note however that we do not conduct any automated decision-making or profiling;

- (j) **withdraw your consent.** Where the legal basis for processing your personal information is your consent, you have the right to withdraw that consent at any time. However, this will not affect the lawfulness of any processing carried out before you withdraw your consent;
- (k) **raise a complaint with us** about how we have handled your personal data. We would appreciate the chance to deal with your concerns before you approach a supervisory authority so please contact us in the first instance using the details contained at the end of this notice; and to
- (l) **raise a complaint with a relevant supervisory authority.** Where we have not responded to you within a reasonable time or if you feel that your complaint has not been resolved to your satisfaction, you have a right to lodge a complaint with the Information Commissioner of Gibraltar (the “**Commissioner**”), which is the Gibraltar Regulatory Authority (“**GRA**”). You may contact the GRA on the below details:

Address:	Gibraltar Regulatory Authority, 2nd Floor, Eurotowers 4, 1 Europort Road, Gibraltar
Email:	info@gra.gi
Phone:	(+350) 200 74636
Fax:	(+350) 200 72166
Website:	www.gra.gi

Changes to this Privacy Notice

We may, from time to time, make changes to this Privacy Notice. Where we do so, we will notify the general public of our intention and of the amendments made to the Privacy Notice. Any amended notice will be effective immediately on the date stated therein.

Contact Information

We aim to meet the highest standards when collecting and using personal data. We encourage people to bring questions and concerns to our attention, and we take any complaints we receive seriously.

If you have any questions about this Privacy Notice or any of our privacy practices, or if you want to exercise any of your privacy rights, please contact our DPO on the details provided above.

Additional Information

Data Protection Officer: The Data Protection Officer (DPO) employed by HMGoG is responsible for monitoring our compliance with data protection requirements.

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