



Isle of Man
Government

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Gambling Supervision Commission

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Handling of DBS certificate information

Introduction

The Gambling Supervision Commission (GSC) is a Registered Body with the Disclosure and Barring Service (DBS). A Registered Body is an organisation that has registered with DBS to submit applications for a DBS certificate. Some Registered Bodies provide an 'umbrella' service to other organisations who are not registered themselves. However, the GSC does not provide an 'umbrella' service.

This policy sets out the standards and guidance for the secure storage, handling, use, retention and disposal of Disclosure and Barring Service (DBS) certificates and certificate information.

The DBS Code of Practice states that all registered bodies must have a written policy on the correct handling and safekeeping of DBS certificate information.

It also obliges Registered Bodies to make sure that a body or individual, on whose behalf they are countersigning applications, has a written policy. However, the GSC will only make DBS certificate requests for its own business purpose and will not be countersigning DBS forms for other organisations, known as an 'umbrella' service.

The GSC has a lawful basis to be a Registered Body and access the DBS information as per the UK Parliament's Police Act 1997¹ and Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010² (SI 2010 No. 1153). Further explanation is detailed below in the legislation section.

The GSC will require certain roles associated with an application or control of a gambling or cannabis cultivation licence to undergo certain entry control checks. As part of the entry control process the GSC may require a DBS certificate. Further details on the GSC roles, information processing and entry control can be found in the GSC's Integrity Guidance and Privacy Notice.

Legislation

The GSC is a statutory board as prescribed in the Statutory Boards Act 1987, Schedule 1.

Tynwald's Gambling Supervision Act 2010⁴ (GSA), Section 5(2) sets the regulatory objectives of the GSC, which are: to ensure that gambling is conducted in a fair and open way; to protect children and other vulnerable persons from being harmed or exploited by gambling; and to prevent gambling from being a source of, or associated with crime and disorder, or used to support crime.

The GSA, Section (2A) sets the regulatory objectives of the GSC to prevent the misuse of cannabinol derivatives, cannabis or cannabis resin.

¹ <https://www.legislation.gov.uk/ukpga/1997/50/contents>

² <https://www.legislation.gov.uk/uksi/2010/1153/contents/made>

³ http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1987/1987-0014/StatutoryBoardsAct1987_2.pdf

⁴ <https://www.gov.im/media/1349406/gambling-supervision-act-2010.pdf>

The GSC's lawfulness for processing under the Data Protection (Application of GDPR) Order 2018 (GDPR) is Article 6(c); where processing is necessary for compliance with a legal obligation, being obligations specifically prescribed to it within its legislation; and GDPR Article 6(e), where processing is necessary for the performance of a task carried out in the public interest or in the exercising of official authority.

The GSC has a lawful basis to make a DBS vetting application on behalf of a person as a Registered Body as defined in the Police Act 1997 and the Rehabilitation of Offender (Exceptions) Order 2001, further detailed below.

The Police Act 1997

The Police Act 1997 (Criminal Records) (Isle of Man) Order (SI 2010 No.764)⁵ extends Part V of the Police Act 1997 to the Isle of Man. Part V specifically refers to certificates of criminal records. It allows for the GSC as a Registered Body to make the application for a certificate on behalf of the applicant, upon receipt of an application.

The Rehabilitation of Offenders (Exceptions) Order

Parliament's Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010 (SI 2010 No. 1153) Paragraph 4, extends Article 6 of the Rehabilitation of Offenders Act 1974 to include exceptions for the Isle of Man in accordance with the Exceptions Order summarised below. This paragraph also provides the lawful basis for the GSC to request spent conviction information for certain roles. Further information on roles and level of entry control vetting can be found in the GSC's Integrity Guidance.

Tynwald's Rehabilitation of Offenders Act 2001 (Exceptions) Order 2018 (SD 2018/0327)⁶, Schedule 1, Part 3, includes that "Any occupation in respect of which an application to the Gambling Supervision Commission for a licence, certificate or registration is required by or under any enactment" is a regulated occupation, thereby providing an exemption from the requirement to omit spent convictions regarding certain roles held by people in the GSC-supervised gambling sector.

General Principles

As a Registered Body using the DBS checking service to help assess the suitability of applicants for positions of trust, the GSC complies fully with the Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information.

It also complies fully with its obligations under the GDPR, Data Protection Act 2018 (UK and IOM), the General Data Protection Implementing Regulations 2018 (IOM) and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information. The GSC's written policies are available to those who wish to see them on request.

Storage and Access

The GSC will not retain DBS certificates as there is no requirement or business need to do so.

⁵ <https://www.legislation.gov.uk/ukxi/2010/764/article/6/made>

⁶ <https://www.gov.im/media/1364160/20181220-therehabilitationofoffendersact2001-exceptions-order2018-18119.pdf>

The GSC will record a simple 'Trace' or 'No-Trace' on its customer relationship management system Atlas. Trace meaning a conviction was noted on the certificate and No-Trace meaning there was no return.

Atlas access is restricted to only users who need it and it sits within the Isle of Man Government's secure network.

If a conviction is deemed relevant to the GSC's regulatory objectives and statutory obligations, details of the event may be recorded in the data subjects KYC file. This is so the GSC can demonstrate it has assessed any risk, made a referral to its board and recorded a decision.

Handling

During the course of its duties, the GSC has no requirement or need to share your criminal conviction information or certificate with third parties.

In accordance with the DBS' handling requirements, the GSC makes data subjects aware that in accordance with section 124 of the Police Act 1997, should the GSC handle DBS certificate information, it would only be passed to those who are authorised to receive it in the course of their duties.

Usage

DBS certificate information is only used for the specific purpose for which it was requested. The GSC is clear in its Integrity Guidance as to the purpose the DBS information is used.

The GSC does not require all roles to obtain a DBS certificate. This is further explained on the GSC's Personal Declaration Forms and within the GSC's Integrity Guidance.

Data Protection

As the GSC is processing personal data to satisfy an obligation prescribed to it in law, it will not ask you for consent. Article 7(4) of the GDPR states that consent must be given freely. The meaning of consent is having a genuine choice. During the licensing and supervision of gambling and cannabis, it would be presumed that consent is not freely given as the applicant's information must be processed in order for the GSC to perform the function of licence, certification or registration approval.

The GSC Integrity Guidance – Gambling and Privacy Notice can be found – www.gov.im/categories/business-and-industries/gambling-and-e-gaming/application-forms-and-guidance-notes/ and Integrity Guidance – Cannabis and Privacy Notice can be found – <https://www.isleofmangsc.com/forms/> .

Retention

The GSC has a Retention and Destruction Schedule, which forms part of its Information Governance framework. The Schedule can be requested by contacting the Data Protection Officer – GSCDPO@GOV.im.

The GSC will not retain DBS certificates as it has no requirement to. The individual will be asked to provide the certificate and the GSC will record a 'Trace' or 'No-Trace'.

Disposal

The GSC does not retain DBS certificates.

The GSC will remove any criminal conviction information relating to you from GSC systems 6 years from the date you cease involvement with a gambling or medicinal cannabis licence, certification or registration.

You have full rights as a data subject under the GDPR.

DBS Logo

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This document can be provided in large print or as an audio recording on request