

Annual Report

2020

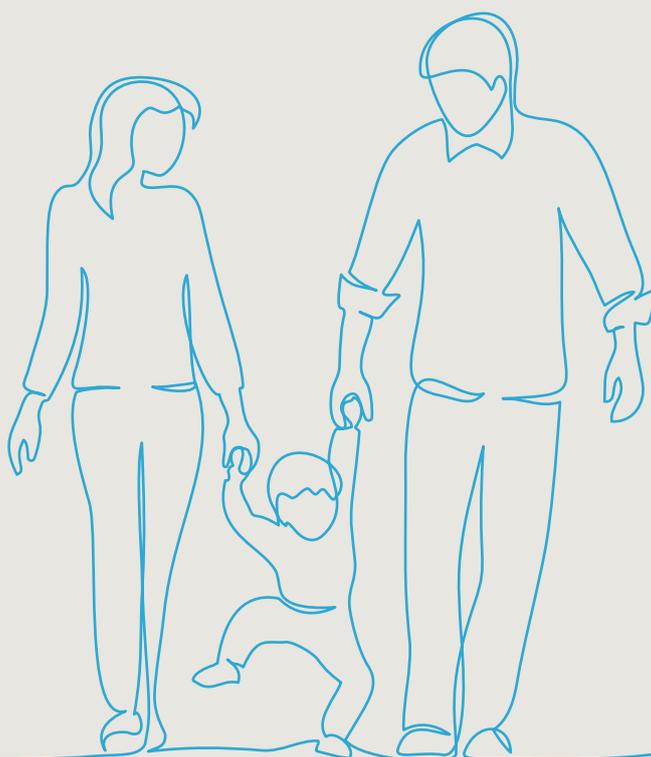
FOR THE PERIOD

1 Jan 2020 – 31 Dec 2020



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Foreword



Richard Thomas CBE

Chairman, The Data Protection Authority
(Bailiwick of Guernsey)

June 2021

With so many statutory duties and powers, it is vital that Guernsey's Data Protection Authority is - and is seen to be - effective. We have to achieve the right balance across functions which require us to help organisations get it right, to help individuals understand their rights, to take enforcement action where that is needed and to handle complaints. Simultaneously, we have to be Teacher, Police-officer and Ombudsman. Overall effectiveness means clear priorities, set out in a clear Strategy. More important, it means achieving the results which deliver those priorities.

This Annual Report demonstrates our effectiveness. It records, in some detail, what we have been doing to fulfil each element of our Strategy. The scene is set by the panoramic Introduction from Emma Martins, our Commissioner, which summarises the issues and challenges we face and the progress we have made.

Here, I will highlight just three features:

- protecting people and their data is primarily a **cultural activity** focusing on behaviours which make good sense, not legal box-ticking;
- we maximise our impact and our effectiveness by being as **transparent** as possible, not least through our excellent new website;
- our **independence** from those we regulate - both the commercial community and the States of Guernsey and the wider public sector - is fundamental.

It was not just the global pandemic which meant that 2020 was a tough year. Novel ways of remote working had to be swiftly adopted. We had to be pragmatic as organisations struggled with their own challenges. At the same time, it was a year of learning from early-years' experience, building up towards full strength and moving towards financial stability.

Our achievements – and our effectiveness – are due solely to the efforts of Emma Martins, the Senior Leadership Team and the staff. The ODPA may be a small organisation – one of the smallest Data Protection Authorities in the world – but it must have one of the most committed, well-trained and well-motivated teams to be found anywhere. I pay tribute also to my fellow Authority members who have made many invaluable contributions without interfering with operational performance.

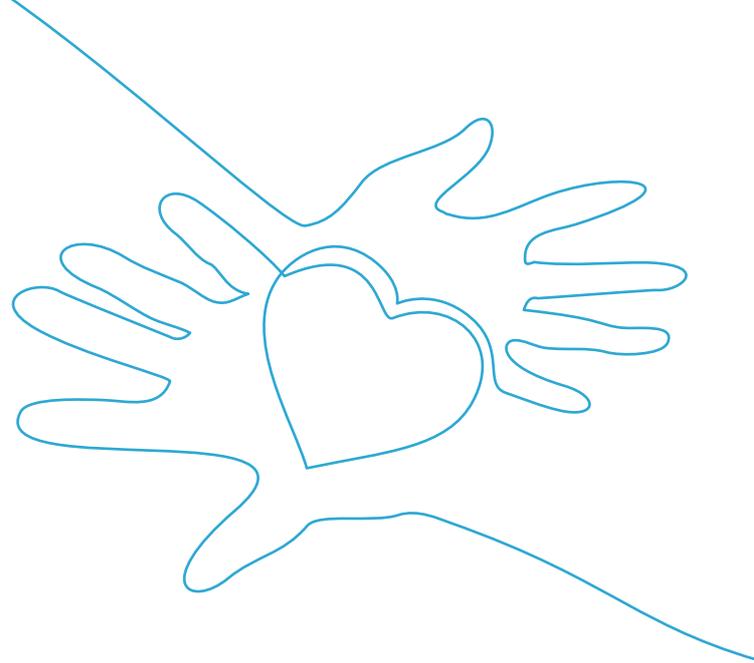
We can all be very proud of the results we are achieving.



Introduction



Emma Martins
Data Protection Commissioner
(Bailiwick of Guernsey)
June 2021



I am pleased to present this Annual Report for the Office of the Data Protection Authority for 2020 in accordance with the requirements of Schedule 6, para.13 of *The Data Protection (Bailiwick of Guernsey) Law, 2017 (the Law)*.

It is probably fair to say that we have had our fill of hyperbole this year, with so much talk of ‘unprecedented times’, ‘new normal’ and other vernacular which flourished during the pandemic. But, in reflecting on 2020, it is impossible to avoid stating the obvious, which is that it was as far from normal a year as I have ever experienced, both professionally and personally.

So, the first thing I want to acknowledge is the hard work and professionalism of the whole team at the ODPA who responded so fast and so efficiently when the pandemic first hit. As was the case across the whole community, every one of us faced different personal challenges whether having to spend long periods of time alone, care for others, or juggle the day job with home-schooling young children. I am enormously proud and grateful to each and every one of the team as well as our Authority Chairman and Members who have supported us all so well.

The public health crisis also shone a light on the role data plays in our lives. It became clear quite quickly that collection and use of data would form an essential part of the pandemic response for governments across the world, including our own. From contact tracing to vaccine passports, what underpins all these activities is the need for timely, accurate data and how that data are collected and used is crucial in determining how much trust and confidence we all have in the process and how good the outcomes will be.

Early on in lockdown, I heard Tristan Harris (from the Centre for Humane Technology¹) refer to the opportunity it presented for a ‘global sabbatical’, a sense that the pausing of certain areas of

our lives which we had previously been so busy with provided the chance for a bit more thought and reflection.

We have worked hard, since the setup of the office, to be purposeful in all that we do and to reflect on our role and how we can best deliver meaningful outcomes. So for us, this ‘sabbatical’ consisted of developing some of those earlier thoughts and this report contains details about how those thoughts have now translated into actions.

Publishing this report is a statutory duty for the Authority. The Law also requires us to include observations on whether the object of the law is being attained and, if not, to make recommendations for amendments to ensure it better meets its objectives.

But what is the objective of the Law? It is, of course, an important piece of legislation which provides for the free flow of data across borders meaning it has tangible economic benefits. But first and foremost both the GDPR and our own Law talk about the protection of people. So how do we go about assessing whether it has met that objective?

It is interesting to note that if the Authority is of the view that the Law is not meeting its objective, the Law itself points us to making recommendations for it to be amended. Of course, there are often administrative and technical amendments required with any legislation but we also need to be alive to the fact that if a law is not meeting its objective, there may be other things worth considering. One of those other things is, I firmly believe, the way in which data protection is generally viewed; looking at it though a cultural as well as a legal lens.

¹ Center for Humane Technology



If we all understand better where the problems are, we can predict them and we can prevent them.

To explain what I mean, I want to highlight a quote from the Hampton Report², a UK review of regulation from 2005 - “our regulatory system has the pivotal role in resolving the regular conflict between prosperity and protection.”

In one short sentence, this sums up what I consider one of the biggest challenges we face in the area of data protection - that it is seen as being in **conflict** with innovation, progress, prosperity. I can (and do) rail against the misleading perception that data protection stands in the way of such important goals, but railing won't help. A better use of my time and energy is to ask the question - how can we present a more meaningful and accurate picture of why the protection of our data matters and the benefits it can bring? If, as the 2005 Report argues, there is conflict, we, as regulators, need to do more than look to changing the law in response. If our community does not appreciate the need for good protection of data, no amount of law changes will help. What we need to do is reflect seriously on how we can better deliver those objectives by positively engaging organisations and individuals. There are lots of ways we can do this, including clearly articulating why data protection is an enabler, both economically and socially; helping organisations to recognise the commercial imperative to respect people's rights; and building a culture of respect as a jurisdiction which embeds data governance into everything that it does. If we do all that well, then we move beyond the sense that regulation is in **conflict** with prosperity and start to see it as a **precondition** of it.

Since the new Law came into effect, we have gained valuable experience about its workings across our community. We have seen the very real impact of data breaches on individuals, the details of which rarely enter the public domain. This has helped cement our aim to do all we can to **predict** and **prevent** harms from happening in the first place. We have also seen our regulated community embrace the new duties in respect of

reporting data breaches to us. This is not an easy thing to do, and I very much hope that this reflects the trust and confidence they are learning to have in this Authority. We are very grateful to them and are clear that the information we receive about breaches enables us to focus our support and guidance where it is most needed. One tangible example of which is the role of human error in breaches. In understanding how much of a part it plays, we can help raise awareness and encourage organisations to take steps to reduce risks.

This year has also seen a number of significant enforcement actions taken by the Authority as a result of complaints made to us. Understandably this has led to a degree of media interest and we have taken the deliberate decision to be as open and transparent as possible in all our activities, including regulatory action. That has probably been uncomfortable for those organisations. But the principle of openness in dealing with breaches of the Law is an important one because an environment of transparency and accountability encourages trust and confidence in us by those that make complaints. It also helps the regulated community understand the sorts of issues that may lead to regulatory action and, crucially, then work to prevent them from happening. If we all understand better where the problems are, we can **predict** them and we can **prevent** them.

As a relatively new office, we have deliberately taken each step in building an independent regulatory authority carefully. We recruit staff only when we can evidence a need and we invest in new IT and equipment only where we can evidence that they will help deliver better outcomes. We have limited resources and we are acutely aware that post-2020 our funding comes from our regulated community. We work to ensure that those resources are directed to where they will do the most good, mindful too of the significant challenges faced by all sectors throughout this difficult year.

² https://www.regulation.org.uk/library/2005_hampton_report.pdf

Introduction *continued*

Building a regulatory office which is absolutely independent from both governmental and commercial bodies is extremely important. Independence from government is crucial, not least because of the volumes and sensitivity of data held about citizens, often gathered on a mandatory basis. It is perhaps not surprising that the majority of complaints we receive relate to public sector bodies. We cannot be beholden, either financially or operationally, to anyone we regulate. Whilst we know that we fulfil our role without fear or favour, the public perception also matters. This means we need to be independent as well as being seen to be independent. Moving to a fully self-funded status may be strategically desirable but it is also logistically challenging. In building a fees regime for the Authority, (coming into effect post-2020) we have tried to be as fair as possible, seeking to avoid a complex fees regime which would be more costly and which risks distracting organisations from their important compliance duties. Much like getting a driving licence, it is the first administrative step in the process, but what really matters is how well you drive!

We recognise that additional financial obligations for our regulated community are largely unwelcome, especially at this difficult time, but we cannot do our job without being funded. Our government made the decision to bring this Law into force and this office has the duty to fulfil the functions set out in that Law. Our aim is to do so with the principles of integrity and accountability at the heart of everything we do.

In building an enlightened culture of compliance for our Bailiwick, we know that organisations will benefit, and people will benefit. That objective of culture change needs a good law to sit at its core, but it also needs a community around it that recognises and supports it. Our strategic plan sets the course for how we want to encourage that to happen, including an exciting and innovative social change initiative launching in 2021 and I very much look forward to updating further on that project. This is a long term vision for the Bailiwick and one which will ensure we remain a respected and trusted jurisdiction for data now and in the future.

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This is a long term vision for the Bailiwick and one which will ensure we remain a respected and trusted jurisdiction for data now and in the future.



About the Authority

The Office of the Data Protection Authority is the independent regulatory authority for the purposes of *The Data Protection (Bailiwick of Guernsey) Law, 2017* and associated legislation.

The Law creates the independent Data Protection Authority which is tasked with the development and implementation of the regulatory regime necessary to oversee the requirements of the Law. Comprising a Chairman and between four and eight Members, the Authority provides governance to the Office of the Data Protection Authority (ODPA).

The ODPA is the operational body that carries out the regulatory functions of the Law delegated by the Authority. These include recording data breaches, investigating complaints, running education programmes and examining proposed legislation and how it may affect individual privacy. The ODPA strives to empower individuals to exercise their rights as well as to support organisations to meet their compliance requirements and take action where they fall short.

The Office of the Data Protection Authority:



Empowers individuals and protects their rights



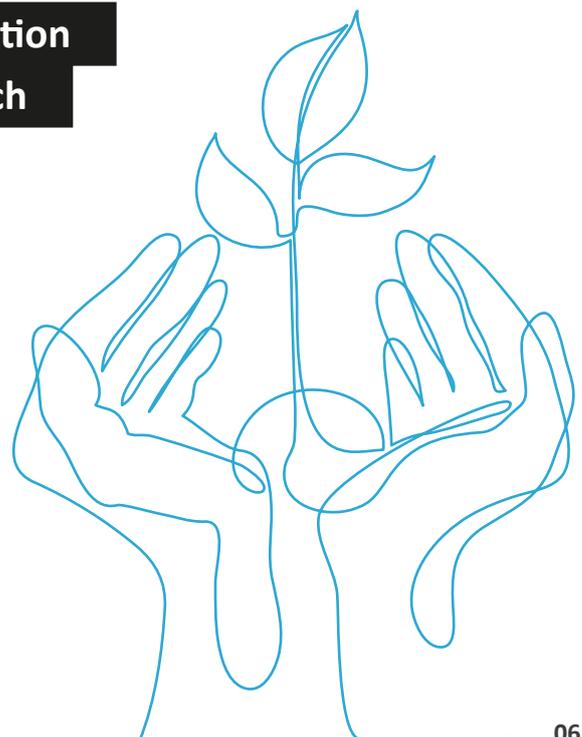
Promotes excellence in data protection



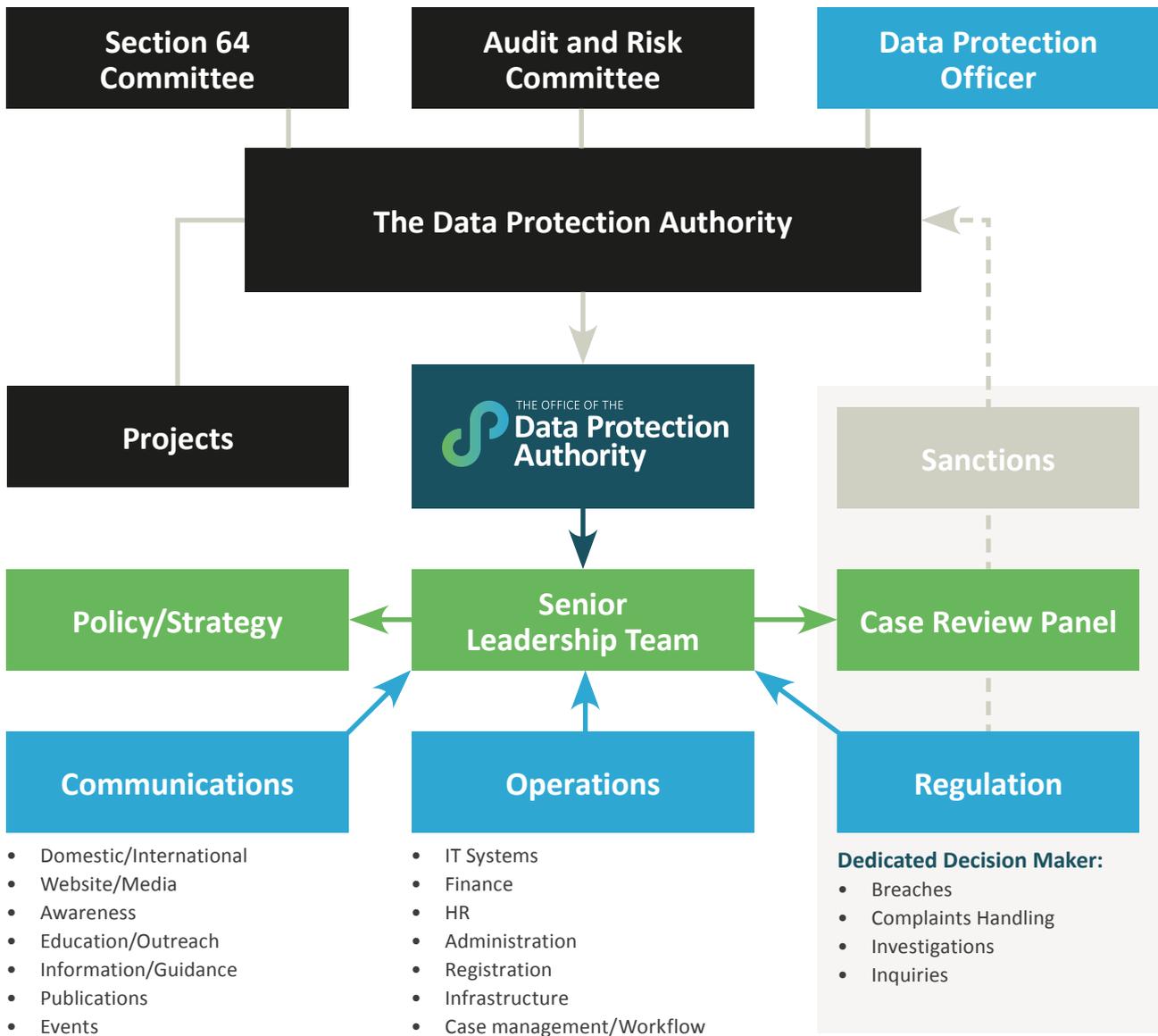
Supports the data economy to embrace innovation



Regulates data protection legislation through an ethics-based approach



Organisational chart



The Data Protection Authority

- Chairman – Richard Thomas CBE
- Voting Member – John Curran
- Voting Member – Christopher Docksey
- Voting Member – Simon Entwisle
- Voting Member – Mark Lempriere
- Voting Member – Jennifer Strachan
- Commissioner as *ex-officio* and non-voting Member – Emma Martins

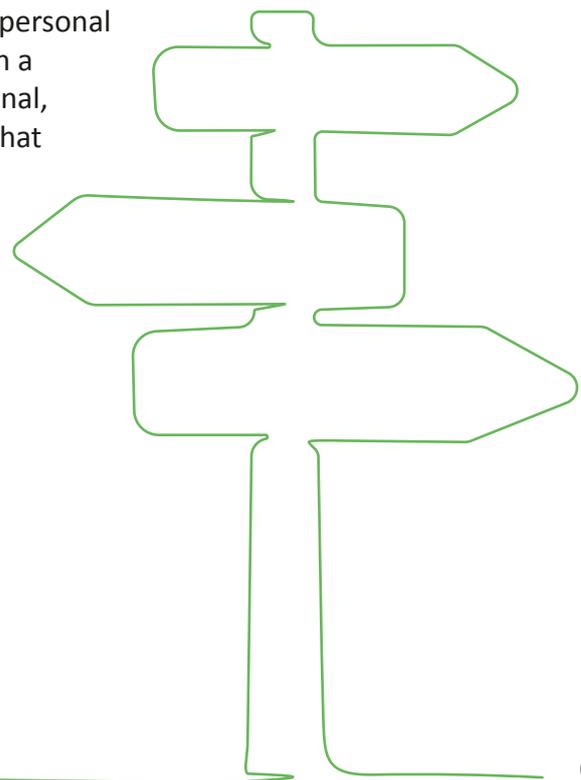
Strategic plan and activities

2020 was the first full year of operation under the ODPA Strategic Plan (2019-2022). The Plan sets out the ODPA's purpose and how it intends to deliver its regulatory objectives effectively and independently.

The ODPA's key strategic objectives below set out how it seeks to predict and prevent harms to individuals from poor handling of their personal data and ensure that detection and enforcement activities are proportionate and effective.

Key strategic objectives:

- 1** To develop the ODPA's capabilities to deliver on its enhanced statutory duties.
- 2** To be a relevant, responsive and effective regulator.
- 3** To support organisations in delivering their obligations and empower individuals to exercise their rights.
- 4** To develop and maintain effective relationships.
- 5** To elevate discussions around the protection of personal data to engage the community and individuals in a relevant and positive way, recognising the personal, social and economic opportunities and threats that the data economy poses.



Much thought and hard work has gone in to how to deliver tangible and positive outcomes for the Bailiwick and its citizens. Presented below is the Strategic Plan and progress against specific action points detailed against the unique backdrop of challenges present in 2020:

1. To develop the ODPa's capabilities to deliver on its enhanced statutory duties

1.1. Develop and adopt an explicit risk control strategy to manage and prioritise workload by end 2019

All ODPa work streams flow from the 4 pillars of regulation detailed in the Strategic Plan (Predict | Prevent | Detect | Enforce) and inform decisions around resources allocation and prioritisation. Within those pillars, the ODPa continues to maximise the experience gained since 2018 to better understand and manage its legal and administrative activities.

During 2020 The Fandango Project was successfully completed on-time, and under-budget. This allows the ODPa to collect, analyse and use information about the nature of enquiries and complaints which in turn provides the opportunity to manage risks, assess performance and prioritise certain areas of activities.

1.2. Implement new internal policies and procedures to ensure consistent operational and administrative standards as well as appropriate governance by end 2019

During 2020, seven Board Meetings were held (up from the usual four). The Section 64 Committee and its activities (the section of the Law that covers the Authority's public statements) were established via internal policy documents and agreement on process.

The Fandango Project, an internal ODPa project, began in quarter 1 2020, and completed on-time and under-budget in quarter 4 2020. This project created a fit-for-purpose technology stack (from public-facing website through to back-office systems) allowing the ODPa to work efficiently and effectively.

On staffing matters, the ODPa focused on wellbeing, and recruited two additional members of staff to ensure sufficient resources were available for the incoming changes to the registration regime due in January 2021.

In addition to these internal activities the ODPa also maintained support for office staff via outsourced IT, PR, HR, financial oversight, project management and legal advice. On the latter, to drive down costs, the ODPa is working to reduce its future use of external legal resource.

1.3. Complete implementation of the structuring, resourcing and governance plan by end 2019

By the end of 2020 the office employed 9 full-time equivalent staff. This resourcing was informed by the Strategic Plan, to ensure the ODPa had the right mix of skills in the right areas to enable effective delivery of its strategy.

Careful planning for the second phase of recruitment continued throughout 2020 as the ODPa looks to grow its staff to reduce its reliance, and spending, on outsourced support whilst continuing to be an effective and responsive regulatory office.

1.4. Project management and delivery of the new funding model by 1st quarter of 2020

The ODPa brought in a Project Manager on a contract basis to aid delivery of Project Pretium (the internal name for the new funding model). Project Pretium was combined with the wider Fandango Project and following the States of Guernsey agreeing at a late stage (March 2020) to loan the necessary funds the work to deliver these projects commenced. Despite the challenges this presented and this considerable piece of work commencing during lockdown, the work was completed successfully, on-time and under budget in December 2020 and the new fees regime was fully operational on 1 January 2021.

1.5. Develop a Regulatory and Enforcement Action Policy that will set out our approach covering detection and enforcement by 1st quarter 2020

This work is ongoing and related to the activity described in 1.1 above. Completion of this work was affected by the delays in approving the ODPa's self-funding model. Work has continued on developing robust governance structures around all the ODPa's regulatory activities which feed into this ongoing work-stream.

Project Querelis, which began in 2019, also falls into this activity and work on this progressed, driven in a large part by the Fandango Project and the system changes therein.

1.6. Play a key role in the Bailiwick's ongoing adequacy review by the European Commission

The Bailiwick is currently recognised as an adequate jurisdiction for the purposes of the General Data Protection Regulation (GDPR). In accordance with Article 45 of the GDPR,

the European Commission began its assessment the Bailiwick's new legislative framework in April 2019. The Authority continues to work with the States of Guernsey to respond to the European Commission's enquiries.

2. To be a relevant, responsive and effective regulator

During 2020 the Authority took its first significant enforcement actions by issuing two administrative fine orders:

The first was issued to **Sure (Guernsey) Limited** in September 2020 over inaccuracies in *The Bailiwick of Guernsey Telephone Directory 2019/2020*. They were fined £80,000 for a lack of transparency as to how personal data was to be processed and for publishing personal data which contained inaccuracies and in some cases was contrary to subscribers' wishes.

The second fine was issued to **Trinity Chambers LLP** in November 2020 for unauthorised disclosure of highly sensitive and private information about a person and their family. They were fined £10,000 to reflect the serious nature and impact of failing to look after the data in question, which resulted from sending files via email and by post without appropriate security.

Both of the above fines were upheld and paid. All fine monies collected by the ODPA are passed to the general revenue account of the States of Guernsey, in accordance with section 74 (8) of *The Data Protection (Bailiwick of Guernsey) Law, 2017*.

2.1. Draft a paper setting out our overall approach to regulation and how we seek to reduce harms by 1st quarter 2020

The ODPA's senior leadership team are committed to building a regulatory office that is relevant and effective and whose strategic priorities are clear. It is recognised that in delivering on the regulatory duties of the office, it is important to openly and honestly assess how the objectives can be delivered. Development of this paper is ongoing and will be reviewed alongside the work being done on 1.1 (see above).

2.2. Develop effective mechanisms to resolve and learn from complaints

This activity is where Project Querelis sits. Querelis' aim is to ensure that the ODPA has robust and effective processes which enable it to meet its statutory requirements, and that there is consistent and accountable decision making around how inquiries, complaints, and casework completion are handled.

The system changes brought about by the Fandango Project automated some of the back-end case handling processes meaning some time previously spent dealing with administrative activities can now be better spent on

case progression and decision-making. Furthermore, the data collected from both complainants and those reporting breaches is more comprehensive leading to better informed case handling and more robust management information.

The ODPA also feeds any lessons learned from this area of its work into its communications activity as it is a rich source of real-world examples the whole regulated community can learn from, where appropriate.

2.3. Operate the deployment of resources and staff flexibly and responsively in light of identified compliance and enforcement objectives keeping this under continuous review

The ODPA has a small team of 11 people who were recruited due to their specific attitudes, experience, and talents. Staff are deployed appropriately according to operational and strategic priorities and workloads. This flexible approach, which has been in place since 2019, gives the ODPA practical experience on which to make informed, and well-thought through decisions on where additional resources may be needed in future.

2.4. Prioritise oversight and engagement with the public sector for all processing but specifically in the delivery of Future Digital Services

Communications with States of Guernsey remain ongoing in this area. The ODPA recognises the huge importance of all personal data processing within the public sector for the whole community, therefore it is essential that open and timely discussion between the States of Guernsey and the ODPA is maintained as the States progress through their digital transformation programme. The ODPA notes the potential for power imbalance that can exist between the citizen and the state, and the potential harms that can arise for individuals as a result of this, seeking to encourage openness and accountability in all related areas of activity. During 2020, a number of questions arose regarding the manner in which data relating to the public health response to the pandemic were processed. These issues highlighted the critical importance of the role of the Data Protection Officer for all government departments which allowed the ODPA to communicate on these issues in a direct and timely manner.

2.5. Lead by example in our commitment to data protection and the ethical approach to data governance in everything that we do

The ODPA continues to work hard to embed the highest standards of legal and ethical data handling practices into all its external and internal activities. The standards expected of the regulated community also apply to all areas of the ODPA's work. For example: the ODPA's Data Processing Notice is regularly reviewed and updated as its activities evolve, and careful decisions were made about what third party services were selected for the ODPA's social media presence and its event ticketing provider.

2.6. Ensure availability of appropriate legal, technical and communications support through the development of trusted partnerships

Whilst the Bailiwick has had data protection legislation for many years, it was inevitably difficult to be specific about the operational requirements of the new office once the new legislation was implemented in 2018. For those areas of ODPA activity where there was uncertainty about the level of demand, a decision was made to provide support through the use of professional contracted partnerships. These areas are legal, human resources, IT, PR, finance, project management and technical support.

Working with these trusted partnerships has allowed the ODPA to be flexible and rapidly scale-up to meet demand without committing to long-term employment contracts until such time as these can be justified through further analysis as the organisation develops. These contracts are kept under constant review to ensure best value and to inform decision-making.

2.7. Keep international data protection and associated developments under continuous review

The ODPA's senior team ensures awareness of relevant national and international developments and continues to participate in European and International conferences of Data Protection Authorities. Despite the disruption caused to in-person conferences during 2020, ODPA staff did attend virtual sessions of the Global Privacy Alliance, the Common Thread Network and the British, Irish and Islands Data Protection Authorities (BIIDPA).

2.8. Provide support to employees for continuous learning around developments in data protection, privacy and associated issues

ODPA staff have been on structured courses with a view to achieving formal qualifications. Where appropriate staff also maintain contact with regulatory staff in other jurisdictions to share best practice.

To ensure technical knowledge is shared effectively across the ODPA team, staff take part in regular 'knowledge sharing'

sessions where certain issues/subjects are explored in depth either through sessions delivered by senior staff, or via external bodies (e.g. webinars).

During 2020, all ODPA staff were involved in delivery of its events programme, which was an opportunity for new starters to increase their knowledge and awareness of the Law and longer serving staff to develop their presentation skills. More informally, the ODPA staff room includes a well-stocked library where staff are encouraged to take time each week to focus on reading the Law, and educating themselves on the wider issues that surround it.

2.9. Utilise the skills and experience of The Data Protection Authority Members to improve the knowledge of ODPA staff

During 2020, the ODPA was very grateful to all Authority Members for providing additional support to the whole ODPA team during what was a very challenging year both professionally and personally.

2.10. Ensure all ODPA staff are supported and valued allowing them to contribute to the overall aims and success of the organisation

The individuals who make up the ODPA team and the Authority Members themselves remain the most valuable asset, and they are treated as such. All staff are valued for the unique talents they each have and the important part they each play in ensuring the ODPA remains an effective regulator.

The ODPA's work culture is supportive and inclusive, and encourages each team member to be themselves. Due to the uniquely challenging set of circumstances presented during 2020 (namely heavy workload pressures, complex and time-critical project work, combined with significant periods of working in physical isolation because of the pandemic and, for some team members, the demands of home-schooling small children in their care) the ODPA focussed on supporting all staff and encouraging self-care. It is a testament to the team's loyalty, professionalism and effectiveness in the face of such difficulties that they were able to collectively achieve so much, and to such a high standard.

2.11. Be open to constructive exploration of innovative practices and activities within the regulated community

This specific activity was added to the Strategic Plan in December 2019 in response to conversations between the ODPA and industry. It reflects the ODPA's huge appetite for supporting innovation in the local economy, by working constructively with local organisations who may need support whilst exploring new ways of doing things that involve people's data. The public health crisis highlighted the critical importance of building legal and ethical standards into all new and innovative data handling activities to ensure public trust and confidence as well as effective delivery of objectives.

3. To support organisations in delivering their obligations and empower individuals to exercise their rights

3.1. Complete the website and CRM project to improve the user experience as well as the internal administrative processes by 1st quarter 2020

The States of Guernsey approved loan funding for this critical project (known as The Fandango Project) in late March 2020 and work was completed by mid-December 2020 in time for the opening of the registration window on 1 January 2021. As stated above, the ODPA delivered this project on-time and under-budget.

3.2. Explore the targeting of regulatory support and response to different sectors by end 2020

In 2020 the ODPA held a pilot 'thematic review' focussing on recruitment agencies. This was a resource-hungry initiative, and some lessons were learned about how best to engage in this type of work in future. The review resulted in predominantly good engagement from the agencies themselves, and raised-awareness of the sensitivity of their operations and the potential impacts on candidates.

This exercise allowed the ODPA to test the efficacy of its approach and inform future similar compliance initiatives.

3.3. Explore alternative dispute resolution mechanisms for complaint handling by 2nd quarter 2020

The ODPA acknowledge that this is a very difficult area which continues to be explored. As defined in the ODPA's *Strategic Plan*, this activity falls in the 'Prevent' category – in this case, preventing the circumstances arising that would lead someone to lodge a formal complaint against a local organisation due to the way they might be handling personal data.

A key aspect of this activity is about empowering individuals who are disputing a local organisation's use of their personal data. To this end the ODPA, under The Fandango Project work, specifically focused on developing strong content for the new ODPA website and to ensure its prominence with the new site's structure. In addition, individuals are encouraged to make reasonable attempts to resolve the issue with the relevant organisation before making a formal complaint to the ODPA.

Giving individuals the knowledge, power, and support to exercise their rights in this way is an effective tool in preventing those individuals being harmed due to their data being misused. It also serves to encourage organisations who are processing personal data to respond to this increasing awareness and demands for higher standards by individuals.

3.4. Deliver on our Communications Strategy, keeping it under continuous review and exploring effective communication tools and methods for all audiences

Following the successful launch of the ODPA's events, drop-ins, and study visits in 2019, this work was built on during 2020. Following disruption to the events programme caused by the Bailiwick's lockdown, the ODPA rescheduled all planned events and delivered all seven sessions during a short space of time once restrictions were lifted.

During 2020, 26 drop-in sessions were held, and during quarter 4 the sessions increased from fortnightly to weekly to ensure small businesses had sufficient support during the run-up to the fees regime changes that were due to commence in January 2021. A smaller number of study visits were held.

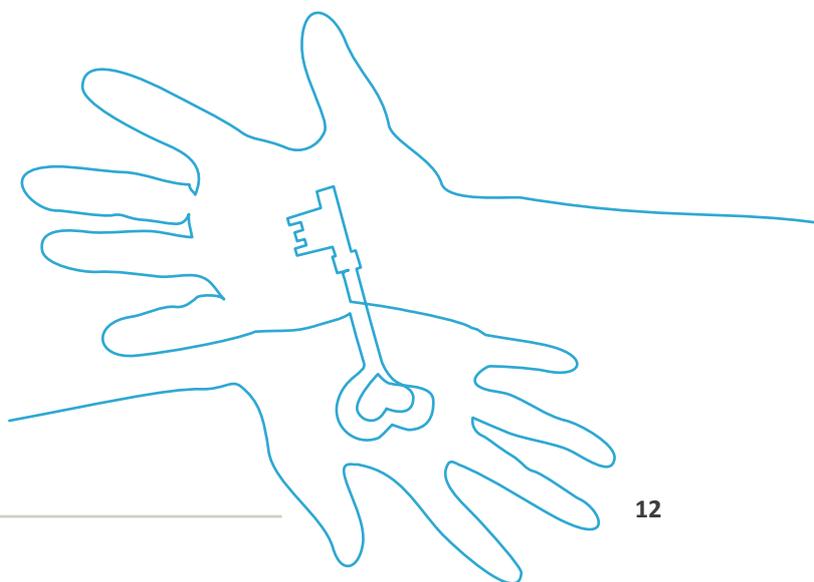
Four podcasts were produced during 2020, and the monthly newsletter subscribers increased to over 500 people. The ODPA's LinkedIn page continued to grow, reaching 3,285 followers by the end of the year (up from 1,183 in previous year).

The ODPA also launched its Schools Programme in November 2020, reaching 170 children by the end of the year.

3.5. Provide clear, meaningful and inspiring communications, guidance and engagement

The ODPA's communications focus during 2020 was split between two tasks: development of the new website, and helping the regulated community to understand the changes to the fees regime coming in 2021.

During development of the website, the ODPA concentrated its efforts on ensuring the content was clear, helpful, and searchable. The website was built with a strong visual focus on people – to reinforce that data protection is all about people. During re-development of the website several focus groups were held to ensure the design, layout, and navigation worked well for everyone.



3.5 Continued

The second focus in 2020 was ensuring the communication objectives around Project Pretium (the new ODPa fees regime post-2020) were met. These were to assist the majority of the regulated community to:

- be aware of the change to the ODPa's funding model and how it affects them
- be aware that the Law applies to them even if they are a smaller business
- know what action they need to take regarding registration with the ODPa
- be positively engaged in meeting their legal obligations under local data protection legislation
- be aware of the ODPa's role as an independent regulator
- understand why the Bailiwick must retain its 'adequacy' decision from the European Commission and the part that industry funding plays in safeguarding it
- know that they are supported in delivering on their administrative obligations.

To achieve the above objectives an extensive programme of awareness, education and support was put in place during 2020. This included, but was not limited to:

- Proactive and sustained direct communication with ~60 Groups & Associations, via email/phone and in-person asking them to share details of changes with their audiences.
- Free drop-in sessions increased from fortnightly, to weekly
- Press releases summarising changes
- Ongoing social media content
- Speaking engagements with key groups/organisations
- Production of detailed plain-English guidance on all aspects of registration
- Production of *The Feel-Good Guide to Data Protection* for newcomers
- Engagement with: States of Guernsey Communication Team and Guernsey Registry
- Direct contact with pre-2021 registered entities via email
- Production of short 'advert' for use on Island FM – pointing people to odpa.gg/2021
- Running free events
- Working in partnership with The Digital Greenhouse and Guernsey Chamber of Commerce.

3.6. Encourage industry compliance through enlightened self-interest and cultural change

The ODPa has been focusing on this issue for some time, to move data protection compliance away from a one-off box-ticking exercise and more towards an ongoing human-centric activity built on cultural engagement and influence.

This focus manifested itself into a culture change project which seeks to encourage everyone in the Bailiwick to share

knowledge, ideas and stories about why data matters as a way of building understanding, engagement, and compliance within the field of data protection. Project Bijou, as it is known, was due for launch in 2020 but was delayed by the need for staff resources to be focused on delivering The Fandango Project. Project Bijou is planned to launch in May 2021 to coincide with the 3-year anniversary of the Bailiwick's data protection law coming into effect.

In October 2020, as part of Project Pretium activities, the ODPa published 'The Feel-Good Guide to Data Protection'. The guide was written to aid positive engagement with data protection, to help its readers see: its value to individuals; its benefits to business; and its place in human society.

3.7. Raise data protection awareness in school-age children

This activity forms part of the ODPa's commitment and statutory obligation to promote public awareness of data protection risks, rules, rights and safeguards, particularly in relation to children. Building children's awareness in this area has several benefits including: they will be less likely to fall victim to harms that may arise from misuse of their personal data; they may share their new awareness with adults in their lives, so the message is spread wider; when these engaged and informed young people enter the workforce their awareness, attitudes, and actions could serve to strengthen overall compliance.

As mentioned above, the ODPa launched its Schools Programme in November 2020. This delay was caused by the closure of all island schools during the lockdown and prevented the ODPa working with local schools to complete development of the sessions.

In February 2020 the ODPa again sponsored and exhibited at 'Digital ACE', a popular public event attended by families with young children.

Throughout 2020, the Deputy Commissioner continued to sit on the Bailiwick's Online Safety Committee which meets bi-monthly to share experiences and develop methods of promoting safe online behaviour to children and their parents, teachers and carers supporting the Digital Citizenship strand of the Big Picture Curriculum. Other members of this multi-disciplinary committee include teachers, telecoms providers, law enforcement representatives, and representatives of safeguarding agencies. A sub-group of the Online Safety Committee is responsible for the organisation of the Digital ACE event and the Deputy Commissioner played a role in this.

3.8. Engage with and support the Bailiwick's data protection association (BGDPA)

In January 2020 the ODPa initiated a regular meet-up between their outreach officer and the Chairman of BGDPA to ensure formal support for the association and its members. The ODPa also encouraged knowledge-sharing on the post-2020 changes to the fees regime, as well as continuing to offer free use of its boardroom to BGDPA.

3.9. Engage with and support representative organisations to improve industry and public awareness and understanding

The ODPA Commissioner and Deputy Commissioner are regularly invited to speak at local industry events. In 2020, the ODPA also accepted invitations to speak either in-person or remotely to local schools and at industry events. Details of all these speaking engagements are listed below.

In addition to providing speakers, the ODPA also made regular contact with many local industry associations and groups to ensure that key messages were reaching their audiences.

1. 'Where are you leaving your data footprint?' (Digital ACE) 8 February 2020
2. Emma Martins' video message for members (as requested by Chamber of Commerce) 20 April 2020
3. 2020 Human Resources in Financial Services Forum 2 July 2020
4. Youth Commission: remote processing of children's data 1 July 2020

5. Data Matters at Privacy Culture (Fireside Chat) 24th July 2020
6. Guernsey Association of Trustees Lunchtime update to GAT members on registration changes 20 October 2020
7. Regulators event' addressing new States members (GFSC) 16 November 2020
8. Global Entrepreneurs Week event (Digital Greenhouse) 'Data considerations for small businesses' 16 November 2020
9. GACO lunch 27 November 2020
10. Practical guidance on managing a data breach (BPP) 3 December 2020
11. APS Data Management & Governance Conference (The Hatchery) Keynote: The future of data ethics 8 December 2020

The ODPA continued to be represented on the local Caldicott Committee during 2019 with the Deputy Commissioner attending. The Caldicott Committee comprises representatives of local healthcare organisations and is a forum to discuss the governance of clinical information.

4. To develop and maintain effective relationships

4.1. Work with industry, key bodies, representatives, associations and professionals, recognising the important role they play in shaping the regulatory environment for regulatees whilst being constantly vigilant to protect against regulatory capture

In the context of personal data, the regulatory environment is horizontal across the whole community and the ODPA recognise the need to engage with representative bodies to assist in communicating information and guidance to as wide an audience as possible.

Communications from the regulated community to the regulator are as important as communication from the regulator to the regulated community.

The ODPA works to identify all such bodies in the Bailiwick and proactively communicate where that is appropriate. This communication helps the ODPA understand the needs of specific groups within the regulated community and how best to create and present relevant information to them about their statutory duties. In 2020, the ODPA proactively targeted considerable communications effort towards ~60 local groups and associations to support their understanding of the post-2020 fees regime. Every ODPA staff member was involved in this effort which was sustained throughout the latter part of the year and took the form of email updates, phone-call follow-ups and in some cases in-person events as requested by the group/association themselves.

4.2. Ensure open and constructive engagement with the States of Guernsey in discussions around legislative and policy areas involving the processing of personal data

The ODPA continues to communicate regularly with key officers of the States of Guernsey to develop open and constructive relationships which enable timely discussions around proposed legislative and policy changes which involve personal data. Where prior consultation is required under section 46, the ODPA endeavours to engage and respond promptly and comprehensively.

4.3. Explore the use of Memorandums of Understanding with other bodies to ensure a consistent and coherent regulatory and enforcement environment for regulatees

Given business activities are reliant on an increasing volume and variety of personal data, there are necessarily overlaps between the ODPA's functions and other local regulators. The ODPA will continue to explore opportunities for MoUs between these organisations where that will assist in underpinning a robust regulatory regime locally.

The global nature of the data economy means that there will be occasions when the data processing activities the ODPA is looking at will stretch beyond the Bailiwick's borders. To assist in such cases, and build upon the international obligations laid down in the Law, work has commenced to draw up MoUs with data protection regulators in other jurisdictions, so that the regulatory mechanism more closely reflects the international nature of data use.

4.4. Continue to work with other regulators across the EU and beyond in strategic and operational matters

The ODPa is an active member of BIIDPA – a collective of British, Irish and Islands’ Data Protection Authorities of the UK, Ireland, Cyprus, Jersey, Guernsey, Isle of Man, Malta, Gibraltar and Bermuda. Whilst the proposed in-person BIIDPA meeting was unable to go ahead, the various member authorities met remotely to discuss their experiences of the challenges of balancing public health priorities with data protection requirements.

Additionally, the Commissioner and Deputy Commissioner met with the new Commissioner from Bermuda to share their lessons learnt from the setting up of the ODPa and the change in the way data protection was viewed locally that the new Law and the GDPR had brought about.

The ODPa continue to participate in the European and International conferences for Data Protection Authorities which provide a forum for the exchange of ideas and learning experiences. It is anticipated that the expectations regarding cooperation and consistency as set out in the GDPR will emerge for all Data Protection Authorities in the next few years.

4.5. Continue to work with the European Commission during and beyond formal assessment of adequacy

The GDPR’s ‘adequacy’ requirements will likely require ongoing assessment and review to ensure that approved jurisdictions continue to provide robust and independent regulatory oversight. It is expected that such reviews will take the form of regular updates to the European Commission, as well as responding to questions from them.

Prior to 2020, the ODPa provided a substantial contribution to the States of Guernsey’s submission to the European Commission, and will continue to provide support to the States of Guernsey and engage directly with the European Commission where that is appropriate.

4.6. Where most effective, seek representation and attendance at key industry and regulator events

The Commissioner and other senior ODPa staff attended the following regulatory events:

1. BIIDPA (Dublin – virtual event), 18 June 2020)
2. GPA (formerly ICDDPC) (UK – virtual event), 9 October 2020)

See also related activities detailed in 3.9 above.

5. To elevate discussions around the protection of personal data to engage the community and individuals in a relevant and positive way, recognising the personal, social and economic opportunities and threats that the data economy poses

5.1. Explore the feasibility of holding a conference to encourage learning and discussion for the wider community by end 2019

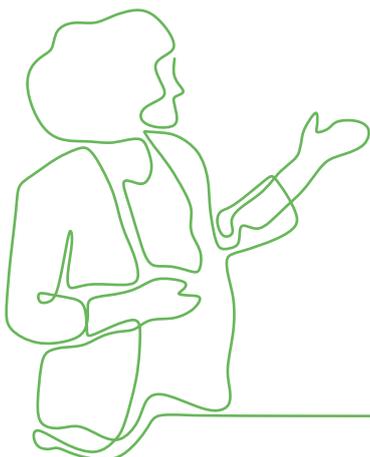
Due to the considerable disruption to in-person events during 2020, it was agreed that exploring the feasibility of a conference would recommence during 2021.

5.2. Regularly publish comment and thought pieces on data related matters

The ODPa is fortunate to have a positive relationship with local journalists, and as such it is regularly approached to comment on data-related news stories.

The ODPa works with local journalists and editors to provide factual information, build awareness of the Law, and how data harms affect people. Throughout 2020, the ODPa continued supplying local media with bi-monthly statistics and supporting commentary around self-reported data breaches. This proactive media engagement, together with other activities resulted in 129 news articles, 17 broadcast media segments, and 9 magazine/editorial pieces.

The Commissioner also publishes regular blogs and letters, either via the ODPa’s website or directly in magazines/newspapers.



5.3. Provide relevant comment to the media where this advances our aims and encourages broader discussion and awareness

Where appropriate, and whenever possible, the ODPA will provide commentary to local media either proactively (e.g. via the bi-monthly breach statistics press releases) or reactively in response to a journalist making contact on a specific issue.

During 2020, the ODPA published six Public Statements (as defined in section 64 of the Law) which were approved and issued by the Authority's Section 64 Committee regarding enforcement and related activities. All public statements are detailed in the 'Actions we've taken' area of the new ODPA website.

5.4. Provide a supportive and stimulating environment for staff to allow them to be exemplars of their professions

The aim is for each employee to work for the ODPA because it is rewarding for them as individuals and they are empowered to support the wider Bailiwick community to aspire to excellence in data protection awareness by businesses and individuals alike. Much effort is put in to involve and engage all staff members in issues the ODPA is dealing with and to encourage a broader intellectual engagement with data-related issues locally and internationally. Each member of staff understands the importance of their role in delivering on the four pillars of ODPA activities as well as the interdependence of all related activities.

5.5. Connect with industry and community representative organisations to encourage their engagement in supporting the data rights and obligations of those they represent

Much of this activity in 2020 is detailed in 3.9 above, as a result of the ODPA's drop-in sessions, events, study visits, and invited speaking engagements.

As detailed in section 3.2 above the ODPA held a pilot 'thematic review' with local recruitment agencies during 2020 which resulted in a clearer picture of how resource-intensive bespoke compliance-based interventions can be. In addition to this sector-focused intervention, the ODPA also looked broader at positively engaging with people who do not see the value of looking after people's data – as disengagement and/or ignorance can often present a high risk to people's data. With this disengaged group in mind, The Feel-Good Guide to Data Protection was written.

The ODPA recognises that you cannot connect people with their rights as individuals, or their obligations as part of an organisation, if they see the Law as merely a prompt for a once-a-year box ticking paper exercise. Instead the ODPA seeks to elevate and embed data protection as a human-centric ongoing activity that evolves, that is never 'done' and underpins good governance practices with trust and confidence. This recognition is the backdrop to why Project Bijou (detailed in section 3.6 above) is needed.



Case studies

The Authority has a statutory duty to promote awareness of data protection issues. Detailed below are anonymous case studies of individual's complaints, and what the wider regulated community can learn from them.

The case studies include some use of the following legal terms:

Legal terms

Plain English



'Complainant'

The **person** who lodged the complaint with the ODPa about how their personal data was being (or had been) used.



'Controller'

The **organisation/business** that decided how personal data was to be used, and in the context below who the complaint was about.



'Self-reported breach'

This is the act of **completing the ODPa's breach report form** in order to fulfil a controller's legal obligation to let the ODPa know their organisation/business has experienced a personal data breach.



'Data subject'

The **person** that the data in question relates to.



'Subject access request'

This is when a person **uses their legal right** to ask an organisation/business what data is held about them and to seek access to that data.



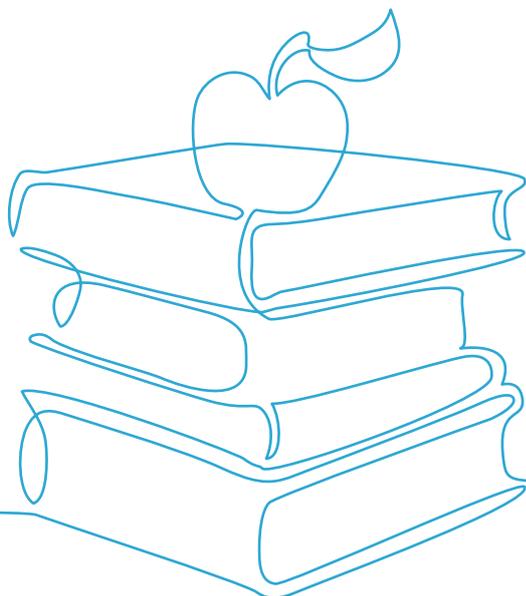
'Operative provision'

This means **any part of the Law** that a controller must comply with.



'Lawful processing condition'

Before an organisation/business starts collecting or using people's data, they must identify and document a 'lawful processing condition' (or 'lawful basis') that can be relied on. Failing to do this makes the activity unlawful. 'Consent' is the most well-known example, but there are many others.



Case study #1

Background

An organisation posted photographs of young children on its social media account. The parents of one of the children featured had been asked to consent to this use of their child's image, but had specifically not provided this consent.

The parent in question happened to see two photographs of their child on the social media feed of a senior member of the organisation's staff from previous years. The parent messaged the member of staff immediately and was told the images would be removed. But the staff member did not remove them.

The parent then found many more photographs of their child posted on the organisation's social media feed in the previous 18 months. The parent messaged the member of staff again which led to only one of the photographs being taken down. Compounding the parent's concerns, at least two photographs were originally shared by a member of staff – and then re-shared by the organisation. The parent formally complained. It took several days and the involvement of multiple senior members of the organisation's staff to ensure all the photographs were removed.

Learning points

This shows the importance of ensuring that a 'lawful processing condition' applies before processing commences, the processing in this case being the posting of photographs on a social media site.

The organisation was relying on the lawful processing condition of 'consent' and they should have checked all consent forms to ensure that parents had actually provided consent – and should have not included images of children whose parents had not agreed to the images being shared publicly.

There are many legitimate reasons why parents do not give consent for photographs of their children to be shared, often for security concerns. Regardless of the reasons behind a parent not wanting photos of their child being shared, if you have asked for permission (consent) to do so and consent has either not been provided or you've specifically been told no then, for ethical as well as legal reasons, that choice must be respected. When a breach of such importance is raised, it is imperative that action is taken immediately. Strict staff procedures must be in place and staff fully trained. This should include reminding staff of the serious consequences of personal data falling into the wrong hands, especially that of young children.



Case study #2

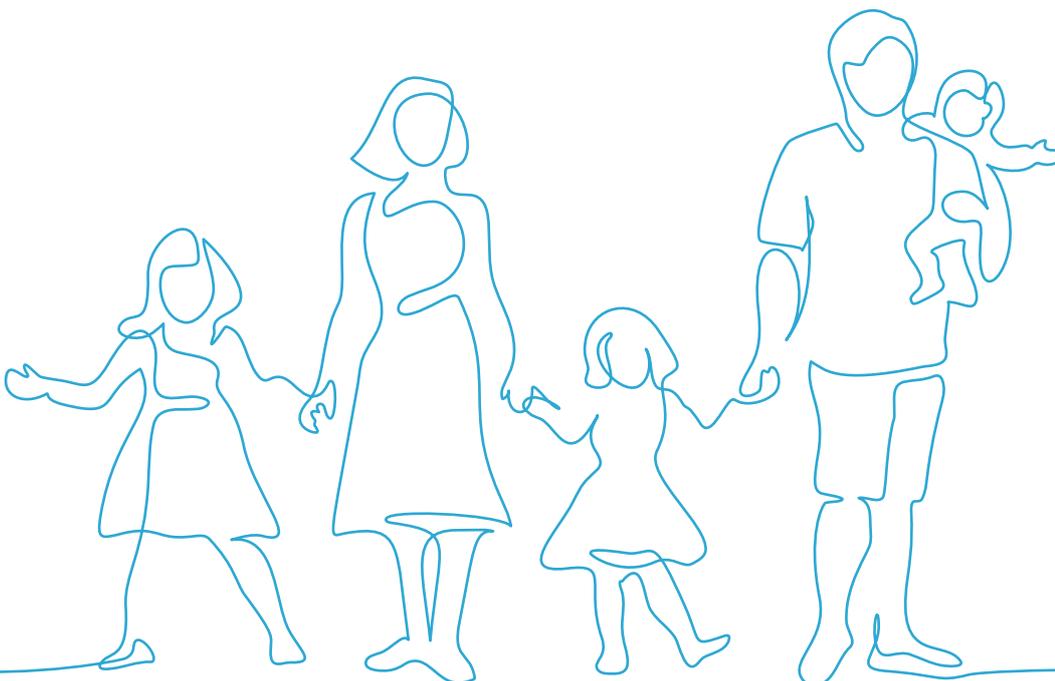
Background

A legal firm were helping a client with debt recovery proceedings regarding outstanding school fees. The firm had been in correspondence with the debtors but engaged a third-party tracing agent to assist with the debt recovery. The third party tracing agent advised that one of the debtors had a home address in another jurisdiction. As a result, correspondence pursuing the debt, including detailed private and confidential information relating to the family and children, was sent to that address. It transpired that the recipient in the other jurisdiction, despite being linked to the family, was not involved and the firm became aware of the error when the recipient contacted them by telephone to let them know.

Learning points

The consequences of this case show that it is imperative that organisations take proactive and robust steps to ensure appropriate integrity and confidentiality of personal data. In addition, and especially when communicating sensitive information, steps must be taken to ensure the correct person is corresponded with using up to date and accurate contact information.

The tracing agent had identified the wrong person i.e. a “mis-trace” but should have processes in place to ensure additional verification, particularly when disclosing very private information. The instructing firm should have taken steps to check with the agent as to what tracing activity took place to confirm they were pursuing the correct person for the debt.



Case study #3

Background

An organisation was responsible for managing a number of different client databases all of which related to confidential financial relationships. An employee of the organisation was asked to send an email attaching details of one of the clients to another organisation.

When sending the email, the employee attached the details of a number of other clients in error, thus compromising the personal data and confidentiality of all those other individuals.

The error was noticed when the recipient of the email opened the message to discover the extraneous data within the attachment and notified the sender immediately.

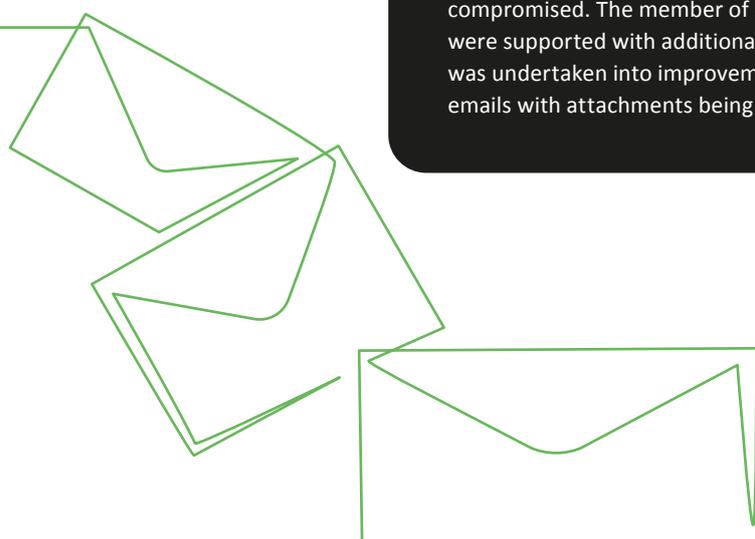
The organisation acted swiftly to request the deletion of the email and notify the ODPA of the personal data breach. Once the scope of the incident became clear, they also took steps to notify those individuals whose personal data had been compromised.

Learning point

The ODPA has consistently reported on the incidence of personal data breaches involving human error and this case highlights how easy it is for any organisation to suffer from a breach of this nature.

It is unrealistic to expect staff to never make mistakes but effective and engaging data protection awareness and training within an organisation is a powerful preventative measure. It is also important for all organisations to have a breach response plan in place which is regularly reviewed and tested.

In this case, the organisation responded immediately, putting into effect their well-planned breach response plan. They engaged early with the ODPA and quickly recognised the potential impact on those individuals whose data had been compromised. The member of staff who had sent the email were supported with additional awareness training and a review was undertaken into improvements that could be made to emails with attachments being sent outside of the organisation.



Key statistics

For the period 1 Jan 2020 – 31 Dec 2020

909

Number of **additional local organisations** who fulfilled their legal obligation to register with the ODPA

£1,234,514

The ODPA's **2020 expenditure**

£1,277,277

The ODPA's **operating budget**

38

Number of data protection **complaints** received

24

Number of **investigations** conducted by the Authority

1

Number of **inquiries** conducted by the Authority

11

Number of **investigations and inquiries resulting in a determination** that an operative provision has been or is likely to be breached

11

Number of **sanctions** imposed by the Authority under section 73. 9 controllers issued with: 7 reprimands, 1 warning, 2 fines, 1 order

63

Number of representatives from organisations who attended ODPA fortnightly **drop-in sessions**

9

Number of **free public/industry events** held at ODPA premises

175

Number of **people registered to attend** ODPA public/industry events

11

Number of **invited speaking engagements** taken by the Commissioner and Deputy Commissioner

170

Number of children/young people attending **ODPA Schools Programme sessions**

Members' Report and Audited Financial

Period Ended 31 December 2020

The Data Protection Authority

Authority Information

| | |
|--------------------------|--|
| Members | Richard Thomas CBE (Chairman) John Curran Christopher Docksey Simon Entwisle Mark Lempriere Jennifer Strachan Emma Martins (Non-voting member) |
| Registered office | St Martin's House Le Bordage St Peter Port Guernsey GY1 1BR |
| Auditor | Grant Thornton Limited Lefebvre House Lefebvre Street St Peter Port Guernsey GY1 3TF |

The Data Protection Authority

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| Balance Sheet | 8 |
| Statement of Changes in Reserves | 9 |
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The Data Protection Authority

Members' Report For the Year Ended 31 December 2020

The members present their report and the financial statements for the year ended 31 December 2020.

Members' responsibilities statement

The members are responsible for preparing the Members' Report and the financial statements in accordance with the requirements of The Data Protection (Bailiwick of Guernsey) Law, 2017 ("the Law") and generally accepted accounting practice.

The members are responsible for keeping proper financial accounts and adequate accounting records that are sufficient to show and explain the Authority's transactions to enable them to ensure that the financial statements comply with the Law and associated legislation. They are also responsible for safeguarding the assets of the Authority and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Principal activity

The Data Protection Authority is the independent regulatory authority for the purposes of the Data Protection (Bailiwick of Guernsey) Law, 2017 and associated legislation.

Results

The deficit for the year is set out in detail on page 6 and 7.

Members

The members who served during the year were:

Richard Thomas CBE
Simon Entwisle
John Curran
Christopher Docksey
Mark Lempriere
Jennifer Strachan
Emma Martins (Non-voting member)

Disclosure of information to auditor

Each of the persons who are members at the time when this Members' Report is approved has confirmed that:

- so far as the member is aware, there is no relevant audit information of which the Authority's auditor is unaware, and
- the member has taken all the steps that ought to have been taken as a member in order to be aware of any relevant audit information and to establish that the Authority's auditor is aware of that information.

The Data Protection Authority

**Members' Report (continued)
For the Year Ended 31 December 2020**

Independent auditor

The auditor, Grant Thornton Limited, has expressed a willingness to continue in office.

Going concern

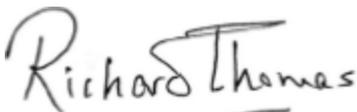
The Data Protection Authority made an operating loss for the financial year ended 31 December 2020 of £1,087,495 and had net liabilities at that date of £989,435. During the 2020 financial year the ODPa increased its borrowings from the States of Guernsey by £1,240,750. The borrowing was required for the following reasons:

- 1) £1,040,750 was borrowed to finance the operating activities of the ODPa for the financial year 2020, prior to a new funding model being introduced in 2021.
- 2) £200,000 was borrowed to fund the acquisition of intangible asset purchases included within note 5 and to finance certain project costs related to enhancing the robustness of the entity's IT environment.

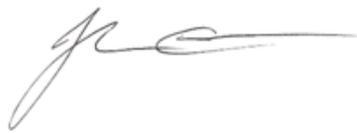
As explained in note 8 the terms of the loan with The States of Guernsey have not been finalised. However it is expected that the loan will be interest free, unsecured and repayable over a period of six years. This would be subject to the income of the ODPa exceeding its operating costs over this six year period.

Cash flow forecasts have been prepared and approved by the Members of the ODPa covering a period extending beyond twelve months from the date of approval of these financial statements. After reviewing these cash flow forecasts and given the assurances provided by The States of Guernsey in relation to the loan repayment the members of the ODPa have reasonable confidence that the ODPa will be in a position to meet its liabilities as they fall due for at least twelve months from the date of approval of the financial statements. As such the financial statements continue to be prepared on the going concern basis.

This report was approved by the members on **20 July 2021** and signed on its behalf.



.....
Richard Thomas CBE (Chairman)



.....
John Curran

The Data Protection Authority

Independent Auditor's Report to the Members of The Office of the Data Protection Authority

Opinion

We have audited the financial statements of The Data Protection Authority (the 'Authority') for the year ended 31 December 2020 which comprise the Income and expenditure account, the Statement of Other Comprehensive Income, the Balance Sheet, the Statement of Changes in Reserves and the notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards, including FRS 102 'The Financial Reporting Standard applicable in the United Kingdom and the Republic of Ireland' ("FRS 102"), Section 1A 'Small Entities'.

In our opinion, the financial statements:

- give a true and fair view of the state of the Authority's affairs as at 31 December 2020 and of its deficit for the year then ended;
- are in accordance with United Kingdom Generally Accepted Accounting Practice;

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs) and applicable law. Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial statements' section of our report. We are independent of the Authority in accordance with the ethical requirements that are relevant to our audit of the financial statements in Guernsey, including the International Code of Ethics for Professional Accountants (including International Independence Standards) issued by the International Ethics Standards Board for Accountants, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other information

The members are responsible for the other information. The other information comprises the information included in the Members' report set out on pages 1 to 2, other than the financial statements and our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

The Data Protection Authority

Independent Auditor's Report to the Members of The Office of the Data Protection Authority (continued)

Responsibilities of members for the financial statements

As explained more fully in the members' responsibilities statement set out on page 1, the members are responsible for the preparation of the financial statements which give a true and fair view in accordance with United Kingdom Generally Accepted Accounting Practice, and for such internal control as the members determine is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the members are responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the members either intend to liquidate the Authority or to cease operations, or have no realistic alternative but to do so.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Authority to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

The Data Protection Authority

Independent Auditor's Report to the Members of The Office of the Data Protection Authority (continued)

Use of our report

This report is made solely to the Authority's members as a body, in accordance with Paragraph 12 of Schedule 6 of The Data Protection (Bailiwick of Guernsey) Law, 2017. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.



Grant Thornton Limited
Chartered Accountants
St Peter Port
Guernsey

Date: 23 July 2021

The Data Protection Authority

Income and expenditure account For the Year Ended 31 December 2020

| | £ | 2019 £ |
|---|--------------------|---------------|
| Income | 155,550 | 1,217,501 |
| Administrative expenses | (1,243,045) | (1,164,773) |
| Operating (loss)/profit | (1,087,495) | 52,728 |
| Effective interest | (35,237) | - |
| (Deficit)/surplus for the financial year | (1,122,732) | 52,728 |

The results above derive from continuing activities.

The notes on pages 10 to 15 form part of these financial statements.

The Data Protection Authority

Statement of Other Comprehensive Income
For the Year Ended 31 December 2020

| | £ | 2019 £ |
|--|------------------|---------------|
| (Deficit)/surplus for the financial year | (1,122,732) | 52,728 |
| Other comprehensive income | | |
| Loan amortisation | 219,639 | - |
| Total comprehensive (deficit)/income for the year | <u>(903,093)</u> | <u>52,728</u> |

The notes on pages 10 to 15 form part of these financial statements.

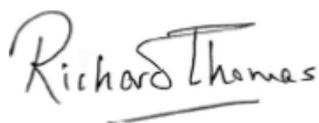
The Data Protection Authority

Balance Sheet
As at 31 December 2020

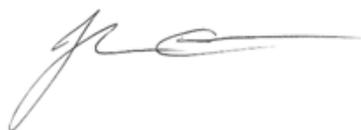
| | Note | £ | 2019 £ |
|---|------|------------------|------------------|
| Fixed assets | | | |
| Intangible assets | 5 | 148,873 | - |
| Tangible fixed assets | 6 | 98,225 | 123,722 |
| | | <u>247,098</u> | <u>123,722</u> |
| Current assets | | | |
| Prepayments | | 48,439 | 12,856 |
| Cash at bank | | 105,771 | 162,506 |
| | | <u>154,210</u> | <u>175,362</u> |
| Current liabilities | | | |
| Creditors: amounts falling due within one year | 7 | (441,085) | (385,426) |
| | | <u>(286,875)</u> | <u>(210,064)</u> |
| Net current liabilities | | | |
| | | <u>(286,875)</u> | <u>(210,064)</u> |
| Total assets less current liabilities | | | |
| | | <u>(39,777)</u> | <u>(86,342)</u> |
| Creditors: amounts falling due after more than one year | 8 | (949,658) | - |
| | | <u>(989,435)</u> | <u>(86,342)</u> |
| Net liabilities | | | |
| | | <u>(989,435)</u> | <u>(86,342)</u> |
| Reserves | | | |
| Deficit | | (989,435) | (86,342) |
| | | <u>(989,435)</u> | <u>(86,342)</u> |
| Total reserves | | | |
| | | <u>(989,435)</u> | <u>(86,342)</u> |

The financial statements have been prepared in accordance with the provisions of FRS 102 Section 102 1A - Small Entities.

The financial statements were approved and authorised for issue by the members and were signed on the members' behalf by by:



Richard Thomas CBE (Chairman)
20 July 2021



John Curran
20 July 2021

The Data Protection Authority

Statement of Changes in Reserves For the Year Ended 31 December 2020

| | Other comprehensive income £ | Income and expenditure account £ | Total reserves £ |
|--------------------------------|---------------------------------------|---|------------------------|
| At 1 January 2019 | - | (139,070) | (139,070) |
| Surplus for the financial year | - | 52,728 | 52,728 |
| At 1 January 2020 | - | (86,342) | (86,342) |
| Deficit for the financial year | - | (1,122,732) | (1,122,732) |
| Loan amortisation | 219,639 | - | 219,639 |
| At 31 December 2020 | 219,639 | (1,209,074) | (989,435) |

The notes on pages 10 to 15 form part of these financial statements.

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

1. Accounting policies

1.1 Basis of preparation of financial statements

The financial statements have been prepared under the historical cost convention and in accordance with Section 1A of Financial Reporting Standard 102, the Financial Reporting Standard applicable in the UK and the Republic of Ireland.

The presentation currency of these financial statements is sterling with all amounts rounded to the nearest whole pound.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires management to exercise judgment in applying the Authority's accounting policies. These judgments are set out in more detail in note 2.

The following principal accounting policies have been applied:

1.2 Income

Annual notification fees are recognised to the extent that it is probable that the economic benefits will flow to the Authority and the income can be reliably measured. Income from annual notification fees is measured at the fair value of the consideration received or receivable. Income from annual notification fees is recognised upon receipt.

1.3 Intangible assets

Intangible assets are initially recognised at cost. After recognition, under the cost model, intangible assets are measured at cost less any accumulated amortisation and any accumulated impairment losses.

All intangible assets are considered to have a finite useful life. If a reliable estimate of the useful life cannot be made, the useful life shall not exceed ten years.

Website development costs are amortised over their useful economic life which is estimated as four years.

1.4 Tangible fixed assets

Tangible fixed assets under the cost model are stated at historical cost less accumulated depreciation and any accumulated impairment losses. Historical cost includes expenditure that is directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management.

Depreciation is charged so as to allocate the cost of assets less their residual value over their estimated useful lives.

The estimated useful lives range as follows:

| | |
|------------------------|--|
| Leasehold improvements | - Over the remaining period of the lease |
| Furniture and fittings | - 20% straight line |
| Office equipment | - 20% straight line |

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

1. Accounting policies (continued)

1.5 Debtors

Short term debtors are measured at transaction price, less any impairment.

1.6 Cash at bank

Cash at bank is represented by current bank accounts and deposits with financial institutions repayable without penalty on notice of not more than three months.

1.7 Financial instruments

The Authority only enters into basic financial instruments transactions that result in the recognition of financial assets and liabilities like trade and other debtors and creditors, loans from banks and other third parties.

Debt instruments (other than those wholly repayable or receivable within one year), including loans and other accounts receivable and payable, are initially measured at the present value of the future cash flows and subsequently at amortised cost using the effective interest method. Debt instruments that are payable or receivable within one year, typically trade debtors and creditors, are measured, initially and subsequently, at the undiscounted amount of the cash or other consideration expected to be paid or received. However, if the arrangements of a short-term instrument constitute a financing transaction, like the payment of a trade debt deferred beyond normal business terms or financed at a rate of interest that is not a market rate or in case of an out-right short-term loan not at market rate, the financial asset or liability is measured, initially, at the present value of the future cash flow discounted at a market rate of interest for a similar debt instrument and subsequently at amortised cost.

Financial assets that are measured at cost and amortised cost are assessed at the end of each reporting period for objective evidence of impairment. If objective evidence of impairment is found, an impairment loss is recognised in the Income and expenditure account.

For financial assets measured at cost less impairment, the impairment loss is measured as the difference between an asset's carrying amount and best estimate of the recoverable amount, which is an approximation of the amount that the Authority would receive for the asset if it were to be sold at the Balance Sheet date.

1.8 Operating leases

Rentals paid under operating leases are charged to the Income and expenditure account on a straight line basis over the lease term.

1.9 Administrative expenses

Administrative expenses are measured at transaction price and accounted for on an accruals basis.

1.10 Finance costs

Finance costs are charged to the Income and expenditure account over the term of the debt using the effective interest method so that the amount charged is at a constant rate on the carrying amount. Issue costs are initially recognised as a reduction in the proceeds of the associated capital instrument.

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

2. Significant judgments in applying accounting policies and key sources of estimation uncertainty

In the application of the entity's accounting policies, which are set out in note 1, the members have made judgements, estimates and assumptions about the carrying amounts of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. The resulting accounting estimates will, by definition, seldom equal the related actual results.

The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are addressed below:

Notional interest rate

The loan from the States of Guernsey has been advanced on an interest free basis. In line with the requirements of FRS 102 the liability is measured at the present value of the future payments discounted at a market rate of interest for a similar debt instrument. The members have therefore had to consider what the appropriate market rate of interest would be. The members consider that if they had borrowed the funds from a bank then a market rate of interest would be 4% above base. This rate has been used to calculate the notional interest charge on the loan which is included in the income and expenditure account of £35,237 for year ended 31 December 2020.

As the loan has been provided on an interest free basis, any change to this notional rate will impact on the amortisation period, but does not have any impact on the total repayment amount.

Loan repayment terms

As disclosed in note 8 the terms of the loan repayment with the States of Guernsey have not yet been finalised. Providing that the ODPa generates sufficient cash flow it is anticipated that the loan will be repaid over a six year period. A cash flow forecast has been prepared covering this period which has required consideration of both future income and expenditure. The DPA have received assurances from the States of Guernsey to the effect that flexibility will be given in relation to the loan repayments should the cash flows of the ODPa be lower than the forecast amount.

It is a requirement of FRS 102 that when calculating the effective interest rate, an entity shall estimate cash flows considering all contractual terms of the financial instrument. As the terms of the loan with the States of Guernsey have not been finalised the members have estimated both the expected repayment dates and repayment amounts, following discussion with the States of Guernsey.

If the repayment dates / amounts change in future then the loan will be repaid over a different time period. However as the loan has been extended on an interest free basis then the total loan repayment amount will not change.

3. Employees

The average monthly number of employees during the year was 10 (2019: 10).

4. Taxation

The Authority is exempt from the provisions of the Income Tax (Guernsey) Law, 1975 as amended.

The Data Protection Authority

Notes to the Financial Statements
For the Year Ended 31 December 2020

5. Intangible assets

| | Website construction £ |
|---|------------------------------|
| Cost | |
| Additions and at 31 December 2020 | 150,289 |
| Amortisation | |
| Charge for the year and at 31 December 2020 | 1,416 |
| Net book value | |
| At 31 December 2020 | 148,873 |

6. Tangible fixed assets

| | Leasehold improvements £ | Furniture and fittings £ | Office equipment £ | Total £ |
|-----------------------|--------------------------------|--------------------------------|--------------------------|------------|
| Cost | | | | |
| At 1 January 2020 | 65,731 | 1,762 | 93,245 | 160,738 |
| Additions | - | - | 4,684 | 4,684 |
| At 31 December 2020 | 65,731 | 1,762 | 97,929 | 165,422 |
| Depreciation | | | | |
| At 1 January 2020 | 13,456 | 310 | 23,250 | 37,016 |
| Charge for the year | 10,959 | 352 | 18,870 | 30,181 |
| At 31 December 2020 | 24,415 | 662 | 42,120 | 67,197 |
| Net book value | | | | |
| At 31 December 2020 | 41,316 | 1,100 | 55,809 | 98,225 |
| At 31 December 2019 | 52,275 | 1,452 | 69,995 | 123,722 |

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

7. Creditors

| | £ | 2019 £ |
|--|----------------|-------------------|
| Trade creditors | 42,994 | 17,325 |
| Deferred rent | 28,017 | 36,022 |
| Sundry creditors and accruals | 19,596 | 88,291 |
| Amounts payable to the States of Guernsey (note 9) | 106,690 | - |
| Amount payable to the States of Guernsey - transitional loan | 243,788 | 243,788 |
| | 441,085 | 385,426 |
| | 441,085 | 385,426 |

The amount due to the States of Guernsey in relation to the transitional loan is interest free and unsecured. The transitional loan was advanced in 2018 to help fund the creation of The Data Protection Authority. Post year end the States of Guernsey agreed to waive the amount due. This will be accounted for as other income of £243,788 in the 2021 financial statements.

8. Creditors: Amounts falling due after more than one year

| | £ | 2019 £ |
|--|----------------|-------------------|
| Amounts payable to the States of Guernsey (note 9) | 949,658 | - |
| | 949,658 | - |

As at the date of signing these financial statements the terms of the loan between The Data Protection Authority and The States of Guernsey have not been finalised. It is anticipated however that the loan will be unsecured, interest free and repayable in installments up to 31 December 2026.

As the loan has been advanced on an interest free basis then in accordance with the requirements of FRS102 it has been accounted for as a financing transaction. Financing transactions are measured at the present value of the future payments discounted at a market rate of interest. The members consider that the market rate of interest for this loan would be 4% over the Bank of England base rate. The difference between the present value of the future payments and the actual loan advanced has been accounted for within other comprehensive income for the year. The present value of the future loan repayments are disclosed in note 9.

9. Amounts payable to the States of Guernsey

Analysis of the maturity of loans is given below:

| | £ | 2019 £ |
|---|------------------|-------------------|
| Amounts falling due within one year | 106,690 | - |
| Amounts falling due between 1 and 2 years | 111,064 | - |
| Amounts falling due between 2 and 5 years | 838,594 | - |
| | 1,056,348 | - |
| | 1,056,348 | - |

The Data Protection Authority

Notes to the Financial Statements For the Year Ended 31 December 2020

10. Commitments under operating leases

At 31 December 2020 the Authority had future minimum lease payments under non-cancellable operating leases as follows:

| | £ | 2019 £ |
|--------------------------|----------------|----------------|
| Within one year | 76,848 | 76,848 |
| Within one to two years | 76,848 | 76,848 |
| Within two to five years | 115,272 | 192,120 |
| Total | 268,968 | 345,816 |

11. Post balance sheet events

The COVID-19 pandemic continues to cause challenges for the Guernsey economy which are likely to continue for an indeterminate period of time. Guernsey entered a second period of lockdown on 23 January 2021 with a phased exit strategy over the ensuing months. Whilst the lockdown caused certain operational challenges for the entity, given the nature of its activities, the financial implications were limited.

As disclosed in note 7 of these financial statements the States of Guernsey have agreed to waive the transitional loan due amounting to £243,788. This will be accounted for as other income in the 2021 financial statements.

12. Controlling party

The members are of the opinion that there is no ultimate controlling party.

The Data Protection Authority

Detailed Statement of Income and expenditure account (unaudited)
For the Year Ended 31 December 2020

| | £ | 2019 £ |
|---------------------------------------|--------------------|------------------|
| Income | 155,550 | 1,217,501 |
| Administrative expenses | (1,243,045) | (1,164,773) |
| Effective interest | (35,237) | - |
| (Deficit)/surplus for the year | (1,122,732) | 52,728 |
| Income | | |
| Annual notification fees | 155,550 | 214,100 |
| States of Guernsey grant | - | 998,000 |
| Other income | - | 5,401 |
| | 155,550 | 1,217,501 |
| Administrative expenses | | |
| Salaries and other staff costs | 659,481 | 655,957 |
| Members fees | 15,225 | 26,833 |
| Project costs | 83,903 | - |
| Rent, rates and premises expenses | 100,974 | 101,691 |
| Legal and professional fees | 218,250 | 168,637 |
| Communication costs | 19,983 | 29,219 |
| Travel | 8,652 | 57,755 |
| IT costs | 69,136 | 63,189 |
| Amortisation | 1,416 | - |
| Depreciation | 30,181 | 28,547 |
| Office and sundry expenses | 25,165 | 25,005 |
| Insurances | 10,679 | 7,940 |
| | 1,243,045 | 1,164,773 |

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