

JERSEY OFFICE OF THE INFORMATION COMMISSIONER

# ANNUAL REPORT



R.103/2023

Fulfilling the obligations of the Authority under Article 44 of the Data Protection Authority (Jersey) Law 2018 and the Information Commissioner under Article 43 of the Freedom of Information (Jersey) Law 2011.

# Contents

	<b>THE JERSEY DATA PROTECTION AUTHORITY'S ROLE, VALUES, VISION, PURPOSE AND 2022 STRATEGIC OUTCOMES</b>	<b>SECTION 1-3</b>
06 - 15	<ul style="list-style-type: none"> <li>→ Our Role</li> <li>→ Our Values</li> <li>→ Our Vision</li> <li>→ Our Purpose</li> <li>→ 2022 Strategic Outcomes</li> <li>→ Statement from the Chair</li> <li>→ Information Commissioner's Foreword</li> </ul>	
	<b>THE JERSEY DATA PROTECTION AUTHORITY</b>	<b>SECTION 4</b>
16 - 25	<ul style="list-style-type: none"> <li>→ Governance, Accountability &amp; Transparency</li> <li>→ Authority Structure &amp; Authority Report</li> <li>→ Governance Report</li> <li>→ Authority Sub-Committees</li> </ul>	
	<b>PRINCIPAL AND EMERGING RISKS</b>	<b>SECTION 5</b>
26 - 29	<ul style="list-style-type: none"> <li>→ Summary of Principal Risks</li> </ul>	
	<b>PERFORMANCE REPORT</b>	<b>SECTION 6</b>
30 - 37		
	<b>2022 CASE DATA</b>	<b>SECTION 7</b>
38 - 43		
	<b>2022 CASE OUTCOMES</b>	<b>SECTION 8</b>
44 - 47		

48 - 51	<b>BREACH REPORTING</b>	<b>SECTION 9</b>
52 - 53	<b>ENFORCEMENT AUDITS</b>	<b>SECTION 10</b>
54 - 55	<b>ANNUAL REPORT OF FREEDOM OF INFORMATION ACTIVITIES</b>	<b>SECTION 11</b>
56 - 59	<b>OPERATIONAL PERFORMANCE AND APPEALS</b>	<b>SECTION 12</b>
60 - 61	<b>ENVIRONMENTAL, SOCIAL AND GOVERNANCE</b>	<b>SECTION 13</b>
62 - 71	<b>OUTREACH AND COMMUNICATIONS</b>	<b>SECTION 14</b>
72 - 74	<b>REMUNERATION AND STAFF REPORT</b>	<b>SECTION 15</b>
76 - 79	<b>FINANCE REPORT</b>	<b>SECTION 16</b>
80 - 95	<b>AUDITED FINANCIAL STATEMENTS</b>	<b>SECTION 17</b>

# 2022 Highlights



## Strengthened Team

Increased depth in engagement and regulatory policy

# 188

### Self Reported Data Breaches



## Growing Recognition

Jersey's contribution to data protection deliberations on international stage continues to grow



# 75%\*

that attended JOIC events said they would benefit professionally and/or personally

# 80%\*

rated event content either Good or Very Good



# 6634

### Organisations registered



## Host Nation

Jersey awarded host nation status for Global Privacy Assembly Annual Meeting 2024



# 75%

### Amicable Resolution cases resolved informally

## Privacy-led data stewardship services

Authority has taken a leading step to support the development of these services



## Young Privacy Ambassador Programme



# Presented to 500 Students

# 93%\* learnt something new

## Global Privacy Assembly Executive Committee



### GPA

Global Privacy Assembly

Information Commissioner selected to serve as member of Global Privacy Assembly Executive Committee

\* of those that responded

# Our Role

The Jersey Data Protection Authority (the Authority) is an independent statutory body established to promote respect for the private lives of individuals through ensuring privacy of their personal information by:

- Implementing and ensuring compliance with the Data Protection (Jersey) Law 2018 (the DPJL) and the Data Protection Authority (Jersey) Law 2018 (the DPAJL).
- Influencing attitudes and behaviours towards privacy and processing of personal information, both locally and internationally.
- Providing advice and guidance to Island businesses and individuals and making recommendations to the Government of Jersey in response to changes in international data protection laws.

The Information Commissioner has separate responsibility for regulating the Freedom of Information (Jersey) Law 2011 (the FOI Law). This includes encouraging public authorities to follow good practice in their implementation of the FOI Law (including adherence to the relevant code of practice) and help to promote transparency by supplying the public with information about the law and advice and guidance on how to exercise their rights.

**Our Vision** Our vision is to create an island culture whereby the protection of personal data and **privacy becomes instinctive**, with individuals and organisations taking a proactive approach to embed such protection throughout their daily activities and business planning.

**Our Purpose** To provide those who interact with Jersey organisations and the Government of Jersey with the highest standard of personal data protection.

**Our Values** Our values are hugely important to us, they create our identity and inform how we do business. We created our values to be more than words on a page, using them to guide decisions, select behaviours and drive continuous improvement in our service. Our values apply to us all, regardless of rank and flow through each area of our service, every day.

# Our Values

## We are Fair

We treat people equally, without favouritism or discrimination. We are impartial in our activities and free from bias or dishonesty. We are competent, reliable and respectful. Our decisions are open, honest and rationalised by a sound evidence base to promote integrity and trust.



## We are Collegial

We share responsibility, including being honest and fair in our conduct towards others. We are willing to be judged on our performance. We work together to achieve our strategic outcomes. A collaborative approach allows us to work effectively together or individually. We communicate clearly, actively listen to others, take responsibility for mistakes, and respect the diversity of our team. We demonstrate impartiality and accountability.



## We are Respectful

We respect those we work with and liaise with; this means that we actively listen to others and behave considerately towards others. We have self-respect and make responsible choices in what we say and do, to reach personal and organisational outcomes. We treat others in the way we want to be treated.



## We are Energetic

We are enthusiastic and approach our activities with vigour and vitality.



# Strategic Outcomes

## 01 Achieving and maintaining the highest standard of data protection in Jersey.



- Our purpose demands the highest standards of data protection for our citizens, and those who interact with Jersey, remembering that our Law (like GDPR) has extra-territorial scope.
- It is also important to remember that as a fundamental human right, data protection is intrinsically linked to well-being, mental health, reducing inequalities and improving living standards. All of these areas are key elements of the Island's collective strategy in the coming years.

This outcome covers all areas of our organisation and those who we are here to serve and support. From delivering proactive day to day guidance and resources, to forging

ahead with our outreach and education programmes, to specific enforcement initiatives, such as targeted audits, we are committed to achieving and maintaining the highest standards of data protection. However, we cannot do this alone. We will continue to engage with all sectors of our community, such as charities, government, local business and primary and secondary schools to reach young people. Our deliverables in this area, support our aim to be an exemplar and a source of leadership to our stakeholders. This in turn helps them to understand their role and their responsibilities, so that they too can deliver the highest standards of data protection.

## 02

### Maximising technological and economic opportunities to enhance the Island's reputation as a safe place to host personal data and do business.



- Jersey is a unique jurisdiction where the regulation of personal data (particularly in the finance sector) is already entrenched in our society. It will be critical for our economy to ensure we remain at the leading edge, monitoring international legislative frameworks, trading corridors and innovation to ensure Jersey can act fast and seize opportunities that both grow and preserve our already strong reputation for data privacy.
- Our strong relationships with relevant stakeholders in the digital sector and government have enabled us to participate in a major project on the feasibility of Data Stewardship, Data Dignity and Data Sovereignty in Jersey. These concepts can provide exciting opportunities for Jersey where the Island can be seen as a world leader. We are key stakeholders in those discussions.

Strengthening our team with the development of a policy function will allow us to proactively identify relevant developments in the field of data protection, such as new and emerging technologies, economic or social change. Our deliverables in this area start at grassroots level, with the aim of helping our stakeholders to ensure they have solid foundations, are minimising risk and are alert to both future threats and opportunities. As a small but agile team, our focus will be to understand the emerging landscape, work collegially with key change agents and provide thought leadership to facilitate positive change.

This will include our on-going responsibility to maintain an awareness of regulatory and legal changes which may impact on privacy and data protection in Jersey and to contribute to our ability to navigate new privacy frontiers.

## 03

### Protecting our future generations by putting children and young people first.



- Given the exponential advances and uses of technology, it is critical, now more than ever, that we take steps to educate children on how online behaviours can affect their opportunities in later life and provide them with the tools to protect themselves against the many harms associated with a digital environment, including social media, online gaming and the darker sides of the internet.
- Equally, many of these young people will be our future digital innovators. It is incumbent upon us to help them embrace technological innovation in a safe way, and work with them to improve their own broader skills so as to ensure that Jersey remains not only a safe place to live, but also an exciting, attractive and progressive Island in which to do business.

Highlighting children is not at the exclusion of adult populations within our community. We respect all members of our community whilst recognising that some populations may be at higher risk and need greater protection. Our role as regulator is to ensure that we target our support accordingly and apply the law in a fair and consistent manner, protecting those who need it most.

In working towards this outcome, our deliverables build on our already strong relationships with the Island's schools, through further development and wider roll-out of our education programme. Through specific targeted outreach campaigns, we will raise children's awareness of their data protection rights, whilst alerting them to the potential risks of their online and other activities.



**Jacob Kohnstamm**

*Chair, Jersey Data Protection Authority*

# Chair Report

**On behalf of the Jersey Data Protection Authority, it is once again my pleasure to present to the Minister and members of the States Assembly our Annual Report for 2022. This fulfils our statutory obligation under Article 44 of the DPJL.**

2022 started in a similar way to 2021 with the Covid pandemic still very much around us and an integral part of our daily lives, meaning that as an Authority we were still unable to meet in person until August. The Russian invasion of Ukraine in February signalled the beginning of even more significant change around the globe with further disruption of supply chains, rising importation costs, increasing geopolitical tensions, as well as the obvious humanitarian crisis arising from conflict, where many innocent people continue to lose their lives, livelihoods and homes. We regularly talk about data protection as a fundamental human right, but we must also remember that data protection sits alongside and is indeed connected to a whole suite of human rights which are equally just as important.

In my last report, I noted the continued growth of the office that supports the Authority's mandate and why this is critical to aid our understanding of the complexities of emerging technologies and artificial intelligence (AI) and the challenges they bring to privacy and data protection. I am pleased to report that the Jersey Office of the Information Commissioner (JOIC) has strengthened its team to increase depth in its engagement and regulatory policy development capabilities. We were also

delighted that one of our Authority Members, Clarisse Girot, has been recognised for her broad, global and multi-jurisdictional experience and expert knowledge in data protection policy development with the opportunity to take on an important full-time role as Head of the Data Governance and Privacy Unit with the Organisation for Economic Cooperation and Development (OECD). We thank Clarisse for her service to the Authority and wish her every success in her new role. Clarisse's departure and the planned retirement of David Smith later this year who brings expert knowledge of UK and EU data protection laws, have led to the engagement of a specialist search firm to support a recruitment round for the Authority that was completed in February 2023.

Jersey is a small Island jurisdiction that has consistently punched above its weight throughout its history. Currently, Jersey is recognised as a leading international finance centre supported by well-respected and stable legal and regulatory frameworks that include a robust data protection regime and a trust law that is recognised globally for its innovative and flexible applications. Jersey also has a world-leading IT infrastructure with top-ranked broadband speeds and fibre connectivity

**“  
A further significant achievement in 2022 is the growing recognition of Jersey's presence and contribution to data protection deliberations on the international stage**

to every household that has enabled the development and continuing growth of a vibrant and diverse digital economy. These factors support Jersey as an ideal testbed jurisdiction for new technology-enabled products and services. With regard to data protection, I am pleased to report that the Authority has been working together with Digital Jersey, a government-supported economic development agency, to establish and launch the world's first data trust for the common good based on the Jersey trust law framework. With government, commercial service providers and professional trustees included as key stakeholders, the Authority has taken a leading step to support the development of privacy-led data stewardship models and services and I am looking forward to reporting on our progress in the years ahead as this pilot scheme gains momentum.

A further significant achievement in 2022 is the growing recognition of Jersey's presence and contribution to data protection deliberations on the international stage. Jersey has been represented on more working groups of the Global Privacy Assembly (GPA) than ever before, and I am pleased to report that, for the very first time, Jersey's Information Commissioner, Paul Vane, has been invited to serve on the GPA Executive Committee. Jersey has also been awarded host nation status for the 2024 GPA International Conference and we are looking forward to welcoming our international data protection colleagues for a very special event. It is likely that data stewardship services will feature high on the agenda given the significant work already underway in the island on this subject.

Finally, the ongoing funding discussion with the Government of Jersey is entering its third year as we have yet to come to a mutually acceptable resolution. The right to privacy is a fundamental human right that Jersey has chosen to recognise with a corresponding data protection framework defined under the DPJL and DPJL. The Authority is established as an independent statutory public authority with a mandate defined by these laws. The Authority regulates both the private and public sectors in respect of their data processing activities. As the largest public sector employer, Government is also processing some of the largest data sets of mostly sensitive, special category data about the people who are resident in Jersey as they access a range of public services including health and social care. Currently, around 25% of our workload can be attributed to Government-related data processing matters yet less than 10% of our total funding was provided by Government last year – the receipt of this funding is dependent on a grant mechanism that is uncertain and may be withheld entirely by Government for any given period. This is clearly an unacceptable framework from a fairness perspective with respect to private/public sector funding contributions. Also, more fundamentally and from the perspective of adequacy and integrity, it is essential Government recognise, through their financial contribution, the importance of providing meaningful access to and the protection of, a fundamental human right. I am, however, pleased that discussions with Government are progressing on this important matter, and we remain hopeful that a mutually acceptable long-term solution can be reached in the very near future to emphasise the importance of resolving this long outstanding matter to secure a more sustainable data protection framework for the benefit of Jersey and the exciting opportunities ahead.

To conclude, my thanks go to fellow Authority members and the entire JOIC team for another year of outstanding achievements. We look forward to welcoming our new Authority members in 2023 and building upon the data protection foundations we have established to support the development of our regulatory sandbox and explore further engagement and technology-led innovations for Jersey in the years to come.

**Jacob Kohnstamm**

*Chair, Jersey Data Protection Authority*

**Paul Vane** BA(Hons) Soc Pol Crim (Open)  
Information Commissioner



# Information Commissioner's Foreword

**As Chair Kohnstamm has already mentioned, 2022 started in much the same way to the previous year, adjusting to living with Covid and the numerous adaptations to life the pandemic forced upon us.**

The main focus of our activities throughout 2022 was on our overarching vision to create a culture in Jersey where privacy becomes instinctive. This meant greater investment in our outreach programme and on educating the individual at all levels, empowering them to ask the right questions, both as individuals and in their business capacities. We have expanded our 'Let's Go DPO' initiative which is designed to promote awareness of the Law and increase compliance levels by providing Data Protection Officers or those with responsibility for data protection in their respective organisations with a safe space to share their experiences and learn from each other. Membership doubled in 2022 and the feedback from attendees has been extremely positive.

Similarly, the 'Board Support Squad' initiative, designed to ensure Board-level individuals are better equipped to navigate the data protection landscape, has also gained momentum and has been well received across the business community. It has also helped in building important relationships

between the JOIC and the business community as well as increasing awareness levels and understanding of their legal obligations.

During the year, our office ran numerous events including guidance sessions, workshops and seminars, with a greater focus on small businesses and start-ups who often do not benefit from the in-house compliance expertise found in larger, more established organisations. It was also election year in Jersey, so assistance was provided to election candidates in helping them understand their data protection obligations through the development of bespoke guidance.

In my view, one of the key factors to changing culture in Jersey is to engage with young people as early as possible. 2022 saw the continuation of our Young Privacy Ambassador Programme in Island secondary schools, focusing on what privacy means to young people, and how best they can protect themselves as they enter adult life and navigate the privacy issues arising from new and emerging technologies. The tech age is not slowing down so it is vitally important that we provide young people with the appropriate tools and learning to help them along their life paths. It was refreshing to see such interest from our younger generation who were fully engaged in the subject matter and asked some searching questions of our team. Again, having these discussions now and developing those relationships with our future teachers, business leaders and professionals is both hugely inspiring and critical to the success of our long-term vision.

In terms of our compliance and enforcement activities, the office saw a drop in the total number of complaint cases opened. This can likely be attributed to a change in process and in particular the addition of a mediation layer as part of our outcomes-based approach to regulation, whereby attempts are made to reach an amicable resolution between the complainant and the data controller before the complaint is 'tipped' into a formal investigation.

Unsurprisingly, as the largest sector and data user, the public sector represented 29% of overall complaints received, with 17% relating to the financial and professional services sector. Consistent with the previous year however, most complaints received were in relation to the improper sharing of personal information, closely followed by alleged failures to respond appropriately to subject access requests. Also similar to last year, few complaints reached the threshold of requiring any formal sanction from our

office, however provided an opportunity for learning and development on the part of the controller.

Similarly, the number of Self-Reported Data Breaches (SRDBs) dropped slightly in comparison to 2021, with the financial and professional services sector reporting the most overall. There was an increase in the number of reported SRDBs coming from the health and wellbeing sector, which perhaps reflects some of the work carried out with this sector from our desk-based audit programme the previous year. Again, most of the breach reports received related to the unauthorised disclosure of personal data.

Outside of the day-to-day complaints, we have expanded our casework team to focus on our audit programme. A year-long project was undertaken to develop our audit function, strengthen our capability

*It was refreshing to see such interest from our younger generation who were fully engaged in the subject matter...*

and implement new IT solutions that will enhance our ability to mobilise our audit powers using a risk-based approach.

Our strategic projects remain at the heart of our culture as a "regulator that is anything but regular," and are key to achieving our vision to create an island culture where the protection of personal data and privacy become instinctive. The planning and management of these projects are important aspects of our overall governance and our aim to be an exemplar to all stakeholders. Our key strategic projects support our purpose, vision and strategic outcomes and are funded through the collection of registration fees. They form part of our future 5-year plan and examples of these projects may be found throughout this report, including our groundbreaking partnership with Digital Jersey to examine data stewardship services, discussed in more detail in the Outreach and Communications section.

In terms of our international activities and profile, as a small island state it was an honour for both me personally, and the office to be invited to join the Executive Committee of the GPA during the final quarter of 2022. Despite Jersey's small size, our office



*Perhaps the greatest achievement of the year in terms of our international profile was to be awarded host nation for the 2024 GPA Annual Meeting*

faces many of the same challenges faced by larger Data Protection Authorities, particularly in relation to applying the law to emerging technologies, increasing the levels of awareness of data protection rights amongst the general public, and playing our part in the preservation of democracy in the Island. The appointment recognises the work of the JOIC both locally and internationally, with Jersey becoming one of only a small number of data protection and privacy authorities around the world to be selected to serve as a member of the Executive Committee.

Our office has been a member of the GPA, and its prequel body since 2005. In recent years we have become more actively involved in GPA activities, with representation on a number of their Working Groups. Since May 2022, the JOIC has chaired the newly formed Working Group on Data Sharing for the Public Good. This is an extremely important area of the GPA's work, with a focus on finding simple and practical solutions for sharing of personal data where there is a direct public benefit to the sharing. We have maintained a presence on a number of other international groups, including the Association francophone des autorités de protection des données personnelles (AFAPDP), the Global Privacy Enforcement Network (GPEN), the International Association of Privacy Professionals (IAPP), and the British, Irish and Islands' Data Protection Authorities Association (BIIDPA).

In respect of our long-term vision to create a culture in Jersey where privacy becomes instinctive, the continued work of the GPA in advancing global privacy in an age of accelerated digitalisation, maximising the voice of the GPA, particularly in terms of the broader digital policy, and building the capacity of the GPA and its members will most certainly help to secure that vision.

Perhaps the greatest achievement of the year in terms of our international profile was to be awarded host nation for the 2024 GPA Annual Meeting. This meeting brings together all 132 Data Protection Authorities around the world to discuss major issues impacting upon privacy and data protection. This is a huge honour for both the Authority and the Island and we are now working hard to ensure that the event not only delivers success to the attendees in terms of relevant and stimulating content but

also provides a platform to show Jersey at its best in terms of its beauty as a unique place and what it can offer to the world in terms of innovation, expertise and its renowned regulatory landscape.

The themes and topics that will form the content of the conference are in discussion, but it is likely that concepts such as data stewardship services will feature high on the agenda, perhaps linked to the importance of ensuring privacy by design features throughout the organisation, as well as a focus on the individual. Last year I talked about the similarities between 'privacy' and 'normality' and how both concepts can mean different things to different people. What I didn't say however was that both can be embedded from the outset into everything we do. Norms are generally accepted ways of doing things within a community or society. We have a general understanding about what is considered, and thus defined as 'normal'. The same can be achieved in terms of privacy, by setting the standards from the outset. In a business sense this means embedding privacy controls throughout the data lifecycle.

As a final note, I must take the opportunity to thank the significant efforts of my team who have worked tirelessly to ensure our Island community, as well as those who interact with Jersey businesses, are provided with the highest standards of data protection. Their collective work this past year has gone above and beyond my expectations in all areas of our activities, despite the challenges resulting from significant growth and change. As a team, we are all united in our commitment to paving the way to a safer Island that we can all be proud of.

The JOIC remains committed to ensuring our Islanders and those who interact with Jersey organisations are afforded the very highest standards of data protection for this generation and those to follow as we strive to add real value to our Island's health and prosperity and achieve our long-term vision whereby thinking privacy becomes instinctive.

**Paul Vane** BA(Hons) Soc Pol Crim (Open)  
Information Commissioner



**GPA**  
Global Privacy Assembly



# The Jersey Data Protection Authority

The Jersey Data Protection Authority is a statutory body which oversees the protection of personal data. The Authority consists of the Chair, and as per Article 3 of the Data Protection Authority (Jersey) Law 2018<sup>1</sup> 'no fewer than 3 and no more than 8 other voting members' and the Information Commissioner as an ex officio and non-voting member.

The Chair and voting members are appointed by the Minister. The Information Commissioner is the Chief Executive and:

- **Is responsible for managing the other employees of the Authority**
- **Is in charge of the day-to-day operations of the Authority**
- **Has the functions conferred or imposed on him or her by the Law and any other enactment**

The Information Commissioner on behalf of the Authority undertakes the functions of the Authority under the DPAJL and the DPJL other than, the issuing of a public statement under Article 14, the making of an order to pay an administrative fine under Article 26, or any other function specified by the Authority by written notice to the Information Commissioner.

The Authority is established to undertake a variety of key activities which includes promoting public awareness of risks and rights in relation to processing, especially in relation to children and to raise awareness for controllers and processors of their obligations under the data protection laws.

It is also incumbent upon the Authority to report to Government on the operation of the data protection laws and to advise the Minister and the States of Jersey on any amendments that the Authority considers should be made to the laws.

All of the Authority's functions must be performed independently and free from direct or indirect external influence.

The Authority does not have any responsibility for Freedom of Information, which is a separate responsibility of the Information Commissioner under law. Please refer to page 55 for more information.

<sup>1</sup> <https://jerseyoic.org/dp-foi-laws/>

# Governance, Accountability & Transparency

## → The Data Protection Authority

The Authority has responsibility to:

- Ensure that the JOIC remains accountable to the people of Jersey, in properly fulfilling its mandate and delivering quality services to its stakeholders.
- Ensure that the JOIC provides value for money and complies with appropriate policies and procedures with respect to human resources, financial and asset management, and procurement. This includes formal approval of any single item of expenditure in excess of ten per cent of the operating budget for the JOIC.

The Authority also provides an advisory function to the JOIC. With a balance of expertise in data protection, governance, and local knowledge of the Jersey Government and industry, the Authority provides strategic guidance to the JOIC with respect to fulfilling its mandate effectively and efficiently.

## → Delegation of Powers

There are other powers and functions that the Authority may exercise under the Law, most notably:

- Enforcing the Law.
- Promoting public awareness of data protection issues.
- Promoting awareness of controllers and processors of their obligations.
- Cooperating with other supervisory authorities.
- Monitoring relevant developments in data protection.
- Encouraging the production of codes.
- Maintaining confidential records of alleged contraventions.

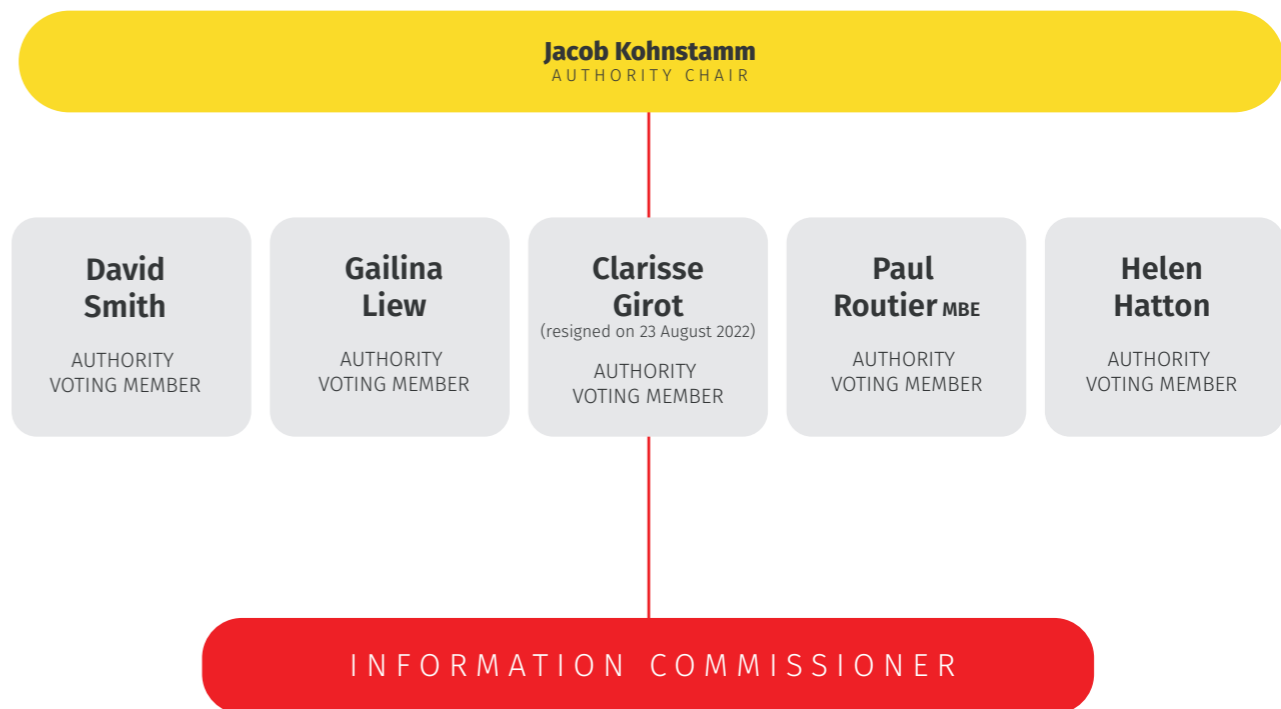
The Authority has delegated all these other powers and functions to the Information Commissioner.

There are certain functions that the Authority Law stipulates that the Authority must perform itself, and which cannot be delegated to the Information Commissioner. The most important function is that only the Authority can decide whether to issue administrative fines for contraventions of the Law. While the JOIC will make the official finding in each case as to whether a contravention has occurred, it is the Authority that will determine whether a fine will be applicable and the value of that fine.

# Authority Structure & Authority Report

The Authority is currently comprised of a non-executive chair and five non-executive voting members.

The Authority meets at least four times per annum. The Authority operates sub-committees to ensure that relevant matters can be addressed fully, and recommendations taken back to the main Authority meetings.



# Authority Members



## CHAIR OF THE AUTHORITY

### Jacob Kohnstamm

#### TENURE

Jacob has been Chair of the Authority since May 2018. His current period of office expires on 24 May 2024.

#### EXPERIENCE

Jacob has 19 years' experience in the field of data protection, having served as chairman of the Dutch Data Protection Authority for 12 years. He also served as vice chairman of the Article

29 Data Protection Working Party for six years; the advisory body composed of the chairs of all Data Protection Authorities in the European Union. Prior to that, Jacob served as vice-Chairman of the Executive Committee of the International Conference of Data Protection and Privacy Commissioners for four years and hosted that conference in Amsterdam in 2015.



## VOTING AUTHORITY MEMBER

### Helen Hatton

#### TENURE

Helen joined the Authority on 1 August 2019 for a period of three years. Helen was reappointed for a second term of office which is due to expire on 1 August 2025.

#### EXPERIENCE

Helen is widely recognised as the prime architect of the modern Jersey

regulatory regime. Helen retired as Deputy Director General of the Jersey Financial Services Commission in May 2009 having led the implementation of regulatory development in the Island from its blacklisted state in 1999 to achieving one of the world's best International Monetary Fund evaluation results.



## VOTING AUTHORITY MEMBER

### Gailina Liew

#### TENURE

Gailina joined the Authority in October 2018 and was reappointed for a further three years until 28 October 2024.

#### EXPERIENCE

Gailina is a broadly-experienced independent non-executive director with a legal, scientific, operations and international business executive background. She is interested in the evolving frameworks for the regulation

of privacy, data protection and their intersection with the ethical use of technology, human behaviour, artificial intelligence, and the future of human society. Gailina brings more than 20 years of board governance experience and data protection perspectives from the listed company, investment fund, human health, economic development, education, regulatory, adjudication and voluntary sectors to the Jersey Data Protection Authority.



## VOTING AUTHORITY MEMBER

### Paul Routier <sup>MBE</sup>

#### TENURE

Paul joined the Authority on 1 August 2019 for a period of three years and was reappointed for a second term of office which is due to expire on 1 August 2025.

#### EXPERIENCE

Paul was an elected member to the States of Jersey for 25 years and Assistant Chief Minister for a period of this time. During this time, he was responsible for working with officers and the public to develop a number of policy documents and legislation covering a wide cross section of commercial and social issues.

During his final term of office, he successfully led the debates in data protection legislation which, after gaining the support of States Members, led to the establishment of the Data Protection Authority. He also led the time critical political work in negotiating the final version of the Data Protection (Jersey) Law 2018 and the Data Protection Authority (Jersey) Law 2018 which are in force today.



## VOTING AUTHORITY MEMBER

### David Smith

#### TENURE

David joined the Authority in October 2018 and was reappointed for a further two years until 28 October 2023.

#### EXPERIENCE

David is an independent data protection expert, following his retirement from the role of Deputy Commissioner at the UK Information Commissioner's Office (ICO) in November 2015. David spent over 25 years working with the ICO and its predecessors, serving in a variety of data protection roles, under four previous commissioners. As Deputy

Commissioner David had oversight of all the ICO's data protection activities, including its enforcement regime, successfully leading the introduction of the UK's first administrative fines. He played a significant role in shaping the UK position on the General Data Protection Regulation and represented the ICO on the Article 29 Working Party of European Supervisory Authorities set up under the Data Protection Directive.



## VOTING AUTHORITY MEMBER

### Clarisse Giroit

#### TENURE

Clarisse resigned from the Jersey Data Protection Authority on 23 August 2022 as her new role at the Organisation for Economic Co-operation and Development (OECD) as head of the Data Governance and Privacy unit does not permit her to serve, concurrently, as a voting member of an independent data protection authority.

#### EXPERIENCE

Clarisse is a seasoned data privacy and Asian law expert and has unique expertise in the area of the regulation of international data flows. She is also a well-known figure in the world of data protection globally, having been involved in major international cases in data protection and privacy.

As noted in the Chair's Report, recruitment for new voting members was successfully concluded in February 2023 and we look forward to welcoming three new members to the Authority as from May 2023.

Further details regarding the Authority members' external appointments can be found at <https://jerseyoic.org/team>

# Governance Report

The Authority is committed to ensuring a high standard of governance and all members are expected to conduct themselves in accordance with the Seven Principles of Public Life.



# Authority Sub-Committees

## → Audit & Risk Committee (ARC)

The voting members who comprise the ARC are:

**Helen Hatton (Chair)**

**David Smith**

**Gailina Liew (until her resignation from ARC 1 June 2022)**

**Christine Walwyn (Co-opted accountant, Non-voting)**

The Audit & Risk Committee's mandate is to advise and make recommendations to the Authority. The purpose of the ARC is to:

- Assist the Authority in its oversight of the integrity of its financial reporting, including supporting the Authority in meeting its responsibilities regarding financial statements and the financial reporting systems and internal controls.
- Monitor, on behalf of the Authority, the effectiveness and objectivity of external auditors.
- Provide input to the Authority in its assessment of risks and determination of risk appetite as part of the overall setting of strategy.
- Assist the Authority in its oversight of its risk management framework.

Mrs Walwyn was recruited to bring formal accredited accountancy skills and knowledge to the ARC following the Authority's skills assessment in 2022. Mrs Walwyn is a fully qualified Chartered Accountant, bringing key analytical and financial acumen skills, plus experience in establishing effective and efficient control environments.

Mrs Walwyn has spent 11 years working within the Government of Jersey in senior finance roles and as Chief Operating Officer with the former Education Department. She was also Group

Business Transformation Director for the Garenne Construction Group. She currently works as a freelance Chartered Accountant and business consultant.

Mrs Walwyn has significant experience of understanding and interpretation of financial reports, with detailed knowledge of accounting standards, and experience of operating and advising at Board level, providing constructive challenge and identification of risks and issues.



## → Governance Committee

The voting members who comprise the Governance Committee are:

**Gailina Liew (Chair)**

**Jacob Kohnstamm**

**Clarisse Girot (until her resignation on 23 August 2022)**

The Governance Committee's mandate is to advise and make recommendations to the Authority. The purpose of the Governance Committee is to:

- Keep the Authority's corporate governance arrangements under review and make appropriate recommendations to ensure that the Authority's arrangements are, where appropriate, consistent with best practice corporate governance standards.
- Lead the process for appointments ensuring plans are in place for the orderly succession to the Authority.
- Review the balance, structure and composition of the Authority and its committees. Its role also encompasses the selection and appointment of the Authority's senior executive officers and voting members of the Authority and giving full consideration to succession planning and the skills and expertise required to lead and manage the Authority in the future.

The Governance Committee completed a recruitment process for new Authority members in February 2023 as part of its responsibility to ensure orderly succession and appropriate skills composition of the Authority. The new Authority members will be joining in May 2023.

## → Remuneration & Human Resources Committee (R&HR)

The voting members who comprise the R&HR Committee are:

**Paul Routier MBE (Chair)**

**Jacob Kohnstamm**

The Remuneration & Human Resources Committee is mandated to advise and make recommendations to the Authority, with the purpose of:

- Assisting the Authority in ensuring that the Authority and Executive retain an appropriate structure, size and balance of skills to support the organisation's strategic outcomes and values.
- Assisting the Authority in meeting its responsibilities regarding the determination, implementation and oversight of remuneration arrangements to enable the recruitment, motivation and retention of employees generally.
- Overseeing arrangements for appointments (including recruitment processes) and succession planning.
- Assisting the Authority by reviewing and making recommendations in respect of the remuneration policies and framework for all staff.

Each Sub-Committee Chair reports back to the Authority, making recommendations for consideration.

The following table sets out the number of full Authority and Sub-Committee meetings held during 2022 and the number of meetings attended by each voting Authority member.

	Full Authority	Audit and Risk	Governance	Remuneration & Human Resources
Number of Meetings	5	5	2	2
Jacob Kohnstamm	4	-	2	1
Clarisse Girot (resigned from Authority 23 August 2022)	2	-	2	-
Helen Hatton	4	4	-	-
Gailina Liew (resigned from ARC 1 June 2022)	5	3	2	1 (deputised for Chair)
Paul Routier MBE	5	-	-	2
David Smith	5	5	-	-

## → 2022 Authority Members' Remuneration

The Authority voting members received, in aggregate, £64,343 in remuneration in 2022.

Further details regarding the Authority voting member remuneration can be found at page 78.

## → Performance Evaluation and Re-appointments

The Governance Committee has established an Authority performance evaluation process which is based on an internal annual peer review of performance by voting members with an independent external review contemplated for every third year. The first internal review was performed last year.

The Governance Committee undertook an internal self-assessment in 2022 to survey the breadth of skills, knowledge and experience of Authority voting members. The Skills Matrix reflects a broad mix of skills, knowledge and experience across the primary areas of governance, sectoral skills and personal attributes that are appropriate for the Authority's mandate.

### Diversity of The Authority

The six voting members of the Authority reflect a balance between male and female members, different nationalities, ranging in age from late 40s to early 70s, with a broad mix of formal education and professional qualifications including law, IT, sciences, business administration, education and teaching.



# Principal and Emerging Risks

The Authority has a low appetite for risk. The Authority's primary obligation is to fulfil statutory responsibilities as the independent body promoting respect for private lives. The Authority's strategic outcomes support us in the fulfilment of our mandate.

The strategic outcomes are subject to a number of risks and uncertainties that could, either individually or in combination, affect the operational performance of our team.

We identify and manage these and other risks through our risk management framework which is based on our low appetite for risk.

Risks are overseen by the Audit and Risk Committee, who monitor risk movements and mitigating actions and relevance to the strategic outcomes. We continue to monitor political and legislative developments and assess the opportunities and threats to enable us to regulate effectively.

Risks are scrutinised via a scoring mechanism which is linked to likelihood and consequence. The following table identifies the principal risks and mitigating actions. The risks are categorised into five main areas.

- 1 Legal and Regulatory 
- 2 Operational 
- 3 Governance 
- 4 Strategic 
- 5 Political 

Since our previous 2021 report our principal risks have been reviewed in light of the political situation in the Ukraine, the States Assembly elections in mid-2022, Authority succession

planning and the current pressures on the financial economy here and in the UK.

# Summary of Principal Risks

LEGAL & REGULATORY	Risk Description	How we manage the risk
	Internal compliance – failing to comply with the Data Protection Authority (Jersey) Law 2018 in terms of case management, process and reasonableness of decisions made.	<ul style="list-style-type: none"> <li>→ Understand our compliance obligations and what this looks like on a practical level.</li> <li>→ Monitor how we implement and sustain our obligations.</li> <li>→ Put in place effective and ongoing training, staff feedback, internal audits and reviews.</li> </ul>
Perception – industry and Government perception that our effectiveness as a regulator is based on our fining actions.	<ul style="list-style-type: none"> <li>→ Maintaining consistent and compliant investigation, inquiry and audit processes.</li> <li>→ Enforcing appropriate and proportional enforcement sanctions.</li> </ul>	

OPERATIONAL	Risk Description	How we manage the risk
	Maintaining a capable and knowledgeable team. It is essential that the statutory functions of the Jersey Data Protection Authority are fulfilled to the highest standard to maintain credibility and trust.	<ul style="list-style-type: none"> <li>→ Embedding succession planning throughout the organisation.</li> <li>→ Building skills and knowledge through personal and professional development.</li> <li>→ Ensuring Human Resources strategy aligns with our strategic outcomes.</li> <li>→ Striving for diversity and inclusion throughout our operational and HR activities.</li> </ul>
	Revenue. The revenue model is delivering sufficient monies to support the necessary activities of the Authority. Any changes in revenue streams from industry or Government funding could impact on our ability to fulfil our regulatory functions.	<ul style="list-style-type: none"> <li>→ Monitor operational costs and revenues closely.</li> <li>→ Stakeholder relationships to gauge industry movements.</li> </ul>
	Asset management, software and hardware security.	<ul style="list-style-type: none"> <li>→ Achieving proportionate and relevant accredited security standards.</li> <li>→ Testing, maintenance, asset replacement, training,</li> <li>→ Appointment of IT company and external 'Chief Information Security function' on appropriate contract to support robustness of software and hardware.</li> </ul>
	Cyber threat and Information Security. The Authority recognises that it is a target for cyber threats.	<ul style="list-style-type: none"> <li>→ Critical applications are only accessible through secure portals requiring layered authentication.</li> <li>→ We undertake Disaster Recovery exercises to test systems.</li> <li>→ We employ industry best practices as a fundamental part of our cyber security policies, processes, software and hardware.</li> <li>→ Cyber awareness training is ongoing within our team.</li> </ul>
	Change to AML Legislation and Administered entities in Jersey. Impact on number of entities operating in Jersey and potential reduction in registration fees.	<ul style="list-style-type: none"> <li>→ This will be carefully monitored.</li> </ul>

GOVERNANCE	Risk Description	How we manage the risk
	Authority succession planning and recruitment	<ul style="list-style-type: none"> <li>→ Time sensitive recruitment of suitably experienced Authority members.</li> </ul>
Stakeholder relationships – if not maintained – impact on potential loss of inclusion, credibility and reputation.	<ul style="list-style-type: none"> <li>→ Plan stakeholder management.</li> <li>→ Review feedback.</li> </ul>	

STRATEGIC	Risk Description	How we manage the risk
	Jersey Adequacy – it is essential that the island maintains its adequacy status with Europe to help protect data flows.	<ul style="list-style-type: none"> <li>→ Ensure that we deliver the relevant activities to help Government maintain adequacy with Europe.</li> <li>→ Monitor effectiveness of the data protection laws.</li> </ul>
	Greater accessibility & availability of technology in all areas, impacts on ability to keep abreast of developing changes in personal information processing. Impact on detriment to the individual and reputation of JOIC.	<ul style="list-style-type: none"> <li>→ Horizon Scanning.</li> <li>→ Recruit a Director of Regulatory Strategy.</li> </ul>

POLITICAL	Risk Description	How we manage the risk
	Maintaining constructive dialogue with the Department of the Economy. Changes in personnel and availability of key personnel impacts our working relationship.	<ul style="list-style-type: none"> <li>→ Monitor relationship.</li> <li>→ Proactive approach to maintaining regular dialogue.</li> </ul>
	Government funding for Government data protection activities.	<ul style="list-style-type: none"> <li>→ Frequent reviews.</li> <li>→ Provide activity data.</li> <li>→ Protecting our independence as a key priority.</li> <li>→ Reviewing grant and working agreement.</li> </ul>
	Potential Change of Minister – loss of continuity of work and projects.	<ul style="list-style-type: none"> <li>→ Maintaining frequent and positive dialogue with GoJ</li> </ul>

# Performance Report

The Authority will strive to promote the data protection rights of individuals, be they our local citizens or international stakeholders, through a practical and ethical approach to business practice and regulation that supports the delivery of public services and promotes the social and economic interests of the Island.

The vision of the Authority is to create an Island culture whereby privacy becomes instinctive, with individuals and organisations taking a proactive approach to privacy and data protection which is part of daily activities and business planning. The Authority aims to achieve this by engaging with the Island community to embrace a collaborative and innovative approach to data protection whilst providing a leading-edge model to other, similar jurisdictions.

## Our Strategic Outcomes

- 1** Achieving and maintaining the highest standard of data protection in Jersey
- 2** Maximising technological and economic opportunities to enhance the Island's reputation as a safe place to host personal data and do business
- 3** Protecting our future generations by putting children and young people first

All of our activities contribute to the delivery of our strategic outcomes. Our priorities are to ensure that Jersey achieves and maintains the highest standard of data protection.

The following pages review our compliance and enforcement activities in relation to our strategic outcomes. Our communications and outreach activities also contribute significantly to the outcomes and details of these activities are detailed from page 62 of this report.





Anne King  
Operations Director

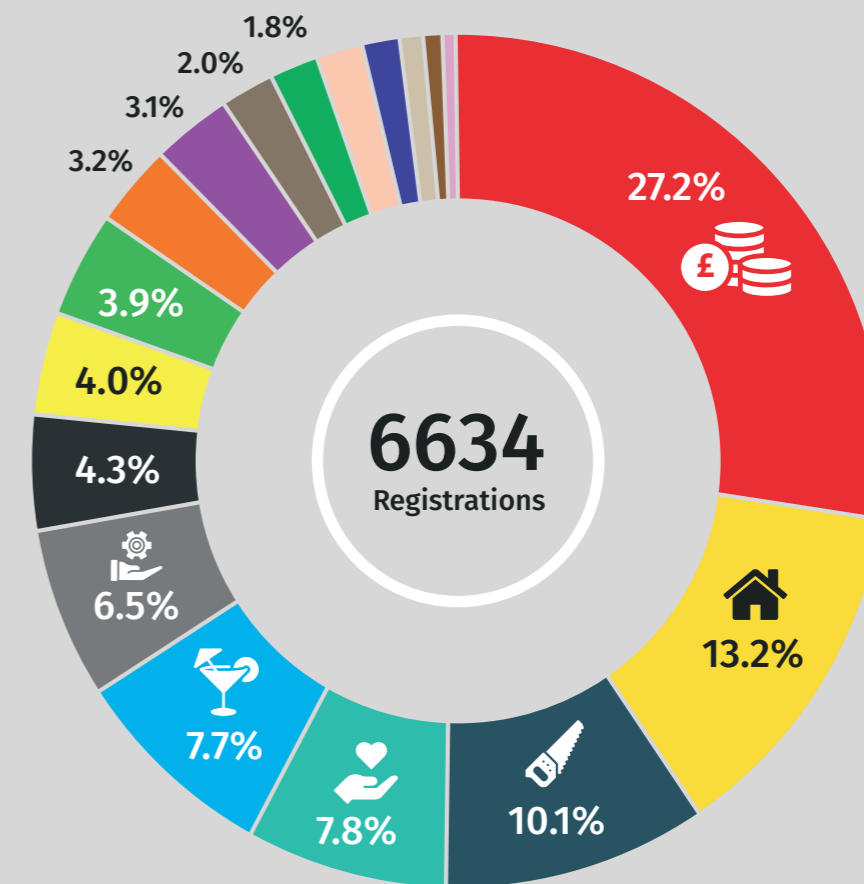
# Performance Report

Jersey's economy is a blend of business activities, with over 3,000 people working in the Digital-Tech sector and this sector is growing. The Hospitality sector employs 5,000 people, the public sector is the largest single employer on the island, with over 7,000 public servants. The agriculture and fisheries sector employs over 1,800 people. The Retail sector employs over 7,500 (12%) people and Construction has over 5,500 employees. Finance is Jersey's largest industry, employing more than 13,500 people<sup>2</sup> representing 40% of Jersey's economic output<sup>3</sup>.

Personal information flows throughout every organisation, this may include special category data. Organisations would struggle to function or achieve their goals without personal data. Data Protection legislation is in place to help ensure, that all of us are provided with appropriate legal protections and remedies in today's highly digitised world. Data Protection holds organisations entrusted with personal

information accountable, setting standards for how that information is used and as a last resort to provide a framework for enforcement where rules are breached.

The infographic shows the number of complaints and self-reported data breaches proportionally to the volume of sector registrations.



- Financial & Professional Services - 1889
- Real Estate & Property Management - 912
- Construction, Trades & Services - 702
- Health & Wellbeing - 538
- Leisure & Fitness / Hospitality / Tourism - 531
- Manufacturing / Whole Sale - 448
- Charities - 296
- Social Clubs & Associations - 278
- Professional Bodies - 270
- Education - 221
- Technology & Telecommunications - 213
- Media & Communications - 139
- Public Authority / Regulators - 123
- Legal Services - 123
- Agriculture & Fishing
- Utilities & Delivery Services
- Animal Husbandry & Welfare
- Faith, Worship & Religion

<sup>2</sup> <https://www.jerseyfinance.je/working-in-finance/#:~:text=Working%20in%20Finance,a%20variety%20of%20different%20sectors>  
<sup>3</sup> <https://www.gov.je/LifeEvents/MovingToJersey/WhyChooseJersey/pages/businessandindustries.aspx>

The finance sector has reported 57 breaches in 2022; so as in previous years we have noted that within the finance and professional services sector there is a culture of compliance and reporting. This sector has reported high volumes of low-level breaches and this must be considered in light of the fact that this is an industry used to reporting requirements and that takes a pro-active approach to such matters. Public Authorities across Jersey process huge volumes of personal data and whilst

they represent only 2% of our data protection registrations, they represent 29% of our annual complaints in 2022 and 10% of our SRDBs. In 2021 public authorities represented 22% of the SRDBs, the number of complaints reported against public authorities has decreased by 9 in number, both of these decreases are welcome.

	REGISTRATIONS		REQUEST FOR AMICABLE RESOLUTION		COMPLAINTS		SRDB	
	Count	%	Count	%	Count	%	Count	%
<b>TOTAL</b>	<b>6934</b>	<b>100</b>	<b>25</b>	<b>100</b>	<b>58</b>	<b>100</b>	<b>188</b>	<b>100</b>
Agriculture & Fishing	87	1%	0	0%	0	0%	1	1%
Animal Husbandry & Welfare	43	1%	0	0%	0	0%	0	0%
Charities	296	4%	0	0%	0	0%	23	12%
Construction, Trades & Services	702	10%	0	0%	0	0%	5	3%
Education & Childcare	221	3%	0	0%	2	3%	11	6%
Faith, Worship & Religion	43	1%	0	0%	0	0%	0	0%
Financial & Professional Services	1889	27%	5	20%	12	21%	63	34%
Health & Wellbeing	538	8%	2	8%	5	9%	30	16%
Legal Services	123	2%	1	4%	3	5%	6	3%
Leisure & Fitness / Hospitality / Tourism / Travel / Entertainment	531	8%	0	0%	2	3%	6	3%
Manufacturing, Wholesale & Retail	448	6%	1	4%	3	5%	7	4%
Media, Communication & Advertising	139	2%	0	0%	0	0%	0	0%
Professional Bodies / Professional Associations / Professional Consultancy	270	4%	0	0%	3	5%	2	1%
Public Authority / Sector, Appointed Regulators & Statutory Bodies	130	2%	7	28%	18	31%	22	12%
Real Estate & Property Management	912	13%	1	4%	0	0%	2	1%
Social Clubs & Associations	278	4%	0	0%	0	0%	0	0%
Technology & Tele-communications	213	3%	1	4%	5	9%	5	3%
Utilities & Delivery Services	71	1%	0	0%	0	0%	5	3%
Sector not found. (CCTV issues not aligned to an industry sector)	-	-	7	28%	5	9%	-	1

Complaints have gradually declined since 2019. As in 2021 we reported that this in part could be because individuals were not placing as much emphasis on data protection as life is beginning to feel 'normal' again and partly because data controllers/processors are managing individual rights better, with many organisations being more aware of their data protection responsibilities and responding appropriately to subject access requests.

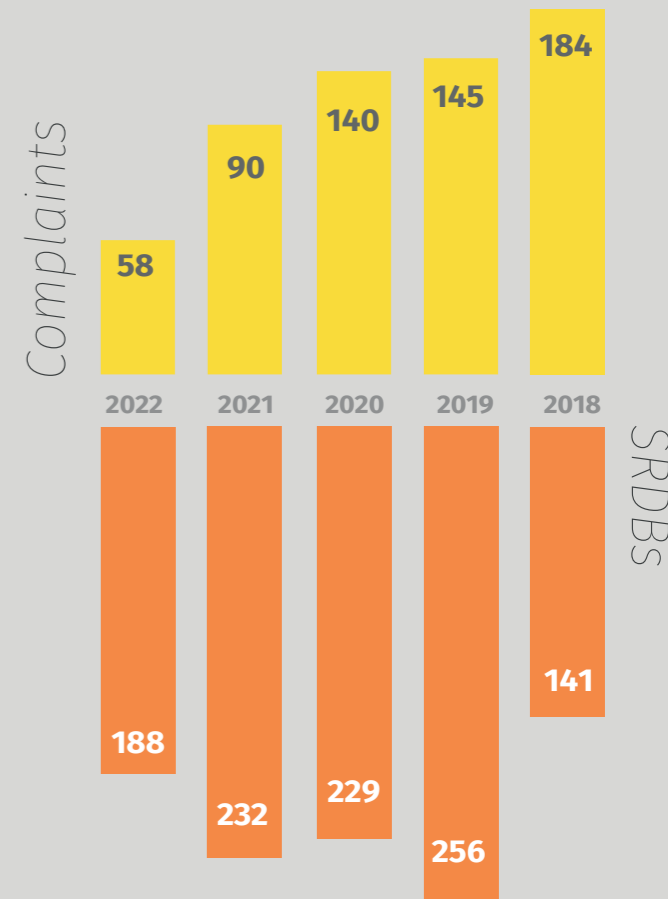
We believe data controllers/processors are potentially 'finding their feet' with breach reporting understanding the thresholds for reporting and also hopefully less reportable breaches occurring.

The Authority is bound by the Law to investigate complaints and SRDBs. The DPJL provides the Authority with significant fining and enforcement powers and we are pleased to report that in Jersey none of the cases investigated by our office and involving non-public authority controllers warranted the issuing of an administrative fine.

The DPJL is very prescriptive in terms of the threshold for fining, and so far, we have not had a case that has met those criteria. Jersey does not have the large corporations which we have seen subjected to fines from Data Protection Authorities in other jurisdictions.

The Authority is an independent regulator and will only impose fines where proportionate and having had regard to the matters it must consider, as set out in the DPJL, Art.26(2). We always undertake a thorough investigation and/or inquiry process, as detailed in the DPJL. (The process is detailed on page 43). We are specifically prohibited from issuing administrative fines against public authorities.

During the course of 2022, the Authority issued one Public Statement reflecting the fact that the Children's Services Department, Government of Jersey<sup>5</sup> contravened Art.8(1)(f) and Art.20(1) of the DPJL, in that on 'two occasions it failed to comply with the integrity and confidentiality principle and ensure that they had appropriate technological and organisational measures in place to ensure the security of the data it processes and also that it failed to notify the Authority of a personal data breach in the requisite timeframe. The contraventions occurred during a virtual meeting whereby



some family members remained on the call when their access should have ended as part of the Child Protection meeting was intended to discuss certain sensitive matters in the absence of the child's family members'.<sup>5</sup>

We are very pleased that following the introduction of our Amicable Resolution process, three quarter of cases were resolved informally, providing a personal resolution process affording greater flexibility for both the data controller/processor and the data subject. Less than one third of the amicable resolution cases 'tipped' into a formal complaint as we were unable to mediate between the two parties successfully.

<sup>5</sup> <https://jerseyoic.org/news-articles/public-statements/public-statement-february-2022/>

AMICABLE RESOLUTION REQUESTS IN 2022 BY DISPUTE TYPE	2022
Direct marketing	1
I asked for access to/copies of my personal information and I've not received it/they have withheld it from me	8
I asked for my information to be rectified/erased/sent to another controller and my request has been refused	1
I don't think my personal data is being/has been kept safe	3
My information has been shared and it shouldn't have been	7
Someone has collected my personal data, but I didn't give it to them	2
Uncategorised at time of submission	3
<b>TOTAL</b>	<b>25</b>

We opened one 'inquiry' following a complaint however upon further review the inquiry was not progressed as it was deemed disproportionate and unnecessary.

The 58 complaints resulted in a combination of reprimands, orders and words of advice. Over half of complaints received result in a determination detailing the contravention of the DPJL.

COMPLAINT TYPES OPENED IN 2022	2022
Direct marketing	1
I asked for access to/copies of my personal information and I've not received it/they have withheld it from me	15
I asked for my information to be rectified/erased/sent to another controller and my request has been refused	5
I don't think my personal data is being/has been kept safe	4
My information has been shared and it shouldn't have been	18
Other	4
Someone has collected my personal data, but I didn't give it to them	2
Uncategorised at time of submission	9
<b>TOTAL</b>	<b>58</b>

As stated earlier in this report, our vision is to create an Island culture whereby privacy becomes instinctive with individuals and organisations taking a proactive approach to privacy and data protection by it being embedded throughout their daily activities and business planning. In striving to achieve this we pride ourselves on making every touch point with a complainant, an enquirer, an organisation reporting a breach or a registration enquiry, an informative and positive experience aimed at fostering a constructive and educational

relationship. We also facilitate learning and information exchange, helping us to understand the challenges faced by industry and the frustrations faced by complainants. That said, we will not shy away from exercising our enforcement powers where warranted, or where the organisation at fault has demonstrated wilful neglect or a repeated pattern of behaviour.



# 2022 Case Data

Schedule 4 of the DPAJL details the process of Enforcement by the Authority in the event it receives a complaint (which can lead to a formal investigation) or conducts an inquiry.

The JOIC receives a broad range of contacts. We classify them into the following categories:

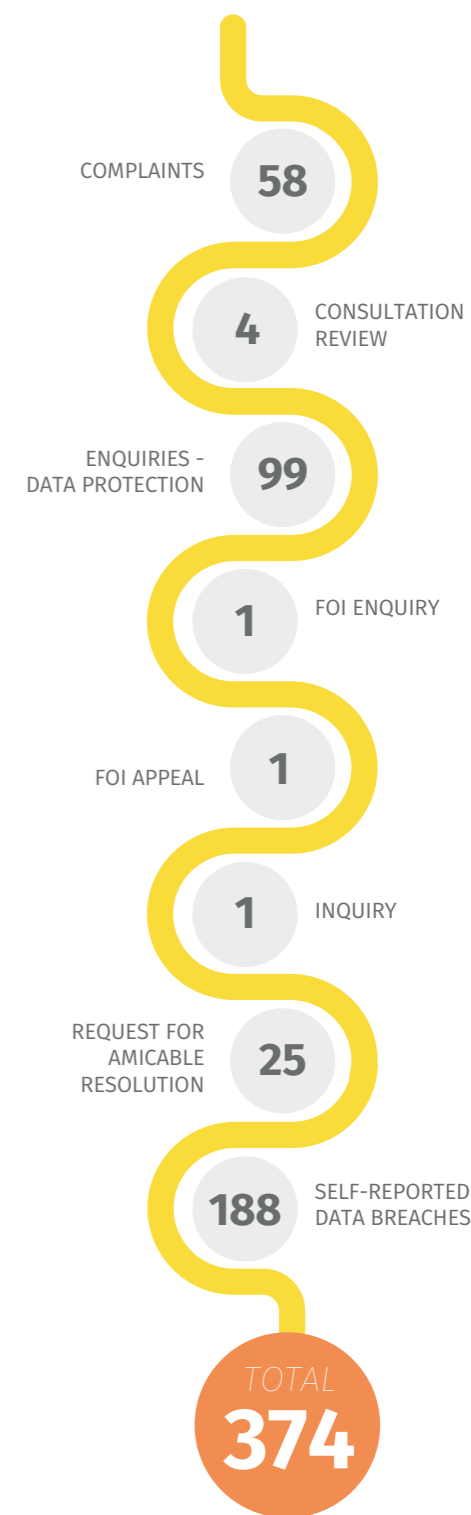
→ **ENQUIRIES**  
These range from simple questions regarding our location and career opportunities to the more complex questions around guidance matters.

→ **COMPLAINTS**  
Complaints are received from individuals concerned about the use of their personal information, non-response to a subject access request or other rights which have not been fulfilled.

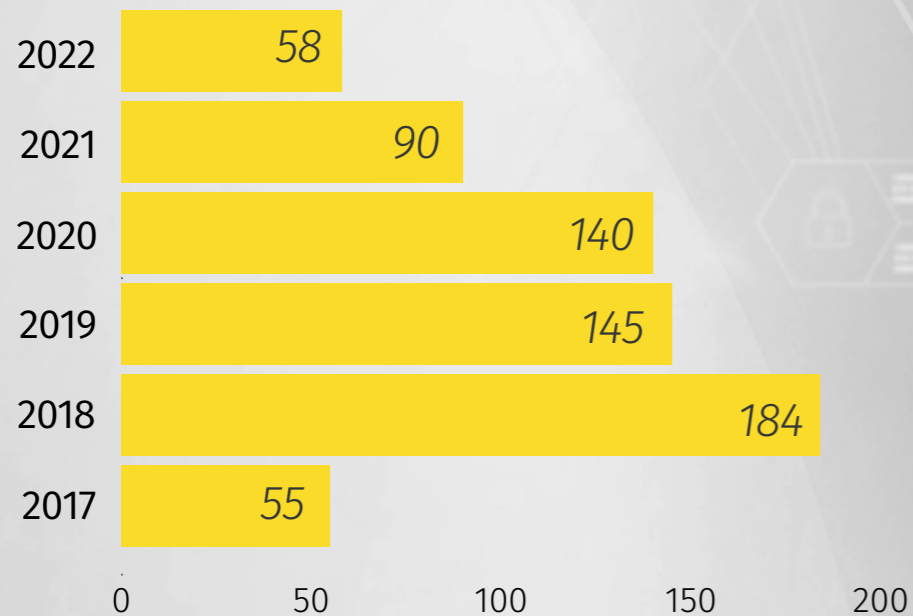
→ **SELF-REPORTED DATA BREACHES**  
Under the DPJL, data controllers are required to report 'certain' breaches to the JOIC within 72 hours of becoming aware of the breach unless the breach is unlikely to result in a risk to the rights and freedoms of the individual.

→ **FREEDOM OF INFORMATION**  
Enquiries exploring if there are grounds for an appeal or for further guidance.

→ **FREEDOM OF INFORMATION**  
Appeals. An applicant who is dissatisfied with a response to a request for information from a public authority may appeal to the Information Commissioner.



The volume and type of cases undertaken submitted to the Authority is consistent with the pattern of activity over the years since the introduction of the DPJL. The Authority presents this report to demonstrate that we handle each complaint, breach and enquiry with fairness, consistency and respectfully.



The above table shows the number of complaints received by the JOIC over the last six years.

Article 19 of the DPAJL summarises the parameters of the ‘Right to make a complaint’  
*An individual may make a complaint in writing to the Authority in a form approved by the Authority if –*

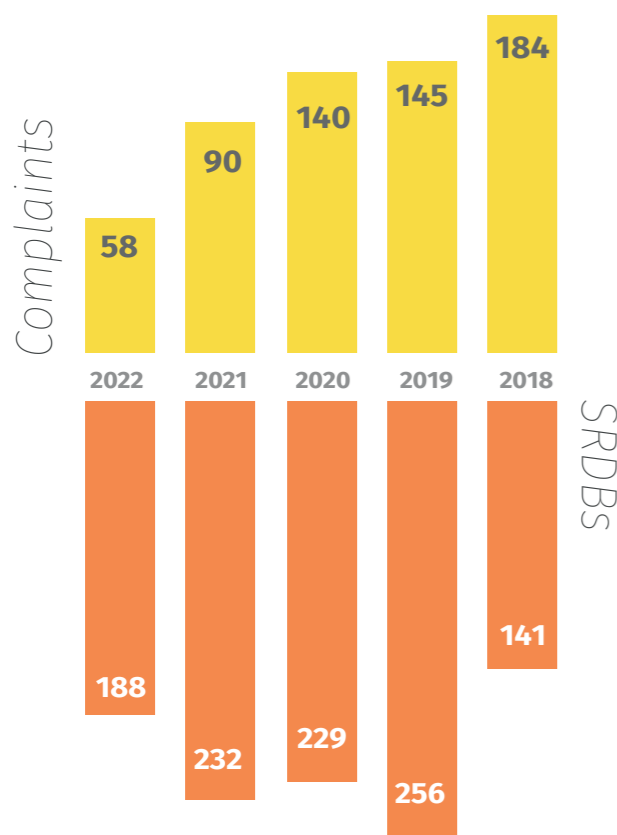
- (a) *the individual considers that a controller or processor has contravened or is likely to contravene the Data Protection Law; and*
- (b) *the contravention involves or affects, or is likely to involve or affect, any right in respect of personal data relating to the individual.*

Individuals complain to our office about their concerns in relation to the processing and use of their personal information.



**Each complaint and self-reported data breach (SRDB) is evaluated using a standard framework as set out in Part 4 of the Data Protection Authority (Jersey) Law 2018**

Each complaint and SRDB is evaluated using a standard framework as set out in Part 4 of the DPAJL. The JOIC will also use this framework to conduct an 'Inquiry' on its own initiative into a likely contravention of the DPAJL, which we may learn about from a whistle-blower or by observing a behaviour relating to the use of personal information by an organisation. The investigation will identify if there has been a contravention of the Law.



Upon receipt, each complaint and self-reported data breach is evaluated to determine whether or not to investigate or conduct an inquiry, as appropriate. The Authority undertakes this evaluation as soon as is practicable and in any event within eight weeks for complaints and as soon as possible for self-reported data breaches.

In the case of a complaint, once the initial evaluation has taken place, the complainant is advised in writing whether or not a formal investigation will take place. At this stage, the complainant has a 28-day window of appeal at this stage if the Authority decides it would not be appropriate to carry out a formal investigation and it may reject complaints if they fulfil certain criteria set out in the Law.

Once the investigation is underway the JOIC provide updates at least every 12 weeks. The investigation must conclude whether the Law has been contravened (Article 23 of the DPAJL) and, if so, must decide whether or not to impose any formal sanction (although it does not have to do so). The JOIC will then notify the data controller or data processor of the 'proposed determination' which sets out the findings and includes details of any sanctions it is minded to impose, and they are afforded 28 days to provide any representations on those draft findings and/or sanctions.

The JOIC must take into account any representations made before issuing its final determination which will be sent to the data controller or data processor and to the complainant. Both parties have a 28-day period to appeal that final determination to the Royal Court of Jersey.

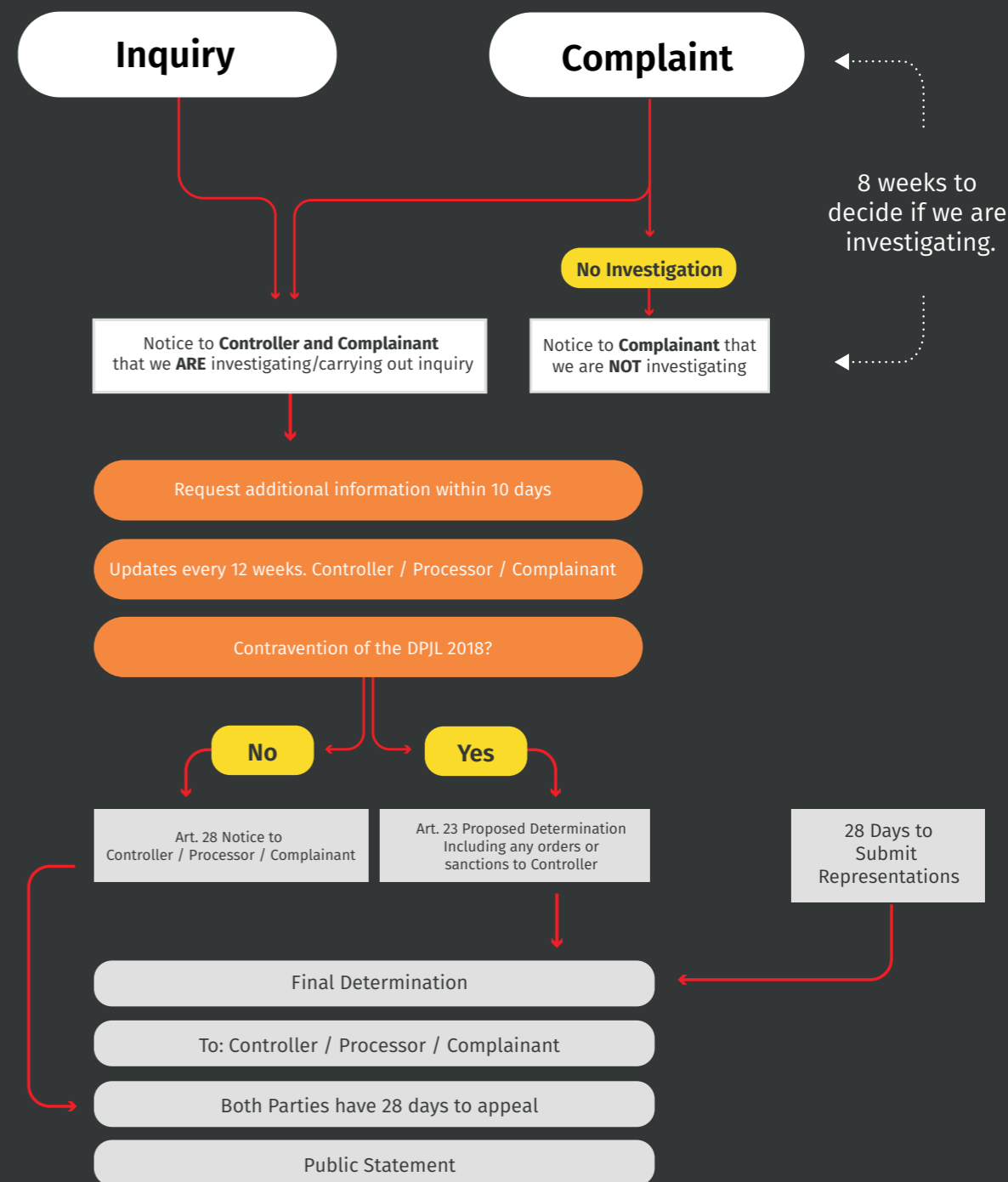
The above process is almost identical in terms of an inquiry although such obviously does not involve a data subject in the same way.

As part of our formal investigation and inquiry process, we have the power to issue a formal 'Information Notice' to compel the production of information and the recipient will usually have 28 days to respond.

In the majority of cases such correspondence is requested and responded to directly by email. This is generally quicker and more efficient as most controllers are willing to cooperate fully with the investigation. This often makes for a good relationship between JOIC and the organisation we are investigating.

We would make use of the more formal information notice where we were experiencing resistance from a controller to provide us with the information requested.

# Investigation Matrix





# 2022 Case Outcomes

The JOIC's Regulatory Action and Enforcement Policy<sup>6</sup>, introduced in 2020 supports the Authority's Strategic Outcomes as detailed above and in the JOIC Business Plan.

<sup>6</sup> <https://jerseyoic.org/media/l5sfz1s0/joic-regulatory-action-and-enforcement-policy.pdf>

This policy seeks to promote the best protection for personal data without compromising the ability of businesses to operate and innovate in the digital age. It helps to engender trust and build public confidence in how Jersey's public authorities manage personal data.

This policy is based on five key principles:

- 1** Proportionality 
- 2** Targeted 
- 3** Accountability 
- 4** Consistency 
- 5** Transparency 

## → Authority Sanctions

The Authority has several tools in its enforcement suite, namely:

- Reprimand
- Warning
- Orders
- Public Statement
- Administrative Fine

### → Reprimand

This is a formal acknowledgment that an organisation has done something wrong and is being rebuked for its conduct. This remains on the record of an organisation and could be considered if further incidents occur in the future. Generally, reprimands are issued in tandem with certain other orders, but this is not always the case. For

example, whilst there may have been a technical contravention of the Law for which the organisation was responsible, they might have taken steps to put things right and rectify the issues that contributed to the contravention and a formal rebuke may suffice.

### → Warning

We may issue a Warning when the Authority considers that any intended processing or other act or omission is likely to contravene the Law. A

Warning is designed to avoid such a contravention. We have not had occasion to issue any warnings.

### → Orders

The Authority can make a variety of 'Orders' but we make sure these are proportionate to the actual contravention. During 2022, the Authority issued a range of orders including:

- Ordering a controller to provide certain staff members with appropriate training and to report back to the Authority within a stipulated timeframe, confirming that training had been provided, who it had been provided to and with a copy of the course materials, this for review by the Authority.
- Keeping a controller under effective supervision for a period of time whilst they update certain policies, procedures and IT systems and requiring an update report at the end of that period.

- Directing that a controller should respond to a previously unanswered subject access request within a certain timeframe (including providing previously withheld information).
- Directing that a controller properly actions a request for rectification, including giving notice to third parties previously in receipt of inaccurate information / information it should not have received.

## → Public Statement

As with everything it does, the Authority approaches the issuing of Public Statements on a proportionate basis and will only issue a Public Statement where, because of the gravity of the matter or for other exceptional reason, it

would be in the public interest to do so. It does not report on every formal action taken because that is not what the Law provides for and the Authority reserves this power for the most serious cases.

## → Administrative Fines

The DPAJL provides for substantive administrative fines and sanctions for contraventions of the Law, but it is our intention to use these as a position of last resort.

In determining whether to impose an administrative fine in accordance with Article 26 of the Law, the Authority will consider:

- The nature, gravity and duration of the contravention.
- Whether the contravention was intentional or neglectful.
- The action taken by the controller or processor to mitigate the loss or damage, or distress suffered.

- The degree of responsibility of the person concerned and the technical and organisational measure implemented for the purposes of data protection.
- Previous contraventions.
- The degree of cooperation with the Authority.
- The categories of personal data.

In issuing a fine, the Authority will consider the need for it to be effective and proportionate, as well as to have a deterrent effect. To date it has not had to issue any fines.

## → Information Notices

As part of our investigation process and powers under Schedule 1 of the DPAJL, we have the power to issue an organisation with an Information Notice. This imposes a legal requirement to provide us with any information we consider necessary to assist us in any investigation or inquiry.

An Information Notice requires we give the data controller 28 days to provide the requisite information. This is a lengthy and formal process.

Often upon receipt and analysis of the requested information, we have further questions which results in a follow up Information Notice. It will be clear that such exchanges can take a number of months.

Therefore, we tend to use the Information Notice for the more complex/serious cases or where there is reluctance from a data controller to engage with us at an early stage.

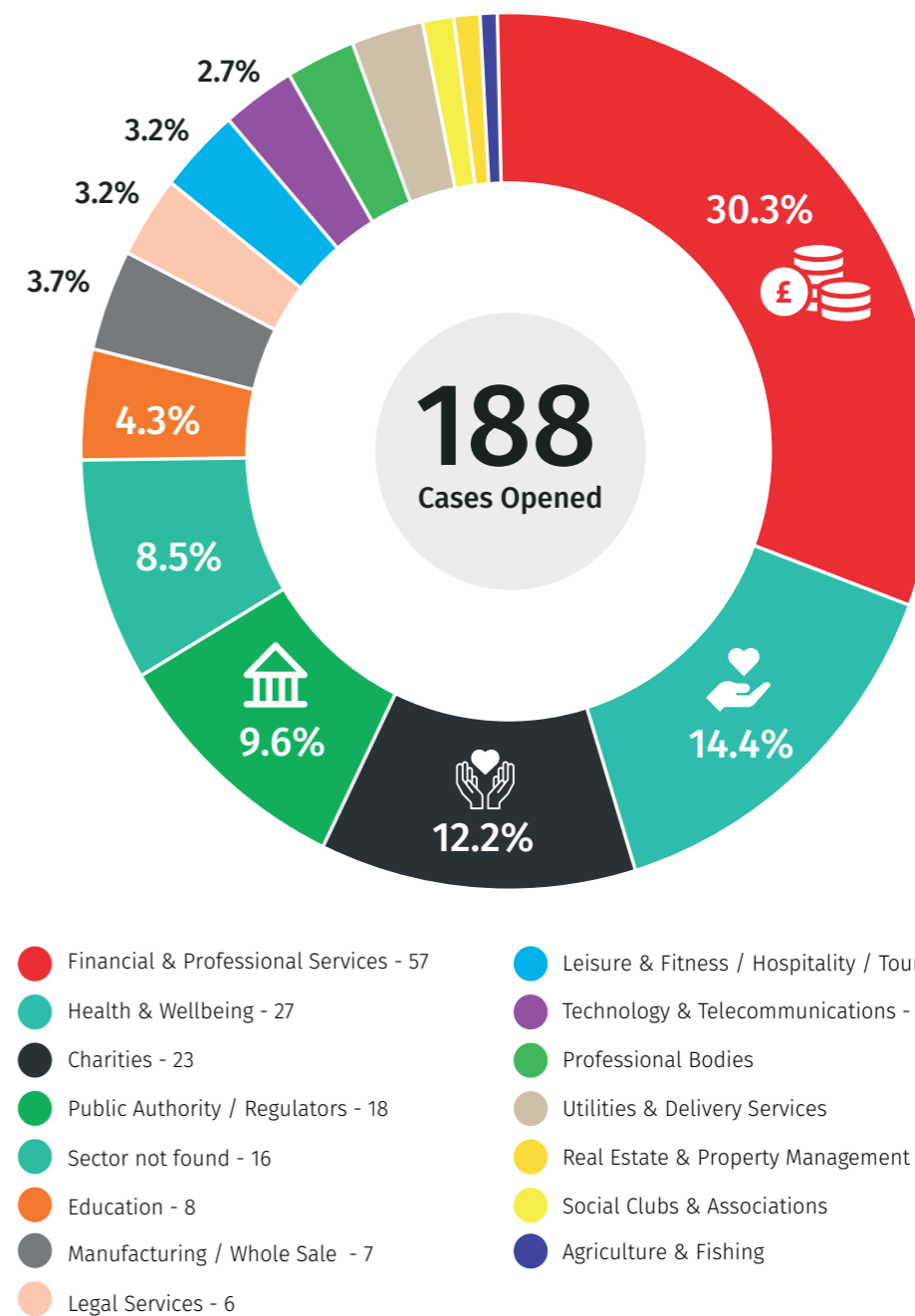




# Breach Reporting

Under the DPJL 'in the case of a personal data breach, the controller must, without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach in writing to the Authority' (Article 20). In relation to breaches we also have an obligation under Art 11 (1) (e) of the DPAJL 'to promote the awareness of controllers and processors of their obligations under this Law and the Data Protection Law'.

2022 Self Reported Data Breaches Opened - Shown by Organisation Type:



Investigating self-reported data breaches represented 50% of our Compliance and Enforcement caseload during 2022. In 2021 self-reported data breaches made up 48% and 27% in 2020.

The chart above highlights 30% of the breaches reported to us were from the financial and professional services sector. It should be noted that this sector has a culture of reporting and monitoring breaches throughout their activities.

From our records it is evident that just under half of the reported breaches were unlikely to 'result in a risk to the rights and freedoms of natural persons'. However, we are not discouraging organisations to report breaches as this enables us to understand the breach landscape in Jersey to help shape our guidance and advice.

As previously noted, we take every opportunity to educate and support the organisation reporting a breach. Breaches can be traumatic for organisations to manage and can carry serious reputational damage. The JOIC team works sympathetically, yet professionally, when responding to breach reports.

Most reported breaches do not warrant the conducting of a formal regulatory response and/or the imposition of a formal sanction. However, the Authority may impose an administrative fine in a case of deliberate, wilful, negligent, repeated or particularly harmful non-compliance. It is important to note that failing to report a breach, where required, could result in a severe penalty.

### → Types of Breaches Reported in 2022

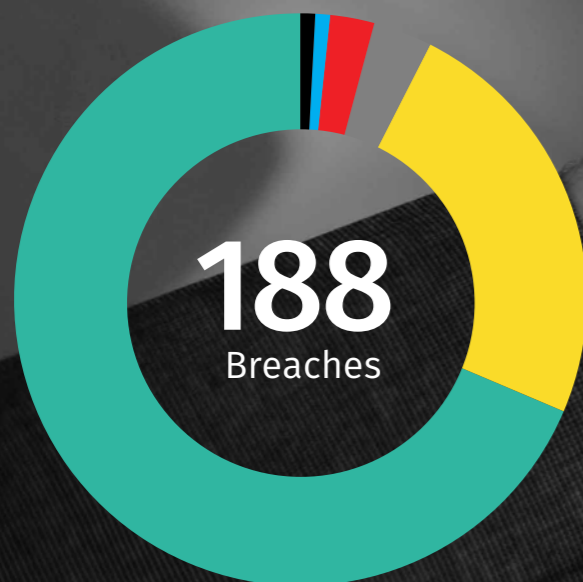
Types of Breaches Reported	2022
Alteration	1
Destruction	1
Lack of availability /access	5
Loss	4
Unauthorised access	46
Unauthorised disclosure	131
<b>TOTAL</b>	<b>188</b>

Of the breaches reported in 2022, one resulted in a formal inquiry and a **determination** that there had been a contravention of the DPJL.

Of the remaining self-reported data breaches, many did not cross the threshold for reporting to the Authority and were of a minor nature. Once reported, the Authority makes enquiries of the data controller to obtain a full picture of the breach that has occurred, and what steps have been taken by the organisation to deal with the breach and, where appropriate, stop similar occurrences in the future.

**Specifically:**

- 131 self-reported data breaches were due to unauthorised disclosure (emails sent in error) but in all circumstances, the breaches were appropriately mitigated, presenting no risk to the data subject.
- Of the remaining 57 incidents there were a number of different issues including malware, phishing attack, lost data and other processes leading to breaches. In all circumstances, the breaches were appropriately mitigated, presenting no risk to the data subject.



*From our records it is evident that just under half of the reported breaches were unlikely to 'result in a risk to the rights and freedoms of natural persons'.*



# Enforcement Audits

# 10

Enforcement audits contribute to our Strategic Outcome - **'Achieving and maintaining the highest standard of data protection in Jersey'**. During 2022 we significantly enhanced our audit capability, following our investment in audit software, team recruitment and bespoke training.

Undertaking compliance audits is a detailed and resource intensive activity. The primary purpose of an enforcement audit is to provide the Authority with an insight into the extent to which the audited entities are complying with the particular areas audited and highlight any deficient areas in their compliance. The Authority will be executing risk-based enforcement audits, commencing with a desk-top approach and if necessary, developing into a face-to-face audit. We will also be undertaking remedial audits to track progress and the effectiveness of implementing the recommendations.

Article 22 (7) of the DPAJL details our power to conduct or 'require data protection audits'.

**1. The Authority may –**

- (a) conduct a data protection audit of any part of the operations of the controller or processor; or
- (b) require the controller or processor to appoint a person approved by the Authority to –
  - (i) conduct a data protection audit of any part of the operations of the controller or processor, and
  - (ii) report the findings of the audit to the Authority.

**2. The Authority must specify the terms of reference of any audit carried out under sub-paragraph (1).**

**3. The controller or processor concerned must pay for an audit required under sub-paragraph (1)(b).**

Thus prior to undertaking compliance audits of any nature we are required to carefully consider and document the audit terms of reference.

# Annual Report of Freedom of Information Activities

## The Freedom of Information (Jersey) Law 2011

The Information Commissioner and the team at JOIC is solely responsible for FOI under the law. The JOIC team is trained to fulfil the mandates of both FOI and data protection laws.

The FOI Law provides the public with a legal right for individuals to request access to, and be provided with, information held by Scheduled Public Authorities (SPAs).

This covers 'information recorded in any form' held by a SPA and includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. SPAs covered by the FOI Law include Government of Jersey departments, Parishes, States of Jersey Police and Andium Homes.

The aim of the FOI Law is to promote a culture of openness and transparency across the public sector, improve accountability and promote good governance by providing individuals with a better understanding of how SPAs carry out their duties, make the decisions they do and spend public funds.

The FOI Law does not give individuals a right of access to their own personal data because this right is available under the DPJL.

Our role in regulating the FOI Law includes the following functions:

- To encourage public authorities to follow good practice in their implementation of this law and the supply of information.
- To supply the public with information about the Law.
- To deal with appeals.

An applicant who is dissatisfied with a decision of a SPA in responding to their request may, within six weeks of the notice of that decision being given or within six weeks of the date the applicant has exhausted any complaints procedure provided by the SPA, appeal to the Information Commissioner on the basis that the decision of the SPA was not reasonable.

The Information Commissioner must decide the appeal as soon as is practicable but may decide not to do so if satisfied that:

- The applicant has not exhausted any complaints procedure provided by the Scheduled Public Authority.
- There has been undue delay in making the appeal.

- The appeal is frivolous or vexatious; or
- The appeal has been withdrawn, abandoned or previously determined by the Information Commissioner.

The Information Commissioner must serve a notice of his or her decision in respect of the appeal on the applicant and on the SPA. This is done by way of a formal Decision Notice that will set out:

- The Commissioner's decision and, without revealing the information requested, the reasons for the decision; and
- The right of appeal to the Royal Court conferred by Article 47.

In each case, the Commissioner conducts a formal appeal process adhering to the principles of administrative fairness and the laws of natural justice. Both sides are provided with an opportunity to make formal written submissions in support of their position. The Commissioner presumes that when making its submissions, each party is providing their full and complete arguments and all relevant evidence in support.

The Commissioner issues a Decision Notice based on the submissions of the parties, the precise wording of the legislation and any relevant case law. The decision is objective and includes adequate reasons. If a party is dissatisfied with the Decision Notice, the only avenue of appeal is to the Royal Court. The Royal Court may review the Commissioner's decision to determine whether it was reasonable.

The Commissioner's team also provides informal advice and assistance to both members of the public and SPA prior to any formal appeal.

# 12

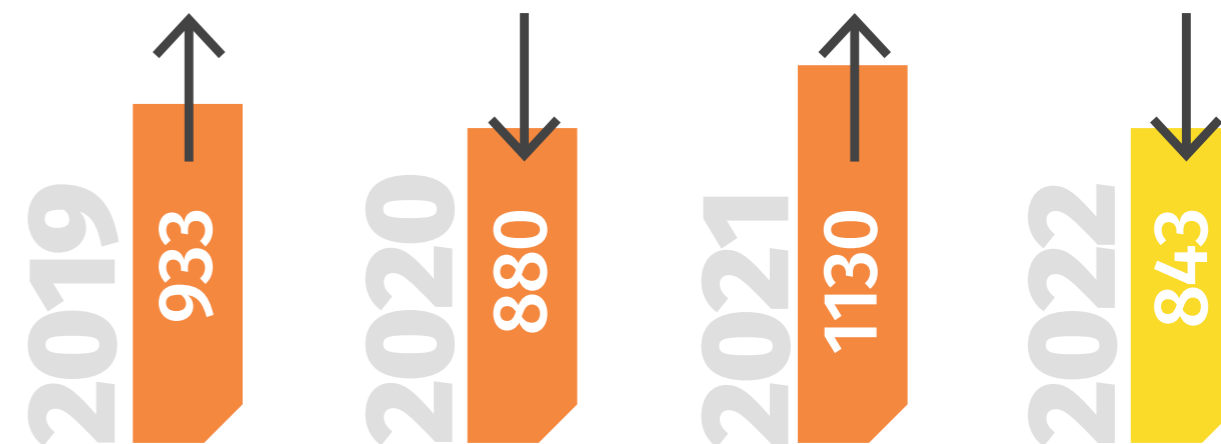
## 2022 Operational Performance and Appeals

The Freedom of Information  
(Jersey) Law 2011

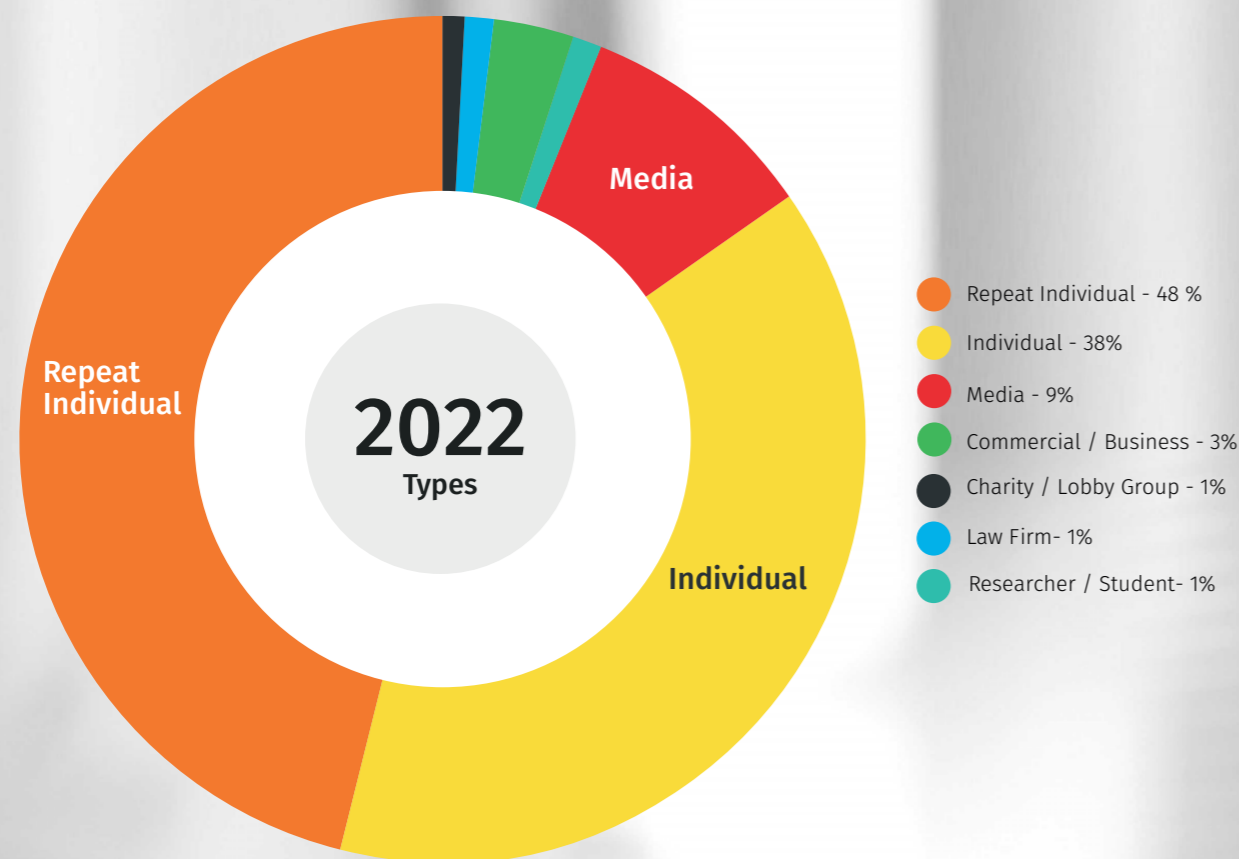
The Central Freedom of Information Unit of the Government of Jersey reported that it received 843 valid FoI requests during 2022.

Freedom of Information Statistics	2020	2021	2022
Office of the Chief Executive	100	74	65
Infrastructure, Housing & Environment	157	180	115
Children, Young People, Education and Skills	71	70	48
Health and Community Services	173	216	179
Justice and Home Affairs	74	123	48
Judicial Greffe	14	18	14
Customer and Local Services	31	91	73
States Greffe	21	24	16
States of Jersey Police	62	81	58
Treasury and Exchequer	48	67	58
Strategic Policy, Planning and Performance	36	101	85
Chief Operating Office	93	85	84
<b>Total Valid Requests</b>	<b>880</b>	<b>1130</b>	<b>843</b>

The total number of valid FoI requests decreased from 933 in 2019 to 880 in 2020. The numbers increased to 1,130 in 2021.



### Requestor Types 2022



The general themes for freedom of information requests in 2022 related to health treatment and services, public sector staffing and costs and government administration.

#### → Health Treatment and Services

The majority of Health treatment and services requests related to patient and case numbers of various health conditions, together with waiting list figures and bed numbers.

#### → Public Sector Staffing and Costs

Generally, requests were made for information relating to numbers of staff and contracts, including the figures for the number of consultants employed and related costs.

#### → Government Administration

Requests were received requiring information on data and figures together with copies of minutes and reports on a wide range of topics ranging from the Our Hospital project to details of meetings and overseas trips undertaken by the then Chief Minister.

The table below highlights the number of appeals received by the JOIC.



### → Significant 2022 Decision Notices

As of 31 December 2022, there was one active appeal under review.



# 13

## Environmental, Social and Governance (ESG)

The three central factors in measuring the sustainability and societal impact of a company or business. Sustainability is 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'.



Protecting the environment is one of our priorities, and we are a member of the Government of Jersey's 'Eco Active Business Network'. This is an environmental management scheme for organisations on the island.

The Authority continues to be committed to:







**1** Improving efficiency in the use of energy

**2** Reducing waste

**3** Demonstrating compliance with environmental legislation

**4** Reducing the risk of causing pollution or other damage to the environment

We achieve this by:

 <p>Having an 'Eco-active' champion within our office, to drive action and change.</p>	 <p>Conducting regular reviews and office walk arounds, to identify where energy can be saved.</p>	 <p>Encouraging staff to consider new ways to manage environmental impact.</p>	 <p>Having energy saving lighting in place across our workplace and switching off computers, monitors and communal equipment at the end of each day.</p>	
 <p>Recycling kitchen and office items whenever possible.</p>	 <p>Using recycled printer paper wherever possible.</p>	 <p>Conducting cleans at Island beaches.</p>	 <p>Car sharing whenever possible.</p>	 <p>Encouraging staff to improve their energy awareness at home as well as work.</p>

# Outreach and Communications

**Sarah Moorhouse**

Communications Lead

## → Community Education and Outreach

Increasing engagement with organisations, strengthening stakeholder relationships and empowering Islanders of all ages to manage their personal information and privacy was the priority for our Communications and Outreach activities during 2022.

## → Commitment to Organisations Let's Go DPO!

In line with our strategic outcome to achieve and maintain the highest standard of data protection in Jersey, a key area for development throughout 2022 was to grow our Let's Go DPO support network. Launched in Autumn 2021 to provide Data Protection Officers (DPOs) and Leads in our island the chance to network, identify and explore common experiences and engage with our office in a safe and confidential environment, membership has doubled since the network's launch and members have shared that they find the platform that provides for the sharing of guidance and experience, extremely useful. Topics throughout 2022 ranged from asking DPOs about the nature and level of support and guidance that would help them in their roles to hearing more about our policies and processes.

Other workshops included hearing from a network member about their organisation's experience of a data breach to another member leading a session about the challenges they experience in an advisory role to data controllers, as well as the challenges of interpreting the DPJL. The network's purpose is to promote compliance and awareness of the law and demonstrate our commitment to providing support to local DPOs and Leads by offering the opportunity for discussion and to contribute to our office's development initiatives and other guidance, where appropriate.



*I find the support at the Let's Go DPO sessions really helpful. As a new member to the network, it has been extremely beneficial to be able to learn from the regulator and fellow network members and share experiences in an open, transparent and safe environment at regular times throughout the year. I thank the JOIC team for their time and guidance at the sessions.*



## → Navigating Risk at Board Level

In order to further strive to achieve and maintain the highest standard of data protection in Jersey, the promotion of our Board Support Squad was a priority throughout 2022. Following that promotion, every organisation that enquired about our Board Support Service, took up the opportunity for a senior member of our team to visit their Board, in their own environment, to help them navigate data protection landscape,

risks and responsibilities. The aim of our Board Support Squad is to ensure data protection is a key consideration at Board level and high on the agenda, across Jersey organisations. Feedback throughout 2022 confirms our office is succeeding in increasing understanding of data protection risk and responsibility, through this initiative.

*In a safe environment, our Board learnt about the work of the JOIC and effectively have 1:1 rapport on any issues or concerns, whilst providing the opportunity to the JOIC to learn a little more about our business from those running it and the data protection nuances that it all presents.*



## → Events

Our JOIC events programme for 2022 included guidance sessions, workshops, drop-in sessions and seminars to guide organisations with their data protection obligations and inform individuals about their individual rights. Sessions ranged from 'Employee Data – How much is too much?' to Let's Go DPO sessions and an 'Introduction to Data Protection for Individuals', which explained more about our role promoting individual rights and gave guests the opportunity to ask questions about how to exercise their rights, in an informal setting.

Data Protection Day events for 2022 were held online (due to the Covid-19 pandemic), and guests were invited to join our Compliance and Enforcement Manager and Operations Director at our webinar titled 'Covid Vaccination Certificate – What, How, When?' to discuss privacy and transparency. Islanders were also invited to join the Information Commissioner as he outlined where Jersey features on the international stage.

## → Outreach and Awareness Campaigns

A focus for 2022 was a specific campaign to support small businesses in Jersey. This involved creating a guide for Small to Medium Enterprises to assist them with their data protection obligations, as well as launching a 'Small Organisation Self-Assessment' tool on our website.

Ahead of the Jersey Election 2022, our office created specific guidance for candidates standing for election to support them in navigating their data protection responsibilities – and representatives from our Compliance and Enforcement Team attended the Election Candidate Forum held at Jersey's Town Hall, to further provide guidance and assistance.

Boosting brand awareness on social media was a priority for 2022. Social media campaigns included links to data protection guidance and tips and advice about how to safeguard personal information when using social media. We also published content about our JOIC culture and values to inform organisations and citizens about the way our office operates.

To celebrate the fourth anniversary of the DPJL, we promoted our toolkits for small, medium and large organisations. Children's Day in July provided the opportunity to further highlight our video 'Your Privacy – a Price Worth Paying' which features children questioning how their personal information is handled.

We ran two radio campaigns on local commercial radio during 2022. The first focused on the importance of protecting personal information and privacy and the second focused on helping organisations to become 'data protection confident'.

Other campaigns focused on empowering Islanders by raising awareness of personal information rights and the importance of thinking twice before sharing personal information, in person or online.



### → Young Privacy Ambassador Programme

Our Young Privacy Ambassador Programme continued in Island secondary schools and colleges throughout 2022, as part of our commitment to 'protect our future generations by putting children first'.

The programme was developed to encourage young people to challenge their considerations of privacy and sessions were delivered in a variety of

formats including classroom learning, assemblies and workshops. Topics ranged from 'what is personal information and how can it be protected' to Individual Rights and the Principles of the Data Protection (Jersey) Law 2018.



### → 'It's All About You' Survey

During April 2022, we repeated our 'It's All About You' survey to further explore islanders' views about data protection and privacy and for 2022, we were interested to learn whether the global pandemic changed islanders' awareness of how their personal information was being moved around and/or shared.

The 2022 survey generated 10% more responses than the previous year. The results of the 2022 survey highlighted a heightened awareness of the importance of data protection and data privacy, an increased awareness of the role of our office and a greater understanding of individual rights. We were encouraged to find islanders want to learn more about the importance of data protection of personal data.

### Notable points gleaned from the survey included:



#### Islanders have a greater understanding of their rights under local legislation

For the 2022 survey, 41% of respondents stated they had either a very good or good understanding of their individual rights compared to 35% that responded in 2021.



#### Islanders are placing increasing importance on securing their personal data

When asked how important it was for companies to keep their data safe and secure; in 2021 81% of respondents said it was very important. That rose to 88% in 2022, suggesting a larger number of people are prioritising the security of their personal information.



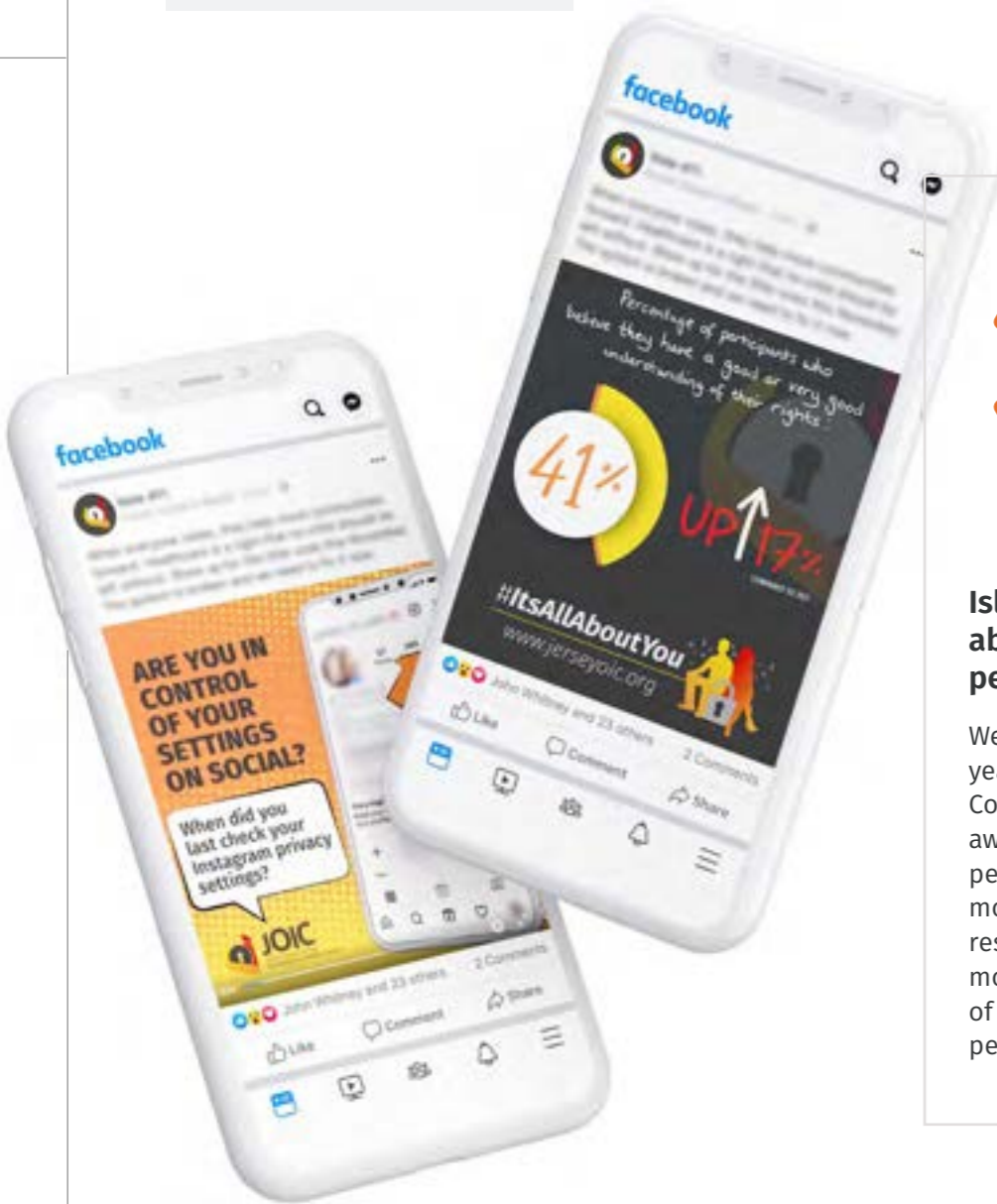
#### Islanders understand the importance of protecting special category data

The 2022 survey saw a 12% increase from 2021 in respondents stating they would be very concerned if their genetic data was compromised, while health data saw a 13% increase. When asked how concerned they would be about any kind of special category data being compromised, all results revealed an increase from the 2021 survey.



#### The JOIC's role is becoming more evident

When asked how familiar they were with the role of the JOIC, 21% of respondents stated they were very aware compared to 14% in 2021. This suggests islanders have a greater understanding of the role the independent regulator plays in promoting protection of their personal information and supporting organisations to follow good data protection practices.



**Islanders are more curious about who has access to their personal information**

We asked a new question in this year's survey about whether the Covid pandemic had raised islanders' awareness of how much their personal information was being moved around or shared. 54% of respondents said they were made more aware or slightly more aware of who might have access to their personal information.

**→ Social Media and Blogs**

A priority for 2022 was to create a range of simple solutions aimed at how to manage social media privacy. Simple, practical videos were developed to help citizens of all ages to better understand and proactively manage and review their privacy settings on social media platforms Facebook, Instagram, TikTok and YouTube and stay in control of their personal information. Hosted on our website, the videos were shared on social media to maximise their reach.

Blogs this year included a focus on privacy and sustainability, exploring data breaches and security awareness, and 'Demystifying Article 12 – the importance of transparency'. Another area explored was 'Privacy Washing,' discussing why commitment to data protection has to be more than lip service. During the summer months, we published tips for taking care of personal data when travelling abroad, such as thinking twice before using public Wi-Fi and sharing personal information on social media.



*It can be so hard to know where to start when it comes to managing my privacy settings. These simple videos from the JOIC offer tips and guidance and make me feel more in control of my personal information*

**→ Media and Public Relations**

Media releases issued during 2022 included 'Commissioner launches survey to explore the Island's views on Data Privacy' to 'Jersey's Information Commissioner selected to serve on International Stage'. We continue to liaise with local media organisations in order to promote the work of our office and raise awareness of our key messages. Coverage in Jersey publications included our 'Ask the Commissioner' feature in the Jersey Evening Post which included the item 'Don't pay with your personal details – online shopping and protecting your personal data' and 'Demystifying Article 12 – Don't cloud over the importance of transparency'. Pan-Island magazine Business Brief featured our article exploring the relationship

between personal data and prejudice, as well as a guide to our Board Support Squad support service. Other published articles included guidance about how to help reduce data protection and cyber risk and information for business owners about how to protect the personal information of customers and staff.

The Information Commissioner featured in a local leadership publication, a collaboration between Leadership Jersey and the Jersey Evening Post. We also informed local media of the Information Commissioner's selection to serve as a member of the Executive Committee of the Global Privacy Assembly.

**→ Local Stakeholder Engagement and Collaboration**

In line with our strategic outcomes, stakeholder engagement and collaboration was an integral part of our Outreach and Communications plan for 2022, as our office liaised with local organisations to raise awareness about the importance of data protection compliance.

We are members of, and the Commissioner is proud to Co-Chair, the Jersey Regulators Forum, which includes the Channel Islands Financial Ombudsman, Jersey Financial Services Commission, Jersey Competition Regulatory Authority, Children's Commissioner for Jersey, Jersey Care Commission, Jersey Gambling Commission and Trading Standards.

JOIC is pleased to be part of the Jersey Cyber Security Task Force and the Jersey Fraud Prevention Forum, a group of Jersey agencies that work together to coordinate a strategic approach to protect Jersey citizens from frauds and scams. Our team members represented the Jersey Fraud Prevention Forum at Island events and supported with promotional campaigns such as 'romance fraud awareness' and International Fraud Awareness Week, as part of the Forum's 'community first' ethos.

We were proud to support CERT.JE during Cyber Security Awareness Month in October 2022 by being part of a cyber incident response advisory panel for local businesses, directors, NEDs, charities and voluntary groups. We were further pleased to collaborate with CERT.JE when we collaborated with them to hold



*JOIC's recent workshop provided clear guidance, helpful resources and handy tips for sports organisations to improve their knowledge and implement practically within their setting*

a Data Protection and Cyber Security Workshop titled 'Essential, simple steps for keeping your business data safe'.

We are also pleased to be working with Digital Jersey, a government-supported economic development agency, to establish and launch the world's first data trust for the common good based on the Jersey trust law framework. This initiative has led to the creation of the Authority's regulatory sandbox to test and learn about the data protection implications of applying Jersey's trust law to treat data assets such as rights of access as trust assets. With government, commercial service providers and professional trustees included as key stakeholders, the Authority has taken a leading step to support the development of privacy-led data stewardship models and services and we are looking forward to reporting on our progress in the years ahead as this pilot scheme gains momentum.

## → Jersey chosen as host nation for Global Privacy Assembly Annual Meeting 2024

As a small island nation, our office was proud and honoured to learn, in the final quarter of 2022, that we have been selected to host the GPA Annual Meeting for 2024.

The Global Privacy Assembly is considered the premier global forum for data protection and privacy authorities and seeks to provide leadership in data protection and privacy at international level. It does this by connecting the efforts of more than 130 data protection and privacy authorities from across the globe.

The selection to host the GPA Annual Meeting 2024 will see our office take a lead role in supporting the Global Privacy Assembly with its vision to provide an environment in which privacy and data protection authorities worldwide can practically fulfil their mandates, both individually and by working together, to ensure high standards of data



protection globally and promote and facilitate effective regulatory cooperation.

JOIC's own strategic outcomes are closely aligned to the continued work of the Global Privacy Assembly in advancing global privacy in an age of accelerated digitalisation, maximising the voice of the GPA, particularly in terms of the broader digital policy, and building the capacity of the GPA and its members. When hosting the Global Privacy Assembly Annual Meeting, we intend to contribute our voice and leadership to furthering those critically important discussions and policy areas.

The Commissioner was delighted to attend and contribute to the Global Privacy Assembly Annual Meeting 2022 which took place in Istanbul, Turkey during October 2022, via video link. Our Operations Director Anne King was delighted to represent our office, in person. The Commissioner was proud to deliver his acceptance speech to the Executive Committee of the Global Privacy Assembly, as well as a Data Sharing Working Group update speech to the conference and a Sustainable Goals and Key Achievements speech at a conference side event



## → Information Commissioner selected to serve as Member of Global Privacy Assembly Executive Committee

It was a further honour for the Information Commissioner to be invited to join the Executive Committee of the Global Privacy Assembly during the final Quarter of 2022. Despite Jersey's small size, our office faces many of the same challenges faced by larger Data Protection Authorities, particularly in relation to applying the law to emerging technologies, increasing the levels of awareness of data protection rights amongst the general public, and playing our part in the preservation of democracy in the Island.

The Commissioner's appointment recognises the work of the JOIC both locally and internationally, with Jersey becoming one of only a small number of data protection and privacy authorities around the world to be selected to serve as a member of the Executive Committee.

Our office has been a member of the GPA, and its prequel body since 2005. In recent years we have become more actively involved in GPA activities, with representation on a number of GPA Working Groups.



## → National and International Working Groups

We continue to use our resources effectively and regularly assess what can be learned from local, national and international collaboration, to benefit Jersey.

We contribute to the Global Privacy Enforcement Network, a network of privacy enforcement authorities, to discuss the practical aspects of privacy law enforcement co-operation, share best practice and support joint enforcement initiatives and awareness campaigns. We are also delighted to remain a member of the 'BIIDPA,' the British, Irish and Islands' Data Protection Authorities, an informal regional network of privacy commissioners that meets annually, with open collaboration throughout the year.

The Information Commissioner is proud to chair the GPA Data Sharing for Public Good Working Group working group and our office contributes

to the GPA International Enforcement Working Group, which sees members discuss emerging privacy and enforcement matters of global impact and explore collaborative opportunities. JOIC's senior leadership team attends the GPA Digital Economy Working Group as part of the stakeholder workstream and is proud to be part of the GPA Digital Education Working Group and the GPA Digital Citizen and Consumer Working Group which aim to promote digital education and seek to support a global regulatory environment with consistently high standards of data protection, as digitalisation continues at pace, respectively.

Our senior team also attend and contribute to conferences and seminars run by the International Association of Privacy Professionals and the International Conference of Information Commissioners.

15

# Remuneration and Staff Report

**Sam Duffy**

*HR and Learning Consultant*

## → Context

During 2022 unemployment levels in Jersey dropped and skill shortages continued to rise. Many local businesses, including JOIC, were still dealing with challenges following the pandemic and before that, Brexit. Rising inflation, talent shortages, adapting working practices and supporting employees in a variety of new ways, were just a few of the ways in which recent events had impacted local business and the economy.

## → Employee Composition

As at the end of 2022 there were five Authority voting members and sixteen (15.6 FTE) permanent employees within the JOIC.

In total, 81% of JOIC employees were female and 19% were male. The JOIC senior leadership team comprised of four permanent employees, 75% female and 25% male, supported by two external consultants.



## → Recruitment

This was the busiest area of the HR strategy in 2022. In support of our strategic outcomes, particularly that of 'achieving and maintaining the highest standard of data protection in Jersey', the JOIC team increased from 12 (11.4 FTE) permanent employees on 31st December 2021 to 19 (18.6 FTE) by the end of 2022.

To accommodate these changes, new JOIC roles were designed, evaluated and the existing structure expanded during 2022. This resulted in a larger Compliance and Enforcement team, enabling greater capacity for proactive audits within local industries and a newly formed 'Community' team, paving the way for greater engagement with the local community. Additional resources were also recruited to the Finance and Communications teams, resulting in greater expertise and capacity in these areas. After a long recruitment campaign, a Director of Regulatory Strategy was appointed, bringing much needed resilience to the two person JOIC Exec team.

### → Employee Turnover

Two employees left the team in 2022. This equated to an employee turnover of 15%. The turnover was 16% in 2021.

### → Talent Management

The 2022 JOIC employee engagement survey clearly confirmed that JOIC's people and culture are vital to its continued success. Developing our workforce and enabling career progression opportunities was therefore a key strategy, to retain talent. During 2022, JOIC scheduled a comprehensive programme of more than 35 training sessions to support the team's continuing professional development. The Head of Finance completed ACCA and three employees passed the PDP qualification, one with distinction. The changing organisation structure facilitated 3 promotion opportunities for JOIC talent during 2022.

### → Pay and Reward

JOIC had completed a comprehensive review of pay and reward in 2020 resulting in the implementation of a new pay structure in 2021. During 2022, the HR and Remuneration Committee supported the report's additional recommendation to consider broader methods of employee retention, such as non-consolidated pay awards and enhancing employee benefits. Given the challenges of employee health and wellbeing, often tested in the previous 2 years, the decision to implement a private medical insurance (PMI) scheme, was made. A new PMI scheme for employees was implemented in August 2022.

The cost of living in Jersey rose consistently during 2022. The December twelve month increase in the RPI in Jersey was the largest since the early 1980s, causing much concern in the local community. In recognition of the exceptional circumstances, the JOIC team were awarded a 5% cost of living increase; further investment in its people and a commitment to their financial wellbeing.

### → Employee Engagement

Employee engagement is the extent to which employees invest their cognitive, emotional, and behavioural energies toward positive organisational outcomes. Following the previous year's first employee engagement survey, a second survey was conducted in 2022, to measure progress. Satisfaction was measured in the same 7 categories as 2021: Job Satisfaction, Pay and Reward, Training and Development, Leadership and Management, Communication and Engagement and Teamwork. Overall, engagement scores were higher than the previous year, in six of the survey's seven categories. Categories such as internal communication and structured training had improved notably, following feedback from the previous year. The Job satisfaction category, although still relatively high, was slightly down on the previous year, namely due to high levels of organisational change. Plans are ongoing with the team in this area.



# Finance Report

**Claire Le Brun**  
Head of Finance

# 16

## → Financial Performance as at 31 December 2022

Budget Area	Budget to Q4	Actual to Q4	Variance
Income	£2,448,414	£2,494,480	+£46,066
Staff	£1,651,430	£1,182,211	+£469,220
Non-Staff	£796,956	£848,903	-£51,947
<b>Total Variance</b>			<b>+£463,338</b>

The positive variance at the end of Q4 is largely due to the underspends in staffing. The underspend generated in the year has been utilised to support the JOIC strategic outcomes through our key projects.

## → Income

The revenue model was introduced in 2020, this was impacted by Covid-19. 2021 saw a phased return to normal business activity with 2022 being the first year collecting registration income without Covid disruption. The data collected during 2022 will assist with compiling robust trend analysis allowing for a greater degree of accuracy when forecasting future revenue generation.

	Full year 2022	Full year 2021	
Full time equivalent employees fee	£491,930	£463,380*	6%
Past year revenues fee	£81,650	£78,400	4%
Proceeds of Crime fee	£113,350	£106,650*	6%
Administration services fee	£1,515,800	£1,412,221*	7%
Special Category data fee	£41,750	£33,050	26%
<b>Total</b>	<b>£2,244,480</b>	<b>£2,093,701</b>	<b>7%</b>

\* the figures quoted are final figures for 2021 and differ slightly from those reported in the 2021 Annual Report.

There was registration income growth across all the fee bands during 2022 with only one banding falling short of the 5% target.

The largest increase has been seen in the Special Category data (SCD) fee category which has increased by 26% when compared to 2021. The SCD fee criteria is met for registrants who process special category data who also have a prior year revenue in excess of £100k. The fee income in this category was particularly low in 2021 as it was based on the revenues earned by entities during the pandemic so it is encouraging to see growth in this area.

The next highest fee band increase is seen in the Administration services fee category which makes up 67.5% of the total registration revenue received in 2022. (2021: 67.4%)

New registrations are received throughout the year, these are made up of new businesses registering for their first year of trading and existing businesses who have become aware of their legal obligations through the year.

## → Working in Partnership with Government

JOIC receives a Government grant and during 2022 the grant received was £250,000 (2021: £500k)

The grant income represents 10% of the total income received during 2022 (19.3% 2021) and in line with the partnership agreement between JOIC and the Government of Jersey this grant income was used for the purposes of administering the Data Protection Authority (Jersey) Law 2018, oversight and enforcement of the Data Protection (Jersey) Law 2018 and the oversight and enforcement of the Freedom of Information (Jersey) Law 2011.

Registration fee income is targeted to grow by 5% each year but there will be a point in time where JOIC reaches saturation and fee income will level off. It is with the future in mind that the Government grant value is set along with the fee bandings which are reviewed on an annual basis.

## → Remuneration and Staff

Remuneration rates for the Authority remain at the same rate as 2021. The rate was subject to an external review during 2021, the findings were submitted to the Minister who approved the following time commitments and rates for the Authority members:

Role	Time Commitment	Day Rate	Annual Remuneration per Authority member for the relevant contribution
Authority Chair	18 days p.a	£950	£17,100
*Committee Chair and Voting member	15 days p.a	£750	£11,250
Voting Members	12 days p.a	£750	£9,000

\* the committee chair was a new duty in 2021 attached to an existing Voting member role, the committee chair has an additional 3 days allocated to allow for the increased work load but is paid at the same day rate as a voting member.

There are no other payments made to the Authority members. Authority members are independent contractors and do not constitute an employee for the purposes of the Employment (Jersey) Law 2003 or other local legislation.

Total Staff costs for the year were underspent at year end due to continued delayed recruitment as a result of the pandemic and the global issues with recruitment.

Budget 2022	Actual 2022	Variance
£1,651,430	£1,182,210	£469,220

<sup>12</sup> <https://www.kojima.je/>

Staff costs have increased by 22.4% compared to the 2021 spend due to an increase in staff numbers.

	2021	2022	%+/-
Total Staff cost	£965,689	£1,182,210	+22.4%

	2021	2022	%+/-
Total Staff cost	14	18	+28.6%
Average cost per head	£68,978	£65,678	-4.8%

Staff costs include the Commissioners salary.

Commissioner Salary 2021*	Commissioner Salary 2022	% increase on 2021
£139,526**	£143,693	2.9%

\*There was a change in personnel during 2021, The previous Information Commissioner had a payment for reimbursement for the effects of double taxation, this amount has not been included in the salary figure detailed above. The grade offered to the Information Commissioner is a 10.3 on the JOIC pay scale and this was increased by 2.9% for cost of living from 1st January 2022.

\*\* the reported 2021 Salary in the 2021 annual report was higher due to an allocation for holiday pay for the departing commissioner that was not required. It is coincidental that the allowance has matched the increase awarded for the cost of living increase for 2022.

## → Non-Staff Costs

There are variances throughout the non-staff budget areas, these are related to the previously mentioned recruitment issues causing delays in planned operations and have resulted in a net overspend in the non-staff budget.

Budget 2022	Actual 2022	Variance
£796,956	£848,903	-£51,947

The surplus generated in the year will be carried forward and utilised in 2023/4 to fund projects and initiatives that are underway.





# Audited Financial Statements

JERSEY DATA PROTECTION AUTHORITY (JDPA)  
AUDITED FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2022

CONTENTS	Page
General Information	81
Authority Report	82
Statement of Authority's Responsibilities	83
Independent Auditor's report to the Minister	84
Statement of Comprehensive Income and retained earnings	88
Statement of Financial Position	89
Notes to the Financial Statements	90

## → General Information

### Members of the Authority

Jacob Kohnstamm	Chair
Clarisse Girot	Voting Member (resigned 23rd August 2022)
David Smith	Voting Member
Gailina Liew	Voting Member
Paul Routier MBE	Voting Member
Helen Hatton	Voting Member
Paul Vane	Information Commissioner (non-voting member)

### Registered Office

2nd Floor  
5 Castle Street St Helier Jersey  
JE2 3BT

### Banker

HSBC  
15-17 King Street St Helier  
Jersey JE2 4WF

### Independent Auditor

Baker Tilly Channel Islands Limited  
1st Floor Kensington Chambers  
46/50 Kensington Place  
St Helier Jersey  
JE4 0ZE

## → Authority Report

The Authority present their report and the audited financial statements of the Jersey Data Protection Authority (JDPA) (The “Authority”) for the year ended 31st December 2022.

### Incorporation

The JDPA was incorporated in Jersey under the Data Protection Authority (Jersey) Law 2018 (“DPAL”) on 25 May 2018.

### Corporate governance and delegation of authority

The JDPA, through the Authority, carries the ultimate responsibility for the discharge of the responsibilities under the DPAL. The JDPA operates under the name of the Jersey Office of the Information Commissioner (JOIC).

The JDPA is the guardian of independence, sets the organisation’s strategic direction, holds the Commissioner to account and provides the Commissioner with advice, support and encouragement. It ensures that JOIC provides value for money and complies with appropriate policies and procedures with respect to human resources, financial and asset management, and procurement.

The JDPA has the authority to appoint (or re-appoint) the Commissioner or remove the Commissioner from office. The JDPA has very limited operational responsibilities and these do not include day-to-day operations, individual casework or most enforcement decisions. The Authority has the ability to delegate functions to the Commissioner, but cannot delegate the following functions: this power of delegation; the function of reviewing any of its decisions; the issuing of a public statement under Article 14 of the DPAL; the making of an order to pay an administrative fine; the preparation of the Annual Report. By an Authority Resolution of 7 January 2019, The JDPA delegated all of its functions to the Commissioner, in accordance with Article 10, except ‘Reserved Functions’. In performing the ‘Reserved Functions’ the Authority will have the assistance of the Commissioner.

### Results

The financial statements provide an overview of the Jersey Data Protection Authority’s income and expenditure for 2022.

### Going Concern

The Authority consider, given the financial condition of the Authority, the use of the going concern basis is appropriate for the current period and at least 12 months from the date of signing these financial statements.

### Auditor

The Comptroller and Auditor-General exercised her power under Article 43(3)(a) of the Data Protection Authority (Jersey) Law 2018 (as defined by the Comptroller and Auditor General (Jersey) Law 2014), to appoint Baker Tilly Channel Islands Limited as auditor of the authority for the 5 years from the year ended 31st December 2018 to 31st December 2022.



**Jacob Kohnstamm**  
Chair

29th March 2023

## → Statement of Authority’s Responsibilities

The JDPA is responsible for preparing the Authority’s report and the financial statements in accordance with applicable law and regulations.

The Data Protection Authority (Jersey) Law 2018 requires the Authority to prepare financial statements for each financial period. Under that law, the Authority have elected to prepare the financial statements in accordance with United Kingdom Accounting Standards, including Section 1A of the Financial Reporting Standards 102, the Financial Reporting Standard in the United Kingdom and Republic of Ireland (“FRS 102 1A”) (collectively, United Kingdom Generally Accepted Accounting Practice (“UK GAAP”). The Authority must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Authority and of the surplus or deficit for that period.

In preparing these Financial statements, The JDPA is required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed, subject to any material departures as disclosed and explained in the financial statements; and
- prepare the financial statements on a going concern basis unless it is inappropriate to presume that the Authority will continue in business.

The voting members are responsible for keeping adequate accounting records that are sufficient to show and explain the Authority’s transactions and disclose with reasonable accuracy at any time the financial position of the Authority and enable them to ensure that the financial statements comply with the Data Protection Authority (Jersey) Law 2018. They are also responsible for safeguarding the assets of The JDPA and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The JDPA at the date of approval of this report confirm that:

- So far the Authority are aware, there is no relevant audit information of which the JDPA’s auditor is unaware; and
- each Authority member has taken all steps that they ought to have taken as a member to make themselves aware of any relevant audit information and to establish that The JDPA’s auditor is aware of that information.



**Jacob Kohnstamm**  
Chair

29th March 2023

## → Independent Auditor's Report

To the relevant Minister of the Government of Jersey (the "Minister") on behalf of Jersey Data Protection Authority and the Comptroller and Auditor General



### Opinion

We have audited the financial statements of Jersey Data Protection Authority (the "Authority"), which comprise the statement of financial position as at 31 December 2022, and the statement of comprehensive income and retained earnings for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements:

- give a true and fair view of the financial position of the Authority as at 31 December 2022, and of its financial performance for the year then ended in accordance with United Kingdom Accounting Standards, including Section 1A of FRS 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland ("UK GAAP"); and
- have been prepared in accordance with the requirements of the Data Protection Authority (Jersey) Law 2018 (the "Law").

### Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (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 Jersey, including the FRC's Ethical Standard, 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.

### Key Audit Matters

Key audit matters are those matters that, in our professional judgement, were of most significance in our audit of the financial statements of the current period and include the most significant assessed risks of material misstatement (whether or not due to fraud) identified by us, including those which had the greatest effect on: the overall audit strategy; the allocation of resources in the audit; and directing the efforts of the engagement team. These matters were addressed in the context of our audit of the financial statements as a whole, and in forming our opinion thereon, and we do not provide a separate opinion on these matters.

Key audit matter	Identified audit risk per the Audit Planning Letter	Key observations communicated to those charged with governance
<p><b>Revenue</b> Revenue recognised during the reporting period may be materially misstated.</p> <ul style="list-style-type: none"> <li>• Accounting policies in Note 3</li> <li>• Note 4 and Note 6</li> </ul> <p>Revenue for the year was £2,495,671 (PY: £2,591,378)</p>	<p>Revenue derived from registrations made with the authority and renewals, or grant income, being materially misstated.</p>	<p>We have obtained an understanding of the process, from initial registration or renewal through to the income being recognised and received, including walkthroughs and detailed controls testing.</p> <p>We also undertook substantive analytical procedures to assess the completeness of the reported income.</p> <p>We have reviewed the agreements, correspondence and conditions related to funding received from Government of Jersey (GOJ), to ensure that the appropriate level of income is recognised in the reporting period.</p> <p><b>We have no issues to report from our testing.</b></p>

### Our Application of Materiality

Materiality for the financial statements as a whole was set at £37,000 (PY: £29,000), determined with reference to a benchmark of total revenue/expenses, of which it represents 1.8% (PY: 1.8%).

In line with our audit methodology, our procedures on individual account balances and disclosures were performed to a lower threshold, performance materiality, so as to reduce to an acceptable level the risk that individually immaterial misstatements in individual account balances add up to a material amount across the financial statements as a whole.

Performance materiality was set at 70% (PY: 70%) of materiality for the financial statements as a whole, which equates to £26,000 (PY: £20,000). We applied this percentage in our determination of performance materiality because we have not identified any significant corrected misstatements or material uncorrected, misstatements in the prior year audit. We also based the percentage on results and experience in the prior year audit and understanding of the entity therefore we deem the likelihood and effects of misstatements to be low.

We have reported to the Audit and Risk Committee any uncorrected omissions of misstatements exceeding £1,000 (PY: £1,000), in addition to those that warranted reporting on qualitative grounds.

### Conclusions relating to Going Concern

In auditing the financial statements, we have concluded that the Board of Member's use of the going concern basis of accounting in the preparation of the financial statements is appropriate.

Based on the work we have performed, we have not identified any material uncertainties relating to events or conditions that, individually or collectively, may cast significant doubt on the Authority's ability to continue as a going concern for a period of at least twelve months from when the financial statements are authorised for issue.

Our responsibilities and the responsibilities of the Board of Members with respect to going concern are described in the relevant sections of this report.

### Other Information

The other information comprises the information included in the annual report other than the financial statements and our auditor's report thereon. The Board of Members are responsible for the other information contained within the annual report. 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. 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 course of 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 this gives rise to a material misstatement in the financial statements themselves. If, based on the work 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.

### Responsibilities of the Board of Members

As explained more fully in the statement of Authority's responsibilities set out on page 83, the Board of Members are responsible for the preparation of financial statements that give a true and fair view in accordance with UK GAAP, and for such internal control as the Board of 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 Board of 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 management either intends to liquidate the Authority or to cease operations, or has no realistic alternative but to do so.

The Board of Members are responsible for overseeing the Authority's financial reporting process.

### **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.

The extent to which our procedures are capable of detecting irregularities, including fraud, is detailed below:

- Enquiry of management to identify any instances of non-compliance with laws and regulations, including actual, suspected or alleged fraud;
- Reading minutes of meetings of the Authority;
- Reading compliance reports and key correspondence with regulatory authorities;
- Review of legal invoices;
- Review of management's significant estimates and judgements for evidence of bias;
- Review for undisclosed related party transactions;
- Using analytical procedures to identify any unusual or unexpected relationships; and
- Undertaking journal testing, including an analysis of manual journal entries to assess whether there were large and/or unusual entries pointing to irregularities, including fraud.

A further description of the auditor's responsibilities for the audit of the financial statements is located at the Financial Reporting Council's website at [www.frc.org.uk/auditorsresponsibilities](http://www.frc.org.uk/auditorsresponsibilities).

This description forms part of our auditor's report.

### **Other Matters which we are Required to Address**

We were appointed by Comptroller and Auditor General on 4th March 2020 to audit the financial statements. Our total uninterrupted period of engagement is 4 years.

The non-audit services prohibited by the FRS's Ethical Standard were not provided to the Authority and we remain independent of the Authority in conducting our audit.

Our audit opinion is consistent with the additional report to the audit committee in accordance with ISAs.

### **Use of this Report**

This report is made solely to the Minister in accordance with Article 43 of the Data Protection Authority (Jersey) Law 2018. Our audit work has been undertaken so that we might state to the Minister those matters we are required to state to them 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 its Minister, as a body, for our audit work, for this report, or for the opinions we have formed.



**Sandy Cameron**

**For and on behalf of Baker Tilly  
Channel Islands Limited  
Chartered Accountants St Helier,  
Jersey**

**Date: 29 March 2023**

FOR THE YEAR ENDED 31 DECEMBER 2022

## → Statement of Comprehensive Income and Retained Earnings

	Notes	2022 £	2021 £
<b>Income from activities</b>	4	2,244,728	2,091,353
<b>Operating expenses</b>	5	(2,099,564)	(1,619,896)
<b>Surplus on ordinary activities</b>		145,164	471,457
<b>Other income</b>			
Government grant	6	250,000	500,000
Interest		943	25
<b>Surplus on ordinary activities</b>		250,943	500,025
Taxation	7	-	-
<b>Surplus for the year</b>		396,107	971,482
<b>Retained Surplus as at 1st January 2022</b>		1,551,884	580,402
<b>Retained Surplus as at 31st December 2022</b>		1,947,991	1,551,884

The JDPA turnover and expenses all relate to continuing operations. There are no recognised gains or losses other than those shown above.

The notes on pages 90-95 form part of these Audited Financial Statements

FOR THE YEAR ENDED 31 DECEMBER 2022

## → Statement of Financial Position

Assets	Notes	2022 £	2021 £
<b>Non-current assets</b>			
Tangible assets	8	22,768	8,267
Intangible assets	9	90,029	96,517
		112,797	104,784
<b>Current assets</b>			
Trade and other receivables	10	43,989	54,341
Cash and cash equivalents	11	1,885,109	1,439,574
<b>Total Current assets</b>		1,929,098	1,493,915
<b>TOTAL ASSETS</b>		<b>2,041,895</b>	<b>1,598,699</b>
<b>CREDITORS – amounts falling due within one year</b>			
Trade and other payables	12	(93,904)	(46,815)
		(93,904)	(46,815)
<b>TOTAL NET ASSETS</b>		<b>1,947,991</b>	<b>1,551,884</b>
<b>EQUITY</b>			
Share Capital	13	-	-
Reserves		1,947,991	1,551,884
<b>TOTAL NET ASSETS</b>		<b>1,947,991</b>	<b>1,551,884</b>

The financial statements on pages 88 to 95 have been prepared in accordance with the Data Protection Authority (Jersey) Law 2018 and Section 1A of Financial Reporting Standard 102.

The notes on pages 90 - 95 form part of these Audited Financial Statements

The accounts were approved and authorised for issue on 29th March 2023 by the Authority and signed on its behalf by:



**Jacob Kohnstamm**  
Chair

## → Notes to the Financial Statements for the year ended 31 December 2022

### 1. General Information

The Jersey Data Protection Authority (JDPA) (the "Authority") was created by the Data Protection (Jersey) Law 2018 on 25 May 2018 and is responsible for the registration and regulation of Data Protection in Jersey. This law transferred all responsibilities for registration and regulation of Data Protection prescribed as the duty of the Minister or other States bodies to this new Authority. The Authority is a body corporate and its registered office is 2nd Floor, 5 Castle Street, St Helier, Jersey, JE2 3BT.

#### **Basis of accounting**

The financial statements have been prepared on the going concern basis, under the historical cost convention. The Authority has applied the small entities regime under FRS 102(1A), which allows qualifying entities certain disclosure exemptions. The Authority has taken advantage of the exemption from preparing a statement of cash flows under paragraph 7.1b.

#### **Functional and presentational currency**

The financial statements are prepared in Pounds Sterling (GBP or £) which is the functional and presentational currency of the Authority.

### 2. Statement of compliance

The financial statements have been prepared in compliance with Section 1A of Financial Reporting Standard 102 (FRS 102) 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' issued by the Financial Reporting Council and the Data Protection Authority (Jersey) Law 2018.

### 3. Summary of Accounting Policies, Estimates and Significant judgements

The principle accounting policies applied in the preparation of these financial statements are set out below. These policies have been consistently applied to all years presented, unless otherwise stated or a new or amended accounting standard is applied.

The preparation of financial statements requires the use of certain accounting estimates. It also requires management to exercise its judgement in the process of applying accounting policies. Accounting estimates involve management's judgment of expected future benefits and obligations relating to assets and liabilities (and associated expenses and income) based on information that best reflects the conditions and circumstances that exist at the reporting date. There have been no changes to the accounting estimates from the previous financial period.

#### **Going concern**

The Authority consider, given the financial condition of the Authority, the use of the going concern basis is appropriate for the current period and for 12 months from the date of signing these accounts.

#### **Provisions**

Provisions are recognised when the Authority has a present legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will be required to settle the obligation in future and the amount of the obligations can be reliably estimated.

#### **Economic useful lives of intangible and tangible fixed assets**

The Authority's fixed assets are depreciated on a straight-line basis over their economic useful lives. Useful economic lives of equipment are reviewed by management periodically. The review is based on the current condition of the assets and the estimated period during which they will continue to bring an economic benefit to the Authority.

#### **Revenue recognition**

Registration fees

Under the terms of Data Protection Authority (Jersey) Law 2018 registrations made to the Authority are valid for one year. The registration fees are non-refundable and fall due each year on 1st January. Income from registrations is recognised when it is earned.

## FOR THE YEAR ENDED 31 DECEMBER 2022

### **Operating Expenses**

Expenses are accounted for on an accruals basis.

### **Employment benefits**

Pension costs

As the Authority is an admitted body, past and present employees have been eligible to accrue post-employment benefits under the provisions of two possible defined benefit pension schemes, namely the Public Employees Contributory Retirement scheme ("PECRS") or the Public Employees Pension Fund ("PEPF").

The assets are held separately from those of the Government of Jersey and the responsibility to discharge accrued liabilities are held by those Funds. The Authority is not responsible to fund any deficit or to maintain the specific level of the pension assets to meet pension liabilities. In light of this, the scheme is accounted for as though it is a defined contribution scheme, with the annual cost to the authority taken to be equal to the employer's pension contributions payable to the scheme for the accounting period. The contributions are charged to operating expenses as and when they become due.

Contribution rates are determined on a triennial basis by an independent qualified actuary, so as to spread the costs of providing benefits over the members' expected service lives. The main purposes of the valuations are to review the operation of the scheme, to report on its financial condition and as noted, to confirm the adequacy of the contributions to support the scheme benefits. Copies of the latest annual accounts of the scheme, and Government of Jersey, may be obtained from 19-21 Broad Street, St Helier JE2 3RR or online at: <http://www.gov.je/Working/WorkingForTheStates/Pensions/PublicEmployeePensionFund/Pages/PublicServicePensionPublications.aspx>

### **Interest receivable**

Interest receivable is accounted for on an accruals basis.

### **Government Grant**

Grants are recognised in other income in the year the related costs are incurred by the Authority for which the grant is intended to compensate. For grants which are received by the Authority for compensation for expenses or deficit which have already been incurred, the grant is recognised in income when it is received or receivable.

### **Tangible assets**

Tangible assets consists of office equipment which is stated at historical cost less accumulated depreciation. Cost includes all costs directly attributable to bringing the asset to working condition for its intended use. Depreciation is calculated on the straight-line method to write-off the cost of equipment to their estimated residual values over their expected useful lives as follows:

- Office equipment 3 years
- IT equipment 3 years

The useful lives and depreciation methods used are reviewed regularly and any adjustments required are effected in the charge for the current and future years as a change in accounting estimate. Gains and losses on disposal of equipment are determined by reference to their carrying amounts and are taken into account in determining net profit. Repairs and renewals are charged to the statement of profit or loss and other comprehensive income when the expenditure is incurred. The carrying values of the plant and equipment are reviewed for impairment when events or changes in circumstances indicate the carrying values may not be recoverable. If any such indication exists, and where the carrying values exceed the estimated recoverable amounts, the plant and equipment are written-down to their recoverable amounts. One full year of depreciation is charged in the year of acquisition. Items with a value in excess of £1000 whether singularly or in aggregate are capitalised.

The Authority's policy is to review the remaining useful economic lives and residual values of property, plant and equipment on an ongoing basis and to adjust the depreciation charge to reflect the remaining estimated useful economic life and residual value.

**FOR THE YEAR ENDED 31 DECEMBER 2022****Intangible assets**

Externally acquired intangible assets (Website and software) are initially recognised at cost and subsequently amortised on a straight-line basis over their useful economic lives of 5 years. The carrying amount of each intangible asset is reviewed periodically and adjusted for impairment where considered necessary.

Due to the revenue generation, regulatory function and API connection to Dynamics CRM, an expert opinion was sought on the useful economic life and 5 years was considered to be appropriate and in line with the Digital Strategy for the JDP.

The Authority's policy is to review the remaining useful economic lives on an ongoing basis and to adjust the amortisation charge to reflect the remaining estimated useful economic life and residual value if appropriate. One full year of amortisation is charged in the year of acquisition.

**Financial assets**

Basic financial assets, including trade and other receivables and cash and bank balances are initially recognised at transaction price, unless the arrangement constitutes a financing transaction, where the transaction is measured at the present value of the future receipts discounted at a market rate of interest. Subsequent measurement shall be at fair value with the change in fair value recognised in profit or loss.

Financial assets are derecognised when (a) the contractual rights to the cash flows from the asset expire or are settled, or (b) substantially all the risks and rewards of the ownership of the asset are transferred to another party or (c) despite having retained some significant risks and rewards of ownership, control of the asset has been transferred to another party who has the practical ability to unilaterally sell the asset to an unrelated third party without imposing additional restrictions.

**Trade and other receivables**

Trade and other receivables are initially recognised at their fair value and are carried at their anticipated realisable values. An allowance is made for impaired trade and other receivables based on a review of all outstanding amounts at the year-end. Bad debts are written-off during the year in which they are identified. Subsequent measurement will see the change in the realisable value recognised in profit or loss.

**Cash and cash equivalents**

Cash and cash equivalents comprises of cash in hand.

**Financial liabilities**

Basic financial liabilities, including trade and other payables are initially recognised at transaction price, unless the arrangement constitutes a financing transaction, where the debt instrument is measured at the present value of the future receipts discounted at a market rate of interest. Financial liabilities are derecognised when the liability is extinguished, that is when the contractual obligation is discharged, cancelled or expires. Subsequent measurement shall be at fair value with the change in fair value recognised in profit or loss.

**Trade and other payables**

Trade payables are obligations to pay for goods or services that have been acquired in the ordinary course of business from suppliers. Accounts payable are classified as current liabilities if payment is due within one year or less. If not, they are presented as non-current liabilities. Trade payables are recognised initially at transaction price and subsequently measured at amortised cost using the effective interest method.

**Contingencies**

Contingent liabilities, arising as a result of past events, are disclosed when it is possible that there will be an outflow of resources but the amount cannot be reliably measured at the reporting date. Contingent liabilities are disclosed in the financial statements unless the probability of an outflow is remote.

Contingent assets are disclosed in the financial statements, but not recognised, where an inflow of economic benefits is probable.

**FOR THE YEAR ENDED 31 DECEMBER 2022****4. Income from activities**

Income from activities is made up of registration fees under the terms of Data Protection Authority (Jersey) Law 2018. The registration fee income in the year was £2,244,728 (2021 £2,091,353)

**5. Operating expenses**

	2022 £	2021 £
Staff including Commissioner and Deputy Commissioner	1,182,210	965,689
Services and Communications	676,687	410,376
Administrative Expenses	22,564	17,988
Audit and accountancy fees	17,750	24,506
Premises and Maintenance	131,054	126,675
Bank charges	9,999	8,809
Depreciation and amortisation	59,300	65,853
	<b>2,099,564</b>	<b>1,619,896</b>

**6. Government grant**

The Government grant paid in the year was £250,000 (2021: £500,000)

Any net deficit of the Authority is financed by the Government of Jersey under the Partnership Agreement. The current partnership agreement ends 31st December 2023.

**7. Taxation**

Article 42 of the Data Protection Authority (Jersey) Law 2018 provides that the income of the Authority shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

**8. Tangible assets**

	2022 £		
<b>Cost</b>	<b>Office equipment</b>	<b>IT equipment</b>	<b>Total</b>
As at beginning of year	37,054	46,575	83,629
Additions in the year	12,476	15,477	27,953
	<b>49,530</b>	<b>62,052</b>	<b>111,582</b>
<b>Accumulated depreciation</b>			
As at beginning of year	36,228	39,134	75,362
Depreciation charge for the year	4,572	8,880	13,452
	<b>40,800</b>	<b>48,014</b>	<b>88,814</b>
<b>Net book value</b>			
As at 31 December 2022	8,730	14,038	22,768
As at 31 December 2021	826	7,441	8,267

Notes to the Financial Statements (continued)

**FOR THE YEAR ENDED 31 DECEMBER 2022****9. Intangible assets**

	2022 £
Software	
<b>Cost</b>	
As at beginning of year	189,878
Addition	39,360
	229,238
<b>Accumulated amortisation</b>	
As at beginning of year	93,361
Charge for the year	45,848
	139,209
<b>Net book value</b>	
As at 31 December 2022	90,029
As at 31 December 2021	96,517

**10. Trade and other receivables**

	2022 £	2021 £
Trade Debtors	20,517	19,459
Prepayments	23,472	34,882
	43,989	54,341

**11. Cash and cash equivalents**

The JDPa has £1,885,109 at the end of the year (2021: £1,439,574) All balances are cash and are held in the Authority's own bank accounts.

**12. Trade and other payables**

	2022 £	2021 £
Accruals and trade creditors	(93,904)	(46,815)
	(93,904)	(46,815)

**13. Share capital**

The JDPa was incorporated in Jersey under the Data Protection Authority (Jersey) Law 2018 and has no share capital.

Notes to the Financial Statements (continued)

**FOR THE YEAR ENDED 31 DECEMBER 2022****14. Related Party Transactions**

The Related Party Transactions for The Authority solely relate to the Authority remuneration.

Authority Remuneration	2022 £	2021 £
Information Commissioner (until 1st July 2021)	-	88,227
Information Commissioner	118,335	69,244
Chair	17,093	14,177
Voting member (Non Executives)	4,500	8,100
Voting member (Non Executives)	11,250	10,350
Voting member (Non Executives)	9,000	8,100
Voting member (Non Executives)	11,250	10,350
Voting member (Non Executives)	11,250	10,350
	182,678	218,898

Key management personnel includes the Commissioner and the Voting Members who together have authority and responsibility for planning, directing and controlling the activities of The JDPa.

All amounts paid to key management personal were in line with the contractual agreement and entirely related to remuneration for the above described services.

The JDPa has recognised £250,000 (2021: £500,000) as grant income from the Government of Jersey. The JDPa is accountable to the Government of Jersey by means of the Partnership Agreement.

**15. Controlling Party**

The JDPa was incorporated in Jersey under the Data Protection Authority (Jersey) Law 2018 and works as an independent Authority.

As such, it is not considered to have a controlling party.

**16. Contingent Asset**

The Information Commissioner who was in post between July 2018 and July 2021 resided outside of Jersey. Their employment contract allowed them to claim an allowance for the effects of double taxation as their income was taxed in 2 different jurisdictions. During 2022 information was received from the Canadian Revenue Agency that a rebate could be payable due to the possibility of a foreign tax credit being applied. The Canadian Revenue Agency are in the process of performing a reassessment of these taxes. There are no further details available as at the date of producing these financial statements.





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