

# STATES OF JERSEY



## PAN-ISLAND DATA PROTECTION COMMISSIONER

---

Lodged au Greffe on 5th August 2011  
by the Chief Minister

---

STATES GREFFE

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

- (a) to approve the creation of a Pan-Island Data Protection Commissioner;
- (b) to amend the current terms and conditions of the Data Protection Commissioner for Jersey to allow engagement as the Data Protection Commissioner under the Data Protection (Bailiwick of Guernsey) Law 2001.

CHIEF MINISTER

## **REPORT**

The impending retirement of the existing Data Protection Commissioner in Guernsey allowed the Home Department in Guernsey to investigate the feasibility of a pan-Island Data Protection Commissioner. The Data Protection Commissioners of both Islands have developed the proposal further to the point that a pan-Island Data Protection Commissioner is proposed to be in place on the retirement of the Guernsey Commissioner at the end of September 2011.

The Home Department in Guernsey will be lodging a similar report and proposition recommending this proposal in August 2011 for debate in September. The relevant Committees in both Alderney and Sark support the proposal.

The Data Protection legislation is similar in both Bailiwicks, with only minor differences. The role of the 2 Data Protection Commissioners is therefore identical in safeguarding the privacy rights of individuals with regard to processing personal information. It was therefore sensible to consider a pan-Island Data Protection Commissioner, but the status quo alternative was also considered. The preferred option of the Home Department in Guernsey, the Council of Ministers and the respective Data Protection Commissioners is to proceed with a pan-Island Commissioner because –

- (a) it will provide an enhanced and more consistent service to both jurisdictions by improving operational and service performance;
- (b) cost savings can be realised, both in staffing resource and operational costs; and
- (c) there are benefits in encouraging pan-Channel Islands working.

### **Proposal**

The pan-Island Data Protection Commissioner will act on behalf of each Bailiwick independently and independent of both Governments. The Commissioner will be accountable to each respective Government and will continue to advise each Government on Data Protection and best practice. It will be for each Government to determine the specific legislation applicable to that jurisdiction.

The offices in both Jersey and Guernsey will remain, to provide front-facing customer services in person, by telephone, e-mail or fax. It is considered that both Islands should retain a presence to reassure both communities that a comprehensive and efficient local service is being offered with no loss of quality. In time, with the sharing of workloads, the building of expertise and improvements in transactions, the service will improve in terms of coverage, support and resilience. Improvements in communications infrastructure and information technology will provide further efficiencies and service gains.

Both jurisdictions will see benefits under this proposal –

- (a) there will be an increased perception of independence and a reduced potential for political interference in the work of the Commissioner;
- (b) there is a greater likelihood of consistency in decision-making based on common experience and case history;

- (c) there will be an improvement in service coverage – coping with peaks, troughs and absences;
- (d) there is no competitive element, so businesses which operate in both jurisdictions will experience continuity of service;
- (e) the consistency in development of both Statutory and Voluntary Codes of Practice will be rationalised across the Channel Islands;
- (f) staff time will be utilised more efficiently;
- (g) the combined cost of provision would be reduced by –
  - (i) a reduction in salary costs;
  - (ii) long-term savings in the provision of IT support;
  - (iii) a reduction in the cost of publicity and educational campaigns; and
  - (iv) a reduction in the travel cost and expenses of international liaison and representation.

### **Future developments**

The creation of a pan-Island Data Protection Commissioner is perhaps the first step in the creation of a much more integrated data protection operation, providing better and more resilient customer service and protection. Over time and with experience, greater integration might provide greater benefits whilst retaining the independence of the Office, the legislation and the respective Governments.

However, there are 2 issues worthy of comment at this stage. Currently both Data Protection Commissioners recognise the need for greater focus on compliance. The idea of a Compliance Unit across both Islands is being pursued and is included in the salary projections for 2015. Secondly, Jersey has agreed, subject to resources being available, that a Freedom of Information Law will be introduced in 2015. This Law recommends that the Data Protection Commissioner should be designated the Information Commissioner and regulate the application of Freedom of Information in Jersey. Guernsey has yet to decide on the implementation of Freedom of Information. The implications of a Freedom of Information Law in Jersey have been recognised in the proposal, but as effectively it stands apart from Data Protection legislation it does not detract from the benefits of adopting a pan-Island Data Protection Commissioner.

### **Financial and manpower implications**

The proposal suggests that the Commissioner's salary be split 60%/40% respectively, based on historic and current levels of activity between Jersey and Guernsey. Currently (2010) total operating costs in Jersey are £292,000 and £218,000 in Guernsey, which includes total salary costs of £227,000 and £166,000 respectively. Under this proposal the predicted total salary costs for 2012 are £160,000 for Jersey and £120,000 for Guernsey. The estimated total salary costs for 2015 are £140,000 for Guernsey and £190,000 for Jersey; however, if Freedom of Information legislation is introduced in Jersey in 2015, the predicted total salary costs for Jersey increases to £265,000.