Annual Report 2018
OF THE JERSEY DATA PROTECTION AUTHORITY

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.
**Highlights & Achievements 2018**

- **Successfully assessed and evaluated 141 data breaches.**

- **Think GDPR campaign reached over 16,000 users on the bespoke website alone.**

- **Case handling procedures updated with a fresh emphasis on statistical analysis and performance measures.**
  - Personal Information Awareness Program commenced in autumn 2018.
  - *we reached 260+ Jersey secondary school students.*

- **Established financial controls in readiness for full independence.**

- **Appointed Data Protection Authority Chair & non-executive board members.**

- **We engaged with over 650 individuals over the course of 21 presentations.**

- **Dr Jay Fedorak appointed as information Commissioner.**

- **reviewed and overhauled our internal compliance and enforcement protocols.**

- **6 team members appointed.**
  - Compliance & Enforcement Manager, Communication & Operations Manager, Finance Manager & 3 Case Workers.

- **184 data protection related cases investigated in 2018 – a 235% increase on 2017.**

- **We relocated to temporary offices.**

- **Reviewed and overhauled our internal compliance and enforcement protocols.**

- **7 national & international privacy conferences attended by Commissioners.**

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**Jersey secondary school students:**

- 2018 Highlights & Achievements
OUR ROLE

The Jersey Data Protection Authority (the Authority) is an independent statutory authority and its mission is 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 and the Data Protection Authority (Jersey) Law 2018, and influencing thinking on privacy and processing of personal information on a local and international basis.
- In addition, the Authority is responsible for providing advice and guidance to island businesses and individuals, and making recommendations to the States of Jersey in response to international data protection legislation changes.

The Information Commissioner has the separate responsibility to:

- Encourage public authorities to follow good practice in their implementation of the Freedom of Information (Jersey) Law 2011 and help to promote transparency by supplying the public with information about the law.

OUR VISION

A prosperous close-knit island community that embraces a collaborative and innovative approach to data protection, providing a leading-edge model to other jurisdictions.

OUR MISSION

To provide the people of Jersey with a high standard of data protection.

OUR PROMISE

To promote the information rights of individuals 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.

OUR 2018 AIMS

Priorities

• To ensure our organisation, in one that staff are proud to work for and make a real difference to Jersey.
• To support Jersey’s reputation as a well-regarded jurisdiction.

What we want to achieve

• To promote sound information governance to help organisations succeed, while protecting the privacy of the individuals.
• To ensure that all those that handle personal information do so lawfully and responsibly.
• To encourage public authorities to embrace openness and transparency in all their activities whilst respecting an individual’s right to privacy.
• To ensure that individuals know their information rights and how to exercise them.
• To provide an effective and user-friendly registration service.
• To ensure our regulatory approach is appropriate and fair.
• To promote embedding information rights in new laws, technology and public policy.

10
Annual Report 2018 of the Jersey Data Protection Authority
VIEW FROM THE CHAIR

It is a pleasure, as chair, of the Jersey Data Protection Authority, to reflect on 2018, which was my first year in the role.

The world of data protection has transformed almost beyond all recognition, since I first became involved, as head of the Dutch Data Protection Authority and Chair of the European Data Protection Board. Rapidly advancing technology has created new challenges for regulators, businesses and public authorities. It has also increased the risks to individuals of significant harm from the loss or theft of their data. The evolution of the internet and new forms of social media have resulted in vast amounts of personal data becoming public and remaining accessible indefinitely.

I am pleased to report that Jersey is adapting to this change. Jersey has followed Europe in implementing a more comprehensive data protection law in early 2018, which has created new challenges for regulators, businesses and public authorities. It has also increased the risks to individuals of significant harm from the loss or theft of their data. The evolution of the internet and new forms of social media have resulted in vast amounts of personal data becoming public and remaining accessible indefinitely.

The general task of the Board is to provide administrative and regulatory oversight. The Board has inherited the role of the Information Commissioner. It is not involved directly in the enforcement of the Data Protection (Jersey) Law 2018. Rather, it ensures that the Office remains accountable to the people of Jersey and properly fulfils its mandate to deliver services. The Board has established a framework to ensure the Office operates efficiently and effectively in accordance with the principles of public life (formally known as the Code of Practice in the UK). The Board also provides advice to the Office, employing its expertise in data protection, governance, and local knowledge of Jersey government and industry. The Board also provides advice to the Office, employing its expertise in data protection, governance, and local knowledge of Jersey government and industry. The Board also provides advice to the Office, employing its expertise in data protection, governance, and local knowledge of Jersey government and industry. The Board also provides advice to the Office, employing its expertise in data protection, governance, and local knowledge of Jersey government and industry.

As a consequence of this transition, the Board has taken on additional responsibilities, including having served as Deputy Commissioner of the Office of the Commissioner, as part of its transition towards greater accountability and oversight of the Office of the Information Commissioner. The Board has also assumed responsibility for the performance of the Board of the Authority, to reflect on 2018, including having served as Deputy Commissioner of the Office of the Information Commissioner. The Board has also assumed responsibility for the performance of the Board of the Authority.

I am pleased to report that the Office has adopted the Data Protection (Jersey)/Law 2018 and the Data Protection Regulation (GDPR).

During the course of the last year, there has been new legislation, a new mandate, a new governance structure, a new Commissioner, six new employees, an office move, a restructuring of the Jersey government, a tripling of the Board, and new employees joining the Board. This has required us to collaborate on our investigations. To this end, we have established open lines of communication between the two offices and two boards including independent representatives of the Office who have built the foundations of a strong relationship that will continue to evolve.

Finally, it is likely that there will be cases involving the personal data of individuals of both islands that will require us to collaborate on our investigations. To this end, we have established open lines of communication between the two offices and two boards including independent representatives of the Office who have built the foundations of a strong relationship that will continue to evolve.

I am very pleased with our new team, on the Board and in the Office, and the leadership of the Commissioner and the Board. Like Jersey, we are not used to comparing ourselves to other jurisdictions. Nevertheless, also like Jersey, I believe we have the potential to exercise a level of influence locally and internationally beyond our size.
INFORMATION COMMISSIONER MESSAGE

I am pleased to present this annual report to fulfil two objectives.

The first is for the Jersey Data Protection Authority to meet its obligation under article 44 of the Data Protection Authority (Jersey) Law 2018 to produce a report on its activities during each fiscal year. The second is to meet my obligation as Information Commissioner to prepare a report on the exercise of my functions under the Freedom of Information (Jersey) Law 2011. These functions are in addition to the data protection responsibilities that the Authority has delegated to me, and the Authority has no forth right to request from me any information.

Nonetheless, we have integrated the two reports of the purposes of convenience and cost savings.

The year 2018 was a dynamic and challenging one both for Jersey public services and change to the Jersey economy, our data protection laws to keep up with GDPR; the new assets and ensuring that employees continue to follow proper policies and procedures.

The new data protection laws give new rights to individuals and new responsibilities to businesses, government, and our Office. Our focus in 2018 was to make individuals and organisations aware of the new laws and to build up the capacity of our Office to meet our new responsibilities. Prior to 25 May, we educated the public and business about the new laws and compliance with them. The greater level of awareness that we created resulted in a growing workforce with more complaints from individuals and more well-reported data breach notifications from organisations. By the end of the year, our workforce had almost tripled compared to 2017.

We began the year with only four employees, including the Commissioners. With the support of the Government and States of Jersey, we received enough funding to increase our staff complement to nine by year-end. This required an extensive recruitment initiative. As a result, we outpaced our existing office space, necessitating a move to a new location. It was a challenge to juggle these administrative responsibilities, while ensuring some quality in the handling of individual cases. It was owing to the support of my talented team that we were able to succeed.

Jersey is taking a move away from the traditional, stage, and we are playing our part. We participate in several international Data Protection and Freedom of Information forums and I am sure that we will come across some less cooperative individuals and new responsibilities to businesses, governments and international regulators, governments and businesses will conclude from my presentations that Jersey is a useful resource to use and conduct business involving personal data.

While I am pleased with the level of interest in data protection, I am surprised with the level of awareness of rights under the Freedom of Information Law. I issued a significant decision notice to re-open an appeal and to the Chief Executive of the Jersey Government, at our office.

The purpose of the Freedom of Information Law is to make public authorities more accountable to the public. This supports good public policy decision-making. The awareness that information is eligible for disclosure gives politicians and officials greater incentive to make decisions that are consistent with the purpose of statutes.

Jay Fedorak PhD
Information Commissioner Jersey, Channel Islands
Commissioner of Information (Jersey), Guernsey, Jersey, Channel Islands

We look forward to further collaboration with the community to promote the information rights of individuals in 2019. We plan to develop further resources to assist with compliance and increase our public education programme.
The Data Protection (Jersey) Law 2018 gives citizens important rights including, but not limited to, the right to know what information public authorities and companies hold about them and how they handle that information, and the right to request correction of their information. The Data Protection Law in Jersey helps to protect the interests of individuals by obligating organisations to manage the personal information they hold in a fair, lawful and transparent way, as well as being accountable to their customers and to themselves for their actions.

One of our primary functions is to make individuals aware of their rights and to ensure public authorities and companies are aware of their responsibilities. Another is to conduct investigations into complaints by individuals about public agencies or companies concerning the management of personal data. We also manage the process of registration of public authorities and companies under the Data Protection Law. In addition to investigating complaints that individuals bring to our attention, we can proactively investigate or audit general compliance with the laws.

The EU Data Protection Directive 95/46 required that supervisory authorities be independent and effective. The GDPR extended these requirements to include the power to issue fines and sanctions. Prior to 2018, the Office of the Information Commissioner was a non-ministerial department of the Government of Jersey and subject to Government oversight. From 25 May 2018, the Information Commissioner became accountable to the independent Data Protection Authority in accordance with the new Data Protection Authority Law.

The data protection laws give the Authority and the Commissioner greater responsibilities with respect to public education, conducting investigations, receiving reports of breaches and consulting with public authorities and companies. This has led to a growth in workload that requires additional resources. The office has grown from three staff members at the beginning of the year to nine at the end of 2018. Our broader range of skills and resources has facilitated further public education. Growth in the casework team has enabled the office to keep up with the growing demand of complaints.

The Freedom of Information (Jersey) Law 2011 gives people a general right of access to information held by most public authorities in Jersey. Aimed at promoting a culture of openness and accountability across the public sector, it enables a better understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money by requiring the disclosure of information in those areas.

The diagram above shows the team structure at the beginning of 2018 the diagram to the right shows the structure as at the close of 2018.

The Office Structure December 2018

WHO ARE WE

The Jersey Data Protection Authority includes the Office of the Information Commissioner. The Authority is the independent office responsible for overseeing the Data Protection (Jersey) Law 2018 and the Data Protection Authority (Jersey) Law 2018. The Office of the Information Commissioner is also responsible for overseeing the Freedom of Information (Jersey) Law 2011.

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ORGANISATIONAL STRUCTURE

Office Structure January 2018

Office Structure December 2018

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THE DATA PROTECTION AUTHORITY

The general purpose of the Authority is to provide administrative and operational oversight of the Office of the Information Commissioner:

- It performs a non-executive function and does not participate in the daily activities of the Information Commissioner.
- It provides direct independent oversight of the Office of the Information Commissioner, replacing the States government in this function.

The board has the public responsibility to:

- Ensure that the Office of the Information Commissioner in Jersey remains accountable to the people of Jersey, in properly fulfilling its mandate and delivering quality services to its stakeholders.
- Ensure that the office 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 percent of the operating budget for Office of the Information Commissioner.

The Authority also provides an advisory function to the office. With a balance of expertise in data protection, governance, and local knowledge of Jersey government and industry, the Authority provides strategic guidance to Office of the Information Commissioner with respect to fulfilling its mandate effectively and efficiently. At times, the board may also provide strategic advice with respect to the handling of particular cases.

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 Board has delegated all of these other powers to the Commissioner. It reserves the right, however, to exercise those functions in particular cases, at its discretion.

There are certain functions that the Data Protection Authority Law stipulated that the Authority must perform without delegating to the Commissioner. The most important is that only the board can decide whether to issue fines for contraventions of the Law. While the Commissioner (OIC) 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 amount of that fine.

BOARD STRUCTURE

The board held its inaugural meeting in October 2018. The first meeting focussed on establishing protocols and procedures to ensure that the Board and Office of the Commissioner are fit for purpose. Protocols discussed included:

- draft corporate governance protocol
- code of practice
- disclosure of interests
- appointment of auditors
- strategic plan
- delegation of powers

BOARD MEMBERS REMUNERATION

For 2018 the chair of the Jersey Data Protection Authority was paid £750 per day for his services and the non-executive board members were paid £600 per day.

ACCOUNTABILITY ARRANGEMENTS

To function as an effective regulator and to implement the Data Protection (Jersey) Law 2018 requirements, the Authority requires workable and sustainable funding and demonstrable independence. The implementation of the Data Protection Authority (Jersey) Law 2018 and the establishment of an overarching Board structure helps to achieve this level of independence.
Summary of 2018 Data Protection Activities

Benefits of effective data protection

The Jersey Laws applies to both the public and private sectors.

- It helps redress imbalance between the individual and the state, but also between the individual and companies that collect, process and communicate their data to third parties.
- It preserves democracy, but also protects the individual in the face of massive technological change and generate trust in the digital economy.
2018 OPERATIONAL PERFORMANCE

Complaints
The significant increase in numbers of cases in 2018 has in part been due to our ongoing work to ensure individuals know their rights and empowered to raise concerns. We continue to focus energy where possible on this important aspect of our role. Managing the volume of work as well as expectations at the same time as the OIC is going through significant changes continues to challenge us. Our compliance and enforcement team approach each complaint with the same objectivity and thorough process.

Who did people complain about?

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<tbody>
<tr>
<td>Financial Institutions</td>
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<tr>
<td>Health Sector</td>
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<tr>
<td>Legal Profession</td>
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<td>0</td>
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<tr>
<td>Leisure and Travel</td>
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<td>2</td>
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<tr>
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<td>24</td>
<td>20</td>
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<tr>
<td>Other</td>
<td>46</td>
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<td>13</td>
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<tr>
<td>Uncategorised</td>
<td>0</td>
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We continue to foster constructive relationships with the data controllers and data subjects to ensure that we can all learn and benefit from the ‘lessons learned’ from the complaints. A significant portion of the workload continues to involve responding to general enquiries, the breadth and depth of which varies significantly. Where we receive formal complaints, we strive to work with all parties towards a mutually satisfactory resolution. This is not always possible. One reason is that there has been an increase in cases where there are complex interlinked issues regarding employment grievances or legal proceedings in a family or civil court.

ENFORCEMENT

The Authority did not issue any formal undertakings or enforcement notices in 2018. We were able close all of our cases without the need to resort to formal enforcement action.

There was one case where we had to resort to issuing a formal information notice for us to obtain information necessary to conduct the investigation because the organisation declined to provide it informally. The organisation complied with the notice. As the investigation is continuing, we are unable to provide any further details.

The majority of our 2018 work centred on guiding data controllers and processors through compliance with the new legislative requirements. Additionally we commenced developing our Regulatory Action Policy and fining regime.

The new 2018 law provides for substantive fines and sanctions for contraventions of the Data Protection (Jersey) Law; it is our intention to use these as a position of last resort. Our vision is to work collaboratively with the community to educate and guide data controllers, processors and data subjects to reduce breaches, complaints and contraventions. Our sanction process must be seen to be fair, reasonable and proportionate.

The Authority can determine if an administrative fine is required according to Article 26 of the law and 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 ordering any fine, the Authority must take into account the need for fines to be effective; be proportionate; and have a deterrent effect.
The Data Protection (Jersey) Law 2018 specifies that ‘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 in the manner required by the Authority, unless the personal data breach is unlikely to result in a risk to the rights and freedoms of natural persons’.

The breach obligations in the law go on to specify that the notification must:

(a) describe the nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;

(b) communicate the name and contact details of the data protection officer or other contact point where more information can be obtained;

(c) describe the likely consequences of the personal data breach;

(d) describe the measures taken or proposed to be taken by the controller to address the personal data breach, including where appropriate, measures to mitigate its possible adverse effects.

The controller must document any personal data breaches, including the facts relating to the personal data breach, its effects and the remedial action taken, in such detail as will enable the Authority to verify compliance with this Article.

If the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the controller must communicate the breach to the data subjects:

(a) without undue delay.

(b) in clear and plain language describing the nature of the personal data breach.

(c) giving the information referred to in paragraph (3)(b) to (d).

Mandatory breach reporting is a new obligation for data controllers and processors under the 2018 law and our aim is to ensure that the reporting process is as straightforward as possible. The mandatory breach reporting aligns Jersey with modern global data protection standards. We have collaborated with industry throughout the year to maintain constructive communications so that we can all learn from breach occurrences, ensuring meaningful engagement and the highest levels of data security for the public.

Since early in 2018, we have emphasised that reporting breaches can benefit both affected individuals and the organisations involved, our caseworkers can assist organisations in containing breaches and mitigating the resulting harms. Breaches can be traumatic for members of staff and carry serious reputational damage for businesses. Our team works sympathetically, yet professionally, when reporting officers contact our office.

While there may be occasions where breaches warrant a regulatory response, such as a decision notice or fine, we will reserve the most punitive sanctions for cases of deliberate, wilful, negligent, repeated or particularly harmful non-compliance. Failure to report a breach we become aware of from other sources could also result in a severe penalty.

Reports also provide our office with information about data security incidents, allowing us to identify systemic issues. We received 141 self-reported data breaches in 2018 for the full year: 20 breaches reported from 1 January to 24 May and 121 breaches reported to our office after 25 May.
REGISTRATIONS

The Data Protection Authority (Jersey) Law 2018 clearly obliges data controllers and processors to register with our office:

(1) A controller or processor established in Jersey must not cause or permit personal data to be processed without being registered as a controller or processor under this Article.

(2) An application for registration made to the Authority must:
   (a) include the fee as specified by the Authority.
   (b) be in a form and manner required by the Authority; and Article 18 Data Protection Authority (Jersey) Law 2018 Page - 14/4/2018
   (c) include any information required by the Authority.

(3) Upon receipt of an application made in accordance with the Law, the Authority must register the applicant as a controller or processor as the case may be.

(4) The Authority must:
   (a) maintain a register of controllers for the purposes of this Law.
   (b) publish any such information as the Minister may by Order prescribe.

(5) A person who contravenes paragraph (1) is guilty of an offence.

While registration does not directly improve the protection of personal data, it does create transparency about how organisations manage their data, giving them a greater level of awareness of their obligations and an incentive to comply. It also helps to inform the public about which organisations manage personal data.

At the close of business on the 31 December 2018, we had 4,501 live registrations for Jersey organisations. We recognise that the registration process can be challenging and time-consuming, particularly for small and medium sized organisations, clubs and associations.

GUIDANCE

We launched a bespoke ‘Think GDPR’ website and developed comprehensive guidance documents to help Jersey business and community to begin to understand GDPR and the Data Protection (Jersey) Law 2018.

Think GDPR website hosted a wealth of guidance covering: essential steps to GDPR compliance; what GDPR mean for SME’s; a GDPR implementation plan; and more. The website received heavy use between March 2018 and July 2018 (around the introduction of EU GDPR on 25 May) with most visitors viewing the overview, resources, the GDPR guidance and questionnaires. The infographics provided pictorial practical information helping with GDPR compliance.

The graph below highlights the activity on the ‘Think GDPR’ website throughout 2018. In total in excess of 16,000 visitors researched information on the site.

Supporting printed collateral for ‘Think GDPR’

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In 2018, we commenced a review of the registration system, including the required fields, to simplify the process, reduce the amount of information required and reduce the administrative burden for controllers and processors. We anticipate that a new registration model will be completed by quarter 3 of 2019.

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Additional Guidance

The change in law necessitated new guidance to be provided to help the business community, States of Jersey Members and the public to understand the new and updated obligations and individual rights.

We published refreshed and new guidance on:

• guidance for States’ members
• guidance on transitional provisions
• the data protection principles
• key definitions
• guidance for SME’s
• guidance on breach reporting
• nature of data controllers
• guidance on registration of controllers and processors
• guidance on sanctions
• guidance on criminal offences and civil remedies

We also presented a range of infographics and briefing papers to help support the community through the legislative changes.
The Freedom of Information (Jersey) Law 2011 provides public access to information held by Scheduled Public Authorities (SPAs). It creates a legal right for individuals to request information from SPAs. The Law covers all recorded information that is held by a SPA in Jersey. Recorded information includes ‘printed documents, computer files, letters, emails, photographs, and sound or video recordings. It is defined in the Law as meaning ‘information recorded in any form’.

Scheduled Public Authorities are listed within Schedule 1 of the Law as:
- the States Assembly including the States Greffe
- a minister
- a committee or other body established by resolution of the States or by or in accordance with standing orders of the States Assembly
- a department established on behalf of the States
- the Judicial Greffe
- the Viscount’s Department
- Andium Homes Limited (registered as a limited company on 13th May 2014 under registration number 115713).
- the States of Jersey Police force
- a Parish

The Law gives individuals access to any information, apart from their own personal data (information about themselves) such as their health records or credit reference file. The Data Protection (Jersey) Law 2018 gives the proper avenue to access their own personal data.

Our role in the Freedom of Information Law spans 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 this Law.
- To fulfil the second stage of the appeals function - a person aggrieved by a decision of a scheduled public authority may, within 6 weeks of the notice of that decision being given or within 6 weeks of the date the applicant has exhausted any complaints procedure provided by the scheduled public authority, appeal to the Information Commissioner.
- The Information Commissioner must decide the appeal as soon as is practicable but may decide not to do so if the Commissioner is 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;
  - the appeal has been withdrawn, abandoned or previously determined by the Commissioner.
- The Information Commissioner must serve a notice of his or her decision in respect of the appeal on the applicant and on the scheduled public authority.

In final consideration of the Freedom of Information Law it has to be noted that significant effort is extended by the Commissioner’s staff in providing informal advice and assistance to both members of the public and SPAs at various stages of the Freedom of Information process prior to any formal appeal. This includes time taken for discussion, advice and mediation aimed at provision of information to the public along with greater public understanding of the machinery and workings of government.

Benefits of effective freedom of information
- Improves accountability of scheduled public authorities.
- Promotes good governance and transparency.
Annual Report 2018 of the Jersey Data Protection Authority

We issued four formal decision notices in 2018 following the appeals submitted to us. The decision notices relate to the following information regarding:

• the Government of Jersey workforce modernisation program
• water pollution in certain areas of the island
• SATS (Standard Assessment Tests) exam results in 2017 and secondary school inspection reports
• the employment information of the chief executive for the States of Jersey, including his contract.

In each case, the Commissioner conducts a formal hearing adhering to the principles of administrative fairness and the laws of natural justice. The Commissioner provides the public authority and the applicant with an opportunity to submit any information. It is essential that both parties make full and complete arguments in support of their contentions and provide adequate evidence, as opposed to mere speculation, to support those arguments.

The Commissioner presumes that when making its submissions, each party is providing all relevant material that is available at the time of the assessment.

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 unbiased 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.

SIGNIFICANT 2018 DECISION NOTICES

The annual volume of freedom of information requests has been consistent since 2015. Appeals have also remained consistently low. The possible reasons for this are:

• greater communication between requestors and scheduled public authorities
• greater public awareness of the Law
• results of the work of both the central FOI Unit and the Office towards increased transparency and access scheduled public authorities
• reluctance about pursuing a second stage appeal to our office.

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International Liaison

The Commissioner and Deputy attended key international conferences throughout 2018 broadening their knowledge and raising Jersey’s profile.
CONFERENCE OF EUROPEAN DATA PROTECTION AUTHORITIES: “Data Protection – Better Together”

The conference in Athens drew together a broad range of attendees to debate territorial scope, challenges of data protection in transnational action and the influence of European standards on other systems.

ASIAN DATA PRIVACY LAWS WORKSHOP LONDON
5 December

The Commissioner attended the half day workshop in London titled ‘Asian Data Privacy Laws and their impact on businesses’. The workshop explored to what extent are the Asian laws responding to the EU Data Protection Regulation and the same privacy law developments in India, China, Japan and Korea.

17TH ANNUAL CONFERENCE PDP
11 and 12 October

The Deputy Commissioner joined attendees for the 17th Annual PDP Conference in London. The 17th Annual conference provided industry experts and regulators with an opportunity to engage the practical components of the GDPR and the Data Protection Act 2018 helping organisations to ensure they are fully compliant.

THE INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS ANNUAL CONFERENCE BRUSSELS
21 – 25 October

The International Conference of Data Protection and Privacy Commissioners (ICDPPC) is a worldwide annual forum at which independent regulators on privacy, data protection and freedom of information adopt high level resolutions and recommendations addressed to governments and international organisations.

The Conference first met in 1979 and provides international leadership to data protection, privacy and freedom of information by connecting the efforts of 115 privacy and data protection authorities from across the globe.

The Commissioner and Deputy Commissioner benefitted from the International Conference of Data Protection and Privacy Commissioners in Brussels, titled ‘Debating Ethics – Dignity and Respect in data driven life’. The 40th International Conference of Data Protection and Privacy Commissioners. The 2018 conference focussed on exploring beyond compliance mechanisms, to understand how the digital age is changing society and people’s daily lives and see how ethics can help challenge the inequalities and confusions which increasingly characterise our digitised societies and economies.
PUBLIC ENGAGEMENTS & AWARENESS SESSIONS

The Jersey Data Protection Association (JDPA) was formed to help all organisations in Jersey to understand ‘respond and comply with the demands of customers, employees, suppliers and regulators in the field of data privacy and protection’. The JDPA committee includes representatives from various industry sectors including Financial Services, Public Sector, Digital, the Legal Profession, Retail, Tourism and Hospitality, Energy and Construction.

The Jersey Association of Trust Companies (JATCo) invited the Commissioner to reflect on the activities of our office in 2018 considering both data protection and freedom of information responsibilities.

MEETINGS WITH DATA PROTECTION REGULATORS

The Commissioner met with the Information Commissioner’s Office in the UK in September and the Data Protection Authority (Guernsey) later in the year. The ongoing dialogues and positive relationships with other data protection regulators provides a great platform for sharing experiences, best practices and ensuring consistency of interpretation and application of the law.

British, Irish and Islands’ Data Protection Authorities (BIIDPA) meeting

The Deputy Commissioner attended the British, Irish and Islands’ Data Protection Authorities (BIIDPA) meeting that was held in the Isle of Man in June 2018.

These meetings provide a platform for the exchange of useful information to ensure a consistent approach to the treatment of issues that are of common interest. For a number of years now, Jersey has played an active role in discussions between the British, Irish and Islands’ Data Protection Authorities. Representatives of the regulators from the UK, Ireland, the Jersey, Guernsey, the Isle of Man, Gibraltar, Malta and Cyprus meet annually to discuss the challenges, share best practice and ensure cooperation where appropriate.

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The Deputy Commissioner gave 21 talks to a wide range of audiences in 2018. The increase in awareness sessions gradually rose throughout the year – ranging from simple talks to the public to detailed, technical seminars to industry.

For example Paul Vane was invited to testify a tax company, General Practitioners, Jersey Farmers Union, PwC, Jersey Business and Chartered Institute of Management. Paul Vane spoke to over 650 people regarding data privacy. Paul also spoke to members of the public in talks held at Jersey Library.

The Commissioner, Deputy Commissioner and staff receive invitations to undertake speaking engagements and provide awareness sessions to industry representatives and professional bodies.

Public Engagements & Awareness Sessions

The Jersey Data Protection Association (JDPA) invited the Commissioner to present to members of the Jersey Data Protection Association in November 2018. In his speech the members ‘What’s been on his office’s agenda since May 2018?’

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The Jersey Association of Trust Companies is an organisation that represents the majority of trust companies in Jersey. JATCo represents its members’ interests to government and financial services regulators. It also runs an educational programme to enable decision makers and opinion formers (both locally and further afield) to have critical information upon which to make decisions affecting the Island’s trust industry.

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On 4 May 2016, the EU Official Journal published official texts of General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC. The GDPR came into force on 25 May 2016, and applied from 25 May 2018. EU Member States were supposed to transpose it into their national law by 6 May 2018. It also published the Directive (EU) 2016/680 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA. Jersey implemented the requirements of both the GDPR and the Directive in 2018, as first non-EEA jurisdiction. The Island’s new legislative framework came into force on the same day the GDPR came into force, 25 May 2018.

Maintaining free data flows between Jersey and other countries is fundamental to our Island’s economy, particularly the operations of the financial services industry. Jersey currently benefits from the European Commission treating it as a third country providing adequate levels of data protection under the former European Data Protection Directive 95/46/EC. This permits companies in EU member states to transfer personal data to Jersey without the need for additional levels of protection through binding corporate rules or standard contractual clauses.

Preserving this free flow of personal data is a great benefit to our economy, which is worth preserving. The current adequacy designation remains in place pending a review by the European Commission of our new regime in comparison to the requirements of the GDPR. We are hopeful that our new data protection regime implemented in May 2018 will receive a favourable assessment during this review.

“Maintaining free data flows between Jersey and other countries is fundamental to our Island’s economy”
Our team enthusiastically focused on shrubs and plants for two days in 2018 to help support the excellent work of Jersey Hospice. The Commissioner and Deputy Commissioner were among the team who cleaned old planters, swept paths, pruned shrubs, cleaned the water feature and spruced up the greenhouse.

Jay Fedorak said it was rewarding to contribute, even in a small way, to the total philosophy of care and patient well-being offered by the team at Jersey Hospice. We are committed to continuing our work in the community throughout 2019.

The small team has raised sponsorship for Children-in-Need and MacMillan Cancer Support through simple events involving baking and stair climbing. We will be developing environmental policies in 2019/20. We have strived to ‘upcycle’ and ‘recycle’ as much office waste as possible to date.
Notes to financial information for 2018
1. Additional funding was allocated to the OIC to assist with Data Protection (Jersey) Law 2018 preparation and implementation
2. Staff increased by 5 full time equivalent in 2018
3. Includes consultancy fees, recruitment fees and legal and professional fees
4. Increase in administration costs due to increased staff using telephones, printing, photocopying etc.
5. Increase in premises costs due to interim accommodation costs
6. Finance costs are bank charges
7. The surplus has resulted from an increase in the number of entities registering with the OIC