



The role of a **data protection officer**

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Deputy Information Commissioner

"I had six honest serving men –
they taught me all I knew;
their names were Where and
What and Why,
and When and How and Who."

Rudyard Kipling (1865 – 1936)



- **Why?...**do you need a DPO?
- **Who?...**needs to have a DPO?
- **When?...**do you need to appoint a DPO?
- **What?...**are the duties of a DPO?
- **Where?...**do they sit in the organisation?
- **How?...**do I comply if I am a small business?

WHY?



➤ Article 37 GDPR

The background of the slide features the flag of Jersey, which consists of a white field with a red saltire (a cross with arms of equal length) and a red shield in the upper right corner containing two golden lions passant guardant. The text is overlaid on the white field of the flag.

2 LOCAL LAWS:

Data Protection (Jersey)

Law 2018 ➤ Article 24

Data Protection

Authority (Jersey) Law 2018

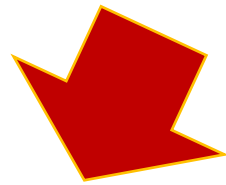
Not just because the law says so...

- Transparency
- Accountability
- Responsibility
- Culture of compliance
- Opportunity
- Not a new concept!

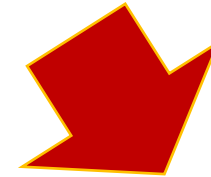


WHO

needs to have a DPO?



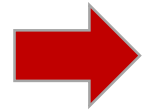
CONTROLLER



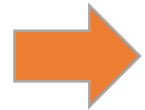
PROCESSOR

WHEN

do you need to appoint a DPO?



Processing carried out by a Public Authority



Core processing activities require systematic monitoring of data subjects on a large scale.



Core processing activities require processing of special category data (including criminal convictions) on a large scale.

'Public Authority'

➤ Article 1 Data Protection (Jersey) Law 2018

- The States Assembly (including the States Greffe);
- A Minister;
- A committee or body established by a resolution of the States or by, or in accordance with, standing orders of the States Assembly;
- An administration of the States (ie. any States Department);
- The Bailiff's department, Law Officers Department, Viscounts Department, Judicial Greffe and staff within those departments;
- Any court or tribunal;

'Public Authority' (continued)

- The States of Jersey Police;
- A Parish;
- The holder of a public office;
- In relation to any country other than Jersey, any person exercising or performing functions or holding any office similar or comparable to any of the persons described above;
- Any other person or body (whether incorporated or unincorporated) that exercises functions of a public nature.



'Core activities'

➤ Article 24 Data Protection (Jersey) Law 2018

- Should relate to the primary activities of the organisation.
- The key operations necessary to achieve the organisation's goals.
- Forms an inextricable part of the organisation's processing activity, eg.
 - Hospital processing health data.
 - Security company carrying out surveillance.
- Does not include ancillary functions of the business, eg. Payroll, IT support (GDPR Recital 97).

'Regular and systematic monitoring'

- Ongoing or occurring at particular intervals for a particular period
 - Recurring or repeated at fixed times
 - Constantly or periodically taking place
-
- Occurring according to a system
 - Pre-arranged, organised or methodical
 - Taking place as part of a general plan for data collection
 - Carried out as part of a strategy.



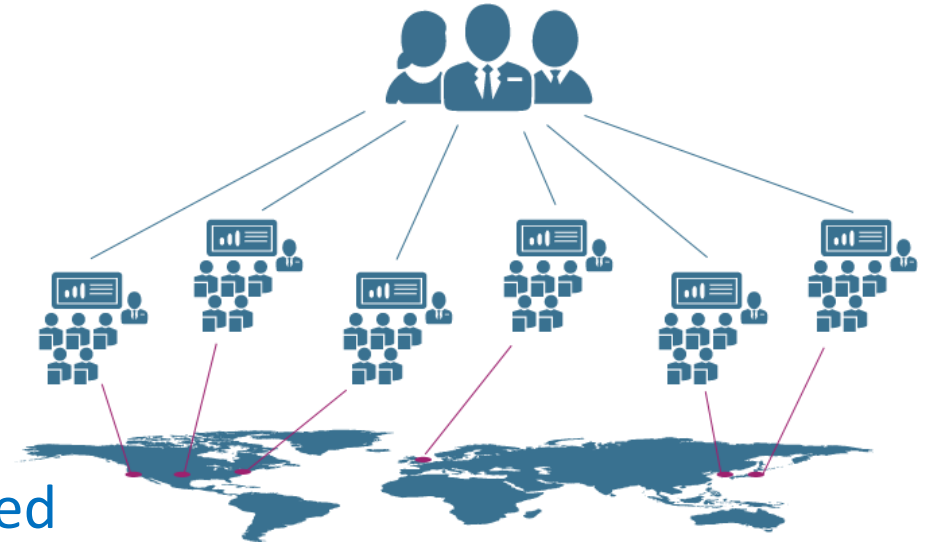
'Large scale'

➤ Article 1 Data Protection (Jersey) Law 2018

- Means having regard to:

- Number of data subjects
- Volume or range of data being processed
- Duration or permanence of the activity
- Geographical extent

- Concept of 'large scale' likely to develop over time.
- Appears to exclude certain business 'individuals'!



'Special Category Data'

➤ Article 1 Data Protection (Jersey) Law 2018

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic and biometric data
- Physical or mental health
- Sexual life
- Criminal records or criminal activity (including allegations of)



WHAT

are the duties of a DPO?

Duties of the DPO

- Article 26 Data Protection (Jersey) Law 2018
 - Article 39 GDPR
-
- Informing and advising of obligations under the Law;
 - Monitoring compliance with the Law;
 - Providing advice on DPIAs;
 - Co-operating with the Regulator;
 - Point of contact for the Regulator;
 - Point of contact for data subjects
 - Understanding the risks.



WHERE

do they sit in the organisation?

Position of the DPO

➤ Article 25 Data Protection (Jersey) Law 2018

- Involved in a proper, timely manner in all DP matters
- Must be adequately resourced
- Access to personal data and processing operations
- Must operate independently
- Cannot be dismissed or penalized for performing their duties
- Must report to the highest management level
- Publicly accessible
- Avoid any conflicts with other duties



Resources to be provided to the DPO

- Senior management support
- Time
- Adequate financial resources and equipment
- Access to other services
- Training



Skills & Expertise of the DPO

- Article 24(6) Data Protection (Jersey) Law 2018
- Article 37(5) GDPR



- Commensurate to the processing operations and protection levels required.
- In-depth knowledge of local, national and European data protection laws.
- Understanding of the business systems and needs.
- Good knowledge of administrative rules and procedures (public authority).
- Integrity and high professional ethics.

HOW

do I comply if I am a small business?

Outsourcing a DPO

- Article 24(2-4), Data Protection (Jersey) Law 2018
- Article 37(2-3) GDPR



- Pick someone reputable. Due diligence will be key!
- Robust service level/processing contract.
- Each member of the DPO organisation must be able to fulfil all the requirements of a DPO.
- The same rules of protection around the outsourced DPO apply.
- Easily accessible for staff, customers and the Regulator.

6 DPO myths



1. Every organisation must appoint a DPO

MYTH

2. DPOs are personally liable for data breaches

MYTH

3. You'll have to employ a new person to be your DPO

MYTH

4. Organisations with less than 250 staff do not need a DPO

MYTH

5. DPOs must wear a uniform so everyone knows who they are

MYTH

6. There are official GDPR-certified DPO qualifications

MYTH



**KEEP
CALM
AND
CALL YOUR
DATA PROTECTION OFFICER**



**OFFICE OF THE
INFORMATION
COMMISSIONER**

Thank you

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