

ANNUAL REPORT 2020





ANNUAL REPORT 2020

12th Edition

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MISSION AND VISION STATEMENTS

Our Mission

Safeguarding the processing of your personal data in the present age of information and communication.

Our Vision

- A society where data protection is understood and practiced by all.
- The right to privacy and data protection is primordial to the sanctity of any modern democracy.
- The adoption of clear procedures for the collection and use of personal data in a responsible, secure, fair and lawful manner, by all controllers and processors.

FOREWORD

With the advent of the EU General Data Protection Regulation since 25 May 2018, the data protection world has received a seismic call from the international sphere, given its extra-territoriality application.

Thus, to ignore the impact of data privacy and the implications of the Data Protection Act 2017 will be a serious business consequence for every organisation handling personal information in Mauritius.

Data is increasingly global through the widespread use of cloud-based services and artificial intelligence. Technology and data are the most important drivers of the digitalised world of today.

Upholding privacy and data protection rights and principles should be of prime concern to all stakeholders processing personal data.

This office is recognised as an efficient regulator and a leading authority in Africa. To sustain its growing credibility, it requires appropriately skilled and adequate resources to ensure its multi-arranged functions are properly executed and delivered.

Mrs Drudeisha Madhub (Barrister-at-law)
Data Protection Commissioner

DATA PROTECTION OFFICE (DPO)

The DPO became operational since 16 February 2009 and enforces the provisions of the Data Protection Act 2017 (DPA). The DPA strengthens the control and personal autonomy of individuals over their personal data in line with the principles of the European Union General Data Protection Regulation (GDPR).

As a regulator with enforcement powers, this office has the immense responsibility and mandate to:

Ensure compliance with the DPA and any regulations made under it;

Issue or approve such codes of practice or guidelines for the purposes of the DPA;

Maintain a register of controllers and processors;

Exercise control on all data processing operations, either of its own motion or at the request of a data subject, and verify whether the processing of data is done in accordance with the DPA;

Promote self-regulation among controllers and processors;

Investigate any complaint or information which gives rise to a suspicion that an offence may have been, is being or is about to be, committed under the DPA;

Take such measures as may be necessary to bring the provisions of the DPA to the knowledge of the general public;

Undertake research into, and monitor developments in, data processing, and ensure that there is no significant risk or adverse effect of any developments on the privacy of individuals;

Examine any proposal for automated decision making or data linkage that may involve an interference with, or may otherwise have an adverse effect, on the privacy of individuals and ensure that any adverse effect of the proposal on the privacy of individuals is minimised;

To cooperate with supervisory authorities of other countries, to the extent necessary for the performance of its duties under the DPA, in particular by exchanging relevant information in accordance with any other enactment.

ORGANISATION STRUCTURE

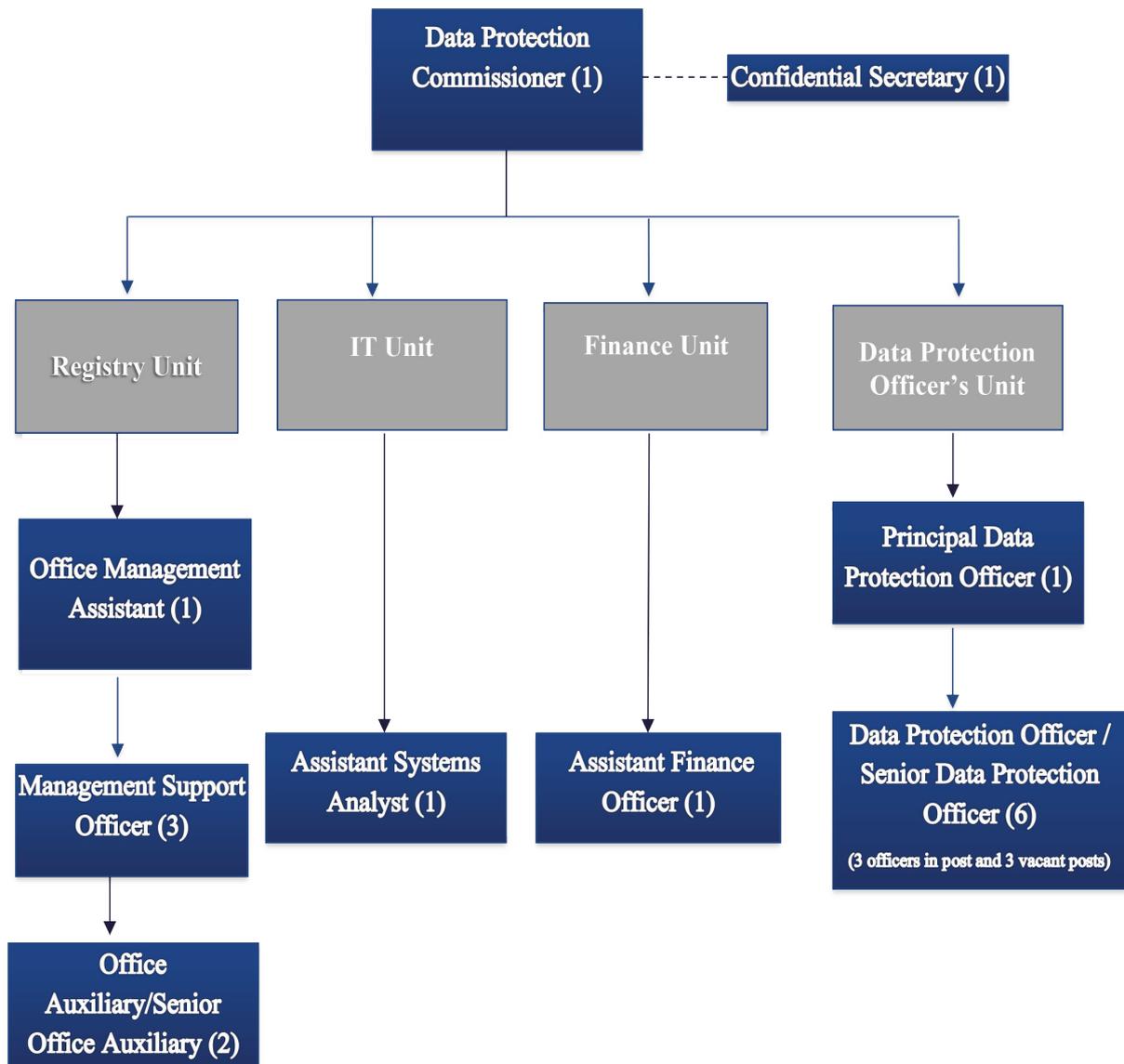


Figure 1: DPO Organisation Structure

BUDGET FINANCIAL YEAR 2020 – 2021

I. Human Resource Requirements

The operations of the office have been affected by the departure of staff without replacement being made in time together with the non-recruitment new grades created in PRB 2016.

a) Data Protection Officer's Unit

The number of funded posts for Data Protection Officer/Senior Data Protection Officer has been reduced from 7 to 3, with one of the officers on leave without pay for 8 months.

b) Prosecution Unit

Under section 13 of the DPA, the Data Protection Commissioner (DPC) is empowered to delegate any investigating or enforcement power conferred on her to a police officer designated for that purpose by the Commissioner of Police. Moreover, under section 10 of the DPA, for the purpose of gathering information or for the proper conduct of any investigation, the DPC may seek the assistance of such person or authority as she thinks fit and that person or authority may do such things as are reasonably necessary to assist her in the discharge of her functions. Unfortunately, the non-availability of police officers to carry out police duties has impeded the proper investigation and prosecution of cases regarding any possible offence under the DPA.

c) IT Unit

The provision of a full time Assistant Systems Analyst at the DPO has not been effected during the year.

d) Freezing of posts

The Public Service Commission advertised the posts of Legal Executive and Assistant Data Protection Officer on 6 September 2019 and that of Data Protection Officer/ Senior Data Protection Officer on 7 December 2019 respectively. Unfortunately in April 2020, by way of letter from the Secretary to Cabinet, all advertised posts have been frozen in the civil service.

During 2020, only one replacement has been made for the post of Office Management Assistant.

II. Expenditure

The budget and running cost for the office for the financial year 2020-2021 has been reduced from Rs 6.5 million to Rs 5.5 million.

2020 HIGHLIGHTS

I. Ratification of the Council of Europe Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

Mauritius has signed and deposited, on 4 September 2020, its instrument of ratification of the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, also known as modernised Convention 108 or Convention 108+. Mauritius has thus become the 6th State after Bulgaria, Croatia, Lithuania, Poland and Serbia as well as the first country in Africa to ratify Convention 108+.



The modernised Convention 108 is geared towards a set of high data protection standards while enabling an even better environment for innovation and inclusive economic growth. It is the only legally binding multilateral instrument on the protection of privacy and personal data and is adapted to the new realities of an increasingly connected world. It is based on two objectives namely the free flow of data and secondly the respect for human dignity. The amending protocol is fully consistent with the GDPR.

Convention 108 +

Convention for the protection of individuals
with regard to the processing
of personal data



www.coe.int/dataprotection

Convention 108+ provides a robust and flexible multilateral legal framework to facilitate the flow of data across borders while providing effective safeguards when personal data are being used. Some of the modernisations contained in Convention 108+ are as follows:

- Stronger requirements regarding the proportionality and data minimisation principles and lawfulness of the processing;
- Extension of the types of sensitive data, which will now include genetic and biometric data, trade union membership and ethnic origin;
- Obligation to declare data breaches;
- Greater transparency of data processing;
- New rights for the persons in an algorithmic decision making context, which are particularly relevant in connection with the development of artificial intelligence;

- Stronger accountability of controllers;
- Requirement that the “privacy by design” principle is applied;
- Application of the data protection principles to all processing activities, including for national security reasons, with possible exceptions and restrictions subject to the conditions set by the Convention, and in any case with independent and effective review and supervision;
- Clear regime of transborder data flows;
- Reinforced powers and independence of the data protection authorities and enhancing the legal basis for international cooperation.

The entry into force of Convention 108+ will be based on the ratification by all Parties to Treaty ETS 108, or on 11 October 2023 if there are 38 Parties to the Protocol.

On 09 September 2020, a communiqué was issued by this office to sensitise all public officers through government mail on the ratification of Convention 108 + by Mauritius. The communiqué is available on the website of the DPO.

Mauritius Chamber of Commerce and Industry also circulated a mail to notify its members on 10 September 2020 after a request was made by the DPO.

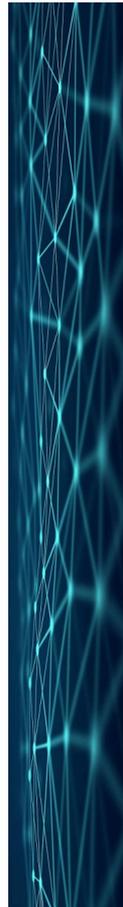
II. Data Protection (Fees) Regulations 2020

The Data Protection (Fees) Regulations 2020 came into force on 01 August 2020 and repealed the Data Protection Regulations 2009. The purpose of the new Regulations is to assist in the effective implementation of the DPA and to cater for the fees payable for:

- The registration/ renewal of registration certificates as controllers and processors under sections 16(2) and 18(2) of the DPA on a three-year validity period.
- A certified copy of, or an extract from, an entry in the register under section 20(3)(b) of the DPA.

- The right of access for manifestly excessive requests under section 37(7) of the DPA.
- Appeal under section 52(4) of the DPA.

Various sensitisation campaigns were carried out by the office after the coming into force of the new Regulations. The office issued a communiqué to sensitise all public officers on the proclamation of the Data Protection (Fees) Regulations 2020 through government mail. The communiqué is available on the website of the DPO. Press communiqués were also issued in the Defi Quotidien, Le Mauricien, Defi Samedi and Weekend.



COMMUNIQUE TO THE PUBLIC

Data Protection (Fees) Regulations 2020

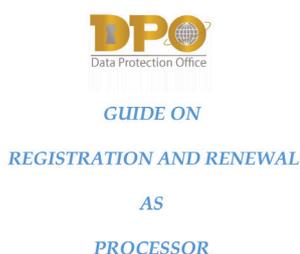
(Government Notice No. 152 of 2020)

1. The Data Protection (Fees) Regulations 2020 concerning the new fees for registration of controllers and processors will come into force on 01 August 2020.
2. All controllers and processors will be required to make a fresh registration as from 01 August 2020 in accordance with the new Regulations.
3. Applications for registration may be submitted online, by post or in person at the office.
4. A registration certificate will only be issued where the Commissioner considers that an applicant meets the criteria to be registered as a controller or processor and this certificate will be valid for a period of 3 years by virtue of section 16 of the Data Protection Act 2017 ('DPA').
5. New application forms for registration are available on the homepage of the Data Protection Office website at <http://dataprotection.govmu.org>.
6. Upon the entry into force of the new Regulations, all existing controllers and processors will have a moratory period of 3 months to make their registration(s). The registration date will be 01 August 2020.
7. Failure to register or renew the registration certificate(s) after the moratory period may amount to an offence under the DPA and consequently a fine not exceeding 200,000 rupees and imprisonment for a term not exceeding 5 years on conviction may be imposed.
8. In view of the large number of applications that would be received, this Office recommends payment by cheque drawn to the order of 'Government of Mauritius'.
9. Controllers and Processors must consult the guide that has been uploaded on our website to assist them in filling the relevant form(s).
10. The holder of a registration certificate must apply for its renewal not later than three months before the date of its expiry by virtue of section 18 of the DPA.
11. Should there be any queries related to registration and renewal, please contact us by phone (4600251) or email (dpo@govmu.org).

The Data Protection Commissioner
Data Protection Office
This 20th July 2020

Indeed, the DPO was very proactive with the proclamation of the Regulations and new user friendly forms were designed for registration and renewal of controllers and processors. Under the new Regulations, all controllers and processors must submit fresh registrations with the office.

Two new guides for registration of controllers and processors respectively were also issued by this office to assist on these processes. These guides are available on the website of the DPO.



In addition, the office promptly worked in collaboration with the Government Online Center (GOC) to provide online facilities for submission of forms for controllers as well as processors. This has greatly contributed to avoid long queues at the office given that controllers and processors can now submit their forms online for verification prior to effecting payment. The office has made a request with the GOC for integrating epayment facilities and the request is in progress.

III. Data Protection Conference

The DPO organised a conference themed 'Data Protection Today- Breaking the Iceberg' on 16 January 2020. The aim of the conference was to promote awareness on the GDPR and the DPA and to assess the implementation stages of the DPA in Mauritius.



Around 500 participants attended the conference. The target audience was mainly composed of Data Protection Officers, lawyers, IT persons and compliance officers from the public and private sector. The participants have been provided, through this conference, with an appropriate platform to analyse the depth of the implementation process and to seek further clarifications on the provisions of the DPA.

The DPO also launched a guide on 'Data Protection and the Media' and a self-explanatory Training Toolkit for organisations and individuals to understand the DPA at their own pace.



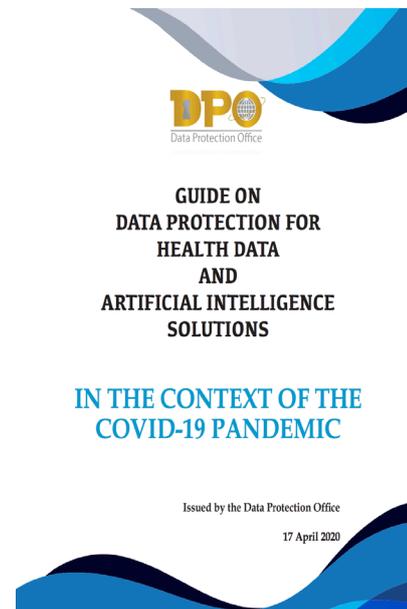
IV. Research and Publications

The DPO carries research and issues guides or codes of practice to help organisations better understand and apply the principles of data protection in their operations. In 2020, the DPO issued 4 publications.

- Guide on “Data Protection for Health Data and Artificial Intelligence Solutions in the context of the COVID-19 pandemic”

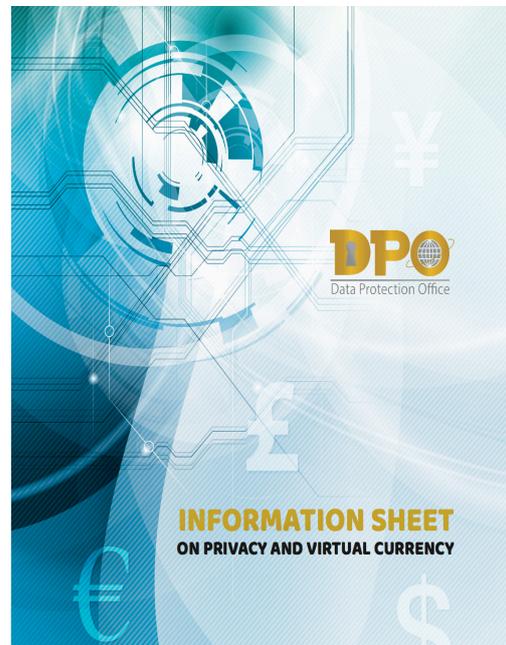
This guide elaborated on a recommended approach towards compliance with the DPA during the COVID-19 pandemic.

Recommendations made by this office on artificial intelligence and mobile applications are also detailed.



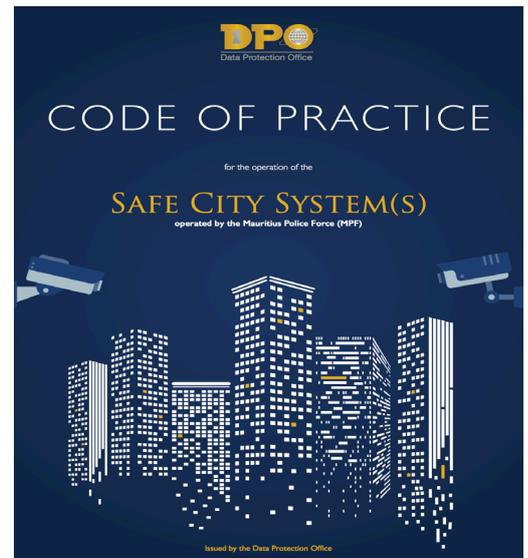
- Information Sheet on Privacy and Virtual Currency

This information sheet assists in understanding the definition of virtual currencies, the applicability of the DPA to the processing of virtual currencies, the privacy risks and data protection issues with virtual currency systems, the principles of processing and recommendations for virtual currency systems in compliance with data protection laws.



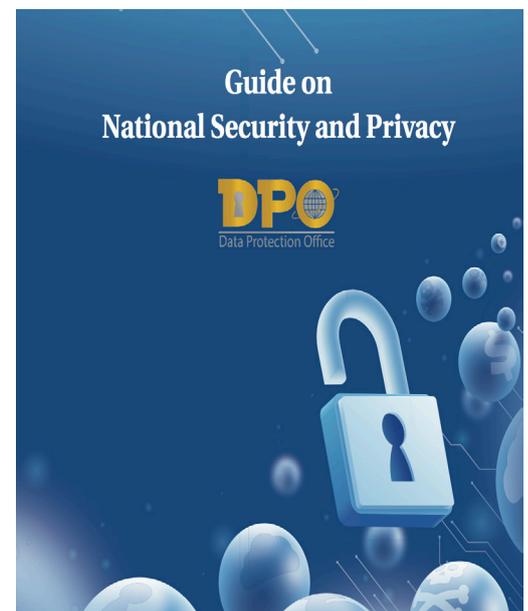
- Code of Practice for the operation of the Safe City System(s) operated by the Mauritius Police Force (MPF)

The code of practice has been prepared in collaboration with the MPF to assist the latter to follow the operating procedures and protocols necessary to assure the appropriate use of the Safe City System(s) by respecting the privacy of individuals and protecting against any possible misuse of personal data.



- Guide on National Security and Privacy

This guide examines the privacy implications of national security projects with the DPA and elaborates on the legal provisions on national security. The guide also sets out a number of recommendations to state authorities on the promotion of privacy compliance practices in the implementation of projects of national security interests.



All the guides are available on the DPO website.

THE COVID-19 PANDEMIC

In 2020, the world including Mauritius faced unprecedented challenges during the COVID-19 pandemic. Our country went into lockdown as from 20 March 2020 and was lifted on 30 May 2020 at midnight which restricted movement of any person across the island.

The DPO confronted the lockdown period robustly and has maintained its continuity of service even at home. The DPC as well as her staff have been committed to meet the functions of the office even after normal office hours at home. This mode of operation has also avoided the creation of backlog work during the lockdown period. Indeed, officers switched to electronic mode of operation overnight. Verification of registration and renewal forms were effected by way of email. The office also provided legal advice and recommendations to controllers regarding queries on the application of the DPA, data breach notifications and data protection impact assessments. Analysis of forms for transfers of personal data abroad and authorisation for transfers were processed by mails. The office also provided input on the COVID-19 (Miscellaneous Provisions) Bill.

The timely release of the guide on “Data Protection for Health Data and Artificial Intelligence Solutions in the context of the COVID-19 pandemic” during the lockdown period was much appreciated by organisations in helping them understand the implications of processing personal data during an emergency period. The guide was also published in the Global Privacy Assembly COVID 19 resources library at the following URL: <https://globalprivacyassembly.org/covid19/>.

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COVID-19 Resources Library

The Global Privacy Assembly (GPA) recognises the unprecedented challenges being faced to address the spread of Coronavirus (COVID-19). Data protection authorities across the world stand ready to help facilitate swift and safe data sharing to fight COVID-19, while still providing the protections the public expects.

Below is the latest guidance and information from GPA members and observers on data protection and COVID-19. Search for the keyword of your choice, which could be the name of an authority or a topic of interest. Further updates to follow.

Show entries Search:

Network or Authority	Resource	Type of Resource	Topic	Language
Mauritius - Data Protection Office of Mauritius	Data Protection for Health Data and Artificial Intelligence Solutions in the context of the COVID-19 pandemic	Guidance	Data protection and privacy	English

Showing 1 to 1 of 1 entries (filtered from 152 total entries) [Previous](#) [Next](#)

Internal communications amongst officers were carried out by phone and via Internet. The DPC as well as officers from the Data Protection Officer's unit participated in the following online meetings and international webinars during the lockdown period:

Title	Date	Organised by
Steering Committee on the API/PNR Regulations.	03 April 2020 07 April 2020	Prime Minister's Office (External Communications Division)
Strategies for privacy-protective data sharing and COVID-19 response	15 April 2020	UN Global Pulse (Expert Group on the governance of data and AI)
Addressing the Data Governance and Privacy Challenges in the Fight against COVID-19	15 April 2020	Organisation for Economic Co-operation and Development (OECD) with the support of the Global Privacy Assembly (GPA)
COVID-19: Misinformation, Disinformation, and What To Do About It	17 April 2020	The AI for Good Global Summit team (ITU)
Messenger Kids App	28 April 2020	Facebook

The office also prepared its workplan for a phased resumption of duty of all its officers at the DPO premise. Resumption at the office began in phases around mid May 2020.

ACTIVITIES IN 2020

1. Financial Status

I. Revenue collected

The DPO has collected a total revenue of Rs 7,246,200 in 2020.

II. Audit observations for the year ended 30 June 2019

In January 2020, the Director of Audit sent audit observations for the accounts and records of the Ministry of Information Technology, Communication and Innovation (MITCI) for the financial year ending 30 June 2019 which included observations for DPO. This office submitted its comments on the observations to our parent Ministry.

2. Pay Research Bureau (PRB)

In 2019, the DPO submitted proposals to our parent Ministry regarding the pay and grading structures of officers at DPO and also new grades required for the proper functioning of the office. A meeting was held with PRB on this matter on 19 Feb 2020.

The office also participated in a survey from the PRB on recruitment and/or retention problems in the public sector.

3. International Cooperation

I. Participation in international conferences

The DPC could not attend the following conference:

Period	Event	Remarks
28 January 2020	World Bank Group Data Privacy Day Opening Event	Not approved by parent ministry

II. Membership and cooperation with international organisations

The DPO participates actively in international privacy networks such as Association Francophone des Autorités de Protection des Données Personnelles (AFAPDP), Global Privacy Enforcement Network (GPEN), Common Thread Network (CTN), Global Privacy Assembly (GPA), Council of Europe and the United Nations, amongst others. Such participation enables this office to establish a dialogue, undertake or support specific activities and share knowledge as well as expertise along with best practices.

(a) African Union (AU)

The AU is a continental body consisting of 55 member states that make up the countries of the African Continent. The DPO participated in the 'Testing of M&E Model for the harmonization of data protection and data localisation in Africa'. This questionnaire measures the data protection legislations and data localisation policies of AU member states against the harmonisation goals to develop a baseline and set targets against which periodic monitoring and evaluation of AU Member States data protection standards is conducted.

(b) Association Francophone des Autorités de Protection des Données Personnelles (AFAPDP)

In March 2020, this office joined two working groups of the AFAPDP with the following objectives:

- i. to identify the principles common to personal data protection laws in the French-speaking countries;
- ii. to assist in the legislative support of states and governments wishing to adopt such a law.

(c) Commission Nationale de l'Informatique et des Libertés (CNIL)

In July 2020, the office completed the questionnaire on e-learning platforms from the International working group on digital education.

The DPO participated in a survey on 15 May 2020 on the topic “Demonstrating accountability in AI systems” in order to assist the working group in drafting the statement and formulating its future work programme.

Furthermore, in December 2020, this office participated in a survey on ‘Enforcement Cooperation Handbook’.

(f) Global Privacy Enforcement Network (GPEN)/Common Thread Network (CTN)

The DPO is a member of the GPEN, as well as the liaison authority for CTN, which is a data protection and privacy working group regrouping all Commonwealth countries. GPEN was established to foster cross border cooperation among privacy authorities.

The office attended GPEN/CTN meetings online in 2020 as provided below in part III virtual meetings and participated in GPEN survey on the topic of ‘resetting privacy’ in the context of Covid-19.

(g) Réseau Africain des Autorités de Protection des Données Personnelles (RAPDP)

RAPDP comprises of several African privacy and data protection authorities and aims to cooperate with its members and to make Africa’s voice heard with partners around the world.

The DPO sent a formal request for membership to the Permanent Secretariat of the RAPDP in 2020.

(h) World Bank

The DPC participated in a conference call organised by World Bank on 26 February 2020 to share the Mauritian experience on data governance particularly on the DPA, Open Data Policy and Info Highway and to highlight some of the country’s successes in this area to be showcased in the forthcoming World Bank’s report on trusted data sharing.

III. Virtual meetings

Virtual meetings have become an integral part of the ‘New Normal’. The DPO embraced the ‘New Normal’ by being part of numerous prestigious international virtual meetings with the active participation of the DPC who shared the Mauritius data protection experience and journey. Her interviews, presentations and valuable insights have been deeply appreciated by foreign counterparts. Officers from the Data Protection Officer’s unit have assisted the DPC in the preparation of materials and briefs for the DPC’s interviews and presentations. Most of the virtual meetings were carried out after normal working hours. The DPO attended the below virtual meetings in 2020:

Date and Time	Subject	Organiser	Participation
25 June 2020 15h00-16h00	Data Governance and Economic Development Project	Center for Global Development	Interview with DPC Attended by officer from Data Protection Officer's unit
26 June 2020 13h00-14h30	The Best Approach to COVID-19 Contact Tracing	Africa Digital Rights'Hub	DPC acted as speaker. Attended by officer from Data Protection Officer's unit
30 June 2020 18h00-19h30	Discussion on Learning Network for African Data Agenda	United Nations	Participation of the DPC. Attended by officer from Data Protection Officer's unit
1 July 2020 17h00-18h00 18h10-19h10	Session 1- How to ensure that countries that commit to Convention 108+ comply with its provisions? Why do we need a follow-up and evaluation mechanism, and which one? Session 2 - How do we address the latest challenges posed by profiling in an AI era?	Council of Europe	Attended by the DPC and officers from Data Protection Officer's unit
2 July 2020 17h00-18h00 18h10-19h10	Session 3 – What does the right to data protection imply in an educational setting? What schools have to do, and what they should stop doing? Session 4 – Are digital identity programmes being implemented with privacy by design?		
3 July 2020 17h00-18h00 18h10-19h10	Session 5 – Mirror of souls: learning Cicero's lessons and addressing facial recognition risks. Session 6 – Political campaigns and elections: why is data protection so crucial?		

3 July 2020 18h00-19h00	Quarterly teleconference call	CTN	Attended by officer from Data Protection Officer's unit
6 July 2020 19h00-20h30	Contact Tracing & the Apple & Google solution	GPA	Attended by officer from Data Protection Officer's unit
8 July 2020 19h00 – 20h00	Privacy in the Wake of COVID-19: Current and Future Impacts	Ernest & Young (EY)	Attended by officer from Data Protection Officer's unit
23 July 2020 As from 16h30	Spotlight on Unique Digital Identity Numbers	ID4Africa	Attended by the DPC and officer from Data Protection Officer's unit
23 July 2020 14h00-15h30	Enablers and Protectors: the Role of DPAs confronting COVID-19 Contact tracing and recovery response	GPA	Attended by officer from Data Protection Officer's unit
23 July 2020 15H00	Exploring Privacy and Safety through Co-Creation	Middle East and Africa	Attended by officer from Data Protection Officer's unit
29 July 2020	GPA members and observers invited to contribute views to UN Special Rapporteur consultation on privacy rights of children	GPA	Attended by officer from Data Protection Officer's unit
06 Aug 2020	'Data Protection Reimagined: Digital Acceleration, New Emerging Issues and the Role of Privacy Regulators in the COVID-19 Era'	GPA	Attended by officer from Data Protection Officer's unit
20 August 2020 13h30-15h00	Kick Off meeting of the Phase II (Test) of the Monitoring and Evaluation of Harmonization for Data Protection and Data Localization	African Union Commission	Attended by DPC and officer from Data Protection Officer's unit
02 September 2020 12h00-13h00	5th GPA Covid-19 Task Force Meeting	GPA	Attended by officer from Data Protection Officer's unit

09 September 2020 16h00-17h00	CTN Quarterly Call	CTN	Attended by officer from Data Protection Officer's unit
15 September 2020 14h15-15h00	Short video interview: Launch of Data Leadership Network	Future State	Interview of DPC
28 September 2020 12h00-15h00	Convention 108+ - Committee – 50th Bureau meeting	Council of Europe	Attended by DPC and officer from Data Protection Officer's unit
01 October 2020 13h30-14h30	Trust, Privacy and Data in Digital Africa	GSMA Government Events	Attended by officer from Data Protection Officer's unit
05 October 2020 18-19h30	Protecting Human Rights During the COVID-19 Crisis and Beyond: Digital Pandemic Surveillance and the Right to Privacy	UN Global Pulse	Attended by DPC as well as officer from Data Protection Officer's unit
06 October 2020 16-00-18h30	Data Governance and Economic Development First Working Group Meeting	Center for Global Development	Attended by DPC
09 October 2020 19h00-20h30	Building the foundations of the data revolution: Taking a holistic approach to data governance	UNWDF	Attended by DPC
13 October 2020 16h00-17h00	Data Privacy during COVID-19 Event Dry Run -2020 World Bank Annual Meetings	World Bank	Attended by DPC
13 October 2020 15h00 – 16h00	GPA Strategic Direction Session at the Closed Session 2020	GPA	Attended by officer from Data Protection Officer's unit
14 October 2020 15h00 – 16h00	GPA Covid-19 Taskforce Session At The Closed Session 2020	GPA	Attended by officer from Data Protection Officer's unit

14 October 2020 <i>19h00-20h00</i>	Prep call for UNWDF Session – Balancing data use and data protection – Learning from African Experiences	UNWDF	Attended by DPC
15 October 2020 <i>14h30 – 16h30</i>	Data Privacy during COVID-19 Event	World Bank	Attended by DPC
15 October 2020 <i>15h00 – 16h00</i>	GPA Core Business Session At The Closed Session 2020	GPA	Attended by officer from Data Protection Officer's unit
21 October 2020	UNWDF Session – Balancing data use and data protection – Learning from African Experiences	UNWDF	Attended by DPC
05 November <i>16h30-18h30</i>	Data Privacy and Protection in Mauritius An Overview of Data Protection Act 2017	ACCA – Mauritius	Attended by DPC
06 November <i>17h00-18h30</i>	The Regulator's Progress Dialogue Session of the 2020 Virtual Data Protection Africa Summit	Africa Digital Rights'Hub	Attended by DPC
11 November <i>15h00-18h00</i>	Launching a movement for transparent, inclusive and accountable data governance introducing the Restore Data Rights Declaration	Thomas Orell DataREADY	Attended by DPC
18 - 20 November <i>13h00-20h00</i>	Committee of the convention for the protection of individuals with regard to automatic processing of personal data 40th Plenary Meeting - Convention 108	Council of Europe	Attended by DPC
20 November <i>14h00-18h00</i>	Protection des données personnelles	Institut Français de Maurice	Attended by DPC

24 November <i>15h00-17h00</i>	Harmonisation of Data Protection and Data Localisation Policies, Legislations, and Regulations	African Union	Attended by DPC
26 November <i>15h00-17h00</i>	PRIDA WG session	African Union	Attended by officer from Data Protection Officer's unit
01 December <i>18h00 – 19h15</i>	Monitoring The State Of Statistical Operations	UN World Data Forum	Attended by officer from Data Protection Officer's unit

IV. Participation in other surveys

- The DPO provided inputs to its parent Ministry on the United Nations Conference on Trade and Development (UNCTAD) survey on e-commerce legislation.
- A brief on the Info Highway from the data protection and privacy perspective was submitted to the World Bank to showcase the Mauritian experience in open data and the sharing of information through the Information Highway.
- Updates on the data protection status was provided to the MITCI for the 9th and 10th Periodic Reports on the Implementation of the African Charter on Human and Peoples' Rights.
- In April 2020, the ITU survey was completed by this office on issues related to data protection for the year 2020 and was submitted to CERT-MU.

4. National Engagement

I. Sensitisation

One amongst the functions of this office is to take such measures as may be necessary to bring the provisions of the DPA to the knowledge of the general public. The below sensitisation activities were done during the year 2020.

(a) **The Data Protection Office Corporate Video**

The office launched its corporate video in 2020 to sensitise the public in general on the role and functions of this office and on the DPA.



(b) **Distribution of Data Protection Training Toolkit DVDs**

The DPO has distributed 1350 DVDs in 2020.

(c) **Press Communiqués/Interviews**

- **DPO Conference event**

On 16 January 2020, the DPC was interviewed by the Mauritius Broadcasting Corporation (MBC) and other media channels at the Data Protection Conference event. The Commissioner highlighted the importance of privacy in our daily business operations and explained how the office has worked on an innovative initiative namely the Data Protection Training Toolkit to assist organisations in understanding the DPA and its applications.

- **Data Protection Day**

On 28 January 2020, the DPC was interviewed by the MBC in the context of the Data Protection Day celebrated internationally on the 28th of January. The Commissioner stressed on privacy and compliance with data protection laws in force in Mauritius. The interview was aired on radio during the MBC radio news bulletin. A full report was also broadcasted on national television during the prime news bulletin at 19:30.

- **Articles in L'Express**

In February 2020, the views of the office were sought by L'Express for publishing an article on "Etre filmer à son insu", i.e., on people who are filmed or whose pictures are taken without their knowledge. The office provided clarifications on:

- whether this activity is an offence under the DPA?
- the risks of the person doing the filming or taking pictures,
- the action/s that the person being filmed can take,
- when can someone be filmed and
- actions that are taken by the Data Protection Office on this matter.

The article was published on 27th February 2020.



In May 2020, the DPC was interviewed by L'Express on deconfinement after lockdown due to the novel Covid 19 pandemic. The article was published on Saturday 30 May 2020.



Drudeisha Madhub, Data Protection Commissioner

Il faut dire que malgré le confinement, Drudeisha Madhub a continué à travailler. «*J'ai déjà repris le travail*», confie-t-elle. Toutefois, comme beaucoup de monde, elle attend le déconfinement pour reprendre un peu son quotidien. «*Pourquoi pas m'offrir une petite visite chez le coiffeur ?*» Mais ce qui lui a le plus manqué durant cette période, c'est le contact humain avec les gens qu'elle apprécie le plus. «*Avec le déconfinement, je pourrais de nouveau prendre ma mère dans mes bras. Ou encore mon frère. Le contact avec les autres m'a manqué. On a été retiré du monde.*» À présent, elle soutient qu'il faudra s'adapter à un monde nouveau.



- **Investment Climate Statement (ICS) 2020 for Mauritius**

The U.S. Embassy to Mauritius and Seychelles requested the DPO's input on data protection for the Investment Climate Statement (ICS) 2020 for Mauritius. The office thus contributed in the 2020 statement by providing an overview of the DPA, an update regarding the ratification of the Modernised Convention 108 (Convention 108 +) with the Council of Europe and on the EU adequacy.

The webpage can be accessed on the following link:

<https://www.state.gov/reports/2019-investment-climate-statements/mauritius/>

(d) Invitation as Guest Speaker

- The DPC participated as guest speaker in the Audit Committee Forum (ACF) organised by the Mauritius Institute of Directors (MIOD) and KPMG on 14 October 2020.



The ACF launched its Position Paper 8 on 'Guidelines for the Audit Committee on data protection' during the event. The drafting of this paper was done in consultation with the DPO.

The DPC also shared valuable insight on questions raised by the audience.





The press interviewed the DPC during the event.

- The DPC also participated as guest speaker in an awareness session on the ‘*Purpose and Implications of the Data Protection Act*’ organised by the Association Mauricienne des Femmes Chefs d’Entreprises (AMFCE) on 10 November 2020.
- The DPC participated as panelist in a seminar organised by Institut Français de Maurice themed ‘*Novembre Numérique*’ on 20 November 2020.

(e) In-house training

Through the in-house training initiative introduced since 2018, this office provided training on provisions of the DPA to Data Protection Officers of the public and private sector to help them implement the DPA in their respective organisations.

Title	Presented By	Date	Audience
An Overview of the Data Protection Act 2017	Data Protection Officer/ Senior Data Protection Officer	12 November 2020	Participants from the public, parastatals and private sector

II. Capacity Building

In 2020, DPC and officers at the DPO had the opportunity to attend the following workshops.

Title	Date	Organised by
04 February 2020	CSEC Victims: A Multi - Disciplinary Approach to Dealing with CSEC Victims	Ministry of Gender Equality and Family Welfare (Child Development Unit)
03 March 2020	National Cybersecurity Strategy Seminar 2020	Cyber4D Team
October 2020	Anti- Corruption and Integrity Issues	ICAC
26 November 2020	Innovation for All Summit 2020	MITCI in collaboration with State Informatics Limited and Huawei

III. Enforcing Data Protection

(a) Investigation on Complaints

During the period January to December 2020, the DPO received 60 new complaints regarding investigations on the below subjects, among others:

- Unauthorised use of CCTV camera
- Data subject access request
- Unlawful access/disclosure of personal data

The duration of any investigation which is on a case to case basis depends on the complexity of the case and collaboration/response of all concerned parties including complainant and respondent.

The diagram below illustrates the total number of new complaints received during the past few years.



(b) Decisions on Complaints

In 2020, the DPC has given 7 decisions following investigation carried out by this office. A summary of the decisions is available on the DPO website.

- Decision No 64 - 24.02.2020 - Complaint on unlawful disclosure of personal data

After a careful scrutiny of the evidence tendered before the DPC, she was of the view that the published investigation report did not amount to an unlawful disclosure of personal data under section 42 of the DPA being given the fact that the inferences made in the report which could allegedly be associated with Complainants stemmed out from the investigation carried out.

The balance clearly weighed in favour of Respondent given that no adverse action was taken by Respondent against Complainants after the publication which, if was the case, would have potentially caused any hardship or prejudice to the Complainants.

The anonymisation of personal data as reflected in the report sufficiently protected the data subjects involved and thus any possible indirect identification did not aim to cause any prejudice to the persons involved. This office was thus of the view that for an offence to be found under the DPA, cogent and

strong evidence of harm and prejudice should be adduced to rebut the legal obligation of conducting an investigation by the Employer and his legitimate interests regarding the publication of the said report at stake. Complainant's withdrawal of the complaint was thus warranted in those circumstances. No breach of the DPA was thus found committed.

- Decision No 65 - 25.02.2020 - Complaint on unlawful use of personal data
Based on the outcome of the investigation, the DPC was of the view that the enquiry could be closed to the satisfaction of all parties concerned. Thus, no offence was found to be committed under the DPA.
- Decision No 66 – 25.02.2020 - Complaint on unlawful access of personal data
In view of the policy as depicted by Respondent and in the absence of any follow up by Complainant, no breach of the DPA was established and the enquiry was thus closed.
- Decision No 67 – 27.02.2020 - Complaint on unlawful access of personal data
It was eminently clear that this thorough enquiry had established no irregularity on behalf of Respondents to conclude a breach of the DPA. At no time has any personal information relating to Complainant been obtained unlawfully or misused by Respondents as shown during the enquiry.
- Decision No 68 - 06.03.2020 - Complaint on the use of CCTV Cameras
Following the enquiry conducted by this office, the DPC was of the view that corrective measures have been properly taken by Respondent and thus, no breach of the DPA has been committed. The enquiry was thus closed to the satisfaction of all parties concerned.
- Decision No 69 – 22.06.2020 – Complaint on alleged disclosure of personal data
Based upon the enquiry and evidence gathered, it was clear that no offence was found committed under the DPA in view of the fact that remedial action has been diligently taken by Respondent to avoid such recurrences in the future. The enquiry was thus closed to the satisfaction of all parties concerned.

- Decision No 70 – 07.07.2020 – Complaint on alleged breach of personal information by government bodies.

Based upon the enquiry and evidence gathered, it was clearly established that the lawful basis for the required disclosure of personal information is in compliance with section 3 (4) of the DPA and thus no breach of the DPA was found.

IV. Improving Legal Protection

By virtue of section 51 of the DPA, any person aggrieved by a decision of the Commissioner under the DPA may, within 21 days from the date when the decision is made known to that person, appeal to the Tribunal.

(a) Supreme Court Cases

- The DPO was a Respondent to an appeal case on the determination of the Information and Communication Technologies (ICT) Appeal Tribunal regarding a breach of section 29 of the DPA. The case was set aside by the Supreme Court.
- The DPO is Co-Defendant in a case regarding data subject access request.
- In addition, the DPO is a Co-Respondent in a case on CCTV camera and data subject access request before the Honorable Judge in Chambers.

(b) ICT Appeal Tribunal

In 2019, an appeal was lodged at the ICT Appeal Tribunal against the decision of the DPC regarding a case of unlawful use of camera surveillance in lorries. The case is ongoing.

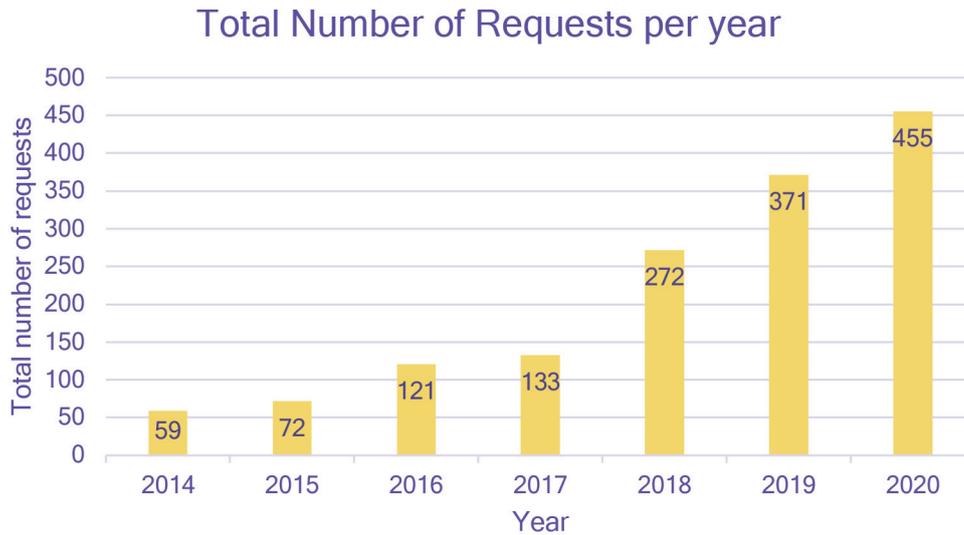
V. Registration of Controllers and Processors

This office has received approximately 12,809 applications for registration as controller and 744 registration as processor under the new Regulations. 2,365 certificates of registration have been issued.

The DPO has also attended a voluminous amount of phone calls and mails on registration of controllers and processors.

VI. Requests for Legal Advice

In 2020, this office received a total of 455 written requests for legal advice. The increase was due to the growing awareness of the DPA and the new Data Protection (Fees) Regulations 2020.



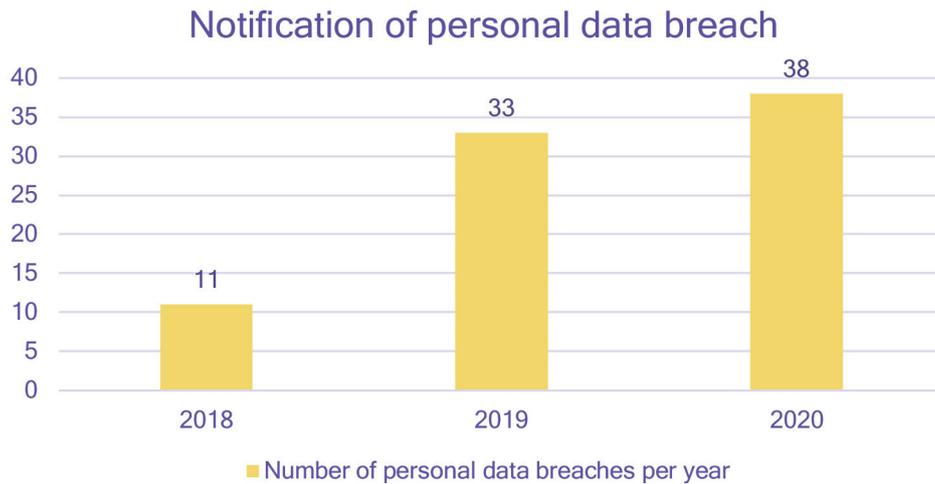
VII. Advisory /Stakeholder Role in Projects

The DPO is a major stakeholder for Government projects which involve the processing of personal data of individuals. In 2020, the office has provided its recommendations on many projects such as the Laboratory Information Management System for Covid 19, Airport Health Laboratory, SIM Card Regulations, Mobile Application for Gender-Based Domestic Violence, Advance Passenger Information and Passenger Name Record (API/PNR) System, amongst others.

VIII. Personal Data Breach Notifications

In 2020, 38 personal data breaches have been reported to this office. The DPO observed an increase in the number of breaches reported compared with the previous years.

An analysis of the type of breaches received showed that employee(s) disclosing information to wrong recipient(s) and business email compromise remain the main causes of breaches reported.



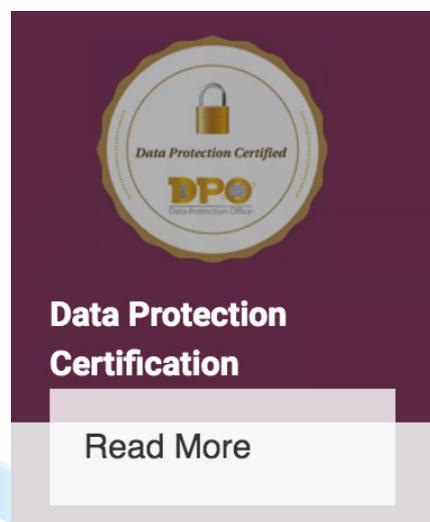
IX. Data Protection Impact Assessments

Organisations must carry out a data protection impact assessment before deploying high risk processing operations. This assessment is a comprehensive analysis of privacy aspects of a proposed project with respect to the rights and freedoms of individuals. It also incorporates a risk evaluation approach to minimise privacy infringements to individuals.

In 2020, the office has studied and analysed 8 data protection impact assessments carried out by organisations and has provided recommendations for good governance in data handling.

X. Certifications

The office issued a comprehensive questionnaire for carrying out certification of organisations under the DPA and the form is available on the office website. Certification is a voluntary process.



XI. Transfers of Personal Data Abroad

The DPC authorised 48 companies to transfer personal data outside Mauritius with proof of appropriate safeguards as required under section 36 of the DPA.

XII. EU Adequacy

Following the proclamation of the DPA, the next milestone is to achieve EU adequacy so that Mauritius can be recognised as a safe and adequate country in data protection.

Upon recommendation from the representative of the Delegation of the European Union to the Republic of Mauritius and the Republic of Seychelles, the DPO has drafted and submitted the Terms of Reference (ToR) in 2020 to our parent Ministry for inviting proposals through restricted international bidding for the services of an expert consultant to carry out a complete assessment and evaluation of the existing data protection law in Mauritius, its application and provide an opinion on the adequacy of Mauritius with the European Union.

XIII. Other Achievements

(a) New DPO website

The DPO tested and reported several issues on the redesigning of the DPO website in view of the migration process of all government websites to a new portal. The launching was made on 08 September 2020. Several improvements have also been proposed by the office so that the new DPO website is more user friendly to users. The CISD team and dpo staff have worked relentlessly to ensure the smooth launching of the DPO website.

XIV. Issues/Challenges

(a) ISO standards

- **ISO 9001:2015 (Quality Management System)**

Due to acute staffing problems, operationalisation of this project has been delayed.

- **ISO 27001:2013 (Information Security Management System)**

This project is lagging because the office does not have a full time IT staff to implement the necessary controls of the ISO standard.

A request was sent to the Central Information System Division (CISD) to request the assistance of a CISD officer on a part time basis to help the Assistant Systems Analyst posted at DPO to implement the necessary IT controls for ISMS.

- **ISO/IEC 27701:2019 (Privacy Information System Management System)**

The DPO plans to become an accredited certification body to certify organisations (private and public) under ISO 27701:2019. The DPO has carried out a meeting with MAURITAS. An implementation plan has also been worked out by DPO for the realisation of the project proposal and has been sent to the parent Ministry for its approval.

XV. Projects in the Pipeline

(a) Helpdesk

The DPO receives a voluminous number of queries by phone every day from the private companies, ministries/departments as well as the general public which becomes problematic to answer given that there is only a handful of human resources and other functions that are being carried out in parallel. Subsequently, the office plans to implement a helpdesk service to callers whereby professional staff with extensive experience in contact centre services and trained by the DPO will provide the requested information and assist queries from callers. The office has submitted a proposal for this service to the MITCI.

(b) Interactive Forum

The DPO is envisaging to implement an interactive forum on its website. This forum will allow organisations as well as individuals to post queries online. The office is discussing the feasibility of this project with GOC.

(c) New Computerised System

This office is planning to provide online submission of registration forms with e-payment and certificate printing facilities on the GOC platform.



DATA PROTECTION OFFICE

Email: dpo@govmu.org

Website: <http://dataprotection.govmu.org>

Tel: 460 0251 Fax: 489 7341

Address: 5th floor, Sicom Tower, Wall Street, Ebene