



**SECOND**  
**ANNUAL REPORT**  
FOR THE PERIOD COVERING  
JANUARY - DECEMBER 2010

# ***Data Protection Office***

***Prime Minister's Office***



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# 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 data controllers and data processors.



## Foreword by the Commissioner

The Data Protection Office has deployed considerable efforts to educate data controllers on their obligations under the Data Protection Act. Given the complexity of this area of the law, efforts have to be kept ongoing for data protection to be rightly understood in its proper context.

Data Protection is not against technological development. However, the construction and maintenance of the digital era in which we are living in should not be at the expense of the fundamental rights of people, namely the right to privacy and data protection, in view of the risks associated with the use of ambient intelligentsia. For instance, when personal information is in the cloud, the data subject can access it from anywhere he/she connects online. Though cloud computing does translate to big improvements in speed, efficiency, convenience, and lower costs for businesses of all sizes, there is just one big potential risk - security.

Thus, there is a pressing need to adopt a more proactive approach to data protection and privacy from all stakeholders. There is a need to design data protection safeguards from the outset in all ICT-Driven technologies for good management practices and regulatory compliance.

Data Protection also implies data minimisation, in other words, data controllers must ensure that data processing systems are designed and equipped in a way where the least data is collected:-

- Data Protection by design also calls for the adoption of 'privacy by default' settings. For instance, social networking sites should keep individual users' profile private by default and unavailable to internet search engines.
- Data Protection also stands for the implementation of the necessary and appropriate tools to enable users to better protect and control the use of their personal information, for example, access controls and encryption, amongst others.

During the year 2010, the office has identified many new cases and main threats which may pose consequential risks to the individual privacy of data subjects, based on enquiries and queries received:-

- Lack of proper policies and procedures in most public and private sector bodies to restrict access of their employees to personal data of data subjects, which are not relevant to their sphere of activity, and continued lack of initiatives amongst certain data controllers for compliance with their data protection obligations. Excessive collection of personal data by data controllers for administrative and commercial uses. This office has delivered trainings to the relevant sectors on these issues to prevent such happenings in the future.
- Failure of key players in the private sector to deal with data protection. For example, curriculum vitae of individuals are freely circulated amongst same sector companies looking for individuals with similar competencies without the consent of the person concerned. Most companies based their recruitments on a referral-without-consent basis and failed to destroy data no longer in use after recruitment.
- Lack of security features within technologies currently used by organisations for processing information. There are considerable liabilities to the processing of such information which are very often subject to leakage, loss and breaches. This office has also delivered presentations on the subject.
- Members of the public have shown their discontent with unsolicited text and email marketing and illegal use of telecommunication services provided by local service providers for direct marketing. Direct marketers have been reminded their duties to comply with sections 22 and 30 of the Data Protection Act before processing personal data and subscribers, their rights.
- There have also been queries where the professional credentials and goodwill of individuals have unlawfully been used for securing projects and other commercial benefits and proper advices have been tendered on the subject.
- Many sectors have implemented CCTV cameras at the workplace and this office has assisted data controllers on the secure implementation of these apparatus.

2010 has also witnessed a tremendous leap in the achievement of the objectives set by the office. Data Protection is no longer frowned upon but well ingrained. However, the battle is a continuous one and remains to be fought with as much vigour as before. This office is committed to make 'data protection' a success story in view of the benefits data subjects may acquire.



**DRUDEISHA MADHUB** (BARRISTER-AT-LAW)  
DATA PROTECTION COMMISSIONER



## The Data Protection Office:-

The Data Protection Office which is headed by a Data Protection Commissioner is located on the 4th Floor, Emmanuel Anquetil Building, Port Louis.

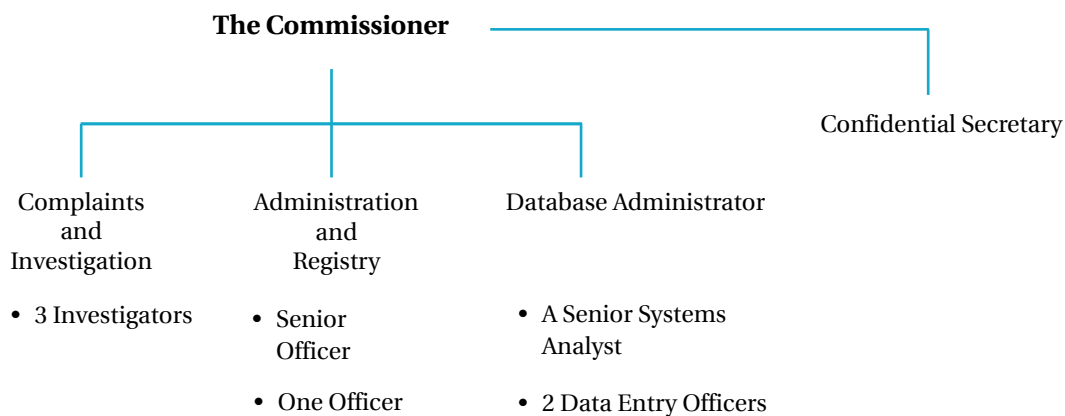
Phone: 201 3604

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## Organisation Structure



## Accreditation

The United Nations and the European Union have adopted many international documents to encourage member states to streamline their domestic legislations concerning protection of privacy and individual liberties. For instance, Article 12 of the United Nations Universal Declaration on Human Rights, Article 17 of the International Covenant on Civil and Political Rights, the United Nations Convention on Cybercrime, the UN Guidelines concerning Computerised Personal Data Files and the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, its Additional Protocol regarding Supervisory Authorities and Transborder Data Flows and the amendments made thereto allowing European Communities to accede to it, the 1995 EU Directives on Data Protection and the Organisation for Economic Cooperation and Development (OECD) Guidelines on Privacy and on Security of Information Systems respectively.

Furthermore, Article 8 of the Charter of Fundamental Rights of the European Union expressly recognises the fundamental right to the protection of personal data. The European Union also encourages non-EU countries to implement the data protection standards contained in these international documents for a secure flow of personal data from European countries to take place. This is the main reason why compliance of Mauritian data protection laws with these principles is required through the recognition of Mauritius as a safe and adequate destination in data protection standards.

## Activities in 2010

### Promoting Awareness

The year 2010 has further witnessed continual information campaigns to educate individuals of their data protection rights. The key focus has remained the inculcation of data protection in the daily routine of all Mauritians from all walks of life. Individuals and data controllers have been informed of the implications of the Data Protection Act for the importance of data protection to be realised and respected by all.



The following seminars were held:

Mauritius Employers Federation:- Awareness campaign presented on 26th January to the members in order to provide them with a legal purview of the Data Protection Act and the mission of the Office.

Local Government Service Commission:- 'An introduction to the Data Protection Act' presented on 13th August 2010 as part of public sector sensitisation.

Ministry of Social Security, National Solidarity and Reform Institutions:- 'The Data Protection Obligations imposed on a Public Institution' presented by the Commissioner on 5 October 2010 held at the Ministry's Training Unit.

Ministry of Health and Quality of Life:- The risks associated to the processing of medical records of patients and other relevant personal data by data controllers and processors were explained on 16 November 2010.

Geroudis Management Services Ltd:- 'Data protection laws for controllers and processors' presented to compliance officers of several management companies organised by Geroudis Glover Ghurburrun Chambers on 11 November 2010.

## Guidelines

- In line with the European Union's recommendations to standardise Mauritian Data Protection Laws for the adequacy of Mauritius as a third country as per EU's Data Protection Directive of 1995, data controllers are recommended to carry out Privacy Impact Assessments. The Data Protection Office has worked on the drafting of proper guidelines on Privacy Impact Assessments (PIAs).
- The Data Protection Office has also been working on the drafting of guidelines on Privacy Enhancing Technologies.

## Registration of Data Controllers

4190 new registrations were received for year 2010. Together with renewals for the previous year, a total of 8200 applications have been processed.

## Investigations and Complaints

The Investigation Unit has effected 36 site visits and investigated 94 cases relating to enforcement and suspicious delinquent cases of data protection. For 2010, two complaints of suspected data breaches have been received; one is related to unlawful use of professional credentials of an individual for marketing the goodwill of a business and the other, to the use of telecommunication services for direct marketing by unauthorised businesses.

The details below explain the type of interventions performed by the investigators:-

- (1) 94 cases related to data compliance have been dealt as part of:
  - Evidence collection on potential data protection breaches
  - Alleged dormant status of companies as claimed by data controllers
  - Analysis of information systems
  - Random confirmation of the information submitted in application forms for registration
  - Enquiry on whether targeted organisations fall within the definition of 'data controller' or 'data processor'
  - Requests for information from data controllers as regards the processing of personal data on information systems
  - Enforcement notices for data controllers who do not respond to requests concerning their obligation to register.
- (2) 36 site visits (either preliminary security checks or compliance audits) have been effected in relation to the above.

## Revenue Collected

A sum of about 13 million rupees has been collected as revenue during the year 2010.

