



Data Protection Office

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EDITION

Data Protection Office

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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

2022 has witnessed many highlights about the roles and functions of this office including misconceptions on the importance of this office – through the press and social media.


Parliamentary questions were attended to wherein the activities carried out by this office were explained.

Despite our previous annual reports submitted to Parliament, no improvement has been made regarding the human structure of this office. It is clear that salaries provided under the PRB do not attract the right candidates for the specialised functions of this office. The Commissioner and her staff have not benefitted from any review by the PRB regarding salary conditions since the creation of this office, thereby creating no incentive for staff, although this is not the case in other public offices.

Our office is now fully computerised for the benefit of our citizens. We are currently working on achieving European Union Adequacy which is important for the image of the country as a safe destination in data protection.

We are in the process of signing cooperation agreements with our peer regulators across Africa to improve collaboration. We have also embarked on other international initiatives such as SADC Model Law Alignment and participation in important meetings virtually to showcase our credibility as a trusted regulator.

Many complaints are registered at this office and with the collaboration of the Police, we are doing our best to attend diligently to them, albeit with our small staff.



Mrs Drudeisha MADHUB (Barrister-at-Law)
Data Protection Commissioner



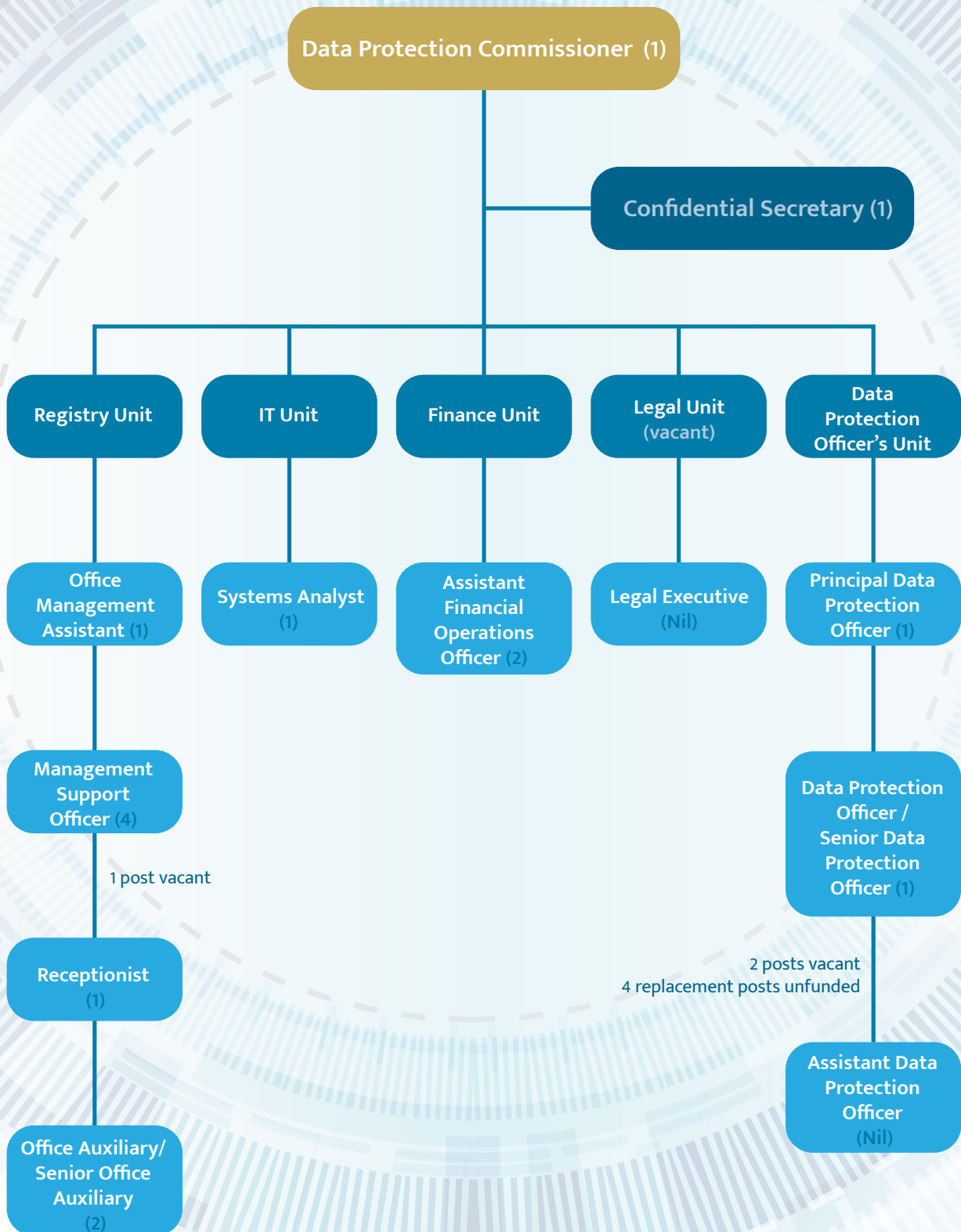
DATA PROTECTION OFFICE (DPO)

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) and the Council of Europe (CoE) Convention 108 and 108+.

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

- (a) Ensure compliance with the DPA and any regulations made under it
- (b) Issue or approve such codes of practice or guidelines for the purposes of the DPA
- (c) Maintain a register of controllers and processors
- (d) Exercise control on all data processing operations and verify whether the processing of data is done in accordance with the DPA
- (e) Promote self-regulation among controllers and processors
- (f) 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
- (g) Take measure as may be necessary to bring the provisions of the DPA to the knowledge of the general public
- (h) 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
- (i) Examine any proposal for automated decision making or data linkage
- (j) 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
- (k) Submit an annual report to the National Assembly

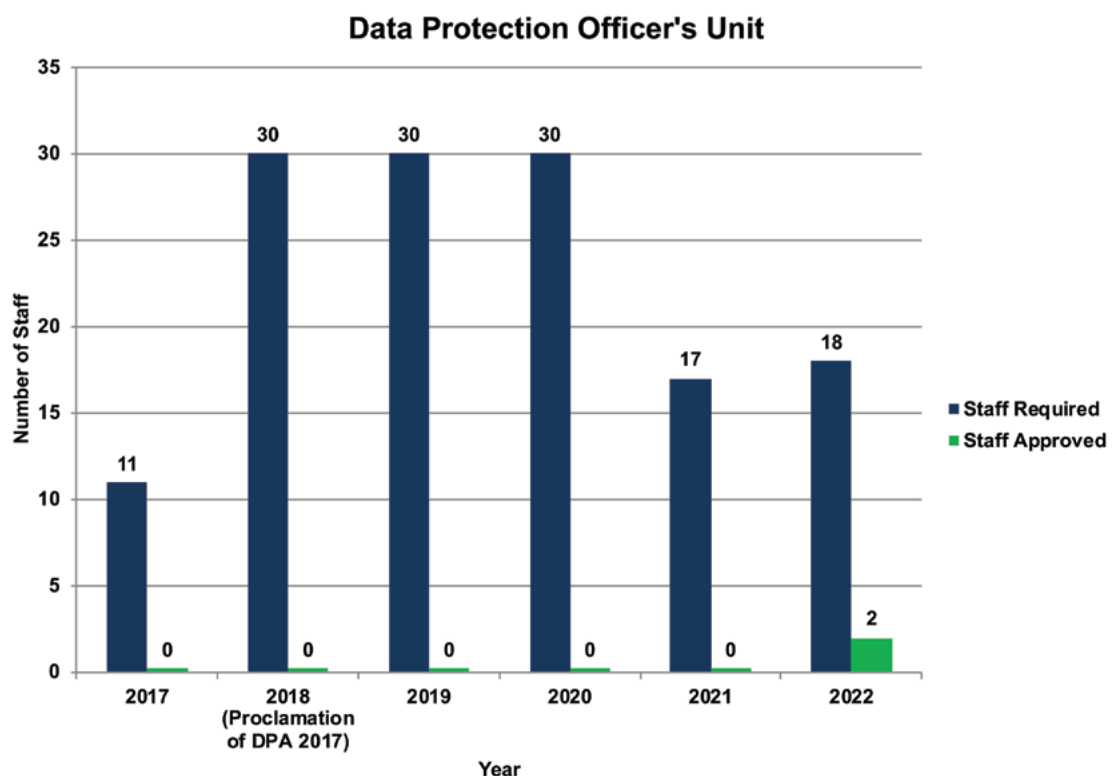
ORGANISATION STRUCTURE



BUDGET FINANCIAL YEAR 2022-2023

I. Human Resource Requirements

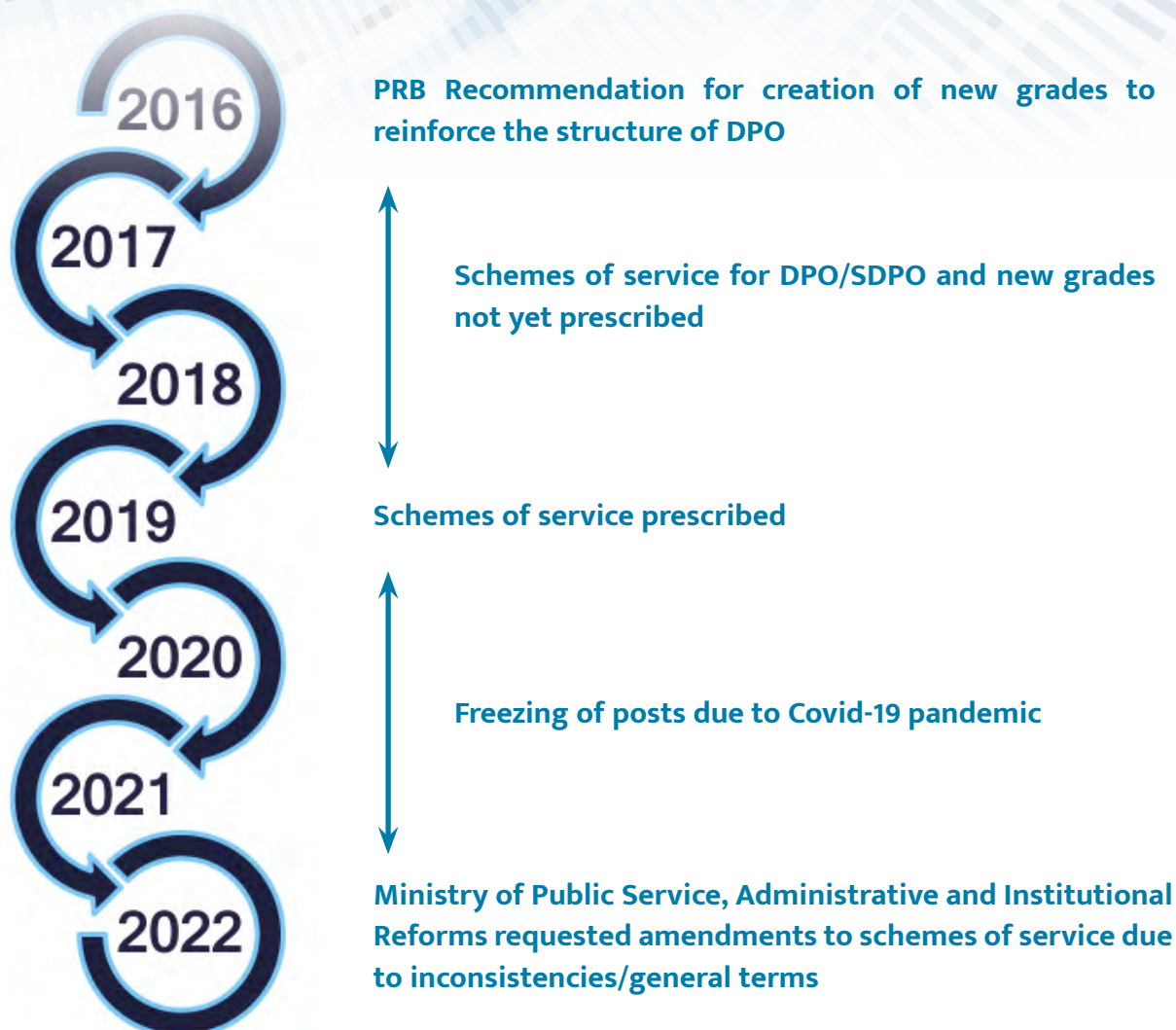
a) Chart on human resources required and number of officers approved



During budget 2022-2023, 2 posts for the grade of Assistant Data Protection Officer were funded. These posts were unfilled as at 31 December 2022.

b) Schemes of service

The recruitment of additional human resources has not been carried out for departmental posts (Data Protection Officer/Senior Data Protection Officer, Legal Executive and Assistant Data Protection Officer) for more than 6 years (from 2016 to 2022). One major reason that has impacted on the recruitment of additional staff and also the replacement of departing staff is schemes of service as illustrated below.



Each function under the Data Protection Act is highly technical and requires expertise, time and resources. A team of officers is required to drive these specialised functions as they cannot be carried out by one officer and supervised by one officer in the Data Protection Officer's Unit.

c) Human resource capacity during 2022

i. Data Protection Officer's Unit

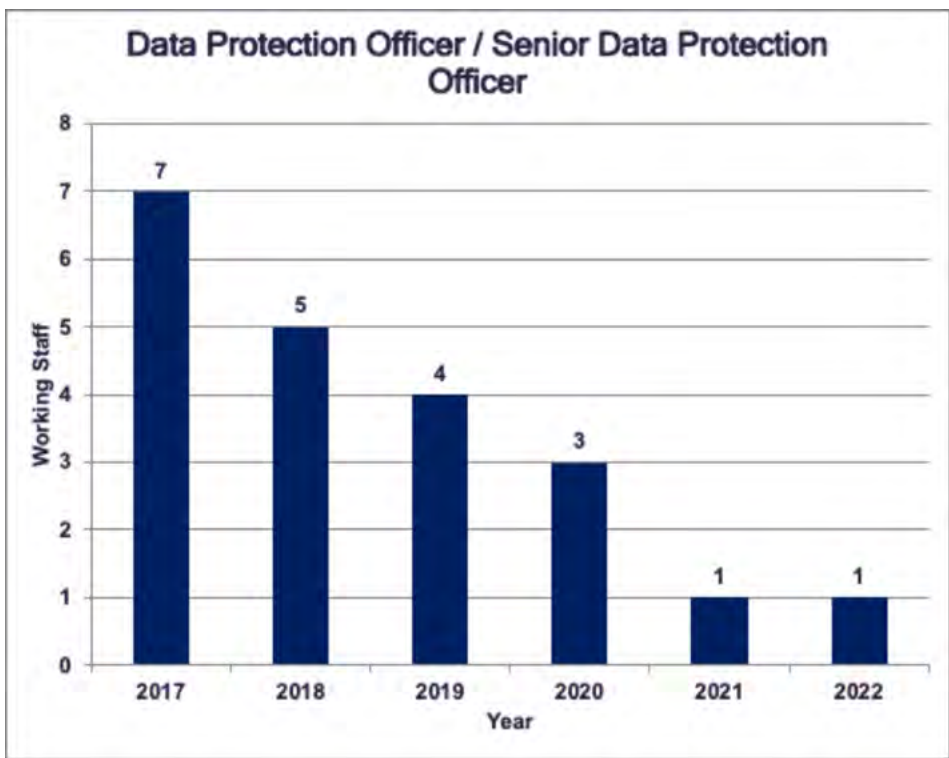
Data Protection Officer/ Senior Data Protection Officer

The grade of Data Protection Officer/ Senior Data Protection Officer (DPO/SDPO) plays a key role in the execution of the panoply of functions at the office. One officer resigned in 2022 which represents a staff leaving rate of 85.7% for this grade from 2017 till present and amounts to loss of valuable knowledge and experience of trained staff.

Status of grade (DPO/SDPO)	Number
In post	1
Vacant	2
Replacement posts (unfunded)	4

The office is operating in a solo mode at the level of departmental grades for more than a year now (i.e., the Data Protection Commissioner (DPC), Principal Data Protection Officer and Data Protection Officer/Senior Data Protection Officer). Difficulties are encountered daily with the high influx of work and responsibilities emanating from the DPA, the high percentage of departing staff with no replacement and the non-recruitment of additional human resources.

The following chart illustrates the evolution of the number of officers in post over the last 6 years for the Data Protection Officer’s Unit.



Service delivery is thus affected with minimal human resources at all levels. Human resources do not match the high demand from the public and private sectors as well as the public in general. The severe shortage of staff has subsequently affected the discharge of many functions of the office.

Assistant Data Protection Officer

The grade of Assistant Data Protection Officer was recommended in Pay Research Bureau Report 2016. The scheme of service was prescribed in April 2019 but has not been filled. 2 posts were funded in budget 2022-2023 but recruitment was not effected in 2022 because of issues pertaining to schemes of service.

ii. Police Unit

Sections 6 (Investigation of complaints), 7 (Power to require information), 8 (Preservation order), 9 (Enforcement notice), 10 (Power to seek assistance), 11 (Power of entry and search) and 53 (Prosecution and jurisdiction) of the DPA are police duties. DPO requires assistance from the police to ensure effective criminal law enforcement under the DPA. The DPC is thus delegating any investigating or enforcement powers to the police as provided for under section 13 of the DPA. The police is collaborating with DPO by providing assistance in the investigation of complaints.

iii. Legal Executive

This grade was not funded in budget 2022-2023 and has remained unfilled since its creation. Legal expertise is a core requirement for the smooth running of this office and the absence of legal experts leaves a void during the execution of daily functions.

iv. Deputy Data Protection Commissioner

The grade of Deputy Data Protection Commissioner is essential to provide assistance to the DPC and to deputise the functions of the Data Protection Commissioner, as and when required. The scheme of service has not yet been prescribed.

v. Youth Employment Programme (YEP) Trainees

7 YEP trainees left in 2022 and 5 trainees were in post as at 31 December 2022.

II. Running cost of the office

The running cost of the office for the financial year 2022-2023 is Rs 5.5 million and has remained the same as for the previous financial year 2021-2022.

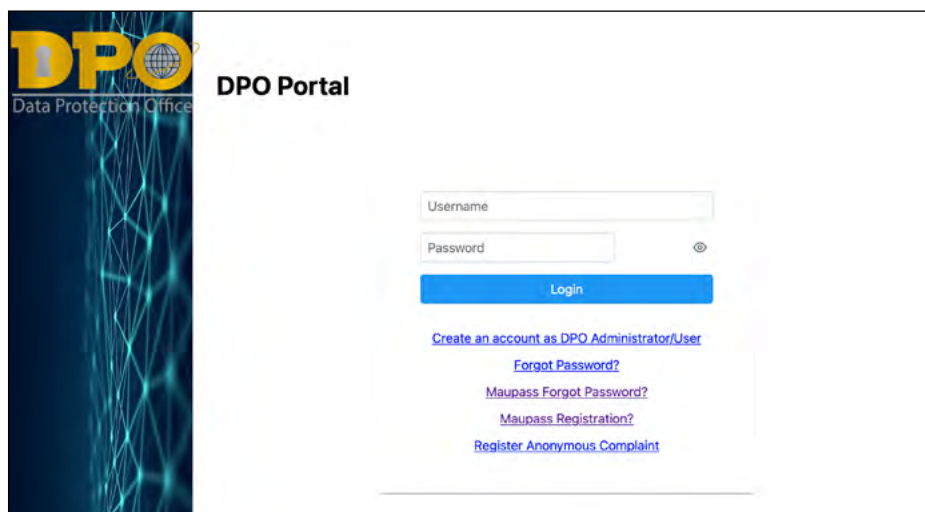
2022 HIGHLIGHTS

I. E-DPO (Integrated Data Protection Office System)



The e-DPO computerised system was a turning point in the provision of online services to controllers, processors and the public. The e-service is available 24/7 and provides for:

- a) Online registration and renewal of controllers and processors with e-payment facility,
- b) Generation of server signed registration certificates,
- c) Online search of registered controllers and processors,
- d) Online lodging of complaints, and
- e) Online submission of eforms (personal data breach notification form, data protection impact assessment form, transfer of data form, certification form and compliance audit form).



2 committees were set up for managing the project namely the Project Implementation Committee chaired by the Data Protection Commissioner to ensure coordination and implementation of the project and the Steering Committee at the level of our parent Ministry to address any relevant unresolved issues of the Project Implementation Committee.

In April 2022, DPO provided sign off on the Software Requirements Specifications for the Integrated DPO System. All officers at DPO were actively engaged in the development, testing and implementation phases of the system and have contributed towards the successful realisation of the project despite the acute shortage of staff at all levels. The e-DPO system was live on 7 December 2022.

II. EU Adequacy

Another project which consumed substantial efforts from this office is “EU adequacy”.

During 2022, the Data Protection Officer’s Unit prepared a comprehensive report under the supervision of the Data Protection Commissioner in compliance with the adequacy requirements established by the European Union. The report was a groundbreaking milestone, particularly in the absence of an expert consultant, and was submitted to the EU Directorate for study and perusal with a view to a subsequent adequacy finding for Mauritius. The report aimed to provide a faithful overview of the Mauritian system in order for the European Commission to conduct an objective assessment.

Online meetings were carried out between the office and the European Commission in 2022 and officers researched and submitted a list of case laws from various courts in Mauritius which pertained to privacy matters.

It was noted that documentation required by the European Commission often necessitated the expertise of legal officer/s. DPO made a request to our parent ministry for the appointment/secondment of a legal officer to undertake and facilitate such tasks. However, the request was not fulfilled in 2022.

DPO is now awaiting further feedback from the European Commission.

III. Certification under section 48 of DPA

In September 2022, the Data Protection Office issued the first Certificate of Compliance to ABSA Bank (Mauritius) Limited.

Certification is voluntary and demonstrates transparency and compliance with the DPA. It helps controllers or processors to demonstrate accountability and compliance with the Data Protection Act and build confidence and trust in the organisation together with the wider public.



Any organisation willing to be certified must comply with the requirements of the DPA and fill the certification form available on DPO website. It consists of a rigorous and intensive assessment of the certification form which contains more than a hundred questions covering all sections of the DPA, which the organisation must ensure to implement, together with all evidence submitted to the office. The certificate of compliance is issued to the organisation for a period of 3 years.

IV. Data Protection Day 2022

28th of January is celebrated globally as the Data Protection/Privacy Day. It encourages everyone to own their privacy responsibilities and to protect data to create a culture of privacy.

The office engaged in numerous activities to mark this special day as follows:

- (a) DPO prepared and submitted a video to the Personal Data Protection Office of Uganda where the Data Protection Commissioner spoke on the wins and challenges of privacy in Africa. The video was requested as part of a series of webinars organised by Uganda for the celebration of the Privacy day to foster awareness on privacy rights.
- (b) DPO prepared and submitted a video to the Council of Europe where the Data Protection Commissioner spoke on Convention 108+, its importance and the ratification of Mauritius to the Convention. The Council of Europe published the video in the framework of the Committee of Ministers Conference of 28 January. The video is also published on the DPO website.
- (c) The Data Protection Commissioner was interviewed by the Mauritius Broadcasting Corporation on the topic below:
“With the Covid 19 pandemic, whether it’s classes or work sessions, everything has moved online. But how safe are we?”

- (d) The Data Protection Commissioner was interviewed by Radio One on the occasion of the Data Protection Day.
- (e) The Data Protection Commissioner participated as speaker in an online conference organised by the Council of Europe on the occasion of the Data Protection Day to share the experience of the ratification of Convention 108+, how the Convention is perceived, its advantages and challenges.
- (f) BDO IT Consulting Ltd requested the views of the Data Protection Commissioner for an article to be published in its newsletter.
- (g) The office also submitted the list of events that were organised by the Data Protection Office for the 16th Data Protection Day to the Council of Europe. The information provided was published on the «Data Protection Day» page of the website of the Council of Europe (<http://www.coe.int/dataprotection>).
- (h) The office provided the list of programs organised for the Data Protection Week to the Réseau Africain des Autorités de Protection des Données Personnelles (RAPDP) together with the links towards the pictures and videos pertaining to Data Protection Day to be published on the RAPDP website.
- (i) The office also provided the list of programs to the Common Thread Network (CTN) to be published on the news blog on the CTN website.

VIEWS OF THE DATA PROTECTION COMMISSIONER

What are your views on the privacy day 2022?

We will celebrate the 16th Data Protection Day worldwide and also the 41st anniversary of the Council of Europe Convention 108, which is the only international legally binding instrument on data protection.

The Data Protection Day will begin the year with a positive reminder of the importance to protect privacy rights of people. Privacy is a fundamental human right for each and every individual. Organisations are also reminded of their duty to protect personal data under their custody and to pay special attention to their data transfers across borders. The Data Protection Act 2017 has revolutionised the entire data protection landscape in Mauritius. Many new data subject rights, such as the right to object to automated individual decision-making, have been introduced. In addition to those, new obligations have also increased the accountability of controllers.



Mrs Drudeisha Madhub
Data Protection
Commissioner
(Republic of Mauritius)

Privacy is no longer a comfort but a necessity. It is, therefore, fundamental that all organisations commit to achieving a level of protection of personal data that corresponds to the changes linked to the rapidly-evolving technology. In an era of COVID-19, technology adoption has taken a quantum leap at the organisational, business, and individual consumer levels. It is thus imperative that privacy protections are reinforced at all levels.

Cross-border data flows will increase as the African continent adopts harmonised privacy and data protection policies and regulations in line with international standards. Therefore, building trust in the security of processing personal data operations is of paramount importance. On this special day, I would like to appeal once again to all controllers and processors to register with the Data Protection Office which is mandatory by law to avoid any risks of being prosecuted. It is also equally important that organisations designate a Data Protection Officer responsible for data protection compliance issues.

What are the activities the Data Protection Office is envisaging for 2022?

This year the focus will be mainly on enforcing data protection in Mauritius through prosecution with the collaboration of the police.

How many organisations are as of today certified with the Data Protection Office?

We are in the process of finalising the certification of one organisation and the process is a rigorous and lengthy one but credit worthy for certified organisations.

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V. Research and Publications

a) Fact sheet on legitimate interest

The office published a fact sheet on legitimate interest to assist controllers and processors to understand the context and meaning of the terminology as per the provisions of the DPA and how legitimate interest could be applied in business operations. The fact sheet covers the following main aspects:

- Lawful processing of personal data
- Legitimate interests as a lawful criterion for processing
- Criteria of legitimate interest
- Steps to consider when performing the legitimate assessment
- Examples

The fact sheet is published on the website of the office.

FACTSHEET ON LEGITIMATE INTERESTS

Lawful processing of personal data


Section 28 of the Data Protection Act 2017 (DPA) stipulates that personal data shall be lawfully processed if at least one of the 9 criteria [28(1)(a) to 28(1)(b)(i) - (viii)] mentioned under it applies.

Legitimate interests as a lawful criterion for processing

Section 28(1)(b)(vii) of the DPA allows personal data to be processed for legitimate interests pursued by the controller or by a third party to whom the data are disclosed subject to a balancing test performed against the rights and freedoms or legitimate interests of the data subject.

28. Lawful processing
 (1) No person shall process personal data unless –
 (a) the data subject consents to the processing for one or more specified purposes;
 (b) the processing is necessary –
 (i) for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject before entering into a contract;
 (ii) for compliance with any legal obligation to which the controller is subject;
 (iii) in order to protect the vital interests of the data subject or another person;
 (iv) for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
 (v) the performance of any task carried out by a public authority;
 (vi) the exercise, by any person in the public interest, of any other functions of a public nature;
 (vii) for the legitimate interests pursued by the controller or by a third party to whom the data are disclosed, except if the processing is unwarranted in any particular case having regard to the harm and prejudice to the rights and freedoms or legitimate interests of the data subject; or
 (viii) for the purpose of historical, statistical or scientific research.

The outcome of the balancing test will determine whether section 28(1)(b)(vii) may be relied upon for a given processing. This criterion for lawful processing should not be construed as 'the weakest link' or an open door to legitimise a processing operation that does not satisfy any other lawful grounds for processing. Judicious use of section 28(1)(b)(vii) of the DPA should be made based on the outcome of the balancing test and subject to adequate safeguards.



Legitimate interests pursued by the controller or by a third party to whom the data are disclosed

Rights and freedoms or legitimate interests of the data subject

b) Collaborative project for the preparation of a leaflet on best practices in e-commerce transactions

ICTA is the Regulator and Licensing Authority for ICT services, including internet services, through which the e-commerce industry operates. ICTA proposed a collaborative project with various stakeholders for a leaflet to sensitise and educate the public about the best practices to adopt in e-commerce transactions.

The Data Protection Office submitted inputs for consideration by ICTA on the following aspects from a data protection perspective:

- Importance of data protection
- Some best practices for companies offering e-commerce services
- Safety tips for users of e-commerce services

VI. Collaboration with the Police to regulate unregistered controllers/processors

Section 14 of the DPA requires that all controllers and processors operating in Mauritius must register with the office.

The Data Protection Office carried out an online meeting with the Mauritius Police Force in early January 2022 to discuss on a modus operandi for regulating unregistered controllers and processors in Mauritius with the assistance of the police department.

The office prepared the following documents:

- Templates for enforcement notices and reminders to be issued and
- A fact sheet on registration which provided concise information on the registration and renewal obligations.

The following statistics demonstrate the number of enforcement notices issued, reminders sent and subsequent registrations received.

Number of Enforcement Notices Issued	1908
Number of 1 st Reminders Issued	904
Number of 2 nd Reminders Issued	635
Number who responded and effected payment	413

VII. National Cybersecurity Committee

Section 3 of the Cybersecurity and Cybercrime Act 2021 stipulates that there is established, for the purposes of the Act, the National Cybersecurity Committee.

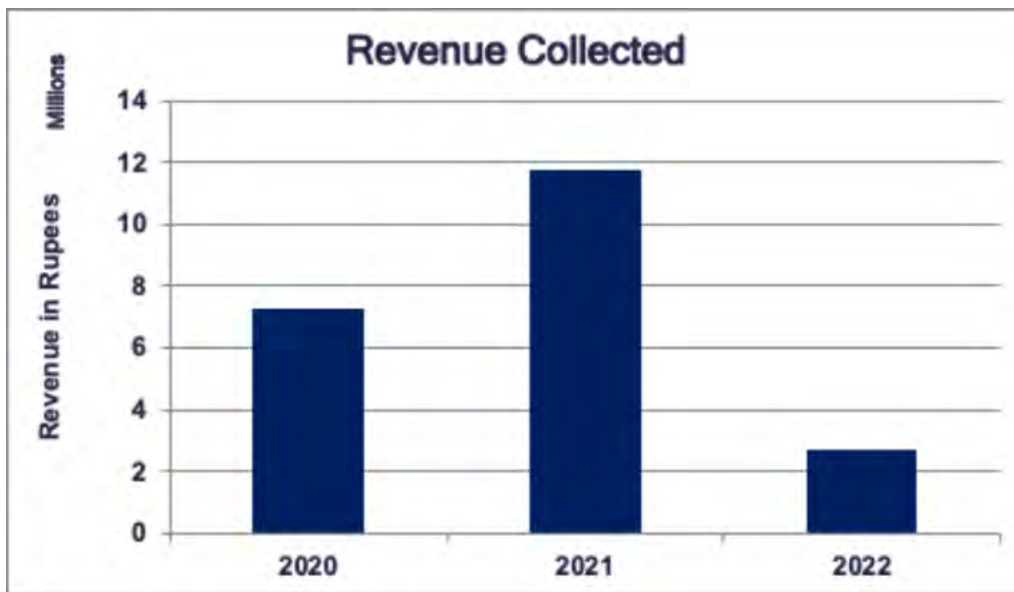
The Data Protection Commissioner was nominated as member of the Committee and participates regularly in meetings organised by the National Cybersecurity Committee.

ACTIVITIES IN 2022

I. Financial Status

a) Revenue collected

DPO collected a total revenue of Rs 2,736,500 for registration of controllers and processors in 2022.



A high revenue was collected during 2020-2021 given that all controllers and processors submitted fresh registrations with the coming into force of the Data Protection (Fees) Regulations 2020 on 01 August 2020. The amount collected subsequently decreased in 2022 because a registration certificate issued is valid for a period of 3 years.

II. International Cooperation

The DPO participates in numerous international privacy networks such as Association Francophone des Autorités de Protection des Données Personnelles (AFAPDP), Réseau Africain des Autorités de Protection des Données Personnelles (RAPDP), 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 the office to exchange information, undertake or support specific activities and share knowledge with best practices.

a) International Conferences

Regional conference on “The protection of personal data: an opportunity and an imperative for the region”

This conference was organised on 01 June 2022 in Tunis by the National Data Protection Authority of Tunisia (INPDP), the Council of Europe, the European Union and the League of Arab States. The event was organised with the support of two joint projects of the European Union and the Council of Europe “Project to support independent bodies in Tunisia” (PAII-T) and “Regional support for the consolidation of human rights, the rule of law and democracy in the Southern Mediterranean” (South IV programme).



The regional conference brought together around a hundred experts and representatives of authorities and civil society from different countries of the Southern Mediterranean.



The Data Protection Commissioner participated in the conference which focused on the use of personal data in the context of cybercrime, health, digital ID projects and international data flows, as well as relevant international instruments.

The aim of the conference was to raise awareness among the countries of the Southern Mediterranean region of the need for strong personal data protection, for the benefit of both individuals and national economies, and of the cooperation that could be established between them on this subject.



b) Working visit in Rwanda

The Data Protection Office of the Republic of Rwanda invited the Data Protection Commissioner of Mauritius for a working visit to Rwanda from 25-29 July 2022 to discuss on a bilateral cooperation framework that would among other things outline key areas and modalities of cooperation.



Mrs. Madhub, Data Protection commissioner of Mauritius, during a meeting hosted by the Data Protection Office with representatives from Rwanda's banking and financial sector. *Courtesy*

The visit came after Rwanda passed the Personal Data Protection and Privacy law in October 2021 and established the Data Protection Office in March 2022.

During the mission, the Data Protection Commissioner shared Mauritius's experience of implementing personal data protection and privacy legislation and also met the Chief Executive Officer of National ICT Authority of Rwanda to discuss on bilateral cooperation. The DPC discussed with representatives from the National Bank, Kigali International Financial Centre, Rwanda Bankers Association, Bank of Kigali and the Rwanda Information Society Authority where she elaborated on the implementation of personal data protection and privacy law to create a conducive environment for the growth of financial services. The DPC emphasised on the importance and timely nature of holding stakeholders' engagements and highlighted the need for organisations to put in place modalities for smooth implementation of the law for continuity of vital business sectors.

c) Benchmarking Tour from Eswatini

On 06 September 2022, the office had a meeting with delegates from the Kingdom of Eswatini. The aim of the benchmarking tour on data protection from Eswatini was to learn on the regulatory functions of our office with the objective to ultimately establish a Data Protection Authority following the promulgation of the Data Protection Act in Eswatini.

During the meeting, the DPC explained the structural setting up of the Data Protection Office, its operational methods, the regulations, the challenges and also answered numerous questions from the delegates.



d) Data Protection Africa Summit in South Africa

The Data Protection Commissioner participated in the Data Protection Africa Summit having the theme “*Developing Data Protection for Africa’s Digital Economy*” in Johannesburg, South Africa from 21st to 23rd November 2022.



e) Draft Joint Declaration on Privacy and Data Protection

European Union Commission solicited the assistance of this office to support the Draft Joint Declaration on Privacy and Data Protection.

This Joint Declaration stresses the importance of robust data protection rules for strengthening consumer confidence in the digital economy and the promotion of trusted data flows. The Declaration is high level and non-binding and was developed and issued in the context of Ministerial meeting of the EU-Indopacific Forum held on 22 February 2022 in Paris which had digital and privacy issues high on its agenda.

The Data Protection Commissioner had an online meeting with EU Commission and indicated the support of the office for the Declaration and also wrote to the Ministry of Foreign Affairs, Regional Integration and International Trade to support the Declaration.

f) Revision and modernisation of SADC Data Protection Model Law

In 2012, Southern African Development Community (SADC) developed the SADC Harmonised Cybersecurity Legal and Regulatory Framework. The Framework consists of three model laws including the SADC Data Protection Model Law.

An assessment which began in 2018 established that the Data Protection Model Law needed revision and modernisation with due consideration among others to the national and regional context for privacy to ensure the safety and security of SADC citizens. The overall objective of the assignment was to review, revise and modernise the model law which would result in an enhanced Data Protection Model Law.

The Ministry of Foreign Affairs, Regional Integration and International Trade informed this office that the SADC Data Protection Model Law was being reviewed by SADC Secretariat and a consultant was recruited to conduct the study and would be engaged with member states on initiatives relating to data protection laws and regulations.

The Data Protection Commissioner was nominated as focal point by our parent Ministry to assist the consultant in this exercise. In July 2022, the Data Protection Office completed the questionnaire sent by SADC which aimed at gathering inputs on the description of data protection law in Mauritius. On 29 November 2022, an officer attended the SADC Data Protection Law Validation Workshop.

Following the workshop, SADC Secretariat came forward with a set of recommendations to be implemented by member states to align with the proposed Model Law.

g) Cooperation Agreement

African Union (AU) Commission developed a Monitoring and Evaluation Prototype with associated harmonisation indicators within the framework of implementation of the Policy and Regulation Initiative for Digital Africa (PRIDA) project to measure the extent of harmonisation of policies, legislations and regulations across the African continent. The prototype was tested in Mauritius and one of the observations made pertained to formal reciprocal arrangements with the Data Protection Authorities (DPAs) of other AU Member States. The objectives of establishing cooperation agreements are to reinforce cooperation between African countries on data protection matters and to create an enabling environment that paves the way for the establishment of an African Digital Common Market.

On 4 November 2022, Cabinet agreed to the signing of a cooperation agreement between the Data Protection Office and the Information Regulator of South Africa.

h) Participation with international organisations

i. AU Commission

AU Commission with support of a taskforce composed of Pan African organisations and AU specialised institutions coordinated and led the process of development of the “AU Data Policy Framework”. The framework aimed at creating a common data space and a uniform data governance mechanism and framework to enable African countries to take advantage of the ever-increasing production and use of data as a strategic asset to boost the development of sustainable and inclusive digital/data driven economy and society.

To accelerate the implementation of this framework and also guide AU Member States in developing their national data systems and capabilities., the AU Commission developed a draft Action Plan and a Capacity Assessment Tool.

During 2022, this office examined the AU Data Policy Framework and the Africa Data Policy Capacity Assessment Tool 2022 from a data protection perspective.

ii. Réseau Africain des Autorités de Protection des Données Personnelles (RAPDP)

RAPDP circulated a Memorandum of Understanding (MoU) between Smart Africa and RAPDP for feedback. The purpose of the MoU was to provide a framework for cooperation to advance the enforcement capacities of African data protection authorities.

The office perused the MoU. The press release related to the signature of the MoU between RAPDP and Smart Africa is available on the link <https://www.rapdp.org/en/node/144>.

In order to support the development of its activities, RAPDP wished to elaborate a draft scale of fees for each member. Consequently, RAPDP circulated a form requesting information which would allow the elaboration of a draft scale of fees. However, the office could not join RAPDP for the time being as provision was not made in budget for the financial year July 2022 to June 2023.

iii. Association Francophone des Autorités de Protection des Données Personnelles (AFAPDP)

The office submitted to AFAPDP the duly filled voting form on the adoption of the financial report for the year 2020 and the admission of two new members to the Association.

AFAPDP requested all members to update their mailing lists contact details form. The office submitted the updated form to AFAPDP in April 2022.

iv. Council of Europe (CoE)

Following the decisions of the 54th and 55th meetings of the Bureau meeting, CoE made a call for experts to join the working group on drafting a new interpretative document on Article 11 of Convention 108+. This document would provide guidance on the understanding and application of provisions of the world's only global treaty on privacy and data protection.

The DPC joined the working group and attended an online meeting on 3rd May. The office also submitted some case laws in Mauritius on privacy and ICT-related laws.

v. Global Privacy Assembly (GPA)

GPA has been the premier global forum for data protection and privacy authorities and seeks to provide leadership at international level in data protection and privacy. It does this by connecting the efforts of more than 130 data protection and privacy authorities from across the globe.

This office provided input on 'Global Privacy & Data Protection Awards 2022' and completed a survey on Capacity Building Workshop.

vi. Common Thread Network (CTN)

The CTN circulated the CTN mandate 2022 which aimed at providing a mandate to the CTN Secretariat to progress proposals identified from the 2021 CTN survey and to help deliver on several achievable commitments for the network in 2022. The Data Protection Office of Mauritius endorsed the CTN mandate 2022.

In April 2022, an officer participated in CTN Quarterly Meeting.

vii. World Bank

The Data Protection Commissioner is frequently solicited to participate in discussions on privacy matters.

viii. Center for Global Development (CGD)

The Center for Global Development works to reduce global poverty and improve lives through innovative economic research that drives better policy and practice by the world's top decision makers. The Data Protection Commissioner participates in CGD initiatives and shares her expertise on data protection matters.

ix. United Nations World Data Forum

The DPC is often solicited to participate as speaker and expert at the UN World Data Forum on topics such as data governance, trust in data (balancing quality, privacy and transparency) and ways that countries can improve national data governance policy and efforts.

x. ID4 Africa

ID4Africa is an NGO that accompanies African nations on their journeys to develop robust and responsible identity ecosystems in the service of development and humanitarian action. The DPC has represented Mauritius on privacy issues.

xi. Africa Data Leadership Initiative (ADLI)

The UN Economic Commission for Africa, Smart Africa, and Future State have launched Africa Data Leadership Initiative (ADLI). ADLI is a peer network designed for and by African policymakers, consumer rights advocates, and private sector stakeholders. The Data Protection Commissioner regularly participates in discussion meetings on data protection matters.

i) Virtual meetings

During 2022, the DPO participated in 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 done substantial research on topics discussed on the international forefronts and have assisted the DPC in the preparation of materials and briefs for the DPC's interviews and presentations. The office attended the below virtual meetings in 2022:



Date and Time	Subject	Organiser	Remarks
8 March 18h00	First online meeting Preparing the programme for the UN World Data Forum (UNWDF) to be held in Hangzhou, China from 24 – 27 April 2023	UNWDF	DPC participated as expert
9 March 14h30	Reflections on the Implementation of the Continental Framework for Data Governance	Smart Africa	DPC participated as speaker
18 March 14h15	Regulating data: Opportunities and Challenges of implementation – Data Governance Multi-Stakeholder Forum Digital Transformation for Sustainable Development in Africa	AU-EU	DPC participated as speaker
28 March 2022 (17h00 – 20h00)	Brainstorming workshop on draft guidelines on data protection and privacy	RAPDP and Smart Africa	Officer from Data Protection Officer's Unit attended meeting
03 May 16h00	Drafting of a new interpretative document on Article II of Convention 108+	Council of Europe	DPC participated in meeting
24 May 10h45	Convergence in Action Regional and Global Cooperation between Data Protection Authorities	CPDP Brussels	DPC participated as panelist
08 June 17h00	Preparing the programme for the UN World Data Forum (UNWDF) to be held in Hangzhou, China from 24 – 27 April 2023	UNWDF	DPC participated as expert
12 July 13h00	Interview on data governance	CSEA – Centre for the study of the Economics of Africa	DPC was interviewed
14 September 13h30 – 19h00	Empowering African Women as AI leaders	Tony Blair Institute	DPC participated in meeting

Date and Time	Subject	Organiser	Remarks
04 November 12h40 -15h30	Cross Border Harmonisation /Corporation Enforcement	4 th Privacy Symposium Africa –African Data Protection Authorities	DPC participated as panelist
29 November 10h00 – 19h30	SADC Data Protection Model Law Validation Workshop	SADC	Officer from Data Protection Officer’s Unit attended meeting

III. Participation in surveys

In 2022, the office participated in the following surveys:

- **Special Rapporteur on the right to privacy**

In February 2022, the office submitted inputs to the Ministry of Foreign Affairs, Regional Integration and International Trade (Human Rights Division) on questions received from the Special Rapporteur on the right to privacy. The questions focused on two interrelated subject areas from the perspective of the rights to privacy, namely the principles of data protection and the use, storage and destruction of data in relation to data gathered by Governments during the COVID-19 pandemic.

- **Inputs in respect of the “Right to Privacy in the Digital Age” from the Office of the High Commissioner for Human Rights**

With respect to the Human Rights Council Resolution 48/4, our parent Ministry requested inputs from this office in respect of the “Right to Privacy in the Digital Age” for onward transmission to the Human Rights Division of the Ministry of Foreign Affairs, Regional Integration & International Trade.

The questions were on the following areas of interest:

- Trends and challenges with regard to the promotion and protection of the right to privacy in the digital age;
- Related human rights principles, safeguards and best practices;
- Targeted and mass surveillance of journalists and human rights defenders, amongst others;
- Access of state authorities to personal data collected by companies, including in cross-border contexts;
- Discriminatory impacts of privacy invasions on individuals and/or groups at risk.

DPO submitted the requested inputs in June 2022.

IV. 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. Many sensitisation activities were carried out during 2022.

a) Press Communiqués/Interviews

• Press Interviews

- The Data Protection Commissioner participated in an interview with Business Magazine for an article on the protection of personal data. The article was published on 13 July 2022.
- The Data Protection Commissioner was contacted by le Défi Plus for a press article which was published on 17 September 2022.



b) Participation in compliance video on data protection

Swan Life Ltd requested the participation of the Data Protection Commissioner regarding its project on “Data Protection Think Twice Campaign” to develop small internal videos to raise awareness among its staff of the importance of being data protection compliant.

Swan Life Ltd provided DPO with a scenario regarding an unlawful disclosure of personal information to an unauthorised third party. The DPC participated in the video and spoke on the importance of complying with data protection obligations and the sanctions for non-compliance.

c) Sensitisation campaign video for the youth

The Data Protection Commissioner received a request from a secondary school for a presentation on data protection. The DPC made a recorded presentation for the students and explained:

- The importance of privacy online,
- An overview of the dangers and challenges faced by youngsters using mobile phones,
- Safety tips recommendations,
- Offences under the DPA and
- The responsibility in everyone’s hands to safeguard privacy.

The recorded video is posted on the office’s website under “Teens Corner”.

d) Raising awareness with businesses

- **Harel Mallac Technologies Ltd**

On 05 May 2022, Harel Mallac Technologies Ltd, hosted an event on Compliance, Governance and Risk Management with effective data protection and compliance strategies as a key and growing priority for decision makers. The event focused on the resiliency and protection of organisations’ data in the Cyberspace, which have become a critical success factor for the sustainability of any business in today’s digital era.

The Data Protection Commissioner participated as a key panelist in a panel discussion around the resiliency and protection of organisations’ data in cyberspace and also delivered a speech prior to the panel discussions.

- **Mauritius Finance**

On 08 June 2022, Mauritius Finance organised a half day workshop on the European Union General Data Protection Regulation (GDPR). The Data Protection Commissioner participated as guest speaker and also answered questions from participants.



- **INNOVATIONMAURITIUS.COM conference**

INNOVATIONMAURITIUS.COM is an annual event organised by DoraCrea. The conference was organised on 11 October 2022 themed “Big data and Responsible AI - Harnessing Data Driven Strategies in the Digital Economy.”

The DPC participated as speaker on ‘Data Governance and Data Privacy: The Opportunities and Challenges.’



e) Training

- **Advanced Human Rights Course in Data Protection in Africa**

The Centre for Human Rights, University of Pretoria hosted a five-day intensive short course on data protection in Africa from 19 to 23 September 2022. The main objectives of the course were to improve knowledge on various intersecting aspects of data protection and how to mainstream these aspects into the African context and to empower more data protection advocates with practical knowledge on the new frontiers of data protection in Africa.

The course was made up of numerous sessions spread across five days. The Data Protection Commissioner, as expert practitioner, facilitated a virtual session on 23 September 2022 titled ‘An African Regulator’s Perspective on Data Protection’.

- **In-house training**

On 17 November 2022, DPO provided an in-house training on the provisions of the DPA to Data Protection Officers from the public and private sectors to assist them to comply with data protection requirements in their respective organisations.



- **Junior Police Officer's Development Course**

Criminal law enforcement of the DPA is applied with the collaboration of the Mauritius Police Force in Mauritius. The Police Training School organised a Junior Police Officer's Development Course for police officers who would be called upon to act as station orderlies and enquiry officers.

An officer from DPO acted as resource person and delivered a training on the Data Protection Act on 22 July 2022 at the Police Training School.

- **Police Prosecutors Course**

The Police Training School organised a Prosecutors Course for the benefit of cadet officers and police inspectors. An officer from DPO acted as resource person and delivered a lecture on the Data Protection Act on 22 September 2022 at the Police Training School.

f) Mauritius Investment Climate Statement

In 2022, the Data Protection Office provided updates for the Investment Climate Statement (ICS) 2022 for Mauritius to the U.S. Embassy to Mauritius and Seychelles.

g) Distribution of Data Protection Training Toolkit DVDs

The DPO has distributed approximately 3016 DVDs in 2022 to registered controllers/processors to assist them understand and comply with the provisions of the DPA.

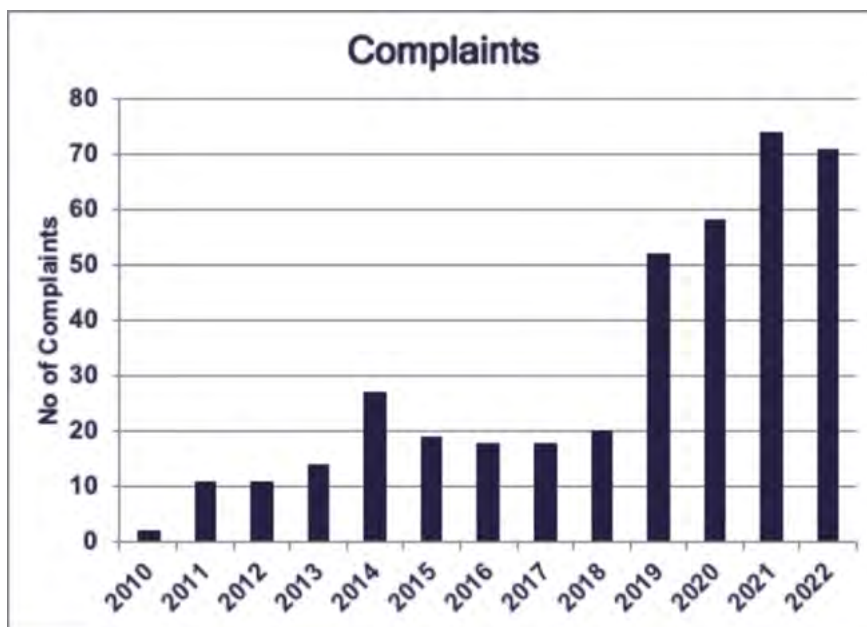
V. Enforcing Data Protection

a) Investigation on Complaints

During the period January to December 2022, the DPO received **seventy one (71)** new complaints regarding investigations on the below subjects, among others:

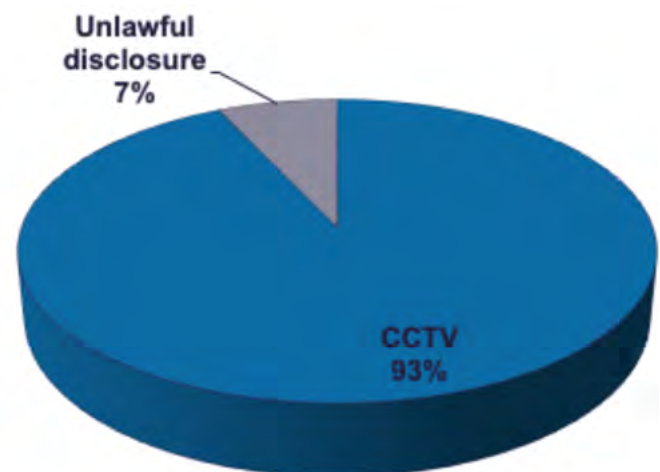
- Unauthorised use of CCTV camera
- Unlawful processing of personal data
- Rights of access

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



Out of the total number of cases, **Sixty six (66)** cases (representing **93%**) pertained to CCTV as depicted.

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.



b) Complaints Closed

The office closed thirty **six (36)** complaints in 2022. **Five (5)** cases were resolved through amicable resolution.

VI. 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

DPO was represented by State Law Office in 2 cases at the Supreme Court where the latter was a co-respondent. The enquiry at the level of the police was still awaited in one case and the other one would be called for arguments in March 2023.

b) Intermediate Court Cases

DPO was called to appear as witness in 2 cases related to CCTV. One case was settled in court through mutual agreement by both parties and in the other one, the complainant did not attend court.

c) ICT Appeal Tribunal

DPO was represented by the State Law Office in an appeal against the decision of the DPC lodged at the ICT Appeal Tribunal as respondent regarding unlawful use of camera surveillance in lorries. Determination of the Tribunal was issued on 19th January 2022 which set aside the decision of the respondent.

VII. Registration of Controllers and Processors

Under the Data Protection (Fees) Regulations 2020, the cumulative number of registered controllers and processors from 01 August 2020 to 31 December 2022 reached **15047** and **714** respectively.

2148 registration certificates were issued in 2022.

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

VIII. Requests for Legal Advice

In 2022, the office received around **one hundred and sixty seven (167)** written requests for legal advice on the interpretation of the DPA.

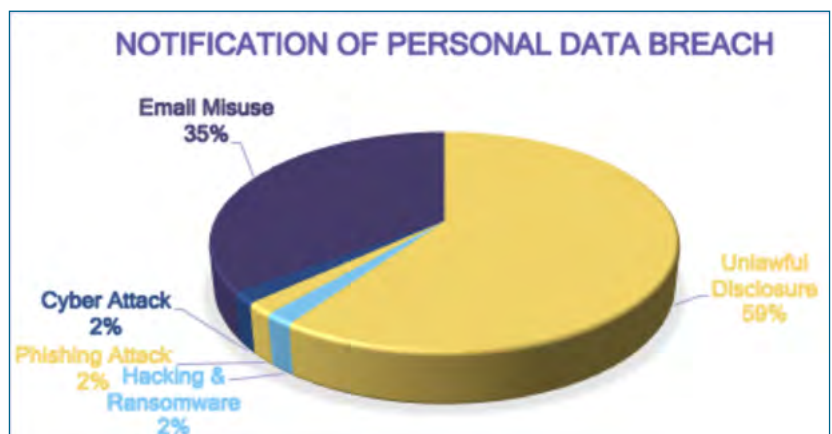
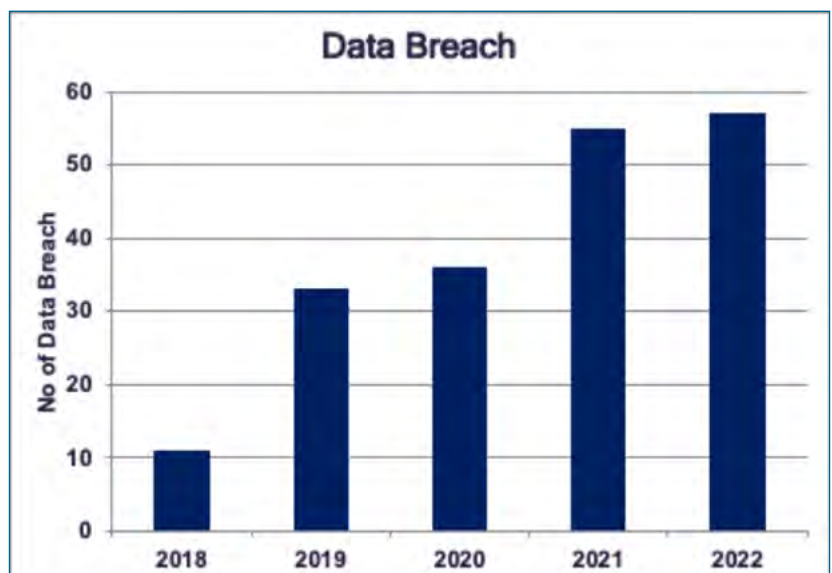
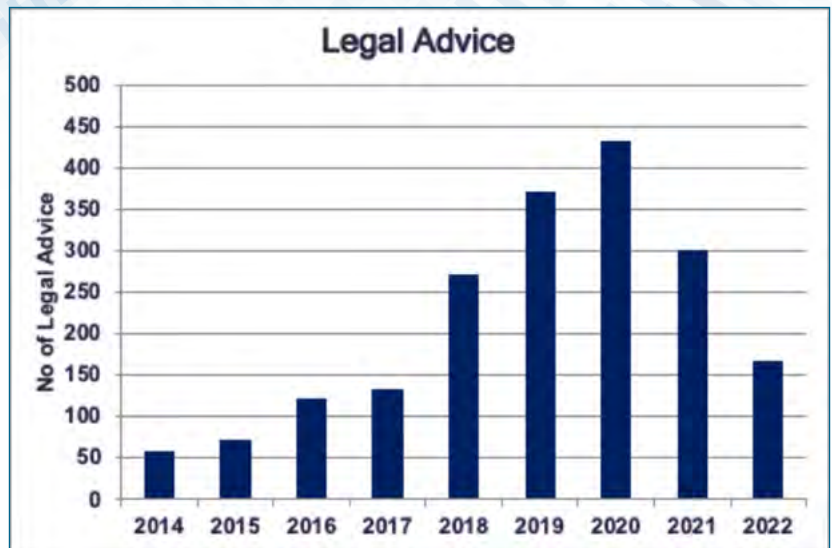
IX. Advisory / Stakeholder Role in Projects

DPO is a stakeholder in projects which involve the processing of personal data. In 2022, the office has provided recommendations on many projects from both the public and private sectors.

X. Personal Data Breach Notifications

In 2022, **fifty seven (57)** personal data breaches have been reported to this office.

An analysis of the type of breaches received showed that employee(s) disclosing information to unintended recipient(s) and business email compromise remain the main causes of breaches reported. The following pie chart categorises the types of data breaches notified in 2022.



XI. Data Protection Impact Assessments

Organisations must carry out a data protection impact assessment for 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.

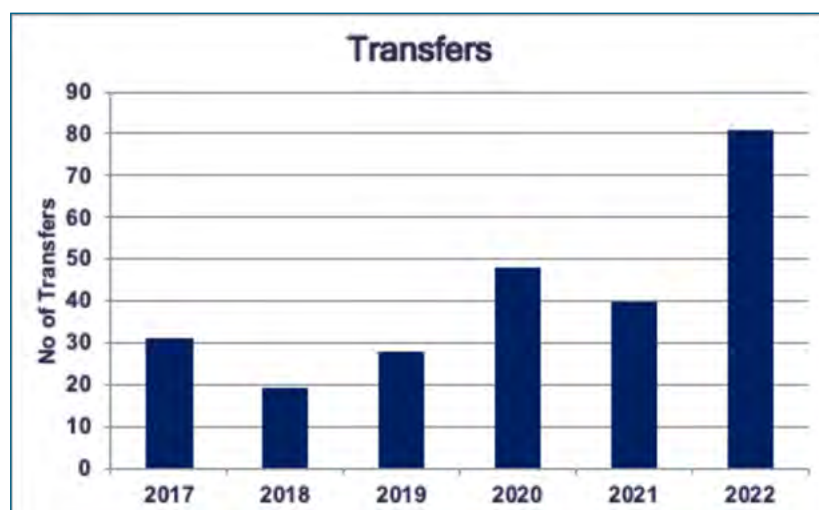
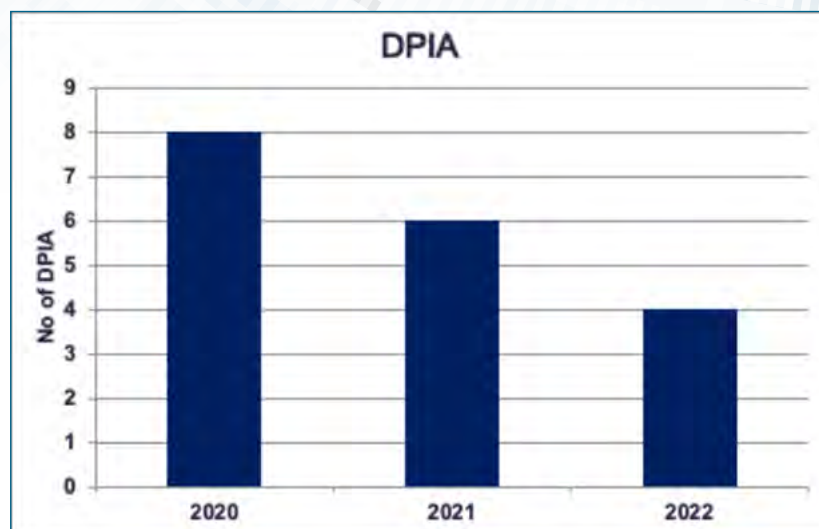
In 2022, the office has studied and analysed **four(4)** data protection impact assessments carried out by organisations.

XII. Transfers of Personal Data Abroad

The DPC authorised **eighty one (81)** requests for transfer of personal data outside Mauritius with proof of appropriate safeguards under section 36 of the DPA.

XIII. Review of compliance audit form and certification form

The office reviewed the compliance audit and certification forms to meet the requirements of the DPA and to facilitate the processing of requests received.



CAPACITY BUILDING

In 2022, officers of the DPO attended the following capacity building sessions:

Title	Date	Organised by
Training on Business Continuity Plan (BCP)	21 April, 28 April 05 May, 12 May, 19 May 2022	Civil Service College Mauritius
Bomb Threat	25 April, 15 June, 29 June 2022	Ministry of Information Technology, Communication and Innovation in collaboration with Mauritius and Fire Rescue Service
Fire Safety	27 April, 07 June, 29 June 2022	Ministry of Information Technology, Communication and Innovation in collaboration with Special Mobile Force (MPF)
Cybersecurity and Cybercrime Act 2021	16 - 20 May 2022	CERT - MU
Ethics, integrity and good governance	08, 09, 21 June 2022	Ministry of Information Technology, Communication and Innovation
Dangerous Drugs Abuse And Consequences	01 July 2022	Education and Training Cell of the Anti Drug & Smuggling Unit (ADSU)
Stockholm+ 50 theme - a healthy planet for the prosperity of all	29 September 2022	Civil Service College Mauritius and United Nations Development Programme in collaboration with the Ministry of Environment, Solid Waste Management and Climate Change
Seminar on Management and application of Government Big Data in the Cloud Environment	24 November to 14 December 2022	CISD under Technical Assistance Programme by Government of the People Republic of China

PROJECTS IN THE PIPELINE

I. Data Protection Day 2023

The Data Protection Office will organise a Conference on 30 January 2023 to celebrate the Data Protection Day 2023. The theme will be “Protecting personal data across all economic sectors”.

The objective of the Conference will be to underscore the importance of protection of personal data in the conduct of business to build trust among data subjects. Organisations dealing with personal data will be encouraged to strengthen their data protection implementation framework and will be motivated to embark on Data Protection Certification. The newly completed e-services of the Data Protection Office, namely the “e-DPO” will be officially launched during the event.

II. Privacy Symposium Africa (PSA)

PSA is a Pan African Privacy and Data Protection platform established in 2019 by Unwanted Witness to attract, present, and discuss original research results and latest technology developments related to personal data protection and privacy. The platform brings together business community, ICT experts, academics, lawyers, regulators, researchers, policy-makers, and civil society for three days of inspiring keynote addresses, thought-provoking panels, master classes and limitless high-value networking.

The forthcoming 5th Privacy Symposium Africa is planned to be hosted in Mauritius in 2023 with the collaboration of the Data Protection Office. These engagements will spur conversations and shine a spotlight on the different data protection issues and developments in the respective regions that are unique to them, while giving the rest of Africa an opportunity to learn from their experiences.

RECOMMENDATIONS

1. DPO should be provided with the human resources necessary for the effective performance of its functions. Baseline of HR capacity or expertise should include technical and legal to match the functions in the DPA, in particular, having competences in the areas such as policy advice, compliance audits, data protection impact assessments, certification, personal data breaches and investigations. The human capacity of the office has to grow in line with its mandate by the following measures:
 - a) The processing for schemes of service should be accelerated by relevant Ministries to address the high staff leaving rate of **85.7%** without replacement and the non-recruitment of funded posts.
 - b) Additional posts should be funded for Principal Data Protection Officer, Data Protection Officer/ Senior Data Protection Officer, Assistant Data Protection Officer and Legal Executive on an urgent basis to improve service delivery particularly with tight deadlines for processing parliamentary questions, projects implementation and complaints investigation.
 - c) Recruitment of Deputy Data Protection Commissioner should be made to deputise for the Data Protection Commissioner as and when required.
 - d) Appointment or secondment of legal officer(s) must be made to facilitate the performance of tasks where legal expertise is required such as case laws compilation and analysis, preparation of documentation on legal matters especially when liaising with international stakeholders and review of texts pertaining to trade agreements, amongst others.

2. The DPO should be provided with the financial resources necessary for the effective performance of its tasks, including those related to membership with international privacy organisations.
3. Various ministries and departments should work together to facilitate cooperation with international counterparts, especially with respect to the panoply of laws and policies regulating data governance, privacy and cybersecurity in different sectors such as education, health, amongst others. This would strengthen the leading position of Mauritius regionally and internationally through the establishment of cooperation agreements and participation in regional or international deliberations.
4. Controllers and processors who are not registered with the DPO under the Data Protection (Fees) Regulations 2020 should register to comply with section 14 of the DPA. Failure to register or renew the registration certificate is an offence which, on conviction, is liable to a fine not exceeding 200,000 rupees and imprisonment for a term not exceeding 5 years.

