



DATA  
PROTECTION  
OFFICE

8<sup>th</sup> ANNUAL  
REPORT

FOR THE PERIOD COVERING  
JANUARY TO DECEMBER 2016



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## FOREWORD

In 2016, we focused on various key areas spanning the law, people and internal processes, with data protection and privacy being at the centre of every initiative. Our relentless efforts to protect privacy of people have remained at the forefront throughout the year and I firmly believe that we have met our objectives.

One achievement that has marked 2016 and has been instrumental in strengthening our data protection legal framework with international best practices has been the ratification of Mauritius to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, also known as “Convention 108”. This is a huge thrust forward for our country as the second non-european state after Uruguay and the first country in Africa to ratify this convention. One amongst the advantages derived as being a party to the Convention is that Mauritius is considered a country with a safe flow of data to attract foreign investment. This is indeed a prestigious moment for our country.

Many accomplishments were made during the year. I have provided 16 decisions on cases of alleged data breaches after detailed investigations carried out by my officers. The ICT Appeal Tribunal also upheld my decision to recommend prosecution regarding an appeal case on unauthorised disclosure of personal data by an employee in the real estate business.

We have oriented our work towards empowering people and organisations on their rights and obligations under the Data Protection Act, since education is the bedrock for achieving changes in the mindset of people. The Data Protection Officers and myself have engaged actively in conducting on-site presentations to raise awareness on good data protection principles, despite our limited staff constraints. We have also participated in a private radio programme to sensitise the public on their rights and responsibilities. Certainly, as privacy encompasses all spheres, advice on data protection has been provided to both private and public sectors. We have also been informed by the Ministry of Education that the Mauritius Institute of Education (MIE) has included topics on data protection in the textbook, wherever appropriate in Grade 8 or 9, as recommended

by our office. Guides for primary and secondary schools were designed to that effect by my office.

Additionally, we launched a Privacy Compliance Assessment Web Application Tool on our website to help organisations assess their compliance with the Data Protection Act in order to proactively identify and avoid privacy breaches.

Our officers have contributed intensively in the computerisation project of this office which comprises an e-service platform for both online lodging of complaints and online registration/renewal of data controllers’ applications with the option of electronic and offline payment. The development of the platform has been completed. We are currently updating all our records in the system and hopefully it will be made available to the public during 2017 if all backlog entries are completed by our limited personnel. Besides, the office received the visit of external auditors from Mauritius Standards Bureau where the audit team recommended that our certification for ISO 9001:2008 be continued. This demonstrates our commitment to provide quality service to people. My office is also connected to the Info-Highway platform as a subscriber via our e-service system.

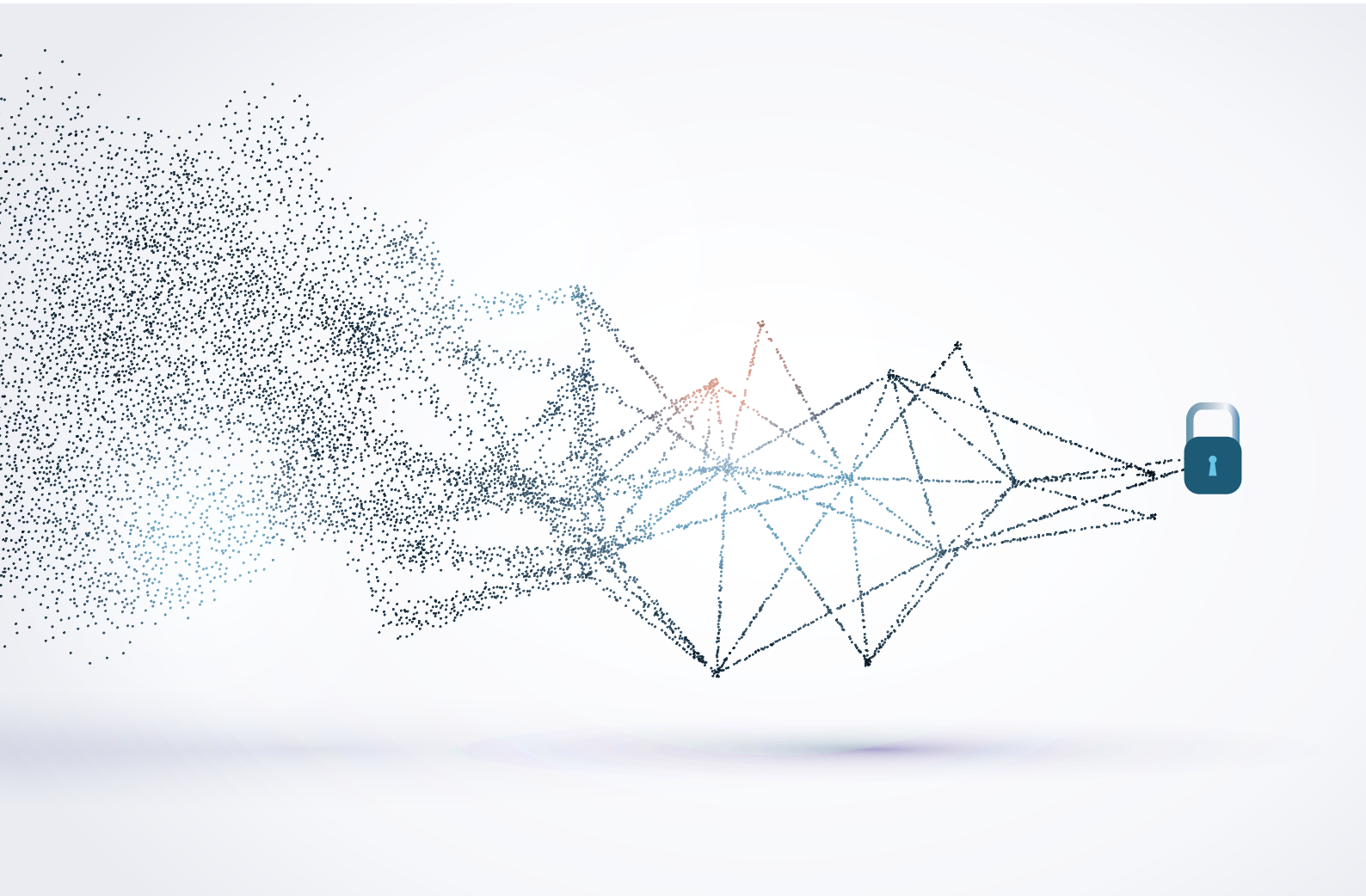
On an international note, our office has collaborated and participated in forums and with organisations such as the Global Privacy Enforcement Network (GPEN), the Common Thread Network (CTN), the Association Francophone des Autorités de Protection des Données Personnelles (AFAPDP), l’Organisation Internationale de la Francophonie, Council of Europe, Réseau Africain des Autorités de Protection des Données Personnelles and La Commission Nationale de l’Informatique et des Libertés (CNIL France).

I seize this opportunity to thank my entire team for their hard work, dedication and constructive contribution. Without them, our success in 2016 would not have been possible. Our office proudly looks forward to forthcoming challenges in 2017.

Mrs Drudeisha Madhub (Barrister-at-law)

**Data Protection Commissioner**





## 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 data controllers and data processors.

## DATA PROTECTION OFFICE

The Data Protection Office became operational since 16<sup>th</sup> February 2009 when the Data Protection Act came into force. The Data Protection Office, headed by the Data Protection Commissioner, is located on the 5<sup>th</sup> Floor of Happy World House, Corner SSR Street & Sir William Newton Street, Port Louis.

Phone: 212 2218

Email: [pmo-dpo@govmu.org](mailto:pmo-dpo@govmu.org)

Fax: 212 2174

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

## ORGANISATION STRUCTURE

The Management Structure of the Data Protection Office is as shown below:

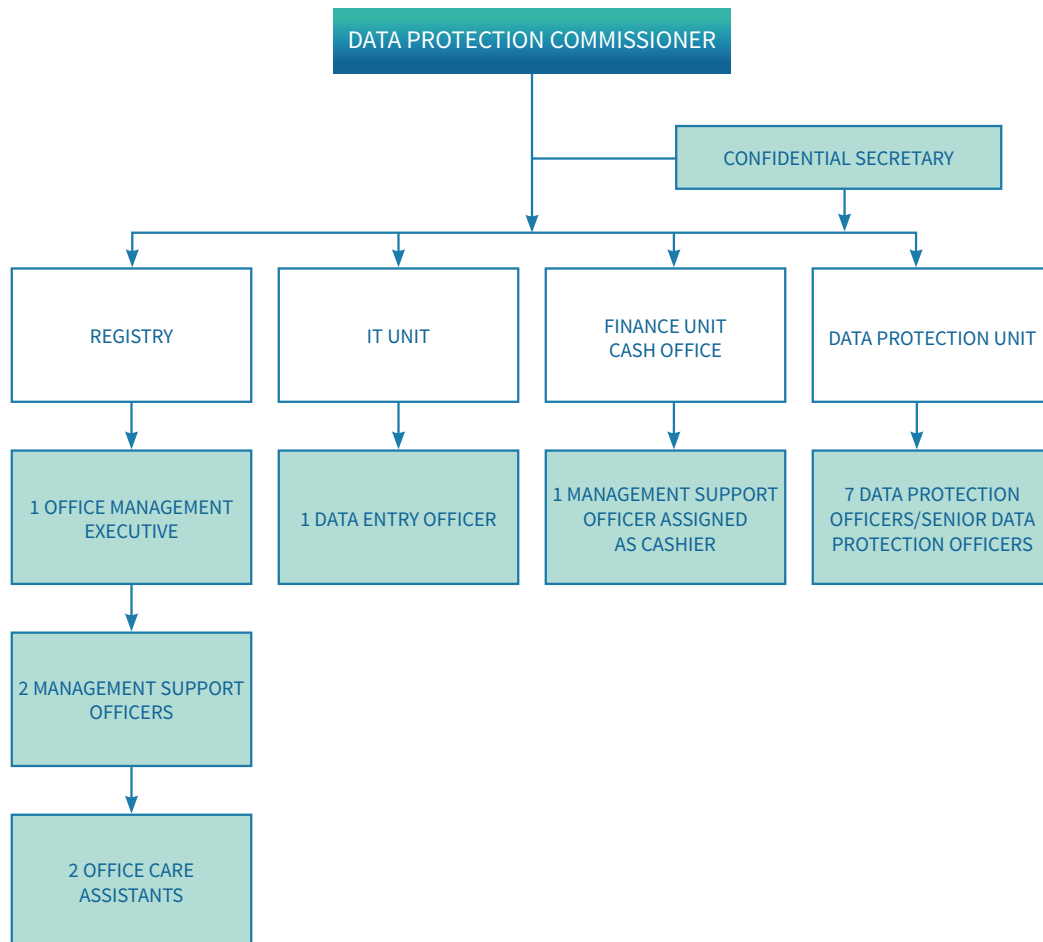


Figure 1: Organisation Structure

**Note:** 5 Yep Trainees assisted the officers in the day to day activities of this office.



## ACTIVITIES IN 2016

### 1.FINANCIAL STATUS

#### REVENUE COLLECTED

The Data Protection Office has collected Rs 5.9 million as revenue for registration and renewal of data controllers from January to December 2016. This decrease in revenue collection is explained as a result of many data controllers who have not renewed their registration along with a reduction in the renewal fees.

In order to remedy the situation above, renewal notices have been sent to data controllers who have failed to pay their renewal fees. Furthermore, for the year 2016, the Data Protection Office has sent notices to data controllers who have not yet registered with this office. A total of seven hundred and twenty five (725) notices were issued to data controllers. Since non-renewal is an offence under the Act, prosecution of data controllers is required and no police officers have been seconded yet to this office to perform this task which is hampering the process.

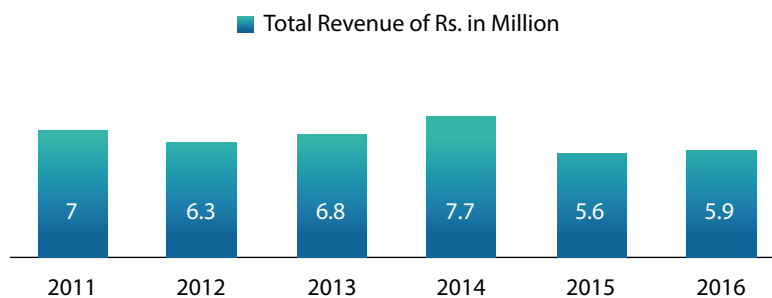


Figure 2 : Line Chart representing revenue collected for year 2016

## 2. INTERNATIONAL / REGIONAL

### I. PARTICIPATION IN INTERNATIONAL CONFERENCES

During the year 2016, the Data Protection Commissioner participated in two international conferences, namely “Intervention à la Conférence Internationale de la Francophonie sur la Lutte contre le Terrorisme et la Prévention de la radicalisation violente” from 6 to 9 June 2016, and “Réunion du Comité Ad Hoc sur la Protection des Données (CAHDATA)” from 13 to 17 June 2016, respectively.

### II. MEMBERSHIP/COOPERATION WITH INTERNATIONAL ORGANISATION

#### 1. AFAPDP membership

The membership for ‘Association Francophone des Autorités de Protection des Données Personelles’ (AFAPDP) has been renewed for the year 2016.

The Data Protection Office is a member of the AFAPDP as a francophone data protection authority. The AFAPDP organises several international forums and sponsors the Data Protection Commissioner (DPC) or other officers of this office to participate and share respective resources on data protection. This is a unique forum to promote developing countries in the francophone world in order to protect the privacy rights of their citizens and to improve international trade.

By participating in annual meetings and workshops organised by the AFAPDP, the DPC and other officers have the opportunity to share knowledge and expertise on privacy.

#### 2. Commission Nationale de l’Informatique et des Libertés (CNIL)

Digital education for school-aged children has been recognised as a priority for action. In 2016, the Data Protection Office has joined as co-sponsor in the resolution for the adoption of an international competency framework on privacy education which was presented by CNIL during the 38<sup>th</sup> International Conference of Data Protection and Privacy Commissioners in October 2016 in Marrakesh, Morocco.

#### 3. Accession to Convention 108

This office acceded to the Council of Europe’s Convention for Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) on 17 June 2016 at Strasbourg, France. The convention is the first and only international legally binding instrument dealing explicitly with data protection and had 48 signatories including 47 Council of Europe Member states as well as Uruguay until Mauritius became the 49<sup>th</sup> State Party. The treaty entered into force on 1 October 2016 in Mauritius.

An international conference was organised by Council of Europe on 17 June 2016 under the theme “Convention 108: From European reality to global treaty” wherein the Commissioner intervened on the benefits and commitments to Mauritius acceding Convention 108. The conference brought together representatives of governments, data protection authorities, privacy NGO’s, academics and experts from all over the world to discuss the role the Data Protection Convention can play in creating common rules to protect personal data at global level and the challenges it faces.

During this conference, the Data Protection Commissioner also deposited accession documents duly signed by the Minister of Foreign Affairs in the presence of the Secretary General of the Council of Europe, Thorbjørn Jagland. A video is available on Council of Europe's website showing the convention 108 being signed by the Data Protection Commissioner at the following URL: <http://www.coe.int/en/web/portal/-/mauritius-joins-the-data-protection-convention-convention-108->.

As part of Vision 2030 Blueprint which stipulates that “data protection legislations need to be compliant with international best practices”, the Data Protection Office has adopted the position to partly meet this target with the ratification of Convention 108. Additionally, with the Amendment Bill to the Data Protection Act (2004) submitted to the Ministry, this office will be fully compliant with Vision 2030 Blueprint as this new bill will also align our existing Data Protection Laws with the new 2016 EU Directive.

#### 4. The Global Privacy Enforcement Network (GPEN)

The Data Protection Office is a member of the Global Privacy Enforcement Network (GPEN) as well as the liaison authority for the Common Thread Network (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 and the membership of our office to the network was obtained in October 2014.

The Data Protection Commissioner, as the GPEN liaison officer, is responsible for GPEN engagement in the Common Thread Network. In October 2015, the Data Protection Office of Mauritius became the GPEN liaison authority for CTN. This office works together with GPEN to promote cooperation by establishing a dialogue with enforcement authorities, exchanging information, undertaking or supporting specific activities and sharing of enforcement knowledge, expertise along with best practices.

#### 5. The Common Thread Network (CTN)

As the liaison authority for GPEN and CTN, the Data Protection Office contributes towards the development of a global privacy framework and to foster capacity building in that regard. This office has contributed enormously towards the recommendations on the setting up of the website of CTN. The official launch was carried out during the 38<sup>th</sup> International Privacy Conference in Morocco on 18 October 2016.

The Data Protection Office works together with CTN to:

- (a) build member states' capacity to promote and apply data and privacy protection measures,
- (b) represent a privacy expertise hub for Commonwealth states and privacy professionals in order to foster sharing of knowledge and good practices,
- (c) cooperate with other organisations and associations to promote data and privacy protection.

#### *Conferences GPEN / CTN*

This office usually attends monthly conference calls for GPEN where a roundtable discussion is performed and participating privacy authorities share their expertise and knowledge on key topics of data protection. Likewise, CTN conference calls are being attended by this office as and when scheduled by the Secretariat of CTN.

## 3. NATIONAL

### 1. SENSITISATION

The Data Protection Office has engaged in continuous sensitisation activities to promote awareness on the legal provisions of the Data Protection Act and application of data protection principles in real-life scenarios. The office has adopted a customer centric approach by moving towards people. The following sensitisation activities were organised for the year 2016:

- (a) Publications,
- (b) Presentations,
- (c) Workshops,
- (d) Mass sensitisation.

#### 1. Publications

##### *Guide on Data Protection and the Media:*

The Data Protection Office has prepared a guide on Data Protection and the Media. The purpose of this guide is to promote the protection of the privacy rights of citizens when processing personal data of individuals.

Moreover, it is intended to help the media understand and comply with data protection laws and follow good practices while recognising the vital importance of a free and independent media. It sets out the basic principles and obligations of media organisations and clarifies how the exemption on journalism works, as provided in the Data Protection Act.

It also elaborates on the role of the Data Protection Office and explains what happens when someone complains about an alleged breach of the Data Protection Act and the enforcement powers of the Data Protection Commissioner. It further defines best practices for achieving compliance with the Data Protection Act.

#### 2. Presentations

This office has provided fourteen (14) presentations / sensitisations / trainings on privacy and data protection to data controllers with the following topics:

- i. *“Data Protection in an Organisation”* by Data Protection Officers / Senior Data Protection Officers on 15 December 2016 to SWAN;
- ii. *“Security and Safe keeping of Official Information”* by Data Protection Officer / Senior Data Protection Officer on 14 December 2016 to Management Support Officers;
- iii. *“Privacy and Internet of Things”* by the Data Protection Commissioner on 30 November 2016 on Computer Security Day;
- iv. *“Data Protection at the Workplace”* by Data Protection Officers / Senior Data Protection Officers on 14 November 2016 to Bluelife Limited;
- v. *“Functions of Data Protection Office”* by Data Protection Officers / Senior Data Protection Officers on 10 November 2016 to Trade Unionists;
- vi. *“Security and Safe Keeping of Official Information”* by Data Protection Officers / Senior Data Protection Officers on 7 November 2016 & 14 December 2016, respectively, to Management Support Officers;
- vii. *“Data Protection at Workplace”* by Data Protection Officers / Senior Data Protection Officers on 5 October 2016 to Management Representatives of Brinks (Mauritius) Ltd;

- viii. *“Security and Safe Keeping of official information”* by Data Protection Officers / Senior Data Protection Officers on 19 September 2016 to Management Support Officers;
- ix. *“Data Protection at the Workplace”* by Data Protection Officers / Senior Data Protection Officers on 23 August 2016 to top management team of Moroil Group;
- x. *“Data Protection at the Workplace”* by Data Protection Officers / Senior Data Protection Officers on 27 July 2016 to IR HR Forum organised by Business Mauritius Representatives of HR from different organisations;
- xi. *“Convention 108: from a European reality to a global treaty”* by the Data Protection Commissioner on 17 June 2016 to representatives of governments, data protection authorities, privacy NGO’s, academics and experts from all over the world;
- xii. *“Lutter contre le terrorisme et prévenir la radicalisation violente tout en respectant la vie privée des individus”* by the Data Protection Commissioner from 6 to 8 June 2016 to Organisation Internationale de la Francophonie (OIF) ;
- xiii. *“Rights and Obligations under the Data Protection Legislation”* by Data Protection Officers / Senior Data Protection Officers on 14 April 2016 to Medine Limited;
- xiv. *“Data Controllers’ Sensitisation”* by Data Protection Officers / Senior Data Protection Officers on 31 March 2016 to Data Controllers.

### 3. Workshops

A “Data Controllers’ Sensitisation Workshop” was organised on 31 March 2016 at the Lunch Room of the National Assembly. The opening ceremony was done by the Honourable Etienne Sinatambou, Minister of Technology, Communication and Innovation. Topics presented during the workshop included Cloud Computing, Privacy Impact Assessment, Smart Device Apps, Biometric Data, Data Sharing and Security of Personal Data.

### 4. Mass Sensitisation

Two Data Protection Officers participated in the radio program ‘Ki la loi dire’ live and direct on Radio Plus on Thursday 29 September 2016 from 12:30 pm to 13:00 pm. The programme aimed at informing, educating and sensitising listeners and the public in general on their rights and responsibilities. The officers also intervened on questions from listeners.

The following points were discussed during the programme:

- i. The role of the Data Protection Office;
- ii. The Data Protection Act 2004;
- iii. Personal data and other key terms of the DPA;
- iv. Why should we protect personal data?
- v. Powers of the Data Protection Commissioner;
- vi. Sectors concerned by data protection;
- vii. How is sensitisation carried out?
- viii. Whether the Data Protection Office combats cybercrime?
- ix. Whether the Data Protection Office works in collaboration with other institutions?
- x. Responsibility of the citizen to protect his/her personal data.

## II. CAPACITY BUILDING PROVIDED TO OFFICERS OF THIS OFFICE

To promote the performance of our staff for the continuous improvement of our services, the following internal capacity building sessions were organised during the year 2016:

- (a) Training;
  - (b) Capacity building for new recruits at the Data Protection Office.
- The officers have also attended training sessions as follows:

DATE	TRAINING / WORKSHOP	ATTENDED BY
29 February - 1 March 2016	IRCA Registered ISO 9001:2015 QMS Auditor/Lead Auditor Transition Training	Three Data Protection Officers / Senior Data Protection Officers.
18 April 2016	Workshop on Internet of Things and Training on Green IT	A Data Protection Officer / Senior Data Protection Officer.
6 May 2016	Digital Economy	A Data Protection Officer / Senior Data Protection Officer.
24 June 2016	Workshop on Trust on Building	A Data Protection Officer / Senior Data Protection Officer.
24 June 2016	Workshop on Cybercrime Reporting, Interagency Cooperation and Public-Private Partnership	The Data Protection Commissioner and a Data Protection Officer / Senior Data Protection.
11, 12 and 16 August 2016	Training Programme on Migration to ISO 2015 version	A Data Protection Officer / Senior Data Protection Officer.
19, 22 and 23 August 2016	Training Programme on Migration to ISO 2015 version	A Data Protection Officer / Senior Data Protection Officer.
22 – 24 August 2016	ISO9001:2015 QMS Implementer Course	Two Data Protection Officers / Senior Data Protection Officers.
20 September 2016	Mauritius in the Global Innovation Index - Fostering the Innovation Ecosystem	A Data Protection Officer / Senior Data Protection Officer.
21 and 22 September 2016	Workshop on Human Rights	A Data Protection Officer / Senior Data Protection Officer.
7 November 2016	Mentoring Session on Migration to ISO 2015 version	Two Data Protection Officers / Senior Data Protection Officers.
11 November 2016	Seminar on Employee Monitoring by Geroudis Management Services Ltd	Two Data Protection Officers / Senior Data Protection Officers.
15 November 2016	Consultative Workshop on Trade In Services Agreement (TISA)	A Data Protection Officer / Senior Data Protection Officer.
24 November 2016	Seminar on Employee Monitoring by Geroudis Management Services Ltd	A Data Protection Officer / Senior Data Protection Officer.
24 November 2016	Professional Security Training organised by CERT-MU, National Computer Board	Two Data Protection Officers / Senior Data Protection Officers.
14 and 16 December 2016	Training programme on auditing (migration to ISO 2015 Version)	A Data Protection Officer / Senior Data Protection Officer.

- Capacity building sessions provided to new recruits at DPO:

DATE	TRAINING / WORKSHOP	ATTENDED BY
9 - 12 August 2016	Training at the Data Protection Office for newly recruited staff and YEP trainers	Yep Trainees and New Recruits.
29 September 2016	Launching of e-ideas, organised by the National Computer Board	Yep Trainees.
21-23 November 2016	Induction Course for new recruits employed to give assistance at Management Support Officer level – Civil Service College	Management Support Officer.
21 November 2016	Mentoring Session on Migration to ISO 2015 version	Office Management Assistant.

### III. ENFORCING DATA PROTECTION

One of the missions of the Data Protection Office (DPO) is to remedy the infringements occurring through the mishandling of personal information of our citizens and fiercely does so through its enquiries and investigations with a view to establishing whether a breach has taken place or not under the Data Protection Act (DPA).

The investigations are performed as per section 11 of the Data Protection Act. All complaints are investigated effectively, fairly and in a timely manner with all the concerned parties and upon completion of the enquiry, the Data Protection Commissioner (DPC) gives a decision.

In the event that an offence has been committed, the DPC refers the matter to the Police for prosecution purposes under section 20 of the DPA. The decision of the DPC to prosecute has very often been the subject of appeals to the ICT Appeal Tribunal which has on many occasions upheld the decisions delivered by the DPC.

#### 1. Investigation on complaints

During the period of January to December 2016, the Data Protection Office has received a total of eighteen (18) new complaints for investigations on the below subjects, among others:

- i. Disclosure of Personal Information;
- ii. Processing of Personal Information for Email Marketing;
- iii. Usage of Video Surveillance Systems (CCTV Camera);
- iv. Request for Retrieval of Copy of Contract;
- v. Unauthorised Use of Data.

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

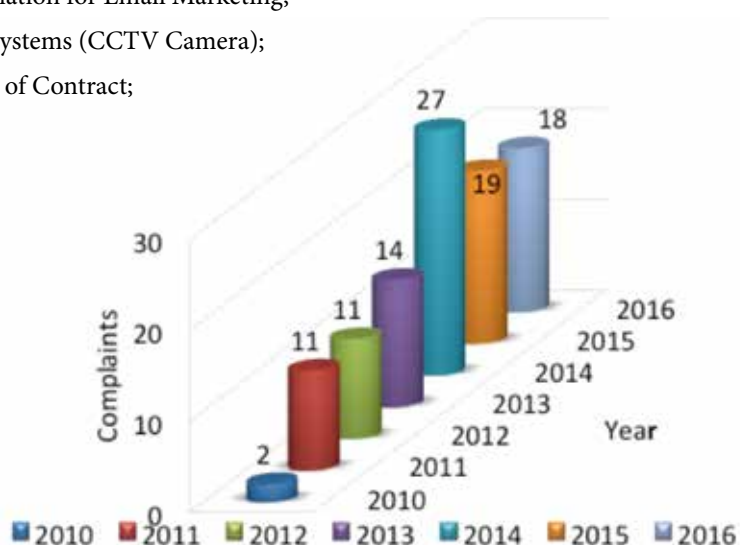


Figure 3: Number of new complaints per year

## 2. Decisions on Complaints

The decisions of the Data Protection Commissioner (DPC) contribute in protecting the privacy rights of our citizens and are seen as an effective deterring measure in avoiding the reoccurrence of such breaches again. The DPC has provided sixteen (16) decisions in 2016. A brief of the decisions is provided below:

*i. Decision No 22 - 05.01.2016 - Unauthorised use of CCTV cameras*

The Commissioner found no commission of any offence under the DPA as Respondent has taken the requested corrective actions as suggested by this office and thus cooperated with the enquiry.

*ii. Decision No 23 - 06.01.2016 - Complaint on Hacking of e-mail*

In consideration of evidences adduced at this office, in particular that Respondent No.3 has confirmed that Respondent No.2 is not to her knowledge involved in any of the allegations made anonymously by Complainant and the fact that Respondent No.1 at management level has confirmed that they are not aware of the anonymous complaint, the Commissioner is of the view that no offence has been found committed under the Data Protection Act.

*iii. Decision No 24 - 18.01.2016 - Unlawful use of photographic image*

Based on the elements gathered, this office closed the enquiry due to lack of collaboration from Complainant. However, Respondent's cooperation has led to a successful conclusion of the enquiry conducted by this office so far in view of the fact that the picture of complainant has been removed from the public viewing electronic device.

*iv. Decision No 25 - 20.01.2016 - Unauthorised use of CCTV cameras*

The Commissioner found no commission of any offence under the DPA as Respondent has taken the requested corrective actions as suggested by this office and thus cooperated with the enquiry.

*v. Decision No 26 - 10.03.2016 - Unauthorised clicking of photograph*

In view of the fact that Complainants were not authorised to access the dump yard which is a prohibited area as per the notice displayed by the company and no cameras were functional at the time, there is no doubt that Complainants' photos taken by security guards and used as evidence of illegal access solely for the purpose of the disciplinary committee were justified by management. There was thus no offence committed under the DPA.

*vi. Decision No 27 - 22.04.2016 - Unauthorised use of personal details*

On 14 September 2015, the Data Protection Office received a copy of a letter titled "Complaint against the Banking Institution". The original letter was sent to the head of the Central Bank where Complainant stipulated that there is an officer of the banking institution who is constantly viewing and wrongly using his details for personal gain. This enquiry was closed since the Complainant did not cooperate in finalising the investigation.

*vii. Decision No 28 - 22.04.2016 - Unauthorised disclosure of retirement information*

The Commissioner decided that there was no evidence on record to suggest that the personal information belonging to Complainant, namely her retirement pension documents, had been unlawfully disclosed to parties not entitled to receive the information by management in contravention of section 29 of the Data Protection Act.



*viii. Decision No 29 - 22.04.2016 - Complaint on request for sensitive personal data without consent*

Due to lack of further cooperation from Complainant to this enquiry and more importantly the investigation having not revealed the commission of any offence in view of section 24(2)(e) for the purposes of the administration of justice and section 25(2)(a)(i) in relation to the employment of Complainant, the Commissioner concluded that no offence has been proven under the DPA.

*ix. Decision No 30 - 01.08.2016 - Complaint on alleged disclosure of personal data*

The DPC found no commission of any offence under the DPA as Respondent has cooperated with the office's enquiry by removing the list of registered members with outstanding fees from its website. The enquiry was thus closed to the satisfaction of Complainant.

*x. Decision No 31 - 02.08.2016 - Complaint on use of CCTV cameras*

The Commissioner found no commission of any offence under the DPA as Respondent has taken the requested corrective actions as suggested by this office and thus cooperated with the enquiry.

*xi. Decision No 32 - 09.09.2016 - Complaint on illegal appropriation of fingerprints*

In view of the evidence provided by Respondent and in the absence of further cooperation from Complainant to successfully conclude this enquiry, the latter is closed since no breach of the Data Protection Act could be established.

*xii. Decision No 33 - 07.10.2016 - Complaint regarding Biometric Data*

The enquiry is closed since Complainant has not responded so far. However, the enquiry revealed that measures in place are to the satisfaction of this office.

*xiii. Decision No 34 - 24.10.2016 - Complaint on the use of Biometric Attendance*

The enquiry is closed since Complainant has not responded so far. Nevertheless, the enquiry revealed that measures in place are to the satisfaction of this office.

*xiv. Decision No 35 - 24.10.2016 - Unlawful Disclosure of Personal Data*

The evidence gathered has revealed a breach of section 29(1) of the Data Protection Act, in particular, the fact that Complainant's name does not appear in Respondent No. 1 directory and yet the name and address of Complainant in the pamphlet is exactly the same as the in Respondent No. 1 bill and which thus leads to infer that the personal data of Complainant was obtained by Respondent No. 2 from Respondent No. 1 but without the authorisation of Complainant. There is a high probability that the sticker in the pamphlet sent to the Complainant may have been printed from Respondent No. 1 printer.

*xv. Decision No 36 - 13.12.2016 - Complaint for the use of fingerprint for Attendance*

In view of the evidences obtained, this office has successfully concluded the enquiry and thus no offence has been found committed under the Data Protection Act.

*xvi. Decision No 37 - 14.12.2016 - Complaint on Excessive Information*

In light of the evidence gathered during the investigation, the Data Protection Office has successfully concluded this enquiry and thus no offence has been found committed in breach of the Data Protection Act.

#### IV. IMPROVING LEGAL PROTECTION

Under section 58 of the Data Protection Act, any person aggrieved by a decision of the Commissioner in respect of the performance of her duties and powers under the Data Protection Act shall have a right of appeal within 21 days from the date when the decision is made known to that person to the Tribunal.

##### 1. Appeals on decisions of Commissioner

In 2016, a case has been appealed before the ICT Appeal Tribunal. This office is in the process of seeking the assistance of counsel from the State Law Office to defend the case.

##### 2. Ongoing case at the ICT tribunal

There was an appeal against the Decision of the Data Protection Commissioner at the ICT Appeal Tribunal pertaining to a specific case. This office is currently awaiting the determination of the ICT Appeal Tribunal regarding this case, which is due by start of year 2017.

##### 3. Supreme Court case

If a party resists the decision of the Chairman of the ICT tribunal, he may appeal to the Supreme Court. The ongoing cases at the Supreme Court are:

###### a. *Alteo V/S Decision of the ICT Tribunal*

Alteo Ltd, being dissatisfied with the Determination of the Information and Communication Technologies Appeal Tribunal, determining the use of fingerprints for attendance purposes has lodged an appeal to the Supreme Court of Mauritius.

###### b. *Prokid V/S Decision of the ICT Tribunal*

Prokid, feeling aggrieved by the Determination of the Information and Communication Technologies Appeal Tribunal on the ground that the said determination regarding the use of fingerprints for attendance purposes without consent is erroneous in law, has made an appeal to the Supreme Court of Mauritius.

#### V. COMPLIANCE AUDIT

Subject to section 15 of the Data Protection Act, the Commissioner may carry out periodical audits of the systems of data controllers or data processors to ensure compliance with data protection principles specified in the First Schedule.

During a compliance audit, data controllers are required to provide relevant information to this office by completing the 'Data Protection Audit Questionnaire Form QMS14' and 'Self-Assessment Questionnaire Form QMS15'. Both forms are available on the homepage of the office website at <http://dataprotection.govmu.org>.

The Data Protection Office has carried out four (4) compliance audits pursuant to section 15 of the Data Protection Act (DPA) for the year 2016. In general, it has been observed that data controllers have controls in place for mitigating risks and prevent unauthorised access to information. Additionally, based on analysis of the audit forms and the site visits conducted, this office has provided recommendations for improvement in line with the DPA.

## VI. REGISTRATION OF DATA CONTROLLERS

Under section 33(2) of the Data Protection Act 2004, all data controllers operating in Mauritius, such as associations, companies, sociétés, partnerships, governmental institutions, sole traders and professionals in their relevant fields are required to register with the Data Protection Office. Provisions for making registration & renewals are catered for under sections 34 to 39 of the Data Protection Act, respectively.

This office has received a total of two hundred and seventy nine (279) applications comprising of new registrations in 2016. Alongside renewals for the previous years, a total of 27152 applications have been processed.

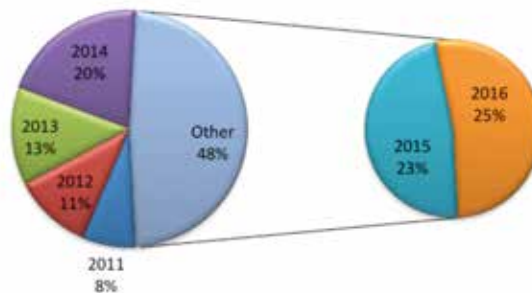


Figure 4: Cumulative percentage (%) of registrations & renewals of Data Controllers

## VII. REQUESTS FOR ADVICE

Due to an increasing awareness of the role of the Data Protection Office, this office has registered a remarkable number of requests for advice from organisations in both public and private sectors. However, due to budgetary constraints, sensitisations on many important aspects of data protection could not be fulfilled.

The notable increase in response and recognition from the members of the public and data controllers have been benchmarked on the need for compliance with data protection laws in Mauritius. This is further demonstrated by the fact that this office received a growing number of phone calls, emails, letters and faxes for advice on data protection issues.

In 2016, the Data Protection Office has received a total of one hundred and twenty one (121) written requests for advice comprising of 90 from private bodies and 31 from ministries, governmental departments and parastatal bodies.



Figure 5: Number of requests for advice

## VIII. TRANSFER OF DATA ABROAD

According to section 31(1) of the Data Protection Act, no data controller shall, except with the written authorisation of the Commissioner, transfer personal data to another country.

From January to December 2016, the Commissioner has granted authorisation to thirty five (35) companies to transfer the mentioned data in their respective “Transfer of Personal Data Form” for their stated purposes.

## IX. SITE VISITS

The office conducted sixteen (16) site visits in all during the year 2016. These site visits were performed for complaint, audit and security checks purposes.

## X. OTHER ACHIEVEMENTS

### 1. Data Protection Bill 2016

The purpose of this bill is to highlight that rapid technological developments and globalisation have brought new challenges for the protection of personal data. Thus, the scale of the collection and sharing of personal data has increased significantly. Technology allows both private companies and public authorities to make use of personal data on an unprecedented scale in order to pursue their activities. Natural persons increasingly make personal information available publicly and globally. These risks may slow down the development of innovative uses of new technologies. Building trust in the online environment is key to economic development. Hence, a stronger and more coherent data protection framework, backed by strong enforcement is required to allow the digital economy to develop, put individuals in control of their own data and reinforce legal and practical certainty for economic operators and public authorities. As a consequence, to make the existing Data Protection Act coherent with technological and other advancements, and also to align with current relevant international standards namely the EU Directive Reform and Convention 108, the Data Protection Commissioner drafted the new Data Protection Bill 2016.

### 2. MS ISO 9001:2008 First Surveillance Audit

The Mauritius Standard Bureau has carried out a first surveillance audit on 28 October 2016 regarding the MS ISO 9001:2008 Quality Management System. The audit team recommended that, based on the results of its audit and the system’s demonstrated state of development and maturity management system certification be continued. This continuation of certification will guarantee all stakeholders with the necessary quality of service.

## 4. TECHNICAL

### 1. PRIVACY COMPLIANCE ASSESSMENT WEB APPLICATION TOOL

The Privacy Compliance Assessment is a web application that assesses an organisation's compliance status with the Data Protection Act 2004 of Mauritius. This application has been initially developed by a group of volunteers in collaboration with the Data Protection Office. This software is free and is available on the website of the Data Protection Office. It has been remodelled on the technological platform of the Government Online Centre (GOC). The tool is being promoted by the Data Protection Commissioner as a means by which business and government can proactively identify and avoid privacy breaches.

### 2. E-SERVICES

The computerisation project of the Data Protection Office namely the Integrated Registration Investigation and Finance solution is a web-based application hosted at the Government Online Centre (GOC) and will be available to all stakeholders of the DPO whether internally or externally via the Internet.

This new web-based system (e-service) will be incorporated into the existing website of the Data Protection Office (<http://www.dataprotection.govmu.org>) and will allow data controllers to register or renew their registrations online with the option of online payment and offline payment. While performing an online payment, the data controller will be redirected to SBM portal for payment by card and if offline payment is selected, an invoice will be generated. The person will thus have to produce this invoice to this office whenever effecting a payment.

Additionally, the new system will allow a user to submit an online complaint, register for a workshop / conference, request for a copy of certificate and extracts from the register.

The web application also provides a back office for the officers of the Data Protection Office to view, review, approve registrations / renewals of the data controllers. Furthermore, the online system allows the officers to record investigations of complaints, enquiries, site visits, audits and prosecution.

The system has been tested and user acceptance has been signed. We are now in the warranty period of the application. This office is working on the backlog of data entry in order to launch the online services since there is only one data entry officer performing this task.





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