

Latest updates from [The Office of the Data Protection Authority](#)

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Thank you for subscribing to our monthly newsletter – in this issue:

- [Message from the Commissioner](#)
- [Registration exemptions extended](#)
- [ODPA Annual Report \(May 2018 - Dec 2018\) published](#)
- [Free advice \(for organisations and individuals\)](#)
- [Meet the Team](#)
- [Advice, Guidance & Resources](#)
- [Data Protection TeaBreak podcast](#)
- [Suggested reading: Robot Rules – Regulating Artificial Intelligence](#)

Message from the Commissioner

Welcome to our October newsletter.

It has been an exceptionally busy time at the office. We have recently attended the [41st International Conference of Data Protection and Privacy Commissioners](#) and were extremely proud to [co-sponsor a resolution](#). It was also very good to hear our hugely respected board member, [Christopher Docksey, deliver a keynote on the theme of accountability](#). We have also run a number of lunchtime sessions as part of [our ongoing events programme](#).



Most recently we have been focussing on the [rights of individuals](#). The duties contained within the Law which organisations must comply with are undoubtedly a crucial element of overall compliance. But there is a risk that by focusing exclusively on this aspect, we neglect another, equally important element; acknowledgement and appreciation that at the core of data protection legislation lies the individual; you and me, our friends and family and our community. If we can encourage this subtle, but important, shift in perspective we can start to engage with the fundamental values which the legislation supports and enables. It is all too easy to consider data protection compliance as yet another administrative burden but if we do approach it like that we will undoubtedly miss the opportunity to properly benefit from the social and economic value that will come if we embrace and deliver on what the law is asking of us all.

As a regulator we can choose to frame our approach in a number of ways. Indeed, much of the conversation around GDPR more broadly was (and continues to be) heavily focussed on enforcement and fines. It is certainly the case that the way infringements of laws are dealt with has an important

influence on overall attitudes to, and compliance with, those laws. But, as detailed in [our Strategic Plan](#), we want to encourage a deeper understanding and appreciation which in turn aims to reduce the infringements themselves. It is important to stress that working strategically to improve compliance and reduce harms does not mean that we do not respond to complaints and breaches in a proactive and focussed way. We recognise that a consistent and fair approach to complaint handling is a core element of our activity and we have developed a team of committed and professional staff to handle and investigate complaints and breaches made to the ODPa. Our communication and education programme works closely alongside this team with the aim of making better, more intelligent, use of information. In turn, this information can feed into [guidance and support for the regulated community](#).

All this activity requires funding, but this is often something which is challenging to raise; either because organisations such as ours are criticised for requiring more funding, or because we are criticised for not having the resources to do more.

The reality is that we would certainly like to do more; the depth and breadth of data protection regulation means that how and where to focus our limited resources needs careful consideration if we are to strive for meaningful outcomes. But regulating data protection legislation does require a fit-for-purpose, independent body and that necessarily requires funding. We must not shy away from that but what we must do is firstly ensure that we are clear about the important role an adequately funded independent regulatory regime plays in supporting the current and future economy as well as underpinning key citizens' rights.

Secondly, we must ensure that, as an independent authority, we are subject to the highest standards of governance in all that we do. We have been working hard to find a funding solution which is low cost and easy to administer, both for the regulated community and for us. The recent announcement that implementation of a new model for the Bailiwick will be [delayed for a further year](#) is an indication of the fact that any decision made needs to be carefully considered.

Delivering on a long term, sustainable model which allows us all to focus on good outcomes rather than administrative processes (that in themselves do nothing to assist in data protection compliance) remains our objective. It is unfortunate that there will be further delays, but it will ensure we have time to implement a new regime which is as effective and progressive as possible, making the best use of money which we recognise comes from taxpayers and businesses.

- Emma Martins

Data Protection Commissioner

Emma has been invited to speak at the [Executive Leaders Network Data Protection & Privacy Conference \(14 Nov\)](#), and [Data Governance, Europe \(27-28 Nov\)](#).

Registration exemptions extended

Anyone who is currently exempt from the legal requirement to [register](#) with us will now continue to be exempt until January 2021. This means that any local entity (such as small businesses and sole traders) who currently meet the exemption criteria ([find out what these are here](#)) will not need to register with the ODPa until the beginning of 2021.

[READ PRESS RELEASE AND Q&As HERE](#)

ODPA Annual Report (May 2018 - Dec 2018) published

We have recently published our Annual Report

for the period 25 May 2018 - 31 December 2018.

Read it to find out more about the period our Chair, Richard Thomas CBE, describes as "*a flying start...to the establishment of an effective independent Data Protection Authority.*"

[READ ANNUAL REPORT](#)



[Free advice \(for organisations and individuals\)](#)

Fortnightly drop-in sessions (general enquiries)

If you are representing an organisation, of any size, and you have a **general enquiry** you can come along to our drop-in sessions between 09:00 – 12:00 every other Wednesday morning.

The next sessions will be held on: **Thur 7 Nov and Wed 20 Nov**. See a [full calendar of the drop-in sessions for 2019 here](#). You may also be interested to [attend one of our free events](#).

What to expect at our drop-in sessions:

1. We will ask you to sign in and will give you a ticket number.
2. When your ticket is called you will be taken into a meeting room with an ODPA staff member. Our staff member will listen to your questions, and talk over any issues you are having.
3. To make sure we can see as many people as possible, we normally limit each individual meeting to approximately 30 minutes.
4. If your query is not resolved you are very welcome to come back a fortnight later to the next session.

Casework and Study Visits (specific enquiries)

- For **specific queries relating to ongoing cases** please request an appointment with the ODPA staff member assigned to your case.
- To explore a **specific topic or issue in detail** [please contact us to request a 'study visit'](#).

Members of the public (by appointment only)

If you have concerns about how your personal data, or other people's, is being used you can talk to us in confidence either over the phone (you do not need to give your name), or in person. If you would like to meet with us, please request an appointment so that we can make sure we have the relevant staff member available to assist you. You can request an appointment by:

- Emailing us (enquiries@odpa.gg)
- Calling us on 01481 742074
- Dropping in to our office between 08:30-17:00 (Mon-Fri)

If you are looking for information on how to exercise your rights [please follow our quick guide](#) in the first instance.

Meet the Team

Over the coming months we will give you an insight into the ODPA team by posing these three questions to our staff members. This month, we'd like to introduce you to our **Case & Compliance Investigator, Edward Chapman.**



Q: What does a typical day at work look like for you?

My day generally involves investigating complaints that have arisen as a result of data being compromised, these cases are investigated under the local legislation. This involves working with my colleagues in the case and compliance team which I hugely enjoy. As we are a growing regulator, I am also involved in the implementation of new processes and procedures. It is great to be a part of the evolution of the ODPA.

Q: What's the best thing about working in data protection?

Other than working as part of a close knit team, I really enjoy empowering people to use their rights under the legislation. Personal data is such a valuable commodity and the stakes can be high when best practices aren't followed.

Q: If you could get one message across to people about data protection, what would it be?

As I've already mentioned, data is a hugely valuable commodity and behind this data is people and therefore there needs to be transparency and honesty when handling it. I also think the conversations around [data ethics](#) are very interesting and it would be great if they became a more prominent part of society's consciousness.

Advice, Guidance & Resources

If you are finding navigating the data protection landscape difficult, you are not alone. We are here to help. We regularly publish guidance and resources to support all local organisations in their own approach to compliance with our local data protection law.

Below is just a small selection which you can use as you see fit, [you can access all of our Advice, Guidance & Resources here.](#)

The Seven Data Protection Principles (poster)



Why you should care about data protection (leaflet)



How to avoid five common breach scenarios

The Right to Data Portability
(guidance document)



Six data protection myths busted



Eight steps to protect yourself from identity theft and scams



Data Protection TeaBreak podcast

In April 2019 we launched our podcast on the SoundCloud platform, to give you another way of accessing informative, thought-provoking, and hopefully entertaining insights to a broad range of topics relevant to data protection. As of June 2019 you can also access our podcasts via Apple Podcasts.

- **Episode 1:** Rachel Masterton and Tim Loveridge discuss [background to data protection regulation](#) and aspects of Guernsey’s local law compared to the EU General Data Protection Regulation (GDPR). (Recorded: 26 March 2019)
- **Episode 2:** Emma Martins and Tim Loveridge discuss the public consultation on the [ODPA future events programme](#). (Recorded: 11 April 2019)
- **Episode 3:** Rachel Masterton and Tim Loveridge discuss the [end of transition](#). (Recorded: 30 April 2019)
- **Episode 4:** In this special edition Emma Martins and Kirsty Bougourd discuss how the atrocities committed during the [Second World War led to the development of data protection laws](#). (Recorded: 2 May 2019)
- **Episode 5:** Emma Martins explains to Kirsty Bougourd how data protection [breaches can cause harm to individuals](#). They discuss the different types of harm that people can suffer as the result of a breach and the role of the Office of the Data Protection Authority. (Recorded: 29 May 2019)
- **Episode 6:** Rachel Masterton and Kirsty Bougourd explore the differences between [controllers and processors](#). (Recorded: 20 June 2019)
- **Episode 7:** Rachel Masterton and Kirsty Bougourd consider the [seven data protection principles](#). (Recorded: 2 October 2019)

Suggested reading:

Each month our commissioner provides suggested reading to help you make sense of and safely navigate our data-driven society.

This month's choice is: *Robot Rules – Regulating Artificial Intelligence*, by Jacob Turner.



It seems that lately, wherever you look, you are faced with stories about Artificial Intelligence (AI). Many such stories are dystopic (often accompanied with pictures of *The Terminator*).

First and foremost, Turner highlights the lack of general agreement on a definition of AI – “what is artificial intelligence? is an easy question to ask and a hard one to answer because there is little agreement about what intelligence is”.

This book offers us less of a caricature representation and more of a thoughtful analysis of the complexity of AI. Turner (a lawyer and author) sets out why AI is unlike other technology because of the potential for independent decision-making and unpredictability. Arguing that this in turn raises unique legal and ethical problems, the book identifies three key issues: responsibility – who is liable if AI causes harm (think autonomous cars); rights – the disputed moral and pragmatic grounds for giving AI legal personality; and the ethics surrounding the decision-making of AI.

Turner is critical of the lack of concerted governmental efforts to regulate AI pointing to the fact that as a result, private companies have begun to act unilaterally. He argues that AI needs principles formulated by public bodies, not private companies.

We must not mythologise AI as a new species which is a moral agent outside of our control. It is humans that are the ethically responsible agents and it is humans who decide on the rules. What regulation looks like and how it is enforced are difficult but not insurmountable challenges. But the first step must be understanding the reality of AI and the trajectory it is on, preferably without reference to the Terminator!



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