



Jersey Data Protection Authority Extraordinary Meeting
Held via video conference due to COVID-19
MINUTES

Authority Meeting 13 09.00 on 18 December 2020
Chairman Present: Jacob Kohnstamm
Voting Members Present: Gailina Liew David Smith Clarisse Girot Paul Routier MBE Helen Hatton
Apologies No apologies.
Non - Voting Members Present: Dr Jay Fedorak – Information Commissioner Paul Vane – Deputy Information Commissioner
Guest Speaker No guest speaker
Minutes: Sam Duffy – HR Support.

Minutes Approved

A handwritten signature in blue ink, appearing to be 'JK', with a circular flourish underneath.

Jacob Kohnstamm
Chairman JDPA

	Item	Action
1.0	<p>Call to order and discussion topics agreed.</p> <ul style="list-style-type: none"> Issues arising from communication with Government regarding Authority funding for 2020. Options and next steps. 	
2.0	Communication with Government regarding 2020 funding	
	<p>The Chair opened the meeting asking the Authority members for their comments on the meeting and recent correspondence between the Information Commissioner and Government representatives.</p> <p>The Authority discussed the inherent tension between arms-length organisations and the Government. This included reference to requirement of the GDPR for data protection authorities to maintain their independence from Government and that this was critical to preserving adequacy with EU standards.</p> <p>The Information Commissioner explained that Government had decided that, for 2020, it would pay only £260,000 of the £500,000 grant to which it was committed under the Partnership Agreement.</p> <p>The Authority recognised that the reduced grant, combined with fee income, enabled it to meet its financial commitments for 2020. However, the reduction in the grant raised questions about the independence of the Authority. It also skewed the balance between the funding from businesses and Government. While the target share for business was 70%, the result of the changes to the grant was that the proportion that business paid increased to 84%. As a result, businesses were subsidising the JDPA's activities relating to the regulation of Government in the areas both of data protection and Freedom of Information</p>	

	<p>There are concerns that the private sector in Jersey is funding the supervision of Government and possibly FOI. This in effect constitutes a tax on businesses.</p> <p>Furthermore, in its correspondence the Government alleged that the Authority had breached the terms of the Partnership Agreement. Members expressed the wish that the Authority should challenge this allegation.</p> <p>Members concluded that this issue over the Government grant for 2020 raised three important public policy questions that the Chair should explore with the Minister:</p> <ul style="list-style-type: none"> • Are we (the Authority) a delegated government body (an arm's length organisation)? • Are we an independent statutory body appointed by Parliament? • What is the right level of funding in Jersey to deliver human rights to the citizens of Jersey? <p>The Authority Members agreed not to pursue further any issues relating to its budget for 2020. However, they decided that the Chair should raise the public policy questions with the Minister in a series of two letters. The first letter would respond to recent correspondence and indicate that a second letter would address the public policy questions.</p> <p>The key issue in dispute was that of reserves. The Government agreed to fund a fiscal year end reserve equivalent to fixed costs for a period of three months. It had refused to fund a reserve for funding the costs of prospective litigation. This is a significant issue, as decisions of the Authority are subject to appeal to the Royal Court, where costs can be significant.</p> <p>The Information Commissioner suggested he consult the Comptroller and Auditor General (CAG) to obtain an objective opinion on the issues of accountability and</p>	<p>Information Commissioner to draft two letters to the Minister under the signature of the Chair.</p> <p>Information Commissioner to meet with the C&AG.</p> <p>The Authority to discuss the issue of reserves at the next meeting.</p>
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	independence for arm's length regulators, as well as appropriate levels of reserves.	
3.0	Other Business No other business. The meeting closed at 10.50am	