
STATES OF JERSEY



DATA PROTECTION AUTHORITY: APPOINTMENT OF CHAIRMAN

Presented to the States on 28th March 2018
by the Chief Minister

STATES GREFFE

REPORT

Background

The Assistant Chief Minister is presenting this Report to the States Assembly, giving 2 weeks' notice of his proposed intention to appoint Mr. Jacob Kohnstamm as Chairman of the Data Protection Authority.

The Data Protection Authority is established under Article 3 of the Data Protection Authority (Jersey) Law 2018 ("the 2018 Law"). Article 3 states –

“3 Constitution of Authority

- (1) *The Authority consists of –*
 - (a) *the Chairman;*
 - (b) *no fewer than 3 and no more than 8 other voting members; and*
 - (c) *the Commissioner as an ex officio and non-voting member.*
- (2) *Subject to paragraph (4), the Chairman and the other voting members are appointed by the Minister who must have particular regard to the need to ensure that voting members of the Authority –*
 - (a) *have the qualifications, experience and skills necessary to exercise and perform the functions of a member, in particular relating to the protection of personal data;*
 - (b) *have a strong sense of integrity; and*
 - (c) *are able to maintain confidentiality.*
- (3) *Before appointing any individual under this Article, the Minister may require the individual to provide, or to authorize the Minister to obtain, any information and references that the Minister reasonably requires to ascertain the individual's suitability for appointment as a voting member.*
- (4) *At least 2 weeks before making an appointment under this Article the Minister must present to the States a notice of the Minister's intention to make the appointment.*
- (5) *Each voting member is appointed for a term of 5 years or such shorter period as the Minister thinks fit in a particular case and is eligible for reappointment up to a maximum period of service of 9 years.*
- (6) *An individual is ineligible to be a voting member if the individual –*
 - (a) *is, or has at any time during the preceding 12 months been, a member of the States of Jersey;*
 - (b) *is a States' employee or is otherwise under the direction and control of the States; or*
 - (c) *is engaged in any employment, occupation (whether or not remunerated) or business, or receives any benefits, that is incompatible with the functions of a member of the Authority.”*

Matters relating to appointment

Mr. Kohnstamm will act initially as Shadow Chairman and subsequently be appointed as Chairman of the Data Protection Authority when the 2018 Law comes into force on 25th May 2018.

In accordance with the requirements of the 2018 Law, the selection process was overseen by the Jersey Appointments Commission. Brief biographical details of the appointee are included at the end of this report.

Financial and manpower implications

Article 7(1) of the 2018 Law states –

“7 Remuneration and resources

(1) *The voting members of the Authority are entitled to –*

- (a) *such fees, allowances and other emoluments as expenses as the Minister determines in consultation with the Authority and publishes; and*
- (b) *if the Minister so determines, reasonable out-of-pocket or other expenses occasioned in the course of carrying out the Authority’s duties.”*

Fees payable to the Chairman of the Data Protection Authority are sourced from the annual grant made to it to administer the Data Protection (Jersey) Law 2018 and the Data Protection Authority (Jersey) Law 2018, as well as from its own revenue. There are no other financial or manpower implications for the States.

Biographical details of appointment

Mr. Jacob Kohnstamm

Mr. Jacob Kohnstamm has served as Chairman of the Dutch Data Protection Authority from August 2004 until August 2016.

Between 2008 and 2010, he also served as the elected Vice-Chairman of the Article 29 Data Protection Working Party (“WP29”). He was subsequently elected Chairman of that body in 2010, and re-elected for a 2-year mandate in 2012. WP29 is an independent advisory body composed of representatives of the various data protection supervisors in the European Union.

Between 2011 and 2014, Mr. Kohnstamm was Chairman of the Executive Committee of the International Conference of Data Protection and Privacy Commissioners. As a preparation for hosting that Conference in Amsterdam in 2015, he initiated the Privacy Bridges project in 2014. The Privacy Bridges project united 20 U.S. and E.U. privacy specialists to find pragmatic and workable solutions to overcome the differences in privacy legislation in all parts of the world; solutions that have as primary goal to improve the control of users over their data.