
EXECUTIVE SUMMARY

Response to the Data Commissioner's Report (Undated)

1. The Inquiry considers that **the Data Commissioner's Report is partial, inaccurate and misleading** in many respects. Some of **its claims are unfounded and simply untrue**.
2. It relies on unsubstantiated speculation and provides little factual evidence of data compliance errors.
3. No formal complaint has been made about the Inquiry's compliance with data protection legislation.
4. The Panel takes seriously the need to balance the protection of individuals' information while conducting a robust, thorough, transparent and impartial inquiry.
5. The Inquiry has had to balance sensitively the need to protect the privacy of individuals with its duty to be transparent in all it does and its responsibility to serve the public interest. This has often required finely balanced decisions to be taken, which have not always satisfied all of the parties involved with and interested in the Inquiry's work. From its outset robust measures have been in place, including rigorous data protection and management protocols, a secure online environment (Magnum) for sharing documents with Interested Parties provided by a company with experience in over 200 tribunals, data security guidance and instruction for staff and independently validated security systems. Throughout its work, the Inquiry has taken seriously its responsibility to protect personal data of individuals and considered this in all decisions made. The Inquiry has processed over two million pages of documentation and throughout its work has taken extensive precautions to safeguard that information.
6. The Data Commissioner has identified 10 "third parties" who have communicated concerns to her. She has afforded these parties anonymity although she has stated that some are "document providers" and indicates some are Interested Parties to the Inquiry, who are in the main States of Jersey agencies. It is a matter of concern to the Inquiry if parties to the Inquiry have chosen to raise "concerns" anonymously with the Data Commissioner rather than openly by the means available to them under the Inquiry's protocols or by testing the Inquiry's decisions transparently through the route of judicial review.
7. The Inquiry legal team has engaged with the Inquiry since its arrival in Jersey in March 2014 and prior to that the States Liaison Officer had the role of liaising with the Data Commissioner on behalf of the Inquiry. Since then the Inquiry legal team has been in regular contact with the Data Commissioner's office as evidenced by voluminous correspondence. Members of the Panel have also met with the Commissioner and those who represent her. None of this extensive engagement is reflected in the Report. The Data Commissioner criticises the Inquiry for both lack of engagement with her and conversely for seeking her advice and input.
8. Concerns outlined by the Data Commissioner are mainly based on unparticularised accounts from unidentified parties. These criticisms lack specificity and evidence. In instances they have not previously been notified to the Inquiry by the Data Commissioner.

9. The Inquiry accepts that in dealing with millions of pages of documentation and hundreds of witnesses over a two year period there have been a small number of errors. Where these have come to light they have been rectified as soon as practicable. The Data Commissioner has criticised the Inquiry because redacted material in a document, under certain conditions, could be made visible due to a technical issue. In its original version, the Data Commissioner's Report was affected by the same issue that enabled material she had redacted to be revealed.
10. While a full response is provided to the Data Commissioner's Report in the attached Response and appendices, a summary of the concerns she raises and of the Inquiry's responses follows: