

## **Emma Martins' speech to data protection professionals on Data Protection Day (28 January 2019)**

*The Bailiwick of Guernsey's Data Protection Commissioner, Emma Martins, gave the following welcome to a sold-out event for data protection officers to mark 2019's Data Protection Day. Emma talks about the importance of data protection professionals, especially data protection officers (DPOs).*

"Today is designed to be an informal event – to allow you to visit our offices, to meet us – my team are all here and will be around if you have any questions or would like a chat later, and importantly today is about you meeting each other. I want to explain a little more about why I think you are so important, but for now suffice to say that you are, and thank you for taking the time to join us here today.

I would like to say a few words by way of introduction but I think that these conversations often risk ending up with people in officialdom telling you what you should do, before wagging a threatening finger at you and heading back off to an ivory tower. So to broaden this beyond just what we as the regulator want to say, I have asked three well respected colleagues who deal with these issues at the coal face to talk a little about their experiences and they will not mind, I am sure, having their brains picked afterwards when you have some time to network amongst yourselves.

It is a good opportunity for me to say how easy it is to find really high-quality professionals in this space and for a small jurisdiction that is something to be proud of – so thank you all for joining us today and thank you to the panellists.

At this office, we have made a number of very conscious decisions on what I consider to be important matters –

1. We must lead from the front. Today's ticketing, for example, we used a provider who we thought best protected your data.
2. We must understand our role in the arc of history because we are, by virtue of our jobs – all of us – part of making and shaping history at an extraordinary time – hence we are now in the Aristotle Suite which for its day job is our board room, but it will also host a number of events throughout the year and we are keen to open it up to groups such as ADPO to make use of too. Why Aristotle? Those of you that [follow our news feeds and articles](#) may have read some of my comments about this recently. Aristotle, way back in 300s BC, was probably one of the first to talk clearly about the importance of the distinction between the private and public spheres of our lives. That privacy, and especially *data* privacy nowadays, has been a human concern for most if not all of our history, should give us pause for thought, and to help put the importance of what we are all doing into wider context. Aristotle said many profound things, just one for now is – *'we are what we repeatedly do. Excellence then is not an act but a habit'*.
3. That moves me neatly to the reason we have, at this office, started our journey as a regulator in the GDPR world having built a strong ethical foundation around all we are doing. Above and beyond law, I believe that ethics sits at the heart of everything we do, both in our personal and professional lives. I want my office to aspire to

excellence. I want you all to aspire to excellence and I want this jurisdiction to aspire to excellence.

And that is where you all come in.

The Data Protection Officer (DPO) role has been around for a while, albeit in different legal form. Indeed, a number of us at the office have fulfilled that role in a previous life. GDPR and our new law here in the Bailiwick are undoubtedly game changers for this profession - and it is a profession.

The specific sections of the law are easy to find, as are a number of good quality guidance and reference documents available and if you haven't reviewed the law as well as guidance, I would suggest that it is a good place to start.

But that is just the start. Then you have to translate that into the real world. Your real world. A world where data protection is often still the poor relation in an organisation, a world where there is little or no expert knowledge of data protection issues at board or senior management level and a world where there is little or no budget to improve things.

I think it is interesting to look at what the internet makes of data protection officers. Aside from being mildly amusing, it is not really useful or accurate to consider the role as being akin to a police officer, or even superhero. The reality is that a good DPO has to get to grips with elements of policing – in a broad sense – they have to lead, to communicate, to facilitate, to mediate, to handle complaints and complainants – the list is long.

But a big part of your job is to convert people. To be a data protection evangelist. To move this conversation from merely an inconvenient and administratively burdensome tick box exercise, to a real and honest engagement with key people about how data is now the life blood of everything you do and everything that you want to do, and its protection has to become part of the DNA of the organisation.

So you know the WHAT and you, I am sure, have a sense of the HOW – even if that is challenging and hard work.

But, jumping from the WHAT to the HOW is meaningless, as best, if you are missing one thing...

And that one thing is WHY

To do your job well, to do your job so that you can look your managers, your clients, complainants, the regulator in the eye and know that you have done your best – you have to understand **why** you are doing your job and **why** doing your job well is not just something that you SHOULD do, it something that you MUST do.

We live in extraordinary times. Times where we are seeing incredible advances in technology which allows us to communicate with people all over the world, to become knowledgeable about things that previous generations couldn't even dream of, to reach out to poor communities and give them a voice, all of these amazing developments are juxtaposed with terrifying levels of manipulation... of us, of our attention, of elections and of

course the eye watering profiteering by the social media giants from us and of course our data.

The raising of the bar that GDPR represents in respect of DPOs is no accident. It is a response to the unprecedented opportunities and harms that are all around us.

So, this is not your average day job. Yours is a job that matters in a way it has never mattered before, and in a way – I think - that is yet to be fully recognised or valued. Whether we are a small jurisdiction or a large one it doesn't matter. You have the ability to make a difference. We all do.

Our century is probably the first in which it has been really possible to speak of global responsibility and a global community. For most of human history we could affect the people in our village, or perhaps our city, but even a powerful king or queen could not easily conquer far beyond the borders of their kingdom. In the digital era, that has all changed. We even hear that the most effective warfare is now all about data and cyber. Those who fought in the most recent world wars could not have comprehended such developments.

So this does, I think, mean that there is need for a wider conversation about our responsibilities – both legal and ethical.

There is a danger, especially in small jurisdictions, that we are disproportionately focused on ourselves and our own communities. The volume of personal data that touches this jurisdiction in some way is staggering. So what we do with it, what the world thinks and expects us to do with it, really matters. It matters for our reputation and therefore for our economy. It matters for the people whose data is in our care. It matters too because that is what will stand us out because we understand and embrace the harmonies between law, ethics and enlightened self-interest.

The Law tells us **what** we need to do, we have to work out **how** we go about doing that, and as ethical professionals, we understand **why** it is that we need to do it.

Some of you may already be familiar with the concept of the 'expanding circle of concern' It is mostly something referred to in areas such as animal rights and environmental protection, but it is relevant here, for us, too. Challenge yourself to look at these circles and evaluate where you sit in your 'moral concern'. Do you care more about something – a legal or moral principle when it is you, or someone you know, affected? Where does your concern start to drop away?

If we do our jobs, it doesn't matter whether we know or like the individuals involved. It doesn't matter where they are located or whether or not we approve of their lifestyle. What matters is for us to be consistently fair, consistently acting with integrity and consistently doing our best everyday.

At the risk of evangelising too much, I would suggest that the need for this sort of position, not just for data professionals, but especially for them, is a desperate one.

The shameless pursuit of material self-interest by some of the big players in this arena is starting to be challenged. Never think that you don't have a part to play in that and other conversations around data governance.

I just want to finish by saying that being an ethical, principled DPO takes skill, in fact many skills, it also takes courage. It is a shame that that is the case, but nonetheless it is true. Because you often have to take a position which is in direct conflict to that of your colleagues or managers. That's tough. I am sure not many people have ever considered the data protection law as a personal friend, but I would encourage you to do so now. It provides solid and real protections for DPOs. It doesn't mean that you won't be subject to challenge, and to criticism but please indulge me if I finish with another Aristotle quote - *'criticism is something we can avoid easily by saying nothing, doing nothing and being nothing'*.

Now I would like to spend a little time talking to and hearing from our panel of experts. If they are happy to, I would like to ask them firstly about the WHY. Why they think what a DPO does is important and even broader why data protection itself is so important, and then ask if they could share some of their own learning points having experienced working in this area for some time and importantly through the recent changes."