



THE OFFICE OF THE

Data Protection Authority

The Data Protection (Bailiwick of Guernsey) Law, 2017
("the Law")

Registration via an ODPA Levy Collection Agent (from January 2021)

Starting in January 2021 there is an opportunity for certain entities to become an ODPA 'Levy Collection Agent' (LCA) allowing them to register other entities with the ODPA. This opportunity was created by *The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020*.

This guidance note explains what you need to know about how this additional route to registration with the ODPA will work:

What is an LCA?

An LCA can declare and pay the ODPA levies on behalf of other entities. They are a collection point for the levy only. LCAs are not legally responsible for compliance with data protection law for any of the entities they collect the levy from.

What is the aim of LCAs?

The presence of LCAs from 2021 aims to:

1. Provide a useful '**second route**' into ODPA registration for certain organisations.
2. Make '**bulk**' registration for several entities possible, in a straightforward way.
3. Assist in **raising awareness of the legal requirement to register** with the ODPA.

Who can be an LCA?

Any organisation registered with and/or regulated by the Guernsey Financial Services Commission can register with the ODPA as an LCA.

Who can appoint an LCA?

You can appoint an LCA to register and pay your levy to the ODPA, unless you answer 'yes' to any of these 4 questions:

1. Do you employ **50+ Full Time Equivalent (FTE) staff**?
2. Are you required by law to appoint a [Data Protection Officer](#)?
3. Do you act as an **ODPA Levy Collection Agent**?
4. Are you a **non-profit organisation (States of Guernsey Deputies are included under ‘non-profits’)**?

If you answer yes to any of those questions you must register directly with the ODPA, not via an LCA.

How do I appoint an LCA?

If you have an existing business relationship with a corporate service provider (who may assist you with your administrative/governance functions) you could contact them and ask whether they are registered with the ODPA as an LCA and whether they can pay the levy on your behalf.

If you do not use an existing corporate service provider, you can contact any organisation who is registered with and/or regulated by the Guernsey Financial Services Commission and ask them whether they are also registered with the ODPA as an LCA. Then you can instruct them to pay the levy on your behalf.

What is the benefit of using an LCA?

It allows you to outsource the annual administrative aspect of registering with the ODPA. This means you can focus your time and energy on running your business well, and focusing on looking after the data in your care and complying with the data protection law.

What is the benefit of being an LCA?

If you choose to become an ODPA LCA you can offer this additional administrative service to your clients, making the registration process efficient and straightforward.

What does an LCA have to do?

If you are registered with and/or regulated by the GFSC, you can act as an LCA. There are three steps to becoming an LCA:

1. You must first register yourselves as a controller/processor and declare your intention to act as an LCA.
2. During this registration process, you will have to indicate how many additional entities you are registering, in your role as an LCA. Each entity will incur a £50 levy and you will be asked to pay the combined total of your own registration fee plus the fee for each entity you have registered in your LCA role.
3. You will then need to issue each of the entities you have registered with a Certificate of Exemption, which must be presented to the ODPA upon request.

If you are acting as an LCA, you must maintain up to date and accurate records relating to the controllers and/or processors you are paying the levy for. This must include –

- Name of each entity
- A copy of the Certificate of Exemption you have issued to them
- The date you provided the entities with a copy of the Certificate of Exemption

These records must be retained for 6 years.

It is important to note that the LCA bears no legal liability or responsibility for the entity's data protection compliance they are acting for in this capacity. The ODPA will communicate directly with

the controller/processor who is responsible for the data processing in the event of a query or complaint.

What is a Certificate of Exemption?

A Certificate of Exemption **must be issued by the LCA** to the entity who has agreed to use them to pay the annual levy. The Certificate must be made available to the ODPa upon request. This certificate means that all the statutory returns and payments required to the ODPa for that calendar year are completed.

If you use an LCA, it is important to remember that all the legal responsibility as well as liability for data protection compliance still rests with you. LCAs are simply acting as payment gateway to assist with the administrative requirements for the regulated community.

In the event that the ODPa wishes to make any enquiries regarding the personal data processing activities of your organisation, the office will communicate directly with you and may require a copy of your Certificate of Exemption.

Where can I get more information?

If you have questions about the LCA route to ODPa registration please refer to *The Data Protection (General Provisions) (Bailiwick of Guernsey) (Amendment No. 2) Regulations, 2020*, in the first instance, or contact the ODPa.