

# Jones Whyte LLP

## Executive Summary Report

November 2021

## **Background**

The Information Commissioner is responsible for enforcing and promoting compliance with the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA18), the Privacy and Electronic Communications Regulations (PECR) and other data protection legislation. Section 146 of the DPA18 provides the Information Commissioner's Office (ICO) with the power to conduct compulsory audits through the issue of assessment notices. Section 129 of the DPA18 allows the ICO to carry out consensual audits. The ICO sees auditing as a constructive process with real benefits for controllers and so aims to establish a participative approach.

The ICO's Investigations team ran an investigation between 2017 and 2020 following a number of complaints received from data subjects via the Telephone Preference Service (TPS) and ICO's own online reporting tool. The investigation was focussed on a organisations who were making marketing calls using a range of generic and fictitious company names or misusing the names of other genuine companies. By masking their true identity data subjects were prohibited from making complaints directly to these companies and their rights and freedoms provided in data protection legislation were significantly undermined.

Jones Whyte LLP (JWL) did not form part of the initial investigation however, they were found to be a recipient of personal data obtained as a result of the unlawful collection and compiling of bulk marketing lists. The ICO wrote to JWL in August 2020 outlining their initial concerns, particularly in regard to PECR regulation 21.

JWL provided responses to ICO enquiries over a further series of correspondence and also confirmed that they had implemented additional measures to improve their data protection practices.

The ICO wrote to JWL in July 2021 to invite them to take part in a consensual audit. The audit took place during the week beginning 8 November 2021.

The scope of the audit covered the following key control areas:

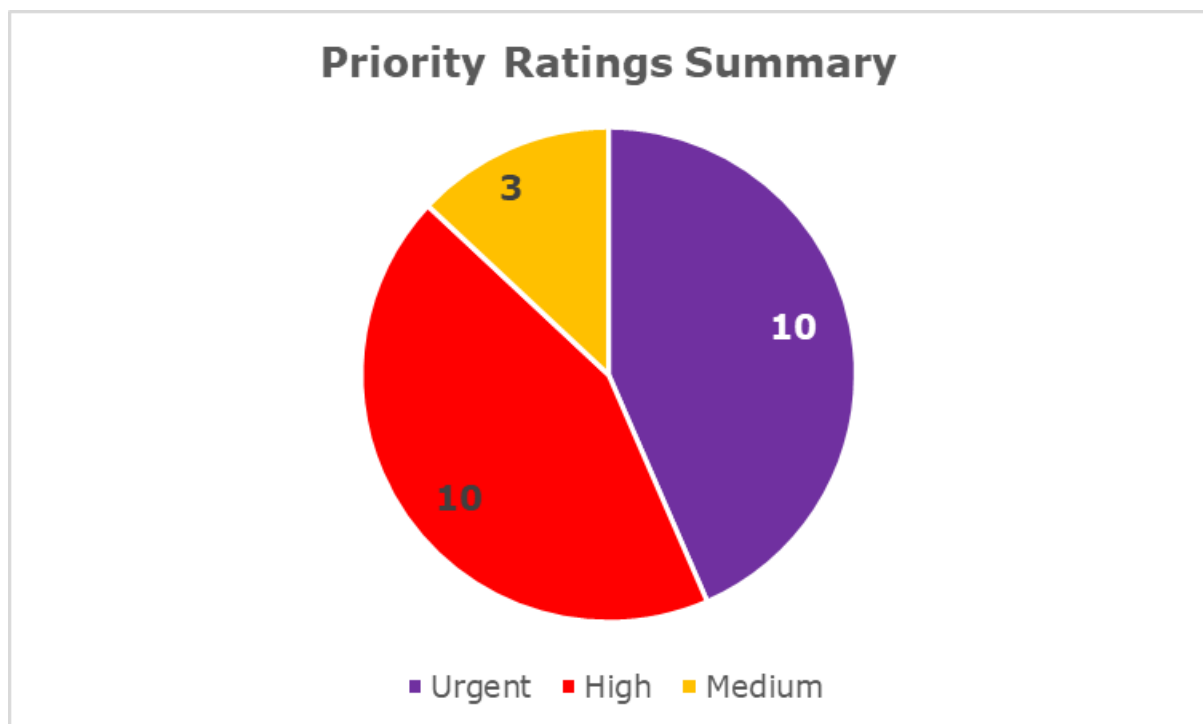
- Governance
- Sourcing personal data
- Transparency
- Lawful basis for processing
- Data supply and sharing

The purpose of the audit was to provide the Information Commissioner with an assurance of the extent to which JWL, within the scope of the audit, is complying with data protection legislation.

### **Priority of recommendations summary**

Where opportunities for improvement were identified recommendations have been made, primarily around enhancing existing processes to facilitate compliance with data protection legislation. In order to assist JWL in implementing the recommendations, each has been assigned a priority rating based upon the risks that they are intended to address. The ratings are assigned based upon the ICO's assessment of the risks involved. JWL's priorities and risk appetite may vary and, therefore, they should undertake their own assessments of the risks identified.

A summary of the ratings assigned within this report is shown below.



The pie chart above shows a breakdown of the priorities assigned to the recommendations made. There are 14 urgent, three high and one medium priority recommendations.

Urgent priority recommendations are intended to address risks which represent clear and immediate risks to JWL's ability to comply with the requirements of data protection legislation.

### **Areas for Improvement**

The ICO are encouraged by the improvements to data protection practices made by JWL since the initial contact in August 2020 including;

- The restriction of engaging with suppliers involved in the buying and selling of personal data.
- The introduction of due diligence conducted on suppliers which provides some assurance that their use of personal data will be compatible with the purposes for which it was originally collected.
- Proactively restricting the amount of personal data processed to what is necessary.
- The introduction of risk management to JWL.
- The development of new data protection induction and training due for implementation in January 2021.

However, the audit identified some areas where further improvements are required to achieve compliance with data protection legislation.

- Privacy information is not fully compliant with Article 13 of the UKGDPR and all relevant information is not available to data subjects at the time their personal data are collected.
- JWL do not have clearly defined and recorded lawful bases for processing personal data under Article 6 and 9 of the UK GDPR.
- The lack of a formal review and approval process for internal policies means that some contain inaccurate or out of date information.
- The rapid expansion of JWL means that they may not be meeting the obligations of Article 38 and 39 of the UK GDPR which requires appropriate support and resources being available to the DPO in order for them to meet all their legislative responsibilities.
- Retention periods have not been defined for all personal data processed by JWL in relation to enquiries to the firm.

# Appendices

## Appendix One – Recommendation Priority Ratings Description

### **Urgent Priority Recommendations -**

These recommendations are intended to address risks which represent clear and immediate risks to the data controller's ability to comply with the requirements of data protection legislation.

### **High Priority Recommendations -**

These recommendations address risks which should be tackled at the earliest opportunity to mitigate the chances of a breach of data protection legislation.

### **Medium Priority Recommendations -**

These recommendations address medium level risks which can be tackled over a longer timeframe or where some mitigating controls are already in place, but could be enhanced.

### **Low Priority Recommendations -**

These recommendations represent enhancements to existing controls to ensure low level risks are fully mitigated or where we are recommending that the data controller sees existing plans through to completion.

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**The matters arising in this report are only those that came to our attention during the course of the audit and are not necessarily a comprehensive statement of all the areas requiring improvement.**

**The responsibility for ensuring that there are adequate risk management, governance and internal control arrangements in place rest with the management of Jones Whyte LLP.**

**This report is solely for the use of JWL. The scope areas and controls covered by the audit have been tailored to JWL and as a result, the audit report is not intended to be used in comparison with other ICO audit reports. We take all reasonable care to ensure that our audit report is fair and accurate but cannot accept any liability to any person or organisation, including any third party, for any loss or damage suffered or costs incurred by it arising out of, or in connection with, the use of this report, however such loss or damage is caused. We cannot accept liability for loss occasioned to any person or organisation, including any third party, acting or refraining from acting as a result of any information contained in this report.**