



Dubai International Financial Centre Authority

Commissioner of Data Protection (the “Commissioner”)

Decision Notice 1 of 2025

**Declaration of Contravention and No Contravention of the
Data Protection Law, DIFC Law No. 5 of 2020 (the “Data Protection Law”) and Data Protection
Regulations 2020 (as amended) (the “Data Protection Regulations”)¹ and Revised Directions**

Introduction

1. The Directions (as defined below) by the Commissioner are in relation to processing activities of Dalma Capital Management Limited (“Dalma”), a Controller whose headquarters and operations are conducted on a regular basis in the DIFC.

2. Background

- 2.1. These Directions are based on findings from an investigation initiated by a Data Subject (the “Complainant”) complaint to the Commissioner on 6 February 2024 (the “Complaint”).
- 2.2. The Complaint relates to a Data Subject Access Request (the “DSAR”) by a former employee, Complainant, to his former employer Dalma. Complainant claimed that Dalma’s initial response to the DSAR was unsatisfactory and in contravention of the Data Protection Law, and that Dalma did not appropriately respond to his follow up questions and clarifications to more fully complete the DSAR.
- 2.3. Complainant also claims that Dalma’s response did not provide obligatory information about Data Subject rights and thereby claims is in violation of the Data Protection Law.
- 2.4. Finally, Complainant claims among other alleged contraventions that Dalma unlawfully retained information, in doing so did not comply with Regulation 8 of the Data Protection Regulations among other retention and erasure requirements.

¹ Capitalised terms or phrases used herein that are not expressly defined are used in accordance with their stated definitions in the Data Protection Law or the DIFC Data Protection Regulations (September 2023 Version), whichever is applicable.

- 2.5. It is evident from a variety of sources, including emails provided by Complainant, Financial Markets Tribunal (the “FMT”) proceedings and outcomes, interviews with Dalma staff and the Complainant himself that a contentious, somewhat incendiary relationship exists between former Dalma executive leadership and Complainant.
- 2.6. Complainant made it clear from the time he was dismissed from service to Dalma that he would pursue further action, and as determined from review of the above documentation and testimony, Dalma took action accordingly to prepare for potential legal claims or other proceedings, such as the FMT proceedings that Complainant did subsequently initiate.²
- 2.7. Dalma has clarified that in accordance with applicable laws, it retained certain employee information and other information, e.g., documents containing Complainant’s information uncovered as a result of search of its archives, vis a vis the IT systems connected to the personal computer issued to Complainant for purposes of his employment.

3. Alleged Contraventions

3.1. The Complainant alleges in the following contraventions that Dalma:

- 3.1.1. Failed to fully and properly comply with DSAR response requirements in breach of the Data Protection Law, e.g., that Dalma:
- i) only acknowledged the DSAR after eight (8) days passed
 - ii) made no effort to refine scope
 - iii) didn't agree the format for the response with Complainant
 - iv) responded at end of 30 days
 - v) didn't provide an explanation about the response, its contents or exclusions, redacting third party’s personal data
 - vi) didn't provide information about complaining to Commissioner or about appealing Dalma’s response
 - vii) did not respond to his follow up email in January 2024

² Please see https://365343652932-web-server-storage.s3.eu-west-2.amazonaws.com/files/9616/7575/3633/FMT21019_FMT21020_Decision_310123.pdf

viii) deliberately frustrated the Complainant's rights through insufficient or incomplete responses, e.g., by providing both personal and non-personal data to Complainant in redacted form without sufficient reason or requirement

3.1.2. Failed to delete his personal data when requested e.g., after the January 2018 communications about Complainant's dismissal

3.1.3. Unlawfully held certain documents containing Complainant's personal data (e.g., financial statements);

3.1.4. Accessed the computer device issued to Complainant using his password and login details without his permission;

3.1.5. Processed his information without lawful bases of "consent, necessity or legitimate interests"

3.1.6. Failed to disclose that Dalma were holding his personal information

3.1.7. Retained copies of family's immigration documents after he left / requested deletion

3.1.8. Unlawful collection and retention of personal information after his departure from Dalma

3.2. The investigation into this matter resulted in findings detailed below.

4. Findings

4.1. Subsequent to undertaking reasonable and necessary investigations of Dalma's position in relation to the complaint, the Commissioner is satisfied on the basis of a Complainant's assertions together with information within his knowledge, that Dalma has both contravened and in certain instances did not contravene the Data Protection Law.

4.2. Details of the Commissioner's findings, made in accordance with Article 46(3)(d), are summarized below.

Response timing, format and content

4.2.1. Dalma did not contravene the response time requirement set out in Article 33(1), as it responded within the one-month time frame permitted for such response. Upon interviewing Dalma's in-house counsel, it is evident that despite the lengthy, specific

DSAR (which Complainant refers to as such several times in his follow up email of 9 January 2024), Dalma decided not to pursue a decision to take an additional two months to respond available under Article 33(7) and instead responded on time by 8 December 2023.

- 4.2.2. While it is best practice to acknowledge a DSAR submission soon after receipt, there is no legal requirement to acknowledge it at all or within a specific time period. The requirement is generally to reply within one month, in accordance with Article 33(1).
- 4.2.3. Dalma did not contravene the law by not agreeing the format of the response with Complainant in advance. Again, while it may be useful to agree a format in advance for clarity, the Data Protection Law and relevant guidance set out the requirements and there is no legal obligation to do so in any case.³
- 4.2.4. Dalma provided a basic explanation of the DSAR response contents (e.g., reasons for any restrictions such as redacted information or information not provided).
- 4.2.5. Furthermore, even though Complainant’s employer noted in his 8 December 2023 reply to Complainant that additional What’sApp and other information “appeared to be excessive”, Dalma confirmed that throughout, despite legal advice, it decided not to exercise its options under Article 33(7) to extend the time required to respond by two months, or under Article 33(8) to a) charge a reasonable fee or b) refuse to act on the request. Dalma provided its response in time and provided reasons that align with Article 33(15) primarily in terms of correspondence not provided.
- 4.2.6. For completeness, Dalma is not required to produce an Article 39(9) register setting out such assessment but contravened the Data Protection Law by not supplying a follow up response to the Complainant’s 9 January 2024 email until directed to do so by the Commissioner’s Office through the course of the investigation, which it did.

Required information when response is limited, or restrictions are applied

³ Please see page 6 of the Commissioner’s [guidance on access](#) rights. . For further supporting guidance, please see relevant Information Commissioner Office’s [guidance on response format](#)

4.2.7. In addition to the direct application of Article 33(13) regarding redaction of third parties' personal data, Dalma appears to have applied limited restrictions on data provision in its responses as well, e.g., restricting information as a necessary and proportionate measure to protect the rights of others, in accordance with Article 33(15)(e). As such, it is reasonably arguable that Dalma contravened the Data Protection Law in that it Dalma did not fulfil its obligations pursuant to Article 33(16) to inform Complainant in writing about his right to lodge a complaint to the Commissioner in accordance with Article 60 or applying to the Court in accordance with Article 63.

Employee consent, right to erasure and other rights vis a vis corresponding policies and notices

4.2.8. Regarding Complainant's request to delete what he defined as "Employee Confidential Information" in his email of 10 January 2018⁴, Complainant at that time clarified that he did not consent to the collection or processing of such information.

4.2.9. In this regard, Articles 8, 9, 10, 16 and 17 (the "Previous Lawful Processing Obligations") of the Data Protection Law, DIFC Law No. 1 of 2007 (the "Previous Law") apply to any processing undertaken during the period of Complainant's employment and dismissal.

4.2.10. Through the course of the investigation, as well as via the DSAR response, Dalma maintained that Employee Confidential Information, and as far as they know, any other information they supplied to in the response would have been created by, downloaded / accessed by or provided by him.

4.2.11. In addition, Dalma maintains that it did not request or obtain this or other Complainant personal data, but instead it would have come from the Complainant himself via employment requirements (e.g., to obtain visas for his family), or his own personal

⁴ Employee Confidential Information as defined by Complainant is First Gulf Bank records of share portfolio, Old Mutual Savings account statements and correspondence from [Complainant's] accountants as to 2015/2016 tax returns.

use of his Dalma-supplied devices and supplied it in good faith in response to his DSAR.

4.2.12. Dalma asserts that retaining Complainant's records was necessary under existing retention policies and relevant provisions of applicable laws and regulations.

4.2.13. By retaining records relating to Complainant's employment in accordance with applicable DIFC laws and regulations, as well as in preparation for apparent legal claims as an overriding legitimate ground for Dalma to continue processing his personal data in accordance with Article 33(2) and Article 33(3), Dalma did not directly contravene the Data Protection Law.⁵

4.2.14. Further to this point, the right to erasure is not absolute, as per relevant guidance, including guidance issued by the DIFC Commissioner's Office as well as other regulators whose guidance is deemed supplemental persuasive authority.

4.2.15. However, regarding the Complainant's 10 January 2018 request to delete his personal data, Dalma did not appear to confirm in writing as to whether or not personal data relating to him [was still] being processed or that it would be retained, etc., in accordance with Article 17(a) of the Previous Law.

4.2.16. Likewise, Dalma did not appear to have a valid, applicable data retention policy setting out the basis, length and necessity of retaining his personal data or any sort of access or asset management policy regarding permissions about who can access its company provided assets, or reasonable use of any company assets for personal use, etc. (the "Previous Policies"), which would have been appropriate organizational measures required by Article 16(1) of the Previous Law.

4.2.17. Dalma confirmed in practice, at the time of Complainant's employment, that the primary source of a lawful basis to collect, store, retain and otherwise process Complainant's personal data is Section 16 of his Employment Contract (the "Employment Contract"), which states:

16 Data Protection:

⁵ Legal claims may impact the decision to retain personal data that would otherwise be erased upon request. Please see ICO [guidance on retention](#), from which the DIFC Commissioner's guidance is derived.

16.1 Rules Please refer to the Data Protection Law, DIFC Law No. 1 of 2007 [sic] for policy details and terms. The DIFC Data Protection Law applies to all information in or from the DIFC, over and above any UK requirements.

16.2 By signing this Agreement you hereby consent for personal and sensitive data to be held, processed, stored and sent outside the DIFC (as and when required) by the Firm. All data processing [sic] will be in accordance with the prevailing data protection laws of the DIFC.

- 4.2.18. Consequently, if Dalma did retain Complainant's personal data in accordance with the consent he provided via his Employment Contract, it contravened the Previous Lawful Processing Obligations in that it did not a) provide an explanation to the Complainant when the initial request to erase was submitted in 2018, and b) did not have appropriate or sufficient Previous Policies at the time of Complainant's employment clarifying the reasons for retaining personal data for any length of time.
- 4.2.19. Subsequently the current Data Protection Law, including but not limited to Articles 9, 10, 11 and 14 (the "Current Lawful Processing Obligations") applies to any processing undertaken since 1 July 2020, when it became effective.
- 4.2.20. To be clear, the need for a retention policy was rectified (albeit minimally) in the 2023 version of Dalma's "Data Protection Obligations" policy (the "Dalma DP Policy") in Section 18, stating, "Personal Data relating to (or sourced or generated in connection with) a Data Subject's employment by the Firm shall be retained for a period of 6 (six) years from the cessation of such employment (or such longer period as may be specified under applicable law or the rules of any governmental authority with competent jurisdiction)."
- 4.2.21. Dalma has confirmed through interviews during the investigation that the contents of the 2023 Dalma DP Policy have been de facto policy since incorporation, based on generally accepted employment and compliance practices in the UAE.
- 4.2.22. In any case, while a clause of the Dalma DP Policy addresses retention, the clause is insufficient to ascertain how and when it will be applied, particularly in the context of data subjects who exercise their right to erasure. Additionally, it is unclear whether any updated policies existed or were communicated to Dalma employees or other

staff after the Data Protection Law became effective in 2020 and before the 2023 policy was implemented.

4.2.23. Turning to Complainant's family's personal data that Dalma stored and provided in the course of the DSAR response, Dalma confirmed through the investigation that this information was sourced from Complainant in order to sponsor his family members' UAE residence visas.

4.2.24. Dalma also confirmed that this data continued to be retained in accordance with Section 18 of the Dalma DP Policy. Again, the primary bases for retention of these documents prior to issuance of the Dalma DP Policies is evidenced primarily vis a vis the Complainant's Employment Contract and its previous, albeit unwritten, retention policy noted in Paragraph 4.2.21.

4.2.25. In summary, while Dalma partially contravened the Previous Data Protection Obligations by failing to provide evidence of policies, the Employment Contract language and subsequently the Dalma DP Policy for continued processing (e.g., retention) mitigate the severity of the contravention.

Complainant's claim that Dalma wrongfully requested and processed his login details

4.2.26. A further issue that Complainant raised regards certain other information that Dalma held, for example a copy of Complainant's Employment Contract with another firm and other personal documents and files.

4.2.27. Complainant asserted that around the time of his dismissal in December 2017, his employers wrongfully requested his login details for his Dalma devices and platforms, as well as having requested his employment contract with his former employers, and in doing so unlawfully accessed his personal information.

4.2.28. Complainant complied with providing the login details at the time, supplying the necessary information in any case.

4.2.29. Dalma maintains that in accordance with his Employment Contract, Section 19, the login information and any other Dalma owned devices containing any information was properly requested and supplied. Section 19 states:

On termination of the Service the Consultant shall immediately deliver to the Company or where directed by the Company all property of the Company, including passes, lists, correspondence and all other documents, papers, records (including, without limitation any records stored by electronic means, together with any codes, passwords or implements necessary to give full access to such records), system designs, software designs, software programmes (in whatever media), presentations, proposals or specifications which may have been prepared by him or have come into his possession, custody or control in the course of the Services.

- 4.2.30. The former employer presumably supplied Complainant's previous employment contract upon request from Dalma in preparation for legal claims, e.g., FMT proceedings.
- 4.2.31. Accordingly, the contravention of the Data Protection Law in this instance is primarily as above, e.g., regarding lack of retention policies or organizational measures necessary at the time of Complainant's employment, even though it is clear that the Complainant was preparing to initiate proceedings and was required to permit access in accordance with Section 19 of the Employment Contract and agreed to do so by executing it.
- 4.2.32. In addition to the clarity of the language of the Employment Contract, Complainant is evidently capable of understanding the impact of such consent with respect to the login details.
- 4.2.33. Finally, again Complainant confirmed that he provided this information himself and does not appear to have been deceived into doing so, despite the contentious relationship with Dalma and his employers.
- 4.2.34. Especially because there was a contentious relationship, it would have made more sense for him to withhold the information at that time.
- 4.2.35. As such, there is no further contravention with respect to the request for this information in line with the requirements of Complainant's Employment Contract.

5. Directions and Enforcement Measures

Previous Directions and Actions

5.1. Upon review of the Complainant's submission and after several discussions with both Complainant and Dalma's legal counsel, in August 2024, Dalma was directed to:

- 5.1.1. provide a response to Complaint's follow-up email dated 9 January 2024, together with any additional information containing Complainant's personal data to the extent it may be provided (and not withheld for a lawful reason) in accordance with Article 33 (1) (b);
- 5.1.2. in instances where information containing personal data was redacted unnecessarily, e.g., redacted information was not personal data in any case, provide the requested personal data to the Data Subject (NA) in unredacted form;
- 5.1.3. provide an explanation for redacted personal data, if and where applicable, in accordance with Article 33 (16);
- 5.1.4. provide the above in both electronic form and in hard copy.

(together, the "Follow Up Response")

5.2. Dalma complied with the above Directions, but it is noted that the hard copies were provided slightly later than requested.

Further Assessment and Current Directions

6. Upon review and further discussion with both Complainant and Dalma's counsel, the Commissioner has found that certain deficiencies remain with respect to the Data Protection Law and require rectification.

6.1. The deficiencies that the Commissioner identified as findings for rectification are:

- 6.1.1. measures in the form of specific, clear policies regarding the lawful processing of personal data generally under Article 9 and Article 14 of the Data Protection Law, and specifically with regard to responses to requests made in accordance with Article 33
- 6.1.2. implementation of compliance obligations in accordance with the Data Protection Law generally;

- 6.1.3. measures in the form of a policy or other documentation regarding retention and accuracy of personal data, including but not limited to employee personal data;
- 6.1.4. erasure of Complainant's personal data, including that of his family members or other third parties whose data he previously supplied, e.g., for visa sponsorship purposes, where necessary under applicable laws, including the Data Protection Law;
- 6.1.5. where relevant and required in response to future DSARs, fully comply with Article 33(16).
- 6.2. In consideration of the above, and in exercise of his powers under Article 59(1) of the Data Protection Law, the Commissioner hereby directs that Dalma shall within sixty (60) calendar days of date hereof, develop, formally adopt and provide evidence of rectification of the above findings in accordance with the Data Protection Law (the "Directions").

Reasoning

- 6.3. While Dalma provided the Dalma DP Policy as supporting evidence about current processing since the enactment of the Data Protection Law, several issues were found within the document itself that demonstrate insufficient understanding of the Data Protection Law or what is required to comply with it. These include:
- 6.3.1. Reference to Dalma's "Data Controller" rather than referring to Dalma itself as the Controller in line with the Data Protection Law defined terms in Schedule 1, Article 3, creates ambiguity about its proper understanding of the Data Protection Law's requirements in general;
- 6.3.2. Section 3(l) cites an out-of-date requirement for keeping an up-to-date permit enabling it to process Special Category Personal Data. A permit for such processing is no longer required;
- 6.3.3. Section 9 cites the Previous Law's Security section. Each of the elements in this Section has developed into a more detailed set of requirements under various portions of the Data Protection Law and therefore require further, accurate details in the Dalma DP Policy;
- 6.3.4. Sections 10 and 11 cite only two of the Previous Law's data subjects' rights requirements, and should be updated;



- 6.3.5. Sections 16 and 17 of the Dalma DP Policy are effectively copies of portions of the Data Protection Law Articles 16 and 17, but do not provide substantive information about whether a Data Protection Officer has been appointed, or if any related assessments have been completed;
- 6.3.6. Section 20 cites an outdated requirement to obtain a permit for transfers of personal data outside of the DIFC, rather than demonstrating understanding of current compliance requirements under Article 27.

Enforcement

7. Regarding the contraventions cited above, the following enforcement action shall apply:
- 7.1. In accordance with Article 59(9), the Commissioner issues a formal reprimand to Dalma for contravention of the Previous Lawful Processing Obligations.
- 7.2. In accordance with Article 59(8) and Article 59(9) respectively, the Commissioner issues:
- 7.2.1. a formal reprimand to Dalma for contravention of Article 33(16) regarding lack of information in its response about Complainant's right to lodge a complaint to the Commissioner or applying to the DIFC Courts; and
- 7.2.2. a formal warning to Dalma regarding the apparent partial implementation of appropriate technical and organizational measures to demonstrate that Processing is performed in accordance with the current Data Protection Law as required by Article 14(2), together with Directions pursuant to Section 6 above to rectify any outstanding non-compliance related to this contravention.

Review and Appeal

8. These Directions were issued on January 21, 2025, to Dalma together with a Preliminary Notice of Enforcement.
9. While Dalma provided feedback, it did not ask the Commissioner to review the Decision or Directions pursuant to Article 59(7) of the Data Protection Law, which states that: "Any affected party may ask the Commissioner to review the direction within fourteen (14) days of receiving a direction under this



part of the Law. The Commissioner may receive further submissions and amend or discontinue the direction.”

10. Dalma did not seek an appeal of this Decision or Directions of the Commissioner in accordance with Article 63 of the Data Protection Law, nor did Dalma seek judicial review by the DIFC Courts of: (i) the Decision of the Commissioner to issue the Directions; or (ii) the terms of the Directions in accordance with Article 59.
11. The Decision and Directions are therefore issued as final effective from the date of execution by the Commissioner. The Commissioner reserves the right to take supplementary enforcement action, including but not limited to monetary fines should Dalma fail to comply with these Directions.
12. The Court may make any orders that it may think just and appropriate in the circumstances, including remedies for damages or compensation, penalties and imposition of administrative fines and findings of fact or alternative findings of fact in relation to whether or not the Law has been contravened.

Signed by Jacques Visser
DIFC Commissioner of Data Protection

Date ____ February 17, 2025 (revised and reissued as final with Decision Notice) _____