

OFFICE OF THE INFORMATION COMMISSIONER

CANDIDATE INFORMATION

Background

The Information Commissioner and respectively the Office of the Information Commissioner (OIC) will be the Data Protection Authority (DPA) in Trinidad and Tobago, responsible for supervision in the area of personal data processing. The tasks, responsibilities, and powers of the OIC are defined by the Data Protection Act, 2011 (DP Act). Although it dates back to 2011, it has not fully entered into force as yet. Only Part One, Sections 1 to 6, and Part Two, Sections 7 to 18, 22, 23, 25(1), 26 and 28, and Part Three, Section 42(a) and (b) of the Act have been partially proclaimed by Legal Notice 2 of 2012 and by Legal Notice 220 of 2021.

The agencies responsible for Data Protection (Ministry of Public Administration and Artificial Intelligence and the Office of the Prime Minister – Communications Division) will work jointly to secure the initial resources needed by the Information Commissioner and Deputy Information Commissioners to enable the immediate performance of their duties, such as the office space and a functioning working environment.

The establishment of the OIC is likely to be a complex endeavour, the incumbent will need to show the ability to demonstrate a single-minded determination to deliver results in an environment of ambiguity.

**GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO JOB
DESCRIPTION**

General Information

Job Title:	Information Commissioner
Job Number:	To Be Confirmed
Organisation:	Office of the Information Commissioner
Reports to (Title):	Parliament of the Republic of Trinidad and Tobago
Effective Date:	To Be Confirmed

1. Organisational Context

The OIC is a body corporate which was established by Section 7 of the DP Act, Chap. 22:04. The Act makes provisions for the protection of the personal information of individuals and ensures that personal information in the custody or control of an organisation, whether public or private, shall not be disclosed or processed, except with the consent of the individual and where exemptions are clearly defined. The OIC is also governed by the Freedom of Information Act (FOI Act) Chap. 22:02, as well as over a dozen other Acts and Regulations related to the treatment and dissemination of information. The following are especially significant to the functioning of the Commission:

- Computer Misuse Act Chap. 11:17
- Exchequer and Audit (Electronic Funds Transfer) Regulations, 2015
- Finance Act, 2014
- Interception of Communication Act Chap.15:08
- The Telecommunication (Universal Service) Regulations, 2015
- Telecommunications Regulations (Accounting Separation), 2015

The Office of the Information Commissioner collaborates with counterparts in other Government Ministries and Agencies whose jurisdiction it is to promote the protection of personal privacy in the public and private sectors. The Information Commissioner is Head of the OIC upon appointment by the President and is required to take and subscribe to an oath of office. The holder of this office is appointed for a period of five (5) years and may be reappointed. Section 11 Chap. 22:04 makes provision for the appointment of no more than two (2) Deputy Information Commissioners who will also hold office for a period of five (5) years and may be reappointed. In the absence or incapacity of the Information Commissioner or where the post of the Commissioner is vacant, the Deputy Information Commissioner may act in his place until such time as an Information Commissioner is appointed. Persons may also be deputised to act on behalf of the Information Commissioner.

2. Reporting Relationships

The Information Commissioner, as head of the OIC, is solely accountable and required to report through the Minister of Communications to the Parliament of the Republic of Trinidad and Tobago by three (3) months following the end of the calendar year.

The Information Commissioner directly supervises these positions:

- Deputy Information Commissioners (2)
- Executive Director (1)

3. Position Purpose

The Information Commissioner holds overall accountability for the administration of the FOI Act, Chap. 22:02 and the DP Act, Chap. 22:04. As the appointed head of the OIC, the incumbent is required to devise systems and procedures to uphold the information rights and data privacy rights of individuals and enforce the compliance of public bodies within the scope of the applicable laws.

4. Dimensions

The annual operating budget for the Communications Division is an average of TT\$ 233Mn per year over the full review cycle including programmes administered by the OIC.

The Information Commissioner is the Accounting Officer for this Office and, as such, is ultimately responsible for all expenditure of funds.

This position also provides oversight and advice with respect to expenditure for the remuneration (including all benefits and allowances) of some 12 position holders.

5. Specific Accountabilities

1. Monitors all persons or public bodies that handle, store or process personal information belonging to another person, ensuring that personal information is only retained for as long as is necessary and not disclosed (for any other purpose than that for which it was collected) without the prior consent of the individual; in order to assure the compliance of persons or public bodies subject to the statutory requirements of the DP Act, Chap. 22:04 and the provisions of the FOI Act, Chap. 22:02.
2. Protects and extends the members of the public's general right of access to information which is in the possession of Public Authorities by ensuring that authorisations, policies, rules, practices and documentary forms of information (with limited exceptions) that affect members of the public in their dealings with these Authorities, are readily available to the public.

3. Audits and investigates whether all persons or public bodies that handle, store or process personal information belonging to another person adhere to the General Privacy Principles (Section 6 Chap. 22:04) to ensure compliance with the Act and to foster the development of a national culture that protects the privacy of individuals.
4. Provides strategic guidance, oversight and leadership for the effective stewardship of resources and assets of the Commission, including the development of an effective organisational structure and a focus on the appropriate human resource policies and practices to ensure the mandate of the OIC is achieved.
5. Reviews and considers privacy impact assessments submitted by public bodies in accordance with Section 47 Chap. 22:04 to ensure that these organisations have taken all reasonable steps to avoid any unnecessary intrusions into the personal privacy of members of the public.
6. Publishes guidelines including but not limited to the following: industry codes of conduct; procedures for the handling of complaints and complaint resolution; and procedures for information sharing agreements or data matching agreements, in order to increase the public awareness of their rights and responsibilities under the Acts and to promote adherence to good practice by persons or public bodies subject to the FOI Act, Chap. 22:02 and the DP Act, Chap.22:04.
7. Publish policy documents including but not limited to the following: a policy for compliance with the Act in accordance with the General Privacy Principles and policy for the security of information and information systems to promote adherence to good practice by persons or public bodies subject to DP Act, Chap. 22:04.
8. Conducts special studies and issue public reports on privacy issues, advises the government on proposed legislation or programs with privacy protection implications to safeguard the public interest.
9. Coordinates with counterparts in other jurisdictions to keep abreast of current standards relating to the protection of personal privacy and to build institutional capacity.

6. Knowledge, Experience and Skills

The work requires:

That the position holder be an Attorney at Law in good standing with the appropriate academic and professional training credentials, such as a Bachelor of Laws (LLB) and a Legal Education Certificate (LEC), Master of Laws LL.M including extensive studies and experience in commercial law, international law or public law,

Admission to practice law in Trinidad and Tobago in accordance with the Legal Profession Act of Trinidad and Tobago

Extensive (10 years) experience in the practice of Law,

Considerable training or experience in the fields of Economics, Finance, Auditing or Human Resource Management,

Extensive knowledge of the relevant Legislation and Financial Regulations, in particular the DP Act and the FOI Act; including their interpretation and application,

Extensive knowledge of the methods/techniques of design, development and successful implementation of information management systems and information security.

Extensive knowledge of the methods/ techniques, related to the monitoring and investigation of regulated entities, as well as research and data collection methodologies.

7. Other Working Relationships

As part of the responsibility for authorising data matching by all public bodies the Information Commissioner interacts frequently with many state agencies, departments, units and private organisations across the Republic of Trinidad and Tobago that collect, use and disseminate the personal information of citizens.

At least once annually, the Information Commissioner interacts through the Minister (with responsibility for Data Protection) with the Parliament of the Republic of Trinidad and Tobago to submit reports and other administrative documents on the operations of the unit and the administration of the Acts.

As required, the Information Commissioner interacts with officers of the Trinidad and Tobago law enforcement community, in particular the Police Service to report and take action regarding breaches of the FOI Act, Chap. 22:02 and the DP Act, Chap. 22:04. As required the incumbent meets with Government Archivist to collaborate on issues of records and information management as it pertains to the protection of personal information.

As required, the Information Commissioner interacts with other stakeholders within the wider civil society including Chambers of Commerce and Trinidad and Tobago Transparency Institute.

8. Key Issues and Challenges

A major challenge of this position involves administering to the broad outlines of the DP Act, Chap. 22:04. This is made particularly challenging by the absence of comprehensive codified policy or legislation for the management of records containing personal information especially in the public sector.

In the international context where information must cross jurisdictions, the Information Commissioner may face challenges related to assessing and ensuring that the regulated safeguards existing in other jurisdictions at least meet what pertains locally, thereby assuring comparable levels of personal privacy and information security and access to government information for citizens of Trinidad and Tobago.

9. Decision Making

Autonomously determines when to protect or disclose personal information in the best interest of the public in accordance with the relevant provisions and statutory requirements of the DP Act Chap. 22:02.

Autonomously determines if a person or public body is in compliance with the Act and meets standards imposed by the General Privacy Principles by relevant legislative guidelines.

Autonomously reviews and approves privacy impact assessments and studies.

Holds ultimate authority in determining strategic policy that directs the operations of the Office of the Information Commissioner.

Holds ultimate authority in determining codes of conduct for guidance as to good practice in accordance with DP Act, Chap. 22:04 and FOI Act, Chap. 22:02.

Holds ultimate authority in determining a procedural framework for implementing personal information protection policies in accordance with DP Act, Chap. 22:04 and FOI Act, Chap. 22:02.

10. Impact

Directly impacts at the organisational level as the incumbent bears ultimate responsibility for the creation of the structures and policies that guide the implementation and enforcement of the FOI Act, Chap. 22:02 and the DP Act, Chap. 22:04.

Enables the citizens of Trinidad and Tobago to access public information

Directly impacts at the national level, with reference to the ability of public bodies to utilise the private information of individuals in commercial transactions, as this position has the authority to grant or deny permission for such usage.

Indirectly impacts at the national level through the publishing of policy and guideline documents. This position can be seen as responsible for promotion of the development of a national culture that is cognisant of the proliferation of personal information online and seeks to protect the personal information of citizens.

Directly impacts at the international level as the Commissioner must partner with international counterparts to authorise and enable secure transfers of the personal information of citizens from the Republic of Trinidad and Tobago to other countries.

11. Working Environment and Conditions

The incumbent must be efficient at multitasking/ functioning with a divided focus and capable of handling an extremely large volume of work. It also necessitates the frequent application of reasoning skills, mediation and negotiation skills to complex problems. The work is performed in a dynamic high mental stress environment within stringent timelines. In the event of a data

breach, the incumbent must be able to manage a national crisis under tremendous pressure.