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Solutions to Business Problems

GDPR Nostalgia?

Baljit Sarpal

BCS Business Change SG

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GDPR enforced

- Between 2018 and 2019, the average number of fines issued per month increased by 260%
- Over 220 fines have been handed out for GDPR violations in the first ten months of 2020
- Still only 20% of US, UK, and EU companies are *fully* GDPR compliant

(source Tessian)

- Different supervisory authorities approach enforcement with varying degree of vigour
- The fines imposed have also differed by SA.

May 2018

GDPR enforced

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- **Ticketmaster: £1.25m** fine for failing to protect customer payment information
- **Cathay Pacific: £500k** fine for not securing personal data
- **Google (France): €50m fine** for not being transparent of data gathering and targeted advertisements
- **H&M (Germany): €35m fine** for unlawful monitoring of staff
- **Telecom Italia (Italy): €28m fine** for multiple unlawful actions relating to aggressive marketing
- **Wind (Italy): €17m fine** for unlawful marketing activity by the telecom company
- **Google (Sweden): €7m fine** for failure to implement right to be forgotten
- **AOK Health Insurance (Germany): €1.2m fine** for unlawful direct marketing and processing
- **Marriott International Inc.: £18.4m fine** for failing to secure millions of customers' personal data – original intent was to fine **£99m.**
- **BA : £20m** fine for failing to protect personal and financial information of 400,000 customers. Original intention was to issue fine of **£183m**

GDPR Change Initiatives

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- **Assessment of Business Processes**
  - What personal data is processed?
  - Who processes the data?
  - Where the data is processed?
  - How is the data stored?
  - How is the data secured?
- **Assessment of risk**
  - Risk for the individual
  - Risk to the organisation
- **Remediation Plan & Business Case**
  - Risk Appetite
  - Sector specifics
- **Implement Change**
  - Organisation
  - Training
  - SAR & Data Breach
  - Technology
- **Continuous Monitoring**
  - Incident Management
  - Risk Management
  - Change Management – new initiatives

Change is not singular!

We live in interesting times…….

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UK GDPR
Adequacy Status

International Transfers

EU GDPR

UK Data Protection Act 2018

Sensitive Personal Data
Monitoring
Test & Trace
Working from Home

Brexit

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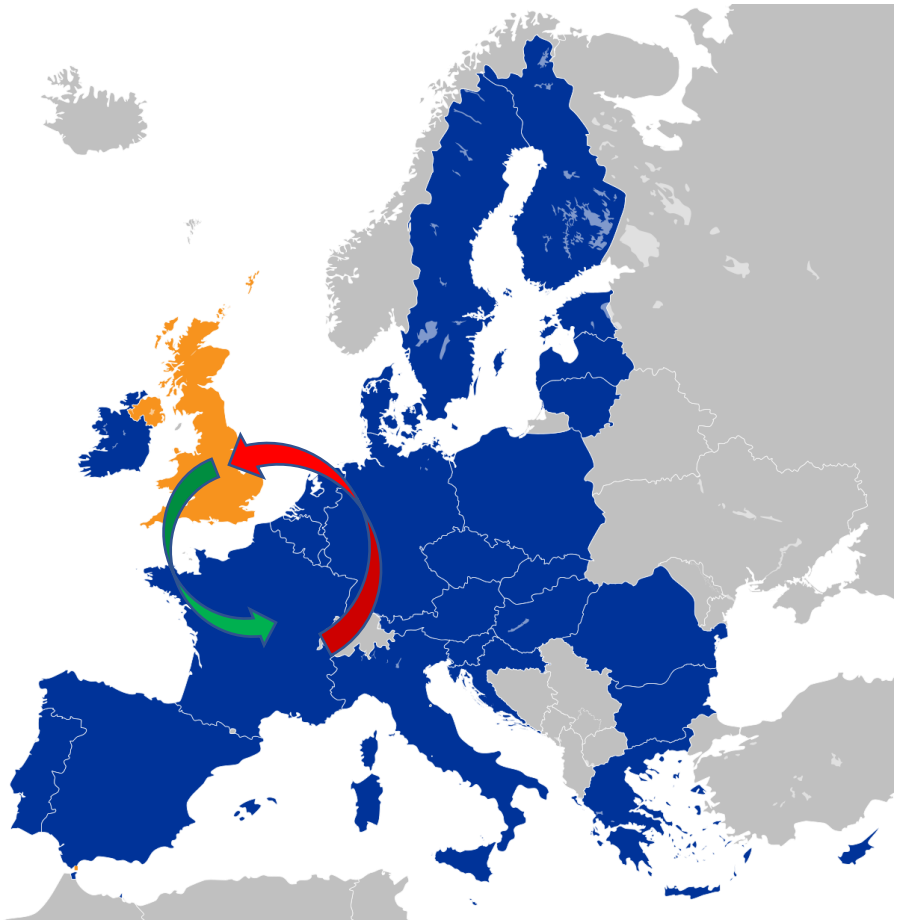
- UK will transpose GDPR as the UK GDPR on exit
- UK & EU will become "3rd countries" in the respective GDPR
- UK has already agreed to consider EU as being "adequate"
- EU has NOT yet designated UK as having an adequacy status
- Exports of personal data from an EU country to UK will no longer be unrestricted
- Exports of data only permitted with specific controls (BCR, SCC) or exceptions for occasional transfers.

- This will have impact on organisations using Cloud Services – e.g. AWS & Azure typically hosted in Ireland.



Schrems II

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- In July 2020 ECJ struck out Privacy Shield as not being a sufficient control on the export of personal data from the EU to US
- It ruled that other mechanisms such as BCRs and SCCs could be used
- **BUT** each transfer of data must be risk assessed based on the data being exported and laws of the 3rd country regarding the protection of the personal data within the jurisdiction.
- This effectively requires the organisation to undertake a Transfer Impact Assessment based on the types of data and the likelihood of government agencies seeking access to the data in the 3rd country.

- Will impact organisation who utilise Cloud Service Providers

- **Assess the risks**
- **Minimise the data exported**
- **Put in place technical and organisational and legal controls with the importer.**

Covid-19

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Workplace Monitoring

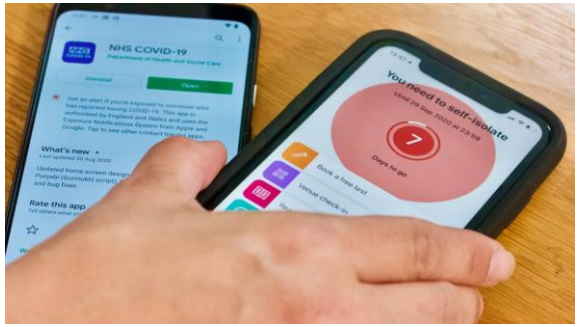
Prevent employees getting infected by others at work.

- What do you need to achieve?
  - What's the legal requirement to monitor individuals?
  - Do you actually need to record personal information for that purpose? Can it be done in an alternative way?

- **Minimisation Principle**

Test & Trace App

Control the spread of infection in the population.



Need high take-up to be effective

- Centralised vs Decentralised
  - **Centralised** – data is stored on central servers and matching done centrally manged by government/health bodies.
  - **Decentralised** – data is stored on individual's device, only the anonymised key of the other contacts is stored on the device. Matching done by individual's mobile device.

- **Minimisation Principle**

Summary

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- Data Privacy is not a one off activity - it has to be embedded into organisation's Change Management activities
- Need to be clear about what is the business objective - **Purpose Assessment & Purpose Limitation**
- What are the risks to the individual's rights and freedoms- **Risk Assessment**
- How can we achieve the business outcomes in the least impactful way - **Data Minimisation**
- How can we monitor - **Effective Controls**
- How do we achieve this cost effectively - **Privacy by Design**

Thank You!

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Questions?

baljit.sarpal@outlook.com

Tel: 07740098784

https://www.linkedin.com/in/baljit-sarpal-4b2b335/

Dr Baljit Sarpal

CIPP/E, CIPM

PRINCE2 Practitioner