39th International Conference of Data Protection and Privacy Commissioners

Closed session, 26 September 2017, Hong Kong

Report from ICDPPC Data Protection Metrics Working Group

Highlights
- ✓ Establishment of working group of 11 authorities
- ✓ First ever ICDPPC Census
- ✓ Useful projects identified and prioritised
- ✓ Research paper on DPA breach notification statistical practices
- ✓ Co-host Roundtable in Hong Kong with OECD
- ✓ Plans for 2018 include a 2nd Roundtable in Paris

The 38th Conference adopted the [Resolution on Developing New Metrics of Data Protection](#) encouraging the Conference to help to develop internationally comparable metrics in relation to data protection and privacy and to support the efforts of other international partners to make progress in this area.

The resolution is set out below at **attachment 1**.

Working Group established

The Executive Committee delegated to New Zealand the task of convening and leading a working group. A call for volunteers was released in February and a working group with participants from 11 member authorities was established in April. Unfortunately, the establishment of the working group was so late in the Conference's annual cycle that limited progress was able to be made. However, it was anticipated from the outset that this was a multi-year project and working group members have indicated their willingness to continue in 2018.

A list of working group members is set out below at **attachment 2**.

Possible projects identified

A 'long list' of 38 potential projects was developed that approached the topic from several angles:

- Medium long term (capacity building, practice improvement) vs. shorter term (actually producing some statistics).

- DPA community (i.e. members) vs. the Conference (i.e. WG, Secretariat, hosts etc.).

- Sourcing and processing of statistics vs. effective use and dissemination of results.

The list was structured to assist brainstorming by the working group. While the list was generally written in an abstract way ("share best practice") it did identify some bulleted concrete suggestions to promote discussion and illustrate potential deliverables (e.g. "develop an infographic").

Following a working group survey in May/June 2017 indicative priorities were identified.

The indicative priorities and the complete 'long list' are set out at **attachment 3**.

Initiation of developing a process for common questions in surveys

While the task of shortlisting and project planning was not completed during the year it was agreed that an early project would be the task mentioned in the resolution of developing a process for common questions in community attitude surveys.

A sub-group of the working group of Cote d'Ivoire, Greece, Latvia, NZ and UK was set up to scope the project on common core questions. The project, still in an initial phase, intended to start by surveying the landscape and to identify the most promising direction to take. It is intended that deliverables from this project would be available to feature at a second roundtable to be co-hosted with the OECD in October 2018.

ICDPPC Census 2017

An in-depth survey of all ICDPPC member authorities was identified by the ICDPPC Secretariat as potentially the most useful task to undertake at the outset of a new line of metrics work by the Conference. The lead in time for the task meant that it needed to be initiated well before the working group was established. Accordingly, what became known as 'ICDPPC Census 2017' was undertaken by the ICDPPC Secretariat rather than the working group. If it is run again, the Census will benefit for the existence of the working group to assist with survey design, etc.

A report on the results of the ICDPPC Census 2017 will be separately circulated. It includes an appendix fully describing the organisation, methodology and acknowledging those involved. Particularly significant was the assistance rendered by the OECD. The practical cooperation was a prime example of the partnership approach encouraged by the resolution.

The ICDPPC website includes a dedicated ICDPPC Census page.

Research paper on DPA statistical practices in relation to breach notification

A small project was undertaken to survey the statistical practices of selected authorities in relation to breach notification. This survey was undertaken with the cooperation of the members of the

working group and also the members of a kindred statistical working group convened by the Asia Pacific Privacy Authorities (APPA) Forum.

The report of the results is available on the ICDPPC website: Breach notification statistics survey report. The working group conveyor gave a presentation to an OECD expert workshop that drew upon this small project.

Roundtable in Hong Kong

The finale to the year's work is the Roundtable jointly organised by the ICDPPC Secretariat and OECD Secretariat that brings together streams of work being undertaken in OECD, ICDPPC and APPA and elsewhere. The objective is not only to share results of current work but also to seek to identify scope to drive an international metrics agenda for the benefit of all.

Details of the Roundtable, which will be held after the conclusion of the closed session, are set out in **attachment 4**.

Plans for 2018

The working group will continue its work in 2018. New Zealand has agreed to continue as convenor of the group and existing members have agreed to stay on. Additional authorities are welcome to volunteer to join the working group.

Consideration is to be given to the possibility of holding a 2nd Roundtable in conjunction with the OECD in Paris prior to the 40th Conference in Brussels in October 2018. The focus of this event would likely include public attitude surveys and so dovetail with the working group's planned work on developing processes for common core questions in such surveys.

On behalf of the working group

Blair Stewart
Convenor, ICDPPC Data Protection Metrics Working Group

Attachment 1: Resolution adopted in 2016 at 38th Conference

Resolution on developing new metrics of data protection regulation

The 38th International Conference of Data Protection and Privacy Commissioners:

Noting that:

    (a)   In 2013, the Organisation of Economic Cooperation and Development observed that "the evidence base which is currently available in the area of privacy is uneven"[1]:

    (b)   Building upon this insight, the OECD recommended that countries should "encourage the development of internationally comparable metrics to inform the policy making process related to privacy and the transborder flows of personal data"[2]:

    (c)   In 2016 OECD Ministers declared an intent, in close co-operation with all stakeholders, to share experiences and work collaboratively "to contribute to developing new metrics for the digital economy, such as on trust, skills and global data flows"[3]:

    (d)   The ability to measure is often seen as a precondition to effective management and improvement:

    (e)   The Conference's mission "to disseminate knowledge, and provide practical assistance, to help authorities more effectively to perform their mandates" will be advanced by closing the gaps in the available measures of data protection and privacy regulation:

Therefore resolves to:

1. Play a part in helping to develop internationally comparable metrics in relation to data protection and privacy and to support the efforts of other international partners to make progress in this area:

2. Direct the Executive Committee to identify ways in which the Conference can encourage the development of internationally comparable metrics:

3. As a first step, the Executive Committee is authorised to establish processes to:

    a. encourage member authorities to include certain common core questions in their regular community attitude surveys touching upon for example awareness levels of DPAs and applicable privacy and data protection law;

    b. Centrally receive the results, make them available and calculate benchmarks;

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[1] OECD, Supplementary Explanatory Memorandum to the Revised OECD Guidelines (2013).
[2] OECD Guidelines governing the Protection of Privacy and Transborder Flows of Personal Data (2013), article 22.
[3] OECD Ministerial Declaration on the Digital Economy ("the Cancun Declaration"), June 2016.

4. Authorise the Executive Committee to convene working groups to assist with the task if necessary.

EXPLANATORY NOTE

Modern public policy making seeks to adopt a rational scientific approach wherever possible. One aspect is the attempt to measure things. Measurement is seen as useful to understand the existing situation, how it has changed from the past and to predict how it may change in the future. Measurement is also useful in problem definition and in evaluating the effects of public policy interventions.

For example, it might be useful to be able to quantify aspects of the state of privacy in the past, to compare that to the present and to measure the significance of various changes or trends with some authority. Ideally, the effect of data protection laws could be evaluated or the success of various interventions, such as breach notification, could be measured.

The OECD has a particular interest in both privacy regulation and economic measurement. It found substantial gaps in the statistical information available on which to base privacy and data protection policy making. The OECD encourages the development of internationally comparable metrics to inform the policy making process related to privacy.

Data protection authorities are likely to be key beneficiaries of any internationally comparable metrics that might be developed. DPAs might also likely be sources of data that could help develop such metrics. The Conference brings together more than 110 member authorities from around the world and thus sees a special value in development of useful privacy metrics.

This resolution reflects the importance of this topic and acknowledges the OECD's intention to provide leadership in this area. The OECD undoubtedly has a depth of statistical expertise. The Conference stands ready to play a part in helping to develop internationally comparable metrics in relation to data protection and privacy.

As a small first step the resolution proposes to create a Conference process to encourage member authorities to include certain common core questions in their regular community attitude surveys. This idea is based upon the success of coordination of survey questions across a range of jurisdictions in the development of revised EU data protection law (through a special "Eurobarometer" survey[4]). The Asia Pacific Privacy Authorities (APPA) Forum has also recommended the adoption of Common Core Questions for Community attitude surveys and this has been used as a model for this aspect of the resolution.[5]

The development of internationally comparable privacy questions in community attitude surveys is offered as a simple starting point for a meaningful contribution by the Conference to the challenge of developing useful and internationally comparable privacy metrics. In future DPAs may want to turn their attention to other challenging areas in the administrative data they already hold such as in the areas of complaints, enquiries, policy advice and enforcement and seek to derive useful international metrics.

The resolution proposes that the Executive Committee undertake some preliminary work to identify promising avenues to pursue. If need be a working group may be established to assist.

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[4] Special Eurobarometer 431, Data protection:
http://ec.europa.eu/public_opinion/archives/eb_special_439_420_en.htm#431.
[5] APPA Forum, Statement of Common Administrative Practice on Recommended Common Core Questions for Community attitude surveys, June 2014: http://www.appaforum.org/resources/common_practice.html#surveys

Attachment 2: Working group participants

Convenor: Blair Stewart, New Zealand

Participant	Authority
Arun Bauri	Office of the Privacy Commissioner of Canada
Assoua Cauffi Silvere	Direction de la Protection des Données Personnelles, Côte d'Ivoire
Edrin Fidhe, Fatjon Dautai	Information and Data Protection Commissioner (IDP) Albania
Guilherme Roschke	Federal Trade Commission, USA
Ivy Grace Villasoto	National Privacy Commission, Philippines
Katrina Berzina-Petrova	Data State Inspectorate of Latvia
Laurent Lim	EDPS - EU
Renee Barrette	Information and Privacy Commissioner of Ontario
Robert Parker	Information Commissioner's Office, UK
Vanya Vida	Office of the Privacy Commissioner New Zealand
Vasilis Zorkadis	Data Protection Authority, Greece
Warrda Khadun	Data Protection Commission, Mauritius

Attachment 3 – Potential working group projects – Complete list and possible prioritisation

Higher priority Possible WG projects in 2018	Medium priority Possible WG projects beyond 2018	Low priority Not a priority for WG
• Projects that directly implement resolution • Projects that build on previous ICDPPC work • Projects that identify gaps in available internationally comparable metrics • Projects that fill gaps in available internationally comparable metrics • Projects that support the efforts of other international partners • Projects that seek to increase the capacity of DPA community • Projects that seek to improve DPA analysis and use of statistics • Projects that focus upon the presentation and communication of statistical information	• Projects that build upon existing data sources • Projects that seek to improve DPA collection and classification practices • Projects that seek to improve DPA sharing of statistics and source data • Projects that seek to improve DPA sharing of statistics and source data • Projects that combine sources of statistics into something new and useful	• Projects that seek to increase the capacity of the working group • Projects that focus upon the Conference's role as a collector or publisher of statistics

The full 'long list':

Long list of possible projects for ICDPPC Data Protection Metrics Working Group		
Projects that directly implement resolution	Projects that build on previous ICDPPC work	Projects that *identify* gaps in available internationally comparable metrics

1. Design processes to enable common core questions to be included DPA community attitude surveys
  • E.g. informal, WG, newsletter
  • E.g. formal, ExCo, resolution
2. Identify recommended core questions
  • E.g. by comparing earlier DPA surveys
  • E.g. by building on others' standards (APPA common position)
  • E.g. using Eurobarometer
3. Implement system and calculate benchmarks
	4. Design ways of measuring impact of ICDPPC resolutions
	5. Design a 2nd ICDPPC Census
	  • N.b. 1st census designed by Secretariat after consultation with research community is now in a production phase
		6. Create list of desirable privacy metrics in defined areas (n.b. the 'defined area' caveat is to keep the task focused and manageable
		  • e.g. breach notification (n.b. this is a topic OECD is focusing upon)
		  • e.g. cross-border enforcement
		  • e.g. domestic complaints
		  • e.g. public attitudes
		7. Undertake stocktake of available privacy metrics in defined areas
		8. Identify gaps in available metrics in defined areas

Projects that *fill* gaps in available internationally comparable metrics	Projects that support the efforts of other international partners	Projects that seek to increase the capacity of the working group

9. Identify ways of filling gaps that have been identified
10. Attempt to fill those gaps
	11. Identify partners also seeking to develop internationally comparable privacy metrics (n.b. partners already identified include APPA and OECD
	12. Develop strategies and tools for supporting those efforts
	  • e.g. complementary or reinforcing projects, joint projects, funding-delivery arrangements, joint events, shared platforms
		13. Sharing expertise amongst the group
		  • E.g. teleconferences
		  • E.g. circulating resources
		  • E.g. newsletter
		14. Introducing group to external expertise
		  • E.g. webinar
		15. Adding expertise to the group
		16. Work with partners to address gaps

Projects that seek to increase the capacity of DPA community	Projects that build upon existing data sources	Projects that seek to improve DPA collection and classification practices
17. Share best practices • E.g. a metrics newsletter or	20. Deeper analysis of census 21. Focus upon making data sets available	22. Review selected existing DPA practices

regular item in ICDPPC newsletter
18. Develop and disseminate new resources
19. Expert presentations
    • e.g. conference panel at annual conference
    • e.g. ongoing opportunities such as series of teleconferences or web casts or podcasts
	for analysis
	    • e.g. policy work on open data, proactive release
	    • e.g. promote best practice amongst DPAs to build openness into their practices
		23. Formulate best practices
		24. Develop data glossaries and recommended classification practices
		25. Promote better practices

Projects that seek to improve DPA analysis and use of statistics	**Projects that seek to improve DPA sharing of statistics and source data**	**Projects that focus upon the presentation and communication of statistical information**

26. Review selected existing DPA practices
27. Formulate best practices
28. Promote better practices
	29. Review current practice
	30. Formulate best practices
	31. Promote better practices
		32. Identify examples of good practices and promote them
		    • E.g. through ICDPPC newsletter
		    • E.g. by an awards programme
		    • E.g. by resolution or standards or benchmarks
		33. Develop useful tools and templates
		    • E.g. a specimen 'dashboard' for use by DPAs in reporting performance

Projects that focus upon the Conference's role as a collector or publisher of statistics	**Projects that combine sources of statistics into something new and useful**	**Projects that …**

34. Review and document current practices
35. Identify areas where new or better practices are desirable (e.g. to assist hosts to run better events)
36. Creatively publish more ICDPPC statistics
    • E.g. a Conference infographic
	37. Develop a methodology to combine statistics to create a global index or indices
	    • E.g. the global state of data protection and privacy law
	    • E.g. the performance of DPAs
	38. Produce, maintain and publicise the indices
		39. …

Attachment 4: Roundtable details

❖❖ Roundtable ❖❖
"Towards an International Metrics Agenda for Privacy-Policy Making"
Joint event co-hosted by ICDPPC, APPA and OECD

A 90 minute roundtable organised by the ICDPPC Secretariat and OECD Secretariat will be held on 27 September 2017 alongside the 39th International Conference of Data Protection and Privacy Commissioners to examine the scope and objectives of a joint international privacy metrics agenda.

Date and time: 3.30 – 5.00pm, 27 September 2017

Venue: Camomile Room (Lower Level II), Kowloon Shangri-La, Hong Kong, 64 Mody Road, Tsim Sha Tsui East, Kowloon, Hong Kong

Focus: The meeting will report on current efforts to understand and improve the availability of internationally comparable metrics for privacy policy making and promote a discussion on options for advancing a joint privacy metrics agenda. The meeting will include presentations in relation to ongoing international projects. There will be an opportunity for an open discussion on how best to take this work forward and, in particular, how to make the most of opportunities for collaboration between international bodies engaged with the issues.

Registration: The meeting is open to anyone interested in the subject but space is limited. Priority for available space will be given to people who have registered to attend. To register, please email Linda.Williams@privacy.org.nz.

ICDPPC Census 2017: The results of the ICDPPC will be tabled earlier in the day during the Commissioners' closed session and will be released publicly for the first time at the Roundtable. The

ICDPPC Census, run for first time this year, will provide the most comprehensive survey of privacy and data protection authorities yet undertaken.

Moderator and presenters

The Roundtable will be moderated by **Jennifer Stoddart**, former Privacy Commissioner of Canada (2003-13), host of 29th ICDPPC (Montreal, 2007) and Chair of several OECD experts groups on privacy.

Elettra Ronchi PhD, Head of Unit- Senior Policy Analyst, Digital Economy & Policy Division, Organisation for Economic Cooperation and Development, will speak on OECD's current work on improving the evidence base for security and privacy policy making in relation to the OECD's digital measurement activities and more specifically on promoting comparability in data breach notification reporting.

Blair Stewart, Assistant Privacy Commissioner, New Zealand, and ICDPPC Secretariat 2014-17, will speak about efforts to give effect to the International Conference's Resolution on developing new metrics of data protection regulation and on a new initiative in 2017, the ICDPPC Census.

Michael McEvoy, Deputy Information and Privacy Commissioner, British Columbia, and APPA Secretariat and Chair APPA Governance Committee, will speak on APPA's most recent work in comparative privacy statistics resulting in the establishment of regional benchmarks for privacy awareness.
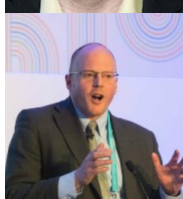
Steve Wood, Deputy Commissioner (Policy) at the Information Commissioner's Office, United Kingdom, will focus upon the benefits and challenges of developing sustainable and useful region-wide metrics by focusing upon the case of developing data breach statistics in the context of the roll-out of the European Union's General Data Protection Regulation.

After the scene setting presentations there will be an open discussion on internationally comparable metrics for privacy policy making. Invitations have been extended to several individuals to bring additional perspectives from other international organisations and networks but the all participants will be welcome to contribute to the discussion.