Christopher Docksey
Hon. Director General, EDPS
Guernsey Data Protection Authority
The ICDPPC and Accountability

Madrid Resolution on International Standards for the Protection of Privacy
6 November 2009, Article 11

The responsible person shall:

• Take all the necessary measures to observe the principles and obligations set out in this Document ..., and
• Have the necessary internal mechanisms in place for demonstrating such observance both to data subjects and to the supervisory authorities
The Meaning of Accountability

Rechenschaftspflicht – rozliczalność - responsabilité

la responsabilidad proactiva y demostrada

Actively developing compliance and being able to demonstrate compliance

“A rose by any other name would smell as sweet”
Accountability across the world

Based on diagram by Maastricht University


- Guidelines on the Protection of Privacy and Transborder Flows of Personal Data
- APEC Privacy Framework
- Global Accountability Dialogue
- Mexico: Law 2010, Regulations 2011
- The Madrid Resolution
- PIPEDA Schedule 14.1 Principle 1: Accountability
- OECD Revised Guidelines
- Colombia: Guide for the Implementation of Accountability in Organisations
- Australia: Privacy Management Framework
- Singapore PDPC
- Philippines Privacy Accountability and Compliance Framework
- Canada: Getting Accountability Right With a Privacy Management Program
- WP29 Opinion 3/2010 on Accountability
- EU: General Data Protection Regulation
- Guernsey: Data Protection Law
- Convention 108+
- Brazil: General Data Protection Law
- Hong Kong: Privacy Management Program Best Practice Guide
- Colombia: Law 2010, Regulations 2011
- OECD Revised Guidelines

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41st International Conference of Data Protection and Privacy Commissioners

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Accountability as the solution

- Accountability is a global standard
- Both law and guidance are required
- GPEN 2018 Data Sweep
- IAPP / EY 2018 Report
- The solution, not the problem
Accountability as a toolbox

- Privacy by design and privacy by default
- Records of processing activities
- Security measures and data breach notification procedures
- DPO – privacy officer
- DPIA – privacy impact assessment
- Codes of conduct
- Certification
The “Aha!” Moment

A philosophy of being a responsible and ethical steward of personal information
Accountability in action

“the first among the principles because it is the means by which organisations are expected to give life to the rest”.

- Organisational commitment
- Privacy Management Program
- DPO – privacy officer
- Transparency – to individuals, regulators and the public
Why accountability: advantages for regulators

- Satisfies due diligence, enables prioritisation
- Minimises over-reporting
- Provides a bridge between jurisdictions
- Means leadership, support and guidance, in addition to enforcement
Why accountability: advantages for organisations

- Preparation for the known unknowns
- Ready for the regulator
- Reputation and competitive advantage
- Methodology for dealing with AI
Accountability when things go wrong

“Whatever can go wrong will go wrong”

• Fail to plan, plan to fail
• Fines support accountability
• Enforced accountability
• Damage to reputation, damage to business

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Accountability and the courts

• “Privacy has a cost” – US Supreme Court
• “Privacy is the constitutional core of human dignity” – Indian Supreme Court
• “Effective and complete protection” - CJEU
• by way of “high levels of accountability” in view of the “central theme” of accountability
Conclusions

- Accountability is world-wide
- “Crucial, crucial” for data protection
- Proactive and demonstrable responsibility woven into the cultural and business fabric of organisations
- Regulators must explain and enforce
- Leads to the flowering of Accountability 2.0
“Not everything that is legally compliant and technically feasible is morally sustainable”

- Giovanni Buttarelli
1957 - 2019