

New Thai PDPA - The Next Steps

3 July, 2020



Kevin Shepherdson

CEO Straits Interactive

*FIP, CIPP/E, CIPP/A, CIPM, CIPT,
GRPC, Certified DPO (Exin)*

Prapanpong Khumon

**Vice Dean, School of Law, University of the Thai
Chamber of Commerce**

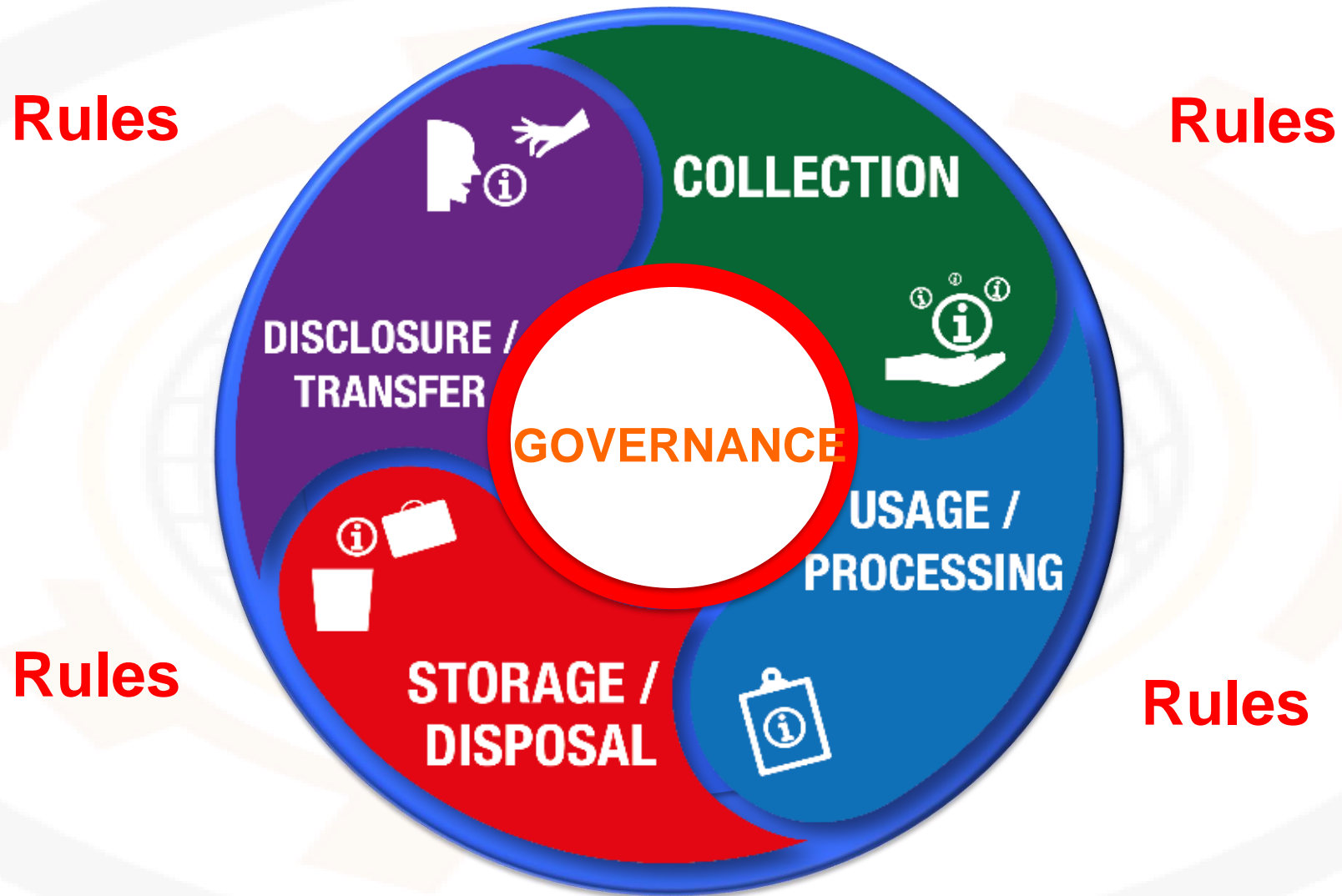
Advisor to the Sec Gen of Thai PDPC

AGENDA

- **Regional Overview**
- **Update on the Thai PDPA – Implications of Delay**
- **What organisations must specifically do to comply**
- **How to comply from an operational perspective**

REGIONAL OVERVIEW

Data Protection Law



Impact of Data Protection Laws

- 5 ASEAN countries (468mil population)
- India & China (2.7B population)
- Alignment with EU General Data Protection Regulation

New Data Protection Laws or amendments in the region



India
DP Bill
(end 2020)



China
Draft Law
(end 2020)



Philippines
DPA
(2012)



Thailand
PDPA
(2020 May)
(Enforcement postponed 2021)



Indonesia
PDP Bill
(end 2020*)



Malaysia
PDPA
(2010)



Singapore
PDPA
(2010)



Upcoming amendments

New and upcoming laws / regulations using GDPR as a baseline



General Data Protection Regulation (GDPR) in EU

New Upcoming Laws/Rules



Indonesia PDP Bill



Thailand PDPA (2019)



India PDP Bill



Sri Lanka PDP Bill



China PI Security Specs

WORLD ECONOMIC FORUM
Agenda Platforms Reports Events About
Regional Agenda China Digital Economy and Society Digital Identity

China is waking up to data protection and privacy. Here's why that matters

Chinese consumers are increasingly standing up for their privacy – and regulators are taking notice

12 Nov 2019
Winston Ma Wenyuan
Adjunct Professor, New York University

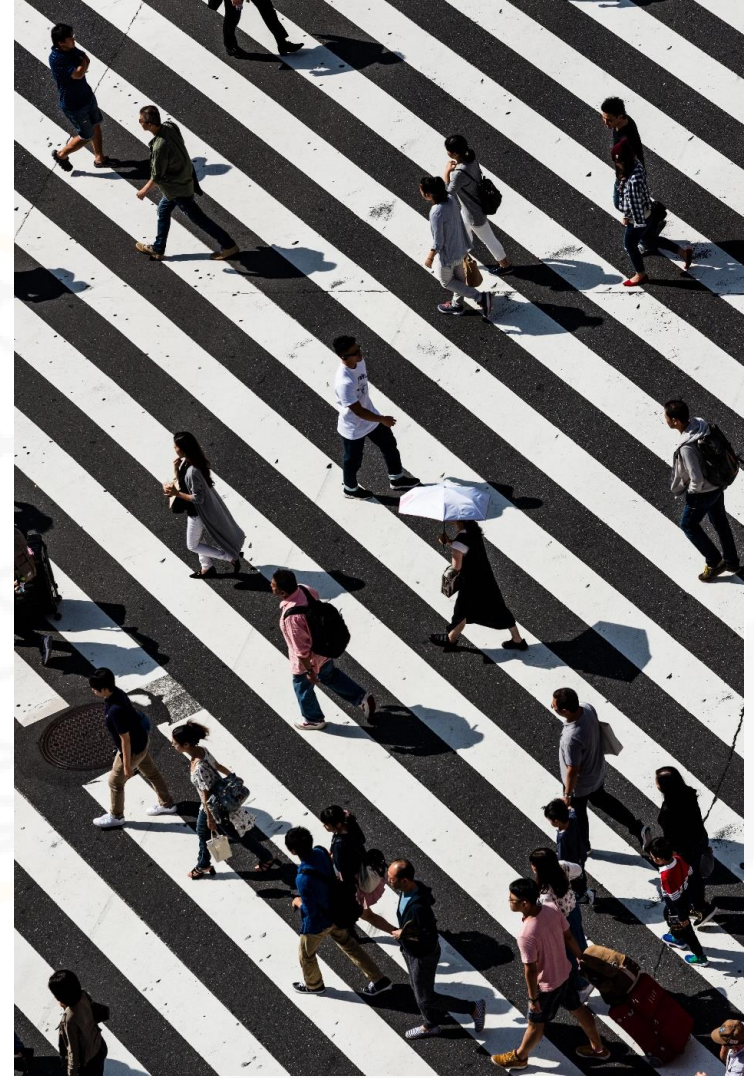
In September 2019, China had its own version of the FaceApp privacy storm. Using artificial intelligence and machine-learning techniques, the Zao app allowed users to swap faces with celebrities in movies or TV shows. It went viral as a tool for creating deepfakes, but concerns soon arose as people noticed that Zao's user agreement gave the app the global rights to use any image or video created on the platform for free.

<https://www.natlawreview.com> › india-shakes-international-data-market
Jul 13, 2019 - After decades of free reign to gather and use personal data the se internet using population may be imposing data privacy rules.

Update on the Thai PDPA – Implications of Delay

AGENDA:

1. What does the PDPA's effective date extension entail?
2. Practical implications of the extension of PDPA effective date



1. What does the PDPA's effective date extension entail?

Rationale: Organizations have faced difficulties to comply with PDPA and suffered operation challenges in times of COVID-19 crisis. This prompts the government to launch a law that gives effect to an extension of the PDPA effective date.

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PDPA New Time Frame

**PDPA enacted
27 May 2019**

What is enforced now?

From 27 May 2020

PDPA is effective on:

Chapter 1 (Personal Data Protection
Committee: PDPC)

Chapter 4 (Office of PDPC)

Transitional provisions (except section 95)

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PDPC approved by cabinet in May 2020

Setting up PDPC and office

To be ready by 27 May 2021
(with possibility of one year grace period)

Launching sub-legislations prescribed by PDPC

MDES is working on announcing it soon

While being exempted from PDPA obligations until 1 June 2021, MDES will prescribe **security standard** to protect personal data for organizations to follow.

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What will be enforced on 1 June 2021?

From 1 June 2021

PDPA is effective on:

Chapter 2 (personal data protection)

Chapter 3 (rights of the data subject)

Chapter 5 (complaint handling)

Chapter 6 (civil liability)

Chapter 7 (penalties including criminal liability
and administrative liability)

section 95 (duty to publicize a consent
withdrawal method to data subjects)

**Material protection provisions
extended until 1 June 2021**

1. What does the PDPA's effective date extension entail?

The 2020 Royal Decree Prescribing an Entity and Business in which the Data Controller is Exempted from the Personal Data Protection Act B.E. 2562 list 22 sectors where “data controllers” are exempted from PDPA until 1 June 2021

- (1) Government Agency;
- (2) Government Agency of the Foreign State and International Organization;
- (3) Foundation, Association, Religious Organization and Non-profits Organization;
- (4) Agricultural Business;
- (5) Industrial Business;
- (6) Commercial Business;
- (7) Medical and Public Health Business;
- (8) Power, Steam, Water, and Waste Management Business, including related businesses thereof;
- (9) Construction Business;
- (10) Repairing and Maintenance Business;
- (11) Transportation, Logistics and Goods Storage Business;
- (12) Tourism Business;
- (13) Communication, Telecommunication, Computer and Digital Business;
- (14) Finance, Banking and Insurance Business;
- (15) Immoveable Property Business;
- (16) Professional Business;
- (17) Administration and Supporting Service Business;
- (18) Science and Technology, Academic, Social Welfare and Arts Business;
- (19) Educational Business;
- (20) Entertainment and Recreation Business;
- (21) Security Service Business; and
- (22) Household Business and Community Enterprise in which its activity could not be explicitly classified.

The list of sectors is derived from the Thailand Standard Industrial Classification (TSIC 2009), where sub-sectors are explained in the document.

In case of query, PDPC has power to determine whether a particular business falls within the list.

MDES to prescribe **security standard** to protect personal data for organizations to comply while being exempted from PDPA obligations, the standard is likely to consist of:

- Floor standards that can apply to both small and big organizations (e.g. access control/management)
- Recognize data security standards already imposed by sector-specific regulators

Transitioning from MDES to PDPC

- MDES is only a provisional regulator until the Office of PDPC is formed (27 May 2021 the latest)

Sub-legislations (PDPC's rules) that give clarifications to PDPA obligations

- PDPC office is working on prioritizing sets of rules to launch
- First priority is likely to be on minimum data security measures/ data breach notifications/ relaxed rules for SMEs/ requirements on DPOs and DPO qualifications/ cross-border data transfer rules

For regulator

Getting resources to function:

- Budget
- Workforce
- Trainings and knowledge to workforce in the PDPC office

Provide clarity to the regulatees

- Outreach to people and organizations (but now with budget constraints)

For regulatees

More time for **preparation on PDPA compliance**

Bear in mind that PDPA implies the need for **data protection risk assessment**

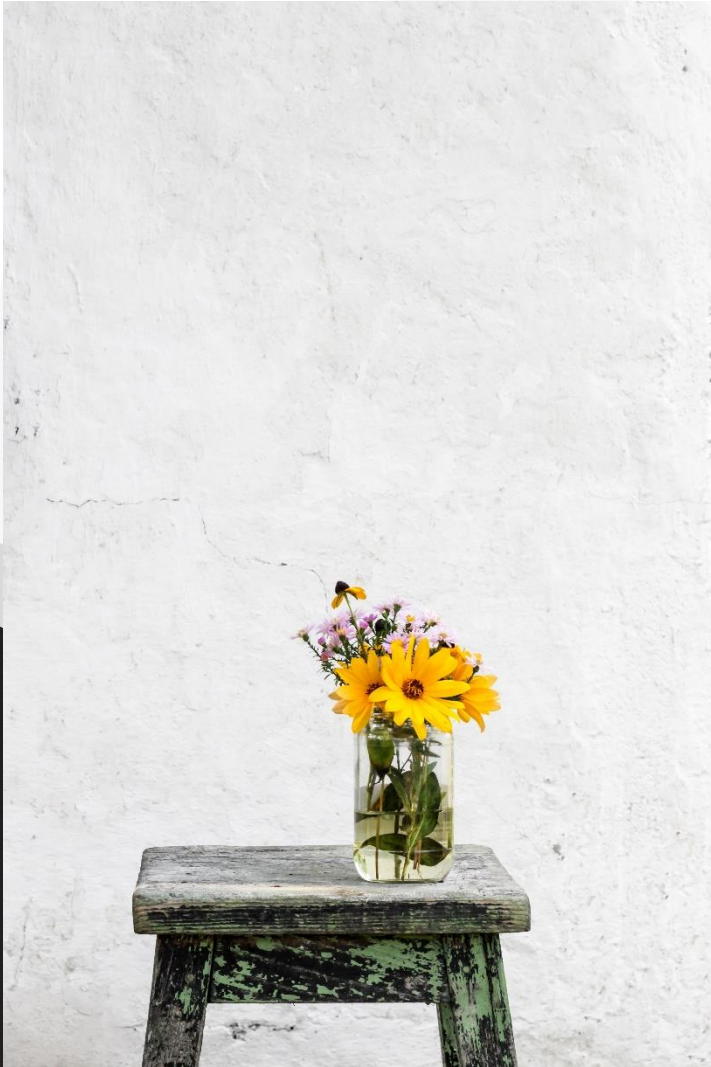
- It is implied (e.g. section 37(4)) where a risk needs to be assessed in order to identify whether an obligation needs to notify PDPC, or notify the data subject (if the data breach results in high risk).
- Even though the Thai PDPA is based on GDPR, it is not explicit like art. 35 GDPR which requires Data Protection Impact Assessment (DPIA) in high-risk processing activities.

Thank you

Prapanpong Khumon

Vice Dean (academic affairs), School of
Law, University of the Thai Chamber of
Commerce

prapanpong_khu@utcc.ac.th



Q&A



**What specifically should
organisations do to prepare for
PDPA compliance?**

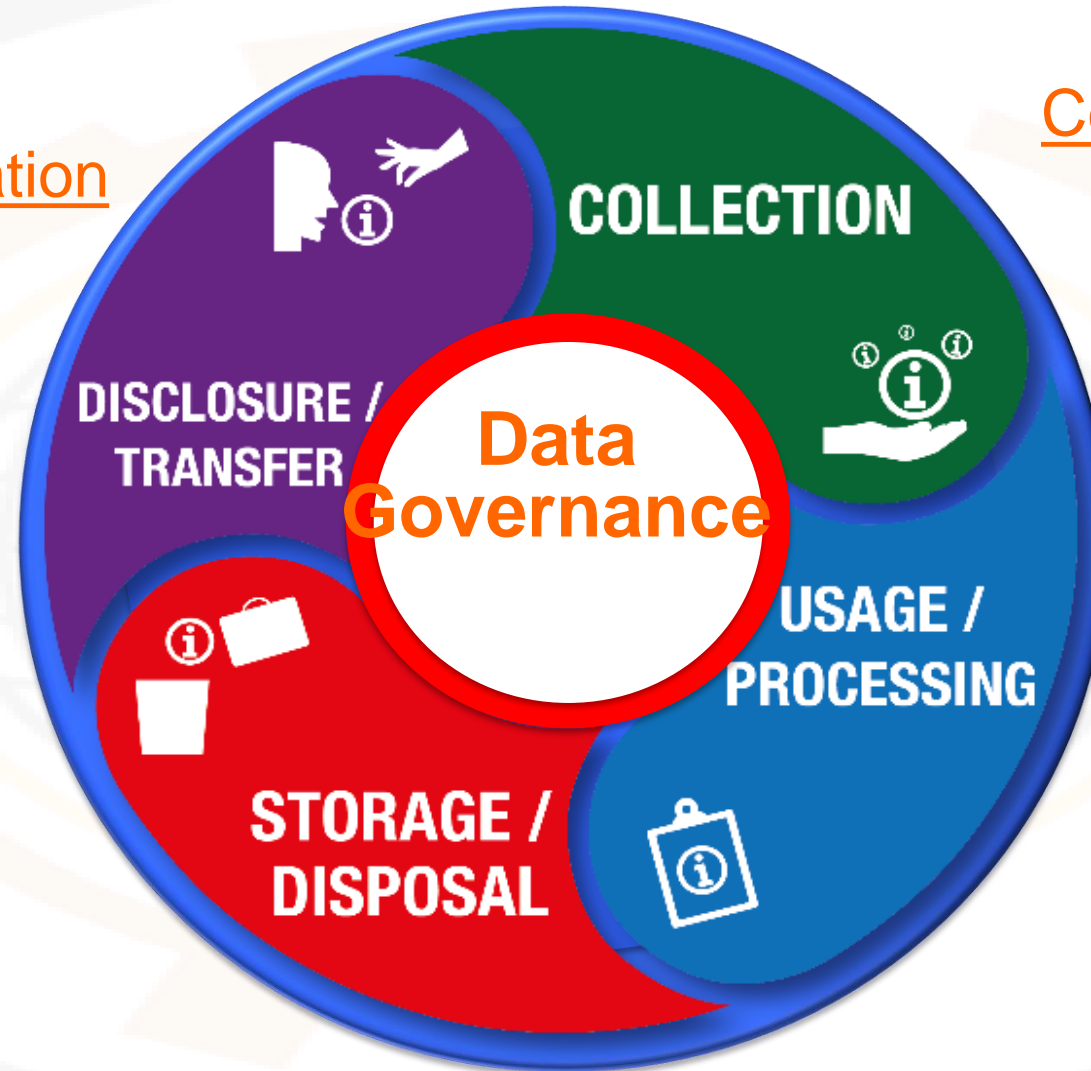
Information Life-Cycle

Collection, Use, Disclosure & Storage (CUDS)

Disclosure =
Outside Organisation

Transfer =
Outside County

Right to
access data



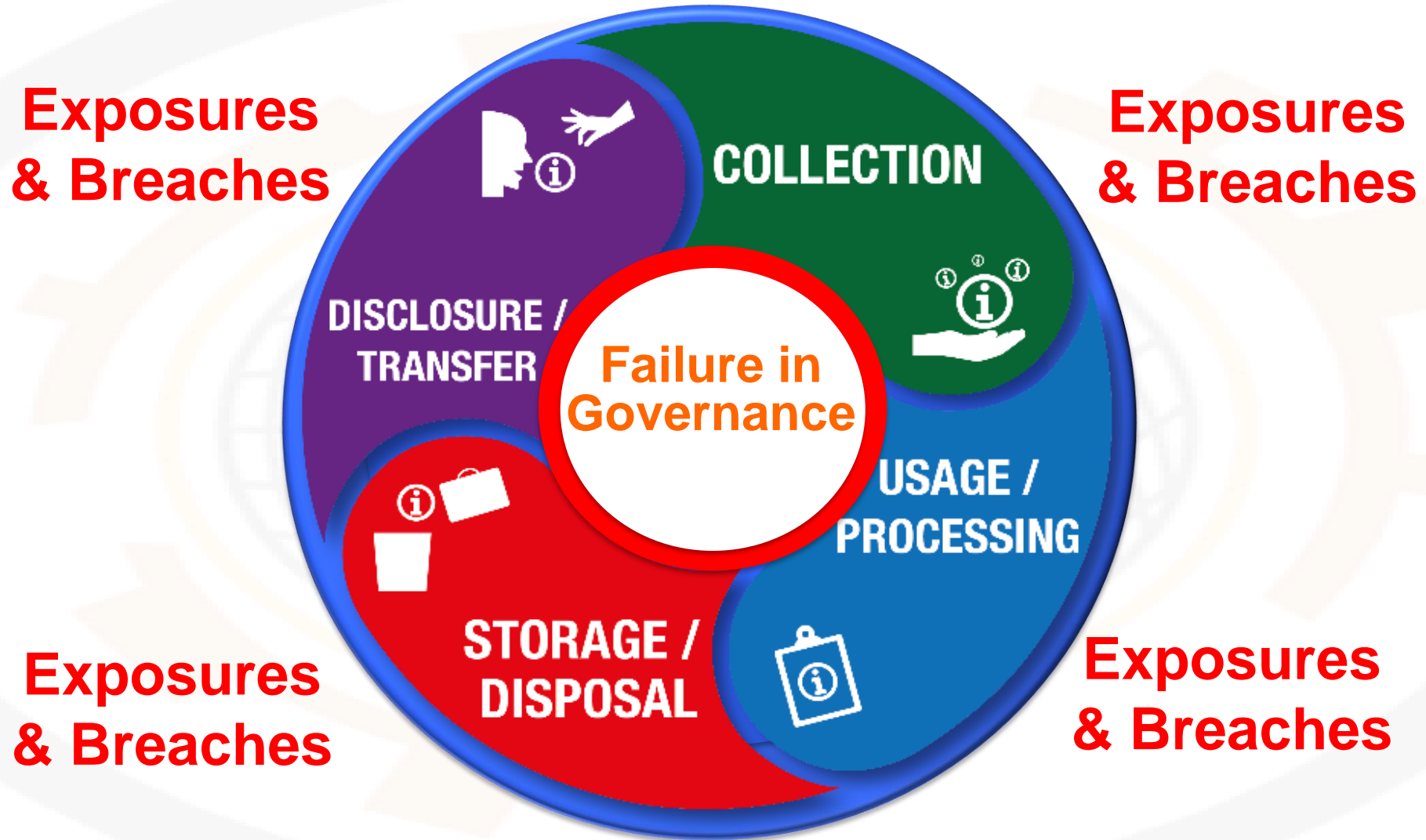
Collection Points

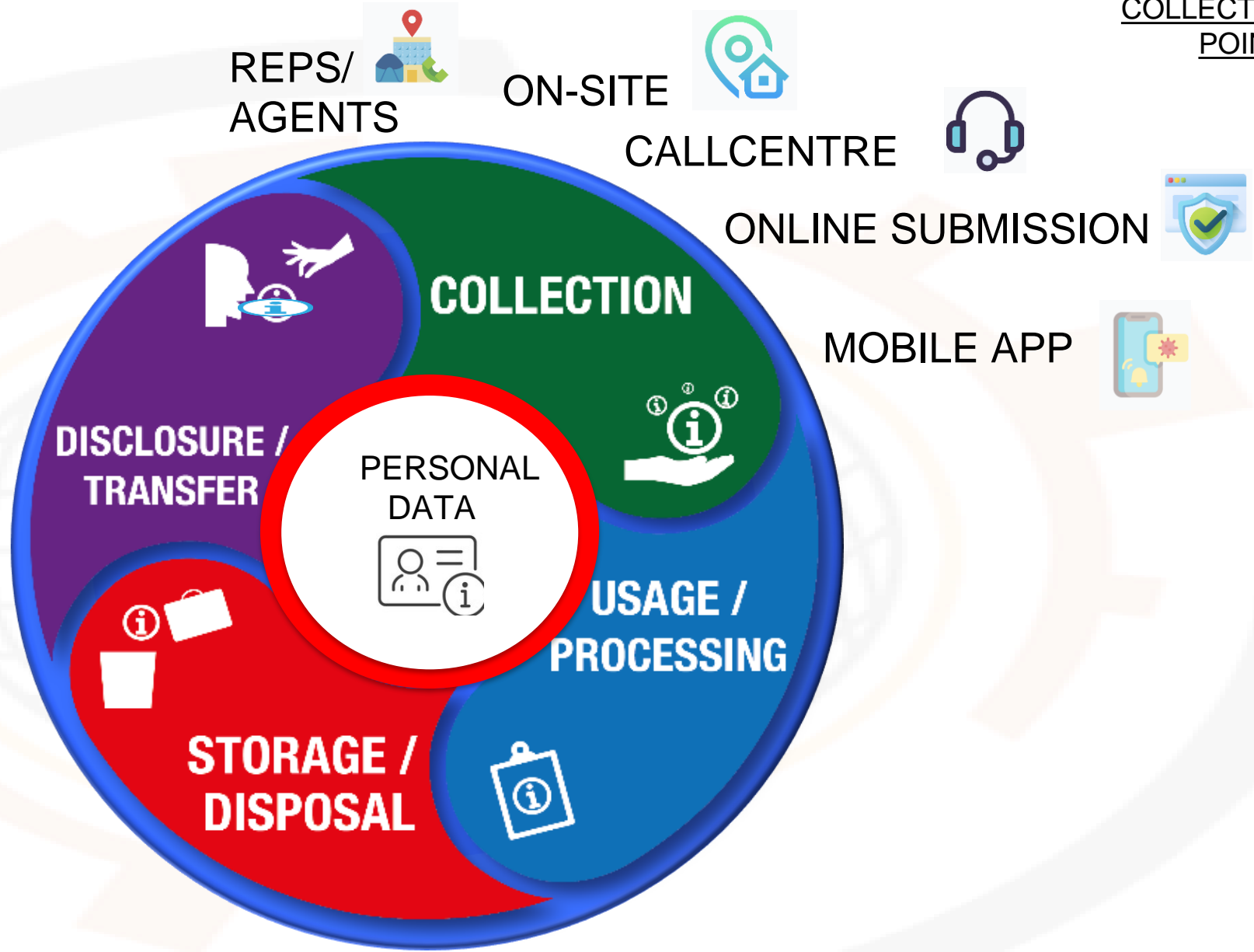
Use of data
after collection

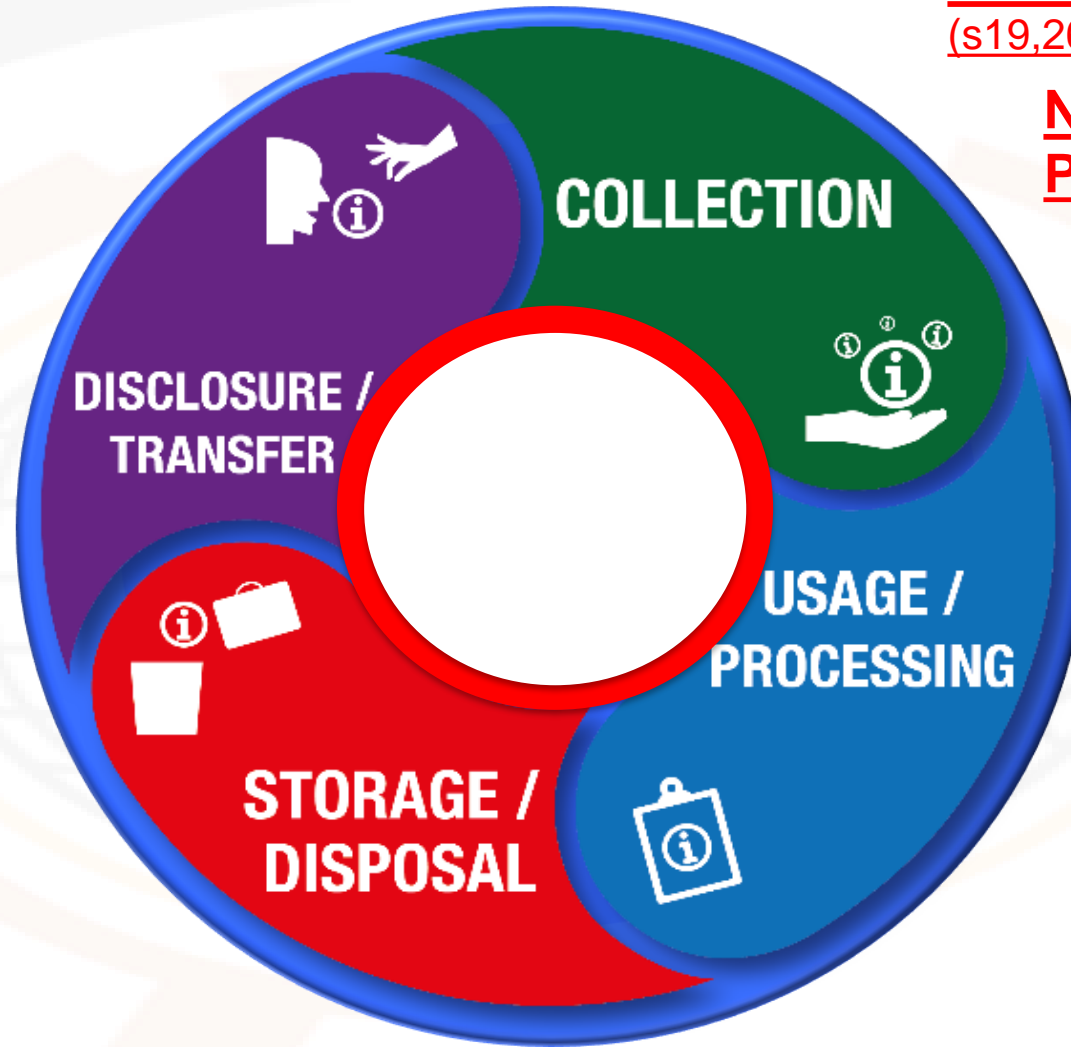
Processing =
across CUD

Retention of data at
CUD points or in transit

How Privacy and Data Breaches Happen

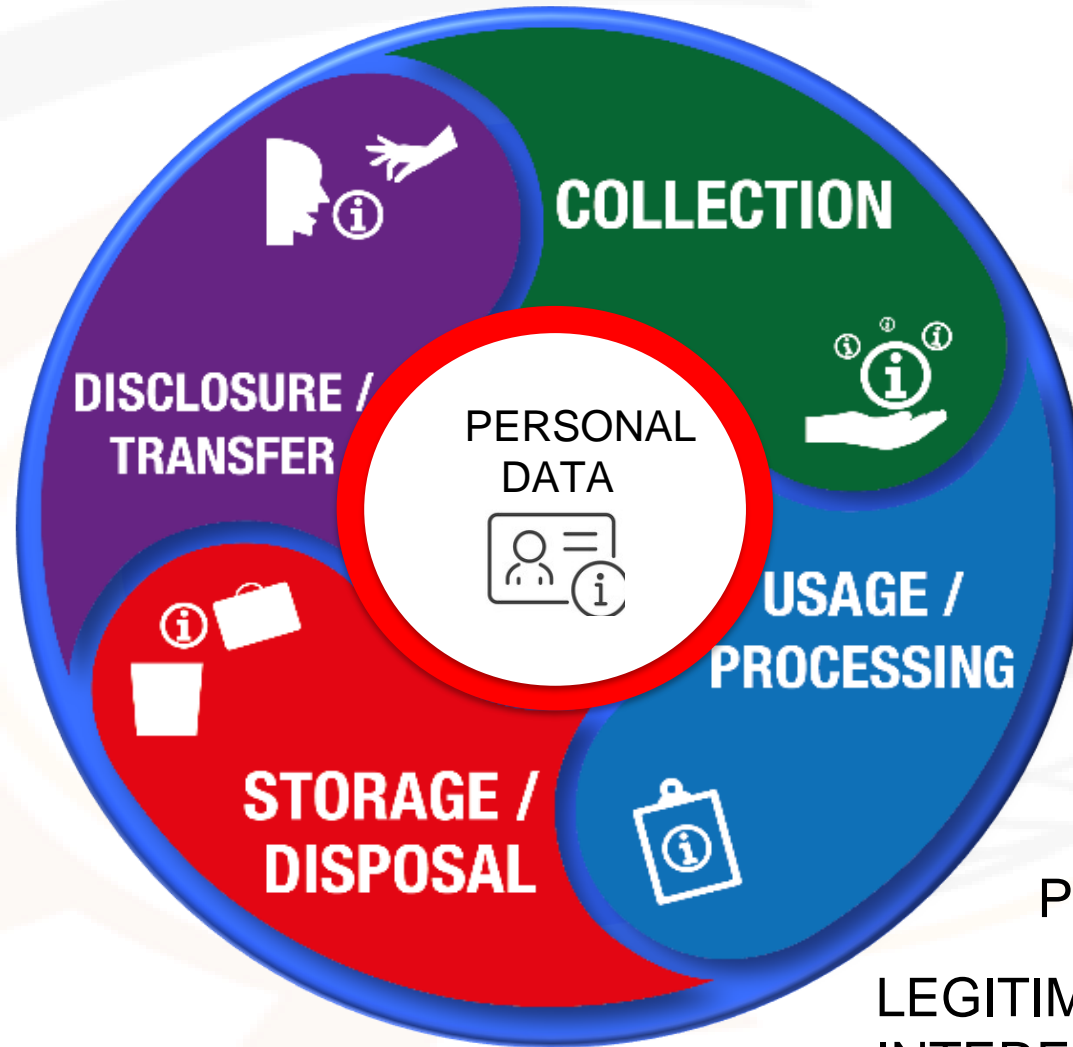





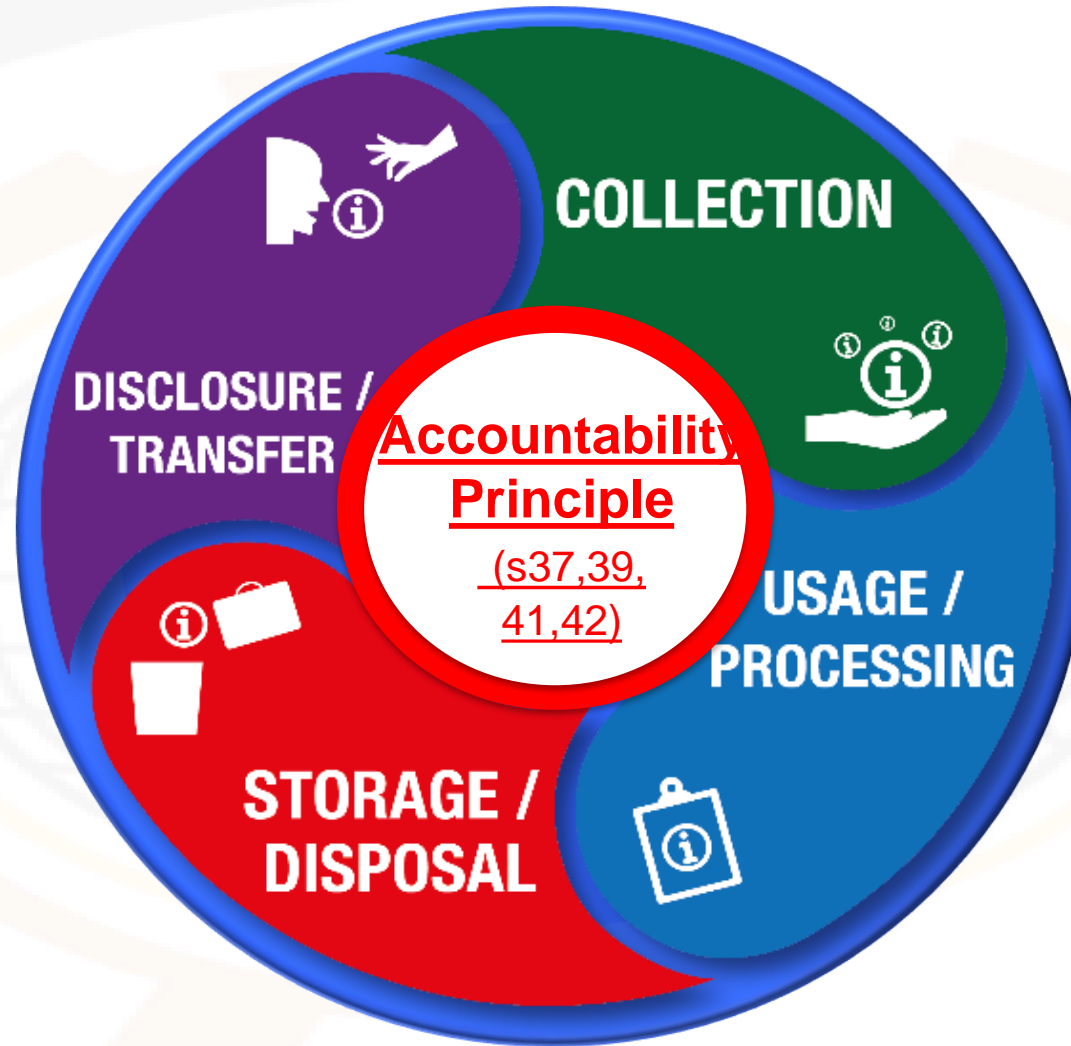


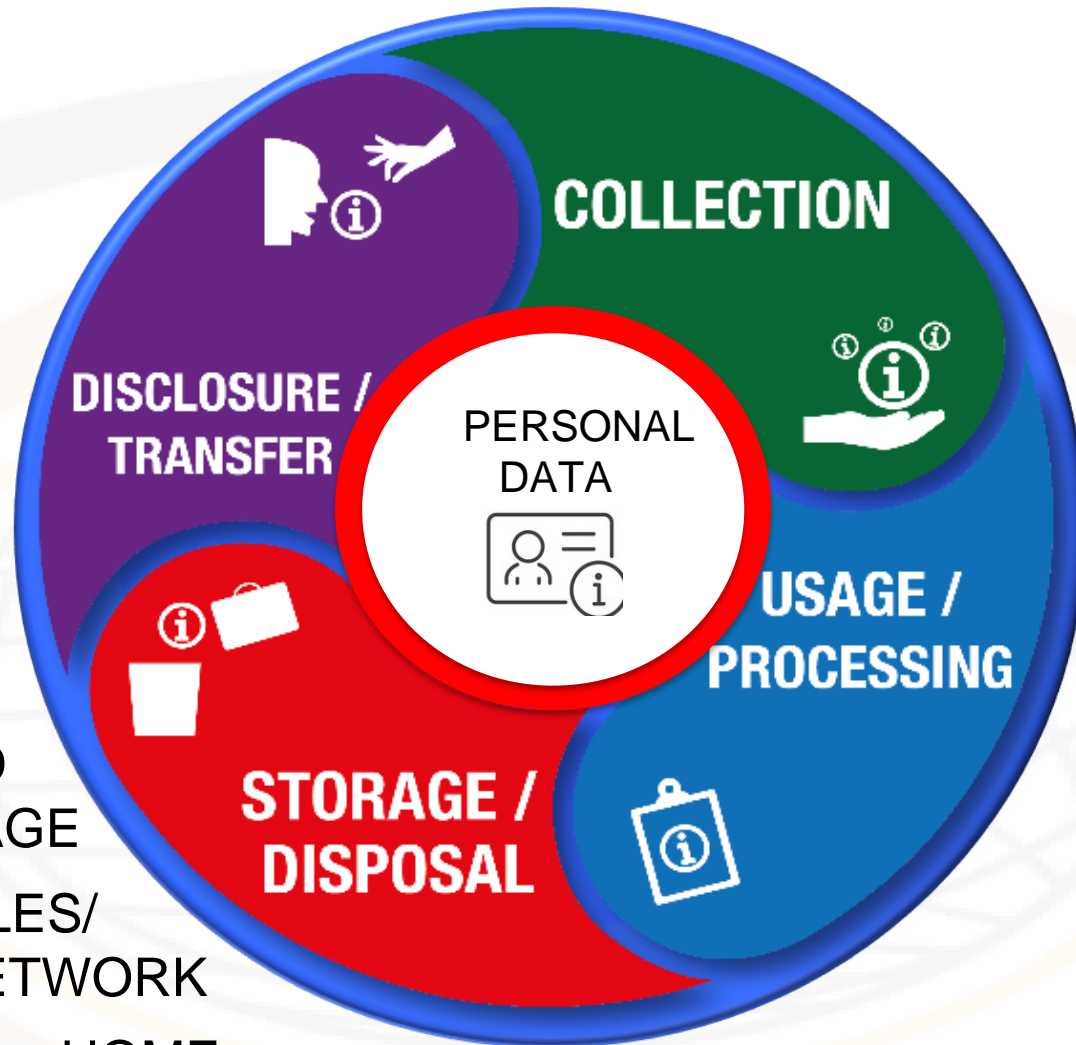
Consent Principle
(s19,26)

Notice & Choice Principle
(s23,25)



- CONSENT 
- COMPLY WITH LEGAL OBLIGATION 
- CONTRACT PERFORMANCE 
- VITAL INTEREST 
- PUBLIC INTEREST 
- LEGITIMATE INTEREST 
- PURPOSE OF PROCESSING





CLOUD STORAGE



FILES/
NETWORK



HOME

OFFICE



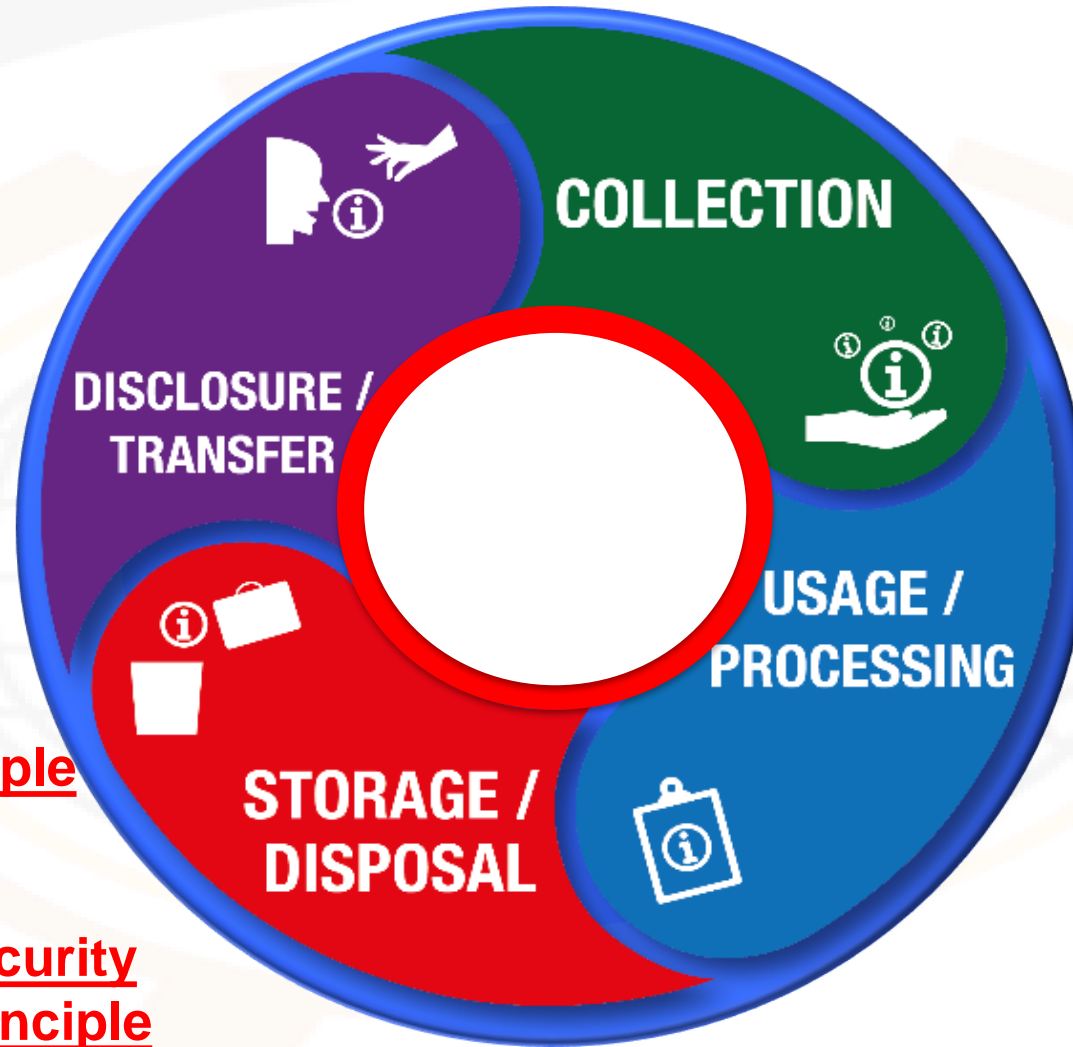
PAPER
DOC



COMPUTER/
DEVICES



STORAGE
POINTS



Retention Principle
(s37(3))

Security Principle
(s37(1)(2))

DISCLOSURE
POINTS



OUTSOURCED
SERVICES



AUTHORITIES



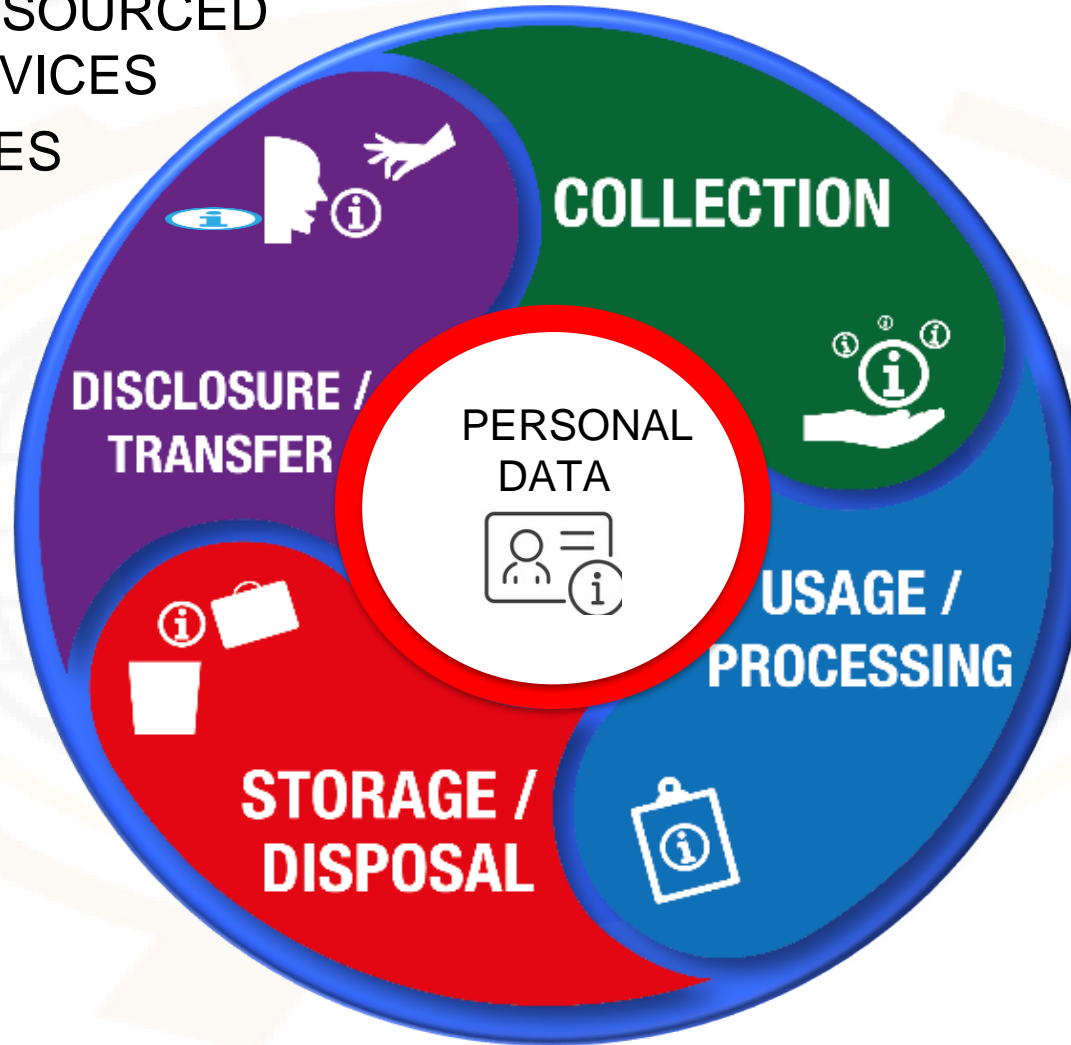
PARTNERS



CALL CENTRES



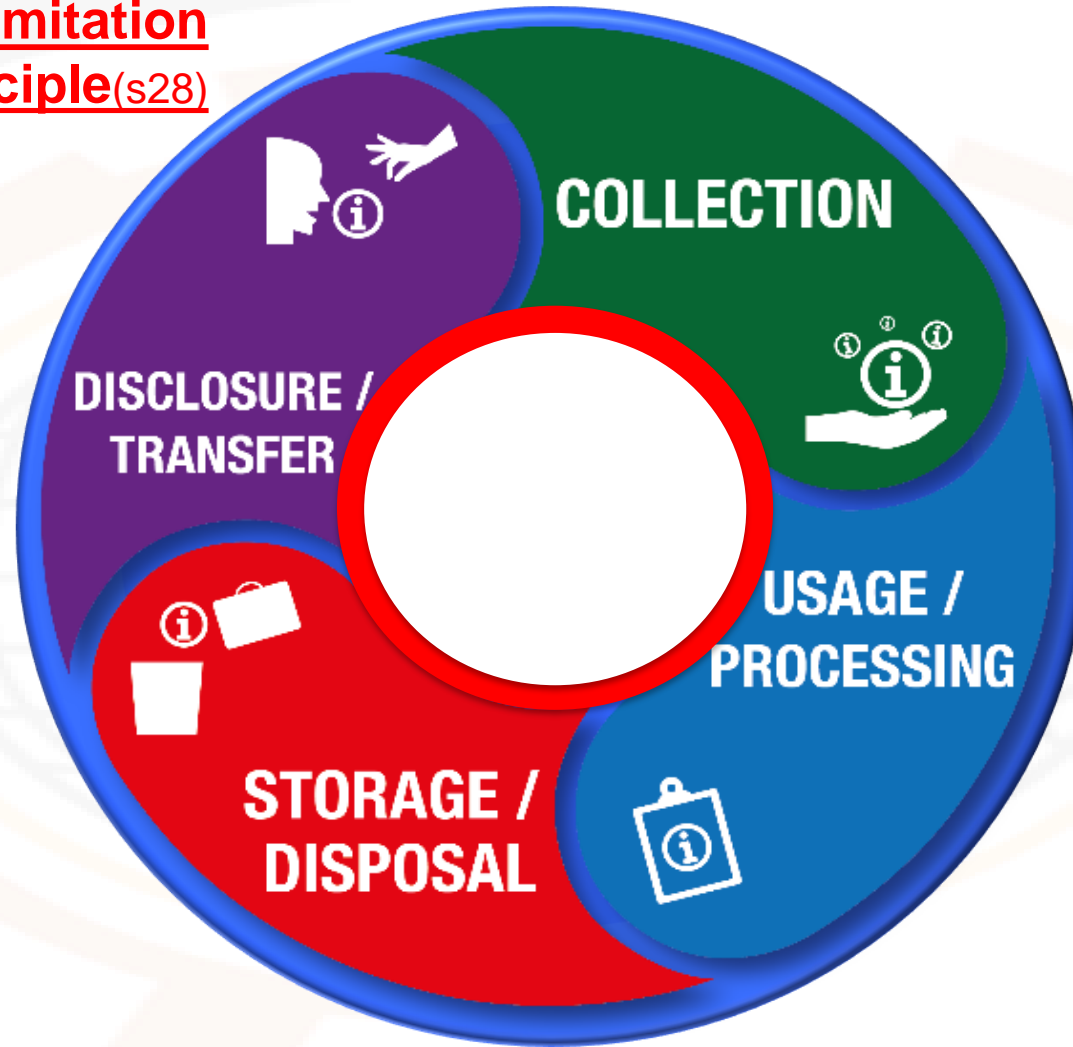
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Transferring Limitation
Principle(s28)

Rights of Data
Subject (s30-36,73)

Disclosure
Principle(s27)



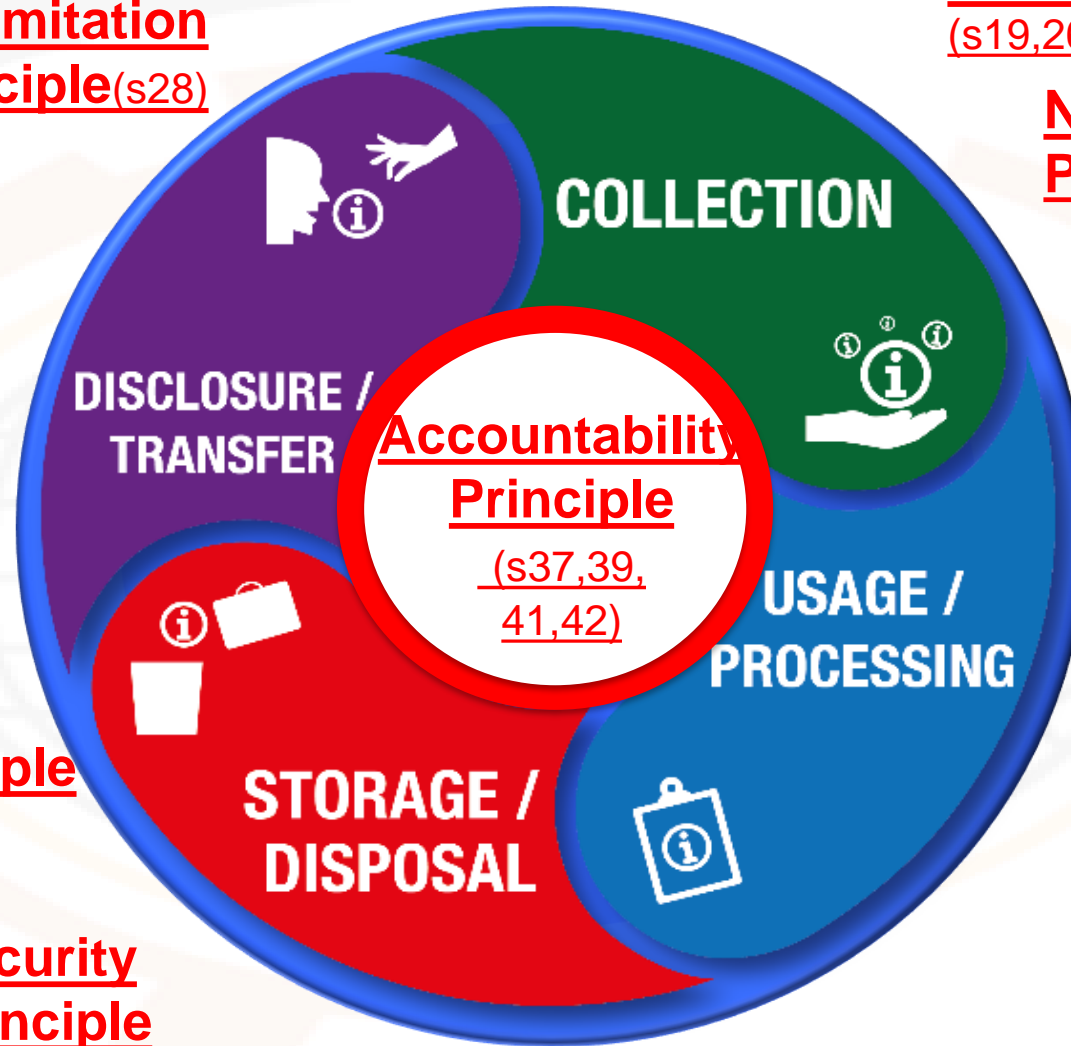
Transferring Limitation Principle
(s28)

Rights of Data Subject
(s30-36,73)

Disclosure Principle
(s27)

Retention Principle
(s37(3))

Security Principle
(s37(1)(2))



Consent Principle
(s19,26)

Notice & Choice Principle
(s23,25)

Purpose Limitation Principle
(s22,27)

Accuracy Principle
(s35)



**How do you go aboard
complying with the
requirements?**

Data Protection / Privacy Management Program

**Key
Actions**

**Key
Actions**

**Key
Actions**

**Key
Actions**



Demonstrating Accountability

Analysis of Privacy Breaches

Failure to Demonstrate Accountability

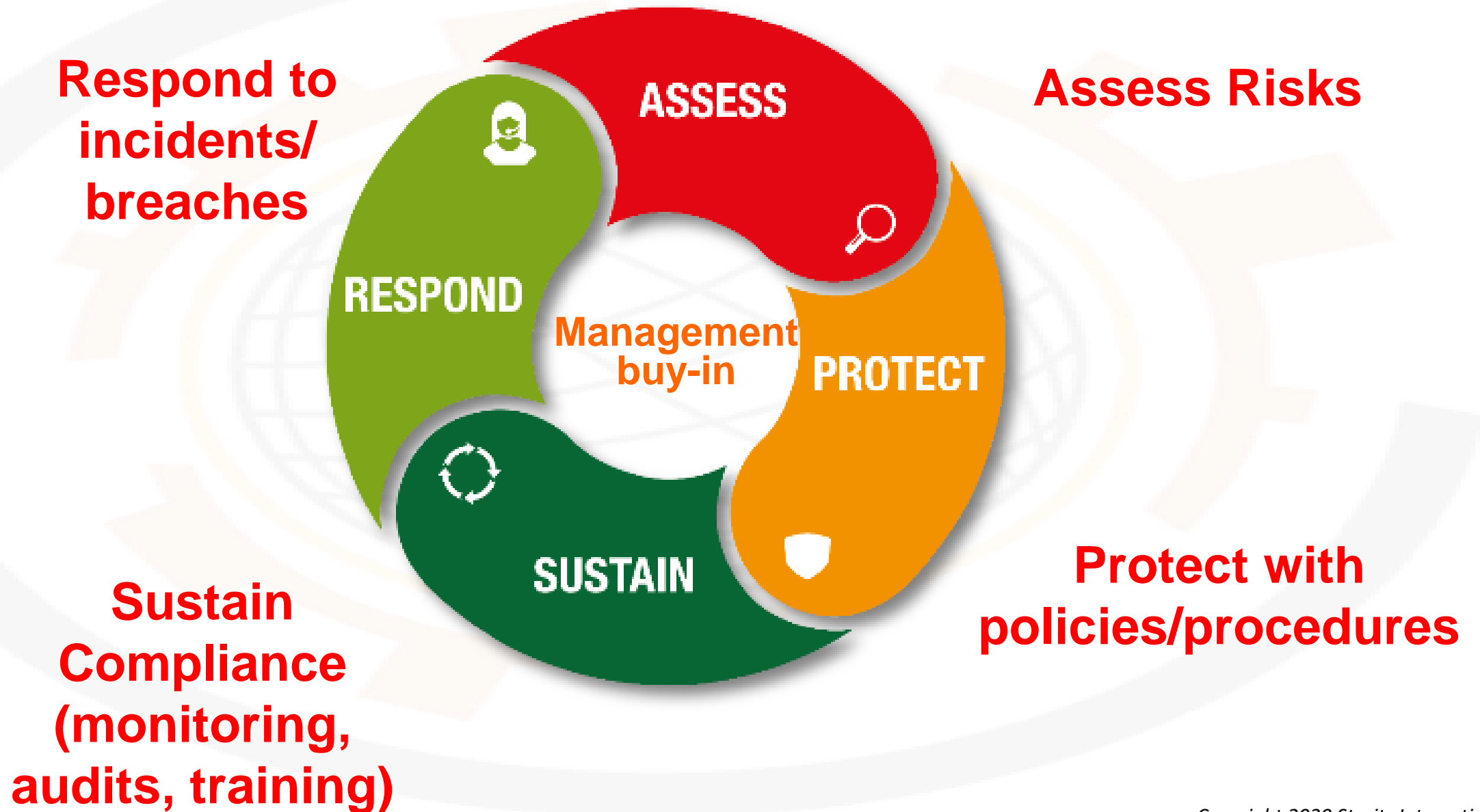
- ✗ No breach response procedures
- ✗ Regulatory authority / data subjects not notified in data breach
- ✗ Failure to respond to data subject requests

- ✗ Failure to detect breaches
- ✗ No audits
- ✗ No/ Insufficient training
- ✗ Policies / Procedures not communicated



- ✗ No risk assessment (PIA)
- ✗ Failure to understand risks
- ✗ Underestimation of risks

- ✗ Lack of policies / procedures
- ✗ No/insufficient security controls
- ✗ Measures /Controls not implemented



What to Address

Scenario 1

Scenario 2

Scenario 3

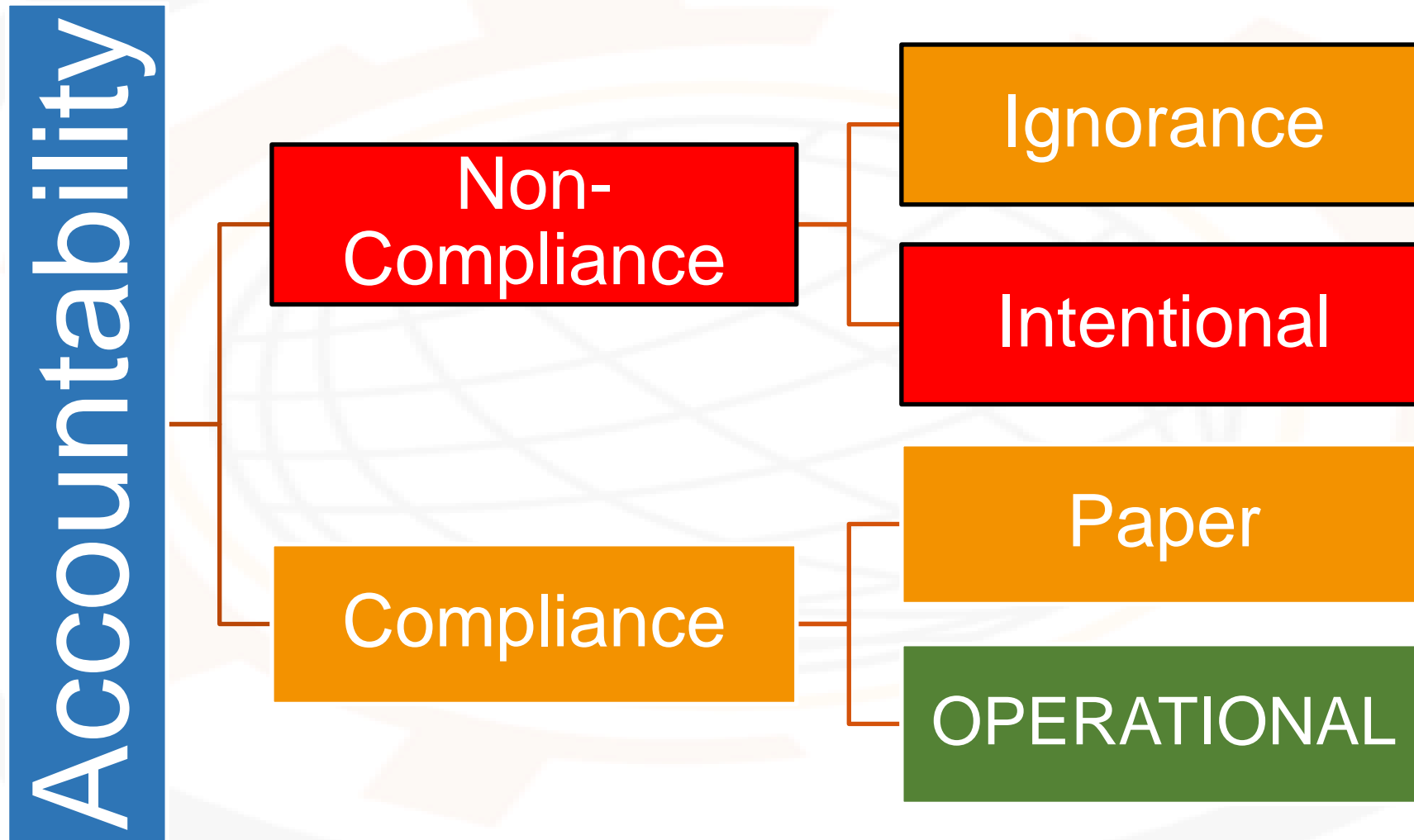
What to Address

Failure to
identify risks

Identified
risks; Failure
to implement

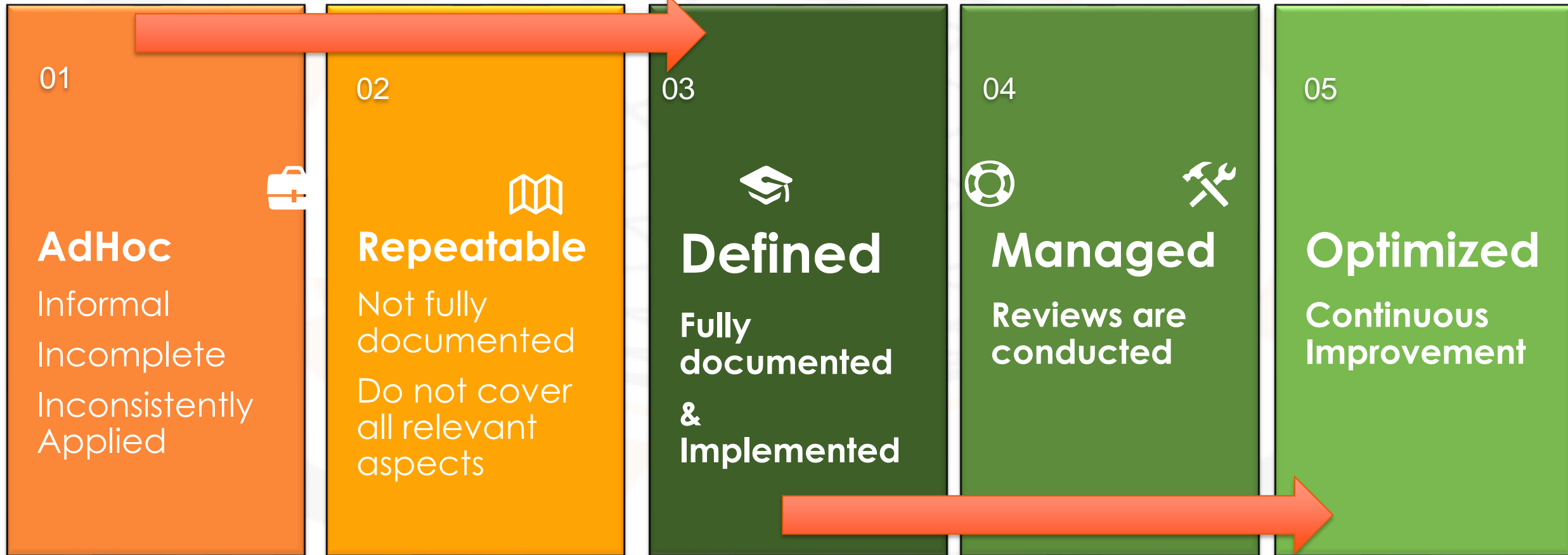
Identified risks;
Implemented
Yet it happened

Demonstrating Accountability

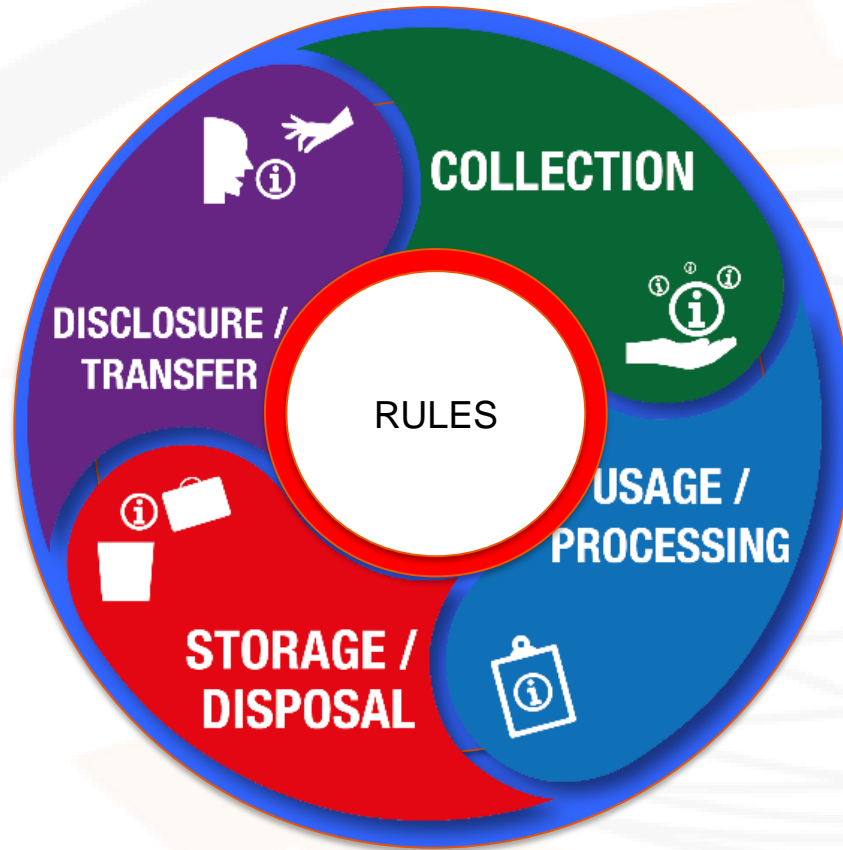


Privacy Maturity Model

“OPERATIONALIZED”



Data / Information life-cycle



CUDS

The Privacy Mgmt / Ops Lifecycle



APSR

Hands-on Data Protection & Cyber Security Workshop (Thailand)

Conducted online via Zoom



WISDOM *for* Change



Next Session

16 Jul - 17 Jul

Duration

2 days

Cost

SGD 1284.00 (with GST)

THB 27,000

FOR MORE INFORMATION

<https://www.dpexnetwork.org/courses/>

For courses: courses@straitsinteractive.com

Welcome to the Data Protection Excellence (DPEX) Network

Asia's Largest Network of Data Protection
Officers and Professionals

JOIN OUR COMMUNITY 👥

About the Data Protection Excellence (DPEX) Network

The Data Protection Excellence (DPEX) Network is the first of its kind facility in the ASEAN region whose aim is to provide leadership, best practices, training, research and support for all things surrounding data privacy from an operational perspective.

This collaboration of partnerships comprise certification bodies, law firms, universities and organisations who provide professional services and technologies relating to data privacy.

Welcome to the Data Protection Excellence (DPEX) Network

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ACCREDITATION PARTNERS



ARTICLES AND DISCUSSIONS

DPEX identifies Seven Data Protection Trends in ASEAN for 2020

The Data Protection Excellence (DPEX) Centre, the learning and research arm of Straits Interactive, of which EITSC is a partner, identified seven data protection trends for organizations in ASEAN to look out for in 2020. The trends were compiled from...

[Read More >](#) 2020-04-27

DPTM - the Data Protection Standards in SG

The Info-comm Media Development Authority of Singapore (IMDA) launched the Data Protection Trustmark Certification (DPTM) earlier this year to help increase the standard of data protection practices within organisations in Singapore. Now, companies* ...

[Read More >](#) 2020-03-18

7 impending Data Protection Trends in the region for 2020 (Part 1)

This is a continuation of the post An overview of the 7 impending Trends in Personal Data Protection for 2020 (Part 1). 4. Shift from Local to Regional compliance with multiple regional presence. By end of 2020, at least five countries in the ASEAN region...

[Read More >](#) 2020-03-02

7 impending Data Protection Trends in the region for 2020 (Part 2)

The initial years of computerisation and digitisation has enabled businesses to be more nimble to the market. However, with the recent hyper-jump in the use (and abuse) of personal data, personal data protection is fast becoming an important aspect ...

[Read More >](#) 2020-03-02

Heightened Demand for Data Protection expertise

Well, this was going to happen at some point in time in the world - with the explosion of data protection and privacy, the primary profession is seeing huge growth across the globe...

DATA PROTECTION VIDEOS

Highlights

Enforcements in Logistics: Ninja Logistics
 Enforcements in Human Resources: Executive Link Services
 Data Privacy Breaches in Aviation: British Airways

Enforcements

Data Privacy Breaches in Aviation: British Airways
 Data Privacy Breaches in Education: SCAL Academy
 Data Privacy Breaches in Education: Learnaholic
 Data Privacy Breaches in Leisure: Travel Corporation

Tips for Operational Compliance

Top 5 questions: Regulators ask companies
 What are the Risks?
 7 data protection trends for the Asia Pacific in 2020
 How to go about complying with the PDPA

Enforcements

Data Privacy Breaches in Leisure: Travel Corporation
 Data Privacy Breaches involving IoT devices: Actua Weighing Scale
 Enforcements in Logistics: Ninja Logistics
 Enforcements in the Hospitality Industry: Casa Graciosa Operation

Tips for Operational Compliance

HR and Corporate Secretarial: 3 Data Protection questions
 Who needs to get involved in PDPA Compliance?
 What is required under the PDPA?
 3 data protection tips for organisations during a pandemic

EVENTS AND WEBINARS

22 May

WEBINAR: Can organizations release personal data of employees to the government or public agencies? (Philippines)

Webinar
 3:00 PM - 4:00 PM

(Philippines) Privacy in Community Quarantine Webinar Series: With the COVID-19 public health concern, tracking and surveillance are becoming a norm. Organizations are in uncharted territory on how t...

12 Jun

WEBINAR: Data Protection Roadmap for Career Enhancement

Webinar
 3:00 PM - 4:30 PM

Note: you have to register directly via Bigmarker platform by clicking on the 'register' button on DPEX Network. An automated registration confirmation

26 May

WEBINAR: Personal Data Protection Act (PDPA) Advisory Webinar for the Non-Profit Sector

Webinar
 3:00 PM - 4:00 PM

In 2019, 51 organisations had been fined or warned over PDPA breaches - up from 23 organisations recorded in 2018!

Fines are at an all-time high and

28 May

WEBINAR: A Comparative Review of Contact Tracing Apps in ASEAN countries

Webinar
 3:00 PM - 5:00 PM

As governments in ASEAN relax lockdown restrictions, Covid-19 contract-tracing smartphone apps are being introduced to help limit the spread of the coronavirus.

15 Jun

WEBINAR: Personal Data Protection Act (PDPA) Advisory - Going Digital has Privacy Risks. Are you prepared?

Webinar
 3:00 PM - 4:30 PM

In 2019, 51 organisations were fined or warned over PDPA breaches - up from 23 organisations recorded in 2018!

16 Jun

WEBINAR: DPO Success Series - Do Your Processes and SOPs Reflect Your Organisation's DP Policies?

Webinar
 3:00 PM - 4:00 PM

In this episode, Wendy is back to share about recent Personal Data Protection Act (PDPA) enforcement cases, which are on the rise with stricter laws to

RESEARCH

Research on job positions 2019 A survey to determine if the job market is hiring data protection roles or if job positions have started incorporating data protection expertise as part of the job criteria. It is also to track any change to the number and hiring positions since the Personal Data Protection Commission started enforcements in April 2016.

Enforcements in Singapore from 2016-2019 A research conducted by scanning and coding Singapore PDPC commissioner's decision on the enforcement cases against the legislation. Period: CY 2016-2019

Onsite Audit of 50 Companies in Singapore on Common Potential Data Breaches The objectives were to identify the most common potential data breaches in organisations in Singapore and Malaysia that could contravene the Personal Data Protection Act and to discover the extent of breaches in protecting personal data in paper documents. It was conducted between Aug 2013 – Sep 2014.

Singapore's First Privacy Survey Covering Mobile Applications The first survey in Singapore covering mobile applications to assess data protection/privacy practices for mobile apps, conducted from August – September 2015. The survey is benchmarked against a similar survey done by the Global Privacy Enforcement Network (GPEN).

PDPC Consumer Survey 2019 A survey conducted by Singapore PDPC from March and May 2019 to understand the public perception towards the PDPA. 1,501 individuals aged 15 and above were surveyed.

PDPC Industry Survey 2019 A survey conducted by Singapore PDPC from March and May 2019 among 1,500 organisations across all industry sectors.

WEBINAR: A Comparative Review of Contact Tracing Apps in ASEAN countries As governments in ASEAN relax lockdown restrictions, Covid-19 contact-tracing smartphone apps are being introduced to help limit the spread of the coronavirus. Read more

Review of Singapore's TraceTogether App As part of the Webinar discussion on how guidelines and practices from COVID-19 impact data and privacy protection, a review was done on the contact tracing app, TraceTogether. The report presents its analysis.

Webinar on Covid 19 - Impact on Data Privacy These are not normal times that we live in and governments around the region are looking to obtain information to help in contact tracing. Data privacy guidelines and measures being relating to the COVID-19 are becoming an issue during this global pandemic. This is the presentation on the latest development from DPEX network privacy experts in Singapore, Malaysia,

COURSES



17 Aug
PDPA – An Operational Perspective
[This course is eligible for SSG funding] This course lays the practical foundation and competencies necessary for a career in the new era of compliance in personal data protection.
1 Days **SGD 856.00**



6 Jul
Practitioner Certificate in Personal Data Protection
[This course is eligible for SSG funding] This course teaches you how to utilise risk-based tools to establish a robust data protection infrastructure for your organisation.
2 Days **SGD 1712.00**



29 Jun
A Practical Approach to Data Protection for DPOs
[This course is eligible for SSG funding] A hands-on and practical based approach to guide participants on how to create Data Protection Policy to manage the organisation's compliance with the Personal Data Protection Act.
3 Days **SGD 3210.00**



20 Aug
Information & Cyber Security for Managers – EXIN Certification
[This course is eligible for SSG funding] This course provides participants with an understanding and hands-on approach to information and cyber security from a management perspective.
2 Days **SGD 2140.00**



29 Jun
Advanced Data Protection Techniques: Data Protection by Design, DPIA and DPTM
[This course is eligible for SSG funding] This course provides participants with an understanding and implementation of Data Protection by Design (DPbD) and Data Protection Impact Assessments (DPIA).
2 Days **SGD 2140.00**



22 Jul
Data Protection Management Programme (DPMP)
[This course is eligible for SSG funding] This course provides participants with a solid foundation for the regional operational governance of a Data Protection Management Programme (DPMP) and defines how the DPMP may be developed, measured and improved.
3 Days **SGD 3210.00**



NEWS

Title	Published	Summary
Transparent rules needed on use of contact tracing data, Forum News & Read More >	2020-06-11 21:18	The Government's plans to issue a wearable device for contact tracing have raised privacy concerns, ...
Forum: Transparent rules needed on use of contact tracing data, Forum Read More >	2020-06-11 17:30	The Government's plans to issue a wearable device for contact tracing have raised privacy concerns, ...
Nat'l ID system to help ease delivery of social services: DSWD Read More >	2020-06-11 11:45	MANILA - The Department of Social Welfare and Development (DSWD) said it is looking forward to the f...
EU watchdog sets up TikTok task force. Babylon Health admits GP app suffered a data breach Read More >	2020-06-10 15:19	BRUSSELS: Chinese video app Babylon Health has acknowledged that its GP video appointment app has suffered a data breach. The...
Singapore will give residents wearable 'tokens' that track the people they interact with in a new effort to contain COVID-19 Read More >	2020-06-10 13:00	The Singapore government will start giving out wearable devices that use Bluetooth to track people's...
Privacy body to probe local contact tracing apps Read More >	2020-06-10 12:19	MANILA - The National Privacy Commission said Wednesday it would look into local contact tracing app...
Nintendo Says 140,000 More Accounts Have Been Compromised Read More >	2020-06-10 06:08	Back in April, Nintendo said that 160,000 accounts have been compromised. It looks the actual number...

DPEX COMMUNITY - STAY CONNECTED

LinkedIn

Data Protection Officer (DPO) Support Group – Singapore

Join the conversation with the 489 professionals in this group

[Request to join](#)

Connections in this group

[See all](#)



Kevin Shepherdson, CIPP(A),CIPM,CIPT, FIP, Hwee Ling Chen, and 1 other person you know are in this group

About this group

Singapore is one of the few countries in the world where an appointment of a DPO is a legal requirement. Have you been appointed as a DPO?

This group was set up by Straits Interactive "for DPO practitioners BY practitioners" to support the DPO community in Singapore. The objective is to:

- * Provide guidance on the role of a DPO
- * Share best practices
- * Increase the competence of DPOs
- * Allow DPOS to network with one another

Group admins



Kevin Shepherdson,
CIPP(A),CIPM,CIPT, FIP
1st **Owner**
CEO at Straits Interactive Pte Ltd



Qian Li L. · 2nd **Manager**
Consultant, Sales at Straits Interactive Pte Ltd

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Posts



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Yesterday at 17:46 · [Public](#)

For those within the SG jurisdiction, clarification from the ministry.



STRAITSTIMES.COM

Janil outlines conditions when personal data is disclosed
An individual's personal details will be disclosed only if they are...

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[Share](#) 1 share

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30 January at 18:18 · [Public](#)

THANK YOU!

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For courses: courses@straitsinteractive.com

