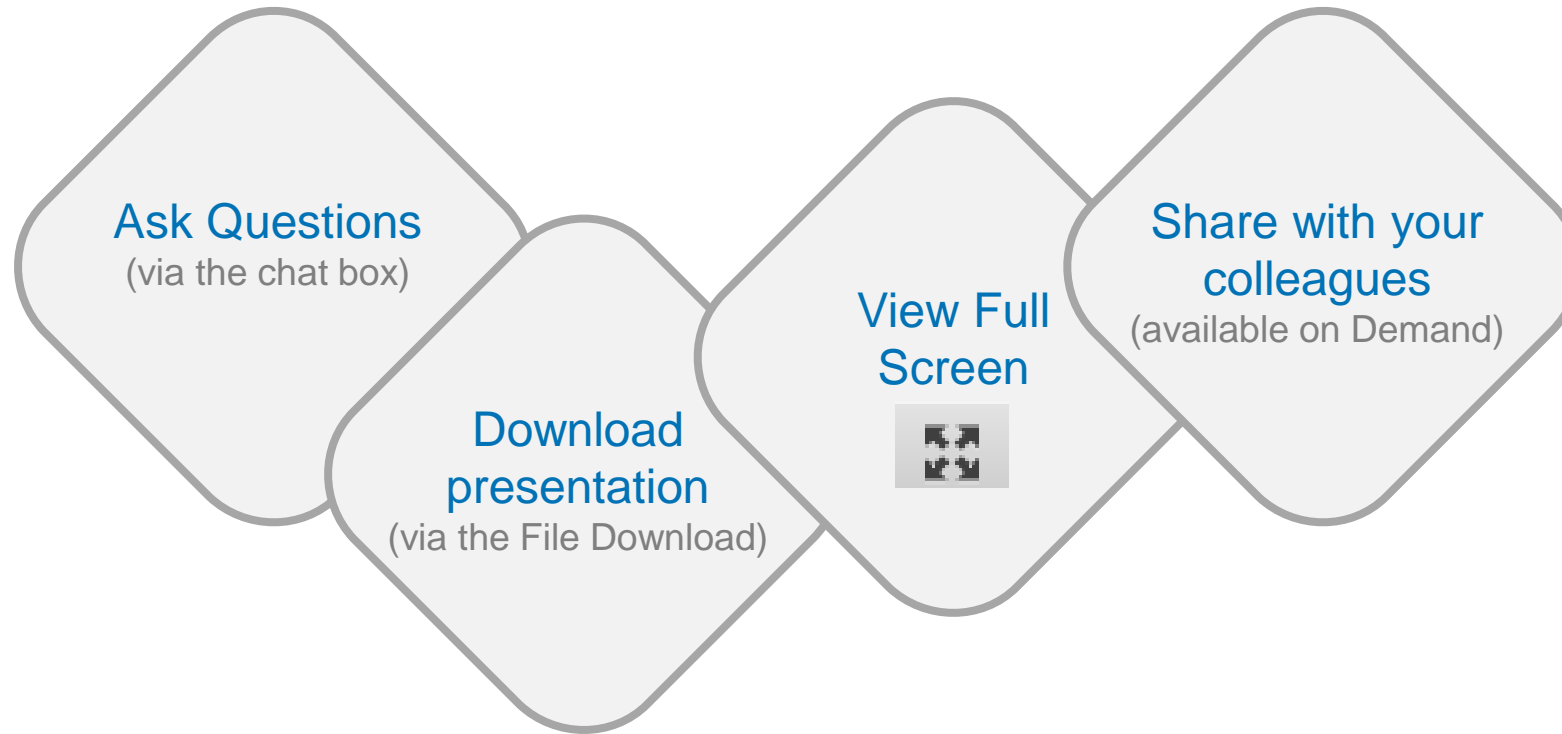


Harnessing Employee Data: striking the right balance between values, ethics and regulation

December 03, 2019



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Panelists:



Tom De Cordier

Partner
CMS Law Firm

Tom is a seasoned data & technology lawyer with a strong focus on data privacy law, technology, IT and telecommunications law and technology-related IP. Clients praise him for his commercial acumen and his pragmatic and down-to-earth style. His practice covers a wide range of advisory, ...[Full Bio](#)



Klaas Toes

Council Director, Human Capital Analytics Council
The Conference Board

Klaas Toes is program director for the Human Capital Analytics Council at The Conference Board. He also led its former Big Data Working Group. Toes is the founder and CEO of the ROI Institute Europe. He has spent more than 30 years helping companies and governments implement their huma...[Full Bio](#)



Marion Devine (Moderator)

Senior Human Capital Researcher, Europe
The Conference Board

Marion Devine is Senior Researcher in Human Capital for Europe, based in TCB's Brussels office. Marion brings a European perspective to TCB's HC work and contributes across a broad spectrum of HC topics in support of the various HC Centers.

Marion brings a wealth of expe...[Full Bio](#)



GDPR May Prohibit Certain HCA Practices

| GDPR's Standards | Potential Challenges for HCA |
|------------------------------|--|
| Legitimate Purpose | <ul style="list-style-type: none">• Limits acceptable <i>reasons</i> for collecting and analyzing personal data |
| Data Minimization | <ul style="list-style-type: none">• Limits the <i>amount and kinds</i> of personal data |
| Data Retention | <ul style="list-style-type: none">• Limits analysis of <i>historical trends</i>• Limits <i>predictive analytics</i> |
| Right to Be Forgotten | <ul style="list-style-type: none">• Could create <i>discrepancies</i> in reports of data analysis and limit results sharing |
| Profiling | <ul style="list-style-type: none">• “<i>Automated processing</i>” must be supplemented by human intervention |



Power Imbalance over Personal Data

The Employer

- Greater power
- Lack of regulation
- Lack of data privacy awareness inside and outside the company



The Individual

- Little power
- Lack of awareness
- Lack of recourse



GDPR Flips the Imbalance of Power over Personal Data

The Employer

- Tighter regulation
- Transparency
- Restricted actions
- Growing public concern
- Increased risk



The Individual

- Legal protections
- Visibility to data and its use
- Recognition of value and threat
- Recourse
- Potential collective action



How GDPR Challenges Human Capital Analytics (HCA)

1. Prohibiting certain HCA practices

2. Putting HCA under closer scrutiny

3. Giving data-privacy advocates a new weapon



GDPR May Benefit HCA

- 1. Increased Self-Scrutiny & Rigor**
- 2. Greater Harmonization across the EU**
- 3. Increased Company-wide Consistency**
- 4. Repositioning HCA within the Company**
- 5. Easier for HCA to “Just Say No”**
- 6. More investment in HCA Capabilities**



Where are we now?



GDPR

*“A threat or
a blessing in disguise?”*



Positives of GDPR

(outcome council meeting june 2018)

- Forces clear communication of what People analytics does – sets a new standard
- It will create more transparency. In the short term it could make things worse, but it will make it better in the long run.
- HR data is also in the IT systems we must find responsibility for this must be with the process owner, HR can't be responsible for all the other systems in the business.
- Personal data is valuable; positively, the framework has created the rules on how to play and levelled the playing field in Europe (but companies in other regions can get ahead)
- Potential to position people analytics more prominently in the business. Already seeing business leaders going to PA to ask about how to processes personal data



Negatives of GDPR

(outcome council meeting june 2018)

- Business in other regions can gain more advantage through people analytics
- Throws big question mark over use of machine learning can't throw data at it and sort it out
- Digital learning – Exec was still asked about her personal score
- Whole problem of works councils – “GDPR will be used as a weapon”
- Aging workforce... Could argue that algorithms could help us make the best decisions but ...
- Problem that employees don't link people analytics with anything positive, no sense of PA being used for their benefit
- Diversity and complexity of the law – ‘we have 66 countries, understanding of GDPR is very different across them and how we implement is very different’.



Manifesto

1. Start with the business question and then define the purpose (what is specific enough but provides wriggle room? No longer start with the data, need to know not nice to know)
2. Together with a sponsor or business owner of the question – so PA doesn't work on its own
3. Focus on positive action; insights should be actionable
4. Openness and transparency
5. COMMUNICATE to employees
6. Think much sooner about the potential benefit to employees
7. Be defensible (legally) but not defensive (ie also check out with legal)
8. Deal with aggregated data
9. Stay courageous, ask the courageous questions
10. Collaborate with IT, legal and data protection
11. Values driven – prudence, temperance, courage and justice



Related Peer Networks:

[Global CHRO Council](#)

[Human Capital Analytics Council](#)

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