

## Transcript for Episode 27: Alex White

### **Ron Kruzeniski:**

It's my pleasure today to be talking to Alexander White, the Privacy Commissioner in Bermuda. Welcome to our podcast, Alex.

### **Alexander White:**

Thanks so much, Ron. I'm very excited to be here.

### **Ron Kruzeniski:**

So, before we talk about substantive issues, your term as commissioner, your goals, things you want to achieve, tell us a bit about yourself. I know you were in the United States and all of a sudden got appointed to be commissioner in Bermuda. How did all of that happen in your life?

### **Alexander White:**

It's a great story. Well, it's a great story for me, I suppose. Hopefully it won't be too boring for the listeners. I feel like it was a moment where a lot of threads in my life came together actually. You may be interested to know that I'm actually a quarter Canadian, so my grandfather's from New Brunswick.

### **Ron Kruzeniski:**

Excellent.

### **Alexander White:**

Yeah, so even though I grew up in the Southeastern US, I've got that Georgia accent, I would come up and spend my summers up in Atlantic Canada and visit family there. So I've always had a lot of affection for Canada and Canadians. And that's kind of what led me to working internationally like I am because that interest in comparative law and thinking about how we do things differently and this idea of, oh, if my left foot on this side of the border, things happen one way and with my right foot on this side of the border, things happen another way. Why is that?

And so I always found this so interesting because we as a global society are trying to solve the same problems, but we do it in different ways because we have different cultures and different legal traditions. And so because of that, I was inspired to study Canadian privacy law when I got interested in the field. And I just loved the idea of a privacy commissioner, which certainly at that time we didn't have in the states, although now that's starting to change in places like California. And I thought, boy, it'd be amazing to be a privacy commissioner. Too bad it'll never happen because I'm an American. So I was working as a lawyer in insurance, which is the big industry here in Bermuda. And I got involved in cyber liability insurance or insurance for data breaches to help pay for the breach response. And that was just starting to take off in the early 2010s.

And I thought it was so fascinating and it really made me think about the origins of modern insurance and how we came together to kind of consolidate risk in order to send a ship across the ocean because it was just too risky a thing to do unless you had some sort of pooled sharing of the potential downside. And the fact that what we do, our online commerce in many ways, we need that same type of infrastructure, that foundation. Although here it's almost like we need a foundation of trust instead of spices.

So that said, I loved the field. I was very lucky to transition to working in state government in the US helping to build a state privacy program and setting up a new government office. And I was teaching in the IAPP professional certification classes. I became a federal privacy advisor for the Department of Homeland Security. And when I saw that Bermuda passed a privacy law, I read it and I thought, I like this law a lot, I think it makes a lot of sense. And you know what, I would bet they're interested in somebody with insurance experience who has set up a government office. But I told my wife, I said, "Don't worry, it'll never happen. I have to apply or I'll really regret it if I don't apply. But don't worry, it'll never happen."

And here we are. It did. And that's the funny thing, people ask me, "How did that happen?" And the reality is I set a Google alert for Bermuda privacy commissioner and a recruiting website posted the job, and I applied and I went through a lot of interviews and here we are. But it's been an amazing experience to do it.

**Ron Kruzeniski:**

So, to help Canadians who might be listening to this, tell us a little bit about the mandate of your office that exists under the legislation that was introduced.

**Alexander White:**

It's very similar to Canadian laws and to the way privacy commissioners work in Canada. And in fact, Bermuda's law was based on Canadian law. And so you don't see a very lengthy, prescriptive list of things you have to do like you would in the European Union, for example. And instead it's much more of a Canadian kind of principles based mechanism for how to enforce this. And so our office, as you would expect, we regulate the use of personal information by organizations, trying to recognize both the need to protect privacy, but also to use information for legitimate purposes. And so we do all the things you might expect, receiving complaints, conducting investigations, giving guidance, liaising with our colleagues like yourself, and generally educating the public, which is what we spent a lot of time on since this was a brand new office.

**Ron Kruzeniski:**

So was there any particular province or the federal law in Canada that might've been the model?

**Alexander White:**

I believe it was Alberta and PIPEDA, the federal PIPEDA that elements were taken from. But I think Alberta probably has the closest ancestry.

**Ron Kruzeniski:**

Excellent. So I assume being the first commissioner, you were appointed, the first task would be establishing an office and establish a presence. How did that whole process go of setting up a brand new office?

**Alexander White:**

Well, there was very special moments and also very boring moments, to be honest. And so I had these really special moments where I got my first letter that said on Her Majesty's service and being a crown agent and all of those things coming from the American perspective we're so novel. But when I came into the island, there was literally no office at all. So it was just me. And so I borrowed a computer from

the government's privacy officer, and I borrowed a desk and they let me stay in their space for a little while until I could go about renting an office and buying equipment and hiring staff.

But here is where the story takes a hard turn like it did for many people because that was 2020 and I was on the island doing a whirlwind of meetings with people, and then all of a sudden we had lockdown like everybody else. And I will never forget because the lockdown was at the beginning of April here in Bermuda, and that was the month that my lease started at my office. And so even though I started with a lease, I didn't actually get into the office for another six months. So I'm working from home with just myself and a computer.

But in many ways that was not necessarily difficult because there was so much to do. Instead of having this huge swath of tasks that I needed to complete, I had to say, well, I'm stuck here. It's impossible for me to do half of these, so I'll focus on the half that I can do. And we built up our website and our virtual presence and we set up engagement meetings with the public. Which everybody was kind of feeling the need for social engagement, so it was a great opportunity at that time. And I was also able to sit down and write out our office's regulatory vision for what that should look like. It's a document, I call that the Mid-Atlantic Privacy Compass because of course with Bermuda's location, but also kind of philosophically, how can we strike that balance between the rights-based approach that the Europeans advocate for versus a more pragmatic, even business-oriented practical approach that is more common in North America.

**Ron Kruzeniski:**

So, I note that recently you've been reappointed for a term of five years, and the governor of the island in appointing you recognized that you had built the foundations for a successful data protection environment. Now that's a very nice compliment. How has that gone? Would you call that mainly an education effort or building the foundations, did you do other things?

**Alexander White:**

I do think education was the biggest component of that. And the way we went about it was really in three main categories of engagement where we would work with the business community, of course, which in Bermuda we have a very bifurcated business community in the sense that there's either the international finance groups that are very sophisticated, very globally focused, concerned about data flows coming from different jurisdictions, and often well-funded in order to develop their practices. And then we have the local mom-and-pop type of places that are facing very, very different challenges, and they're probably having to do it by themselves as a sole proprietor even.

And so we wanted to focus our engagement so that we could reach both of those types of groups. And also other prongs were to work with the government, which even though I'm an independent officer, I wanted to make sure we were supporting government with best practices for how they can approach things. I drew on my past experience as a state privacy officer to help with.

And the third category was working with individuals and helping individuals understand what it meant for privacy to be a right. This is the first time this had been the case in Bermuda. And so we really needed to explain, okay, well what does that mean I have to actually do? What does that mean in relation to other people? Aren't we just this little island in the middle of nowhere that nobody really cares about? Why do we need to worry about these things? And we have to talk about the hazards, the privacy risks of being online and everybody is your neighbour now, everybody can peek in your virtual window.

**Ron Kruzeniski:**

So as first commissioner, what goals or plans do you have for the future for the rest of your term?

**Alexander White:**

Yeah, I'm really excited about where we are right now because we started from just myself in 2020. We're up to 14, 1-4, full-time employees and our staff are all Bermudians or Bermudian spouses. And so I'm very proud about that and I see a big part of my role as being prepared to pass the torch to the local community for someone else to carry. But I want to continue incorporating our office in Bermuda itself into the international community. Bermuda has a lot of experience with risk management and understanding those principles, and really privacy is a form of risk management, I would say. And so, I think we have a lot to offer in the perspective of the sophistication of those practices. And also as a small jurisdiction, we face very different challenges than larger wealthier, jurisdictions. And so I always really enjoy bringing that perspective.

But we're turning to the meat of our active enforcement in 2025. So we have our compliance deadline is the end of this year. And so, to help organizations get ready we have a program, an awareness program called The Road to PIPA, and we're doing some specialized consultations about how privacy issues can affect the financial services sector or how we can run a regulatory sandbox, which is something we've been doing for a while to look at organizations doing innovative things like financial technology, FinTech or crypto or artificial intelligence. And so instead of waiting for them to come to us, I'd love to be able to be more actively reaching out and having intakes of those kind of classes as we move from year to year, I think that'd be great.

**Ron Kruzeniski:**

So, one staff person to 14 in, what? Four years. That's pretty significant.

**Alexander White:**

Yes, it was a full-time job hiring people. I'm sure working in the public sector, it's not always quickest thing. And so I would joke with people that we had all the problems of a startup and of a government office because we were trying to expand and scale and be flexible and nimble, but we also had to do everything exactly by the government code and make sure we're meeting those appropriate standards. And so it was an incredible challenge, but I'm very proud we're on the other side of that, and I think we have a very healthy size for our jurisdiction at this point.

**Ron Kruzeniski:**

So, I noticed you used the words regulatory sandbox. I think Google has a sandbox, but what is your sandbox?

**Alexander White:**

So, ours is a little bit different because instead of the Google model where they're looking to provide a platform for organizations to work in, what we mean when we talk about a regulatory sandbox is a form of engagement. So, what we are doing is we have an agreement, actually a sandbox agreement that organizations can sign off on. And what that means is we will develop a plan of action for how our office can support them in some aspect of their program. Usually what that means is they're engaged in something that the law is ambiguous about or even silent about, and they're wanting some more clarity. So this is an opportunity for us to get the unvarnished truth from them and provide guidance to them. And then we can take that guidance and that becomes something that we can take away the identifiers, but it becomes our public guidance that we can issue. So, it gives us an opportunity to develop some

practiced guidance as part of the process. It's a really interesting mechanism. I've really enjoyed that part of our work.

**Ron Kruzeniski:**

Did you come up with that yourself or did you borrow, beg or steal from some other jurisdiction in the world?

**Alexander White:**

That one I did borrow quite heavily from the UK Information Commissioner's Office. And so they have a wonderful model, and I do recommend that people check that out if you're interested in learning more about how those things work, to our regulatory colleagues. And I should say too, that throughout the community, our regulatory colleagues have been incredibly helpful. I mean, you and I spoke a few years ago when I first started, and the ability to go out to people and get advice on things that work and things that don't work, and even practical things like providing some templates or policies that I could then use so I'm not starting from the blank page. I'm very grateful for the international community for that.

**Ron Kruzeniski:**

So, as you work on your goals and plans, do you see any challenges that are going to be daunting or concerning?

**Alexander White:**

Well, certainly. I mean, we will always struggle because we are a small office and some of these issues can be quite challenging with new technology that is being released, it feels like, every day and also new applications for how personal information is being used. There's always new risks to consider. But there are some even today that I would say are challenges. And I talked about how we are engaged in a financial services consultation right now. The goal behind that is to try to connect the dots between practices related to anti-money laundering and data protection or privacy.

So, for those who aren't aware, anti-money laundering essentially says that organizations have to collect information about their clients and then have to monitor that information for anything suspicious. Any suspicious activity, is funding being transferred in a way that would cause suspicion. But it's bit amorphous in that it's kind of collect things and then see if anything looks weird. However, we from a privacy perspective have come along and we're saying, oh, data minimization, data minimization, you should not collect it if you do not need it. So how do we square that? And I'm not sure that any jurisdiction has provided a real workable solution for that. So that's one of our ambitions, and I think it's something that is a good opportunity for us to engage with our colleagues and other finance centers to try to figure that out. So that's what I would point to, certainly.

**Ron Kruzeniski:**

So earlier, and I think I noticed on your website you used the phrase Road to PIPA. What is the Road to PIPA?

**Alexander White:**

Yes, and I say PIPA, but what I always like to say is I don't have the authority to enforce pronunciation, so it's a very good thing here, especially here in Bermuda where everybody pronounces things very differently.

**Ron Kruzeniski:**

So, you say PIPA?

**Alexander White:**

Yes.

**Ron Kruzeniski:**

And I just said PIPA?

**Alexander White:**

Yes.

**Ron Kruzeniski:**

Tomato, tomato.

**Alexander White:**

Let's throw the whole thing off, yeah.

**Ron Kruzeniski:**

The Road to PIPA, what is it?

**Alexander White:**

The Road to PIPA, it's a formal engagement program, awareness campaign that we put together. And what we did is because again, thinking that the community here in Bermuda is really starting from square one and looking to get to compliance with a sophisticated privacy law, we didn't want to leave anyone behind. And so, we broke down a privacy program as much as we could into bite-sized weekly steps.

So, since January, we have actually been posting, each week we post an awareness message, a resource that people can read to learn more, some sort of tool or template that they can use to do a specific practice and hosting an event of some kind. And so I was telling you before we started that I just got back from an event at a movie theatre. So that was our Road to PIPA event for the week. So in the end though, we want to try to make this a bit more manageable for people so they can take on a little bit at a time and progress. And then at the end of the year, they will have this checklist that they've gone through. And what they've really done is established a baseline. Of course, compliance is never finished. It's an active process. But they will have a great foundation at that point.

**Ron Kruzeniski:**

In 2013, you hosted the Global Privacy Assembly Annual Meeting. And for our listeners briefly, what is or who is the Global Privacy Assembly?

**Alexander White:**

So, the Global Privacy Assembly is a body for all privacy commissioners around the world and an annual meeting where we come together to share practices, to coordinate on important issues, to try to identify commonalities between our work. But also so that we can speak more confidently on topics if

we know that our colleagues are seeing things the same way, that are getting to the same answers that we are, it allows us to speak a bit more authoritatively, I think, in all instances. But that is especially true with a small jurisdiction. There's a legitimate risk that a business might say, "You know what? It's not worth doing business in this jurisdiction because this commissioner is so unreasonable." Whereas if I can say, "Look, what I'm proposing is exactly in line with what you'll see from my Canadian colleagues, from my European colleagues, we're very much consistent on that page." There's huge value for us for that reason.

But also I think it's really important for small jurisdictions to engage, to provide our perspective, because very often the perspective on privacy issues is from a large jurisdiction or from a big city. And frankly, things are just different in small places. Everybody knows everybody. Everybody is related to everybody at times. And so I'm walking down the street and people are stopping me to ask me questions or whatever the case may be. So there's just simple differences in terms of expectations for privacy, but also for the harms. If someone's privacy is violated, all of a sudden there's nowhere to go, you're much more confined in that way.

So I think bringing that perspective to the international community can be really useful. And that was one of the reasons why we were inspired to host the meeting in October 2023. We had nearly 500 people from over 100 different countries and from different major tech companies. The theme of our event was ripples, waves and currents. And the idea behind that, of course, of course it was a nautical theme because of Bermuda, but also I love the idea of interconnectedness and that when there is an event in one place, it's going to radiate outwards, it's going to cause a wave that will affect others. And so we tried to identify those kind of universal topics like thinking about privacy risk, thinking about privacy harms, those sorts of things can be universal despite whether a local law says some specific compliance requirement.

**Ron Kruzeniski:**

My next question, but I think you answered it when I first heard the announcement that you were hosting, and I thought for a small jurisdiction that's really daunting. And when you say 500 people, that makes it more daunting. So from a hosting point of view, was it a success?

**Alexander White:**

I think so. I think it was an unequivocal success. I would say everything went very smoothly, and I have to credit my team for that because everybody worked very hard for a very extended period to make that happen. But I feel like we were able to really successfully spotlight some issues that might not have been presented under normal circumstances.

So one of them was we had a panel focusing on the Caribbean. And so we had regulators from Bermuda, from Barbados, from Jamaica, from Trinidad. So we had folks from all over to talk about some of these issues that small jurisdictions face with staffing and resources and thinking about privacy in the terms of being a human right, but also the economic and trade practicalities of it. And a lot of people told me that that really opened their eyes to that perspective, which is really exciting.

And we also spotlighted a lot of issues about gender or Indigenous perspectives, was very proud to have that, it was led by our British Columbia colleagues. And so we had a wonderful Canadian representation on our panels. And in fact, if anyone's interested, we have an archive of the event on our website, so you can see the agenda and all of the sessions are up on YouTube, so it's still available for people to go watch.

**Ron Kruzeniski:**

Yeah. And I was going to say, I unfortunately wasn't one of them, but you did have Canadian representatives, I think Patricia Kosseim, she chaired a panel, and Michael McEvoy sounds like he chaired a panel. He is just, well, I shouldn't say retired. His term has ended.

And so I know one thing that the GPA does is, and people work on resolutions and there that can be a series of resolutions, was there one resolution that stood out for you in 2013?

**Alexander White:**

Well, that's an easy question because even though there were some really good resolutions, so there were resolutions on AI and health data and all that good stuff, I actually wrote a resolution, so that one's of course my favourite. It's on what's called the GPA Library, so the Global Privacy Assembly Library. And the thinking behind that is that we could use our global secretariat to try to assemble some of the different regulatory decisions that are being made around the world and to start to categorize them according to privacy principle that could then become this body of law that we could reference as a global community. So I'm really excited to see what comes out of that.

**Ron Kruzeniski:**

Excellent. Well, and I wonder when you first said that I was thinking about the recorded sessions on YouTube, whether the panels and the discussions at the various GPA meetings could be part of that library. Or, you were thinking more so of decisions rather than panels or discussions?

**Alexander White:**

Let me back up and say the text of the resolution was really focused on guidance and decisions that were made by GPA members. But I like the idea of what you're saying that we could incorporate those other types of awareness materials and that could become a home for these, kind of a centralized hub as opposed to someone who is interested having to go to each individual know GPA 2023 web page and then 2022 web page in order to find some of these resources.

**Ron Kruzeniski:**

Right. Yeah. So we Canadians, and since you're a quarter Canadian, that really qualifies you, the federal, provincial commissioners here, we need a lot of advice. And with your thinking about these things from a global perspective, any things that you think Canadian commissioners should know, do or be active in?

**Alexander White:**

Well, I would start off by saying that Canadians are very humble, but you should not sell yourself short. In fact, Canada has such a wonderful tradition of privacy law and precedent that it can be a useful symbol for the rest of the world. I see Canadian laws as being very pragmatic but also very principled, and you've been at it for decades. And so there are a lot of new offices like mine, like others in the Caribbean, like others in Africa, or Southeast Asia or the Pacific that would benefit a lot from the Canadian perspective. So first of all, don't sell yourself short. There will be a lot of opportunities to share that valuable knowledge that you do have.

In terms of getting out there, I would think about it in this kind of principle of interconnectedness. No one country can solve these problems we're facing on our own because very often the harms are coming from elsewhere or they radiate through elsewhere, and we need a rising tide to lift all of our boats. And that can come by working together in these different types of working groups with the



Global Privacy Assembly or others. So I would encourage that to be a great place for my fellow regulators to get involved.

**Ron Kruzeniski:**

Well, and that's a great point. I think what happens maybe here, everywhere in the world, on a day-to-day basis you focus on the problems, the things you have to solve, and sometimes you forget to step back. And your comments kind of is a really good reminder that Canada has been at this for decades, and hopefully we've made some good progress along the way.

**Alexander White:**

I'd say so.

**Ron Kruzeniski:**

I've been to some Caribbean Islands. I have not been to Bermuda. Should I come and visit? Do you recommend it?

**Alexander White:**

Of course, I recommend it. Yes.

**Ron Kruzeniski:**

And why?

**Alexander White:**

Well, why not is the question. There are so many good reasons. I mean, you've got your activities, so you can go boating, you can go onto the Crystal Caves, you can grab yourself a fish sandwich and eat on our pink beaches. In fact, that's something that I didn't even mention is our sandbox, we call it the Pink Sandbox because Bermuda is famous for having pink sand on some of its beaches. So there's a great reason for you. But I say you've got a standing invitation, anytime you need to justify your expense report just say you have a meeting with the commissioner.

**Ron Kruzeniski:**

Well, thank you for that, Alex. And I want to really thank you for this discussion and maybe a little late, but thank you for hosting the GPA and being a first commissioner and taking on the daunting task of setting up a brand new office. So thanks for taking the time to talk to us today.

**Alexander White:**

I'm so happy to do it. Thanks so much for having me. It's always a pleasure.