

THE CHANGING REGULATORY LANDSCAPE: Future Proof Your Organisation



When the European Union implemented the General Data Protection Regulation (GDPR) in May 2018, the game changed. New data laws seeking to enhance the protection for individuals caused a dramatic shift in operations across the organisation, from legal, to tech to marketing. And there is no sign of the changing regulatory landscape slowing down.

With the imminent introduction of the California Consumer Privacy Act (CCPA), soon-to-follow copycat laws in other US states, and emerging data protection laws in regions such as South America and Asia, organisations must get their houses in order and be able to respond to the challenges regulations create in a defensible and efficient manner.

GDPR SEEMS LIKE OLD NEWS. But the changes and mandated compliance it introduced are still causing major ripples for those adapting to new business processes and laws. Data breach reports are now common in our social media feeds, with company after company falling victim to reputational and financial exposure resulting from a lack of knowledge, expertise or technology around their data management activities. The world of data privacy is changing, but many of the solutions remain the same.



How Technology Plays a Role

Businesses need more technical solutions to support them, because it's too much of a burden to handle manually. In the last few months, in particular, legal counsel is finding that business efforts to comply with the GDPR have picked up.

“I think, our sense as lawyers is that people are looking more for technical solutions to support them, because what we've found, particularly in the last few months, is that we've had a number of high-profile fines,” said Philip Thomas, Partner at Reed Smith, at The Masters Conference, London.

Phil Beckett, Managing Director at Alvarez & Marsal, had a similar sentiment.

“I think what we've seen in the GDPR world is that it jumped almost from a legal issue to a technological issue, and people looking for a solution that they can install to solve all ills, and to solve all problems.”



Phil Beckett

Managing Director at Alvarez & Marsal

“Whereas, at the beginning of the year, we felt that a number of clients had almost GDPR fatigue, we found, in the last few months, people are now ramping up their efforts to continue with their compliance solutions, but they're not looking purely for legal solutions. They're looking for technological solutions to support them, because on things like e-disclosure projects or responding to data subject access requests, they can be very heavy, time-consuming labor-intensive exercises.

“We've seen some that some clients will, again, use technology to make their lives easier. ‘You can download your data from our portal,’ you know, for example, so you can download statements or transactional history, or whatever. ‘We're giving you the tools to do that, and that helps us satisfy our obligations.’ The more you can use that, the better.”



Philip Thomas

Partner at Reed Smith

“That really is the idea of understanding what [software solution] you’ve got; does it talk to each other? Because very often, these solutions don’t, and corporations should be very careful about point solutions and why they’ve got them. Are they part of the, ‘get us compliant now’ [solution] or are they part of the future, ‘keep us compliant?’”



Dr. Don Macfarlane
Partner at SBP Law

Future-Proof Your Organisation

Regulatory compliance is a moving target. And a difficult one to score consecutively. Laws in different countries, regions and relating practices will constantly play a role in affecting data privacy or E-Disclosure activities. You can’t just delete data as a result of a Data Subject Access Request (DSAR) if it’s under a legal hold, right?

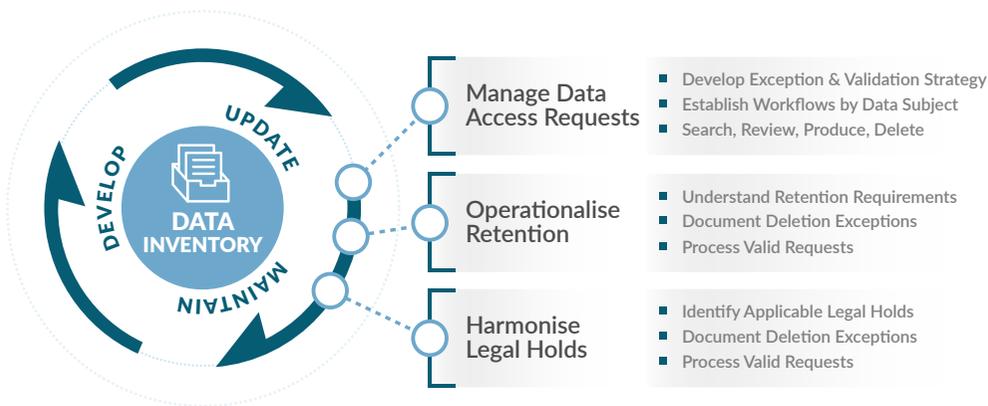
Organisations need to think about using everything at their disposal to future proof practices and create an ability to respond very quickly, accurately and defensibly to the changing regulatory landscape. When it comes to a technology solution for the future, Dr. Don Macfarlane, Partner at SBP Law, feels that the right one will pay dividends for you for years to come.

Macfarlane’s response highlights the importance of technology in a changing landscape, including the need for a platform that might answer problems that don’t exist yet. Another great way to get ahead of the changing regulatory landscape is to develop and maintain your data inventory, which many companies are still behind on.

Building a Data Inventory

Data lives across all areas of all different departments: legal, IT, marketing, service, sales—everywhere. Often, it lives in places that some employees in your organisation might not even be aware of, thanks to an undocumented “tribal” knowledge owned by long-tenured employees. And according to [Exterro’s 2019 In-House Benchmarking Report](#), if there is an inventory of the data, it’s likely on a spreadsheet rather than a software platform. This may be the norm for now, but it will be extraordinarily difficult for organisations and businesses to maintain compliance going forward if that remains the status quo.

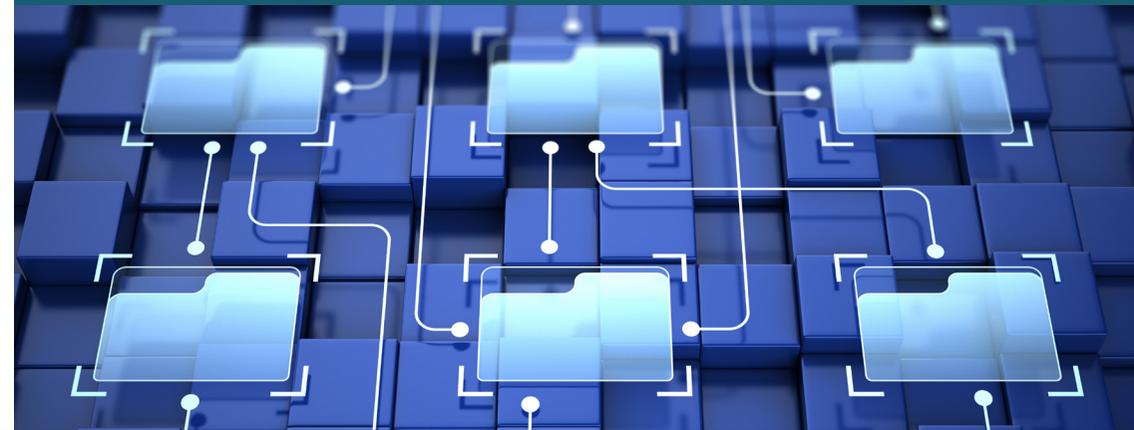
The primary benefit of building and maintaining a lean, accurate, and hygienic data inventory is that it’s the most efficient way to manage data from both a business and compliance perspective—now, and into the future. It’s also the only way to really ensure compliance with the GDPR and the CCPA, since it’s a shared requirement to turn over any and all information that you have on an individual should they request it.



“Companies are increasingly required to serve as fiduciaries of personal information,” says James Thompson, Regional Director of EMEA at Exterro. “Their customers, supply chain partners, and vendors are more likely to provide such data to companies that have the policies and software to manage it properly. An effective Data Inventory is the critical foundation needed to house all the processes and activities together under a unified infrastructure. Can you imagine being able to find and secure your data, without knowing what data you have and where it resides?”



James Thompson
Regional Director of EMEA at Exterro



“It’s ‘Please send me a copy of all my personal data,’ effectively. And that causes a headache for companies, because if you’re faced with that, if it’s come from a . . . customer you’ve had for 20 years or whatever, where do you start? What are they looking for? How do you find it? How do you separate it from data that they’re not really entitled to get? Are there any exemptions that apply? Is it privileged? It’s a big headache, and the problem with this, it can be very challenging to respond to these requests in a cost-effective way.”

Philip Thomas

Partner at Reed Smith

The Challenges of Responding to DSARs

After you know your data and what you’re using it for, your organisation will be truly ready to answer a DSAR. The keys to doing so lie in three areas: people, process, and technology. Without all three of those components, answering a DSAR can become a tremendous problem from a time-management and man-power perspective.

“We’ve found that one of the challenges companies find is that, if you look at the UK regulators’ website, there’s a template DSAR letter for individuals to send, and it’s drafted in the broadest possible terms,” says Thomas.

The definition of personal data is very broad: It’s anything that relates to or enables direct or indirect identification. Utilising technology tools to help sift and de-duplicate your data can help with both lowering risks by housing less personal data, and helping you automate much of the time-consuming work. It’s a lot to ask to respond in one month *with* all the right people, processes, and technology, let alone without.





Shifts Are Still Coming

The regulatory landscape in 2020 could soon see shifts on the horizon that are as disruptive as the GDPR and the CCPA—or perhaps more stringent. Technology solutions exist that can answer the problems created by these regulations, but organisations must take action to get their data houses in order and make data maintenance a priority. Ensuring compliance isn't easy, but organisations can leverage technology to make it more manageable—and, in some cases, far more cost-effective.

“Knowing where [customer] information lives in your organisation is an important piece of correctly solving the compliance puzzle,” says Thompson. “But given the right people, processes, and technology, creating and maintaining your data inventory also has direct business value, because you have a stronger handle overall on your customers' data. And the most effective way to do that is to utilise a platform and process that is automated and can collect and produce information, end-to-end, whenever a request comes through.”

When it comes to technology, Macfarlane agrees that it's important to focus more on the important questions first: What are you doing with your data?

ABOUT

Exterro is the leading provider of e-discovery and information governance software specifically designed for in-house legal, privacy and IT teams at Global 2000 and Am Law 200 organisations. Built on a simple concept of process optimisation, Exterro helps organisations address their regulatory, compliance, and litigation risks more effectively and at lower costs. For more information, visit [exterro.com](https://www.exterro.com).

“People are looking for, ‘I want to pay for a solution.’”
“But the first question is, ‘Where's your data? What are you using it for? Where's all the work you've done before to prepare for GDPR?’”

Dr. Don Macfarlane
Partner at SBP Law

