

# CLIENT DATA: MANAGE THE RISK AND AVOID THE CRISIS

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Like it or not, the computer is here to stay. Email, social media, electronic documents and digital images are an integral part of daily life, whether it be at work, rest or play.

The amount of electronic information now being created and stored is astonishing. As Andreas Weigend, a former chief scientist at Amazon.com, remarked, it is increasing exponentially: in 2013 we will probably, once again, create more data than in the entire previous history of mankind.

As the cost of storage decreases, the amount of data is only going to increase. Businesses and individuals are sitting on top of vast amounts of information which, unless they are well organised, could present a serious issue in the future.

Take a home computer with a modest amount of memory. Add in a good few years of family use, lots of emails with attachments, correspondence, insurance policies and bank statements, and you could be looking at a few million documents in all.

Applying that to a business environment is even more alarming. According to Kelvin McGregor-Alcorn, director leading the Electronic Disclosure Group at Deloitte in London, the average amount of data now being found in users' corporate mailboxes is between 300,000 and 500,000 documents.

Multiply that by the number of users, and even small businesses are sitting on huge amounts of ever-increasing data with which they may not know what to do.

The problem with keeping everything forever is that you shouldn't. The Data Protection (Bailiwick of Guernsey) Law, 2001 and the Data Protection (Jersey) Law 2005 both state that personal data must not be kept 'longer than is necessary'. While this is not exactly helpful in imposing a definite time limit for retention of records, periods of five or 10 or even 20 years are sometimes considered appropriate, depending on the nature of the data.

Whatever data you keep and however long you need to keep it, there is the risk that at some stage you may be asked to retrieve something from the mountain of material you are sitting on. Depending upon who is doing the asking (for example, the court, the police, clients etc.), you may not have very long to do so and may be subject to penalties if you do not or cannot comply.

At that point, the issue of data management starts to look more like a ticking bomb. Especially so when a request to produce data means you have to ask yourself some tricky questions: what data



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do we hold, what format is it in, do we still have the software, does anyone know how to use it, how do we retrieve the data, what do we have to search for, can we do those searches, what do we do then, how much is this going to cost?

Although these may look like difficult questions, they can in fact be addressed relatively painlessly with just a little forethought, a little bit of work and a clear (and applied) set of policies.

The best time to ask yourself these questions is now, and not when you are faced with an order from the court requiring disclosure within 48 hours. How you manage and store data will ultimately affect your efficiency to search and produce information when required to do so.

If you have a set of data management policies and apply them appropriately, you may legitimately be able to limit the extent of requests for data that has passed its destruction date (leaving aside questions about whether electronic data is ever truly deleted). However, if you do not have a policy, then one day you may have to roll up your sleeves and delve in to examine enormous amounts of data, quite possibly looking for the proverbial needle in a haystack. And 'enormous' is not an exaggeration: if each mailbox contains 30gbs of data (equivalent to 300,000 documents), and if it took you only 30 seconds to review each document to decide whether it was relevant to a particular issue, it would take one person working seven-hour shifts a total of 357 days to review this volume of data manually.

Accordingly, for a business, being proactive will be the best form of defence.