

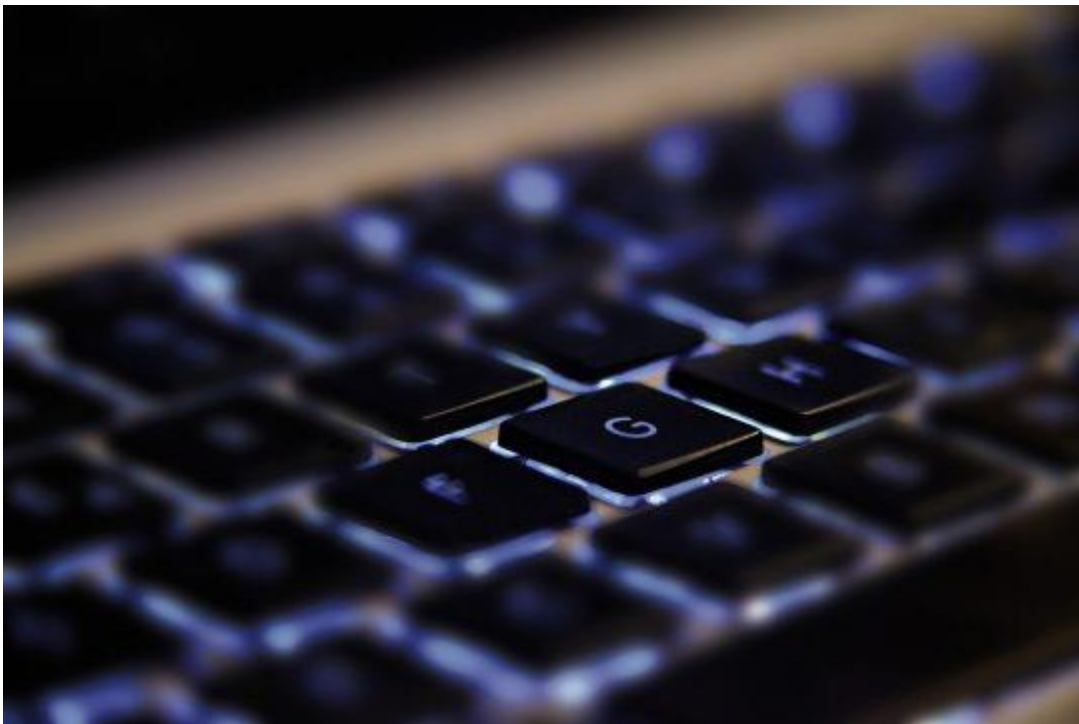
GDPR:REPORT

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Technology and GDPR



28TH AUGUST 2017 BY LAURA EDWARDS IN FEATURES, TECHNOLOGY



Data is one of the most valuable assets a business owns but there are significant regulatory changes about how data can be collected, used and stored – and they are just over the horizon. The EU’s broad and far reaching General Data Protection Regulation will come into force on 25th May 2018 and will affect all organisations that process the personal data of EU and EEA citizens. Importantly, the regulation has teeth: fines can reach either €20 million or 4% of an organisation’s global turnover, whichever is the greater.

The re-definition of how data can be collected, used and stored, has technical and systemic implications for organisations. Among other things, there are changes to the legal framework for handling data and new “rights” are granted to the data subject. Both of these will change the way an organisation engages with individuals.

The Legal Framework

The new legal framework reverses the burden of proof and places it on the organisation.

This means Privacy Notices will need active maintenance. Organisations will need to implement version control, keeping a record of which notice applied to which data subject for which product. Without it an organisation will be vulnerable.

Explicit consent to store and process data will not be needed in all circumstances, but the change in the burden of proof will provide a strong incentive for organisations to seek consent and to provide strong consent management tools. Similar to Privacy Notices, an organisation will want to have a record of which consent applies to which data subject, for which product and for how long.

These two significant legal issues will drive the development of strong audit capabilities, not just for compliance but to manage potential exposure to claims or possible class actions.

The “rights”

The rights of access, rectification, data portability and the right to restrict processing all suggest there will be multiple new reasons for customer contact. These rights will require the organisation to securely provide access to information about the data they store, how they use it and provide the ability to change it. It seems likely that organisations will develop and encourage the use of self-service portals, perhaps building them into existing web sites or apps to minimise the impact.

The right to be forgotten is perhaps one of the more interesting new rights. Beyond the simple question of how to make it happen, it has multiple implications and it's not a blanket right. For example:

- How can you forget your client when you are obliged by other regulation to retain records? You can't.
- There may need to be a way to read the context of the request because the right does not always apply (when there is a dispute with a customer, if there is a public health interest or a freedom of expression issue).
- There may be a need to support or filter multiple requests per data subject, in the case they want the organisation to retain and process data for other purposes.

The right of data portability presents an interesting challenge. There are two sides to this; Firstly a subject may ask you to provide a copy of the data you hold about them and this needs to be provided in a straightforward machine readable format; Secondly, a data subject might approach your organisation with data they have extracted from a competitor. What kind of user experience will you offer and how will your systems consume data which may be in a different format?

The right to restrict processing and the right to object to automated decision making and profiling means that individuals can request their data is no longer processed. As with the right to be forgotten, which parts of your organisation will this restriction apply to and will you want to or be able to support and filter complex requests?

Not long now

For this article we have focussed on a few aspects of technical impact to demonstrate how, for organisations who process personal data, GDPR presents some profound and interesting challenges.

May 2018 is not far off and it is entirely possible some regulators may want to make an example of someone – to show off their new pearly white teeth.

By Mike Jones, Adviser and Toby Bryans, Principal Consultant, [DataArt](#)

Original article can be found here:

<https://gdpr.report/news/2017/08/28/technology-and-gdpr/>