ADDRESSING THE CHALLENGES FOR 21ST CENTURY RECORDS MANAGEMENT IN THE LEGAL INDUSTRY
Australian legal firms are required to store hundreds or even thousands of documents for long periods of time. The efficient and comprehensive keeping of your records is paramount.

While we’re still at the beginning of the 21st century, we are already starting to see radical changes in record management; the slow death of paper-based systems, an abundance of new sources of information, the rise of cloud storage solutions, and the growing complexity in defining what is and isn’t a record.

The rapidly evolving technology space coupled with the lack of a standard method of keeping records in this day and age presents some unique and complex challenges for 21st century records mangers in the legal industry.

Like many other Australian industry sectors, the Australian legal industry has undergone a wide range of changes in the way court files are managed and lodged.

Until recently, the flow of information in the Australian legal sector has been overwhelmingly in the form of paper, according to a Fuji Xerox study into the impact of digital in Australian law firms. The classic media backdrop for a legal interview remains shelves packed with law reports, and the most recognisable outputs of the legal process such as contracts have generally been in physical form. However, this paper intensive approach, and the industry as a whole, is undergoing a period of unprecedented change.

In October 2000, the Federal Court was the first in Australia to introduce electronic filing of supporting legal documentation and applications. Since then, the Australian court system at all levels have supported and embraced online lodgement as a way to efficiently receive and store relevant matter documentation.

The paper court file is being progressively phased out and Australian firms need to prepare.

DID YOU KNOW?

The average person in an Australian law firm uses approximately 125kg or 25,000 sheets of paper per year.

Using a conservative estimate of 100,000 persons employed in the legal industry that means that annual paper usage amounts to 12,462 tonnes or 25 billion sheets of paper per year.

This equates to 1,988 times the Sydney Harbour Bridge and the weight of 9,586 Ford Focus cars.¹

ARE AUSTRALIAN FIRMS PREPARED FOR A DATA BREACH PROGRAM?

The prominent rise of hackers accessing large corporate data sources has created a completely different landscape for the Data-breaches data security industry. In response to this, the Federal Government has released an exposure draft of new mandatory data breach notification laws that will form part of the Privacy Amendment (Notification of Serious Data Breaches) Bill 2015. Originally earmarked to be implemented in the first half of 2016, these new laws are still in review however will mandate that any business, corporation, or government organisation must report the loss or theft of data that originates with them.

This will mean that it is the entity’s responsibility to not only secure their data, but also maintain an increased level of communication with those whose data they have collected. The essential goal of these mandatory reporting legislations is to avoid data breaches and to mitigate and limit the negative impacts when data is lost or stolen.

In the 2016 Cost of Data Breach Study: Australia by the Ponemon Institute, it was found that the average total cost of a data breach is $2.64 million while the average cost per lost or stolen record is $142. In fact, Jones Day have warned that Australian companies need to craft and implement data breach programs now to avoid the increased risk of aggressive litigation.

Privacy activists have been calling for these legislative updates for many years in order to effectively track the threat to personal data and identity theft that is becoming more widespread.

By collecting the sensitive information of their customers, every organisation needs a trusted security partner that can guarantee their data will maintain its confidentiality.

Compu-Stor provides the highest level of assurance by employing the world’s leading technologies and systems for data storage and security. Outsourced data security, provided by Compu-Stor in our state-of-the-art facilities, is the leading systematic method of ensuring that your consumer’s information stays exactly where it is intended – under your secure control.

The key steps for Australian businesses to be prepared are to:

- regularly review and strengthen their IT and data security systems, policies, and procedures, and
- prepare for how they would report a potential data breach to authorities and customers.

"IN PARTICULAR, BUSINESSES SHOULD REVIEW [OR, IF NOT ALREADY IN PLACE, DEVELOP]
RISK MANAGEMENT AND COMPLIANCE POLICIES AND PROCEDURES TO BOTH PREVENT DATA BREACHES AND DEAL WITH THEM, IN THE UNFORTUNATE BUT INCREASINGLY LIKELY EVENT THAT THEY OCCUR."

Adam Salter
Partner in Jones Day’s Cybersecurity, Privacy and Data Protection practice.

2) 2016 Cost of Data Breach Study: Australia
The International Organisation for Standardisation (ISO) recently released new International Standards for record management. The need for the updated ISO is to address the rise of digital content and our increasing reliance on it and how it changes the way we manage our records.

ISO 15489-1:2016 defines the concepts and principles from which approaches to the creation, capture and management of records are developed. This part of ISO 15489 describes concepts and principles relating to the following:

- records, metadata for records and records systems;
- policies, assigned responsibilities, monitoring and training supporting the effective management of records;
- recurrent analysis of business context and the identification of records requirements;
- records controls;
- processes for creating, capturing and managing records.

ISO 15489-1:2016 applies to the creation, capture and management of records regardless of structure or form, in all types of business and technological environments, over time.

Regulations regarding document retention and destruction

Currently, there are around 80 Acts at both the State and Federal level which regulate document retention and destruction. The various regimes are not codified, some are industry specific and some are catch-all legislation.

Privacy has become a top business priority for organisations all over the globe as new and expanding compliance regulations push for improved consumer data protection. At the same time, legislation is becoming stricter and safe record storage and destruction requirements are becoming increasingly stringent. The responsibility is on Australian businesses to remain on top of legislation. Unfortunately, claiming ignorance around not knowing specific legislative or privacy practices is not enough.

Recommended Record Retention Period

According to Law Institute of Victoria, a practitioner is obliged to retain client documents in a secure and confidential manner for at least seven years after the completion of the matter, unless the client provides instructions to the contrary.

Many of the papers on file will belong to the client and you may not destroy their property without their permission or without making reasonable steps to try and contact them. Where litigation may be delayed beyond the applicable statute of limitations period, longer retention periods may also be necessary. Practitioners should always maintain a common-sense approach in determining which documents should be retained indefinitely.

Destruction of documents

Each file should again be reviewed and if the decision to destroy is made, all necessary steps should be taken to ensure that original documents have been returned to the client when the file was archived and all relevant time periods have expired.

A permanent record should be made of the date and method of destruction and upon whose authority it was destroyed.

ISO 15489 - WHAT’S CHANGED?

By Barbara Reed, Chair, Standards Australia IT 21 Committee on Records and Document Management Systems.

- A greater emphasis on the digital environment (without being media specific).
- A greater emphasis on records control tools – metadata, classification, access and security and disposal.
- A recasting of the analytic approach as appraisal leading to determinations of what records should be captured as well as the more traditional how long should records be kept. Appraisal has become the analytic framework, from which multiple outcomes can be determined.

In general, all these legislative requirements are for businesses to take reasonable steps to protect information from misuse and loss through unauthorised access, modification or disclosure.

4) What standards, relevant to me, are there? Barbara Reed Chair, Standards Australia IT 21 Committee on Records and Document Management Systems

5) 9 Rule 7 Professional Conduct & Practice Rules 2005
ROBUST DOCUMENT MANAGEMENT SYSTEMS VERSUS CLOUD STORAGE

The importance of good records management and document access is a cornerstone of legal records keeping best practice. According to the 2015 Australia: State of the Legal Market by the Melbourne Law School and Thomson Reuters Peer Monitor, concerns over data security and privacy have put a handbrake on the growth of cloud and mobile computing amongst many commercial law firms.⁶

ORGANISATION

While cloud storage is a method of storing information, the function of an information management system is to deliver efficient and time sensitive access to information, allowing for files of any type to be stored and easily retrieved. Just like a filing cabinet can’t answer phones, cloud storage can’t truly manage your documents.

INTEGRATION

A document management system (DMS) is built to seamlessly integrate data capture, document storage, editing, workflow, and retention in a single platform.

FACILITATION

A good information management system facilitates workflow and collaboration, where documents can be updated in real time by multiple users. Live reporting, searching and ordering are additional functions that help.

RETENTION

A DMS has the capability to organise all documents, with edits and versions, into a clean, meticulously tracked record. Anything that needs to be accessed is easily locatable, and anything that has a timeline or expiration can be categorised accordingly.

SECURITY

The permissions and limits granted to users are fully customisable in a DMS. Who has touched each document and what they did to it is logged to create an easy-to-follow audit trail.

TRACK AND MANAGE MATTER RECORDS EVEN WHEN STORED OFFSITE

One of the main concerns with offsite document storage is the retrieval of documents when they are needed in a time critical manner. Compu-Stor have the room to store your records and the systems to make sure that you can identify and locate your documents quickly and easily.

All Compu-Stor customers have access to our easy to use, unique online records management system, CIMS. Our Complete Information Management System (CIMS) allows customers ultimate control of all their records from any device – PC, tablet or smartphone, without the need for additional resources, software or infrastructure. Customers can simply search this centralised system to retrieve the imaged file, removing the need for expensive internal IT systems and management. CIMS was developed by our in-house information management experts and is constantly monitored and updated with continuous improvements to meet our customers’ needs.

Security advantages to using CIMS include protected access, encrypted content and audit trails, and, we track all user access and usage. CIMS provides our customers will full management and document access not only throughout Australia but also around the world.

Access to CIMS has enhanced our customers’ capacity to access their own data, including viewing and editing storage details, viewing location details, creating work orders, viewing and creating schedules, viewing accounts and charges, nominating different users, and generating and printing reports.

All electronic files are stored at our own, highly secure data centre, giving customers the peace of mind that your information is not going overseas.

- No additional infrastructure costs
- Unlimited user access and storage space
- Browser based – access anytime, anywhere
- Only pay for what you use
- Secure storage and password protection safeguards sensitive information
- Further security includes protected access, encrypted content and audit trails
- Locate and download files instantly and fast track response times
- Build a comprehensive document index and track user access and usage

Compu-Stor provides comprehensive record management solutions that are tailored specifically to the needs and requirements of your business.

Compu-Stor’s information management services can provide you with a powerful business tool, especially if your business is struggling under the weight of records management pressures. Dividing the labour required to manage records effectively is one of the key benefits of Compu-Stor’s services. Leveraging the strength that Compu-Stor can offer will greatly lessen the burden of maintaining your records without sacrificing any level of accessibility or accuracy.

We understand that every business is different, and so we offer a variety of services that can be tailored to suit individual needs. Whether you are part of a large organisation or a smaller business, Compu-Stor can meet your retrieval, storage and compliance needs through our comprehensive record management systems. Our facilities, infrastructures and services all support your business while minimising the storage space and man-hours needed to properly maintain your information.

By partnering with Compu-Stor, you can ensure that your records are safe, secure and always comprehensively maintained. We are always well informed and up-to-date with the evolving landscape of compliance issues that are particular to each industry, and can extensively advise on issues relating to relevant procedures and processes.