Survey: Tech key to compliance in changing data privacy landscape

Respondents to a survey from Compliance Week and Exterro largely said they were confident their organizations are meeting regulatory requirements regarding data privacy despite evidence their data retention policies and procedures are outdated.

BY ALY MCDEVITT, COMPLIANCE WEEK

When it comes to keeping up with data privacy regulation, organizations would be wise to adopt a more comprehensive technology solution to drive efficiency and minimize human error.

Companies farther along the data privacy maturity curve recognize this wisdom and are more proactive about embracing data management technology in-house.

This anecdotal observation notwithstanding, most companies still hold fast to data compliance policies and procedures that depend on personnel for manual implementation and upkeep, according to a new survey from Compliance Week and information governance software provider Exterro.

The "Data Retention in 2023" study, conducted online between January and February, surveyed 173 senior-level executives, directors, managers, and analysts in the compliance, audit, risk, and information security professions. More than 30 industries were represented in the sample, with the largest constituent of respondents working in financial services (31 percent). Company sizes ranged from small, with fewer than 1,000 employees (43 percent); to midsize (31 percent); to large, with 10,000-plus employees (25 percent).

Among the key findings was evidence of false confidence in how well organizations are staying abreast of the dynamic data privacy regulatory landscape. Nearly three-quarters (71 percent) of respondents indicated they are "somewhat" to "very" confident their company is meeting all applicable

How confident are you that your data retention processes or solution are meeting all applicable state and international regulatory requirements?

- No answer: 10%
- Not at all confident: 5%
- Not very confident: 14%
- Very confident: 21%
- Somewhat confident: 50%
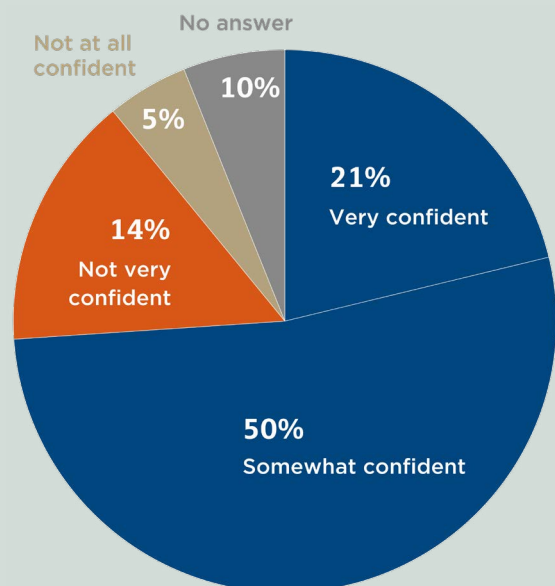
"Records retention is no longer a puzzle a human can solve. It leads to a false sense of compliance and, potentially, delays in cleaning ROT (redundant, obsolete, and trivial) data, which can adversely impact any business—for example, in the case of a breach."

Amalia Barthel, Partner & VP Compliance, Wareness Canada

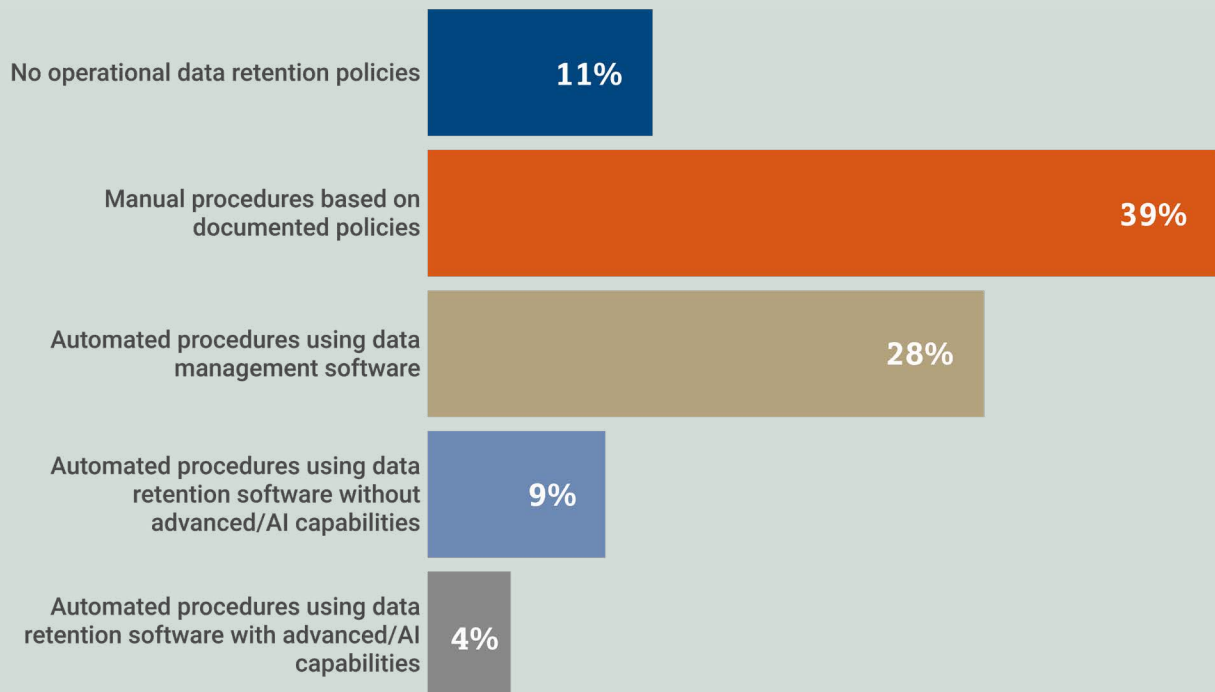state and international regulatory requirements regarding data privacy.

Yet, on the whole, respondents' data retention policies and procedures are decidedly outdated, falling behind the times with an overreliance on human resources. Half (50 percent) of all respondents described their data retention policies and procedures as fully manual (39 percent) or nonexistent (11 percent).

Further, the majority of companies rely on human resources to put their data retention policies into action, as 63 percent of respondents indicated their company relies on line of business data holders or centralized IT workers

to implement policies across the enterprise—as opposed to using technology to automate the scanning, classification, and deletion of data according to appropriate retention schedules.
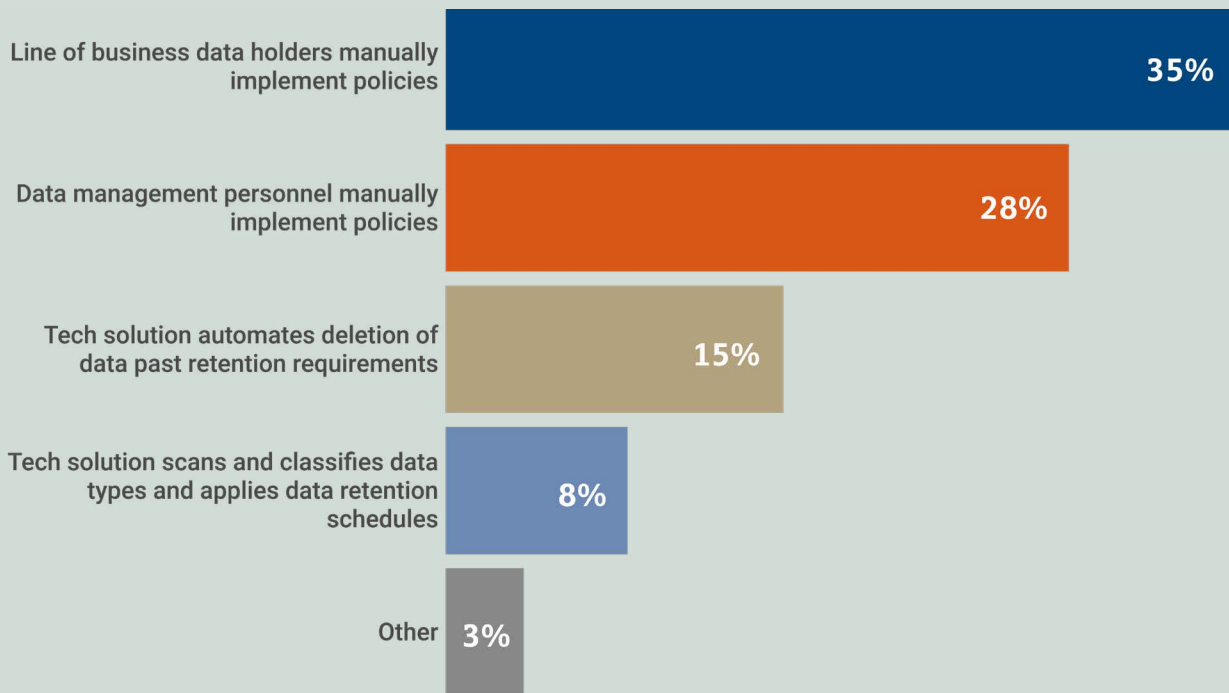
When asked how their company ensures its data retention policies and procedures reflect the most recent applicable state and international requirements, 78 percent of respondents said their organization relies fully on legal, privacy, or IT personnel to make the necessary updates. Just 8 percent of respondents indicated their company leverages technology to automatically apply new regulatory requirements to appropriate data types.

Describe your data retention policies and procedures.

Category	%
No operational data retention policies	11%
Manual procedures based on documented policies	39%
Automated procedures using data management software	28%
Automated procedures using data retention software without advanced/AI capabilities	9%
Automated procedures using data retention software with advanced/AI capabilities	4%

Note: 9% did not answer

How do you put your data retention policies into action?

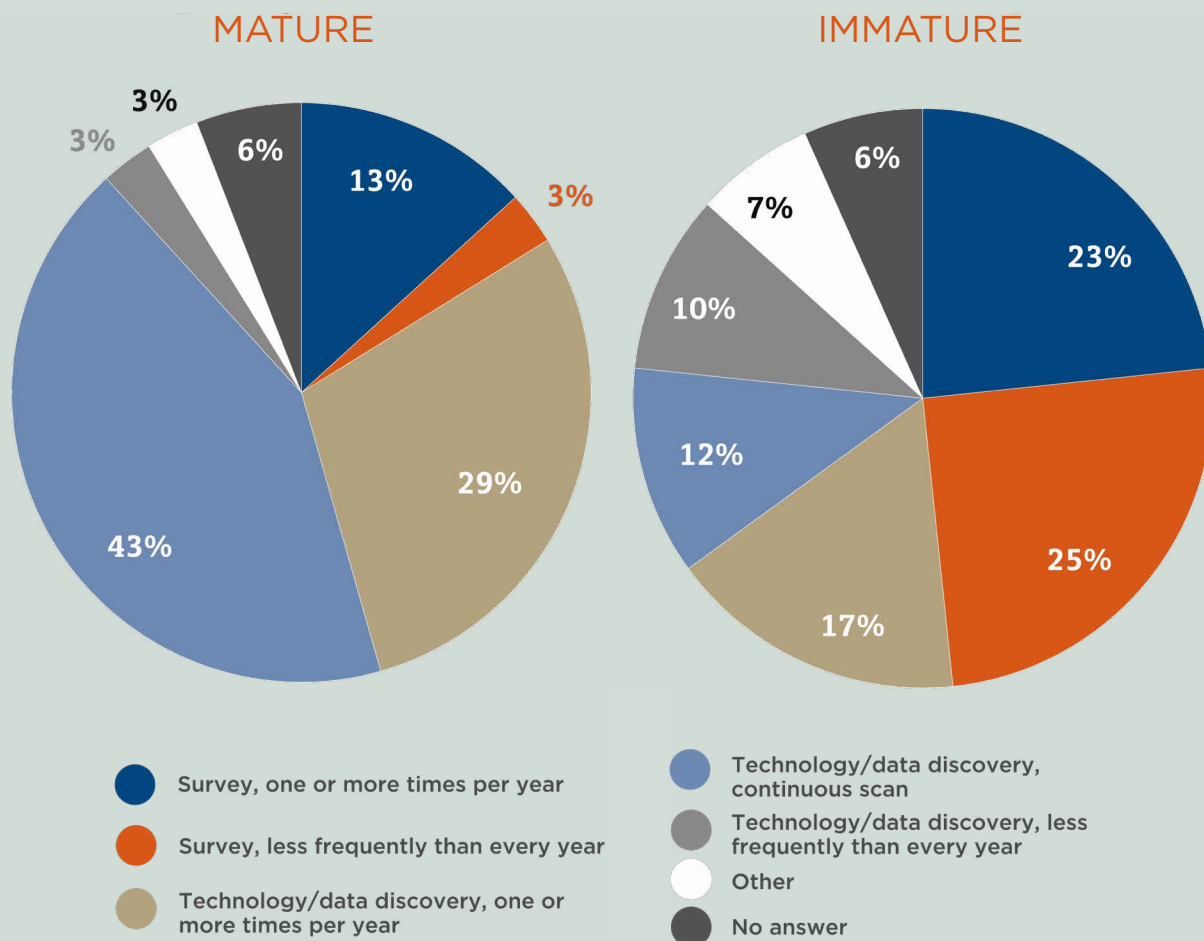|	
Line of business data holders manually implement policies	**35%**
Data management personnel manually implement policies	**28%**
Tech solution automates deletion of data past retention requirements	**15%**
Tech solution scans and classifies data types and applies data retention schedules	**8%**
Other	**3%**

Note: 11% did not answer

How do you ensure your data retention policies and procedures reflect the most recent applicable state and international requirements?

Legal, privacy, IT personnel update policies and procedures when they learn of reg changes	**46%**
Legal, IT personnel update policies and procedures regularly 1+ times/year	**32%**
Tech solution automatically applies regulatory req's to data types	**8%**
Other	**3%**
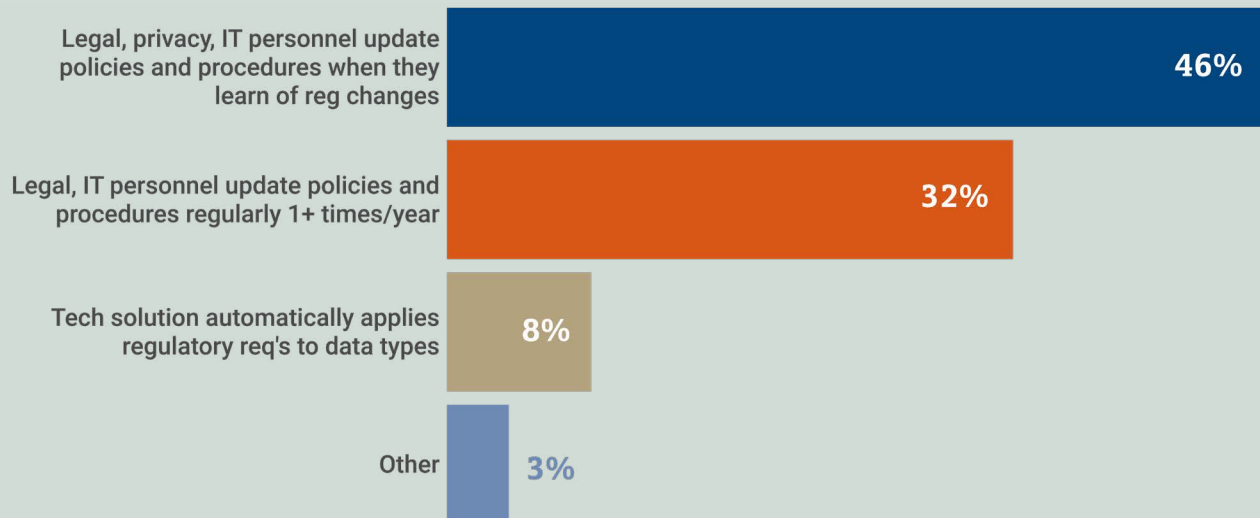
Note: 11% did not answer

How do you update your data inventory?
Comparing 'mature' vs 'immature' cohort responses

MATURE

13%
3%
3%
6%
3%
43%
29%

IMMATURE

23%
25%
17%
12%
10%
7%
6%

● Survey, one or more times per year

● Survey, less frequently than every year

● Technology/data discovery, one or more times per year

● Technology/data discovery, continuous scan

● Technology/data discovery, less frequently than every year

○ Other

● No answer

"Records retention is no longer a puzzle a human can solve," warned Amalia Barthel, lecturer at University of Toronto and Partner & VP compliance at Wareness Canada. "It leads to a false sense of compliance and, potentially, delays in cleaning ROT (redundant, obsolete, and trivial) data, which can adversely impact any business—for example, in the case of a breach."

Relying on manual processes also means the company's institutional knowledge resides with personnel, not the organization.

"People move around, and when they leave, that knowledge walks out the door if you don't have systems in place. Technology helps retain that institutional knowledge," said Alan Friel, global data practice chair at law firm Squire Patton Boggs.

Few organizations are leveraging artificial intelligence (AI) to implement data retention policies and procedures, according to the survey data. Just 4 percent of respondents indicated their companies as leveraging automated procedures using dedicated data management software that includes capabilities to intelligently implement policies based on data types, business record types, and updated regulations.

"AI is very useful when good data and good AI governance is taking place," said Barthel. "Organizations are reluctant to use AI because of the uncertainty of the results. But there are tools that have invested in training and constantly checking the knowledge in their AI platforms, and the results provide incredible return on investment."

Just as heavy dependence on human knowledge is a risk

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to organizations, ungoverned reliance on technology is a hazard, too.

"The use of technology tools to find and manage data fills the gaps that will be inherent in relying on human knowledge," said Friel. Nevertheless, "Reliance on technology cannot be a substitute for good due diligence with the stakeholders. Companies need to do both."

Friel said the use of technology for information governance is a sign of a mature program, but, "We're at a point where most companies have not reached a state of meaningful maturity."

The data bears out the consensus technology drives efficiency. Respondents who ranked their company's data compliance processes as more mature were about twice as likely to say their company uses technology to manage data. Of the 68 respondents who ranked their company's data compliance processes as "managed" or "optimized," 75 percent indicated their company uses technology to update data inventories—compared to just 39 percent of the 60 respondents who ranked their company's data compliance processes as "ad hoc" or "repeatable."

In-house technologies

According to the survey results, the most common privacy functions managed by companies' in-house technologies are data retention and deletion (64 percent), third-party risk management (55 percent), and data breach response (52 percent).

> Your technology solution should be able to answer 3 questions:
>
> **1. What data do I have?**
>
> **2. What are the rules on retention?**
>
> **3. How do I make sure I don't over-retain?**

For companies looking to move on from spreadsheets and calendar notifications and upgrade to a technology tool to facilitate data privacy compliance, they will want to ask themselves and be able to answer the following questions, according to Friel:

1. "'What data do I have?'"
2. "'What are the rules on retention?'"
3. "'How do I make sure I don't over-retain?'"

The ability to inventory and manage data and apply retention rules to identified data sets is the most important capability a tool can provide, added Friel, which corresponds with the survey findings. Respondents, where applicable, identified the top capabilities of their company's data retention solution as: 1) applying regulatory requirements to relevant data types (35 percent) and 2) scanning and identifying data types across the enterprise infrastructure (31 percent).

More than a quarter of all respondents (28 percent) said their company does not have data retention software.

For companies shopping for such tools, Barthel offered a warning: Be on the lookout for data retention tools that overpromise and underdeliver.

"I reviewed many tools which claim they 'do data retention.' Regulations require that retention be examined by a data set, and I have not seen many tools capable of doing just that. In addition, I would not want an empty shell with just 'guidance' because organizations need to accelerate their data retention capabilities," said Barthel.

The bottom line is companies need a system that triggers the deletion or destruction of data consistent with the retention periods to avoid the risks associated with holding onto data too long, whether that be a data leakage, data breach, or regulatory violation.

"You can have a retention schedule, but if you don't have a system for applying it, then you don't have a retention program. You have to have a way to apply the rules to the data set so that you don't retain longer than the applicable periods. Otherwise, it's just a policy on paper sitting in a drawer and not being implemented," said Friel. ∎