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Sharing without ownership – data protection, data trusts, and data sharing agreements

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Data Governance Challenges

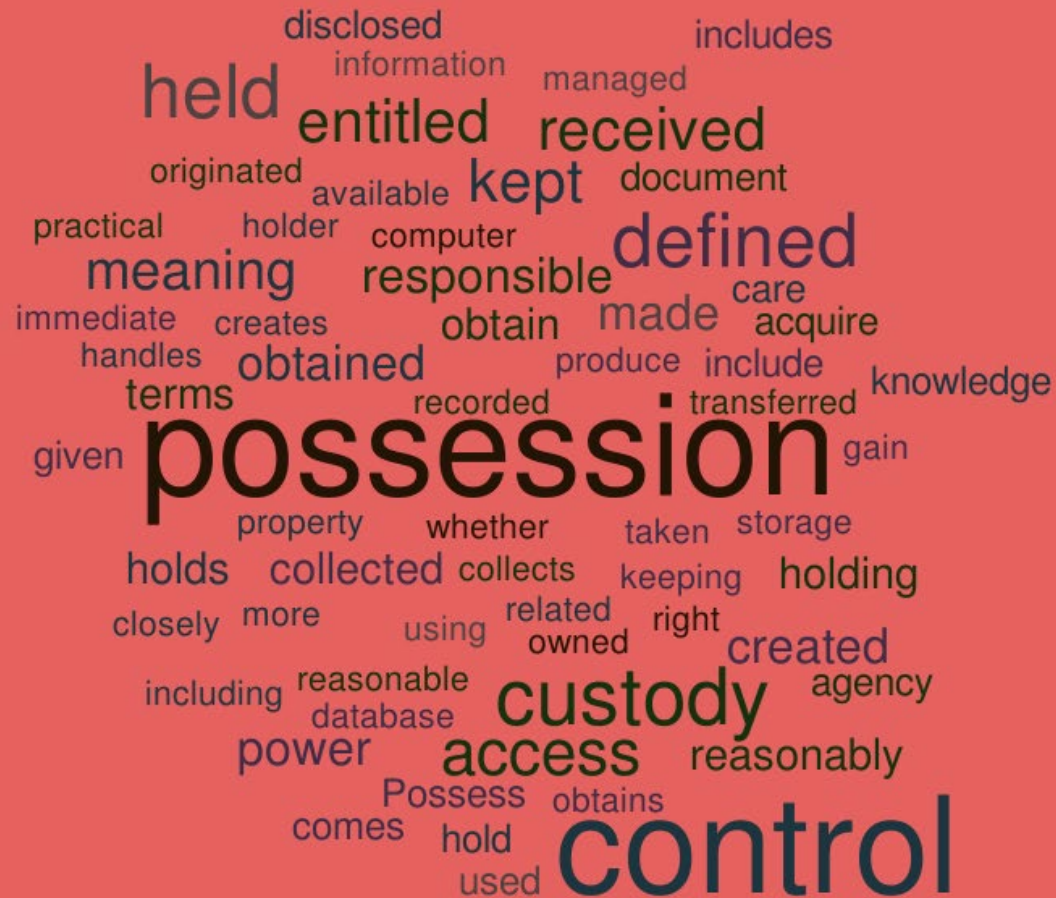
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- ▶ Data vs information
- ▶ Physical vs Digital
- ▶ Public vs Private
- ▶ Personal vs non-identifiable
- ▶ Competing goals: sharing vs protection
- ▶ Inconsistent and complex legislation
- ▶ Inadequate contracts





Entity ↔ Data Terminology



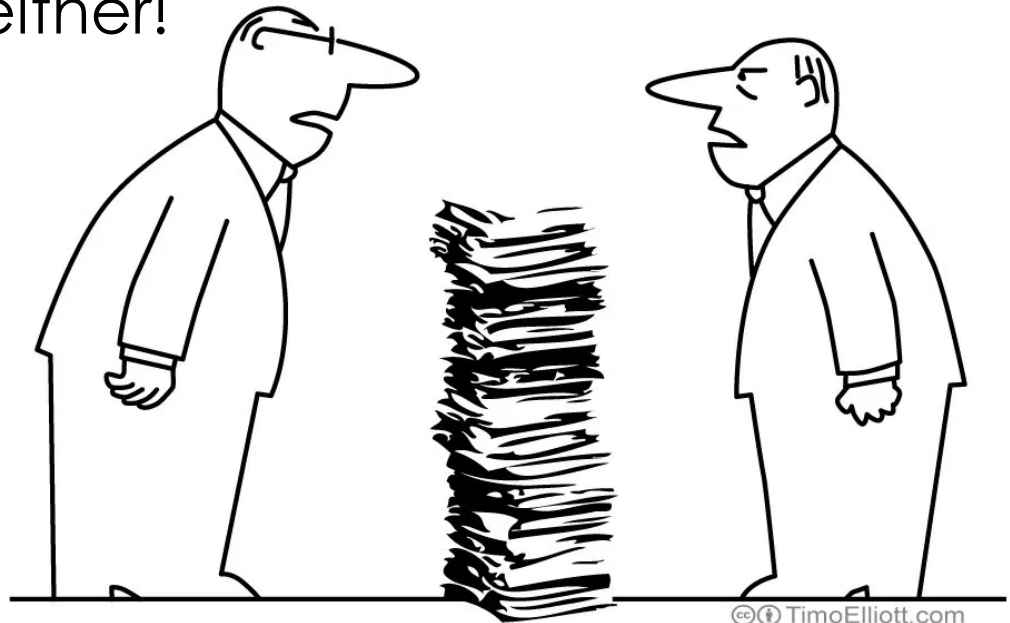


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Who Owns Our Data?

- ▶ You don't own your personal data – but nobody else does either!



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"No, it's MY data!"



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Data Governance Solutions

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- ▶ Law reform
- ▶ Creating ownership through “data trusts”
- ▶ Creating private law obligations eg “fiduciaries”
- ▶ Contract networks for “data trusts”
- ▶ Better contract templates





Data trusts

- ▶ Trust *law* versus *trustworthy*.
- ▶ What is the property held on trust?
 - ▶ Data?
 - ▶ Rights corresponding to obligations to maintain secrecy?
 - ▶ Statutory rights of data subjects?
 - ▶ Physical chattels on which data is stored? Land on which servers storing data sit?
- ▶ Who is beneficiary?
 - ▶ Data subjects as a group?
 - ▶ Data subjects separately?
 - ▶ Entity with a mandate to care about data subjects' interests?
 - ▶ Or charitable trust?



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Data Sharing DOs and DON'Ts

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▶ Don't:

- 1) Use terminology related to property ('own') or physicality ('hold')
- 2) Create agreements 'for lawyers'

▶ Do

- 1) Consider data subjects' rights and interests
- 2) Draw in information management policies
- 3) Include deletion and end of agreement arrangements
- 4) Rules on on-disclosure





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Comments? Questions?

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