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Best Practices for Information Retention & E-Disclosure Management 2007

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Mastering the tools, techniques and legal know-how to manage data and documents from creation through to retrieval and destruction

Key speakers include:

- Hon. Judge Shira Scheindlin, **Southern District of New York**
- Peter Hustinx, **European Data Protection Supervisor (EDPS)**
- Christian Liipfert, *Legal Lead, Global Document Project, BP America*
- William Stevenson QC, **Crown Office Chambers**
- John Goodfellow, *Legal Counsel, Technology Group, ICI Group*
- Janice Leiper, *European General Counsel, H.J. Heinz Company*

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- **ICI Group**
- **H.J. Heinz Company**
- **HBOS**

22 – 23 May 2007
Jumeirah Carlton Tower
Knightsbridge, London

Access strategic perspectives to enable you to:

- **STREAMLINE** your information management practices with your electronic document and disclosure needs
- **COMMUNICATE** the legal and regulatory drivers for good data management practices across your company
- **LEVERAGE** key processes and technology solutions to deliver a coherent electronic document and disclosure programme
- **DEVELOP** a cross functional proactive approach to litigation readiness
- **ENSURE** compliance with local disclosure regulations and data privacy requirements

Pre-Conference Workshops: Monday 21 May 2007

- A:** Understanding the Legal and Business Drivers for a Dynamic, Compliant Records Management Policy
- B:** Planning for and Co-ordinating your Information Retention Policy
- C:** Safely Navigating the International Data Privacy & Disclosure Obligations Minefield
- D:** Ensuring Litigation Readiness and Developing an E-Disclosure Response Programme

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Pre-Conference Workshops: *Monday 21st May 2007*

08.00 – 10.45:



Understanding the Legal and Business Drivers for a Dynamic, Compliant Records Management Policy

With the ever increasing emphasis upon corporate governance, the need for a cogent and compliant records management policy which addresses your business needs in the electronic age, has never been greater. What considerations must you bear in mind when devising or updating your records management policy? What are the legal and regulatory obligations that you must take into account in deciding how, and for how long, should you keep records? How can you ensure that your employees support the policy and, importantly, develop good practices in conducting electronic communications and creating records?

This workshop is designed to provide guidance to those who are looking to devise new, or to refresh existing, records management policies in order to address their business needs and legal or regulatory obligations in today's information environment.

Some of the issues and strategies we will look at include;

- The legal and regulatory context of your records management obligations
- How those obligations are affected by the internationalisation of your business
- The key features of a sound records management policy
- How to plan the creation/updating and implementation of a records management policy
- How to address the challenges of historically accumulated records
- How to help your employees avoid common pitfalls in business communications

Workshop facilitated by:

Ed Sautter, *Partner-Litigation & Dispute Resolution Group*
Mayer, Brown, Rowe & Maw LLP (London)
Wayne Matus, *Partner*
Mayer, Brown, Rowe & Maw LLP (New York)



11.00 – 13.45:



Planning for and Co-ordinating your Information Retention Policy

Includes working lunch

Against a backdrop of rapidly developing rules and new obligations, even the most seasoned legal counsel can struggle with the information retention and management challenge. Yet only by tackling the procedural and practical difficulties facing your corporation or client in this area can you ensure that you are decreasing potential future liability and manage your information properly – from creation to destruction.

This workshop will identify and explore critical technological developments and also show you how to:

- Take steps to minimise the risk of your information retention policy being caught short
- Ensure your information retention policy does not compromise your compliance with e-disclosure obligations
- Understand document production tips and techniques to overcome data management obstacles
- Determine what can be done in-house and what can be outsourced
- Allocate roles and responsibilities within your legal team to combat inconsistent records management programmes, system incompatibilities and dispersed reporting structures
- Pro-actively manage and improve your relationship with suppliers and strategic partners
- Utilise new technology to save time and money when meeting your document preservation obligations

Workshop facilitated by:



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14.00 – 16.45:



Safely Navigating the International Data Privacy & Disclosure Obligations Minefield

A well-organised and informed approach is critical to complying with the differing data protection laws and privacy requirements during regulatory or governmental investigations and commercial disputes, which span multiple continents and legal jurisdictions. As a corporate counsel or private practice lawyer, you must know how to co-ordinate and implement your document and email preservation requirements to ensure you can reconcile conflicting EU and US legal requirements.

This workshop will offer a step-by-step guide to meeting your data privacy and disclosure obligations as you balance the requirements of data protection laws with your document preservation requirements during disputes or investigations. It will also offer guidance on how to manage the daunting requirement of conducting electronic disclosure in multiple countries and jurisdictions under ever-tightening and conflicting guidelines.

Increase your awareness of the issues at stake during the disclosure lifecycle through these key learning points:

- Overview of differences between EU and US approaches to electronic disclosure
- Key data protection principles to be aware of, and how to manage privacy concerns
- International data transfers and the differences between civil and common law countries
- Preserving and collecting data during a dispute: capturing potential data to avoid future liability
- Balancing the requirement to preserve data with the associated risks
- Best practices for collecting data internationally: from collection requests to local customs, and employment contractual issues to language barriers
- Understanding data processing, the EU Data Protection Directive and how this limits the transfer of data internationally
- Overcoming common restrictions and what to do if you cannot move data outside of a jurisdiction

Workshop facilitated by:

Craig Earnshaw, *Managing Director, FTI*
Steven Buddell, *Managing Director, FTI*



17.00 – 19.45:



Ensuring Litigation Readiness and Developing an E-Disclosure Response Programme

Includes working dinner

With over 90% of business documents today generated electronically, preparing for document preservation and production is critical to reducing the risk and cost associated with litigation. This means ensuring you have a defensible, ongoing document management programme throughout your enterprise including an electronic disclosure plan.

This unique workshop is specifically designed to meet the growing need for litigation readiness and to help you avoid common pitfalls when developing an electronic disclosure plan. By analysing real life scenarios and looking at an electronic disclosure / discovery project from start to finish, you will learn about the best practices for recovering, retrieving and producing data and discover why litigation readiness is critical today.

Further key learning points to be covered include:

- How to develop a litigation response plan before litigation hits – and ensure that your document retention policy holds up in court
- Reconciling your document retention practices with your document disclosure needs – striking the balance between adequate data housekeeping and over-zealous document destruction
- Data management tips for companies
- Developing internal capabilities and incorporating external providers into your e-disclosure response programme
- Setting up a litigation response team: key criteria to apply
- Assessing the electronic landscape and ringfencing litigation sensitive data
- Litigation sensitive data stores for companies engaged in litigation

Workshop facilitated by:

Tracey Stretton, *Legal Consultant, Kroll Ontrack*
Andrew Szczech, *Consultant, Kroll Ontrack*
Simon Walsh, *Solicitor, Faegre & Benson*



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Conference Day 1: Tuesday 22nd May 2007

Information Management & Retention

7.30 – 8.30 Breakfast Briefing: Considering the Options

Key discussions include:

- Tailoring technological solutions to meet your legal and business objectives
- Implementing technology and processes across your enterprise
- Developing internal capabilities and incorporating external providers

Check www.iqpc.com/uk/inforet for session facilitator information



8.40 Coffee and Registration

9.00 Chairs' Welcome Address

Ed Sautter, Partner-Litigation & Dispute Resolution Group,
Mayer, Brown, Rowe & Maw LLP
Tracey Stretton, Legal Consultant, **Kroll Ontrack**

Structuring your Information Management Strategy

9.10

Promoting Information Management as a Business Critical Issue - Corporate Attitudes and Lessons Learned

- Understanding the key legal and regulatory drivers for information management
- Current best practice approaches to corporate governance and compliance
- Managing and minimising legal and regulatory risk in your document policies
- Understanding electronic evidence and the unique opportunities and challenges it presents
- Ensuring your electronic information store is compliant, well-organised, easily accessible and litigation sensitive
- Litigation Readiness - would your document management stand up under regulatory or court scrutiny?
- Litigation Response Tactics - how to formulate appropriate data preservation, searching and disclosure plans

John Goodfellow, Legal Counsel, Technology Group, **ICI Group**
Ed Sautter, Partner-Litigation & Dispute Resolution Group,
Mayer, Brown, Rowe & Maw LLP
Tracey Stretton, Legal Consultant, **Kroll Ontrack**

10.20

Developing a Flexible & Efficient Information Policy Across your Organisation

- Determining who should be involved in drafting, implementing and enforcing your policy: in-sourcing or outsourcing?
- Incorporating and policing internal controls and processes into your document and data policy
- Assessing for what purposes do you need to retrieve data and determining corresponding response plans:
 - o M&A Activity
 - o Commercial disputes
 - o Regulatory compliance and investigations
 - o Management review
- How to obtain internal management buy-in
- Embedding best practices in information preservation across all functions of your company

Sanjay Bhandari, Head of eDisclosure, **KPMG Forensic**
John Featherstone, General Counsel Litigation, **Barclays Bank**

11.20 Morning Coffee and Networking

11.50

Key Considerations in Developing a Document Management Strategy in the Electronic Age

Part I: Reducing the Growing Cost of E-Disclosure and Better Leverage of Your Company's Electronic Data

- Understand why major UK and EU corporations are struggling to manage their company's e-mail and electronic documents, placing excessive strains on IT and legal staff, and their budgets
- Gain knowledge of the rigorous new e-Discovery rules that companies must comply with, when conducting business in the US
- Lawyers within these organisations have little in-house capacity and require access to electronic evidence which is increasingly difficult and expensive to collect and manage, so they resort to outside consultants that charge exorbitant fees
- Learn how many companies have brought technology and processes in-house and also track detrimental employee activity, all the while reducing the organisation's bottom line

Victor Limongelli, Esq., President, Guidance Software

Part II: Ensuring Compliance and Effective Communication

- Communicating data privacy and compliance requirements throughout the organisation
- Identifying and accessing the right documents in a timely and compliant manner

James Leaton Gray, Head of Information Policy & Compliance, **BBC**

12.40: Lunch and Networking

13.50

Structuring your Information Management to Ensure Litigation Readiness

- Identifying the drivers for a litigation readiness strategy; regulatory and

- compliance, litigation, data protection and information management
- Understanding the role of electronic records in corporate communications and transactions, balanced against your legal responsibilities
- Developing and communicating the right capabilities throughout your cross-functional information management team
- Considering who you should include in-house and who you should work with externally
- Ensuring you get the planning stage right to minimise the effects of litigation

John Forsyth, Director of Group Legal Services, **HBOS**
Andrew Haslam, Consultant
Tom Hopkinson, Principal, **LECG**

International Considerations and Best Practices

14.50

International In-House Perspectives:

Part I Developing Document Retention Policies in a Multi-National Organisation

- Leveraging local best practices, procedures and technology to build a coherent, compliant global structure
- Minimising risk by overcoming common barriers such as:
 - o Inconsistent records management programmes
 - o System incompatibilities
- Complying with disparate retention periods and disclosure laws in the US and EU

Geraldine Henbest, Global Privacy Director, **Ernst & Young Global Ltd**

Part II Successful European Implementation of a Global Document Retention Strategy

Janice Leiper, European General Counsel, **H.J. Heinz Company**
See website: www.iqpc.com/inforet for session details

15.30

Afternoon Tea and Networking

15.50

Part III Negotiating the Labyrinth of Information Management and Associated Challenges

- Exploring the international impact of electronic records upon counsel and the courts
- Co-ordinating the IT, records management, business and legal aspects of electronic information
- Considering restrictions in the transfer of electronic documents between jurisdictions

Christian Liipfert, Legal Lead, Global Document Project, **BP America**

16.15

Data Protection Focus Session:

Assessing Data Privacy Rules & their Impact on your Business and Legal Obligations

- Developing a practical approach to global privacy compliance for businesses
- Assessing the EU Directive and the standards of data protection required by member states
- What data protection laws mean for businesses and their lawyers, when operating in multiple jurisdictions
- Balancing the requirements of data protection laws with document preservation and disclosure requests in line with your corporate responsibilities

Bojana Bellamy, Global DP Compliance Lead, **Accenture**
Peter Hustinx, European Data Protection Supervisor (**EDPS**)
Christopher Millard, Partner, **Linklaters**
Sian Rudgard, Enforcement Counsel, **Information Commissioner's Office**

17.45

Breakout Round Tables:

Review and Discussion of Day One

The last session of the day is designed to share best practice and generate fresh debate on information retention, disclosure and other industry pressures.

Round Table Leaders include:

Hodge Malek QC, **Gray's Inn**
Mr. Bengt Gustafson, Senior Vice President, Chief Legal Officer, **Metso Minerals and President of ECLA (European Company Lawyer Association)**

Ed Sautter, Partner-Litigation & Dispute Resolution Group, **Mayer, Brown, Rowe & Maw LLP**
Chris Dale, Consultant, **Lawyer Support**

18.45

Chairs' Closing Address

Tracey Stretton, Legal Consultant, **Kroll Ontrack**
Ed Sautter, Partner-Litigation & Dispute Resolution Group, **Mayer, Brown, Rowe & Maw LLP**

Networking Drinks and Dinner Reception
Join the conference speakers and your fellow delegates for an informal drink to round off the day





Conference Day 2: *Wednesday 23rd May 2007*

E-Disclosure & Facing Disputes

8.30 **Coffee and Registration** ☕

8.50 **Chairs' Welcome Address**
Tracey Stretton, *Legal Consultant*, **Kroll Ontrack**

Legal Updates and Technical Perspectives on E-Disclosure and Facing Litigation

9.00 **Fresh Perspectives on the Civil Procedure Rulings: Understanding the Legal Drivers and Corporate Obligations on E-Disclosure**

- How are the rules being applied in practice 18 months on?
- Achieving proportionality in multi-party litigation
- How well do the rules control the scope and cost of e-disclosure?
- Understanding what constitutes a reasonable search of electronic sources for standard disclosure
- Key considerations for companies operating in different jurisdictions
- How will the advent of electronic evidence impact on litigation strategies of law firms and in-house legal teams?

Tracey Stretton, *Legal Consultant*, **Kroll Ontrack**
William Stevenson QC, **Crown Office Chambers**

9.50 **Legal Technology Briefing: Part I Streamlining Legal IT Capabilities in Electronic Documentation and Disclosure**

- Effectively communicating requirements and limitations between legal and IT departments
- Fine tuning internal processes to manage all classes of records including: live, deleted, archived and retrieved data
- How much legal experience and knowledge do legal IT and document professionals need to support the legal function?

Christine Gabitass, *Technology in Practice Analyst*,
Latham & Watkins LLP

Part II Leveraging Technology to Lower Costs Associated with Managing Electronically Stored Information (ESI)

- Adopting a proactive and sensible approach to the management of ESI within organisations
- Should technology solutions be brought in-house?
- The underlying message of the amended US Federal Rules of Civil Procedure and its universal applicability

Reza Alexander, *UK Litigation Support Manager*,
DLA Piper UK LLP

10.40 **Morning Coffee and Networking** ☕

11.10 **Practical Strategies for Working an E-Disclosure Matter between Service Provider, Law Firm and Litigating Client**

- Project managing a disclosure case: why the interplay between providers, law firms and clients is critical to the success of a case
- Successfully allocating tasks and responsibilities within your team
- Avoiding common communication pitfalls and determining the role suppliers should play in client-side strategies
- Developing tactics and strategies that work in real-time

Jonathan Brewer, *Managing Director*, **LexisNexis**
Matthew Grant, *Legal Consultant*, **LexisNexis**

11.40



Hypothetical Scenario: Putting a Strategic Response Plan in Place During Complex Litigation

What's the first thing you would do when you are faced with an e-disclosure request?

If you are at all unsure about what your first steps would be then this session is designed for you. Delegates will break out into 'project response teams' and will be asked to plan their next moves. Use this session and the knowledge of your peers to examine your internal processes and level of litigation readiness.

Facilitators:

Andrew Szczech, *Consultant*, **Kroll Ontrack**
Neil Mirchandani, *Partner*, **Lovells**

12.40 **Lunch and Networking** 🍽️

Multiple-Jurisdictional Litigation and E-Disclosure

13.40 **Electronic Records and the Impact on Future Litigation**

- Defining the scope and parameters of e-disclosure
- How will complexities in electronic based evidence impact in the courts?
- Dealing with cross border data collection and disclosure
- Identifying and retaining your e-evidence
- Retrieving and interpreting metadata: what do you do with it once you have it?
- Understanding the limitations on retrieving electronic data
- Assessing privilege considerations and the admissibility of evidence

Christian Liipfert, *Legal Lead*, **Global Document Project**, **BP America**
Georg Kirsch, *Litigation Counsel*, **Bayer AG**
Craig Earnshaw, *Managing Director*, **FTI**

14.40



Judicial Panel Discussion: The View from the Bench – What Judges Expect Concerning E-Disclosure

- What judges will expect at the outset of litigation – and what it means for corporate records and document management
- What is the court's role in managing and controlling the cost of e-disclosure?
- Comparing the current positions of the UK and US courts after CPR (October 2005) and FRCP (December 2006)
- The ethics of e-disclosure: preservation and production obligations

Master Whitaker, **Queen's Bench Division**
Hon. Mr Justice David Steel, **Royal Courts of Justice**
Hon. Judge Shira Scheindlin, **Southern District of New York**

16.10

Legal Privilege Considerations in Information Management

- Responding to disclosure requests and maintaining privilege
- How e-disclosure can impact the scope of what is disclosed and what is privileged information
- Key privilege considerations and practical applications for in-house counsel
- Assessing the impact of privilege on compliance
- Gathering and transferring documents as you face litigation

Christopher Arnall, *Associate General Counsel*, **KPMG LLP**
Senior Partner from a London law firm (TBC)

17.00 **Chairs' Closing Address & End of Conference**
Tracey Stretton, *Legal Consultant*, **Kroll Ontrack**

Afternoon break will be called by the conference chair

How are Legal IQ events put together?

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Who will I meet?

Corporate: General Counsel, Head of Legal Affairs, Compliance Officer, Head of Litigation, Records/Data Manager, Litigation Support, Legal IT Manager
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Best Practices for Information Retention & E-Disclosure Management 2007

Over 90% of business documents today are generated electronically, so you must ensure that you have the best information management practices in place to protect your company's assets and reputation.

"E-Disclosure is coming. It may not be the tidal wave we have seen in the US but the waters are definitely rising..."

(Legal Technology Insider, 2006)

In the current legal and regulatory environment with an increasing demand for corporate accountability, the time is ripe to develop and capitalise on an **efficient, coherent and defensible** information strategy.

Take the first steps today and reserve your place for **Best Practices for Information Retention and E-Disclosure Management** and hear from industry and legal experts as they address:

- **Operational Challenges** in information retention, disclosure and destruction policies: find out how **BP America, Barclays Bank** and **ICI Group** are responding
- **Litigation Readiness and E Disclosure** – Want to know what all the fuss is about? Then hear corporate perspectives from **HBOS** and **Bayer AG** and views from the bench from **Hon. Judge Shira Sheindlin**
- **Data Privacy Rules** and other requirements – how do they impact on your corporate and legal obligations? Join **Accenture, Linklaters** and **The European Data Privacy Supervisor** to hear fresh, practical guidelines

This meeting will provide ample opportunities for discussion and development that will equip you with no-nonsense ideas to implement immediately. So book your place today and take advantage of the early bird savings available!

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