



THE FUNCTIONAL BIAS — AND HOW IT AFFECTS EDISCOVERY

When an organization is facing litigation or an investigation, a lot of different functions are involved: the legal department, IT, records management, and business units. Each has its own view of enterprise data and how to manage it, which effectively creates a bias. Outlining each function's primary responsibility and their view of enterprise data may, at first glance, seem a simplistic exercise, but it's easy to forget that a discovery matter is a disruption to non-legal functions, and keeping these differences in mind can help smooth the process. A shared view of what overall success looks like provides guidance for each group on what their role in that success is and helps ensure that all tasks are in alignment. You can even take the insight a step further and leverage it to create alignment beyond the discovery process to benefit the organization as a whole.

Legal

Primary responsibility

Identifying and managing legal issues across the enterprise, as well as overseeing corporate governance and business policy.

View of enterprise data

Legal approaches enterprise data from a perspective of risk and compliance. In this view, only data that is needed to run the business and comply with regulatory and corporate requirements should be preserved.

What it means for eDiscovery

As the primary owner of the process, legal's view of enterprise data aligns with eDiscovery. The challenge is, of course, that legal doesn't manage the discovery process in a vacuum. It needs to work with the other functions, some of which have a different relationship with the organization's data.

Records Management

Primary responsibility

Controlling and governing the most important records of the organization from creation through eventual disposal.

View of enterprise data

For records managers, data is evidence of an organization's activities, and their responsibility is to determine which records need to be archived, and for how long, for business and regulatory purposes. Records management focuses more on policies and process than on the contents of the specific records themselves.

What it means for eDiscovery

Records management is fairly well aligned with legal when it comes to enterprise data and the eDiscovery process. They provide information about records inventories, retention schedules and they are responsible for suspending routine destruction when a legal hold is issued.

IT

Primary responsibility

The performance and security of the enterprise network and the applications, databases, and other systems that the business needs to run its daily operations.

View of enterprise data

For IT, enterprise data is an organizational asset that must be made available to those who need it and protected from unauthorized access. Like records management, IT's focus is less on the contents of the data and more on formats, security, and other technical characteristics.

What it means for eDiscovery

IT is an important partner in the eDiscovery process and their assistance is critical in identifying where data lives and helping to collect it.

Business Units

Primary responsibility

Profitably delivering products and/or services to the market.

View of enterprise data

Enterprise data has intrinsic value for business units. It is the input and output of their daily operations and business units are primarily concerned with its contents—the insights it offers can uncover new opportunities to drive additional revenue.

What it means for eDiscovery

Business units can provide valuable information about custodians and timeframes. And because they are familiar with the data and how it was created and used, they can provide useful insight when developing keyword lists and other search strategies.

Tips for Functional Alignment

Understanding how the different roles view enterprise data is important; this can help improve the contribution those functions can deliver to the discovery process. But it's also important to understand how the eDiscovery process can benefit those functions in return.

Organizations that treat eDiscovery as a business process rather than as an isolated event, and that establish a discovery repository, are well-positioned to help:

- Records management refine their policies and processes over time
- IT streamline the collection process
- Business units classify — and thus better manage — the huge volumes of data they produce

And this, in turn, can serve to further improve the discovery process.

About Mindseye

Mindseye is a leading provider of eDiscovery software solutions. The company's flagship eDiscovery platform helps organizations manage risk, minimize legal exposure, and eliminate wasted time and money throughout the discovery process. Organizations that use Mindseye can quickly input and access early data to make cost and resource estimates, formulate strategy and case direction, and ultimately move less but more relevant data to review.

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