

E-Disclosure The Problems, The Solutions & The Rules

An essential guide to legal obligations and management challenges

18 June 2008, London

“This practical one day conference involves visual examples to help explain how to manage the e-disclosure requirements economically and efficiently.”

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9.00	Registration and Coffee	12.45	Lunch
9.30	Chairman's Welcome and Introduction <i>Chris Dale, The E-Disclosure Information Project</i>	2.00	The Case Management Conference <ul style="list-style-type: none"> ■ The obligation to discuss sources with opponents ■ Agreeing or agreeing to differ - lining up your ducks before the CMC ■ Technology questionnaires ■ An iterative process - staged disclosure, sampling and other ways of getting to the point <i>Chris Dale, The E-Disclosure Information Project</i>
9.45	E-Disclosure – The Framework <ul style="list-style-type: none"> ■ What is electronic disclosure? ■ Disclosure - more than just a formal stage in the litigation process ■ Reconciling the apparent conflict between express rules and proportionality ■ Balancing disclosure obligations against costs for a just result ■ Understanding the components of the problem and the resources available to tackle them ■ Mapping the rules to the stages from identification to production <i>Chris Dale, The E-Disclosure Information Project</i>	2.30	Data Exchange <ul style="list-style-type: none"> ■ Anticipating exchange - the format for exchange ■ The benefits of exchanging disclosure data ■ Data exchange agreements and the mechanics of exchange-protocols ■ Policing data exchange - practical and tactical considerations <i>Vince Neicho, Allen & Overy LLP</i>
10.15	The Start-up Issues <ul style="list-style-type: none"> ■ The duty to preserve documents and the grey areas as to the moment the duty arises ■ The duty of the client; the duty of the solicitor ■ Who should be involved in the process? ■ What happens if documents are deliberately destroyed, comparing the tests in England & Wales, USA and Australia? <i>Stephen Mason, Barrister</i>	3.00	Filtering Technologies <ul style="list-style-type: none"> ■ Keywords and concept searching ■ Illustrated applications which apply various technologies to reducing volumes ■ What they do, how they do it, what the limitations (and therefore the risks) are ■ Difficulties posed by foreign languages ■ Privilege, privacy and data protection <i>Mark Dingle, Simmons & Simmons</i>
10.45	Coffee	3.30	Tea
11.00	Proportionate Collection Strategies <ul style="list-style-type: none"> ■ Identifying the full range of sources ■ Forensic v non-forensic collections - what sort of case is this? ■ Proportionality from the outset - how much do you need to collect? ■ Metadata - what it is and why it may matter ■ Why the US experience is different ■ Illustrated examples <i>Nigel Murray, Trilantic</i>	3.45	The Role of a Litigation Support Manager <ul style="list-style-type: none"> ■ The interface between the lawyers, the technology and the suppliers ■ Outsourcing versus in house ■ Choosing providers ■ Selecting a review application <i>Mark Dingle, Simmons & Simmons and Vince Neicho, Allen & Overy LLP</i>
11.45	What do the Rules Require? <ul style="list-style-type: none"> ■ What is a document? What does standard disclosure require? ■ The scope of the search ■ The Disclosure Statement ■ The Practice Direction to Part 31 - co-operation and involving the court ■ The overriding objective and court powers of management ■ <i>Hands v Morrison Construction</i> [2006] - a judge rolls up his sleeves <i>Chris Dale, The E-Disclosure Information Project</i>	4.15	Future Developments <ul style="list-style-type: none"> ■ Volumes increasing but technology catching up ■ Judicial training increases CMC pressures ■ Commercial Court Recommendations presage closer attention to costs ■ Law Society Practice Note ■ Economic downturn breeds litigation ■ New practice areas based on technical and tactical skills <i>Chris Dale, The E-Disclosure Information Project</i>
12.15	Questions and Panel Discussion The speakers are joined by Matthew Grant of LexisNexis to form an expert panel to answer questions	4.45	Questions
		5.00	Chairman's Concluding Remarks
		5.15	Conference Close

E-Disclosure The Problems, The Solutions & The Rules

E-disclosure is an inevitable part of litigation - for all firms and not just those involved in large scale disputes. Courts at all levels are taking proactive steps to keep the time and costs of e-disclosure proportionate to the issues and value of the claim.

The problems, the rules, the practice and the solutions will be summarised succinctly by speakers chosen for their practical focus on issues which affect any document-heavy case.

An essential day not just for law firms seeking guidance on how to establish procedures and to run cases effectively but for the in-house lawyers who instruct them.

Chairman:

Chris Dale qualified as a solicitor in 1980 and since 1993 has been a consultant working with lawyers and with suppliers on e-disclosure projects. His primary focus is on training and education aimed at raising awareness of the time and costs savings which e-disclosure brings and on the commercial and tactical advantages of being ready for litigation. He has recently led a training session for judges responsible for the management of cases as the first phase in a new project to bring a consistent message to everyone involved in the handling of discovery data.

Speakers:

Mark Dingle has been the Litigation Support Manager for Simmons & Simmons for three years. His previous experience includes two years as Litigation Support Manager for Mayer Brown and just under four years with Legal Technologies Limited (which has since become part of Kroll). Cases in which he has been involved include the *Thyssen litigation* in Bermuda, the Bloody Sunday enquiry as well as criminal prosecutions at Woolwich and Southwark crown courts. His experience includes the use of several different litigation support systems, as well as the use of EPE (Electronic Presentation of Evidence) within the court room. Mark is a founder member of LiST and a member of the LiST committees responsible for drafting the proposed Practice Direction and also the Data Exchange standard.

Matthew Grant is a former litigator who has practiced in both England and Australia. Having joined LexisNexis in 2006, he now leads LexisNexis UK's Litigation Services group. LexisNexis is a leading provider of electronic disclosure services to the world's top law firms and corporations and offers a number of award-winning solutions for the litigation professional including Applied Discovery, Concordance, Hosted FYI and CaseSoft.

Stephen Mason is a barrister and the general editor of *Electronic Evidence: Disclosure, Discovery & Admissibility* (Butterworths, 2007), and *Electronic Evidence*, (British Institute of International and Comparative Law, 2008), and the author of *Electronic Signatures in Law* (Tottel, 2nd edn, 2007) and *E-Mail, Networks and the Internet: A Concise Guide to Compliance with the Law* (xpl publishing, 6th edn, 2006). He is the founder and general editor of the *Digital Evidence and Electronic Signature Law Review*.

Nigel Murray has been at the forefront of using technology to assist dispute resolution since 1991. After managing a leading law firm's litigation support department he founded the first British litigation support company in 1993 and since then has worked on hundreds of matters from the very large - BCCI and UK tobacco litigation to a wide range of commercial disputes. He founded Trilantic in 2005 to specialise in electronic document disclosure. Nigel is a frequent speaker on European e-disclosure matters both in the UK and the US.

Vince Neicho has 32 years' experience at Allen & Overy and is responsible for document management across the litigation department. He also manages the department's paralegals and is an Administrator of the firm's Litigation Support system. On a global basis, he is actively involved in advising clients on disclosure obligations, preservation, retrieval and organisation of their documents and data to facilitate reviews for disclosure and investigatory purposes. Vince is a founder member of LiST (Litigation Support Technology) Group and has a particular interest in the development of e-disclosure and the use of electronic documents and the consequent challenges posed to the litigator in England and Wales.

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