Achieving Information Governance Enforcement: Ensure Policies Aren't Left to Collect Dust

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A lot of organizations have created general information management policies, which are typically owned by the records or knowledge management teams. These policies include a retention and deletion schedule that in theory should be defensible, and address legal hold and compliance needs. But in practice, these policies typically cannot be executed upon or maintained. FTI's Information Governance & Compliance Services practice helps corporations figure out why their policies, well-thought-out implementations and information governance investments have been left to do nothing more than collect dust.

Legal hold is one common area where these challenges play out, as it can be very difficult for organizations to scope the correct individuals that need to be under legal hold and limit retention to only those individuals. This process requires close compliance monitoring to ensure that the process is defensible and safeguards against possible spoliation charges in litigation, which can come with steep penalties. Similarly, migrating to a new system—such as Microsoft Office 365—is another endeavor where the need to proactively

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address and enforce IG becomes apparent. When corporations think about these issues strategically, IG parameters and legal hold needs can be built into new systems as they are integrated into the IT infrastructure.

Technology that allows the legal team to monitor data deletion and retention activities is a critical element. There are also best practices that can help ensure IG programs are sustainable and enforceable. Part 1 of this article—"Achieving Information Governance Enforcement: Engagement, Enablement and the Change Journey—discussed the importance of cross-functional teams, executive

sponsorship and change management. Below are additional best practices that will enable the company's IG stakeholders to achieve long-term policy enforcement.

• **Training:** When rolling out a new legal hold program, Microsoft Office 365 migration or any other IG initiative, it is imperative to have a computer-based training module in place for all users. Executive sponsors can be particularly helpful in ensuring that the training is mandatory for everyone in the organization— a key factor in maintaining long-term viability of IG policies. Outside advisors can be particularly useful

at this stage, as they are able to help the internal teams outline the critical components of the program, develop audience specific training materials, identify what users will need to be trained on and determine what the depth of that training should be.

Training should not be out of the box from software providers, nor should it necessarily be the same for everyone in the organization. Training collateral should be tailored to the organization's unique needs and show users what the new policies look like within the context of their work environment. For example, for legal hold projects, it is important to establish if users understand which records and individuals may be subject to legal hold vs. which won't. It's also useful to build a dedicated page available to all internal users that offers reference guides and FAQs dedicated to explaining new policies and tools that are being used.

- **Strategic Technology Implementation:** Every technology evaluation that impacts the company's data in any way should involve the legal and/or e-discovery team, in addition to records, IT and compliance. This is particularly important when it comes to legal hold implementations. The process should start with clear goals for the project, such as, thoroughly retaining data for any custodians that are under legal hold, monitoring activity per compliance requirements and escalating events of non-compliance to stakeholders. The most critical feature a product should offer is the ability to monitor and flag activity—this will make

the biggest impact in achieving and maintaining IG enforcement. Robust monitoring capabilities will enable the IG sponsor to see when legal holds—or other policies—are not being acknowledged and escalate the issue to promote and enforce adoption of the processes.

Another important consideration is the existing data structure and overall IT infrastructure. For example, when an organization's data is all on shared drives, solutions must have the appropriate plug-ins to integrate with systems impacted. It is also important to consider how to automate deletion of data that is not subject to the established retention schedule, and strategically define when/how the organization stores its data. Having a set of clear goals at the forefront when evaluating technology will go a long way in ensuring that the team is asking the right questions during the purchasing process.

Tools that are offered as part of a broad suite of offerings typically do not have the sophistication to make sure nothing falls through the cracks. Best-in-class products that are purpose built for the one thing needed—such as legal hold or document and revision management—will be more successful in doing a thorough job and successfully integrating with existing systems.

A technology evaluation undertaken by a large manufacturing company serves as an example of one that was done really well. The company was liable for claims that otherwise could have been mitigated had the organization's data deletion

processes been executed. Essentially, the legal team was facing the burden to produce data that would have been defensibly disposed of had end-users complied with existing IG policies. By enforcing legal hold through a specific tool, and integrating it into their compliance and IT programs, the legal team was able to ensure that data could be defensibly and automatically deleted as soon as it was no longer subject to legal hold or any individual's retention schedule.

The ability to automate IG as much as possible, and track compliance across the company is absolutely critical in achieving ROI from the precious time and resources that are invested in building out these programs. Ultimately, it is up to the collaborative team of stakeholders to ensure that training and change management are addressed in a strategic and thorough way, and that technology solutions are selected based on the organization's unique and diverse needs. These important steps will promote IG wins and make it possible for the team to measure long-term adoption and success.

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