The Ten Commandments of Information Governance & eDisclosure 2015
Recent years have seen a massive increase in regulatory scrutiny, investigations and disputes, particularly in the most heavily regulated sectors such as Financial Services, Life Sciences and Oil & Gas. Anecdotally, our clients are telling us that change in regulatory scrutiny is a long term paradigm shift rather than a temporary pendulum swing. The frequency and impact of such trigger events will remain high. We are here for years to come.

At the same time, the data required to be analysed as part of an effective response to such incidents has grown rapidly in volume, variety and velocity. Five years ago, it was all about email. Not any more. Our clients want insight from all of their data sources, be that email, audio, video or trade records. They want value beyond the confines of the particular incident being managed and want to manage their data to better manage those risks going forward.

To my mind, there are Ten Commandments of Information Governance and eDiscovery you should be focused on.

Read on to find out ➤

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The first commandment is to govern your information before your information governs you.

A fully developed information governance strategy will reduce at source the risk, cost and volume of data in future eDiscovery.

Get it right and you get a measure of control, get it wrong and your data controls you, and it can become very, very expensive.

Remember, Information Governance is not one person’s problem (Legal, IT, Compliance) - it belongs to all of you.

The second commandment is to align your Information Governance strategy with the business strategy.

The key elements of a good Information Governance strategy will cover people, process and technology. But information does not exist in a vacuum; it exists to further the interests of the business. Seek to map Information Governance policies to broader strategies around growth, markets, products, operating units and legal and regulatory risks.
Do not try to eat the elephant in one sitting

The third commandment is not to eat the elephant in one sitting.

It can be a daunting challenge to get a handle on all key information sources. Choose a pioneer group based on alignment to the key strategic objectives and risks facing the business. Take the lessons from unstructured data analytics and technology assisted review from eDiscovery and seek to automate record classification.

To have and to hold is good, but not till death us do part

The fourth commandment is that to have and to hold is good, but not till death us do part.

Do not just keep data indefinitely because storage appears to be cheap.

When you get a dispute, an investigation or a regulatory review that triggers a look-back, that cheap storage suddenly looks very expensive when it has to be collected by service providers and the data reviewed by lawyers.

So have a defensible disposition strategy and reduce that volume at source.
V  Failing to prepare is preparing to fail

The fifth commandment is that failing to prepare is preparing to fail.

Like a boy scout, be prepared.

So think carefully about your production requirements right at the start of your eDiscovery exercise, not at the end.

VI  You must have early and meaningful costs discussions

The sixth commandment is to have early and meaningful discussions on costs in advance of the first Case Management Conference (CMC).

CMCs allow an opportunity to clarify scope and limit costs.

Use your CMC to gain clarity on the issues at hand, the proposed solution and the underlying approach... or forever hold your peace.
The seventh commandment is to remember that you must make your budget a budget.

But, remember that, in complex cases which are built on many assumptions at the time of the CMC, your estimate will also be taken as a budget. Carefully and regularly monitor and report against changes in those assumptions.

The eighth commandment is thou shalt be as flexible as the Biblical Asp.

Remember, the best laid plans rarely survive first contact with the enemy. Be prepared, like the Biblical Asp, for your strategy to wriggle around obstacles to plot a new course. But please try to do so without rearing up and injecting poison into your opponent unless strictly necessary.
Thou shalt not covet thy neighbour’s black box

The ninth commandment is thou shalt not covet thy neighbour’s black box.

It’s easy to fall into the trap of treating technology as a silver bullet for all your problems. It is not. It is actually about people, process and technology; and in that order.

The trick is to use the stamina of the technology and the intelligence of the people, not the other way round.

So focus on the problem, not the technology.

Prepare yourself for tomorrow, not today

The tenth commandment is prepare yourself for tomorrow, not today.

The world is changing and it’s no longer just about email. People communicate differently. Instant Messaging, Bloomberg, social media, Blackberry Messenger, audio data, video data, transactional data, geo-spatial mapping. Our clients want insight from all of those sources in a single consolidated platform. This is not just tomorrow’s problem.

Our clients’ data is varied and they require a holistic perspective to generate the insight they need.
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