

# Enforcing Corporate Compliance

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**By now, we all understand the value of a corporate record policy. Enforcing that policy is as important.**

The number of technological solutions for managing, storing, and preserving records has continued to grow rapidly. But despite the availability of great software, corporations continue to find themselves facing discovery sanctions and injunctions, and are paying huge fines. Along the way, they are incurring unnecessary costs to produce traditional and electronic records they shouldn't have had in the first place. Software doesn't help companies in court or under regulatory examination when fundamental and critical knowledge about records is not appropriately maintained, and when corporate records policies are not applied and enforced. As the old saying goes, "Garbage in, garbage out."

## **In The Courtroom**

Everyone knows the stories about how problems with records put Microsoft, Credit Suisse, Marriott, and Merrill Lynch in the headlines. Each of these industry leaders devoted plenty of resources to the development and implementation of enterprise-wide systems, and yet the problems persist.

Companies of all sizes and industries are losing unnecessarily in courtrooms because they are unable to demonstrate consistent records management practices. Companies have invested in developing policies and retention schedules and have spent hundreds of thousands, even millions, of dollars on management systems, but are still unable to protect their organization. They retain and destroy records inconsistently. They waste valuable resources to produce records they should have destroyed years ago according to their records policies. And, they fail to adequately and non-selectively protect records pertinent to litigation and regulatory examinations.

## **What Has Gone Wrong?**

Regardless of the systems and software used to "manage" electronic records, many companies continually fail to meet basic corporate requirements:

- Keep records long enough to meet requirements
- Be able to locate records quickly and effectively when needed
- Ensure that records are destroyed when retention requirements have been met
- Have the ability to enact precise and immediate protection through legal "holds"

These are basic requirements that any company can achieve with surprisingly minimal effort regardless of the systems and vendors used.

## What Should Be Done?

Companies can implement the best technologies available and electronically capture every message and scrap of paper. But at the end of the day, unless companies clearly identify and standardize four critical pieces of information, it is impossible to meet the simple requirements listed above.

- **What** types of records are retained across the enterprise? Standardized record types allow companies to effectively and quickly find needed records and equally important, know when to stop looking for records. This knowledge also helps records management software to work more efficiently.
- **Who** controls the records? This helps facilitate record "holds" as the appropriate employees and facilities can be instructed to protect and produce needed records, and ensure that owners/controllers of records dispose of records as they become eligible. The inability to effectively protect records from destruction is the most common problem leading to sanctions and fines.
- **Where** records are retained. When records are requested, companies need to know where to locate them. This information also helps companies ensure their requirements and records practices are applied consistently across the organization regardless of the systems or vendors used.
- **When** records become obsolete and can be destroyed. This information allows companies to systematically and non-selectively eliminate potentially damaging records according to the corporate policies and requirements. Determining the correct retention requirements goes beyond regulations—it includes business/risk decisions, tax needs, operational needs, and the careful evaluation of industry trends.

To protect the corporation, companies must apply and control the basic information about the records that they have. Records management software, document management systems, and other similar technologies are important; they streamline operational functions, help improve productivity and workflow, simplify storage efforts, and facilitate collaborative efforts. These same tools, however, can lead companies to a false sense of security and protection if they don't support a policy based on standardized records knowledge and enforcement.

A policy that isn't enforced isn't a policy—it's a liability.

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