EMAIL AND THE LAW:
Challenges of email management

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James Blake is responsible for strategic messaging, customer advocacy and community relations.  
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INFORMATION VALUE
Up to 85% of confidential information and intellectual property is stored in email
Source: Richi Jennings for Ferris Research

INFORMATION RISK
Businesses are obligated to protect information against loss and misuse

PEOPLE TIME
Average knowledge worker spends most of their workday on email
Source: Email as a habit. Nicolas Ducheneaut and Victoria Bellotti

TOTAL DEPENDENCE
How long could your company survive if your email stops?
EMAIL MANAGEMENT MODELS

ON PREMISE

MANAGED SERVICE
Email and the law

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The ways in which the law touches on email (1)

- E-commerce, internet law and distance selling
- Privacy and data protection
- Intellectual property (copyright)
- Defamation (reputation)
- Discrimination
- Criminal law (Computer Misuse Act, RIPA)
- Freedom of information
- Litigation
- Regulation
The ways in which the law touches on email (2)

- In the event of litigation or a regulatory investigation, emails will act as evidence.
- These emails will be disclosable within the litigation/investigation.
Key issues within disclosure

- How can we be confident that we will be able to disclose the right information, in the right amount at the right time?
- Need to understand our legal obligations, including retention
- Need to ensure that we have a proper “environment” for retention, search and delivery-up of email
Retention of email (1)

- There are many laws that require the retention of records
- Records and “mere documents” have different characteristics
- Characteristic of a record includes authenticity, reliability, integrity
- For electronic records, authenticity is a presumption that can be drawn from the records’ environment and context
- International, national and domestic records retention standards provide clear guidance on how to ensure authenticity of electronic records
Retention of email (2)

- Technology
- Records capture
- Content protection
- Access and retrieval
- Monitoring and audit
Presumption of authenticity in litigation

- Civil Procedure Rules say that there is a presumption of authenticity in documents disclosed for the purposes of litigation
- However, it is a reputable presumption
- Thus, the wise organisation should prepare for the contingency of a challenge to authenticity
- Note, there isn’t a general presumption of authenticity for disclosures in regulatory proceedings
12 steps for good evidential quality of email

1. Ensure the use of email is subject to agreed procedures, which are supported and enforced by management at a high level. Acceptable use policies must prescribe good usage and identify bad usage.

2. Train users of email in acceptable use, and their rights and the obligations expected of them.

3. Implement access control mechanisms to computer systems – so that use can be attributed to a person, a terminal, a date and a time.

4. Ensure computer systems are kept safe and secure, so that the systems and the data within are protected from unauthorized access and accidental or deliberate loss and damage.

5. Retention and deletion of email should be organization-defined, not user defined. Individual users should not have any discretion as to the categories of emails that should be retained or deleted.

6. Implement a solution that archives and stores emails centrally. The archive should support all the main file formats and also retain metadata.
12 steps for good evidential quality of email

7. The archive should classify emails entering the archive at the point-of-entry. The archive should prevent the entry of duplicates.

8. Ensure the archiving platform facilitates the exporting of evidence as files as a part of the e-discovery process.

9. Implement an archiving solution that allows full search and retrieval. Metadata should be searchable as should content.

10. Enable logging of all events acting on the archive. The logs should be retained as part of the archive, for auditing and verification purposes.

11. Provide contingency for continuity of both archiving and discovery in the event of an outage.

12. Ensure the archiving platform supports the marking-up of files, so that privileged materials can be withheld and/or redacted during e-discovery.
Dr James Blake, Chief Security Officer, Mimecast
A NEW APPROACH .... HYBRID CLOUD

A comprehensive cloud-based platform that manages email and the information it contains

Eliminate on-premise cost, risk and complexity
HYBRID CLOUD: KEEP EXCHANGE, WE DO THE REST

• Protection and compliance in the cloud
• Tight integration with on-premise clients and servers
ONE PLATFORM, ONE SERVICE

ARCHIVING
Secure mail retention for multi-year archiving combined with near-instant search

CONTINUITY
Email users can carry on working even if your Exchange servers fail

SECURITY
Advanced spam filtering and anti-malware protection with multi-layer defences

EMAIL POLICY
Central management for all email policies to ensure consistency
AWARDS AND RECOGNITION

SC Magazine award
Recommended by the leading magazine for IT security professionals

Cool Vendors in Email Archiving
Vendor Profile 2009

Microsoft Gold Certified Partner
Microsoft’s highest level of partner recognition

2008 Bronze winner
Law Technology News Technology Awards

Online Product of the year 2009
Legal Technology Awards

IDC Vendor Profile
Opinion and review by leading analyst firm

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unified email management
50% OF UK’S TOP 100 LAW FIRMS USE MIMECAST
WHY MIMECAST IS DIFFERENT

- Single unified platform
- Strong chains-of-custody
- Familiar interface
- Rapid discovery and export
- Ubiquitous access
- Storage limitations removed
Thank you

For more information
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