

E-Mail Life Cycle Management

Keeping Watch Over the Rising Tide

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Send, Delete, File . . . But Where?

Make E-Mail Management Acceptable by Making It Easy to Use and Effective

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E-mail management is an integral element of the matter life cycle, and it plays an important role in a firm's key business processes. The mistake that many firms make is to have an overly narrow view of EMM and to think of it only as a technology operational issue, as when the mail store gets too big and is challenging to manage. Firms typically address this challenge by implementing an archiving capability as their EMM solution. This would address the immediate issue, but most archiving solutions are designed to do only that and might not have more capabilities, such as an effective search function. Archiving is only one minor aspect of EMM. It should go much further and should be addressed as part of the full matter life cycle.

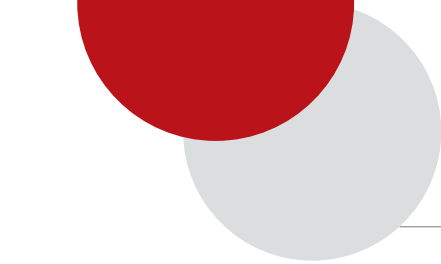
EMM AND THE MATTER LIFE CYCLE

EMM starts when a new matter is opened. The new business intake process should include the establishment of the file organization for the client record. For example, in a matter-centric environment this would include the opening of the workspace for

the new matter. The workspace should include folders which will hold client communications in some form. There is no single right way to structure these files, but they should include some way to organize and file e-mail messages. Some firms include an e-mail folder that would be similar to a traditional correspondence file; other firms include e-mail as part of other folders that could be organized along more functional lines such as "drafts," "matter administration" and "pleadings," with e-mail messages being filed in the folder that deals with the subject matter or reason for the e-mail. Thus EMM begins as the matter starts. EMM planning needs to include how and where e-mail messages will be filed.

EMM AND KM — CURRENT ISSUES AND THE FUTURE

There is potentially substantial information that can be derived from e-mail content that is important for knowledge management. EMM strategies, including determining which e-mail messages should be retained and where e-mail should be stored, can have a major impact on the ability to derive this information. What tools the firm uses to search e-mail and derive the information is also important. Information such as comments on documents related to a matter and who is involved in a



matter, including third parties, can be derived from e-mail and can be leveraged for use in addressing issues related to the matter or in planning for similar matters. We are seeing more focus on search capabilities and on policies for retaining relevant e-mail content.

Search tools can also be used to mine legacy data from archived e-mail to populate workspaces or even other applications such as litigation support or records management. Also, the main search players in the marketplace are providing functionality to search for materials, including e-mail to support the litigation hold process. It could be that some day in the future these tools will be used to make the attorney's job less burdensome; predictive filing and better search capabilities will make EMM a more transparent process.

EMM IS A BUSINESS PROCESS ISSUE

Law firm business processes can be separated into three categories: risk management, firm management and operations, and client service delivery. EMM has an impact in all three areas.

EMM IS A RISK MANAGEMENT ISSUE

EMM should be considered as part of a comprehensive and actionable records management policy that identifies where e-mail should be stored, how it should be organized, which e-mail messages should be kept and for how long. For example, many firms are moving to a policy that calls for client e-mail to be managed in matter folders as part of matter workspaces and not in a server product, on network shares, personal storage tables or other unstructured repositories. A comprehensive records management policy will supply guidance on where e-mail should be stored, which e-mail messages should be retained while the matter is active and which e-mail messages should be culled when the matter closes. Why is this important? From a risk management perspective it can reduce risk to the firm and help ensure that appropriate organization and retention is consistently applied to e-mail. This approach also supports the ability to manage the e-mail of attorneys who leave the firm, especially when they handled matters that are retained by the firm. A standard approach across all matters has been used and other attorneys can pick up the work without the risk of missing key e-mail messages.

EMM also supports the application of legal holds. When a hold is applied to a matter there should be a methodology, with an appropriate EMM policy, where all corresponding e-mail content can be identified and preserved. Remember, "not deleting" is not the same as "preserving," and there is much more to dealing with legal

holds than EMM, but it is one important step in an effective legal hold program. In addition, if there is a standard approach to managing e-mail, then it is more likely that ethical walls can be effectively applied.

EMM IS A FIRM MANAGEMENT AND OPERATIONS ISSUE

EMM is an important part of ensuring effective firm operations. As noted above, EMM is an important element in determining how attorneys will work. EMM is also important in determining how data will be stored, including the amount and type of storage required. This has an impact on the costs incurred by the firm, not only for storage, but for effective management of the client file so that attorneys can work efficiently. The benefits of considering EMM as a KM issue can also benefit firm management and operations.

EMM IS A CLIENT SERVICE ISSUE

Today's firms must be able to find information efficiently and in a timely manner to answer a client's question regarding a matter, respond to client requests for matter files, be able to track the sequence of events on a matter and meet court requests or orders. As such, organizing e-mail and being able to manage and find relevant e-mail content when requested is critical.

There is a general client expectation that client files including e-mail will be managed in an effective manner. Meeting that expectation means responding thoroughly and quickly to client requests for information. This requires the ability to manage and find e-mail content relevant to these requests. Firms should have guidelines in place that outline which e-mail messages are retained and how they are organized as part of EMM.

INCLUDE ATTORNEYS IN THE EMM PLANNING AND DESIGN FOR YOUR FIRM

EMM is an issue that impacts not just IT, but records management teams, attorneys and other end users in a firm. While it might not be referred to as EMM, as that could be a meaningless or counterproductive term for end users, the concept of effectively managing e-mail for the reasons already noted should be understood by the entire end user population. One of the biggest issues attorneys face daily is managing the ever-increasing volume of e-mail. Helping them manage this efficiently and effectively is a critical issue for firms.

There should be a focused effort among IT, training and others to ensure that the most efficient and understood EMM methods are used and communicated to the attorneys. This should include ongoing education and training. Some firms include their marketing team to help ensure that the communication process is effective. One of the biggest mistakes some firms make when implementing some form of EMM is not adequately focusing on how attorneys work.

Instead, they focus on how EMM should work from a systems perspective. In developing and testing an EMM program you should strive to include attorneys in the design and development process. The approach should be validated with an attorney pilot or focus group before it is rolled out.

Keys to success in gaining EMM buy-in include:

- **Make it as easy as possible.** Consider the need for capabilities such as “Send and File” as well as processes to help make EMM easier for attorneys.
- **Be flexible with your approach.** Recognize that there is not one size or approach that fits all users. Some attorneys will be diligent in managing their e-mail, some will do it periodically, and some will be less inclined. The challenge is to build processes that will support all three types of users and everyone in between.
- **Get attorney input.** Include attorneys in the planning process.
- **Give guidance.** Steer attorneys on issues such as what should and should not be moved into the document management system. If there is an e-mail that is part of a string of 10 prior or 10 subsequent e-mail messages, provide guidance as to whether all are required to be filed or only the last or most relevant e-mail messages.
- **Keep it simple.** Complexity, whether referring to the number of folders or determining what to file, will reduce attorney acceptance of EMM.

While IT teams initiate and guide the development of a firm’s e-mail management system, EMM is not just a technology consideration. EMM is an important business process and matter life cycle management issue that, designed effectively, can have a significantly positive impact on risk management, client service, firm management and operations. **ILTA**

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