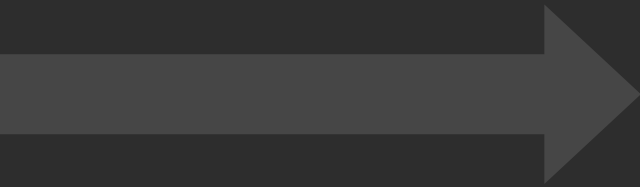


Develop your eDiscovery skills

Bundle internal competencies or
partner with external service
providers?

Flexibility, less-dependence on external service providers, cost control and maximum transparency when conducting internal special investigations – Building in-house eDiscovery capabilities makes this possible. Is your company also planning to build or expand in-house capabilities? If so, you are probably facing a variety of issues and decisions. Especially when implementing the technological infrastructure, the expertise required to do so and the necessary know-how, it is important to consider whether to go entirely for an in-house solution or whether to involve a third-party provider and if so to what extent.

Find out what to consider when implementing a technical solution, which options are available and why a hybrid approach can be the right way for your company.





High-performing eDiscovery – how to do it?

Particularly in the case of compliance and regulatory-driven internal investigations, time and efficiency as well as accuracy and legal certainty are critical factors of success. Innovative technologies can make an important difference: The amount of electronic data to be reviewed, such as e-mails or PDFs, can be significantly reduced by using innovative technology. Companies can thus concentrate on the essentials, i.e. on relevant documents.

However, it is clear that eDiscovery cannot be managed with the help of cutting-edge technology only. Strategic planning, a governance model tailored to the company's characteristics and reliable data management are also crucial eDiscovery components to handle cases effectively.

Furthermore, it is also clear that the development of necessary skills and the choice of technology to use in order to achieve an efficient solution is the biggest challenge for many businesses. Our checklist provides you with three comparative solutions which can be used as a baseline of your decision-making process.

Pros and cons at a glance: bundle internal skills or engage an external service provider?

1 Creating a framework and developing a governance model as well as suitable processes

An efficient eDiscovery is based on a clearly defined and trained framework as part of the company's governance and process landscape. In that course, the question arises which processes and tasks should be carried out in-house and which could or even should be outsourced in favor of an independent perspective. Companies should determine how to handle emergencies and assign responsibilities for each process step.

Inhouse

- setup and implementation of a governance model and processes including the composition and development
 - less cost-intensive
 - company-specific knowledge
 - low transaction costs
 - full control
- high demand for internal manpower
 - high control effort related to forensic principles
 - possibly lack of technical expertise and experience
 - risks related to quality, standardization and the possibility to use documents as evidence in court

Hybrid

- professional advice and support in setting up and building up the competencies by service providers
- synergies due to optional interaction of company knowledge, flexibility and professional expertise results in high synergy effects
- highest degree of transparency and thus calculable transaction costs
- low demand for in-house staff and scaling option available

Service Provider

- involvement of Managed Services
 - lowest demand for in-house staff
 - experts with broad skill set involved
 - fast development and short-term implementation
 - high quality as well as guarantee to use documents as evidence in court
- higher costs
 - less knowledge about company characteristics
 - high coordination effort
 - high transaction costs
 - possibly lower degree of transparency
 - possibly lack of acceptance by in-house staff due to a critical attitude towards external service provider

Pros and cons at a glance: bundle internal skills or engage an external service provider?

2 Building a scalable and professional eReview-team

The eReview is a central part of the eDiscovery value chain. Unstructured data such as e-mails or chat messages are filtered by using various techniques and are classified and evaluated regarding their relevance in context of the investigation. Despite advanced technology, the demand for employees resulting from multilevel eReviews might increase the need for scalability – usually by involvement of experienced forensic analysts and/or legal or subject matter experts.

Inhouse

- all personnel requirements – qualitative and quantitative – are met by in-house staff
- short-term scaling of an eReview-team
- +**
- knowledge of all company characteristics
- timely responses and low coordination effort if organizationally possible and reasonable from a business perspective
- less cost-intensive provided that dedicated personnel for case handling is available
- efficient and rapid handling of smaller internal compliance cases
-
- lack of objectivity
- limited scalability
- higher effort regarding conception and alignment
- theoretically possible, most likely inefficient in most cases due to the organizational structure and therefore very expensive
- extensive coordination effort when scaling
- keeping skills and knowledge up to date requires high efforts
- possible vacancies due to the need of ad-hoc support which requires respective experts to deviate from their existing schedule

Hybrid

- shared responsibilities, e.g. pre-selection of documents carried out by external party while in-house resources (e.g. legal department, investigation unit, etc.) are responsible for in-depth
- +**
- less internal staffing necessary
- leveling of internal knowledge and, if necessary, external know-how to be supplemented
- higher technical flexibility and more scaling options compared to an in-house solution
- potentially less cost-intensive if appropriately implemented and synergies have been used
-
- lack of objectivity
- the necessary technical internal support means accepting vacancies in other positions, since staff are not generally made available on call
- limited internal scaling options in case of large-scale investigations and the resulting need for more personnel capacities

Service Provider

- entire eReview is carried out by a third party
- +**
- independent, high-quality investigation
- fast, flexible and scalable approach
- broad technical and linguistic skills needed
- high level of expertise and experience necessary
- depending on the company's cost structure, possibly cheaper than a hybrid approach (e.g. for the first level review of documents)
-
- time-intensive engagement process (e.g. need to issue requests for proposal) if no framework agreement has been concluded
- limited insights into internal processes
- little knowledge of company characteristics
- in comparison, high demand for clearly defined and detailed frameworks
- high transaction costs

Pros and cons at a glance: bundle internal skills or engage an external service provider?

3

Setting up a team of experienced staff with technical know-how and expertise in internal investigations

When carrying out internal investigations, companies have to ensure that employees are sufficiently experienced and keep their level of expertise always up to date. The range and depth of the required skills of a company's in-house staff depend on both the company's target picture and available resources.

Inhouse

- all required forensic and technical skills must be covered
- options to rapidly scale capacities



- lower effort regarding coordination and alignment
- high degree of control
- high transparency



- abilities must be held available to a comprehensive extent
- scaling, especially of personnel is usually rather limited
- on-going high need for training and upskilling
- high cost
- possible lack of objectivity

Hybrid

- engagement of eDiscovery or investigation support as needed
- involvement of own professional capacities based on a cooperative investigative approach



- more control
- synergies
- mix of company knowledge and extensive expertise/experience
- high transparency combined with high quality



- increased effort regarding coordination and alignment

Service Provider

- transfer of all eDiscovery- and investigation-related tasks to a third party



- high level of specialization and extensive experience
- low demand for in-house staff
- highest degree of objectivity



- high cost
- possible low control
- possible lower transparency

Pros and cons at a glance: bundle internal skills or engage an external service provider?

4

Building the necessary technology infrastructure and tool stack

Technology plays an essential role in eDiscovery. Various factors determine which infrastructure and software solutions your company should choose. What does your company prefer – hosting the necessary infrastructure on its own and using on-premise software within this landscape, or using cloud-based SaaS-solutions or engaging an IT service provider that maintains the technological infrastructure including required applications? In case of a self hosted IT infrastructure, costs for service, maintenance and implementation of the required software should be considered.

Considering the continuously growing amounts of data, the significance of integrated advanced analytics has crucially increased and directly impacts the efficiency and reliability of eDiscovery. Consequently, companies should consider advanced analytics right from the beginning when designing their processes and setting up the company's technology landscape. As an example, the performance can be optimized by using AI-based tools as needed. Companies can for instance save a significant amount of time and costs when performing eReviews by efficiently filtering documents regarding their relevance in the light of the respective case.

The option to use AI tools in order to improve process performance does not depend on the decision for one of the three approaches. However, there are a couple of important aspects to consider when choosing the right technology and software landscape.

Inhouse

- use of own infrastructure and company-licensed software



- entire control and transparency (data security and control, access rights)
- no external interfaces
- no transaction costs



- high costs for the implementation and maintenance of the necessary infrastructure
- extensive personnel expenses
- high on-going need for training and upskilling with regard to quality, standardization and use in court necessary

Hybrid

- using a third-party platform with or without forensic support



- combination of SaaS and Managed Services (e.g. Connected Digital Services) offers a balanced solution – full control and transparency while as well as need-based support from a single source

- use of existing internal skills

- cost efficient

- user-friendly implementation

- high degree of transparency and control throughout the whole value chain



- example: the model “SaaS without forensic support” (e.g. eDiscovery suites) requires a high level of internal technical expertise and experience

- service provider(s) needs to be engaged if any additional support is needed

Service Provider

- outsourcing of all technical tasks
- use of service provider(s) for infrastructure/software



- all services from a single source

- high level of professionalism

- high-quality service delivery

- guarantee to use documents as evidence in court



- high cost

- extensive coordination and alignment effort

- high transaction costs

- limited possibility to directly influence eDiscovery processes

Connected eDiscovery: Combining internal and external know-how in an optimal way

As outlined before: Depending on a company's structure, it might be reasonable to outsource only certain process steps or responsibilities to an external service provider, in order to increase efficiency, reduce costs and profit from synergies. With a hybrid approach, you as a company remain as flexible as possible. You decide to what extent eDiscovery capacities should be moved in-house and to what extent external service providers should be involved in your processes.

Connected Digital Services is a concierge platform developed by PwC that facilitates your plans in taking control and managing your own eDiscovery while taking your existing resources into consideration. Rely on our efficient digital forensic solution to handle internal investigations on your own and receive technical support as well as additional consulting services upon request.

- ✓ Identify, collect and search electronic data such as emails or documents using our AI-based tool.
- ✓ Benefit from quickly generated results.
- ✓ Be on the safe side – our tool guarantees compliance with all compliance guidelines.
- ✓ Use our Managed eReview upon request.
- ✓ Add further digital forensic solutions at any time.

Are you still unsure which approach addresses your situation the best?

Regardless of the approach you chose, we at PwC support you with your eDiscovery plans – bringing eDiscovery in house, following a hybrid approach or handling entire cases:

eDiscovery Consulting: Our team supports you in establishing your eDiscovery skills, exploiting the full potential of your existing solutions, and optimizing existing processes, methods, and technologies.

Connected eDiscovery: Connected eDiscovery makes the tools required for each phase available on a platform while also providing needs-based access to the professional expertise of our forensic specialists.

eDiscovery: We take care of your entire eDiscovery case for you – ranging from forensic data preservation, processing and analysis, up to the documentation of the methods and results in a form which will stand up in court.

Combine internal and external know-how to ensure an efficient and cost effective eDiscovery

Find out how we can best support you!
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Sally Trivino
Forensic Services



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