

Email trail costly

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In-house counsel say expensive data management of electronic records is inflating the cost of the discovery process, with the retrieval of emails among the highest cost drivers.

Of 110 in-house counsel surveyed by Deloitte, one-third said their company was unprepared for a production order from a regulator for all their email records in the past 12 months. Nearly half said the production of email records in response to regulator enquiries would be a major challenge.

Despite growing requests for discovery of electronic data in litigation, the software tools and procedures were still in their infancy, Deloitte forensic technology partner Nicholas Adamo said.

“An efficient way forward is to reduce the potential universe of discoverable material early on, especially electronic material,” Mr Adamo said. “This allows us to identify what is actually relevant and proceed from there. Tools now exist to do this fairly cheaply and efficiently whilst maintaining the integrity of data, as well as ensuring a complete audit trail for any further analysis.”

A number of counsel expected “e-discovery” costs to escalate as litigation volumes rose, he said.