

# Electronic Disclosure

Electronic Disclosure (“eDisclosure”) is a part of the disclosure process and applies in multi-track claims, this being where the value of the claim is over £25,000. Parties are required to provide electronic disclosure alongside standard disclosure. For that reason, this executive summary should be read in conjunction with the disclosure executive summary.

## WHAT IS ELECTRONIC DISCLOSURE?

eDisclosure relates to the disclosure of electronically stored files. Most documents that you have created will have been done so electronically. Therefore, eDisclosure is a critical stage in resolving your claim. The available electronic documentation is searched, identified, and preserved for the purpose of using it as evidence in your claim.

It is imperative to get a handle on eDisclosure at an early stage. This will ensure costs are kept proportionate and allows you to take control of proceedings from a tactical perspective. It is vital that you identify, preserve, collect, filter, review and disclose all eDisclosure as you are under an obligation to preserve and disclose to the other party all relevant documents regarding the dispute. Further, a party is required to agree with the opponent the parameters of your search and the format for exchange of documents.

eDisclosure is normally provided by a third-party IT supplier who will work closely with us.

### Examples of electronically stored information

Mobile phone	Laptop
DVD's	Archived data
Flash drives	Text messages
Videos	Social networking sites
Deleted data	Cloud storage

## WHAT TO CONSIDER WHEN UNDERTAKING eDISCLOSURE

Given the importance of eDisclosure, it is important that all issues are considered thoroughly. eDisclosure can be a huge task and if done incorrectly, can have severe repercussions. If disclosure is disproportionate or crucial documentation has not been disclosed, the court can apply cost consequences. For this reason, the eDisclosure provider should be appointed swiftly and at the outset of the case.

An important part of eDisclosure is the electronic disclosure questionnaire (“EDQ”). In short, this is a questionnaire around how the electronic documents are stored, where they are and how they will be disclosed. This form is part of the court process and is helpful to create discussion around important issues. It is at this stage an eDisclosure provider is normally appointed. The EDQ should focus minds as to how the documentation will be exchanged proportionately (both in volume and cost) and what is relevant to the dispute.

### WHAT IS INVOLVED IN eDISCLOSURE PROCESS?

#### Data Collection

This is where data is forensically collected. This may include direct onsite collection, secure courier collection or remote downloads by eDisclosure provider.

#### Searching and Filtering

Before reviewing the documentation, it is important to deduplicate documents. This reduces the time spent reviewing duplicate documents and reduces costs. The volume of documents can also be reduced through using keyword and date range searches.

#### Document Review

After the above processes have been completed, the electronic documents are loaded onto a document review platform (in addition to any hard copy documentation) which will be accessible to you, us, the eDisclosure provider and your barrister. The databases are then reviewed and assessed as to whether they are relevant and disclosable.

#### Disclosure

Once the documentation has been reviewed, a list of documents will be produced in the agreed format with the opponent. This will set out the documents that are disclosable. The parties then exchange the list of documents.

*Tenet Compliance and Litigation Executive Summaries are designed to provide you with a basic level of understanding of legal issues in England and Wales. They are not intended to be definitive or exhaustive. Tenet Compliance and Litigation provides specialist advice on litigation and compliance issues and will be pleased to advise in detail in any matter where we are instructed.*