



C O M P U T E R F O R E N S I C S L A B

London digital forensics & e-discovery · Established 2007

Cooperating on Electronic Disclosure Without Giving Away Your Case

Process Transparency, Strategic Silence

Cooperation on disclosure is a duty, and many litigators quietly fear it: surely sharing custodians, search terms and methodology hands the other side your thinking? It does not, if you understand the line. The duty demands transparency about the machinery of disclosure; it never requires disclosure of your strategy, your work product or your view of the merits. This guide walks the line topic by topic (custodians, terms, date ranges, formats, TAR, metadata and production protocols), showing what to share, what to keep, and how data-backed cooperation wins scope and costs arguments while revealing nothing that matters.

🕒 Estimated reading time: 29 min read

§ ABOUT THE AUTHOR

PREPARED BY COMPUTER FORENSICS LAB E-DISCOVERY TEAM

Computer Forensics Lab is a London-based digital forensics and electronic disclosure practice established in 2007. Its eDiscovery arm, **e-discovery.uk**, sits inside disclosure negotiations daily: preparing the exchange-ready hit reports, volume tables and validation statistics that make cooperation cheap and effective, joining provider-to-provider calls that dissolve format and TAR disputes, and keeping the strategic material (review findings, merits samples, work product) firmly on the client side of the line. In one recent matter, negotiated terms supported by exchanged hit data reduced a review set by 71 per cent without a single contested hearing.

ESTABLISHED 2007 · LONDON

ISO 17025-ALIGNED PROCEDURES

ISO 27001-ALIGNED SECURITY

ACPO / NPCC DIGITAL EVIDENCE PRINCIPLES

SEARCH-TERM NEGOTIATION SUPPORT

PD 57AD / DRD EXPERIENCE

FULL CHAIN-OF-CUSTODY DOCUMENTATION

§ CONTENTS

In this guide

- 01 Executive summary
- 02 The problem in plain English: the fear and the reframe
- 03 The legal basis: cooperation as a duty with teeth
- 04 The line: share the machinery, keep the strategy
- 05 Custodians
- 06 Search terms
- 07 Date ranges
- 08 Formats and metadata
- 09 Technology-assisted review
- 10 Production protocols and clawback
- 11 Negotiation posture: cooperating from strength
- 12 Worked example: a negotiation that gave nothing away
- 13 Common mistakes and technical limitations
- 14 Questions to ask · Suggested wording
- 15 Checklist and red flags · When to involve a digital forensic expert
- 16 Frequently asked questions
- 17 Glossary · References · Disclaimer · How a specialist laboratory can assist

Executive summary

THE HEADLINE POINT: PROCESS TRANSPARENCY IS NOT CASE TRANSPARENCY

The cooperation duties in PD 57AD (and the discussion obligations of PD 31B) require openness about the machinery of disclosure: where data is held, which custodians and date ranges are proposed, what terms will be run and what they hit, what technology will be used and how it will be validated, and how documents will be produced. None of that is your case. Your case lives in a different set of materials the duty never touches: legal advice and work product, review findings and merits assessments, which documents are hot, witness and settlement strategy, and the content of what your team has read. The line is stable, well understood by courts, and generous to the prepared: a party that shares the machinery freely, backed by measured data, wins scope arguments, costs arguments and judicial confidence, while a party that treats process questions as state secrets loses all three and protects nothing, because the machinery was always going to be visible in the DRD, the certificate and the productions anyway.

- **Cooperation is enforced, not aspirational.** The duties bind parties and their representatives personally; non-cooperative conduct is punished in costs and remembered in case management; and the file of offers, exchanges and narrowings is the shield when conduct is later argued.
- **The fear is misdirected.** Issue-driven terms, tiered custodian lists and validation statistics reveal almost nothing an opponent cannot derive from the pleadings; what actually reveals strategy (work product, sample contents, hot-document lists) is privileged and stays home. §4's two-column table draws the line item by item.
- **Data makes cooperation cheap.** Hit reports, footprint counts and cost scenarios let you engage substantively while conceding nothing: the measured answer is both the cooperative act and the winning argument, which is why the assessment machinery of this series is the negotiation's arsenal.
- **Some agreements are pure wins.** Production specifications, metadata field lists, numbering protocols and clawback arrangements benefit both sides identically and cost nothing strategic; agree them early and bank the goodwill.
- **Cooperation is not capitulation.** The duty is constructive engagement, not agreement: evidenced, crisply stated disagreement placed efficiently before the court is the system working, and knowing where to stop conceding is part of the craft (§11).

The problem in plain English: the fear and the reframe

The fear runs like this: "If we tell them our custodians, they learn who mattered. If we share our terms, they reverse-engineer our theory. If we explain our TAR, they attack our method. Better to say as little as possible."

Each clause fails on inspection:

- **Who mattered is on the pleadings.** The people involved in the pleaded events are visible from the events themselves, from Initial Disclosure's senders and recipients, and eventually from every production's metadata. A custodian list confirms what the documents will show anyway; refusing to discuss it merely signals disorganisation or concealment, and invites the court to choose the opponent's list.
- **Issue-driven terms carry no secrets.** Terms built from the issues and the data's vocabulary (project names, product codes, counterparty terms) describe the dispute, not your theory of it. The terms that would reveal thinking (the ones targeting your private lines of attack) should not be the negotiated culling terms at all: run those internally against your own review set, where nothing obliges their exchange.
- **Methods survive daylight; only weak methods need dark.** A described, validated TAR process is harder to attack than a mysterious one, because the attack becomes an argument with statistics. Courts have consistently rewarded methodological openness since the earliest predictive-coding decisions.
- **Silence is expensive.** The party that answers process questions with adjectives funds the applications, absorbs the costs orders, and starts every CMC on the back foot. The machinery was never protectable; the attempt to protect it spends real credibility on an impossible project.

The reframe: treat the disclosure machinery as jointly owned infrastructure (because procedurally it is) and your reading of the documents as the case (because it is). Spend openness freely on the first; spend nothing, ever, on the second.

The legal basis: cooperation as a duty with teeth

- **PD 57AD** obliges parties to cooperate with each other and assist the court so that disclosure is reasonable and proportionate, and obliges legal representatives to liaise and cooperate with their counterparts to promote the reliable, efficient and cost-effective conduct of disclosure. The DRD is designed as a jointly completed document; the process assumes exchange of source, custodian, volume and method information; and paragraph 20's sanctions (with the court's general costs powers) are the enforcement.
- **PD 31B**, outside the Business and Property Courts, directs the parties to discuss the use of technology and searches before the first CMC, including sources, tools, keyword strategy and inspection formats, with the Electronic Documents Questionnaire as the structured exchange where ordered.
- **Costs and conduct:** disclosure conduct is squarely within the matters courts weigh on costs, and the modern authorities' consistent theme is that parties who engaged constructively (exchanged information, tested terms, narrowed disputes) are protected, while parties who stonewalled, performed cooperation without substance, or weaponised the process pay for it, sometimes on the indemnity basis.
- **What the duty does not reach:** nothing in the cooperation obligations abrogates legal professional privilege or litigation work product. Merits assessments, advice, review analyses, strategy documents and lawyers' selections and annotations remain absolutely protected; the duty operates entirely on the plane of process. Holding that line firmly, while giving the process plane freely, is the whole game.

§ 0 4 · THE MAP

The line: share the machinery, keep the strategy

SHARE FREELY (PROCESS PLANE)	NEVER SHARE (CASE PLANE)
Source descriptions: systems, platforms, devices, accounts, third-party holdings, with accessibility positions	Legal advice and every species of work product
Custodian lists with tiering rationale, footprint counts and overlap data	Custodian interview notes, witness assessments, who helps and who hurts
Per-issue date ranges and the event anchors behind them	Your chronology analysis and what the documents show about it
Search terms with hit reports (documents, families, unique hits) and sampled relevance <i>rates</i>	The sampled documents themselves, reviewer impressions, and internal terms targeting your private lines of inquiry
TAR methodology, workflow description and validation statistics (richness, elusion, sample sizes)	Training-set contents, per-document ranking scores, and which documents the model surfaced first
Exception handling: encrypted, corrupt and unsearchable item counts and resolution approach	What the exceptions turned out to contain
Production specification: formats, metadata fields, numbering, family rules, redaction method	Which produced documents you consider significant, and your review coding beyond what the order requires
Volumes, funnel figures and cost estimates per scenario	Settlement analysis, merits views, and anything quantifying how good or bad the documents are for you
Preservation steps taken, with dates	The adverse-document escalation log and its assessments (the disclosures themselves are made; the analysis is not)

Two habits keep the line bright in practice. **Author for exchange:** hit reports, volume tables and validation statistics are prepared from day one as documents that will be exchanged, with strategic commentary written separately, so sharing never requires surgery. **Route by plane, not by topic:** every disclosure-related document in the matter is born labelled process or case, and the label, not the deadline pressure of the moment, decides what crosses the table.

Custodians

- **Share:** the proposed list, the tiering (core, targeted, preserve-only) with one-line rationales, per-candidate issue-period footprint counts, and overlap percentages for names you propose to exclude or hold at preserve-only. This is the evidence that wins the argument; volunteering it converts a fight into a table.
- **Engage on theirs:** respond to additions with data (footprints, overlap) rather than resistance; offer preserve-only as the compromise that costs pennies; and accept genuinely evidenced additions gracefully, which purchases credibility for the exclusions that matter.
- **Keep:** interview notes and everything in them (candour about channels, personalities, weaknesses), your assessment of who will make a good or bad witness, and any custodian-level view of where the damaging material sits. The list is process; the people-reading is case.
- **Watch for:** an opponent whose questions drift from "who held documents" toward "who knew what" in interrogatory style: answer the former as process, and route the latter to the proper vehicles (pleadings, witness evidence) politely.

Search terms

- **Share:** the proposed negotiated terms with full hit reports, iterations as they evolve, and sampled relevance rates ("a 200-document sample of this term's hits ran at 4 per cent relevance") that justify keeping, refining or dropping each. Numbers end term disputes; adjectives extend them.
- **Design what you share to be shareable:** negotiated culling terms are built from the issues and the estate's vocabulary (names, codes, project language), which is exactly why they reveal no strategy. Nothing prevents you additionally running private, theory-driven searches across your own review population to find your case; those are work product, never part of the negotiated set, and never exchanged.
- **Iterate in the open:** exchange, test the opponent's proposals against your data and return the results, propose reformulations (proximity operators, date-bounding) with their measured effect, and keep every round on the file: the iteration record is both the cooperation evidence and the reason the final list is defensible.
- **Keep:** the sampled documents themselves, reviewer commentary, and any term whose only purpose is to chase a private hypothesis. Rates cross the table; readings do not.

Date ranges

- **Share:** per-issue ranges with the event anchors that justify them ("Issue 2: three months either side of the disputed variation, being [dates]"). The anchors are pleaded facts; stating them costs nothing and makes your ranges the reasonable ones.
- **Negotiate with the timeline data:** where assessment timelines show traffic spikes and silences, the aggregate pattern ("issue-period communication concentrates August to November; the proposed earlier year shows near-zero issue traffic") is process evidence you can deploy; what the traffic says is case and stays home.
- **Offer structure:** staged extensions behind defined triggers convert range disputes into timetable, which courts like and which concedes nothing now.
- **Keep:** your analysis of why particular periods matter to particular arguments; the range is process, the significance is case.

Formats and metadata

- **Agree the production specification early, and completely:** file formats (searchable PDF or TIFF plus text; natives for spreadsheets and anything whose formulas, formatting or animation carry meaning), load-file structure, the metadata field list (dates, authors, senders and recipients, filenames, hash values, family references), family integrity rules, numbering, and redaction method. Every element benefits both sides identically; none touches strategy; and late format disputes are the classic avoidable fire.
- **Be straight about metadata:** produce the agreed fields as they exist, do not manufacture what the source never had, disclose processing choices that affect fields (time-zone normalisation, family-date propagation), and agree the treatment of metadata within redactions (redact content, preserve fields, per the agreed method). Metadata is process infrastructure; games with it are conduct.
- **Handle natives and their risks symmetrically:** natives carry tracked changes, comments and hidden sheets; agree the approach (produce as held, with privilege and redaction handled by the agreed method) rather than discovering the issue in month eleven.
- **Keep:** nothing, really: this is the topic where full openness is simply correct, which is why agreeing it first builds the cooperative record cheaply.

Technology-assisted review

- **Share the method:** the tool and workflow in general terms (continuous active learning prioritising review), how training decisions are made (senior-reviewer coding on relevance), and the validation design: sample types and sizes, richness tracking, the elusion or null-set sample that will justify stopping, and the statistics as they are generated. A described method with published validation numbers is nearly attack-proof; opacity is what invites the methodology fight.
- **Share the stopping evidence:** "a 1,500-document random sample of the unreviewed population returned a residual relevance rate of 0.4 per cent" is a process statistic, exchangeable and decisive; offering it pre-emptively the completeness application.
- **Keep the model's insides:** training-set contents, per-document scores, ranking orders and which documents surfaced first are your review, not your method: they map directly onto what your team read and prioritised, which is work product. The distinction (statistics out, contents in) is well established and easy to hold if stated early.
- **Consider joint mechanics where they help:** provider-to-provider calls on validation design, or agreed protocols for disputed-term testing, dissolve TAR scepticism faster than correspondence; nothing in them requires opening the model.

Production protocols and clawback

- **The production protocol** assembles §8's agreements into one exchanged document: specification, tranche timetable, manifest and hash exchange, exception listing, and the mechanics for supplementals and corrections. Productions run on rails when the rails are agreed; every element is process.
- **Agree clawback before anyone needs it.** An inadvertent-disclosure agreement (privileged or irrelevant material produced by mistake is notified, returned or destroyed, not read further, not deployed, without waiver arguments founded on the mistake alone) protects both sides identically in high-volume exercises and costs nothing. It supplements, and simplifies, the general law on obvious mistakes; in TAR-scale productions it is close to essential, and proposing it early is a costless cooperative act.
- **Privilege logging, proportionately:** agree the level of description (category-level for classes, item-level where genuinely needed) rather than defaulting to the maximal log nobody will read; the log's format is process, the advice it protects is not.
- **Confidentiality tiers where warranted:** agreed designations (confidential, counsel-only) with a challenge mechanism, so commercially sensitive productions flow instead of stalling.

Negotiation posture: cooperating from strength

- **Move first, with data.** The party that serves the evidenced proposal (custodians with footprints, terms with hit reports, formats in full) sets the anchor and the tone; the responder is negotiating on your table.
- **Spend the free concessions deliberately:** preserve-only tiers, staged tranches, clawback, format agreements and validation-statistic exchange all cost nothing strategic; offered visibly, they buy the credibility that carries the contested points.
- **Trade, do not drift:** accept the opponent's wider term paired with CAL prioritisation and a null-set sample; accept an added custodian against a marginal one moving to preserve-only. Every concession is exchanged for something and minuted.
- **Know your floor.** Cooperation ends where the case plane begins (nothing across that line, ever, however friendly the process), and where evidence-free demands persist: at that point the cooperative act is a crisp, numbered dispute with your data attached, delivered to the court efficiently. Judges resolve tested disagreements in minutes and punish manufactured ones in costs.
- **Keep the ledger.** Every offer, exchange, narrowing and refusal on both sides, dated on the file: it is the costs submission, pre-written.

Worked example: a negotiation that gave nothing away

SIX WEEKS, FIVE LETTERS, NOTHING STRATEGIC DISCLOSED

In a warranty dispute, the defendant opened with a complete package: nine custodians tiered with footprint counts, per-issue ranges with pleaded anchors, sixteen tested terms with hit reports, CAL methodology with a validation design, a full production specification and a draft clawback agreement. The claimant sought six further custodians and four broad terms. The defendant's response was arithmetic: overlap data showing the six added under 3 per cent unique material (preserve-only offered), and hit-plus-relevance figures showing the four terms added 240,000 documents at sampled relevance under 2 per cent, with proximity reformulations offered and tested. The claimant took the reformulations and two preserve-only slots; one term went to the CMC as a numbered dispute with both parties' data attached and was resolved in the defendant's favour in four minutes, with costs. At no point did anything cross the table beyond lists, counts, rates and specifications. The claimant learned nothing about the defendant's reading of a single document; the court learned that the defendant was the party to trust on process; and the review population landed 68 per cent below the claimant's opening ask.

Common mistakes and technical limitations

Common mistakes

- **Guarding the machinery, exposing nothing worth guarding:** stonewalling on custodians and terms (all eventually visible anyway) at the price of costs and credibility.
- **The opposite failure:** merits chatter in process correspondence ("as the documents will show..."), sample documents attached to make a point, review impressions leaking into term negotiations: the case plane crossed carelessly, sometimes waiving what mattered.
- **Performative cooperation:** warm letters, no data, no movement: courts read the file, not the adjectives.
- **Concessions without trades,** serially, until the exercise is the opponent's design with your signature.
- **Format and clawback left late,** forfeiting the costless early wins and buying the month-eleven fire.
- **Unshareable-by-construction documents:** hit reports drafted with strategic commentary woven in, needing redaction surgery before any exchange; author for exchange from the start.
- **Answering interrogatories dressed as process questions:** "who knew about X" is not a custodian question; route it to its proper vehicle.
- **No ledger:** genuine cooperation performed but unrecorded, and the costs argument lost to the party with the better file.

Technical limitations

- **Asymmetric estates limit symmetric demands.** Platforms differ in what they can report and export; agreeing principles ("hit reports in the form each platform produces, fields as held") beats demanding identical artefacts.
- **Exchanged statistics need common definitions:** agree what a "hit" counts (with or without families), what a "document" is, and time-zone handling, or the exchanged numbers will quietly disagree.
- **Validation numbers carry confidence bounds:** exchange sample sizes with rates, and resist over-reading small samples, in both directions.
- **Clawback is a safety net, not a licence:** it mitigates inadvertence; it does not make careless privilege QC acceptable, and it will not always restore a genie fully to its bottle.

§ 1 4 · INTERROGATORIES & DRAFTING AIDS

Questions to ask · Suggested wording

Ask your client

- Are you comfortable that the custodian list, volumes and methods we will exchange are accurate? (They will be tested against your productions.)
- Is there commercial sensitivity in any source description that needs a confidentiality tier, as distinct from strategic sensitivity, which the line already protects?

Ask your opponent

- We propose exchanging, by [date]: custodian lists with footprint data, tested terms with hit reports, TAR methodology with validation design, and a production specification. Please confirm you will reciprocate in kind.
- Please provide the measured basis of your proposals; where you decline, please state why, so the correspondence is complete for the court.
- Do you agree the attached clawback and inadvertent-disclosure terms? If not, please propose amendments.

Ask your eDiscovery / forensic provider

- Can every exchangeable artefact (hit reports, volume tables, validation statistics) be produced clean, without strategic content, as standard?
- Will you join a provider-to-provider call on formats, metadata fields and TAR validation, and what would you propose on each?
- What definitions (hits, families, documents, time zones) should we agree with the other side so exchanged numbers reconcile?

SUGGESTED WORDING · THE COOPERATION-PROTOCOL LETTER (CORE PARAGRAPHS)

"To progress disclosure efficiently and in accordance with the parties' duties, we propose the following exchanges, each by [date]: (1) proposed custodian lists with per-custodian issue-period document counts and, for any custodian proposed for exclusion or preservation-only, supporting overlap data; (2) proposed search terms, each tested against the proposing party's data, with hit reports stating documents and families hit and unique hits per term, iterated as the parties refine the lists; (3) each party's proposed review methodology, including any technology-assisted review, with its validation approach and the statistics to be recorded; (4) a joint production specification covering formats, natives, metadata fields, family rules, numbering and redaction method; and (5) the inadvertent-disclosure agreement enclosed. For clarity, these exchanges concern the process of disclosure only; neither party will be expected to disclose, and nothing in this protocol requires disclosure of, privileged material, work product, or any party's assessment of the documents. We suggest a call between the parties' providers to settle items (3) and (4). Please confirm by [date]."

SUGGESTED WORDING · CLAWBACK / INADVERTENT DISCLOSURE CLAUSE (OUTLINE)

"If a party produces a document over which privilege is claimed, or which was produced by obvious mistake, the producing party may give written notice identifying the document. On notice, the receiving party will (i) not further read, use, copy or deploy the document, (ii) return or destroy all copies and confirm in writing, and (iii) not assert waiver founded on the fact of the inadvertent production alone. Any dispute as to the underlying claim to privilege is preserved and may be referred to the court, with the document, if necessary, provided to the court alone. This agreement applies to all productions in these proceedings, however made, and binds the parties' representatives and providers."

Checklist and red flags · When to involve a digital forensic expert

The cooperation checklist

- ☐ The line briefed to the whole team: process plane exchanged, case plane never, every document born labelled
- ☐ Exchange artefacts authored for exchange: hit reports, volume tables and validation statistics kept clean of commentary
- ☐ Opening package served first, with data: custodians, ranges, terms, methodology, specification, clawback draft
- ☐ Common definitions agreed (hits, families, documents, time zones) before numbers are compared
- ☐ Format, metadata and clawback agreed early; provider-to-provider call held
- ☐ Every concession traded and minuted; the ledger of offers and refusals maintained
- ☐ Opponent's process questions answered with process; interrogatories rerouted politely
- ☐ Disputes that survive iteration reduced to numbered issues with both parties' data, filed efficiently
- ☐ TAR statistics exchanged; model contents withheld; the distinction stated once, early, in writing
- ☐ Conduct file complete: it is the costs submission

Red flags

- Your own draft letters explaining process positions with merits arguments.
- Any artefact heading for exchange that needed redaction first.
- An opponent reciprocating warmth but never data.
- Process questions from the other side that are really "who knew what" interrogatories.
- Serial one-way concessions with nothing minuted in return.
- Format and clawback still open after the CMC.
- A demand to inspect TAR training documents or ranking scores, dressed as methodology transparency.

When to involve a digital forensic expert

Cooperation disputes go technical at predictable points: when exchanged numbers will not reconcile and someone must diagnose why (definitions, processing choices, platform behaviour); when an opponent's process answers are technically implausible and a reasoned challenge needs expert grounding; when metadata in productions appears altered, stripped or manufactured, which is an examination question and potentially a conduct one; and when methodology itself is challenged before the court, where an examiner's CPR Part 35 evidence on search adequacy, validation or production integrity settles what correspondence cannot. Provider-to-provider calls with an examiner present resolve most of these before they become applications.

§ 16 · COMMON QUESTIONS

Frequently asked questions

Does sharing our search terms reveal our case theory?

Not if the negotiated terms are built as they should be: from the issues and the estate's vocabulary, which any competent opponent already derives from the pleadings. Theory-driven searches (the ones chasing your private hypotheses) are a different artefact: run them internally across your own review population as work product, and never put them in the negotiated set. The negotiated list culls; your private searches find; only the first is exchanged.

Must we exchange hit reports?

No rule compels it in terms, but the regime's logic does: the DRD asks for search proposals the court can assess, PD 31B directs discussion of keyword strategy, and a term proposal without numbers is an assertion the court will discount against a counter-proposal with them. Practically, the party with hit reports wins term disputes; exchanging them is both the cooperative act and the winning move, which is why they are prepared exchange-clean from the start.

Can the other side see our TAR training set or document scores?

The established line: methodology and validation statistics are exchangeable process (workflow, sample designs, richness and elusion rates); the model's contents (training documents, per-document scores, ranking order) map onto your team's reading and prioritisation and are work product. State the distinction early and hold it; offer statistics generously, and the demand for the model's insides usually evaporates, because the statistics were the legitimate part of the ask.

What if the other side simply will not reciprocate?

Perform your half visibly and completely, request theirs in writing with deadlines, and let the file work: at the CMC or a Disclosure Guidance Hearing, a party with an evidenced package facing a party with adjectives obtains its scheme and usually its costs. Do not descend to symmetry ("they withheld, so we will"): the conduct ledger only protects the party whose side of it is clean.

How much privilege-log detail does cooperation require?

A proportionate description that lets the other side and the court understand the claim's basis: commonly category-level for routine classes (advice correspondence with named firms in a period) and item-level only where a claim is genuinely contestable. The log's structure is negotiable process; the content it protects is not, and no cooperation duty requires descriptions so granular that they erode the privilege they exist to record.

Is agreeing a clawback arrangement a sign of weakness or sloppiness?

Neither: it is standard engineering for volume productions, protects both sides identically, and supplements rather than replaces careful privilege QC. In TAR-scale exercises the realistic error rate is never zero; the agreement converts the inevitable rare mistake from a waiver battle into an administrative step, which is exactly the proportionality the regime exists to promote. Proposing it early is read by courts as competence, not concern.

§ 17 · REFERENCE

Glossary

Case plane

The protected stratum: advice, work product, review findings, merits views, strategy; never exchanged.

Clawback agreement

The inadvertent-disclosure arrangement: notice, return, no use, no waiver founded on the mistake alone.

Conduct ledger

The dated file of offers, exchanges, narrowings and refusals; the costs submission in waiting.

Confidentiality tier

Agreed designations (confidential, counsel-only) with a challenge route, letting sensitive productions flow.

Exchange-clean artefact

A hit report, table or statistic authored for exchange, free of strategic commentary.

Free concession

An agreement costing nothing strategic (formats, clawback, preserve-only tiers) spent deliberately for credibility.

Hit report

Per-term counts (documents, families, unique hits) against a real population; the currency of term negotiation.

Process plane

The exchangeable stratum: sources, custodians, ranges, terms, methods, statistics, formats, costs.

Production protocol

The agreed rails of production: specification, tranches, manifests, exceptions, corrections.

Provider-to-provider call

Direct technical discussion between the parties' eDiscovery teams, dissolving format and TAR disputes.

Validation statistics

Richness, elusion and sample figures evidencing a review method; exchangeable, unlike the model's contents.

Work product

Litigation-privileged material created for the proceedings, including lawyers' selections, notes and analyses.

Sources and authoritative references

The negotiation and exchange disciplines in this guide draw on materials published by our e-discovery practice and laboratory, referenced here as sources:

- e-discovery.uk, EDRM Phase 04 · Processing (terms iterated against samples with hit reports at each step; suppressions reversible and audited) and Phase 06 · Production (specifications, manifests and exchange mechanics): e-discovery.uk/edrm/processing · e-discovery.uk/edrm/production
- e-discovery.uk, Knowledge Centre practice note "Writing search terms that survive negotiation", and the case note on negotiated terms reducing a review set by 71 per cent: e-discovery.uk/knowledge · e-discovery.uk/expertise
- e-discovery.uk, EDRM Phase 05 · Review (validation statistics and QC as generated, exchange-ready): e-discovery.uk/edrm/review
- cflab.uk, digital forensics services (metadata integrity examination, production-integrity analysis and CPR Part 35 evidence where methodology or productions are challenged): cflab.uk/digital-forensics-services · guides for lawyers: cflab.uk/guides
- Practice Direction 57AD (the cooperation duties, the DRD process, sanctions): justice.gov.uk, [PD 57AD](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674812/57ad.pdf)
- PD 31B (pre-CMC discussion of technology, searches and formats; the Electronic Documents Questionnaire): justice.gov.uk, [PD 31B](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674812/31b.pdf)
- *Pyrrho Investments Ltd v MWB Property Ltd* [2016] EWHC 256 (Ch) (methodological openness around predictive coding): [bailii.org](https://www.bailii.org) · *McParland & Partners Ltd v Whitehead* [2020] EWHC 298 (Ch) (cooperation expected; disputes narrowed): [bailii.org](https://www.bailii.org)
- CPR Part 35 (experts): justice.gov.uk, [Part 35](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674812/cpr-part-35.pdf) · CPR Part 44 (costs and conduct): justice.gov.uk, [Part 44](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674812/cpr-part-44.pdf)
- ICO, UK GDPR guidance: ico.org.uk

DISCLAIMER

This publication provides general information about cooperation in electronic disclosure in the United Kingdom as at August 2026. The worked example is a fictional illustration and all figures are illustrative. This guide is not legal advice, does not create a professional relationship, and should not be relied upon in place of advice on the facts of a specific matter from a qualified lawyer or a suitably qualified forensic practitioner. Rules and guidance change; always check the current text. Links were live at the date of publication.

§ HOW A SPECIALIST LABORATORY CAN ASSIST

Working with Computer Forensics Lab

Cooperation is cheapest when the artefacts are ready, and that is what our e-discovery practice (**e-discovery.uk**) manufactures: exchange-clean hit reports, footprint and overlap tables, validation statistics recorded as generated, production specifications and clawback drafts, all prepared from day one on the assumption they will cross the table. We join provider-to-provider calls that settle formats, metadata fields and TAR validation in an hour, and we keep the case plane sealed: review findings, sample contents and model internals never leave the client side. Where cooperation turns contentious, the laboratory supplies the technical grounding: reconciling exchanged numbers, examining metadata integrity in productions, and giving CPR Part 35 / CrimPR Part 19 evidence when methodology or production integrity is challenged. Conflicts checks, confidential scoping discussions and fixed-fee estimates are routine.



INSTRUCT THE LAB

Speak to a forensic examiner, not a salesperson.

Describe your matter in confidence and an examiner will respond the same working day. Conflicts checks and scoping calls with US counsel are routine.

NEW ENQUIRIES

+44 (0)20 7164 6971

EMAIL

info@cflab.uk

E-DISCOVERY

e-discovery.uk

Computer Forensics Lab Ltd · Euro House, 133 Ballards Lane, Finchley, London N3 1LJ, United Kingdom

cflab.uk · Customer service +44 (0)20 7164 6915 · ICO ZB395023 · NPCC · ISO 17025 aligned practice · UK Gov Digital Marketplace