

*RMS Belfast*  
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# Legal Admissibility of Electronic Records

# *Legal admissibility*

## Agenda

- Are electronic records legally admissible?
- Strengthening evidential weight
- Who should be accountable
- What is involved
- Is this:
  - part of EDRMS
  - ‘nice to have’

# *Legal admissibility*

Is there a 'real' problem?

- Can e-records be used in court?
  - Frequent situation
  - Usually accepted
  - What if there is a challenge?
  - Need to demonstrate authenticity
  - Do you need paper copies?
  - What about digital signatures?

# *Legal admissibility*

## How to demonstrate authenticity

- Will the court trust your e-records?
  - Can you show good management?
    - Security of record store
    - Access controls
    - Long term issues
  - Really about evidential weight

# *Strengthen evidential weight*

## How to do this

- How are e-records stored?
  - Personal drives
  - Shared drives
  - Managed stores
  - EDRMS
  - e-mail systems!
  - Off-line devices!!

# *Strengthen evidential weight*

## How to do this

- How are e-records managed?
  - Records management principles
    - What do you need
    - How long do you need it
    - Unalterable once declared as a record
  - Good practice guidelines
  - British / International Standards

# *Strengthen evidential weight*

## How to do this

- First there was the BSI Code of Practice
  - BIP 0008 (1996, 1998, 2004)
- Now there is the British Standard
  - BS 10008: 2008
  - BIP 0008: 2008 acts as guidance
- Internationally – ISO 15801: 2009

# *Strengthen evidential weight*

## Objectives of BS 10008

- Formal specification of good practice
- Ties in with other standards:
  - ISO 27001 Information Security Management
  - ISO 9001 Quality Management
  - ISO 30200 Records Management (in preparation)
  - etc.

# *Strengthen evidential weight*

## Objectives of BS 10008

### *Plan Do Check Act*

- Good policies
- Appropriate security / acceptable risk
- Good procedures and technology
- Auditing
- Feedback and review

# *Accountability*

## Who should be accountable?

- Information is key to the organisation
- It is best managed as a whole
- Electronic working means (usually) better productivity / accuracy
- Board level accountability
- Senior level responsibility
- User activities

# *Accountability*

## What is required?

- Clear direction and support from the top
  - Electronic storage policy
  - Information security policy
  - Review and evaluate policies
  - Legal and regulatory environment
  - Risk assessment

## What does compliance with BS 10008 mean?

- Operating a trustworthy e-record system:
  - Importing records
  - Scanning paper originals
  - Extracting data for indexing / metadata
  - Version control
  - Storage technologies / migration

## What does compliance with BS 10008 mean?

- Operating a trustworthy e-record system:
  - File formats / conversion
  - Disposal routines
  - Security / access controls
  - Encryption and signatures
  - Business continuity / backup and recovery
  - System maintenance

# *Audits and reviews*

## What does compliance with BS 10008 mean?

- Demonstration of a trustworthy e-record system:
  - Management monitoring
  - External auditing
  - Reporting and feedback
  - Continual improvement
  - Integration with business systems

# *Strengthen evidential weight*

## Demonstrating compliance

- BIP 0009: 2008
  - single compliance workbook
  - demonstrates compliance with BS 10008
  - optional annexes for BIP 0008: 2008

# *Essential*

## Are there benefits to EDRM strategy?

- Specification of good practice
- BIP 0008 gives lots of advice
- Why not benefit from previous projects
- Is it essential:
  - No
  - How important are your e-records
  - What might happen if you do not use the Standard
  - What are the risks
  - How much does it cost

# *Evidential weight*



Thank you for your attention

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