

Softology Ltd.

**Why is British Standard BIP0008 important  
for a Document Management System?**

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## **Why is British Standard BIP0008 important for a Document Management System?**

The major risk undertaken when destroying original documents subsequent to their being scanned and stored on an EDM system is the potential of a challenge to the authenticity of the electronic 'copy'. Where copies of documents are used as evidence in court (or in any other circumstance), it may be necessary to be able to demonstrate their authenticity. The recommendations contained in the Code of Practice are designed to make this proof of authenticity straightforward to achieve.

### **Legal admissibility**

There are two main cornerstones to legal admissibility of electronic documentation:

- The Civil Evidence Act 1995
- The British Standards Institute's BS 10008:2008 (Evidential weight and legal admissibility of electronic information Specification)

1995's Civil Evidence Act enshrines the concept that electronic documents carry the same evidential weight as physical signed documents. BS 10008:2008 gives a detailed working practice framework covering both technology requirements and business processes to ensure that an organisation can prove that the content of a particular electronic document or data file has not changed since it was stored in the secure document repository. In doing so the organisation can prove that, it is a true representation of the original. To ensure legal admissibility your documents will need to be retained in a BS 10008:2008 / BIP0008 compliant EDM system.

### **The Civil Evidence Act 1995**

This is one of the most important acts in the UK. Here the onus is to move the question of admissibility to actual evidential weight carried by the scanned document. This is determined by the procedures followed by a company presenting any documents to the court.

A company presenting documents that have not been altered since its creation or has a clear audit trail that shows any and all changes since its creation holds a greater „weight“ than a document that cannot show these procedures.

An organisation needs to be able to prove (to a court of law or some other statutory body) that the contents of a particular document or data file created or existing within an Electronic Document Management System have not changed since the time of storage. If the data file is an electronically stored image of an original paper document, an organisation must be able to prove that the electronic image is a true representation of the original. Proving the authenticity of electronically stored documents is crucial to their admissibility in a court. In England and Wales, the main statute governing the admissibility of documents is the Civil Evidence Act 1995. This Act resolved many of the outstanding legal difficulties that had arisen through the use of computers for information storage.

The Civil Evidence Act shifted the argument from legal admissibility to evidential weight or value. It makes it easier to prove the authenticity of documents, by producing the original or a copy, irrespective of the number of removes between the original and the copy and irrespective of whether or not the document is a paper one or an electronic one. The court needs to be satisfied as to the authenticity of the copy, and therefore an organisation needs to be able to demonstrate that it has administrative procedures that will satisfy the court as to a document's authenticity.

Sections 8 & 9 of the act demonstrate the legal guidelines for electronic documents as evidence:

1. Where a statement contained in a document is admissible as evidence in civil proceedings, it may be proved:
  - a) By the production of the original
  - b) Whether or not that document is still in existence, by the production of a copy of that document or of the material part of it, authenticated in such a manner as the court may approve.
2. It is immaterial for this purpose how many removes there are between a copy and its' original. Section 9 states:
  1. A document that is shown to form part of the records of a business or public authority may be received in evidence in civil proceedings without any further proof.
  2. A document should be taken to form part of the records of a business or public authority if produced to a court a certificate to that effect signed either by an officer of the business or authority to which the records belong. The law can be interpreted to show that an original document is not the only admissible evidence in a civil court. Electronic copies of documents are acceptable so long as their integrity can be shown. The criminal court system which is based upon „beyond reasonable doubt“ involves different requirements and businesses wishing to adhere to these should consult a specialist lawyer.

The above information will lead to the question of how to show integrity and the level of standard companies are required to adhere to for their document management needs. BS10008:2008 provides guidance here.

### **More about best practice – BS 10008:2008**

BSI 10008: 2008 is based on BIP0008. Also known as ISO 15801:2009, this is the key paper setting a benchmark for procedures that businesses should follow in order to achieve best practice, and therefore, legal admissibility of their electronic documents. It is supplemented by BIP0008 2:2005 (Code of Practice for legal admissibility and evidential weight of information communicated electronically) & BIP0008 3:2005 (Code of Practice for legal admissibility and evidential weight of linking electronic identity to documents.)

To ensure full compliance with the British Standard an organisation requires both certified document management systems and complimentary enforceable working practices.

Compliance with BIP0008 will ensure that the organisation manages its information according to best practice, thereby maximising the chance of electronic records being satisfactorily authenticated.

It states that an organisation will need to have in place the following five information management components:

1. Representation of Information (i.e. an information management policy)
  - Recognition and understanding all types of information within the organisation
2. A Duty of Care
  - Understanding all legal issues and execution of appropriate 'duty of care' responsibilities
3. Business Procedures and Processes
4. Enabling Technologies
  - Including document management, content management and records management systems
5. Audit Trails

Importantly, these principles are 'device independent' i.e. that they remain constant irrespective of the technology in use.

The first and last bullets are especially noteworthy – a comprehensive and rigorous policy ensures that there is a clear framework, which the organisation has sponsored; this is policed and validated by audit. (In the same way that the document copy must be authentic and nonrepudiable then the associated audit trail must not be alterable.) For BIP0008 purposes this gives a mechanism to establish adherence to the policy and also a quality benchmark. The information management policy should be manifest throughout the organisation as a standard operating policy to ensure that it permeates into day-to-day working practices. A good eDM/ECM system will ensure that this policy is followed providing it is not sidestepped by errant staff.

### **Softology's Document Management System**

The Softology Document Management System is BIP0008 compliant. Scanned images are true representations of any original paper source. Documents are subject to a full unalterable audit trail. Access is covered by detailed integral security functionality built into the product set. As stated, the operational working practices which your business implements play as important a role as the technology.

### **The benefits of BIP0008 compliance**

Alan Shipman identifies the following benefits of BIP0008 compliance in his article 'Legal Admissibility and Evidential Weight of Information Stored Electronically – What are the benefits of implementing the Code of Practice?'

- **System reliability**
- **Original document destruction**
- **Safeguarding evidential value**
- **Improved access**
- **Improved security**
- **Reduced costs**
- **Reduced document handling**
- **Improved awareness**
- **Improved quality**

His article can be viewed at <http://www.cmssoft.co.uk/images/pdf/bip0008.pdf>

### **Disclaimer**

*This document aggregates a number of guidelines and good practices from regulatory bodies and document management vendors in the public domain. Whilst this information is created in good faith, and is understood to be correct at the time of writing, Softology accept no legal responsibility for information accuracy, loss or legal action suffered by businesses relying on the advice or information contained.*

*Softology would always advise consultation with a legal expert before destroying any paper documents.*