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|  | | RSD Internal Guidance | | RIG-2007-03 | |
| EVIDENTIAL USE OF DIGITAL CAMERAS | | | | | |
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| RIG postholder/owner | | | Helen Ayers, Regulatory Management Team | | |
| RIG cleared by | | | Colin Greenslade Head of Strategy Planning and Regulatory Management | | |
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| Keywords | | DIGITAL CAMERAS, EVIDENCE, PHOTOGRAPHS, IMAGES | | | |
| Summary | | This RIG presents the current guidance on the use of digital cameras. All RSD and RPP staff issued with and using digital cameras should be aware of this guidance. It is relevant to inspectors working in England, Wales and Scotland and material handling officers. | | | |
| Original consultation | | Nick New, Enforcement Process Owner; Helen Ayers, ORR Legal; David Phillips, ORR Facilities Manager; Sue Johnston, GM2. | | | |
| Subsequent consultation (reviews only) | | Chris Simms Legal Team, Helen Ayers RMT; 2014: Ruth Luxford Legal Services Team. 2016: Helen Ayers, RMT. | | | |

Detail

Purpose

1. This note is to remind you of the procedures for using digital imagery as evidence (attached as Appendix 1).

Who needs to know?

2. This guidance is relevant to all staff issued with a digital camera, and who use it in the course of inspection and investigation work, and material handling officers, who need to be aware of the procedures (including the need to have suitable storage facilities within evidence rooms).

3. The HSE Enforcement Guide (Scotland) gives guidance specific to the Scottish legal system <http://www.hse.gov.uk/enforce/enforcementguidesc/index.htm>

Significant points

4. The section on evidential use should be read in conjunction with the following HSE guidance:

- OM2001/128 (Version 3, 7.9.2006): The Use of Evidence Bags, Tags and Labels. This is relevant to England Scotland and Wales. A link to the OM can be found on the HSE Collecting physical evidence pages at <http://www.hse.gov.uk/enforce/enforcementguide/investigation/physical-preparing.htm>
- Enforcement Guide (England and Wales) <http://www.hse.gov.uk/enforce/enforcementguide/index.htm> .

5. Further guidance is available on ORRacle under the safety enforcement policies and procedures frequently asked questions (FAQs). This includes some short videos on how to use evidence bags and tags.

6. To support enforcement work, including Notices, we must demonstrate that there has been no manipulation of the image. The procedures for using digital imagery as evidence are important, as 'image manipulation' software is readily available and digital images can be deleted easily. You will therefore need to ensure:

- the integrity of the evidence is maintained; and
- you are able to demonstrate that integrity to the court.

7. The procedures (including the need for a written audit trail) and the Additional Guidance given at Appendix 1 will need to be followed in order to maintain the integrity of your digital images and to assist you in demonstrating that integrity to the court.

8. Suitable storage facilities need to be provided within evidence rooms, which will prevent breakage of the CDs (for example designated racking/shelving).

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Action

1. All photographs taken in connection with an investigation should be kept, whether or not they will be used as part of our case, so that we can comply with our CPIA duties.
2. Inspectors should ensure that they download all the images from the camera's memory card(s) onto a read only, non-rewritable disc (CD ROM marked as CD-R **not CD-RW**) as soon as possible after returning to the office, noting the time and date on which this is done in their notebook.
3. The CD-R should then be stored in the evidence room under the control of the Material Handling Officer.
4. You may then make a second download from the memory card, which you can view and decide which images to keep, and store on another CD or computer ready to produce hard copies as and when needed.

Any queries should be directed to the Regulatory Management Team.

Evidential Use

This guidance should be read in conjunction with the Enforcement Guide, in particular:

- Court Stage
- Physical Evidence
- Photos and Sketches

Both film and digital images will continue to be used as evidence. Whilst it is difficult to tamper with celluloid negatives, the same cannot be said for digital imagery as 'image manipulation' software is readily available and digital images can also be deleted easily. Therefore staff intending to use digital imagery as evidence will need to ensure that the integrity of that evidence is maintained and be able to demonstrate that integrity to the court.

In order to maintain the integrity of digital images, staff must:

- Wherever possible, ensure that the memory card is empty prior to use. Check that the batteries are fully charged;
- Check that the time and date settings on the camera display are correct;
- Ensure that none of the images recorded during the 'photo shoot' are deleted. Download **all** the images from the camera's memory card(s) onto a non-rewritable disc (CD ROM marked as CD-R **not CD-RW**) as soon as possible after returning to the office. This should include any other photographs on the camera, including personal ones. Digital cameras have a sequential image numbering system and any 'missing' images could be subject to challenge. Do not delete the images from the memory card yet;
- Treat this first CD as the master copy. Where it was not possible to reformat the memory card at the start of the shoot, *all* images should be downloaded to the master CD because this will enable any challenges to the integrity of the images to be dealt with more effectively;
- Pass the CD to the office materials handling officer who will enter the item in the evidence log. Store the master CD in its protective case, within an evidence bag with the label completed, in the secure evidence room;
- Apart from production in court, the master copy should not be used except to produce additional working copies when there is no longer a working copy that can be used, e.g. because it has been damaged;
- Make a second copy to be used as a working copy, from which to view the images, make prints and make further CD copies if needed. You should download all images from the card onto the working copy;
- The working copy should be used to produce any copies (e.g. by way of prints or digital copies) of the relevant images to be provided to the defence at the various stages of disclosure;

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- Ensure CDs are securely stored in a clean dry atmosphere with temperature variations limited to normal room temperatures so as to avoid condensation;
- Regularly check the integrity of the evidence bag used to store the master to ensure there has been no deterioration of the sealing adhesive;
- Establish a written audit trail for the master CD to include, with the date and time of action:
 - A description of the shots taken;
 - Secure storage of any memory cards removed during the shoot;
 - Downloading of all images;
 - Creation of the master;
 - Storage of the master; and
 - Any access to the master.
- A written audit trail should also be maintained for any significant use or movement of the working copy;
- The audit trail will provide the basis for the Inspector's statement producing the images in court. The statement should recite that no images have been deleted or manipulated;
- On the very rare occasions where it is necessary to manipulate an image for demonstration purposes a separate copy of the image should be used, the master and working copy should be retained intact.

At present courts are normally only equipped to handle images in hard copy and this is currently the preferred format. In the exceptional cases where there is pertinent material which can only be seen when the image is viewed in digital form, specific arrangements will have to be made with the court.

Further guidance on preparing evidence for use in court can be found on HSE's ['Collecting physical evidence - Preparing evidence for court'](#) web page.

Additional Guidance

- It is preferable to use an empty memory card wherever possible because this makes it easier to deal with any challenges to the integrity of images. The images should be downloaded to CD as soon as possible after capture because this reduces the possibility for accidental deletion and makes accounting for the integrity of the images easier. However there may be circumstances where images from one shoot cannot be downloaded before commencing another one and it is then acceptable to carry on without reformatting the card.
- The camera and 256 mb memory card are considered to be a "single unit" and once the card has been inserted into the camera it should remain there. However in the event of camera failure the card can be retrieved for transfer to a replacement camera.

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- Suitable storage facilities should be available within evidence rooms that will prevent breakage of the CDs (e.g. designated racking/shelving).