

Use of photographs, videos and DVDs

More landlords and agents are taking pictures to record the state of a property at the beginning and end of the tenancy. The results are not always as clear and useful as they might be. We hope that the following guidance will help.

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1 Can pictures replace the written word?

- 1.1 Visual records can support a written inventory and check out report but they can rarely replace the written word. For example, they cannot portray smell or grime.
- 1.2 If you are using recording devices, remember that it takes a lot longer to hunt through a film to find and compare the items which are the subject of a dispute. Please help us by stating the minutes and seconds where they are recorded e.g. damage to bathroom wash hand basin 17' 30" on check-in film, 18' 02" on check-out.

2 Who should take the photographs or films?

- 2.1 Whoever is undertaking the check-in or check-out should also take the pictures at the same time – preferably in the presence of the tenants. Films should be checked at the property to make sure the images are clear, and that nothing important has been left out.
- 2.2 If the tenant has not been present for the check-in, they should be sent the photographs or film with the check-in report so they can confirm, sign and date them against what they can see in the property. Verification of photographs and films taken on check-out will be more difficult, unless the tenant is present, because they will not subsequently return to the property.

3 Safeguarding the reliability of the images

3.1 Photographs

- The great benefit of images captured on a digital camera is that they can be stored electronically, and copied without loss of quality. But parties sometimes seek to challenge digital photographs on the basis that they can be changed easily.
- One way to avoid this is to embed photographs in the actual check-in and check-out reports in the appropriate place e.g. pictures of the kitchen should be within the entries for the kitchen etc.
- Alternatively, if this is not possible and the photographs have to be grouped together in an annex, make sure that they are individually labelled and cross-referenced to the relevant section of the written report.
- Remember that where photographs form part of the check in or check out reports themselves, tenants can be asked to sign the content of the report (i.e. its words and photographs) to confirm that they agree them.
- It is helpful if pictures have a reference that links them to the relevant part of the written report. The report should also carry a note of how many photographs were taken in each room to prevent any arguments later.
- Make it clear in the report and on the photographs what they are supposed to show e.g. stains on carpet under coffee table, cracked shade on bedside lamp, burnt-on grease on hob.
- For 'stand-alone' photographs, a TDS adjudicator will take the images and their electronic dating at face value unless there is any reason to doubt the information. You may wish to take the additional step of printing out a copy of the images and

signing them and dating them on the back. Ideally, they should be shared with the other party and signed by them too. This may help resolve any subsequent problems.

- A good-quality image is important but not always achievable. Lighting is very important. A dull day can distort things, so a note of the weather or lighting conditions can be helpful.
- It is always good to have something in the picture to give an indication of size (for example a ruler).

3.2 Films and recorded evidence

- It is convenient to record time, date and location actually on the film itself e.g. by someone holding a newspaper and a clock, and calling out the name of each room as it is filmed. As with photographs, it is possible that the other party may challenge the date the recording was made. If you are sharing the recording with the other party, usually after check in, you could provide a copy by disc with a label on it, which is signed and dated. If you are sharing the image electronically you may wish to ask the other party to confirm by email, text or in writing that they accept the recording as a true representation.
- Give a copy of the photographs or recorded evidence to the tenant with the reports, and give them the opportunity to challenge the contents if they wish.

4 Do pictures need to be taken at the start and end of the tenancy?

- 4.1 It is more helpful if the same things are recorded at the start and end of the tenancy so that any changes can be shown. However we accept that things may not work out as neatly as this. If all is well at the start of the tenancy, you are unlikely to take a photograph of something which the tenants subsequently damage.
- 4.2 This is easier to overcome with a recording, which can encompass every aspect of the property, or a properly completed inventory at check in confirming that the item was undamaged.
- 4.3 Photographs can be very helpful to show the state of a garden at the start and end of a tenancy. As before, the photographs/recording should show the date, time, light and weather conditions.
- 4.4 A photograph or recording of the garden at the end of the tenancy is particularly useful in the growing season or if the inventory is delayed for any reason. Otherwise it can be hard to establish the extent to which the state of the garden is the tenant's fault, or simply nature taking its course and making things grow.

5 How can we send TDS photographs and films?

- 5.1 Dispute Applications and Responses, and the documents you want the adjudicator to consider, can be uploaded using our on-line evidence portal or sent to us by post. It is quicker and easier to do it on-line. We no longer accept Dispute Applications and Responses, and the documents you want the adjudicator to consider, by email. Please make sure you only send us what is relevant to the claim.

- 5.2 If the photographs are embedded in the check-in and check-out reports, they will simply be part of the documentation you submit. If photographs are produced separately, please upload them using our on-line evidence portal alongside your other evidence/documentation. If you are sending your Dispute Application or Response to us by post, please send printed copies of the photographs. **We do not accept photographs on CD, DVD or other memory devices.**
- 5.3 If you are uploading individual images to the on-line portal, please label them so that the adjudicator is able to understand what they represent – for example 'kitchen worktop at check in'.
- 5.4 You should only send us photographs which are relevant to your claim. If your dispute is about damage to a bedroom wall, it should not be necessary to send or upload photographs of other parts of the property.
- 5.5 If you are sending us video/films, we are able to accept mpg, mpeg, mpe, mov, avi, mp4, wmv files. If your video/film is not already in one of these formats, **you will need to convert into one of the electronic formats/file types listed before you upload it.**
- 5.6 **We are able to access recordings or photographs via hyperlink to YouTube only.** Using other specialist sites or shared storage facilities makes us vulnerable to computer viruses.
- 5.7 There is a 20mb file size limit per file. If your file exceeds this limit, you may wish to consider using the option in paragraph 5.6 above.
- 5.8 Evidence and supporting dispute data supplied to TDS will be made available to other parties to the dispute and to people working for TDS, but not to the wider public.
- 5.9 TDS accepts no responsibility for the accuracy or truth of the material submitted. If you use the portal you agree that TDS is not responsible for any statement or other submissions made by you or others which are, or could be, considered to be abusive, threatening or defamatory.
- 5.10 If TDS is made aware that the portal is being mis-used, material which is defamatory or otherwise unlawful may be removed. TDS is under no obligation to remove parts of a submission just because one of the parties to the dispute disagrees with its content. For further information, please refer to our website terms and conditions.

In summary

- Photographs should, ideally, be included in the body of the schedule of condition/check in report and check out report.
- Where this is not possible, they should be cross referenced back to the relevant part of the written report. In isolation, photographs from either party are of limited use as evidence.
- Where possible, the parties should sign the check in/check out report to confirm they have seen the photographs and on what date.
- TDS can accept videos and film/digital recordings (provided they are in an electronic format/file types noted above at paragraph 5.5), but quality varies considerably. Films need to show when they were taken and what they are seeking to show. Where possible the

parties should sign to acknowledge they have seen them, and to confirm the date on which they were taken.

- *Remember, TDS will not visit the property* – where photographs are not clear, or if it becomes a case of one word against another, we will rely on the written check in/check out report submitted.