

Information Management Guidelines:

Legal



DOCUMENT CONTROL SHEET

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Revision History

Issue Number	Date	Reason for issue
1.0	Dec 2006	New guidelines replacing '2004 Retention Policy'
2.2	Jan 2016	New guidelines

Document Authorisation

Issue Number	Date	Group
1.0	Dec 2006	Rob Worrall Head of Policy and Performance
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DISTRIBUTION LIST

Issue No:	Issued to
1.0	All staff via intranet
2.2	All staff via intranet

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Class / Activity	Scope Notes	Retention action	Rationale
17 Legal			
17.1 Agreements	Agreements including non-contractual agreements between public bodies.	Destroy - 6 years after agreement ends	LGCS (2007) refers to RGLA (2003) 4.3, which states common practice
17.2 Agreements and orders - highways	Legal advice, cases and orders	Permanent	Limitations Act 1980 and common practice
17.3 Agreements / Certificates	Signed agreements or certificates such as: <ul style="list-style-type: none"> ➤ Lawful development certificates. ➤ Section 106 agreements 	Permanent - offer to archivist	Town and Country Planning Act 1990
17.4 Bylaws - enactment	The process of making local laws.	Permanent - offer to archivist	RGLA 9.22
17.5 Development control	Legal advice and cases	7 years after case closed	Limitations Act 1980 and common practice
17.6 Employment tribunal cases	Legal advice and cases	7 years after final decision	Limitations Act 1980 and common practice
17.7 Housing – council house possessions	Legal advice and cases	7 years after case closed	Limitations Act 1980 and common practice
17.8 Housing - homelessness / housing anti social behaviour	Legal advice and cases	3 years after final decision or expiration of any order	Limitations Act 1980 and common practice

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Class / Activity	Scope Notes	Retention action	Rationale
17.9 Land or property transactions	Commercial and other leases, Title investigations, Disposal of Freehold and Leasehold properties, Right to Buy applications, Licenses Easements Charges on property Compulsory purchase	Destroy - 12 years after closure, such as completion of terms	Limitations Act 1980. RGLA 4.4 RGLA 3.28
17.10 Legal advice	Generally advice would be classified according to the matter type and retained according to the case type. Providing advice to clients and services.	Destroy - 6 years after last action, major precedent - offer to archivist for review	LGCS (2007) refers to Limitations Act 1980 and RGLA (2003) 4.2
17.11 Licensing	Includes premises and other misc licensing	6 years after case closed	Limitations Act 1980 and common practice
17.12 Licensing taxi		7 years after case closed	Limitations Act 1980 and common practice

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Class / Activity	Scope Notes	Retention action	Rationale
17.13 Litigation and prosecutions	Process dealing with civil and criminal litigation, debt recovery, commercial litigation and other prosecutions.	Destroy - 7 years after last action (i.e after final Court or cost order), major litigation offer to archivist for review	RGLA 4.1
17.14 Monitoring officer		6 years after case closed	Limitations Act 1980 and common practice
17.15 Ownership - rights enquiries		6 years after case closed	Limitations Act 1980 and common practice
17.16 Planning - section 106 agreements	Legal advice and cases	12 years after obligations fulfilled	Limitations Act 1980 and common practice
17.17 Planning enforcement	Legal advice and cases	7 years after completion of any action	Limitations Act 1980 and common practice
17.18 Planning enquiries	Legal advice and cases	3 years after case closed	Limitations Act 1980 and common practice
17.19 Planning obligations	Files relating to a planning obligations or legal agreements	Destroy - 12 years after discharge of obligations	Limitations Act 1980 and common practice
17.20 Possession of commercial property	Legal advice and cases	7 years after order or completion	Limitations Act 1980 and common practice
17.21 Public interest immunity	Legal advice and cases	7 years after case closed	Limitations Act 1980 and common practice
17.22 Safeguarding – adults	Legal cases about adult safeguarding	6 years after case closed	Limitations Act 1980 and common practice
17.23 Safeguarding – child	Legal cases about child safeguarding	35 years after child's 18 th birthday	Limitations Act 1980 and common practice

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Class / Activity	Scope Notes	Retention action	Rationale
17.24 Staff training		3 years after case closed	Limitations Act 1980 and common practice
17.25 Trading standards	Legal advice and cases that do not go to prosecution	7 years after case closed	Limitations Act 1980 and common practice
17.26 Village greens		Permanent	Limitations Act 1980 and common practice

Information Management Guidelines

1. Introduction

This document covers legal records and information no matter which service holds or uses them.

This retention & disposal schedule has been produced in consultation with departments primarily responsible for the business activities and key stakeholders in the processes to establish the legal and regulatory requirements, and business needs on which record retention and disposal policies are based.

This document is part of framework of policies, procedures and guidelines that aim to ensure the Council manages information and records appropriately.

2. Retention periods

A key part of managing information and records is ensuring that they are retained for as long as necessary. Necessary relates to not only the local use by staff but also relates to: -

- use by other parts of the Council. For example internal audit, insurance and legal activities
- compliance with legal and regulatory obligations and responsibilities placed on the Council as a whole
- accounting for decisions made which affect the public or relate to spending public money

The following tables provide recommended retention periods for document types based on the functions/activities they relate to. They should be read in conjunction with the procedure for reviewing and appraising records.

There are some types of information that do not constitute a record and do not need to be kept at all. For example information that is duplicated, unimportant or only of short-term facilitative value.

This may include:

- 'with compliments' slips
- catalogues and trade journals
- telephone message slips
- non-acceptance of invitations
- trivial electronic mail messages or notes that are not related to official business
- requests for stock information such as maps, plans or advertising material
- out-of-date distribution lists
- working papers which lead to a final report

3. Explanation of headings and terms

Class:

Records relating to an activity or function and their position within the classification scheme.

ICO Employment Practices DP code:

Employment Practices Data Protection Code Part 1: Recruitment & Selection (March 2002)

<http://www.ico.gov.uk>

LGCS (2007):

2007 Local Government Classification Scheme 2.03, which incorporates retention periods.

Scope Notes:

An explanation of what types of records should fit within the class.

Records:

Records are defined as: -

information created, received and maintained as evidence and information by an organisation or person, in pursuance of legal obligations, or in the transaction of business.

Retention Action:

This entry provides a retention period specifying how long the records should be kept prior to destruction (or transfer to permanent archive), as well as the activity/transaction/event to which the retention period should be tied to (e.g. "destroy 3 years after last action")

Rationale:

This section provides reasons for the retention period.

RGLA (2003):

2003 Retention Guidelines for Local Authorities; A guide produced by the Local Government Group of the Records Management Society.

TNA RDG (guidance number):

The National Archives - Retention and Disposal Guidance

<http://www.nationalarchives.gov.uk/recordsmanagement/retention-disposal-schedules.htm>

4. Independent Inquiry into Child Sexual Abuse

On Thursday 12 March 2015 the Home Secretary established a statutory inquiry under the 2005 Inquiries Act with the aim of conducting an overarching national review of the extent to which institutions in England and Wales have discharged their duty of care to protect children against sexual abuse.

The Inquiry is independent of government. The Chair is Professor Alexis Jay OBE, who is supported by a Panel, Victims and Survivors Consultative Panel, and other expert advisers. The Inquiry will cover England and Wales. A wide range of public institutions will be investigated including local authorities, the police, the armed forces, schools, hospitals, children's homes, churches, and charities.

On 2nd July 2015 the Inquiry wrote to every Chief Executive of a Local Authority in England and Wales, requesting that the organisation :

'retain any and all documents; correspondence; notes; emails and all other information – however held – which contain or may contain content pertaining directly or indirectly to the sexual abuse of children or to child protection and care. For the purposes of this appendix, the word "children" relates to any person under the age of 18.'

We must not destroy, and must make available for inspection, all reports; reviews; briefings; minutes; notes and correspondence in relation to:

- allegations (substantiated or not) of individuals, organisations
- institutions, public bodies or otherwise who may have been involved in, or have knowledge of, child sexual abuse, or child sexual exploitation
- allegations (substantiated or not) of individuals having engaged in sexual activity with, or having a sexual interest in, children
- institutional failures to protect children from sexual abuse or other exploitation
- statutory responsibilities for the care of children in public or private care
- the development of policy on child protection
- the development of legislation on child protection
- the determination of the award of Honours to persons who are now demonstrated to have had a sexual interest in children or are suspected of having had such an interest.

All of these document types – in whatever format – must be “retained pending further requests from the Inquiry”

The instructions received by the Inquiry constitute a legal hold as defined by section 12.3 of the code of practice issued under Section 46 of the Freedom of Information Act. As such all records that fall within the above categories are retained, and not destroyed, until we are directed otherwise.