

GENERAL CHIROPRACTIC COUNCIL

DOCUMENT RETENTION POLICY

July 2008

INTRODUCTION

In the course of carrying out its various functions and activities, the Council collects information from individuals and external organisations and generates a wide range of data/information which is recorded. These records can take many different forms and may be retained as 'hard' paper records or in electronic form.

Retention of specific documents may be necessary to:

- Fulfil statutory or other regulatory requirements.
- Evidence events/agreements in the case of disputes.
- Meet operational needs.
- Ensure the preservation of documents of historic or other value.

The untimely destruction of documents could cause the Council:

- Difficulty in defending litigious claims.
- Operational problems.
- Embarrassment.
- Failure to comply with the Freedom of Information or Data Protection Acts

Conversely, the permanent retention of all documents is undesirable, and appropriate disposal is to be encouraged for the following reasons:

- Indefinite retention of personal data may be unlawful.
- Reduction of fire risk (in the case of paper records).
- There is evidence that the de-cluttering of office accommodation can be psychologically beneficial for staff.

Additionally, the Freedom of Information Act will make it important that the Council has clearly defined policies and procedures in place for disposing of records, and that these are well documented.

Disposal

Disposal can be achieved by a range of processes:

- Confidential waste' – *i.e.* making available for collection by a designated refuse collection service or use of the red bin service within the civic offices.
- Physical destruction on site (paper records - shredding)
- Deletion – where computer files are concerned

Method of disposal

- Under no circumstances should paper documents containing personal data or confidential information be simply binned or deposited in refuse tips. To do so could result in the unauthorised disclosure of such information to third parties, and render the Council liable to prosecution or other enforcement action under the Data Protection Act. Such documents should be destroyed on site (e.g. by shredding) or placed in the specially marked “Confidential Waste” refuse bins.
- Deletion – the Information Commissioner has advised that if steps are taken to make data virtually impossible to retrieve, then this will be regarded as equivalent to deletion.
- Recycling – wherever practicable, disposal should be by recycling, in-line with the Council’s commitment to being a good corporate citizen.

Documentation of disposal

Disposal should be documented by keeping a record of the document disposed of, the date and method of disposal, and the officer who authorised disposal.

DATA PROTECTION ACT 1998

The Council needs to be aware that under the Data Protection Act personal data processed for any purpose must not be kept for longer than is necessary for that purpose. In other words, retaining documents or records that contain personal data beyond the length of time necessary for the purpose for which that data was obtained is unlawful.

The Data Protection Legislation contains no interpretive provisions on this provision. It is a matter for reasonable judgement and common sense as to how long personal data should be retained.

Relevant Legislation

The pieces of legislation which do, either directly or indirectly, impose minimum retention periods are as follows:

Tax Legislation: Minimum retention period for certain financial records are imposed by statutes such as the VAT Act 1994, and the Taxes Management Act 1970. These retention periods are identified in the retention schedules.

Statutory Registers: Various local government statutes require registers to be kept of certain events, notifications, or transactions. It is implicit within such legislative requirement that these records be maintained on a permanent basis, unless the legislation concerned stipulates otherwise.

The Audit Commission Act 1998: This provides auditors with a right of access to every document relating to the Council that appears necessary for the purposes of carrying out the auditor’s functions under the Act.

The Local Government Act 1972, S.225: Any document deposited with “the proper officer” of the Council in accordance with Statute should be retained permanently. (This is analogous to the position re Registers, above).

Part VA of the Local Government Act 1972: This governs public access to certain documents relating to Council and Committee meetings. Certain documents that form part of the public part of the agenda are required to be available for inspection by members of the public.

On occasions, the Council may become involved in disputes with third parties. Such disputes, if not satisfactorily resolved, can result in the third party bringing legal proceedings against the Council, possibly with a view to obtaining monetary compensation. Conversely, the Council may wish to institute legal proceedings against an individual or organisation e.g. to recover an unpaid debt, or in respect of faulty workmanship.

Where a dispute arises, or litigation has been commenced it is important that the Council has access to all correspondence and other documentation that is relevant to the matter. Without such, there is the danger that the Council's position will be compromised, and the very real possibility that an unmeritorious claim might succeed, or that the Council may be unable to assert its legal entitlements.

The **Limitations Act 1980** specifies time limits for commencing litigation. The starting point therefore, is that the retention period is the length of time that has to elapse before a claim is barred. The main time limits that are directly relevant to local government are as follows:

- Claims founded on simple contract or tort (other than personal injury claims) cannot be brought after the expiration of 6 years from the date on which the cause of action occurred.
- Compensation claims for personal injury are barred on expiry of 3 years from the date on which
 - (i) the cause of action occurred (this will usually be the date when the incident causing the injury occurred; or
 - (ii) the date when the injured person first had knowledge of the injury, its cause and the identity of the person responsible (some injuries are latent and do not manifest themselves for some period of time).

Limitations Act 1980 S.14A and S.14B: "Latent damage claims": S.14A provides a special time limit for negligence actions (excluding personal injury) where facts relevant to the cause of action were not known to the claimant at the date of the negligence.

The six-year retention period and risk assessment: As stated above the majority of potential legal claims are statute barred on the expiry of 6 years. For this reason many organisations consider it prudent to retain files/records for a period of 6 years from the date when the subject matter was completed.

Document	Period of Retention	Comments
Agreements and related correspondence		
Major agreements of	Permanently	

Document	Period of Retention	Comments
historical significance		
Contracts with customers, suppliers or agents Licensing agreements Rental/hire purchase agreements Indemnities and guarantees Other agreements/contracts	Six years after expiry or termination of the contract	Six years is generally the time limit within which proceedings founded on a contract may be brought (Section 5 <i>Limitation Act 1980</i>) If the contract is executed as a deed, the limitation period is twelve years Actions for latent damage may be brought up to fifteen years after the damage occurs
Property		
Deeds of title	Permanently or until property disposed of	
Leases	Fifteen years after expiry (Section 14B <i>Limitation Act 1980</i>)	
Accounts		
Company accounts (giving information sufficient to comply with Companies Acts 1985 & 1989)	Under the Companies Act (Section 222(5) <i>Companies Act 1985</i>) accounting records must be retained: <ul style="list-style-type: none"> • for public companies for a minimum of six years from the date they are made • for private companies or a minimum of three years from the date they are made 	Common practice is for these to held on a permanent basis.
Monthly management reports and the	Destroy when administrative use is	Common practice is to hold for a minimum period of

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underlying reports	concluded.	three years.
Financial management transactions	Destroy 6 years after the conclusion of the financial year in which the records were created	
Payrolls/wages	Six years from the year end for companies (<i>Finance Act 1998</i> , Schedule 18 paragraph 21) Five years after 31 January of the following year of assessment for unincorporated entities (<i>Tax Management Act 1970</i> , Sections 12 and 15)	
Tax		
Supporting documentation for tax returns: VAT	Six years (<i>VAT Act 1994</i> s58 and Schedule 11, paragraph 6)	Note in general that where there is an enquiry into a tax return, records should be retained until the enquiry is complete
Corporation Tax	Six years from the end of the period for which the company may be required to deliver a company tax return (<i>Finance Act 1998</i> Schedule 18 paragraph 21-22)	
PAYE	For PAYE records not required to be sent to the Inland Revenue, not less than three years after the end of the tax year to which they relate(<i>Income Tax (PAYE) Regulation 2003</i> , Reg.97)	Note however that payroll records should be kept for five to six years
Banking Records		
Cheques, bills of exchange and other negotiable instruments,	Destroy 6 years after the conclusion of the financial year in which the records	

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bank statements	were created	
Instructions to banks	Six years after ceasing to be effective	
Loans and Mortgages		
Mortgage or Loan files	Destroy 7 years after the loan has been repaid.	
Employee Records		
Staff personal records	Six years after employment ceases (<i>Limitation Act 1980</i>)	Health & safety records may need to be kept longer
Personal records of organisations important executives	Six years	Records may be kept longer for historical purposes
Applications for jobs- where the candidate is unsuccessful	Guidelines suggest three months after notifying the unsuccessful candidate	The Discrimination Acts 1975 and 1986 and the Race Relations Act 1976 recommend six months There is a one year limitation for defamation actions under the Limitations Act
Applications for appointment to Investigating, PCC or Health Committees	6 months after notifying the unsuccessful candidates.	
Sickness records	Three years after the end of each tax year for Statutory Sick Pay purposes (<i>Statutory Sick Pay (General) Regulations 1982 Reg.13</i>)	
Health and Safety		
Accident books	Three years from the date of each entry	The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) (SI 1995/3163)
Health and safety records	Ten years	Personal injury actions must generally be commenced

Document	Period of Retention	Comments
		<p>within three years of the injury. However, for industrial injuries not capable of detection with that period (for example, in relation to asbestos) the time periods may be substantially extended</p> <p>The time periods are extended in relation to employees exposed to hazardous substances.</p>
<p>Medical records and details of biological tests under the Control of Lead at Work Regulations 1998</p>	<p>40 years from the date of the last entry</p>	<p>The Control of Lead at Work Regulations 1998 (SI 1998/543)</p>
<p>Medical records under the Control of Asbestos at Work Regulations 1987 and 1998</p> <ul style="list-style-type: none"> • medical records containing details of employees exposed to asbestos • medical examination certificates 	<ul style="list-style-type: none"> • 40 years from the date of the last entry • 4 years from the date of issue 	<p>The Control of Asbestos at Work Regulations (SI 1987/2115, SI 1992/3068 and SI 1998/3235)</p>
<p>Medical records under the Ionising Radiations Regulations 1999</p>	<p>until the person reaches 75 years of age, but in any event for at least 50 years</p>	<p>The Ionising Radiations Regulations 1999 (SI 1999/3232)</p>
<p>Records of tests and examinations of control systems and protective equipment under the Control of Substances Hazardous to Health</p>	<p>5 years from the date on which the tests were carried out</p>	<p>The Control of Substances Hazardous to Health Regulations 1999 (COSHH) (SI 1999/437)</p>

Document	Period of Retention	Comments
Regulations 1999		
Insurance		
Policies	Three years after lapse	
Claims correspondence	Three years after settlement	
Employer's liability insurance certificate	40 years	
Accident reports and relevant correspondence	Three years after settlement	
Elections		
Summary certification of those eligible to vote	To the point where the members are appointed - 6 months or less	
Results	Permanent	
Media Relations		
Press Cuttings and media reports	6 months or longer if directly related. Statements made by GCC to be kept permanently.	
Surveys & Consultations		
Consultation of the public, Chiropractic profession and stakeholders in the development of standards and policies of Council	Raw data to be kept until agreement by Council. Final report - permanent	
Public consultation		
Surveys of the public, Chiropractic profession and stakeholders in the development of the policies of the Council	Raw data to be kept until agreement by Council. Final report - permanent	
Council and Committee Meetings		
The process of preparing business for Council consideration to	Permanent	

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include: Council minutes Council agenda and business papers Council Bulletins Committee minutes and papers.		
Minute taking notes	Destroy after confirmation of the minutes.	
Management and Administration		
Corporate, business plans and annual reports	Permanent	
Statutory returns – information to be passed on as part of statutory regulations	7 years	
Registration records	Permanent	
Human Resources		
Employment register to include name, DOB, start date, position(s), work history details and date of leaving.	Permanent	
Personnel files	6 years from date of leaving	
Disciplinary and grievance investigations where proved.	Oral warning – 6 months Written warning – 1 year Final written warning – 2 years The above warnings are removed and destroyed after the relevant time has been “spent”.	

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Disciplinary and grievance investigations where unfounded.	Destroy immediately after the grievance has been found to be unfounded with consent of employee.	
Recruitment – To include advertisement, applications and , interview reports.	1 year after recruitment has been finalised.	
The process of termination of staff through voluntary redundancy, dismissal or retirement.	6 years after termination.	
Regulation		
Professional Conduct Cases and Health Committee hearings	2 years from date of hearing for the Hearing bundle. Decision notice and transcripts – permanent	
Investigating Committee Cases	2 years from date of referral for the case papers. Decision notice and transcripts – permanent	
Health Committee	2 years from date of referral for the case papers. Decision notice and transcripts – permanent	
Appeals against the decision of the Registrar	2 years from date of hearing for the Hearing bundle. Decision notice and transcripts – permanent	
Appeals to the High Court	2 years from date of hearing for the Hearing bundle Decision notice - permanent	

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S.32 investigations	10 years	