



**Revenues and Benefits
Retention Policy**

August 2021

RETENTION POLICY

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1. INTRODUCTION

1.1 Epping Forest District Council recognises that its records are an important public asset and are a key resource to accountability and effective operation. They require careful management and this Policy sets out the Council's responsibilities and activities regarding the management and retention of its records within the Revenues & Benefits Service.

1.2 In the course of carrying out its functions and activities, the Council collects information from individuals and external organisations and generates a wide range of data and information. This can be retained as hard copies or in electronic form.

1.3 Retention of specific documents may be necessary to fulfil statutory or other regulatory requirements, evidence events in the case of a dispute and preserve documents of historic and other value.

1.4 The untimely destruction of documents could cause the Council to face difficulties in defending litigious claims, meet operational requirements or fail to comply with the Freedom of Information or Data Protection legislation.

1.5 Conversely, the permanent retention of data and information is unfeasible and appropriate disposal is necessary to allow for adequate storage space and compliance with Data Protection legislation.

2. SCOPE AND PURPOSE

2.1 The purpose of this policy is to provide a framework to govern how particular documents (or sets of documents) should be:

- Retained – and if so, in what format, and for what period; or
- Disposed of – and if so, when and by what method.

Additionally, this policy seeks to clarify the roles and responsibilities of designated officers in the decision-making process. 4

2.2 This policy is not concerned with the retention / disposal of unused materials (e.g. stocks of paper; unused forms).

3. THE RETENTION / DISPOSAL PROTOCOL

3.1 Any decision whether to retain or dispose of a document should be taken in accordance with the retention/disposal protocol. This protocol consists of:

- The **key retention / disposal considerations** criteria checklist (see Appendix 1). No document should be disposed of unless all these have been considered in relation to the document.

The **Retention Schedules** (see Appendix 2). These provide guidance on recommended and mandatory minimum retention periods for specific classes of documents/records.

4. ROLES AND RESPONSIBILITIES

4.1 Responsibility for determining (in accordance with the Retention / Disposal checklist and schedule) whether to retain or dispose of specific documents rests with the Service Manager. Service Managers are expected to be proactive in carrying out or instigating audits of existing documentation that may be suitable for disposal. This includes the use of staff within their service of:

the service's own drive(s) (e.g. Z:\drive)

the staff personal drives (F:\drive) and

the Council's shared drive (Z:\drive). Service Managers are responsible for ensuring that staff use of the Council's shared drive (Z:\drive) is restricted.

4.2 Legal Services can advise on whether minimum retention periods are prescribed by law. However, they cannot be expected to possess the operational or background knowledge required to assess whether a document may be required by the department concerned for operational need. This is the responsibility of the relevant Service Manager.

5. DISPOSAL

5.1 Disposal can be achieved by a range of processes:

Binning;

Confidential waste;

Deletion – where computer files are concerned;

5.2 The following considerations should be considered when selecting any method of disposal:

Under no circumstances should paper documents containing personal data or confidential information be simply deposited in non-confidential bins. 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 1998 and to serious embarrassment.

- If steps are taken to make data virtually impossible to retrieve then this will be regarded as equivalent to deletion.

6. DATA PROTECTION ACT 1998

6.1 All staff need to be aware that under the Data Protection Act personal data processed for any purpose must not be kept for any 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 is silent on this provision; it is a matter for reasonable judgement and common sense as to how long personal data (which falls outside legislative guidance) should be retained.

7. STANDARD OPERATING PRACTICE (SOP)

7.1 There are some records that do not need to be kept at all; SOP defines types of records which staff may routinely destroy in the normal course of business.

7.2 SOP usually applies to information that is duplicated, unimportant or only short-term facilitative value. Some examples are:

- Catalogues and trade journals
- Out of date distribution lists
- Duplicate copies of documents (see below)

7.3 Duplicated and superseded material such as stationery, manuals, drafts, forms, distribution lists and reference copies of annual reports may be destroyed if no longer relevant. (This includes electronic copies).

8. FORMAT OF RECORDS

8.1 This Document Retention Policy is relevant to records which are electronic or paper.

9. REVIEWING THE SCHEDULE

9.1 These guidelines prescribe minimum and permanent retention periods which have been agreed with the Service Manager. The guidance will be reviewed at regular intervals to ensure it remains fit for purpose.

APPENDIX 1 KEY RETENTION / DISPOSAL CONSIDERATIONS

Introduction

No document should be earmarked for disposal unless due regard has been given to:

- a) the four Key Disposal/Retention considerations detailed in this Appendix.
- b) the Retention Schedules contained in Appendix 2.

KEY CONSIDERATION 1

Has the document been appraised?

1. As a first step, the nature/contents of any document being considered for disposal should be ascertained. No document(s) should be earmarked or designated for disposal unless this has been done. Insofar as existing documents are concerned it follows that the above can only be achieved by the carrying out of physical inspection and appraisal. The process may only take a few minutes – perhaps even seconds. Nonetheless it can be a skilled task – depending on the complexity of the document(s) concerned – and should only be undertaken by officers who possess the enough operational knowledge to enable them to identify the document concerned and its function within both the individual Department and corporate frameworks. Any decision to the effect that future documents of a specified description be disposed of on expiry of a specified retention period should be an informed one i.e. taken with a full appreciation and understanding of the nature and function of such documents.

2. The above is largely common-sense, and hardly needs to be stated. However, if appraisal is inadvertently overlooked or carried out negligently, or by an employee who lacks the necessary background operational knowledge, the Council runs the risk of important documents being destroyed in error.

KEY CONSIDERATION 2

Is retention required to fulfil statutory or other regulatory requirements?

There is, in fact, very little specific legislation that stipulates mandatory retention periods for documents in Local Government. 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 8 1970. The relevant retention periods are identified in the retention schedules at Appendix B.

Statutory Register:

Various Local Government statutes require to be kept of certain events, notifications, or transactions. It is implicit with 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 purpose of carrying out the auditor's function 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.

□ **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.

KEY CONSIDERATION 3

Is retention required to evidence events in the case of dispute?

On occasions, the Council becomes involved in disputes with third parties.

Such disputes, if not satisfactorily resolved, can result in the dissatisfied party bringing legal proceedings against the Council, usually (but not always) 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 possibility that an unmeritorious claim might succeed, or that the Council may be unable to assert 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 must elapse before a claim is barred.

The six-year retention period and risk assessment:

As stated above most 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. Service Managers (or designated officers) should be prepared to carry out a risk analysis, with a view to disposal of such documents within a shorter period of than the 6-year time frame.

KEY CONSIDERATION 4

Is retention required to meet the operational needs of the department?

In some cases, retention may be desirable (whether permanent or otherwise) even though no minimum retention period applies. Service Managers (or designated officers) should be open to the danger of discarding documents or records that might be useful for future reference purposes (e.g. training), as precedents, or for performance management (performance indicators, benchmarking and comparison exercises). A professional judgement needs to be made as to the usefulness of a document. Where documents are kept for use as precedents or for training or similar purposes, personal information should be redacted.

APPENDIX 2 – DOCUMENT RETENTION SCHEDULE

Our retention schedule is based on our statutory and discretionary business functions, activities and processes. Each specific retention and disposal policy applies to all records that support business activity or process described in the schedule. The retention policies contained in the schedules apply to all records and data irrespective of media or format, the system in which they are held and storage location.

RETENTION SCHEDULE INDEX PAGE

1 REVENUES (COUNCIL TAX AND BUSINESS RATES)

2 BENEFITS (HOUSING, LOCAL COUNCIL TAX SUPPORT AND DISCRETIONARY HOUSING PAYMENTS)

3 FORMER TENANT ARREARS

Ref	Function Description	Retention Action	Examples of Records	Notes
1.REVENUES (COUNCIL TAX AND BUSINESS RATES)				
1.1	The valuation of both rateable land and domestic dwellings within the district for the purpose of the making of the rate and Council Tax	Valuation lists - Permanent.	Valuation lists Reports Correspondence Objections	Common practice
1.2	The activity of corresponding with Council Tax and Business Rate payers in relation to all aspects of local taxation	Destroy 6 years after last action	Notices Correspondence Applications	Common practice
1.3	The recording of payments and refunds in relation to Council	Destroy after 7 years after last action	Receipts Refund notifications	Common practice

	Tax and Business Rates			
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Ref	Function Description	Retention Action	Examples of Records	Notes
2.BENEFITS (HOUSING, LOCAL COUNCIL TAX SUPPORT AND DISCRETIONARY HOUSING PAYMENTS)				
2.1	The activity of corresponding, recording and processing claims for Housing Benefit, Local Council Tax Support and Discretionary Housing Payments	Live claims - retain Dormant files - retain if there is an outstanding HB overpayment or outstanding investigation Destroy 5 years after the end of External Audit/Subsidy Claim audit	Claim forms Correspondence Documentary evidence	Common practice
2.2	Investigation of Local Council Tax Support fraud	Revenue Fraud Destroy after 6 years if prosecution or 2 years if no prosecutions All other frauds Destroy after 5 years if prosecution or 2 years if no prosecution	Claim forms Correspondence Documentary evidence	Common practice

Ref 3.FORMER TENANT ARREARS	Function Description	Retention Action	Examples of Records	Notes
3.1	The activity of corresponding with Former Council Tenants in relation to all aspects of their debt with the local authority	Destroy 6 years after last action	Notices Correspondence	Common practice