

West Sussex County Council Legal Services Retention Schedule

Introduction

The County Council's record retention and disposal schedule for Legal Services has been developed by the Legal Services department in collaboration with the Records Management Service. The schedule applies to both hard copy and electronic records.

This retention schedule identifies legal record types. Each of these record types has then been allocated a retention period based on legislation, business need, best practice, or a combination of these.

The schedule is a vital tool to ensure the council complies with the Data Protection Act 2018 and UK GDPR.

Why this schedule is important

Legal Services produce many types of record. It is vital that these are organised in a manner that makes them retrievable and retained for a suitable period of time.

The council has a legal duty not to retain information longer than is necessary, as outlined in the [Principle \(c\): Data minimisation](#) of UK GDPR. It is also important that council resources are not being used to store records and data that are no longer required, whilst also ensuring these are not destroyed or deleted too soon. Having a fully implemented, comprehensive and regularly updated retention schedule enables the council to meet these legislative duties.

A further explanation as to why a retention schedule is important can be found on the Information Commissioner's Office website as part of [Principle \(e\): Storage Limitations](#) of UK GDPR.

Using the Record Retention and Disposal Schedule

The retention schedule is not based on the current directorates and business units of the council, but rather the overall functions and activities. This means it will remain relevant in the event of future re-structuring or renaming of directorates and business units.

- Definition of terms

Term	Definition
Function	The top-level function within the County Council, e.g. Children’s Services
Activity	The activity within the function, e.g. social care
Code	A unique code given to each Record Type
Record Type	The different types of record used to carry out the activity, e.g. case file
Retention Period	The number of years the record type should be retained before being reviewed for destruction or permanent archive
Retention Period Calculated From	The point at which the retention period begins. This may be the date of birth or the last contact with an individual, the end of a contract, or something else
Statutory Provision / Justification	The reason for the retention period. This is usually based on legislation, business need, best practice or a combination of these

Term	Definition
Contains Personal Data?	Yes/No - Does the record type contain any of the following information about an individual: name, address, telephone number, email address or any other information that could identify the individual?
Action	A description of what happens once the retention period is up. This will usually be that the record will be reviewed for destruction or further retention, or appraised for permanent preservation in the County Archives
Additional Notes	Any additional information or caveats relating to the record type, the retention period or the action
Fileplan	List of functions, activities, and record types to form the main reference tool of the retention schedule

- When should information be retained beyond agreed retention schedule?

Information may occasionally be retained beyond the agreed retention period. The 'Retention Period Calculated From' date may begin again if:

- a case has been re-opened;
- a new case activity has occurred;
- it is felt there is an ongoing business or care need to retain the record; or
- an inquiry or police investigation require a record or group of records to be retained

Destruction process

Paper records authorised for destruction are confidentially destroyed. Electronic records are deleted from council systems.

What items go into permanent archive?

When a record has been designated for destruction or deletion it may be randomly selected or appraised by an archivist from the West Sussex Record Office to determine if it holds historical value. If this is the case, it may be retained permanently in the council's corporate archive.

Limitations

Many types of record do not have specified retention periods in law or in official local government guidance. To develop this schedule, departments have reviewed and provided updates for their areas to establish a 'best practice' retention period where there is not one in legislation. Further, a review of the best practices adopted by some other local authorities was conducted during the creation of the schedule.

Deleting information from a system is not always a straightforward matter. Where an IT system does not allow for part-deletion of a record, the Council will consider data protection legislation and guidance from the Information Commissioner's Office (ICO).

The Retention Schedule

Legal Services

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
<u>LS1 Data Protection & Freedom of Information</u>							
LS1.1	Birth Certificate	7 years	Resolution of Subject Access Request (SAR)	Business need - useful for tracing records (contains mother's maiden name)	Y	Review and confidentially destroy	
LS1.2	Passport	0 years	Completion of entry about ID on DPA tracker	Used for ID purposes only. Danger of identity theft in event of data breach	Y	Review and confidentially destroy	
LS1.3	Household Bills	0 years	Completion of entry about ID on DPA tracker	Used for ID purposes only	Y	Review and confidentially destroy	
LS1.4	Information disclosed to an applicant	7 years	Date of Disclosure	Business need - complaints and repeat request	Y	Review and confidentially destroy	
LS1.5	Original Material	7 years	Date of Disclosure	Business need - complaints and repeat request	Y	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
LS1.6	Power of attorney	7 years	Date of Disclosure	Business need - complaints and repeat request	Y	Review and confidentially destroy	
LS1.7	Letters of consent	7 years	Date of Disclosure	Business need - complaints and repeat request	Y	Review and confidentially destroy	
LS2 Education Law							
LS2.1	School Admission Records	Admission + 1 year	Date of admission	Records Management Toolkit for Schools Version 6.0 (2019)	Y	Review and confidentially destroy	
LS2.2	Admission Appeal Records (Unsuccessful)	Resolution of case + 1 year	Resolution of case	Records Management Toolkit for Schools Version 6.0 (2019)	Y	Review and confidentially destroy	
LS2.3	Education Records relating to individual pupils	25 years	Date of birth	In line with general pupil records	Y	Review and confidentially destroy	
LS2.4	SEN Tribunals	31 years	Date of birth	In line with SEN case record	Y	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
<u>LS3 Employment</u>							
LS3.1	Advice on employment matters	7 years	Date of advice	Business need	Y	Review and confidentially destroy	
LS3.2	Advice to the police	7 years	Date of advice	Business need	Y	Review and confidentially destroy	
<u>LS4 Highways & Transport</u>							
LS4.1	Stopping up orders	7 years	Date of order	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	
LS4.2	Section 38 agreement files	7 years	Date of adoption	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	
LS4.3	Section 278 agreement files	7 years	Date of agreement	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	
LS4.4	Section 142 agreement files	7 years	Date of agreement	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	
LS4.5	Permanent traffic regulation order files	7 years	Date of regulation	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
LS4.6	Temporary traffic regulation order files	7 years	Date of regulation	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	
LS4.7	Rights of Way files	7 years	Date of closure	Limitation Act 1980 (Section 2)	N	Review and confidentially destroy	
LS5 Litigation							
LS5.1	Civil litigation (not involving minors)	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS5.2	Trading Standards Prosecutions	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
LS5.3	Civil litigation (insurance claims involving minors)	30 years	Date of Birth	Limitation Act 1980, Section 2. For minors, the Limitation Act commences when the child reaches majority, so 25 years reflects 18 years of age + 7 years. Agreed that these should be retained for 30 years from dob	Y	Review and confidentially destroy	If relating to sexual abuse retain for 100 years from date of birth
LS5.4	Civil Insurance Claims	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS5.5	Civil Litigation - Debt Recovery	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS5.6	Unlitigated debt matters	2 years	Closure of case	Business need	Y	Review and confidentially destroy	
LS5.7	Criminal Litigation	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
<u>LS6 Planning Law</u>							
LS6.1	Files relating to Section 106 agreements under the Town and Country Planning Act 1990	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS6.2	Rights of Way files	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS6.3	Basic Advice on Planning	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS6.4	Basic Advice on Highways	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS6.5	Case files relating to Planning and Compulsory Purchase Order Appeals (Public Inquiries)	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS6.6	Case files relating to planning contravention Notices	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
LS6.7	Land Drainage files	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
LS6.8	Housing files	7 years	Closure of case	Limitation Act 1980	Y	Review and confidentially destroy	
<u>LS7 Property & Contracts</u>							
LS7.1	Acquisitions of Property	12 years	Acquisition	Business need	Y	Review and confidentially destroy	
LS7.2	Sale of Property	12 years	Sale of property	Business need	Y	Review and confidentially destroy	
LS7.3	Leases and Licences	12 years	Lease or Licence ending	Business need	Y	Review and confidentially destroy	
LS7.4	Legal Charges	12 years	Termination of loan	Business need	Y	Review and confidentially destroy	
LS7.5	Conveyancing and Contract matters	12 years	Closure	Business need	Y	Review and confidentially destroy	
LS7.6	Tenancy Agreements	12 years	Closure	Business need	Y	Review and confidentially destroy	

Code	Record Type	Retention Period	Retention Period Calculated From	Statutory Provision / Justification	Contains Personal Data?	Action	Additional Notes
LS7.7	Advice (Property, Contracts)	12 years	Closure	Business need	Y	Review and confidentially destroy	
LS8 Social Care (Legal)							
LS8.1	Adoption proceedings	100 years	Date of adoption order	Best practice - in line with Adoption case records	Y	Review and confidentially destroy	
LS8.2	Adult Social Care legal correspondence	8 years	Last Activity	In line with Adults' Social Care case records	Y	Review and confidentially destroy	
LS8.3	Adult Social Care legal correspondence (Mental Health)	20 years	Last Activity	In line with Adults' Mental Health case records	Y	Review and confidentially destroy	
LS8.4	Adult Social Care legal correspondence (DOLS)	20 years	Last Activity	In line with Adults' DOLS case records	Y	Review and confidentially destroy	
LS8.5	Care Proceedings Bundles / Correspondence	100 years	Date of birth of the child	Best practice - in line with Children's Social Care case records	Y	Review and confidentially destroy	