

Fountain Chambers
Middlesbrough

Retention and Disposal Policy

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1. Introduction

- 1.1 In the course of its business of Chambers' administration, Fountain Chambers Administration ('Chambers') collect information from individuals and external organisations and these are defined as records. These records can be retained either in paper or in electronic form (Further information on the definition of records can be found at Annex A).
- 1.2 Retention of specific records is necessary to support various business requirements and to comply with legislation. To destroy these records prematurely could have a significant impact on Chambers. Equally to keep these records permanently or longer than is necessary would mean that Chambers, could be in breach of legislation / regulations as well as creating unnecessary storage costs.
- 1.3 The General Data Protection (GDPR) emphasises the importance of having systems in place for the timely and secure disposal of documents/records relating to natural persons that are no longer required for business purposes.
- 1.4 As legislation changes, retention schedules may change. Therefore, this Policy may be subject to amendment.

2. Roles and Responsibilities

- 2.1 Chambers' senior managers comprise the following, in association with the Management and Personnel Committees:
 - Head of Chambers.
 - Secretary.
 - Treasurer.
 - Chair of the Personnel Committee.
- 2.2 The senior managers are responsible for ensuring compliance with this policy within the context of their role.

3. Purpose

3.1 The purpose of this policy is to provide an organisational policy framework to govern management decisions on whether a particular record (or set of records) should be either:

- Retained – and if so in what format, and for what period.
- Disposed of - as indefinite retention of personal data is unlawful in certain circumstances.

3.2 Duplicated records (e.g. photocopies of documents) are classed as records and therefore the same retention & disposal policy applies.

4. Review, Disposal, Destruction and Retention Protocol

4.1 *Review*

4.1.1 ‘Review’ is the appraisal of documentation to establish what action should be applied to that record, for example whether the record should be destroyed, retained for a further period, transferred to an archival facility.

4.1.2 The review of all types of record must be carried out on a regular basis. The purpose of the review is to ensure that the records are being retained in line with the appropriate schedule and that they are disposed of at the correct time. Not only does doing so potentially save storage, but it is a legal requirement under GDPR Legislation.

4.1.3 Where a retention period has expired in relation to a particular record a review should be carried out before a final decision is made to dispose of the record. Such reviews should not be detailed or time consuming.

4.1.4 Any review to decide whether to retain or dispose of a paper or electronic record or file should be taken in accordance with the retention/disposal protocol. This protocol consists of:

- If a record due for destruction is known to be the subject of a request for information, destruction should be delayed until disclosure has taken place, or if Chambers has

decided not to disclose the information, until any complaint and/or appeal provisions have been exhausted.

- The key disposal/retention considerations criteria checklist set out in Key Considerations (Annex B) should be applied. Essentially no document should be disposed of unless all these have been considered in relation to the document.
- The Retention Schedules are contained in Annex C (and subsequent Annexes). These schedules provide guidance on recommended and mandatory minimum retention periods for specific classes of records.

4.2 *Disposal and destruction*

4.2.1 Disposal is the follow-on action from 'Review'. It is the direct result of a review that concludes a record has reached its expiry date. Disposal may include one of the following methods:

- Return of records to the original source.
- Irretrievable Destruction of records.

4.2.2 Irretrievable destruction of records can be achieved by a range of processes:

- Physical destruction (paper records – cross-shredding, incineration).
- Permanent deletion by electro-magnetic means – where electronic records are concerned.

4.2.3 The following considerations should be taken into when selecting a method of disposal and/or destruction:

- 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 Chambers liable to prosecution or other enforcement action under **GDPR**. Such documents should be destroyed by cross-shredding or incineration.
- 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. In the case of electronic systems, to meet the business requirement only specific users (system administrators) will be able to 'hard delete' information. Business users will have the ability to 'soft delete' which in effect will assign the status of 'marked for deletion' to the information and remove it from the view of users.

4.3 *Destruction Log*

4.3.1 Documenting the disposal of both paper and electronic records is a requirement under GDPR.

4.3.2 It is the responsibility of a senior manager (or designated member of staff) to complete a destruction log. The log should detail as a minimum:

- The date and method of disposal requested.
- The person who authorised disposal.
- The date and identity of the person / organisation who undertook the disposal (and date of destruction if applicable).

4.3.3 The destruction log must be kept for all records sent for destruction and must be retained for a minimum of 20 years from destruction date.

4.3.4 The destruction log must be kept locally in a secure place and must be produced when requested by Audit or any regulatory body.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex A: Records Definition

Records are documents or data which record information of corporate importance. Not all documents are records.

Records are created by Chambers and can be collated by individual staff or external organisations. This generates a wide range of data/information which is recorded. These records fall into several different categories:

- Finance
- HR / Personnel records
- Industrial Relations
- Management
- Performance data
- Policy
- Pupil / mini-pupillage records
- Complaint records.

These records can take many different forms e.g.

- Letters
- Medical Reports
- Court papers / bundles
- File notes
- Invoices
- Completed application forms
- Plans/drawings
- Records of expenditure
- Contracts
- e-mail communications (and any attachments)
- Photographs and biometric data.

Many of the above can be retained either as 'hard' paper records or in 'electronic' form.

Retention of specific documents may be necessary to:

- Fulfil statutory or other regulatory requirements.

- Support audit.
- Evidence events/agreements in the case of disputes.
- Meet operational needs.
- Ensure the preservation of documents of historic or other value.

The premature destruction of documents could cause:

- Operational problems.
- Threats to security.
- Reputational embarrassment
- Difficulty in defending claims or complaints.
- Failure to comply with legislative and regulatory obligations.

On the other hand, the permanent retention of all documents is impractical. Appropriate disposal is encouraged for the following reasons:

- Physical storage space is in short supply and is costly.
- Disposal of existing documents can produce a more efficient working environment.
- As the records grow, electronic storage space becomes cluttered, making searching and retrieval of records increasingly difficult. It also increases IT capacity requirements and raises IT service costs.
- Indefinite retention of personal data is not compliant with the **GDPR** which requires organisations must not process (which includes retain) personal data for any longer than is required to fulfil business or legislative needs.
- Reduction of fire risk (in the case of paper records).
- It supports a clear desk policy.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex B: Key Considerations

Key Disposal/Retention Considerations

No record should be earmarked for disposal unless:

- (i) the four Key Disposal/Retention considerations detailed in this Annex, *and*
- (ii) the Retention Schedules contained in the following Annexes have been considered.

Key consideration No. 1

Has the document/record been appraised?

1. As a first step, the nature/contents of any document /record being considered for disposal should be ascertained. No document /record should be earmarked or designated for disposal unless this has been done. This can only be achieved by carrying out an 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 persons who possess sufficient operational knowledge to enable them to identify the document /record concerned and its function within Chambers. Any decision that a specific type of document/record should be disposed of on expiry of a defined retention period should be an informed one i.e. taken with a full appreciation and understanding of the nature and function of such document.

2. It follows that, if appraisal is inadvertently overlooked or carried out negligently or by an employee who lacks the necessary background operational knowledge, Chambers run the risk of important documents/records being destroyed in error.

Key consideration No. 2

Is retention required to fulfil statutory or other regulatory requirements?

The pieces of legislation which do, either directly or indirectly, impose minimum retention periods include the following:

- Companies Act 1989
- GDPR
- Data Protection Act 2018
- Environmental Information Regulations 2004

- Limitation Act 1980
- Taxes Management Act 1970
- Direct Access Guidance

Key consideration No. 3

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

On occasions, Chambers becomes involved in disputes with third parties. Such disputes, if not satisfactorily resolved, can result in the dissatisfied party bringing legal proceedings, with a view to obtaining compensation, including monetary compensation. Alternatively, Chambers may wish to take legal proceedings against an individual or organisation e.g. to recover an unpaid debt or in respect of faulty work.

Where a dispute arises, or litigation has been commenced, it is important that Chambers has access to all correspondence and other documentation that is relevant to the matter. Without this there is a danger that Chambers' position will be compromised.

The Limitation Act 1980 specifies time limits for commencing litigation. The starting point for retention, therefore, is that the retention period is the length of time that should elapse before a claim is barred. The main time limits that are directly relevant 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).

Under the Limitation 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.

As stated above many potential legal claims are statute barred on the expiry of 7 years. For this reason, many organisations consider it prudent to retain files/records for a period of 7 years from the date when the subject matter was completed.

Key consideration No. 4

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

In some cases, retention may be desirable even though no minimum retention period applies or has expired. Chambers' senior managers should recognise the danger of discarding documents or records that might be useful for future reference purposes (e.g. training), as precedents, or for corporate performance management (performance indicators, benchmarking and other comparison exercises). A professional judgement needs to be made as to the usefulness of a particular document, in conjunction with the business area.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex C: Generic Retention Information

Retention Periods for Personal Data

GDPR requires that organisations must not process (which includes “retain”) personal data for any longer than is required to fulfil business or legislative / regulatory needs.

Therefore documents/records relating to: staff, pupils, complainants, marketing contacts, and members of Chambers must be reviewed regularly and destroyed when no longer required.

In the event of a subject access request (“SAR”) being made, we must search for, copy and provide all personal data held even if it is no longer in use. There are also cost implications from unnecessary storage of documents/records. Review is therefore crucial to effective information management and the efficient use of resources.

Retention Periods for Documents/Records

The attached Annexes state the retention periods which should be applied for key documents/records. Some of these are taken from guidance issued by The National Archives (“TNA”) and the Cabinet Office.

Any documents which have a bearing on pension entitlement should be kept for 100 years from the date of birth or 5 years after the last action, whichever is the later.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex D: HR Records

Employment and Career

DESCRIPTION		RETENTION PERIOD
1.	Written particulars of employment. Contracts of employment, including the Certificate of Qualification or its Changes to terms and conditions, including change of hours letters.	Until age 100 years.
2.	Job History - consolidated record of whole career and location details (paper or electronic).	Until age 100 years.
3.	Current address details.	7 years after employment has ended.
4.	Variation of hours - calculation formula for individual.	Destroy after use.
5.	Promotion, temporary promotion and/or substitution documentation.	Destroy after summary noted.
6.	Record of previous employment dates.	Until age 100 years.
7.	Previous employment supporting papers.	Destroy after record noted as appropriate.
8.	Qualifications/references.	7 years after last action.
9.	Annual/Assessment reports.	7 years after last action.
10.	Annual/Assessment reports for the last 5 years of service.	Until age 100 years.
11.	Training history.	7 years after last action.
12.	Travel and subsistence - claims and authorisation.	7 years after last action.
13.	Annual leave record.	2 years after last action.
14.	Job applications - internal.	2 years after last action.
15.	Recruitment, appointment and/or promotion board selection papers.	2 years after last action.
16.	Security personnel files.	7 years after leaving (if at normal retirement age) or 10 years after leaving (if before normal retirement age).
17.	Files of casual members of staff	Destroy 2 year after termination of employment.

Pay and Pension

DESCRIPTION		RETENTION PERIOD
1.	Bank Details - Current	7 years after employment has ended.
2.	Death Benefit Nomination and Revocation forms	Until age 100 years.
3.	Death Certificates.	Return original to provider. Retain copy until age 100 years.
4.	Decree Absolute.	Return original to provider. Retain copy until age 100 years.
5.	Housing advance.	7 years after repayment.
6.	Marriage certificate.	Return original to provider. Retain copy until age 100 years.
7.	Unpaid leave periods (maternity leave etc).	Until age 100 years.
8.	Statutory maternity pay documents.	7 years after last action.
9.	Other maternity pay documentation.	18 months after last action.
10.	Overpayment documentation.	7 years after repayment or write-off.
11.	Personal payroll history, including record of pay, performance pay, overtime pay, allowances, pay enhancements, other taxable allowances, payment for untaken leave, reduced pay, no pay, maternity pay.	Until age 100 years.
12.	Pension estimates and awards.	Until age 10 years.
13.	Resignation, termination and/or retirement letters.	Until age 100 years.
14.	Added years.	Until age 100 years.
15.	Additional Voluntary Contributions (AVC)	Until age 100 years.
16.	Payroll input forms	7 years after last action.
17.	Bonus nominations.	7 years after last action.

18.	<p>Record of:</p> <ul style="list-style-type: none"> • Full name and date of birth. • National Insurance number. • Pensionable pay at leaving. • Reckonable service for pension purposes (and actual service where this is different, together with reasons for the difference). • Reasons for leaving and new employers name (where known). • Amount and destination of any transfer value paid. • Amount of any refund of PCSPS contributions. • Amount and date of any contributions. • Equivalent Premium paid. • All other papers relating to pensionability not listed above (e.g. papers about pensionability of other employment (including war service), extension of service papers, papers about widow's, widower's, children's and other dependant's pensions, correspondence with the Cabinet Office, other departments and pension administrators, or the officer and his/her representatives, (MPs, Unions or others) about pension matters. 	Until age 100 years.
19.	Complete sick absence record showing dates and causes of sick leave.	Until age 100 years.
20.	Statutory Sick Pay (SSP) forms.	For last 7 years.
21.	Papers relating to disciplinary action which has resulted in any changes to terms and conditions of service, salary, performance pay or allowances.	Until age 100 years.
22.	Authorisation for deputising, substitution allowance and/or overtime/travel time claim.	7 years.
23.	<p>Advances for:</p> <ul style="list-style-type: none"> • Season tickets • Car parking • Christmas/holidays • Housing • Other 	7 years after repayment.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex E: Policy and Compliance Records

DESCRIPTION		RETENTION PERIOD
1.	Finance - Accounting, VAT returns	7 years after last action.
2.	Recruitment - Policy	2 years after last action.
3.	Promotion and selection Board Papers - Policy	2 years after last action.
4.	Data Protection Registration, notification, records (paper and electronic)	<p>PAPER Destroy individual documents 1 year after date of document.</p> <p>ELECTRONIC Destroy 1 year after folder closed.</p> <p>Unless ongoing correspondence identified by the business unit.</p>
5.	Requests for information made under GDPR	<p>PAPER Destroy individual documents 1 year after date of document last response or ongoing correspondence identified by the business unit.</p> <p>In respect of requests investigated by the Information Commissioner review after 1 year after the last action.</p> <p>ELECTRONIC Destroy one year after folder closed unless ongoing correspondence identified by the business unit.</p> <p>In respect of requests investigated by the Information Commissioner review 1 year after the last action.</p>

6.	Requests for information made under the Environmental Information Regulations	<p>PAPER Annual review. Destroy after 2 years and only then if no recorded file movement has occurred on the file during the preceding 12 months. If the latter applies, then retain until next annual review. In respect of requests investigated by the Information Commissioner review after 5 years.</p> <p>ELECTRONIC Folders are closed annually Destroy one year after folder closed unless ongoing correspondence identified by the business unit In respect of requests investigated by the Information Commissioner Folders are closed annually Review 4 years after folder closed Retain or destroy</p>
7.	Destruction Log	20 years.
8.	Compliance Statements	3 years after last action.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex F: Retention Guidelines for Non-Personal Records

Guidelines for service provider contracts over £5,000. Records in relation to service provider contracts under £5,000 should not be kept longer than 2 years after the end of the contract.

	DESCRIPTION	RETENTION PERIOD
1.	Business Requirements	7 years after the end of the contract.
2.	List of Approved Suppliers	Do not destroy - this is an active record.
3.	Statement of Interest	1 year after date of last statement.
4.	Draft Specification	Destroy when specification has been agreed.
5.	Evaluation Criteria	7 years after the end of the contract.
6.	Invitation to Tender	7 years after the end of the contract.
7.	Background information provided with Invitation to Tender	1 year after the date of supply.
8.	Unsuccessful Tender Notification	1 year after the date of notification.
9.	Successful Tender Notification	7 years after the date of contract award.
10.	Contract Commissioning Panel - reports and notes of proceedings	1 year after the end of contract.
11.	Contract Commissioning Notification	1 year after the end of contract.
12.	Signed Contract	7 years after the end of the contract.
13.	Contract Management Report from Contractor	2 years after the end of the contract.
14.	Contract Schedules of Works	2 years after the end of the contract.
15.	Bills of Quantity (Building Contracts only)	16 years after the end of the contract.
16.	Surveys & Inspections a) Equipment & supplies b) Buildings	a) 2 years after the date of inspection b) Destroy after 2 nd review.
17.	Complaints	7 years after the end of the contract.
18.	Payment Disputes	7 years after the end of the contract.
19.	Final Accounts	7 years after the end of the contract.
20.	Minutes and papers of meetings	7 years after the end of the contract.
21.	Requirement Changes to Contract	7 years after the end of the contract.
22.	Variations to Contract	7 years after the end of the contract.

23.	Extensions to Contract	7 years after the end of the contract.
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This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex G: Buildings

	DESCRIPTION	RETENTION PERIOD
1.	Signed Lease - per building	Destroy 16 years from date of lease expiry.
2.	Memoranda of terms of lease	Destroy 16 years from date of lease expiry.
3.	Subletting Agreement	Destroy 12 years from date of subletting.
4.	Wayleave Agreement	Destroy 12 years from date of agreement.
5.	Landlord Consent	Destroy 16 years from the date of surrender, expiry or termination of lease.
6.	Licence	Destroy 16 years from the date of surrender, expiry or termination of licence.
7.	Schedules of tenant alterations	Destroy 16 years from the date of surrender, expiry or termination of lease.
8.	Tests & Statutory Certificates	Destroy 12 years from date of expiry or superseded.
9.	Fire Certificate	Destroy 12 years from date of expiry or superseded.
10.	Planning Consents & related correspondence a) New buildings b) Alterations to buildings	Review 25 years from date of issue of consent.
11.	Listed Building Consents & related correspondence	Review 25 years from date of issue of consent.
12.	Maintenance Schedules	Review 16 years from date of the schedule being superseded.
13.	Miscellaneous - any other records relating to the building lease not covered above.	Review 5 years from the date of issue, closure or last action.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex H: Complaints

	DESCRIPTION	RETENTION PERIOD
1.	Register of Complaints	7 years from the date of the last entry.
2.	Minutes of Complaint Committee Board	7years from date of creation.
3.	Individual Enquiry	3 years from issue date of the last individual response.
4.	Individual Investigation	7 years from issue date of the last individual investigation report
5.	General Complaint Analysis / Review	3 years from issue date of the last analysis / review report.

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex I: Pupils

	Description	Retention Period
1.	Selection Criteria	18 months from end of selection appeal period
2.	Log of Pupillage Applications	18 months from end of selection appeal period
3.	Interview Notes	18 months from end of selection appeal period
4.	Selection Results	18 months from end of selection appeal period
5.	Selection Appeals	18 months from end of selection appeal period
6.	Pupillage Agreement	7 years after pupillage terminated
7.	Financial	7 years after pupillage terminated
8.	Pupillage Termination	7 years after pupillage terminated

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex J: Marketing Contacts

	DESCRIPTION	RETENTION PERIOD
1.	Contact details	1 year from Consent being withdrawn
2.	Marketing Preferences	1 year from Consent being withdrawn
3.	Marketing Consent	1 year from Consent being withdrawn

This policy was adopted in March 2021 and will be reviewed in March 2023.

Annex K: Members of Chambers - Marketing Purposes

	Description	Retention Period
1.	Contact Details	5 years from date of leaving chambers
2.	Practice Areas	Immediately upon date of leaving chambers
3.	Photograph	Immediately upon date of leaving chambers

This policy was adopted in March 2021 and will be reviewed in March 2023.