

Cheltenham Borough Council Data Retention Policy



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Responsible officer

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1. Introduction

- 1.1. Cheltenham Borough Council (the 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 in regard to the management and retention of its records. It is applicable to both employees and elected members.
- 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.
- 1.6. The effective management of records in all formats depends as much on their efficient disposal as well as their long-term preservation. As a Local Authority we must be consistent in the way we handle and dispose of our information. These guidelines will assist the Council by ensuring a consistent approach to record keeping across the organisation.

2. Scope and Purpose

- 2.1. The purpose of this policy is to provide a corporate framework to govern how particular documents (or sets of documents) should be:
 - Retained – and if so, in what format, and for what period of time; or
 - Disposed of – and if so, when and by what method

3. The Retention/Disposal Protocol

- 3.1. Any decision whether to retain or dispose of a document should be taken in accordance with this Policy, including the of the key disposal/retention considerations criteria checklist, set out in Appendix 1 and the retention schedules set out in Appendix 2.

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 Head of Service
- 4.2. The Corporate Director & Monitoring Officer 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 particular document may be required by the department concerned for operational need. This is the responsibility of the relevant Head of Service.
- 4.3. The Corporate Director & Monitoring Officer is available to provide guidance on effective records management practices.

5. Disposal

5.1. Disposal can be achieved by a range of processes:

- Confidential waste;
- Physical destruction onsite (shredding);
- Deletion – where computer files are concerned;
- Migration of documents to an external body.

5.2. The following considerations should be taken into account 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. If steps are taken to make data virtually impossible to retrieve then this will be regarded as equivalent to deletion.
- Migration of documents to a third party (other than for destruction or recycling) will be relevant where documents or records are of historic interest and/or have intrinsic value. Migration can include the transfer of data to a third party service provider.

6. UK General Data Protection Regulation

6.1. All staff need to be aware that under the UK General Data Protection Regulation (UK GDPR) 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. If 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. Format of Records

7.1. This Data Retention Policy is relevant to records which are electronic, paper or record which have been transferred to another format such as microfiche.

Appendix 1: Key disposal/Retention Considerations

No document should be earmarked for disposal unless due regard has been given to the five Key Disposal/Retention considerations detailed in this Appendix and with reference to the Retention Schedules at Appendix 2.

Key Consideration 1:

Has the document been appraised?

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 sufficient 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.

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 1970. The relevant retention periods are identified in the Retention Schedules Document.

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 has to elapse before a claim is barred.

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. Heads of Services (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 precedence, or for performance management (performance indicators, benchmarking and comparison exercises). A professional judgement needs to be made as to the usefulness of a particular document.

Key Consideration 5:

Is retention required because the document or record is of historical interest or intrinsic value?

In most cases this consideration will not be applicable. However, it is certainly possible that some documents may be of historic interest and/or even have some monetary value. Where it is suspected that the document falls within this description, appropriate enquires should always be made before taking any further action. Even if the document is of historical or monetary value, disposal rather than retention by the Council may well be the appropriate option.



Appendix 2: Retention Schedules

Where no period for retention is specified the document can be destroyed 3 years after its use has concluded.

All retention periods commence from the date on which the use of the document was concluded, unless otherwise stated.

Except where required to meet a statutory period all emails should be deleted after 3 years.

Retention schedules can be accessed (internally): <http://cbci.cbc-local.cbc.gov.uk/about-the-council/strategies-policies-and-procedures/gdpr-data-protection#guidance>