

Date: August 2022
Review date: August 2024
Responsibility: DR

Bishop Challoner School



Retention Policy



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Relevant Acts: General Data Protection Regulations (GDPR) 2018
Data Protection Act 2018

This policy should be read in conjunction with:

Data Protection Policy
CCTV Policy
Information Security Policy
Privacy Notice

1. The purpose of the Retention Policy

The retention policy stipulates the length of time a record needs to be retained and the action which should be taken when it is of no further administrative use.

Members of staff are expected to manage their current record keeping systems using the retention schedule, and to take account of the different kinds of retention periods when creating new recording systems.

The retention schedule refers to all information, regardless of the media in which they are stored.

2. What to do with records once they have reached the end of their administrative life.

2a Destruction of records

Where records have been identified for destruction they should be disposed of in an appropriate way. All records containing personal information, or sensitive policy information should be shredded before disposal, or disposed using the secure bags of the approved external contractor providing confidential waste services for the school.

2b Transfer of records to the Archives

Where records have been identified as being worthy of permanent preservation, arrangements should be made to transfer the records to the Archives.

2c Transfer of information to other media

Where lengthy retention periods have been allocated to records, members of staff may wish to consider converting paper records to other media such as digital media. The lifespan of the media and the ability to migrate data where necessary should always be considered.

3. Document retention

The principles for length of document retention are based on relevance and purpose. The basic principles and the rationale behind them are communicated as part of the Privacy Notice.

3a IICSA, child protection and document retention

In the light of the Independent Inquiry into Child Sexual Abuse (IICSA), and various high-profile safeguarding cases, all independent schools have been advised to follow long-term, lifetime or even indefinite keeping of full records related to incident reporting. The school extends this rule to all personnel and pupil files on a 'safety first' basis.

Due to the current climate, the school will not embark on deleting historic staff and pupil files, or any material potentially relevant for future cases, even if it has been held for long periods already. Data protection issues should never put child safety at risk, nor take precedence over the general prevention and processing of safeguarding claims.

The threat of historic abuse claims is to be weighed against that of relatively minor data protection contraventions. If practical resources mean that it is not feasible to conduct a thorough review, the school will in the current climate err on the side of retention, rather than disposal, of staff and pupil files.

4 Records

A "record" means any document or item of data which contains evidence or information relating to the school, its staff or pupils. Some of this material, but not all, will contain personal data of individuals.

One consideration in whether it is necessary or desirable to keep records is possible future litigation. Therefore, records will not be disposed of until the limitation period for bringing a claim has passed. For most contracts that will mean 6 years from any breach, but the date to start counting from is the last day of the period under contract. Where there has been early termination, this will be the relevant date to apply (once the appeal process has been concluded): but for pupils, limitation periods will only apply from the age of 18 years.

In some cases the prompt for disposal may be the end of a calendar year, so a contingency is generally built in (e.g. 7 years where the statutory limitation is 6 years).

Limitation periods may be disapplied altogether by courts in the case of certain crimes or associated breaches of care (e.g. historic abuse). Recent 'historic' cases in the field of child protection make a cautious approach to record retention advisable and make it easier for a school to justify retention for long periods – even the lifetime of a pupil.

Appendix - Table of Suggested Retention Periods

The following table is a guide only. Time 'limits' are not intended to be prescriptive, nor intended as a substitute to exercising thought and judgement, or taking specific advice, depending on the circumstances.

Type of Record/Document	<u>Suggested</u> ¹ Retention Period
<p><u>SCHOOL-SPECIFIC RECORDS</u></p> <ul style="list-style-type: none"> • Registration documents of School • Attendance Register • Minutes of Governors' meetings • Annual curriculum 	<p>Permanent (or until closure of the school)</p> <p>6 years from last date of entry, then archive.</p> <p>6 years from date of meeting</p> <p>From end of year: 3 years (or 1 year for other class records: eg marks / timetables / assignments)</p>
<p><u>INDIVIDUAL PUPIL RECORDS</u></p> <ul style="list-style-type: none"> • Admissions: application forms, assessments, records of decisions • Examination results (external or internal) • Pupil file including: <ul style="list-style-type: none"> o Pupil reports o Pupil performance records o Pupil medical records • Special educational needs records (<i>to be risk assessed individually</i>) 	<p><i>NB – this will generally be personal data</i></p> <p>25 years from date of birth (or, if pupil not admitted, up to 7 years from that decision).</p> <p>7 years from pupil leaving school</p> <p>ALL: 25 years from date of birth (subject to where relevant to safeguarding considerations: any material which may be relevant to potential claims should be kept for the lifetime of the pupil).</p> <p>Date of birth plus up to 35 years (allowing for special extensions to statutory limitation period)</p>

<p><u>SAFEGUARDING</u></p> <ul style="list-style-type: none"> • Policies and procedures • DBS disclosure certificates (if held) • Accident / Incident reporting • Child Protection files 	<p><i>NB – please read notice at the top of this note</i></p> <p>Keep a permanent record of historic policies</p> <p><u>No longer than 6 months</u> from decision on recruitment, unless DBS specifically consulted – but a record of the checks being made must be kept, if not the certificate itself.</p> <p>Keep on record for as long as any living victim may bring a claim (NB civil claim limitation periods can be set aside in cases of abuse). Ideally, files to be reviewed from time to time if resources allow and a suitably qualified person is available. ²</p> <p>If a referral has been made / social care have been involved or child has been subject of a multi-agency plan – indefinitely.</p> <p>If low level concerns, with no multi-agency act – apply applicable school low-level concerns policy rationale (this may be 25 years from date of birth OR indefinitely).</p>
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<p><u>CORPORATE RECORDS (where applicable)</u></p> <ul style="list-style-type: none"> • Certificates of Incorporation • Minutes, Notes and Resolutions of Boards or Management Meetings • Shareholder resolutions • Register of Members/Shareholders • Annual reports 	<p><i>eg where schools have trading arms</i></p> <p>Permanent (or until dissolution of the company)</p> <p>Minimum – 10 years</p> <p>Minimum – 10 years</p> <p>Permanent (minimum 10 years for ex-members/shareholders)</p> <p>Minimum – 6 years</p>
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<p><u>ACCOUNTING RECORDS</u> ³</p> <ul style="list-style-type: none"> Accounting records (<i>normally taken to mean records which enable a company's accurate financial position to be ascertained & which give a true and fair view of the company's financial state</i>) <p>[NB <u>specific ambit to be advised by an accountancy expert</u>]</p> <ul style="list-style-type: none"> Tax returns VAT returns Budget and internal financial reports 	<p>Minimum – 3 years for private UK companies (except where still necessary for tax returns)</p> <p>Minimum – 6 years for UK charities (and public companies) from the end of the financial year in which the transaction took place</p> <p>Internationally: can be up to 20 years depending on local legal/accountancy requirements</p> <p>Minimum – 6 years</p> <p>Minimum – 6 years</p> <p>Minimum – 3 years</p>
<p><u>CONTRACTS AND AGREEMENTS</u></p> <ul style="list-style-type: none"> Signed or final/concluded agreements (<i>plus any signed or final/concluded variations or amendments</i>) Deeds (or contracts under seal) 	<p>Minimum – 7 years from completion of contractual obligations or term of agreement, whichever is the later</p> <p>Minimum – 13 years from completion of contractual obligation or term of agreement</p>
<p><u>INTELLECTUAL PROPERTY RECORDS</u></p> <ul style="list-style-type: none"> Formal documents of title (trade mark or registered design certificates; patent or utility model certificates) Assignments of intellectual property to or from the school 	<p>Permanent (in the case of any right which can be permanently extended, e.g. trade marks); otherwise expiry of right plus minimum of 7 years.</p> <p>As above in relation to contracts (7 years) or, where applicable, deeds (13 years).</p>
<ul style="list-style-type: none"> IP / IT agreements (including software licences and ancillary agreements e.g. maintenance; storage; development; coexistence agreements; consents) 	<p>Minimum – 7 years from completion of contractual obligation concerned or term of agreement</p>
<ul style="list-style-type: none"> <u>EMPLOYEE / PERSONNEL RECORDS</u> Single Central Record of employees Contracts of employment 	<p><i>NB this will contain personal data</i></p> <p>Keep a permanent record of all mandatory checks that have been undertaken (but <u>not</u> DBS certificate itself: 6 months as above)</p> <p>7 years from effective date of end of contract</p>

<ul style="list-style-type: none"> • Employee appraisals or reviews • Staff personnel file • Payroll, salary, maternity pay records • Furlough records • Pension or other benefit schedule records • Job application and interview/rejection records (unsuccessful applicants) • Immigration records • Health records relating to employees 	<p>Duration of employment plus minimum of 7 years</p> <p>As above, but <u>do not delete any information which may be relevant to historic safeguarding claims.</u></p> <p>Minimum – 6 years</p> <p>Minimum – 6 years</p> <p>Possibly permanent, depending on nature of scheme</p> <p>Minimum 3 months but no more than 1 year</p> <p>Minimum – 4 years</p> <p>7 years from end of contract of employment</p>
<p><u>INSURANCE RECORDS</u></p> <ul style="list-style-type: none"> • Insurance policies (will vary – private, public, professional indemnity) • Correspondence related to claims/ renewals/ notification re: insurance 	<p>Duration of policy (or as required by policy) plus a period for any run-off arrangement and coverage of insured risks: ideally, until it is possible to calculate that no living person could make a claim.</p> <p>Minimum – 7 years</p>
<p><u>ENVIRONMENTAL, HEALTH & DATA</u></p> <ul style="list-style-type: none"> • Maintenance logs • Accidents to children ⁴ • Accident at work records (staff) ⁴ • Staff use of hazardous substances ⁴ 	<p>10 years from date of last entry</p> <p>25 years from birth (longer for safeguarding)</p> <p>Minimum – 4 years from date of accident, but review case-by-case where possible</p> <p>Minimum – 7 years from end of date of use</p>
<ul style="list-style-type: none"> • Risk assessments (carried out in respect of above) ⁴ • Data protection records documenting processing activity, data breaches 	<p>7 years from completion of relevant project, incident, event or activity.</p> <p>No limit: as long as up-to-date and relevant (as long as no personal data held)</p>

FOOTNOTES:

1. General basis of suggestion:

Some of these periods will be mandatory legal requirements (e.g. under the Companies Act 2006 or the Charities Act 2011), but in the majority of cases these decisions are up to the institution concerned. The suggestions will therefore be based on practical considerations for retention such as limitation periods for legal claims, and guidance from Courts, weighed against whether there is a reasonable argument in respect of data protection.

2. The High Court has found that a retention period of 35 years was within the bracket of legitimate approaches. It also found that it would be disproportionate for most organisations to conduct regular reviews, but at the time of writing the ICO (Information Commissioner's Office) still expects to see a responsible assessment policy (e.g. every 6 years) in place.
3. Retention period for tax purposes should always be made by reference to specific legal or accountancy advice.
4. Be aware that latent injuries can take years to manifest, and the limitation period for claims reflects this: so keep a note of all procedures as they were at the time, and keep a record that they were followed. Also keep the relevant insurance documents.

Reviewed by: David Rolls

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