

RETENTION AND DESTRUCTION POLICY

Introduction

We owe a number of duties in relation to the retention and destruction of records/documents, in any format, which come into our possession or control or are produced in the course of business. We are committed to complying with those duties by retaining such records/documents securely and ensuring that they are destroyed in a timely and secure manner.

Definitions

“documents” include, but are not limited to:

- Communication between us, our Clients and third parties instructed on our Clients’ behalf;
- Documents produced by us in order to achieve the objective of the retainer (for example, agreements or written representations);
- Documents prepared by a third party during the course of the retainer (for example, opinions of counsel and experts’ reports);
- Attendance notes and internal memoranda;
- Time recordings;
- Drafts and working papers;
- Internal emails and correspondence created during the course of the retainer;
- Accounting records, including vouchers and instructions.

“deeds” means both deeds within the narrow legal meaning and also any other documents which must be stored in safes or strong rooms when we are not working with them.

“information” includes, but is not limited to: “documents” and “records” as defined in this procedure which may or may not include hard copy documents in any format, electronic documents in any format.

“records” includes, but is not limited to:-

- Medical records;
- Personnel records;
- Occupational health records;
- Financial records;
- Educational records;
- Social care records.

“retention period” – refer to our Retention Schedule.

“Wills – includes, but is not limited to:-

- Your Will file;
- Original Will;
- Codicil;
- Letter of Wishes.

Background

We have duties under legislation and/or regulations to retain records/documents for certain periods of time, for example under the Limitation Act 1980 and the Money Laundering Regulations 2017. We also have other retention obligations to our indemnity insurers, regulators, accreditation bodies and Clients. Balanced against this, the data protection legislation only permits us to retain information including or comprising personal data for as long as is necessary. There are also cost implications of retaining records/documents for any longer than required and/or retaining duplicate records/documents.

Retention periods

Records/documents/Wills must be stored in accordance with this policy. Our Retention Schedule provides guidance for retention periods.

We will hold records/documents/Wills for all Client matter types for a minimum of 7 years from the date of file closure, unless our contract with the Client or relevant legislation says otherwise or the fee earner determines that a different period applies as per the Retention Schedules.

We may exercise a lien over any records/documents in our possession until all fees, disbursements and other expenses are paid in respect of all matters we have carried out on the Client's behalf.

Storage of information

Records/documents/Wills may be held electronically and/or manually and may contain information from any of the categories below, save for the Original Wills which you have asked us to retain.

- Administrative records including: HR, estates, financial and accounting (e.g. budget information, annual report information);
- Information concerning complaint handling;
- Manual (e.g. telephone messages, working papers);
- Printouts of audit trails from computer/automated systems;
- Microfiche;
- Audio tapes, cassettes;
- Video tapes, CD-Rom;
- Computer medial e.g. CDs, memory sticks;
- Computer output e.g. paper printouts;
- Medical records held on slides, CTG traces.

Storage of hard copy and electronic records must be managed in line with this policy.

Original records/documents/Wills

Whenever possible, we must not retain original records and documents. We scan original records/documents/Wills and return them to the Client or sender as soon as practicable, unless we have agreed to retain the originals. If we have agreed to retain original records/documents/Will they will be stored securely on your behalf.

Destruction of records/documents

The destruction of records/documents is an irreversible act. Many of the records we hold contain sensitive and/or confidential information and their destruction must be undertaken in secure locations and proof of secure destruction may be required. Destruction of all records, regardless of the media, must be conducted in a secure manner to ensure there are safeguards against accidental loss or disclosure.

Electronic records/documents

- Clearing
- Purging
- Disintegration, incineration, Pulverisation, and Melting
- Sanding
- Wiping/overwriting

Any media containing our data must be securely destroyed and proof of secure destruction obtained. Any hard drives from firm laptops, servers, desktop PCs or other equipment that the firm are returning a supplier or re-selling must be removed from the device and securely destroyed by the firm's chosen destruction third party.

Whilst it is our preference that the destruction of hard drives takes place on our premises, where this is not feasible the third party responsible for the destruction must provide a duty of care note to advise they will ensure the hard drives are securely transported to their premises. Once the destruction has taken place, a certificate must be obtained and retained for auditing purposes.

Items such as network switches and routers that contain network configuration pertaining to our infrastructure must be wiped by an authorised member of the IT team.

Third parties

Third parties instructed by us during the course of our business (for example, counsel and medical experts) have their own obligations in relation to the retention and destruction of records/documents and our letters of instruction remind third parties of their obligations.

RETENTION SCHEDULES

CLIENT MATTERS

The periods below apply unless there is a specific arrangement with a Client some of which are referred to below.

Files

Matter Type	Statutory Retention/Best practice	Retention Period
Corporate	Limitation Act 1980	7 years from date of file closure
Civil Litigation	Limitation Act 1980	7 years from date of file closure
Personal injury/clinical negligence	Limitation Act 1980	7 years from date of file closure
Debt Collection	Limitation Act 1980	7 years from date of file closure
Commercial	Limitation Act 1980	7 years from date of file closure
Property	Limitation Act 1980	15 years from date of file closure
Children	Limitation Act 1980	15 years from date of file closure
Probate	Limitation Act 1980	15 years from date of file closure
Trusts	Limitation Act 1980	6 years from the end of the trust period
Wills including LPA's	Limitation Act 1980	Indefinitely (review at death)
Personal Injury involving a lifetime award or trust	Limitation Act 1980	Indefinitely
Pensions	Limitation Act 1980	Indefinitely
Tax	Limitation Act 1980	Indefinitely
Settlements	Limitation Act 1980	Indefinitely
Patents/Intellectual property	Limitation Act 1980	Indefinitely

Specific documents

Matter Type	Statutory Retention/Best practice	Retention Period
Original trust documents including deeds, original letter or memorandum of wishes and original paperwork completed by the settler during creation of the trust including questionnaires, declarations and due diligence records.	Best Practice/Limitation Act 1980	Indefinitely. Review when trust come to an end
Original Wills and LPAs	Best Practice/Limitation Act 1980	Indefinitely. Review at death.

Original medical records (in any format relating to Clients.	Best Practice/data protection obligations.	For as long as necessary depending on the individual matter. (NB – Our policy is not to retain original records unless it is impractical to take copies/scan or we have agreed to retain them.
Original medical records (in any format) relating to third parties (such as the claimant in a matter we are defending)	Best practice/data protection obligations	For as long as necessary. Depending on the individual matter. (NB – Our policy is not to retain original records unless it is impractical to take copies/scan or we have agreed to retain them.
Statutory/company books	Best Practice	Indefinitely
Title Deeds	Best Practice	Until the Client disposes of the property or the Client's interest in the property comes to an end (e.g. on the expiry of a lease.

Type of Record/Document	Statutory Retention/Best practice	Retention Period
All marketing data		<p>3 years from the date of input into our database except for unsubscribed data which is retained for 2 years from the date of input.</p> <p>After the expiry of the 2 year period for unsubscribed data and the 3 year period for all other data, the data is moved to our archive on an annual basis.</p> <p>All archived data is reviewed annually and permanently deleted three years after the archive date.</p>