

Eden District Council

Cabinet

18 October 2022

Records Retention and Disposal Policy

Portfolio:	Resources
Report from:	Assistant Director Legal and Democratic Services (Monitoring Officer)
Wards:	All
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To ensure the consistent management of Council records in line with guidance and legislative requirements by adopting a policy framework for document management, retention and disposal.
- 1.2 With the approval of the Records Retention Policy and associated protocols officers of the Council:
 - (1) will have a wider understanding of their obligations in regard to managing their records;
 - (2) will have clarity on the management and retention of records; and
 - (3) will be confident that records that are no longer needed or are of no use.

2 Recommendation

- 2.1 It is recommended that Cabinet:
 - (1) approve the Records Retention and Disposal Policy attached to this report.
 - (2) Delegate to the Assistant Director Legal and Democratic Services (MO) the power to make minor and consequential changes to the policy to ensure that it complies with legislation.
 - (3) Delegate to the Assistant Director Legal and Democratic Services (MO) the power to make consequential changes to the associated Retention Schedule.

3 Background

- 3.1 In 2016 the Council adopted an Information Governance Framework (the Framework) which sought to review existing processes and set actions to establish a robust structure for managing the Council's information assets in line with statutory, regulatory and best practice requirements.
- 3.2 The Framework identified the need for a Retention and Disposal Policy to operate as part of the wider Framework alongside related policies such as the Privacy Policy, Access to Information Policy and Data Protection Policy.

- 3.3 Further to adoption of the Framework, service areas drew together a list of records held and this was collated and retention periods identified by reference to the nature of documents and relevant legislation. This document is referred to as a Retention Schedule (the Schedule) and is a living document which requires rolling updates and review.
- 3.4 However, while the Schedule provides a reference point, there is still a need for the proposed Retention and Disposal Policy to provide clear processes and ensure consistency and regulatory compliance in record management on a day-to-day operational level.

4 Report Details

- 4.1 The Records Retention and Disposal Policy is a key element of the Council's governance framework and informs the requirements to keep particular records for prescribed time periods that are specified by legislation and recommended in guidance.
- 4.2 The policy has two components; the Policy and the Schedule. An extract of the latest draft Schedule is attached to the policy for reference however, service areas are in the process of reviewing this against their records.
- 4.3 The policy sets out the Council's obligations and responsibilities in the handling and storage of data in relation to the legislation such as the Data Protection Act 2018, Freedom of Information Act 2000 and the 2016 General Data Protection Regulation (GDPR), and in the absence of specific legislative requirements, sets out standard guidance and procedures for managing records and determining retention and disposal, to ensure consistent and compliant record management across the Council.
- 4.4 As an integral part of the Council's approach to information governance, the Policy clarifies the Council's expected standards in relation to the management and disposal of records.

5 Policy Framework

- 5.1 The Council has four corporate priorities which are:
- Sustainable;
 - Healthy, safe and secure;
 - Connected; and
 - Creative
- 5.2 This report meets sustainable and secure corporate priorities.

6 Consultation

- 6.1 Consultation has been carried out with the service areas in respect of the Schedule and will be reviewed and incorporated as part of the documents rolling update process.

7 Implications

7.1 Financial and Resources

- 7.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

7.1.2 There are no proposals in this report that would reduce or increase resources however failure to manage records effectively may have a financial impact. It is therefore essential that the policy and practice is fit for purpose.

7.2 Legal

7.2.1 The Information Commissioners Office (ICO) has the power to issue fines up to £500,000 should a public authority lose valuable information about members of the public. The procedure for issuing monetary penalties is publicly available.

7.2.2 The Council is required by the Lord Chancellor's Code of Practice on the Management of Records issued under Section 46 of the Freedom of Information Act 2000 to have and to implement a records retention and disposal schedule.

7.3 Human Resources

7.3.1 There are no human resources implications arising from this report.

7.4 Environmental

7.4.1 Efficient document management contributes to sustainable resource management and reduction in carbon emissions and storage in the long term.

7.5 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	None
Health, Social Environmental and Economic Impact	None
Crime and Disorder	None
Children and Safeguarding	None

7.6 Risk Management

Risk	Consequence	Controls Required
Legal and financial risk resulting from lack of policy/procedure	Distress or harm to individuals or organisations. Reputational damage to the Council. Financial loss or monetary penalty imposed. Detrimental impact on Council business and service delivery.	Adoption of the Policy and rolling review of the Schedule.

Risk	Consequence	Controls Required
	Non-compliance with legislation and potential litigation.	

8 Other Options Considered

- 8.1 The Council could continue to operate without a Retention and Disposal Policy but to do so is considered to be inefficient and to the detriment of officers seeking operational support in respect of document management, presenting risks to the Council's document management processes and compliance with legal duties in this respect.

9 Reasons for the Decision/Recommendation

- 9.1 To detail the Council's operational commitment to records management and provide a framework for the management of records including document retention and disposal.

Tracking Information

Governance Check	Date Considered
Chief Finance Officer (or Deputy)	10 October 2022
Monitoring Officer (or Deputy)	5 October 2022
Relevant Assistant Director	N/A

Background Papers:

Appendices: **Appendix 1 – Retention & Disposal Policy**
Appendix 2 – Extract of Retention Schedule

Contact Officer: **Rebecca Harrison, Legal Services Manager**



Eden

District Council

Town Hall, Penrith, Cumbria CA11 7QF

Tel: 01768 817817

Email: cttee.admin@eden.gov.uk

Approved by:

Date Approved: 2022

Review: 2024

Responsible Officer: Assistant Director Legal and Democratic Services (Monitoring Officer)

Retention and Disposal Policy

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Accessibility Information

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Document Control

Document Control	
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	Legal Services Manager (Deputy Monitoring Officer)	2022	First draft

Approval	Date
Corporate Leadership Team	October 2022
Cabinet	October 2022

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1 Introduction

- 1.1 The Council has a duty to make arrangements for the safekeeping and eventual disposal of its records.
- 1.2 The management of records from creation to disposal is an important corporate function and is necessary for a variety of reasons including; to meet operational needs; to meet statutory and regulatory requirements; to ensure the preservation of information and documents of historic, or other, value; to ensure security of data and to provide evidence of events or actions in the case of legal disputes.
- 1.3 It is illegal to retain information for longer than is necessary and the Council should ensure that the information held in databases it manages, owns or uses is accurate and up to date and not retained beyond the time limit set out in the retention schedule.

2 Purpose and Scope

- 2.1 The purpose of this policy is to outline the Council's approach to managing the retention and secure disposal of our information in line with our service requirements and legal obligations.
- 2.2 This policy applies to all physical and digital information, regardless of storage location or form and applies to existing and newly created records.
- 2.3 This policy explains the differences between our formal or official records, disposable information, confidential information belonging to others, personal data and non-personal data. It also gives guidance on how we classify our data.

3 Roles and Responsibilities

- 3.1 All Council staff are responsible for managing the information they create and receive as part of their normal daily business activities and should familiarise themselves with this policy and the Retention and Disposal Schedule.
- 3.2 Specific records management responsibilities are also allocated to individual staff members, as detailed below and identified in the Retention and Disposal Schedule.
- 3.3 The Data Protection Officer has day to day responsibility for monitoring compliance with data protection law, informing and advising on our data protection obligations, providing advice regarding Data Protection Impact Assessments (DPIAs) and acting as a contact point for data subjects and the Information Commissioner's Office (ICO).

The Data Protection Officer for the Council is:

Lisa Tremble
Assistant Director Legal and Democratic Services (Monitoring Officer)
Eden District Council
Town Hall
Penrith
Cumbria CA11 7QF
Telephone: 01768 212249
Email: dcls@eden.gov.uk

- 3.4 The Senior Information Risk Officer/Owner (SIRO) has overall responsibility for managing information risk in relation to retention and disposal and the SIRO for the Council is the Director of Resources.
- 3.5 Destruction of electronic records will be overseen by the Head of Shared ICT and Lead for Digital Innovation, who will ensure appropriate technical support.
- 3.6 The following roles also have responsibilities around retention and disposal and are identified more specifically in the Retention and Disposal Schedule:

Information Asset Owners (IAO): IAOs ensure that all assets under their control are following retention schedule rules. They have ownership of the assets and are therefore responsible for ensuring adherence to the Retention and Disposal Schedule. IAOs are responsible for authorising the destruction of information when required.

Information Asset Managers (IAM): IAMs assist the IAOs in their role and are operationally responsible for the upkeep of information assets, including adherence to the Retention and Disposal Schedule.

4 Legal and Regulatory Requirements

- 4.1 The Council's retention periods are driven by legislation and/ or service need.
- 4.2 There are various pieces of legislation which outline retention requirements. These include, but are not limited to:
- Freedom of Information Act 2000 - including the Code of Practice Section 46 (FOIA)
 - The UK General Data Protection Regulations (the UK GDPR)
 - Data Protection Act 2018 (DPA 18)
 - Public Records Act 1958
 - Limitation Act 1980
 - Inquiries Act 2005
- 4.2 There are various pieces of legislation which outline retention requirements. The requirements outlined in this policy have been developed to provide a consistent approach to the retention and disposal of corporate information.

5 Types of Data and Data Classifications

- 5.1 **Formal or official records.** Certain data is more important to us and is therefore listed in the Record Retention Schedule. This may be because we have a legal requirement to retain it, or because we may need it as evidence of our transactions, or because it is important to the running of our business. Please see paragraph 6.1 below for more information on retention periods for this type of data.
- 5.2 **Disposable information.** Disposable information consists of data that may be discarded or deleted at the discretion of the user once it has served its temporary useful purpose and/or data that may be safely destroyed because it is not a formal

or official record as defined by this policy and the Record Retention Schedule.

Examples may include:

- Duplicates that have not been annotated or have become obsolete on the final version being completed.
- Preliminary drafts of agreements, letters, memoranda, reports, worksheets, and informal notes that do not represent significant steps or decisions in the preparation of an official record.
- Books, periodicals, manuals, training binders, and other printed materials obtained from sources outside of the Council and retained primarily for reference purposes.
- Spam and junk mail.
- Emails - Outlook has an automated retention policy that retains emails for 3 years on mailmeter. It is important that information assets are saved to shared spaces, to provide evidence of decisions made or action taken. Once a conversation has reached a significant point, any earlier emails from this chain can be deleted.
- Research Material - Whether developing policy or preparing to give advice, research material may be created or collected such as notes or copies of guidance from external organisations. The value of this information decreases once the final version has been created. However, in some circumstances, research may form part of an evidence base or such other procedural compliance for which a record must be maintained.
- Limited Long Term Operational Value - Some information may be of importance for only a short period of time and then become redundant. This information should be weeded out via housekeeping exercises as soon as they are no longer required as set out in paragraph 6.

Please see paragraph 6.2 below for more information on how to determine retention periods for this type of data.

- 5.3 **Personal data.** Both formal or official records and disposable information may contain personal data; that is, data that identifies living individuals. Data protection laws require us to retain personal data for no longer than is necessary for the purposes for which it is processed (principle of storage limitation. Please refer to the Council's [Data Protection Policy](#) and Corporate Privacy Policy alongside this policy when considering retention of records containing personal data.
- 5.4 **Confidential information belonging to others.** Any confidential information that the Council or an officer of the Council may have obtained from a source outside of the Council, such as a third party commercial information, must not, so long as such information remains confidential, be disclosed or used by us other than for the stated purpose for the provision of the information. Unsolicited confidential information submitted to us should be refused, returned to the sender where possible, and deleted, if received via the internet. Please consider the Council's [Information Security Policy](#) alongside this policy in respect of confidential information.

6 Retention Procedures

6.1 Retention Periods

6.1.1 **Formal or official records.** Any data that is part of any of the categories listed in the Record Retention Schedule contained in the Annex A to this policy, must be retained for the amount of time indicated in the Record Retention Schedule. The default standard retention period for this type of record will be 6 years plus current, otherwise known as 6 years + 1. This is defined as 6 years after the last entry in a record followed by first review or destruction to be carried out in the additional current (+ 1) accounting year. Some types of record may be subject to longer retention periods as a result of statutory, regulatory, legal or security requirements or for their historic value. Where this is the case, the alternative period of retention for those documents will be specified in the Retention Schedule.

A record must not be retained beyond the period indicated in the Record Retention Schedule, unless a valid business/operational reason (or notice to preserve documents for contemplated litigation or other special situation) calls for its continued retention.

6.1.2 **Disposable information.** The Record Retention Schedule will not set out retention periods for disposable information. This type of data should only be retained as long as it is needed for business purposes. Once it no longer has any business purpose or value or is redundant, obsolete or trivial, it should be securely disposed of. Such information should be destroyed periodically by each service area as part of routine "housekeeping". Housekeeping processes should cover all information service areas store, paper or digital, regardless of the system it is held on. This includes personal drives and desktops. Approval or sign-off to delete this information is not required. Information housekeeping should be carried out for three reasons:

- To ensure we comply with legal obligations not to store data for longer than necessary.
- To ensure that we are not wasting money or space (either digital or physical) by storing information.
- To make the process of reviewing and appraising records easier.

What to do if data is not listed in the Record Retention Schedule and you are not sure if it is Disposable Data. If data is not listed in the Record Retention Schedule and you are not sure whether it is disposable data, you should make an assessment under the Review Process at paragraph 6.2 below. Provide the assessment to the IAO for a final decision. If the IAO considers that there is an omission in the Record Retention Schedule, they should contact the DPO to ensure the records are added to the Retention Schedule. Otherwise the IAO may authorise the destruction of the data.

6.2 Review Processes

6.2.1 When information has reached the end of its retention period it may need to be reviewed to ensure that it is no longer required. Information that has an action of 'destroy' on the Schedule can be disposed of securely without a review. Where a review is required the IAO assisted by their teams should consider the relevant information and decide whether it can be destroyed. If a high volume of information

is being reviewed at once then this should be conducted at a macro level, i.e., not document by document. If information is marked for permanent preservation or subject to a legal hold it may be necessary to review every document.

6.2.2 Information should only be retained beyond its retention period in limited circumstances. When conducting a review, the following factors should be taken into account:

- Is the information required to fulfil statutory or regulatory requirements?
- Is the information relevant to ongoing litigation/subject to a legal hold?
- Is the information the subject of an information request or relates to information recently disclosed in a response?
- Is retention required to evidence events in the case of a dispute?
- Is there another demonstrable business need for retaining the information?

6.2.3 If the information is deemed to still be required, an extension of two years should be given, the information needs to be reviewed again at the end of the extension.

6.2.4 The retention period must not be extended indefinitely. You should contact the DPO if you still intend to keep the information after applying the two-year extension period.

7 Disposal

7.1 Disposal decisions on formal and official records should only be taken after consulting the Retention Schedule and carrying out Review where required.

7.2 When records have reached the end of their retention period and do not have archival value, we will seek to ensure they are securely destroyed, with the same level of security as required during the life of the records. We will also seek to ensure that the destruction of records is irreversible and environmentally friendly.

7.3 It is essential to take into consideration the format and the sensitivity of the information when deciding on the appropriate disposal method. Paper information that is sensitive, or has potential legal repercussions or a high risk of reputational damage to the Council should be placed in the confidential waste bins to ensure the information is disposed of securely. Examples of this include information regarding personal data or potentially commercially sensitive information.

7.4 Disposal of documents other than those containing confidential or personal data may be disposed of by binning, recycling, deletion (in the case of electronic documents), and the transfer of documents to external bodies.

7.5 Transfer of documents to external bodies will be unusual but could be relevant where documents are of historic interest and may be sent to the archives.

7.6 Electronic information must be treated in the same way as physical information; therefore electronic information must be disposed of once it has reached its set disposal date. If any delay is anticipated then this should be raised to the Data Protection Officer with a timescale of when the information will be disposed of. IAOs must ensure that a brief description of the destroyed information is kept.

- 7.7 We will maintain a central log of records disposals. The General Data Protection Regulation 2016 (GDPR) and the Freedom of Information Act 2000 require the Council to demonstrate consistency and transparency in the disposal of records.
- 7.8 We will seek to ensure that final formal and official document disposal is authorised by two members of staff; the staff member with immediate operational responsibility for the records, and their line manager or IAO.

8. Special Circumstances

- 8.1 **Preservation of documents for contemplated litigation and other special situations.** We require all employees to comply fully with our Record Retention Schedule and procedures as provided in this policy. All employees should note the following general exception to any stated destruction schedule: If you believe, or the Legal and Democratic Services department informs you, that certain records are relevant to current litigation or contemplated litigation (that is, a dispute that could result in litigation), government investigation, audit, or other event, you must preserve and not delete, dispose, destroy, or change those records, including emails and other electronic documents, until the department determines those records are no longer needed. Preserving documents includes suspending any requirements in the Record Retention Schedule and preserving the integrity of the electronic files or other format in which the records are kept.
- 8.2 If you believe this exception may apply, or have any questions regarding whether it may apply, please contact the DPO at dcls@eden.gov.uk.
- 8.3 In addition, you may be asked to suspend any routine data disposal procedures in connection with certain other types of events, such as our merger with another organisation or the replacement of our information technology systems.

9 Where to go for Advice and Questions

Questions about the policy. Any questions about retention periods should be raised with your IAO in the first instance. Thereafter, any questions should be escalated to the DPO and any questions about this policy should be referred to the DPO who is in charge of administering, enforcing, and updating this policy.

10 Information Security

- 8.1 We are committed to preserving the confidentiality, integrity and availability of our information systems and assets. We will seek to do this in accordance with our Information Security Policy, through a range of administrative, technical and physical controls.
- 8.2 We will seek to use appropriate technical and organisational measures wherever possible, including platforms and equipment, to ensure the security, integrity and availability of our records in line with our Information Security Policy.

11 Compliance

- 11.1 All Council employees must comply with this Retention and Disposal Policy.

12 Review

- 12.1 This Retention and Disposal Policy will be reviewed in September 2024. The review will be undertaken by the Information Governance Manager and Assistant Director Legal and Democratic Services (Monitoring Officer).

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Type	Information Asset Owner	Description	Format of Record	Retention Period	Retain from	Date Last Edited	Rationale	Comments
Information Requests	Assistant Director Legal & Democratic Services	Records relating to the creation of policies to deal with requests under the Freedom of Information Act 2000	Electronic	3 years	From year records created			
	Assistant Director Legal & Democratic Services	Records relating to the management of Freedom of Information Requests	Electronic	Dynamic document				
	Assistant Director Legal & Democratic Services	Case files: FOI requests	Electronic	3 years				
	Assistant Director Legal & Democratic Services	Records relating to the management of requests for information under the Environmental Information Regulations	Electronic	Dynamic document				
	Assistant Director Legal & Democratic Services	Policies and procedures developed for managing requests for information under the Environmental Information Regulations	Electronic	3 years	From year records created or close of appeal			
	Assistant Director Legal & Democratic Services	Case files: EIR requests	Electronic	3 years	From year records created or close of appeal			
	Assistant Director Legal & Democratic Services	Records relating to the management of subject access requests under the Data Protection Act 1998	Electronic	2 years	From year records created			
	Assistant Director Legal & Democratic Services	Case files: Subject Access Requests	Electronic					
	Assistant Director Legal & Democratic Services	Records relating to liason with parish/town council and councillors	Electronic	6 years	From year records created		Limitation Act 1980 (Section 2)	