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# **Filey Town Council**

## **Documents Retention and Management Policy**

### **Policy Aim**

Town Council recognises that the efficient management of its records is necessary to comply with its legal and regulatory obligations and to contribute to the effective overall management of the Town Council.

Information is an asset and the records of the Council are important sources of administrative, evidential and historical information. They are vital in its current and future operations, for the purposes of accountability, and for an awareness and understanding of its history and procedures. They form part of the memory of the organisation. Records Management can be defined as the systematic control, organisation, access to and protection of information from its creation, through its use, to its permanent retention or destruction.

There are 3 basic stages in a records lifecycle:

1. Creation or receipt
2. Maintenance and use
3. Disposal/Retention

### **Policy Scope**

This policy applies to all records (electronic and paper) created, received or maintained by the Town Council in the course of carrying out its functions. Records are defined as all those documents which facilitate the business carried out by the Town Council and which are thereafter retained (for a set period) to provide evidence of its transactions or activities. These records may be created, received or maintained in hard copy or electronically. A small percentage of the Town Council's records will be selected for permanent preservation as part of the Council's archives and for historical research.

### **Responsibilities**

The Town Council has a corporate responsibility to maintain its records and record management systems in accordance with the regulatory environment. The person with overall responsibility for this policy is the Clerk to the Town Council.

The person responsible for records management will give guidance for good records management practice and will promote compliance with this policy so that information will be retrieved easily, appropriately and timely. Individual staff and employees must ensure that records for which they are responsible are accurate, and are maintained and disposed of in accordance with the Town Council's records management guidelines.

### **The Town Council Records Management System**

The Town Council will create, use, manage and destroy or preserve its records, in all media and in all forms, in accordance with statutory requirements. It will ensure that correct information is:

- captured, stored, retrieved and destroyed or preserved according to need
- fully exploited to meet current and future needs, and to support change
- accessible to those who need to make use of it

The Town Council will ensure that the appropriate technical, organisational and human resource elements exist to make this possible.

### **How Should Records be Held?**

Records should be held in paper based or electronic files in shared directories, databases or document management systems. The files should be organised in a structured way and have some indication as to their contents and relevance. Where there are confidentially issues, files should be held in a separate paper or electronic file in a secure storage area.

Irrespective of the method chosen to keep the records, a standard set of records management principles and tools can be used to manage them. The more important of these include filing schemes and retention schedules.

### **Data Protection**

The Data Protection Act 1998 seeks to strike a balance between the rights of individuals and the sometime competing interests of those with legitimate reasons for using personal information. The policy is based on these principles:

The Council will make any notifications required to the Information Commissioner's Office under the Data Protection Act and periodically update the information.

The Council will comply with the eight principles for processing sensitive data:

- Fairly and lawfully process
- Processed for limited purposes
- Adequate, relevant and not excessive
- Accurate and up to date
- Not kept longer than necessary
- Secure
- Not transferred to countries outside the EU unless the country has adequate protection for the individual.

The Council will ensure that at least one of the following conditions is met for personal information to be considered fairly processed:

- The individual has consented to the processing
- Processing is necessary for the performance of a contract with the individual
- Processing is required under a legal obligation
- Processing is necessary to protect the vital interests of the individual
- Processing is necessary to carry out public functions
- Processing is necessary in order to pursue the legitimate interests of the data controller or third parties.

Particular attention is paid to the processing of any sensitive personal information and the Council will ensure that at least one of the following conditions is met:

- Explicit consent of the individual
- Required by law to process the data for employment purposes
- A requirement in order to protect the vital interests of the individual or another person

The Council will provide information on personnel data to employees through the Employee handbook.

The Council will ensure that individuals on whom personal information is kept are aware of their rights and have access to that information on request.

### **What Points Should be Borne in Mind When Managing E-mails?**

E-mails are as much an official communication as is a letter, memo or a fax, and may be disclosed in response to a Freedom of Information or Data Protection request and in legal cases. Electronic messages can be legally binding; contracts can be set up via e-mail and the Town Council may be held liable for defamatory statements in e-mails. For these reasons, nothing should be stated in an e-mail that would not be stated in other forms of written communication.

If an e-mail contains important information or an important decision, it should be added to the relevant paper or electronic file/folder. Most e-mails are about trivial matters. It is a drain on resources to store them on the records management system and to search them when responding to a subject access request. Under the Data Protection Act the Town Council should keep information about people for no longer than is necessary; this includes e-mails to/from or about people. Out-of-date trivial e-mails and those that have been copied to the relevant subject file should be deleted as soon as possible so that a backlog does not accumulate as this becomes difficult to manage.

### **On Which Electronic Drive Should Information be Saved?**

A Town Council computer hard drive (usually the c: drive) should not be used to store information other than for current work, as this drive is not backed up. Computer files should not be password protected unless they are confidential and only then if the Chairman and Deputy Chairman are provided with the password, so that the information can be accessed during an absence or emergency.

The Town Council will operate a back-up system with two external storage drives. The Town Council computer hard drives must be backed-up to the external hard drive in the possession of the Town Clerk immediately prior to Town Council Meetings. All updated files must be overwritten by the back-up so that only the latest file version is retained. This does not mean that historic information will be lost, only that the latest information has been added to it. The external hard drive should be stored safely as far away from the computer as possible.

The Town Council website should be used for saving and making available non-sensitive information for reference purposes.

### **How Should Electronic Files and Folders be Managed?**

Documents and folders should have file titles which are easily understood by others. Personal file names or uncommon abbreviations should not be used, as they will be meaningless to others. Out-of-date material should not accumulate in a file, and if a document is not accessed in the course of eighteen months, it should probably be deleted from the drive, provided that it is backed-up on the external hard drives.

### **Retention period**

Under the Freedom of Information Act 2000, the Town Council is required to maintain a retention schedule listing the record series which it creates in the course of its business. The retention schedule lays down the length of time which the record needs to be retained and the action which should be taken when it is of no further administrative use.

Citations are given for key Acts of Parliament, Statutory Instruments and regulations which are relevant to determining statutory retention periods for specific groups of records. These should be regarded as minimum retention periods. It may be advisable to retain some records for longer than these statutory retention periods. The stated retention periods in the schedule are recommended minimum periods, based on assessments of common needs and potential legal liabilities.

### **Archived Records**

Paper copies of the archived records should be indexed and safely stored at an agreed location.

### **Insurance policies**

All insurance policies should be kept for as long as it is possible for a claim to be made under them. Irrespective of how long policies and correspondence are retained, the recommendation is that councils ensure that they keep a permanent record of insurance company names and policy numbers for all insured risks.

Article 4 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753) requires local councils, as employers, to retain certificates of insurance against liability for injury or disease to their employees arising out of their employment (this insurance is mandatory pursuant to the Employers' Liability (Compulsory Insurance) Act 1969) for a period of 40 years from the date on which the insurance is commenced or renewed.

### **Destruction of Records and Data**

Destruction has to be carried out in such a way as to ensure that data from which individuals can be identified cannot fall into the wrong hands. The Data Protection Act specifically states that in deciding how far to go with this, the level of technology available should be considered, together with the cost of using it, and the effect it would have on the data subject if the information was misused as a result of it falling into the wrong hands. Any data containing personal information must be destroyed under secure conditions. Putting information in a bin and hoping that it will be

appropriately destroyed at a later date is not enough. Destruction of any record, including confidential records, should only be carried out where authorised as there may be legal, administrative or archival retention requirements.

### **Planning papers**

Where planning permission is granted, the planning application, any plans and the decision letter should normally be retained until the development has been completed so that, if required, the council can check that the development proceeds in accordance with the terms and conditions of the permission. Where planning permission is granted on appeal, a copy of the appeal decision should also be retained likewise. It may sometimes be sensible to retain an appeal decision indefinitely because of wider implications (e.g. the decision may set a precedent for other developments in the locality).

Where planning permission is refused, the papers should be retained until the period within which an appeal can be made has expired. If an appeal is made, and dismissed, the decision letter may, as in above, be worth retaining against further applications relating to the same site.

Where a substantial number of planning applications are received from the local planning authority, it is advisable for a council to have an effective referencing and filing system.

Copies of Structure Plans, Local Plans and similar documents should be retained as long as they are in force.

### **Correspondence**

If related to audit matters, correspondence should be kept for the appropriate period specified in the Annex hereto. In planning matters, correspondence should be retained for the same period as suggested for other planning papers. For other correspondence (unless relating to staff), no firm guidelines can be laid down.

### **Retention of documents for legal purposes**

Most legal proceedings are governed by the Limitation Act 1980 (as amended). The 1980 Act provides that legal claims may not be commenced after a specified period. The specified period varies, depending on the type of claim in question. The table below sets out the limitation periods for the different categories of claim. The reference to 'category' in the table refers to claims brought in respect of that category.

<b>Category</b>	<b>Limitation Period</b>
Negligence (and other 'Torts')	6 years
Defamation	1 year
Contract	6 years
Leases	12 years
Sums recoverable by statute	6 years
Personal Injury	3 years
To Recover Land	12 years
Rent	6 years
Breach of Trust	None

Where the limitation periods above are longer than other periods specified in this Note, the documentation should be kept for the longer period specified. Some types of legal proceedings may fall within two or more categories. Rent arrears, for example, could fall within the following three categories (depending on the circumstances):

- contract (6 years) – because all tenancies and leases are contracts;
- leases (12 years) – if the arrears are due under a lease; and
- rent (6 years) – if the arrears are due under a tenancy (and not a lease).

In these circumstances, it is advised that the relevant documentation should be kept for the longest of the three limitation periods.

The same principles apply in the case of debts. If the debt arises under a simple contract the limitation period will be 6 years but if the debt arises under a lease the limitation period will be 12 years (unless it relates to rent in which case the limitation period will be 6 years). A final complication relates to sums due under leases which are 'reserved as rent'. Sometimes, for example, service charges are expressed to be payable as 'additional rent'. The limitation period for service charges in those circumstances will be 6 years – even though the sums are due under a lease.

As there is no limitation period in respect of trusts, councils are advised that they should never destroy trust deeds and schemes and other similar documentation.

For the sake of completeness it should be noted that some limitation periods can be extended. Examples include:

- where individuals first become aware of damage caused at a later date (e.g. in the case of personal injury);
- where damage is latent (e.g. to a building); or
- where a person suffers from a mental incapacity;
- where there has been a mistake or where one party has defrauded another or concealed facts.

In such circumstances individual councils will need to weigh (i) the costs of storing relevant documents and (ii) the risks of:

- claims being made;
- the value of the claims; and
- the inability to defend any claims made should relevant documentation be destroyed.

It hardly needs to be said that the higher the value of a contract or the higher the risk or value of a claim being made, the more likely it is that the greater expense/inconvenience of storing documents for longer periods can be justified. Councils should also confirm the precise wording of any insurance policies they have to ensure that they comply with any terms they contain in respect of the retention of documents and information.

### Document and Records Retention Schedule

Document	Minimum Retention Period	Reason
<b>Agendas and Minutes</b>		
Signed Minutes of Council Meetings – Minute Book	Indefinite	Archive
Agendas	As long as they are useful	Management
Reports	As long as they are useful	Management
Signed Policy Documents	Indefinite	Archive
<b>Correspondence</b>		
Correspondence & papers on important local issues & activities	Indefinite	Archive
Routine correspondence, papers & emails	As long as they are useful	Management
<b>Finance and Payroll</b>		
Scale of fees and charges	6 years	Management
Receipt and Payment accounts	Indefinite	Archive
Accounts/Financial Annual Return	Indefinite	Archive
Receipt Books of all kinds	6 years	VAT
Bank Statements (including deposit/savings accounts)	Last completed audit year	Audit
Bank Paying-in Books	Last completed audit year	Audit
Cheque Books Stubs	Last completed audit year	Audit
Budgetary Control Papers	2 years + current	Audit
Quotations and Tenders	6 years	Limitations Act 1980 (as amended)
Paid Invoices	6 years	VAT
Paid cheques	6 years	Limitations Act 1980 (as amended)
VAT records	6 years generally, but 20 years for VAT on rents	VAT
Payroll records and wages books	12 years	Superannuation
Loan Documents	2 years + current	Audit
Petty cash, postage and telephone books	6 years	Tax, VAT, Limitation Act 1980 (as amended)
<b>Insurance Policies</b>		
Cert of Employers Liability	50 years	Legal

Cert of Public Liability	21 years	Legal
Policy renewal records & Correspondence	While Valid	Management
<b>General Management</b>		
Investments	Indefinite	Audit / Management
Title Deeds, leases, agreements, contracts	Indefinite	Legal / Audit / Management
<b>Allotments</b>		
Register and plans	Indefinite	Audit/Management
<b>Health &amp; Safety</b>		
Equipment Inspection Records	25 years	Management
Risk Assessments	5 years	Management
<b>Miscellaneous</b>		
Complaints	5 years after case closed	Management
Public consultation: surveys & returns	Retain as long as useful	Management
Register of Interests	Indefinite	Archive
Reports, newsletters etc from other bodies	Retain as long as useful	Management
<b>Personnel/Human Resources</b>		
Application forms (interviewed - unsuccessful)	6 months	Management
Disciplinary records	Retain for period of employment	
Personal files (not payroll information)	6 years after ceasing employment	
<b>Planning</b>		
Applications - all consultative documents including plans	Retain as long as useful	Held by local authority
Applications upon which Council has commented - all consultative documents including plans	1 year	Management
Local Plans	One copy of the current plan	Management
<b>Burial Grounds</b>		
<ul style="list-style-type: none"> <li>• register of fees collected</li> <li>• register of burials</li> <li>• register of purchased graves</li> <li>• register/plan of grave spaces</li> <li>• register of memorials</li> <li>• applications for right to erect memorials</li> <li>• disposal certificates</li> <li>• copy certificates of grant of exclusive right of burial</li> </ul>	Indefinite	Archives, Local Authorities Cemeteries Order 1977 (SI. 204)

A handwritten signature in black ink, appearing to read 'DL' with a long horizontal flourish extending to the right.

David Liddle  
Town Clerk  
Filey Town Council