

# **LLANSANTFFRAID AND DEYTHEUR COMMUNITY COUNCIL**

## **DOCUMENT RETENTION POLICY**

### **INTRODUCTION**

A record is any information held by the Council and relating to any topic, area of work, decision reached, action taken or individual and regardless of the medium in which it is held whether in paper or electronic format. The Council recognises that:

- Records are a corporate resource and a valuable asset
- Information has to be confidentially stored and destroyed
- A co-ordinated approach has to be taken to its management

S227(1) of the Local Government Act 1972 requires the Community Council to provide a proper repository for its records. As such the Council accepts that it has a responsibility to ensure that its records are:

- Created accurately
- Stored effectively
- Kept securely
- Traced efficiently
- Retained in their original form if required for the purpose of legal proceedings
- Retained only for as long as necessary and disposed of appropriately

Responsibility for all records throughout their lifetime (from creation to disposal) shall rest with the Proper Officer of the Council. Legislation now in place on information handling means that there is a need to manage information and to have an effective system for servicing the enhanced rights of access under the Data Protection Act 1998 (DPA) and the Freedom of Information Act 2000 (FOI). Reference should be made to the Council's Data Protection Policy, Freedom of Information Policy & Publication Scheme. Reference should also be made to the Lord Chancellor's Code of practice on the Management of Records pursuant to s46 Freedom of Information Act 2000 (Issued November 2002).

### **POLICY STATEMENT**

The Council's policy is to:

- Information (hard copy and electronic) will be retained for at least the period specified in the below schedule
- All information must be reviewed before destruction to determine whether there are special factors that mean destruction should be delayed, such as potential litigation, complaints or grievances.
- Hard copy and electronically-held documents and information must be deleted at the end of the retention period.
- Hard copy documents and information must be disposed of in accordance with the below Record Disposal

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**RETENTION OF DOCUMENTS FOR LEGAL PURPOSES**

Most legal proceedings are governed by 'the Limitation Acts'. The Acts (notably the Limitation Act 1980) state 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.

| Category                       | Limitation Period |
|--------------------------------|-------------------|
| 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              |

The Council and in particular the Proper Officer have a duty to retain certain information, for certain purposes and for certain periods of time.

**RECORD MAINTENANCE**

Given the limited space to keep such documents it is necessary to review the Council's Policy on retention of its records and documents. Set out below are the time periods that different types of business and employment records must be retained for. The retention periods are based on business needs and legal requirements. ***In the absence of such guidance, it shall be the responsibility of the Community Clerk to determine a suitable retention period.***

| DOCUMENT                                       | MINIMUM RETENTION PERIOD  | REASON   |
|--|---|--|
| <b>COUNCIL MANAGEMENT</b>                      |   |  |
| Management                                     | Indefinitely  | Archive  |
| Agendas & meeting documentation                | 12 Years  | Statute of Limitations (Limitations Act 1980 as amended) |
| Council Attendance Register                    | Throughout the 4 year term of office  | Management   |
| Declaration of Acceptance of Office            | Indefinitely  | Management, Archive                                      |
| Register of Members Interest                   | 6 Years or as long as the Councillor remains in office (whichever is the greater) | Audit, Tax, VAT  |
| Council Standing Orders, Policies & Procedures | Whilst documents remain in force  | Management   |

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|  |  |  |
|--|--|--|
| Council Newsletters, Precept Sheets & Annual Reports                                       | Indefinitely   | Management, Archive                                      |
| Personnel Information (includes any documents that contain personal data of former clerks) | 6 Years after individual ceases to be an employee. Job Application forms should be destroyed after 6 months. | Statute of Limitations (Limitations Act 1980 as amended) |
| Contact details for Councillors  | As long as the councillor remains in office  | Management   |
| Assets   | 12 years   | Management   |
| Title Deeds  | Indefinitely   | Management   |
| S106 Agreements  | Indefinitely   | Management   |
| Freedom of Information   | 10 years   | Management   |
| Pension  | 12 years after cessation of benefit payable  | Audit, Management  |
| Events   | 12 years   | Management   |
| Accident Reports   | Indefinitely   | Management   |
| Vehicle Log Reports  | Life of Vehicle  | Management   |
| Twinning Agreements  | Indefinitely   | Management   |
| <b>COUNCIL FINANCES</b>  |  |  |
| Cash Book Accounts, Sales & Purchase Ledgers   | Indefinitely   | Management   |
| Title Deeds, Leases, Agreements & Contracts  | Indefinitely   | Audit, Management  |
| Investments  | Indefinitely   | Audit, Management  |
| Audited Accounts   | Indefinitely   | Audit, Management  |
| Precept Requests   | Indefinitely   | Audit, Management  |
| Quotations & Tenders   | 12 years   | Statute of Limitations                                   |
| Wages Books  | 12 years   | Superannuation   |
| Receipt Books  | 6 years  | VAT  |
| Paid Invoices  | 6 years  | VAT  |
| VAT Records  | 6 years  | VAT  |
| Petty Cash Records   | 6 years  | Tax, VAT, Statute of Limitations                         |
| Members Allowance Register   | 6 years  | Tax, Audit, Management, Statute of Limitations           |
| Scales of Fees & Charges   | 5 years  | Management   |
| Bank Statements  | Last completed audit year  | Audit  |
| Bank Paying in Books   | Last completed audit year  | Audit  |
| Cheque Book Stubs  | Last completed audit year  | Audit  |
| Timesheets   | Last completed audit year 3 years  | Audit, Personal Injury best practice                     |
| Insurance Policies   | While valid  | Management   |
| Certificates for insurance against liability for employees                                 | 40 years from date in which insurance commenced or was renewed   | The Employers' Liability (Compulsory Insurance)          |

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|  |  | Regulations 1998 (SI2753),<br>Management                       |
| Insurance Policies, Insurance<br>Claims & Health & Safety<br>Records   | 3 Years after the policy lapses  | Management   |
| Budget   | 6 years  | Audit, Management  |
| Grants   | 6 years  | Audit, Management  |
| HMRC   | 6 years  | Audit, Management  |
| Internal Audit   | Retain current, plus previous<br>year  | Audit, Management  |
| <b>RISK ASSESSMENTS</b>  |  |  |
| Weekly Inspection logs   | 12 years   | Statute of Limitations,<br>Limitation Act 1980 {as<br>amended} |
| Annual Inspection logs   | 12 years   | Statute of Limitations,<br>Limitation Act 1980 {as<br>amended} |
| Risk Assessments   | 12 years   | Statute of Limitations,<br>Limitation Act 1980 {as<br>amended} |
| <b>PLANNING &amp; CONSERVATION</b>   |  |  |
| Planning Register  | Indefinitely   | Management   |
| Planning Applications, related<br>correspondence & Notices of<br>Decision (General)  | Until after development is<br>completed if approved. If<br>refused, papers kept until<br>appeal period has expired. Or 6<br>months (whichever is longer) | Management   |
| Planning Applications, related<br>correspondence & Notices of<br>Decision (Strategic/Historical)                                   | Until after development is<br>completed if approved. If<br>refused, papers kept until<br>appeal period has expired. Or 5<br>years{whichever is longer}   | Management   |
| Tree Pruning/Felling<br>Applications   | 6 years  | Management   |
| Tree Preservation Orders   | Indefinitely   | Management   |
| Road Traffic Orders  | Whilst the order remains in<br>force or 1 year whichever is the<br>greater   | Management   |
| Planning Policy<br>Guidance/Statements, Regional<br>Plans, Structure Plans, Local<br>Plans, Community Plans &<br>similar documents | Whilst the documents remain in<br>force  | Management   |
| Definitive Maps, Planning Maps,<br>Public Rights of Way Maps,  | Indefinitely   | Management, Archive  |

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| Conservation Area Maps & similar documents  |  |   |
| Listed Building Register  | Indefinitely   | Archive   |
| <b>PUBLICATIONS</b>   |  |   |
| Journals & Periodicals  | 3 Years(or retained as long as is useful & relevant  | Management  |
| Catalogues  | 1 year   | Management  |
| <b>GENERAL CORRESPONDENCE</b>   |  |   |
| General Correspondence (on non historic importance)   | Destroyed annually if no longer of use or value  | Management  |
| General Correspondence (historic importance}  | Offered to the County Archivist if no longer of use or value   | Archive   |
| Related to audit matters and/or legal proceedings   | Kept for the appropriate period specified in the schedule  | Audit, Limitations Act 1980 (as amended)  |
| <b>EMPLOYMENT RECORDS</b>   |  |   |
| Rejected job applicant records, including:<br>Application letters or forms<br>CVs<br>references<br>certificates of good conduct<br>interview notes<br>assessment and psychological test results   | 6 months after applicant is notified of rejection. Application forms should give applicants the opportunity to object to their details being retained  | ICO Employment Practices Code para 1.7  |
| Application records of successful candidates, including:<br>application letters or forms<br>copies of academic and other training received, references<br>correspondence concerning employment, CVs. interview notes and evaluation forms<br>assessment and results | 6 years after employment ceases  | Limitation Act, 1980 (LA 1980)s5  |
| Criminal records information: criminal records requirement assessments for a particular post criminal records information forms the Disclosure and Barring Service (DBS) check forms DBS certificates   | Criminal records requirement assessments for a particular post—12 months after the assessment was last used<br>All other information in this category—as soon as practicable after the check has been completed and the outcome recorded (ie whether satisfactory or not) unless, in exceptional circumstances, the Town Clerk assesses that it is | DBS guidance for employers: Duration of criminal record check validity ICO Employment Practices Code Nov 2011, part 1.7.4 |

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|   | clearly relevant to the ongoing employment relationship   |  |
| Employment contracts, including: personnel and training records written particulars of employment changes to terms and conditions                                 | 6 years after employment ceases, unless document executed as a deed, in which case 12 years after employment ceases | LA 1980, ss 5, 8   |
| Copies of identification documents (eg passports)   | Not less than 2 years from date of termination of employment  | Immigration  |
| Identification documents of foreign nationals (including right to work)   | Not less than 2 years from date of termination of employment  | Immigration (Restrictions on Employment) Order SI 2007/3290, art 6(1)(b) |
| Records concerning a temporary worker   | 6 years after employment ceases   | LA 1980, s 5   |
| Employee performance records, including: probationary period reviews review meeting and assessment interviews appraisals and evaluations promotions and demotions | 6 years after employment ceases   | LA 1980, s 5   |
| Records relating to and/or showing compliance with Working Time Regulations 1998 including: registration of work and rest periods working time opt-out forms      | 2 years from the date on which the record was made  | Working Time Regulations 1998, SI 1998/1833, reg 9                       |
| Redundancy records  | 6 years from date of redundancy   | LA 1980, s 5   |
| Annual leave records  | 6 years after the end of each tax year  | LA 1980, s 5   |
| Parental leave records  | 6 years after the end of each tax year  | LA 1980, s 5   |
| Sickness records  | 6 years after the end of each tax year  | LA 1980, s 5   |
| Records of return to work meetings following sickness, maternity etc  | 6 years the end of each tax year  | LA 1980, s 5   |
| <b>PAYROLL AND SALARY RECORDS</b>   |   |  |
| Records for the purposes of tax returns including wage or salary records, records of overtime, bonuses and expenses   | 6 years   | Taxes Management Act, 1970 s 12B Finance Act 1998, Schedule 18, para 21  |
| Pay As You Earn (PAYE) records, including: wage sheets deductions working sheets  | 3 years   | Income Tax (Pay As You Earn) Regulations 2003, SI 2003/2682, reg 97      |

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| calculations of the PAYE income of employees and relevant payments  |   |   |
| Income tax and NI returns, income tax records and correspondence with HMRC  | 3 years after the end of the financial year to which they relate  | Income Tax (Employments) Regulations 1993, SI 1993/744, reg 55  |
| Records demonstrating compliance with national minimum wage requirements  | 3 years beginning with the day upon which the pay reference period immediately following that to which they relate ends | National Minimum Wage Regulations 2015, SI 2015/621, reg 59   |
| Details of benefits in kind, income tax records (P45, P60, P58, P48 etc), annual return of taxable pay and tax paid | 6 years (but general time limit under the TMA 1970 is reducing to four years from 1 April 2012)                         | Taxes Management Act 1970   |
| Employee income tax and national insurance returns and associated HMRC correspondence                               | 3 years from end of tax year to which they relate   | Income Tax (Pay as You Earn) Regulations 2003, SI 2003/2682, reg 97   |
| Statutory sick pay (SSP) records  | 3 years after the end of the tax year to which they relate  | The requirement to maintain SSP records for 3 years after the end of the tax year to which they relate was revoked in 2014, but an employer may still be required by HMRC to produce such records as are in his possession or power which contain, or may contain, information relevant to satisfy HMRC that statutory sick pay has been and is being paid. The Statutory Sick Pay (General) Regulations 1982, SI 1982/894, reg 13(A) |
| Wage or salary records (including overtime, bonuses and expenses)   | 6 years   | Taxes Management Act 1970, s43  |
| Records relating to hours worked and payments made to workers   | 3 years   | National Wage Act 1998,s9 The National Wage Regulations 1999,reg 38   |
| Statutory maternity, paternity and shared parental pay records, calculations, certificates or other evidence        | 3 years after the end of the tax year in which the period of statutory pay ends   | Statutory Maternity Pay (General) Regulations 1986, SI 1986/1960, reg 26  |
| <b>HEALTH AND SAFETY RECORDS</b>  |   |   |
| Records of reportable injuries, diseases or dangerous   | 3 years from date of the entry  | The Reporting of Injuries, Diseases and Dangerous   |

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| occurrences reportable incidents reportable diagnoses injury arising out of accident at work (including accident book) |  | Occurrences Regulations 2013 (RIDDOR 2013), SI 2013/1471, reg 12                                  |
| Lists or register of employees who have been exposed to asbestos dust, including health records of each employee       | 40 years from the date of the last entry made in the record  | Control of Asbestos Regulations 2012, SI 2012/63, reg 22(1)                                       |
| Medical records and details of biological tests under the Control of Lead at Work Regulations                          | 40 years from the date of the last entry made in the record  | The Control of Lead at Work Regulations 2002 (CLAW 2002), SI 2002/2676, reg 10                    |
| Medical records as specified by the Control of Substances Hazardous to Health Regulations (COSHH)                      | 40 years from the date of the last entry made in the record  | The Control of Substances Hazardous to Health Regulations 2002 (COSHH 2002), SI 2002/2677, reg 11 |
| Records of monitoring of exposures to hazardous substances (where exposure monitoring is required under COSHH)         | Where the record is representative of the personal exposures of identifiable employee—40 years from the date of the last entry made in the record Otherwise, five years from the date of the last entry made in the record | COSHH 2002, reg 10(5)   |
| Records of tests and examinations of control systems and protective equipment under COSHH                              | Five years from the date on which the record was made  | COSHH 2002, reg 9   |
| <b>YOUTH</b>   |  |   |
| Young Peoples Membership Form  | 1 term post attendance   | Safeguarding  |
| Parental Consent Form  | 3 year post attendance   | Safeguarding  |
| Photographs & Videos   | 3 year post attendance   | Advertising, reports & records  |
| Reports & Claims   | 7 years post 18th Birthday   | Health & Safety   |



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### **RECORD DISPOSAL**

The minimum volume of records consistent with effective and efficient operations should be retained. Unnecessary and duplicated records should be eliminated so saving storage costs as well as cost in terms of staff, time and equipment. Holding fewer records frees up both physical and computerised filing systems and makes valuable information easier to find. Greater use could be made of the Council's powers under S229 Local Government Act 1972 which allows for any requirement posed by statute on a Local Authority to keep a document is satisfied by keeping a photographic copy; interpreting this legislation in a modern day context, paper records could be scanned and electronically archived and the original disposed of.

Records designated as no longer required must be securely disposed of to preserve confidentiality.

Any records designated as no-longer required but considered to have historical significance shall be the subject of consultation with the County Archivist and could be kept in an archival institution if expert guidance considers such action appropriate.

Under the FOI, it is a criminal offence to tamper with any file once a FOI request has been made. If any documents which would require disposal under the above guidelines is the subject of an FOI request, disposal must be delayed even if the request has been refused, until the information has been disclosed and all appeal times/procedures have been exhausted. This policy will:

- Be publicised to staff and made available for reference
- Apply to all the council's records, regardless of how they are held
- Be reviewed every two years, amended and re-issued as necessary and members of staff notified accordingly
- Operate in conjunction with the council's existing policies on Data Protection (Privacy Policy) and Freedom of Information.