

# DOCUMENT RETENTION

## STANDARD 2: HELPSHEET 20

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This helpsheet provides information and advice on developing compliant document retention policies and the retention periods required for different classes of documents.

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### Who is this helpsheet for?

All members in practice.

### Contents

This helpsheet covers the reasons for establishing a document retention policy, and where, when and how documents should be stored, passed on or destroyed.

It also offers broad guidelines on the required retention periods for different classes of documents and provides a list of further reading material on the subject.

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### Introduction

The Data Protection Act 1998 introduced significant changes to the requirements on all businesses regarding the storage and retention of all forms of data. For accountants the main issues can be summarised as what kinds of information am I required to retain, in which format and for how long? This helpsheet addresses these questions and provides a basis on which you can conduct a thorough review of your own document retention policies. The Data Protection Act also covers the way data on employees, for example, is held though this is not covered in this helpsheet.

The term 'document' in this context is extremely broad. It extends to any information which can be understood by the senses or is capable of being intelligible by use of equipment. Documents may therefore be retained electronically, on paper or by some other means, for example on microfiche. In this sense the terms 'document', 'data' and 'information' are broadly interchangeable.

*Documents may be retained electronically, on paper or by some other means such as on microfiche.*

This helpsheet discusses document retention in general terms. It should be read in conjunction with Section 1.302 and with reference to Section 1.401 (paragraphs 72 - 74) of the *Members' Handbook*, the Audit Regulations (specifically 3.08b) and such investment business governing documents as may be relevant to your firm's Investment Business status.

You will also find a list of additional useful material at the end of this helpsheet.

### Who owns the documents?

Between client and accountant the ownership of a document depends on the contract between the two, the capacity in which the accountant acts and the purpose for which the document is created. Refer to *Members' Handbook* Section 1.302 (specifically paragraphs 2 - 18) for more detail and take legal advice if in doubt about the ownership of a particular document.

In brief, however, the general rules are:

- if you are acting as a principal when creating the document, the document belongs to you;
- if you are acting as an agent, the document belongs to the client;
- in the case of correspondence:
  - (a) Letters from you to the client - your file copy belongs to you but the original belongs to the client;
  - (b) Letters from the client to you - the original belongs to you as the client should have retained their own copy;
  - (c) Letters to third parties will depend on the relationship between you and the client (see (a) and (b) above).

### Retention policies

It is prudent to establish a clear written document retention policy and ensure that your staff are familiar with it. Your policy should clearly cover what to do with current records, the historic records of continuing clients and the records of former clients.

You should also make clients aware of your document retention policy, perhaps in your Letter of Engagement, and agree, wherever possible in writing, any variation to the general principles for the ownership of records (see above). For example, a client may agree that correspondence with third parties will remain the property of your firm.

*Ensure your staff are familiar with your document retention policy*

It is also worth noting that some professional indemnity insurers include retention clauses on policies. Failure to observe such clauses may affect the validity of your PII cover. You should always check professional indemnity cover before adopting or amending your retention policy.

*Failure to observe retention clauses may affect the validity of your PII cover*

Retained client information must be kept in accordance with the Data Protection Act 1998. It is, therefore, in your interests to make sure you are familiar with the Data Protection Act and any obligations it may place on you.

Useful websites featuring information and guidance on the Data Protection Act include:

[www.dpr.gov.uk](http://www.dpr.gov.uk),  
[www.hmso.gov.uk/acts/acts1998/19980029.htm](http://www.hmso.gov.uk/acts/acts1998/19980029.htm)  
[www.open.gov.uk](http://www.open.gov.uk)

### **Return, store or destroy?**

You may choose to return or offer up to the client (or former client) documents which are not current and/or which you do not wish to retain. It would be best practice to offer to return information belonging to a client or former client before destroying it. However, you are under no obligation to keep documents indefinitely (different rules might apply for title documents and you should take legal advice before destroying such documents or return them to the client see below). If you are unable to make contact with a former client, it is reasonable to assume you will destroy documents after a period of time, say six years. However, you should give careful thought to the consequences of destroying the document before doing so.

You may choose to place documents that are no longer current in storage through an external storage company. Ensure that your instructions to any third party holding client information and documents on your behalf are clear and that reasonable steps are taken to ensure client confidentiality will be preserved

If, after a period of time, you choose to destroy papers make sure that reasonable steps are taken to preserve the confidentiality of the client's information in the destruction process. Give careful thought to secure shredding or incineration facilities and make sure you give clear instructions to any third party destroying client information on your behalf.

Be alert to the fact that some documents never cease to have value (e.g. client permanent files). Others remain valuable for an undefined period of time. Land valuations required for CGT purposes, for example, will be required when the client disposes of the land to which they refer. Some documents should, therefore, be retained indefinitely. If you do not wish to retain such documents, you should pass them back to the client or former client.

*You should offer to return information belonging to a client or former client before destroying it.*

*Some documents never cease to have value.*

## Retention periods

It is not possible in this document to provide an exhaustive list of retention periods or explanations as to why such periods have been suggested. However, the following table gives some guidance and suggestions:

Investment Business records	IB Regulations required documents to be kept for at least six years from the date they were made. This remains the case post Financial Services and Markets Act (FSMA). Such information should be kept in a format that is readily available for inspection and easily printed.
Records relating to pension transfers and opt-outs	Under the FSMA, firms authorised directly by the FSA should refer to the FSA's Source Book for specific retention periods. Firms holding DPB licences are expected to retain documents for a period of not less than six years (4.06 DPB Handbook).  Should be kept indefinitely (see old IB Regulations 3.35 and FSA Source Book as appropriate.)
Audit files and working papers	Audit Regulations require current year plus a further six years  Preferable to keep two years files in hard-copy form
Client permanent files	Indefinitely
Accounts preparation working papers	Current year plus six further years
General tax papers including correspondence	Current year plus six further years, then return to client
Original documentation	Retain as long as instruction requires and then return to client
Information relating to client's chargeable assets and gifts	Indefinitely
Documents of title (e.g. leases)	12 years after interest in property ceases
PAYE files	Current year plus six further years
Insolvency related files	Current year plus six further years
Office papers – General office correspondence Time records	Five years

**N.B.** The *Members' Handbook* Section 1.401 (paragraphs 72 and 73) advises that the overriding limit for negligence claims is 15 years and that the Inland Revenue may be able to require documents dating back 20 years to be produced. Further recent case law suggests that a move towards a longer, possibly indefinite, period.

Clearly, original documentation is the best evidence. Copies, in whatever format (microfiche, scanned etc.), are however accepted and recognised as evidence. There is no objection to historic data being kept on microfilm or electronically. However, you should take reasonable steps to ensure you will continue to have access to the data.

### **Access to scanned, microfiched or other electronically held data**

You will need to ensure that you continue to have access to the appropriate hardware (for example, a microfiche reader) and software to enable you reliably to recover in readable form the documents you have stored in non-paper format. In practical terms, this means ensuring that, for example, as your information systems evolve, you should either retain the technology to access redundant data-storage formats (e.g. floppy discs), or update the format in which the data is stored.

If you store documents (or other information) by means of licensed proprietary software (for example, taxation or accounts preparation software), bear in mind that some software suppliers “time bomb” their software, rendering it unusable on or after the expiry date of your licence. If you relinquish your licence for such software, check with the supplier whether it will still be useable to access old records; and if not, make timely arrangements to print out the information you need to retain, or export it into another electronic format.

*As your information systems evolve, you should retain the technology to access redundant data-storage formats or update the format in which the data is stored.*

### Further Reading

- *Accountants Digest* 352 - Business Documents - Management and Retention (last published in 1996) gives an extensive table of information showing suggested retention periods and explanations as to the period of suggested retention. Available from the ICAEW Library on 0207 920 8620.
- BS 7799, the code of practice on 'Information Security'. Further information from British Standards Institution: [www.bsi-global.com](http://www.bsi-global.com) or [www.c-cure.org](http://www.c-cure.org) (specifically on BS 7799). The IT Faculty has published *A Management Guide to BS 7799* (1999). This can be purchased from the Faculty (Moorgate Place), or free of charge to Faculty members via the Faculty's web site, [www.itfac.co.uk](http://www.itfac.co.uk).
- *Introducing the Data Protection Act 1998* (published March 2000). Available to be purchased from the IT Faculty (Moorgate Place) or free of charge to Faculty members via the Faculty's web site, [www.itfac.co.uk](http://www.itfac.co.uk).
- Data Protection Act (see page 4 above)