

National Records Retention Schedules for Local Authorities



**Revised National Records Retention Schedules for
Local Authorities**

**Guidance Note on Implementing
A Records Retention Schedule**

December 2019 – *Second Revised Edition*

National Records Retention Schedules for Local Authorities

Title

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|------------------------|--------------------------|
| First edition | Issued April 2002 |
| First revised edition | September 2018 |
| Second revised edition | December 2019 |

National Records Retention Schedules for Local Authorities

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Introduction

Local authorities offer a very wide and varied array of services to the public. As a result, a very wide and varied array of records and supporting documents are generated every day within local authorities. In addition to the records directly related to service delivery local authorities, as large and complex corporate entities in their own right, also generate large amounts of internal records and documents in the administration of staff and resources.

Traditionally records, documents and correspondence in public bodies have been paper based but recent times have seen the continuing use of electronically and digitally created records, documents and correspondence. While for some activities these formats have replaced the use of paper this is not the case across all areas of activity. Indeed, in some areas electronically generated records, correspondence and documents are in addition to paper format records/documents. As well as the increasing complexity and variety of record and document formats being used there is an increase in the variety of transmission and storage options also being utilised. The advent of intranet; extranet; shared servers; social media feeds and web based storage options and the use of some or all of these transmission and storage options at the same time within public bodies has ensured the need for the local government sector to introduce and adopt an updated records retention and record management policy.

It should be noted that this is a set of guiding principles that will assist you in implementing the updated and revised version of the LGMA's existing sectoral Records Retention Schedule which was originally adopted in 2002.

It is the intention that this revised national records retention will be combined with a more detailed records management policy which will build upon the commitment shown by local authorities to effective record storage and retrieval since the introduction of first edition of the national records retention policy for local authorities in April 2002. The work of the policy review group is to be commended for its thoroughness and for its timeliness.

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Definitions

For the purposes of this policy document the following definitions apply:

Document

A document is any piece of information in any form, produced or received by an organisation or person. It can include databases, website, e-mail messages, word and excel files, letters and memos. Some of these documents will be ephemeral or of a very short-term value and should never end up in a records management system (such as an invitation to lunch).

Record

A record is defined by ISO 15489_1* as information created, received, and maintained as evidence and as an asset by an organization or person, in pursuit of legal obligations or in the transaction of business.

Records Management

Records management is defined by ISO 15489_1* as the field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records.

Vital Records

This policy defines Vital Records as the records that contain information needed to re-establish or maintain the work of the Council in the event of a disaster. Vital records contain information that cannot be easily reconstructed through other sources, and serious resource or legal implications would result if they were destroyed. As part of a records management system, vital records are identified and steps are taken to ensure that these records are retrievable in the event of a disaster.

As part of the development of its records management system, vital records shall be listed with details of the originating section, the reason why the records are considered vital, the medium of the record, the protection either taken or to be taken, and the instructions on how often the vital records must be replaced with more up-to-date records.

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The Vital Records of a local authority shall include:

- Minutes of Council Meetings
- Managers' Orders (originals)
- Contract Documents
- Superannuation Register
- All Legal Documents
- Statutory Registers
- Financial Accounts

The Council's Vital Records shall be protected using the duplication method, (i.e.)

Vital records shall be systematically copied and stored either in hardcopy or digital formats at another location to be identified in the local records management policy. This shall be carried out on a frequent basis in accordance with local procedure. When duplicating records, the Council shall, having taken legal advice on the matter, ensure that the means of duplication does not nullify the value of the record (e.g. records such as legal documents that are required in their original form in litigation and if they are to be duplicated as vital records, shall be carried out in a manner that is acceptable to the courts).

***ISO 15489_1**

International best practice in records management has been incorporated into the International Standard, ISO 15489_1. The international definition of record contained in ISO 15489 covers all document types and does not distinguish formats, being equally applicable to documents and information created, maintained and stored manually and/or electronically.

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Rationale for revising existing national records retention policy

The current *National Retention Policy for Local Authority Records in Ireland* policy was produced by the Local Government Management Services Board (LGMSB), forerunner of the LGMA, in 2002 and currently applies across all local authority operational areas. The original policy was developed as a comprehensive guide for local authorities to assist them in the development of best practice in records management across the sector.

Records generated and/or retained by a local authority can take the form of minutes of meetings, letters received, letters issued, notes of telephone conversations, post-it notes, maps, drawings, papers, files, photographs, films, micro-films and micrographic records, sound recordings, pictorial records, magnetic tapes, magnetic discs, optical or video discs, other machine readable records, electronically generated and maintained databases, excel spreadsheets, e-mails, GIS systems, etc...the list of possible forms of records is long.

The previous version of the *National Retention Policy for Local Authority Records in Ireland* provided a detailed records schedule for each programme area that local authorities are involved in. These records schedules provided an organised system of control for the retention of records. For the purposes of the 2002 schedules records were treated as having a three stage life cycle:

- **Current** records are stored within the office of *a local authority* and are frequently required by staff in order to carry out the functions of their division.
- Records become **non-current** when they are needed for occasional reference or in order to meet legal or financial obligations.
- **Archive/Dispose** phase – this is the stage when records are no longer required by Council. The records are either archived or destroyed depending on the requirements contained in the National Records Retention Policy. Some local authorities directly employ or share an archivist.

The records schedules gave specific details on how long each stage of this three stage life-cycle lasts and states whether the records are to be archived or disposed.

Requirement to update the 2002 records retention schedules

Changes to legislation and regulatory frameworks (both national and EU) in virtually all business areas as well as judgements by the Data Protection Commissioners, Information

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Commissioner and various Ombudsmen has necessitated that the retention periods in certain area have changed significantly from the original retention schedules issued in 2002. While these changes have been introduced across individual business units and sometimes in individual local authorities the 2002 retention policy has never been officially updated to reflect the changed circumstances and business requirements.

Life Cycle of Records and Documents

The life cycle of documents and records is creation/receipt; current use; non-current and archive or destroy. These stages apply to managing information but only an overall retention period will be provided in the schedule.

The creation/receipt stage will be governed by recommendations contained in the records management policy.

The term 'archive' is being replaced with the term 'offer to archivist for archiving'. Not all records/documents will need to be archived but the final decision should rest with the archivist. If the archivist only wishes to retain a sample or feels the record/documents do not need to be retained a decision can be taken at this point to destroy as well. If there is no archivist available to a local authority then the recommendation contained in the schedule will be to retain permanently, in either on-site or off-site storage facilities.

Use of Rigid Filing Hierarchy

The revised records retention schedule will not adopt a strict filing hierarchy which classifies activities by directorates or business sections but rather adopt the following approach

- Functional/Business area
- Sub function
- Business activity

Organisational structure and the number and scope of directorates varies from local authority to local authority. Records retention periods will therefore be recommended for each of the business activities associated with a functional area. It is proposed that the retention period proposed will be the total amount of time that records should be stored and will combine current and non-current periods. What constitutes current and non-current periods will be open to local interpretation and vary according to storage capabilities. However, the defined maximum retention period cannot be exceeded. Where there is a defined period of time which can be interpreted as 'current' (e.g.) tender competition; recruitment competition, either required by legislation or by activity this will be defined in the comments section of the records retention schedule.

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Dispose v Destroy

It should also be noted that the revised version of the records retention schedules adopts the use of the term 'destroy' rather than the previous term used 'dispose'. This reflects the need to be absolutely clear as to what is meant. Previously the term 'dispose' was interpreted in some instances as placing records in off-site storage. This was more prevalent where a local authority archivist was not available to guide the local authority.

Destroy means the disposal of records through incineration, pulping, shredding, deletion or another method, so that it is impossible to reconstruct the records. For paper, that is likely to entail the use of an in-house shredder or outsourced confidential waste contractors. For digital records, destruction should apply to all copies of a record. Simple deletion from a network does not mean that a document is irrecoverable and there are technical solutions to ensure deletion of electronic records where this is considered critical. Do not forget back-ups. Documents may have been deleted from the main network, but unless back-ups are regularly over-written or disposed of, records and data may linger there.

Working Group established by the LGMA

In order to update the 2002 Records Retention policy a working group was established by the LGMA in 2016. As with the working group that produced the original policy document the working group was composed of a number of local authority archivists, FoI Officers and one HIS.

The working group adopted the following terms of reference:

- Revise the existing LGMA national records retention policy first published in 2002.
- Incorporate the new record retention requirements introduced into sector since first edition.
- Incorporate a Records Management Policy into the records retention policy. Policy to be focused on providing an approach and structure to filing/storing records that can be adapted for use regardless of area of operational activity.
- Provide recommendations on the use and storage of electronic records and e-mails as part of the records management policy.
- Validate revised records retention schedules with representatives from various functional areas.
- Report back to CCMA and Change Management Committee of LGMA for approval.

During its work on revising the retention schedules for individual functional areas each member of the working group would have consulted with subject matter experts in the relevant business units within their own local authority.

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General Guidance on Implementing the Revised Records Retention Schedules

The attached revised records retention schedule was compiled by the LGMA convened Records Management working group and has been validated by a group of senior subject matter experts drawn from the functional area/business unit to which the records retention schedule relates.

Legal Basis for collection and storage of records

Every effort has been made to identify the relevant pieces of legislation and regulation(s) which relate to the sub-function and activities contained in the schedule. Where a legal basis has been identified it has been recorded in the comments section on the right of each retention schedule. However, post adoption new or revised pieces of legislation and/or regulation may come in to effect which have specific requirements regarding the collection and retention of data and information. Where new or revised legislation and/or regulation comes in to effect individual business units should amend their retention schedule accordingly to reflect the new legal requirements.

Statutes of Limitation

Where identified and where appropriate the accompanying revised records retention schedules have incorporated the time period limitations for bringing forward litigation in the Courts. The relevant time period limitations are as follows:

Product liability 10 years

Personal injury 2 years from date when injury was known or ought to have been known. Exception being any injuries involving minors. In these cases, a minor has until age 18 + 3 years to make a claim

Negligence claims (as breach of contract) must be taken within 7 years (6 years + 12-month maintenance period)

It should be noted that advice received from Irish Public Bodies (IPB) in mid-2017 has confirmed that in instances where a litigation claim exceeds the statute limitation period the IPB's initial action is to seek for the Judge to strike the case out because it is statutorily barred. However, if the Judge allows the claim to proceed any settlement of claim will be made on the merit of the case and any records deleted according to the relevant retention schedule does not have a significant, adverse effect on the final settlement.

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Records which form part of legal proceedings

Where records form part of the defence or prosecution of legal proceedings they should be treated as exceptions from the standard retention schedule. These records should be retained until the legal proceedings and any ensuing appeals periods have expired.

Where legal proceedings are anticipated but not yet officially commenced the relevant records for those instances, accidents or occurrences on which the legal proceedings are based should be retained for the recommended retention period which covers the statute of limitation period for taking a legal case. Once the expected legal proceedings have been instigated the records are then retained until the legal proceedings and any ensuing appeals periods have expired.

Certain Activities or Sub-Functions contained in this revised retention schedule are not carried out by my functional area/business unit

Certain sub-functions and activities are not always carried out by the same business units in every local authority. An example would be the carrying out of Payroll which in some local authorities remains as a sub-function within the Finance unit but in some local authorities has become a sub-function within HR. The revised retention schedule for Payroll doesn't specify what business unit should retain the activity related records it just specifies for how long the record should be retained. If an activity row in the accompanying revised records retention schedule doesn't apply to you then just treat it as not applicable. The same sub-function/activity row may and will be replicated in more than one retention schedule.

Records Retention where EU funding has been received

It should be noted that the EU requires bodies in receipt of EU funding to retain records relating to the project/activity for which the funding was provided as follows,

EU funded schemes should be retained to comply with EU fund requirements (i.e.) Article 140 of REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL. There is an absolute legal requirement to retain all relevant documentation relating to EU funding for a minimum period of 3 years after the closure of the Operational Programme under which the funding was provided and letter issued by EU Court of Auditors to that effect.

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Documents, Records and Correspondence generated or stored by/in business activity specific software or bespoke software applications

All documents, records and correspondence generated or stored by/in business function specific software packages or bespoke applications must also adhere to the principles contained in the National Records Management Policy and to the National Records Retention schedule for their respective business function.

Applying the National Records Retention Schedule

The retention recommendations are for both digital and paper records that are held by the local authority. They apply to records that are scanned copies of a paper record or a paper record that is a copy of a digital record.

The only possible exception to this approach would be where a new legislative or regulatory requirement is introduced in the future which requires certain documents, records or correspondence to be retained for purposes or a period which differ from the retention recommendation contained in the issued retention schedule. Where new legislative or regulatory requirements are introduced these will supersede the retention recommendations contained in the issued retention schedules until such time as the schedules are revised and updated to reflect the new legislative or regulatory requirement.

Document Management & Storage Systems

Where a local authority utilises a server or web-based document management and storage system as the primary storage facility for electronic or digitised versions of records and related correspondence then these records regardless of format are also subject to the retention recommendations contained in their associated retention schedule. The recommendation to either destroy or recommend to archivist for archiving must also be adhered to unless (as already mentioned above) legislation or regulations are subsequently introduced that electronic or digitised documents, records and correspondence must be retained indefinitely on the server or web based document management and storage system.

Public Facing Web Portals and Customer Relationship Management (CRM) systems

Web portals and/or CRM software packages, either locally or centrally hosted, may require individuals to enter personal data as part of the initial registration/application process. Web portals and/or CRM software packages will then issue log-in credentials to the applicant so

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that their submission(s) and dealings with the service as well as any supplementary documentation submitted on-line can be stored together and retrieved by the applicants during any subsequent visits to the web portal. Web-portals and CRM packages also facilitate the grouping together of multiple applications by individuals for service applicants such as developers/architects for planning permission.

Web portals and CRMs are by design, and regardless of whether they are individual LA based or a centrally hosted site, an intermediary stage before all the required data and documentation are made available to the business unit in the relevant local authority for processing of the actual application. Therefore, it should be noted that as an intermediary stage, there will temporarily be two sets of documentation and data stored at a certain point (i.e.) up until the application process has been completed and moves on to transaction process with the business unit: one in the web portal and one in the business unit. Once the business unit processing the transaction in the individual local authority has assumed responsibility for the documentation there is no longer a need for the documents temporarily stored on the web portal or CRM to be maintained. Links to the documents subsequently stored in document management and storage system can still be provided but separate and distinct copies should not be stored on the web portal or CRM. Steps should also be taken to periodically, according to the recommended retention periods and regulatory requirements, delete application data and supporting documentation which never progresses beyond application stage and becomes a transaction process with a business unit in a local authority.

E-Mails

E-mail in this context refers to electronic correspondence sent or received by local authorities. E-mail should be managed in order to ensure compliance with all relevant legislation, for example, e-mail is subject to the provisions of the Freedom of Information Act and Data Protection and with any requirements of audit and administration. All e-mails which relate to a specific business activity form a vital part of the file for that activity and often form part of the official record of correspondence between parties and as such should be subject to the same retention periods as the other documents and records for that activity.

E-mails should not be kept separate from other files but should be filed with the rest of the records in the relevant file to keep the information in context with other related records. This will ensure that any search of the files for a particular matter will include all the relevant records and the information stored on e-mails will not be left out.

In order to manage e-mail effectively staff should categorise e-mails into:

- a) Those that are in any part related to the business of the Council
- b) Those that are personal or non-business communications

Where E-mail correspondence that relates to an official business activity exists it should not solely be stored on any e-mail storage/archiving system such as (e.g.) Mail Meter. E-mails should be captured into the digital system that the organisation uses and saved to the relevant folder. The format that the e-mails are to be saved in should be considered and

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decided by each authority to ensure that as much of the characteristics of the email to ensure its authenticity are retained, such as, outlook message format. Most local authorities use the Microsoft Exchange as their e-mail system. As there is limited storage available for e-mails on servers the IT Department often set a limit to the storage available for staff. To save space therefore e-mails that are personal and non-business should be deleted and not left on the Server or left on any e-mail storage/archiving system such as (e.g.) Mail Meter.

Records Retention Recommendations arising at the end of the retention period

The revised records retention schedules will include one of the following recommendations for what should happen to the records at the end of its useful life cycle for the business unit concerned. The following are the standard set of recommendations,

- Destruction
- Retain permanently
- Offer to the archivist

Records Destruction

Records Destruction should be:

- Authorised
- Appropriate
- Confidential
- Timely
- Documented

Authorised

The destruction of records is authorised under the National Retention Policy for Local Authority Records in Ireland which sets the retention periods for records.

The destruction of records requires the authorisation of two members of staff - Heads of Services or their nominees, who act as a Certifying Officer under Section 80 of the Local Government Act 2001 and an Archivist. Where an Archivist is not available then it should be another senior member of staff nominated in advance by the Chief Executive to carry out this role (i.e.) designated Records Manager. When records are being destroyed in line with the retention policy summary information should be noted in a Destruction Certificate available on the intranet which provides evidence that the destruction has actually been carried out. A more detailed Destruction Transfer List must also be completed to document accurately the records for disposal.

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Examples of Destruction transfer list and Certificate of Destruction are shown below.

DESTRUCTION TRANSFER LIST

| | |
|---|--|
| <input type="checkbox"/> Certificate of Destruction No: | Date of Destruction: Section: Bag Number: |
|---|--|

| File Title | File Code | Covering Dates | File Series Title |
|------------|-----------|----------------|-------------------|
| | | | |

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CERTIFICATE OF DESTRUCTION

Local Government Act, 2001 Section 80 (1)

CERTIFICATE BY ARCHIVIST

I hereby certify that I am satisfied that the records or classes of records described below / in the attached schedule do not warrant preservation as archives, subject to the conditions (if any) stated below. And that these records are being disposed of in accordance with the recommendations of the National Retention Policy for Local Authority Records in Ireland.

Description of records:

Conditions (if any):

Archivist

Date:

CERTIFICATE AND AUTHORISATION BY CERTIFYING OFFICER

I hereby certify that the records or classes of records referred to above are not required in connection with the administration of this authority, and hereby authorise their disposal, subject to the conditions (if any) specified above.

Certifying Officer

Date:

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Roles and responsibilities in this process:

Heads of Service are responsible for ensuring that retention schedules are in place and being consistently adhered to; and that final destruction is undertaken in accordance with local Council disposal procedures.

Heads of Service/Function are responsible for ensuring that authorisation is provided for the destruction of records, in particular that line manager authorisation is noted in destruction certificates; and that staff are supported in terms of training in how to apply end of retention period decisions.

Individual employees are responsible for ensuring that records required for destruction are identified on a regular basis and that destruction procedures are correctly followed.

Please note: where the retention period for the record has lapsed destruction should not be carried out on records that:

- Are subject to an ongoing access request under Freedom of Information; Access to Environment Information or Data Protection or other statutory access request legislation
- Are required for a pending/ongoing legal proceeding

It is the responsibility of staff in the records originating department to inform the Records Manager or authorised officer of ongoing access requests or legal proceedings that require the retention of records beyond their existing retention period.

Staff in the relevant departments are required to fill out a Destruction Transfer Sheet listing all records for destruction. These lists must be checked and certified by the Archivist/Records Manager to document compliance with the National Retention Policy and to ensure that any records of archival value are identified and safeguarded. The Destruction Transfer List must also be checked and certified by the Certifying Officer (Head of Service/Function or a nominated representative) to ensure that the records listed are not subject to any statutory access request, not required for any legal proceeding or for organisational purposes.

Where no Archivist is in place then the destruction certificate is countersigned by the designated Certifying officer for the business unit/function and the designated Records Manager.

Appropriate

The destruction of records should be irreversible and environmentally friendly. Paper records should be confidentially shredded and electronic records deleted. Hard drives, PCs and other electronic devices should be checked and wiped of all data before being transferred out of the custody of the local authority.

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Confidential

Local authorities have an obligation to the public and their staff to ensure that their data is protected

Where an external contractor is carrying out the shredding of paper records a certificate of destruction must be provided to confirm the confidential shredding of the records and the process must be witnessed by an authorised member of staff. Records awaiting confidential shredding should be securely stored by the local authority and by any contracted agent to ensure that the data remains secure until it is confidentially shredded, preferably pulped so that it can then be recycled.

Electronic records held on electronic devices should be wiped from the device by the local authority or a contracted agent and a certificate of destruction must be provided by any contracted agent to confirm the removal of the records from the device and witnessed by an authorised member of staff.

Timely

Records should not be destroyed while there is still a need for them but departments should comply in a timely manner with retention recommendations and not keep records identified for destruction.

The actual date upon which a records is destroyed is a matter for each local authority. There will always be a gap between the rolling date which signifies a record has reached the maximum of its retention period and the date that the record is actually destroyed. Having too large a gap will be problematic in that if you hold the record in breach of the retention period it is still classified as a record and must be produced on foot of any legally binding request (e.g.) FoI, DP and PQ. It is a matter for each business unit to devise a procedure for ensuring that records are destroyed (or archived/retained permanently on or off site) periodically in line with the retention period recommendations contained in the retention schedules.

Retaining records due for destruction:

- increases the cost of storage
- increases the difficulty in retrieving records
- breaches legislative requirements

It is a breach of the Data Protection Act, 2018 and the General Data Protection Regulations (GDPR) to retain personal information beyond the purpose for which it was provided. Departments should clearly identify records containing personal data and ensure that the destruction of these records is carried out in a timely manner.

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Documented

There is considerable legislation that dictates the requirement to retain records in order to prove compliance and to provide an accurate picture of what happened to historical files and where they are stored (if not destroyed). As a result it is vital that the following occurs for all records at the end of their recommended retention period:

Each business unit retains a log of the current status of their business files including what happened to historical files they no longer retain? This log should record details of the location of files being stored permanently whether on-site or off-site with a commercial provider.

A destruction transfer list of all the files/records which are scheduled for destruction should be compiled by the business unit and should be forwarded to the archivist/Records Manager.

Where the files have been transferred to the archivist a file transfer list should be maintained by the archivist.

Where a record has been authorised for destruction a destruction certificate should be retained. Both the log and the destruction transfer list should refer to the details of the destruction certificate.

The Records log; the Transfer to Archive List, and Certificate of Destruction are to be retained permanently by the Archivist/Records Management Officer or authorised officer as evidence of compliance by the local authority with legislative requirements. These records should be signed and dated to ensure that authorisation is clear and documented.

These records are evidence that:

- personal information has been confidentially destroyed in compliance with Data Protection legislation
- records due for destruction have been destroyed in accordance with the National Retention Policy for Local Authority Records in Ireland
- records destroyed meet the requirements of the Information Commissioner and Data Protection Office

The destruction Transfer List of all files/records due for destruction should be sent to/from the relevant business unit/section from/to the local authorities Records Centre. Where both the business unit/section and the Records Centre agree that the records are no longer needed and their retention period has expired (and with no other legal impediment) then the records can be authorized for destruction. The designated Certifying officer then authorizes the records for destruction and a disposal/destruction certificate is completed for those records.

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Retain permanently

Where the recommendation is to retain permanently then it will depend upon whether an archivist is in place as to how this recommendation is implemented. In either case though the transfer of records should be documented and a Transfer List should be completed for all records transferred to off-site or non-current storage.

It is recommended that appropriate environmental controls are in place to ensure the long term viability of the records in storage. The stored records must be secured in a structured and easily retrievable manner with a documented procedure in place to ensure that records required by authorised staff, legal or audit purposes or on foot of authorised public access request are accessible without delay and then only through the designated staff member. Any record retrievals while in storage need to be recorded to ensure a clear audit trail and security of the records in storage.

Retaining records which only exist in electronic format

Where a record exists only in electronic format and the decision is taken to retain it permanently then arrangements must be put in place to provide dedicated space on local servers or cloud-based storage to facilitate the long-term retention of these records. Storage space will also have to be provided for the archiving of records which exist only in electronic format. The space set aside for long term/permanent storage must be established with sufficient security measures in place so that access cannot be made without the authorisation of the designated Records Manager or Archivist.

Where an archivist is in place

The records to be permanently retained are offered to the archivist for archiving. **The Archivist will take into custody records that have been identified by the Archivist as of archival value. This may be the complete record or a statistical sample of the record series.** Where the archivist does not agree to take all or only part of the records they will agree with the designated officer in the business unit/section and the Records centre as to what should happen to the records. Where a record is to be retained for an extended period or permanently but the archivist has decided the records are not required for archive purposes then arrangements can be made by the business unit to store the records securely either through designated on site or off-site storage facilities.

It should be noted however that all permanent storage whether on-site or off-site should be provided so that the records being stored are indexed in such a way that the retrieval of individual files, when required, can be achieved. This must be the case regardless of whether the storage is electronic; digital; and/or in hard copy formats.

Where an archivist is in place they will be in a position to provide advice on the most appropriate electronic format in which records should be stored so as to ensure the provenance of individual records so that they satisfy the evidentiary requirements a Court may impose if the specific record is required to be produced as part of legal proceedings.

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Records transferred to the custody of the Archivist require a Transfer Sheet documenting the records transferred by the business unit. The Archivist is required under Section 80 of the Local Government Act, 2001 to make records available to the public under the same terms as that of the National Archives i.e. public records are open to the public after 30 years. The National Archives Act, 2018 has reduced this period to 20 years in the case of records in relation to Anglo-Irish relations. Records considered commercially sensitive, required for continuing business purposes or containing personal or sensitive information can be closed to the public for a longer period with the approval of the Archivist.

In order to make archives available the Archives Service produces a Descriptive List which provides a more detailed description of the records to facilitate access to the records and allow researchers and the public to identify records of interest. The Descriptive List is sometimes produced using specialist software and it is this rather than the Transfer List (or Box List) that provides access to records. This process also allows the Archives Service to identify records requiring conservation or requiring closure due to personal or sensitive information. The Descriptive List is drawn up to the International Standard of Archival Description (ISADg). Unprocessed collections, without a completed Descriptive List, are not made publically available.

When an archivist is not in place

When an archivist is not in place then the local authority's own Records Centre must determine the most appropriate format for the permanent retention of records identified as having archival value. In the event of no archivist then the records should be retained indefinitely (either on-site or in off-site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.

Once again, the records can be stored permanently by the Local Authority either through designated on site or off-site storage facilities and can either be stored in electronic; digital and/or in hard copy file formats. Any records storage system must ensure the provenance of individual records so that they satisfy the evidentiary requirements a Court may impose. PDF/A is an ISO-standardized version of the Portable Document Format specialized for use in the archiving and long-term preservation of electronic documents and currently is in common use. Consideration should be given in consultation with the Head of Information Systems as to the most suitable format to ensure: the long-term integrity, retrievability, and digital continuity of electronic archives. Guidance documents on digital preservation are available from the Digital Repository of Ireland www.dri.ie and from the Digital Preservation Coalition www.dpconline.org

It should be noted however that all permanent storage whether on-site or off-site should be carried out in a manner that ensures that the records being stored are indexed in such a way

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that the retrieval of individual files, when required, can be achieved. This must be the case regardless of whether the storage is electronic; digital; and/or in hard copy formats.

File Transfer List

It is important that the information provided on the File Transfer List adequate to ensure that any one file can be quickly and successfully retrieved. If the sheets are incomplete, this can result in considerable time and effort wasted in trying to locate a file for any future file requests. If the boxes and lists are not correctly completed when they arrive at the Records Centre, please be aware that they will be returned to the relevant section for amendment.

A Transfer List should be used for each box to list its full contents

Information should, ideally, be provided under each heading as below in this example

FILE TRANSFER LIST

| | |
|-----------------------------------|--|
| Originating Dept./Section: | |
| Staff Name: | |
| Signature: | |
| Box(es) No.(s) | |
| Date of Transfer | |

| Record Series | Code | Date Range | File Description | Retention Period | Barcode |
|----------------------|-------------|-------------------|-------------------------|-------------------------|----------------|
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National Records Retention Schedules for Local Authorities

The person filling out the File Transfer List must sign their name in the relevant section of the document and the date that the list was compiled for transfer to the Records Centre. The remainder of the sheet can be filled out electronically.

Record Series – this means a series of files with a subject in common, e.g. Planning enforcement files, Well Grants files &c.

File Code – if there is a classification system in place in a section, please enter the code here. If not, the column should be left blank

File Description – this relates to the file name, e.g. name and address details/location/batch of each file. Note: if a list of the files to be transferred is already in Excel or Word format, the list (recording only those files for a particular box) can be printed out and affixed to the File Transfer Sheet. The File Transfer Sheet must still be signed and dated by the transferee.

Covering Dates – record the earliest and latest dates of each file here. The date can be an important piece of information in identifying a file for retrieval

Retention Period – this is the recommended file retention period as outlined in the National Retention Policy for Local Authority Records or in any retention policy approved for use by your local authority. Contact your Archivist or Records Manager if the retention period is unclear or the series of files are not already included in the current records retention policy document.

When the off-site storage provider supplies the transferee with the barcodes assigned to the boxes transferred, add these to the original transfer list.

Data protection Implications

Personal Data

Some activities require local authorities to collect and process personal data from members of the public. The format for the revised records retention schedules identifies where personal data is being collected and processed. All sub-functions and business activities where personal data is being collected, stored and processed must adhere to the guiding principles of Data Protection (see below).

Data Protection principles and regulations

Data Protection is about the safeguarding of the privacy rights of individuals in relation to the processing of personal data.

The General Data Protection Regulation (GDPR) came in to effect in May 2018. For bodies subject to GDPR and the Data Protection Act, 2018, it means strengthened data subject rights

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with more emphasis for bodies on transparency, accountability and security when it comes to the collection and processing of personal data.

Local authorities provide services directly to the public and therefore request and obtain personal details from individual citizens in order to process claims for services to be provided. Local authorities are therefore in terms of Data Protection legislation to be considered as Data Controllers.

As Data Controllers local authorities have certain key responsibilities in relation to the information which are kept on computer or in a structured manual file about individuals. These may be summarised in terms of Principles of Data Protection which must be followed, and which are listed below.

1. Lawfulness, fairness and transparency
2. Purpose limitation
3. Data minimisation
4. Accuracy
5. Storage limitation
6. Integrity and confidentiality
7. Accountability

These provisions are binding on every data controller. Any failure to observe them would be a breach of the GDPR. The GDPR gives data subjects who feel that they have suffered material or non-material damage as a result of an infringement of the data protection rights the right to seek compensation and any breaches of the Regulation opens the data controllers to administrative fines for those breaches.

The revised accompanying Records Retention Schedules have been drafted with one eye on GDPR and the Data Protection Act, 2018.

Retention of personal information for archival purposes

The Data Protection Act, 2018 (sections 42 and 54) and Article 89 of the General Data Protection Regulation, recognise and protect the right to process and retain personal information for archival purposes, for scientific or historical purposes or for statistical purposes in the public interest.

Under Section 80 of the Local Government Act, 2001 it is a function of a local authority to make arrangements for the proper management, custody, care and conservation of local records and local archives and for inspection by the public of local archives. This is the legal basis upon which local authorities retain records for archival purposes. This retention of records for archival purposes must adhere to the requirements of data protection ensuring

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the security of the personal data retained, respecting the principle of data minimisation and informed consent and taking into account the public interest.

Data Protection Act, 2018

- 42.** (1) *Subject to suitable and specific measures being taken to safeguard the fundamental rights and freedoms of data subjects, personal data may be processed, in accordance with Article 89, for—*
- (a) archiving purposes in the public interest,*
 - (b) scientific or historical research purposes, or*
 - (c) statistical purposes.*
- (2) *Processing of personal data for the purposes referred to in subsection (1) shall respect the principle of data minimisation.*
- (3) *Where the purposes referred to in paragraph (a), (b) or (c) of subsection (1) can be fulfilled by processing which does not permit, or no longer permits, identification of data subjects, the processing of information for such purposes shall be fulfilled in that manner.*

Processing of special categories of personal data for archival purposes

- 54.** *Subject to compliance with section 42, the processing of special categories of personal data is lawful where such processing is necessary and proportionate for—*
- (a) archiving purposes in the public interest,*
 - (b) scientific or historical research purposes, or*
 - (c) statistical purposes.*

Records offered to the Archivist and taken into the custody of the Archivist are subject to the security, archival processing and public access arrangements of the Archives Service and the Archivist acts as Data Controller for these records.

In an Archives Service records containing personal information retained for historical purposes will be closed to public access for 100 years. However, business sections can, where a legal basis exists or where an important objective of general public interest can be identified, access archived records under the same strictly controlled circumstances envisaged for data subjects. While these records are closed they will be accessible to the data subject on request and may be accessible for the purposes of historical, scientific or statistical research under strictly controlled conditions requiring any person accessing the information through the archive to comply with conditions requiring all personal information to be anonymised in any such research and adhering to the security conditions put in place by the Archives Service.

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Legal basis for requesting personal data replaces legitimate interest and informed consent

The GDPR as well as determinations handed down in recent ECJ decisions requires that there should be a legal basis for the operations of public bodies where personal data is sought from the public as part of a service being provided. The collection of such personal data must also be collected to meet an objective of public interest and the data sought must be proportionate to the legitimate aim being pursued by the public body. The GDPR removes the ability of public bodies seeking personal data to rely on the previously acceptable grounds of (i) informed consent from individuals; and (ii) legitimate interest based on a public body's own policy.

It should be noted that to assist in identification of the legal basis that underpins the business activities of local authorities the records retention schedules contained in this document attempt to list the relevant legislation associated with the listed activity.