

BURLESCOMBE PARISH COUNCIL

DOCUMENT RETENTION POLICY

INTRODUCTION

Burlescombe Parish 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 Parish Council.

Information about local council documentation is contained in Chapter 11 of Arnold-Baker on Local Council Administration.

SCOPE OF THE POLICY

This policy applies to all records created, received or maintained by the Parish Council in the course of carrying out its functions.

Records are defined as all those documents which facilitate the business carried out by the Parish 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 Parish Council's records will be selected for permanent preservation as part of the Council's archives and for historical research.

RESPONSIBILITIES

The Parish 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.

The Clerk will give guidance for good records management practice and will promote compliance with this policy so that information will be retrieved easily, appropriately and in a timely fashion.

The Parish Council will only keep data for as long as it is necessary to do so.

RELATIONSHIP WITH EXISTING POLICIES

This policy has been drawn up within the context of:

- Freedom of Information policy
- General Privacy Notice
- Privacy Notice
- Model Publication Scheme
- Model Financial Regulations

and with other legislation or regulations (including audit and Statute of Limitations) affecting the Parish Council.

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. Where planning permission is granted on appeal, a copy of the appeal decision should also be retained. 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 appeal period has expired. If an appeal is made and dismissed, the decision letter may be worth retaining against further applications relating to the same site.

All planning applications and decisions are recorded in the minutes of meetings of Parish Council meetings.

Mid Devon District Council's Planning Portal holds copies of all planning applications and can be accessed by members of the public.

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. The certificate of employers' liability insurance must be prominently displayed throughout the period of cover.

Where the Clerk/Responsible Financial Officer works from home then a copy of the certificate can be made available electronically. (Regulation 5 of the Employers' Liability (Compulsory Insurance) Regulations 1998).

Information from other bodies

Documents such as circulars, from NALC, county associations and other bodies (e.g. principal authorities) should be retained for as long as is useful and relevant.

Magazines, journals and other publications

Journals published by others (e.g. local government news journals and magazines) should be retained as long as they are useful and relevant.

Correspondence

If related to audit matters, correspondence should be kept for the appropriate period specified in the Annex. 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.

Documentation relating to staff

Such documents should be kept securely and in accordance with the data protection principles contained in data protection legislation. The principles provide that personal data in relation to staff should not be kept for longer than is necessary for the purpose for which it was held. However, even after an employment relationship has ended, or in some cases, when there is no employment relationship, a council may need to retain and access records for former staff for the purpose of giving references, payment of tax, national insurance contributions and pensions, and in respect of any related legal claims made against the council. Such claims could be made, for example, by job applicants, so records of the selection process will need to be retained. The time limits within which a claim (and any appeal) may be lodged against an employer at an employment tribunal are set out in the legislation that contains the employment right in question, or failing that, by reference to the Limitation Act 1980 (as amended).

Local and historical information

The Local Government (Records) Act 1962 provides that parish councils (and parish meetings in parishes without a separate parish council) may acquire records of local interest and accept gifts or records of general and local interest to promote the use of such records (defined as materials in written or other form setting out facts or events or otherwise recording information).

Arrangements for the deposit, storage and management of documents

Documents of local and or historical importance, if not retained and stored by a local council, with or without reliance on the provisions of section 227 of the 1972 Act, should be offered first to the county record office if there is one.

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 information (category/limitation period) below sets out the limitation periods for the different categories of claims. The reference to 'category' refers to claims brought in respect of that category.

- Negligence (and other torts except for personal injury) — Six years
- Personal injury — Three years
- Defamation — One year
- Contract — Six years
- Leases — 12 years
- Sums recoverable by statute — Six years
- To recover land — 12 years
- Rent — Six 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 (six years) — Because all tenancies and leases are contracts.
- Leases (12 years) — If the arrears are due under a lease.
- Rent (six years) — If the arrears are due under a tenancy (and not a lease).

In these circumstances, NALC advises that the relevant documentation should be kept for the longest of the three limitation periods.

As there is no limitation period in respect of trusts, councils 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 do not become aware of damage until a later date (e.g. in the case of disease).
- Where damage is hidden (e.g. to a building).
- Where a person is a child or suffers from a mental incapacity.
- Where there has been a mistake by both parties 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 are being made.
- The value of the claims.
- The inability to defend any claims made should the relevant documentation be destroyed.

Data Protection and Freedom of Information Considerations

The Code of Practice on the Management of Records issued under section 46 of the Freedom of Information Act 2000 applies to public authorities and also bodies which are subject to the Public Records Act 1958 (the 1958 Act). Although local councils are not subject to the 1958 Act, they should familiarise themselves with the contents of the Code of Practice so they can formulate their own system of records management.

Annexe: Retention of documents required for the audit of parish and town councils

Document	Minimum retention period	Reason
Minute books	Indefinite	Archive
Scales of fees and charges	Six years	Management
Receipt and payment account(s)	Indefinite	Archive
Receipt books of all kinds	Six years	VAT
Bank statements, including deposit/savings accounts	Last completed audit year	Audit
Bank paying-in books	Last completed audit year	Audit
Cheque book stubs	Last completed audit year	Audit
Quotations and tenders	Six years	Limitation Act 1980 (as amended)
Paid invoices	Six years	VAT
Paid cheques	Six years	Limitation Act 1980 (as amended)
VAT records	Six years generally but 20 years for VAT on rents	VAT
Petty cash, postage, and telephone books	Six years	Tax, VAT, and Limitation Act 1980 (as amended)
Timesheets	Three years (or last completed audit year)	Audit (requirement) and personal injury (best practice)
Wages books	12 years	Superannuation
Insurance policies	As long as a claim can be made under it	Management and legal proceedings
Certificates for Insurance against liability for employees	Indefinitely	Future claims
Investments	Indefinite	Audit and management
Title deeds, leases, agreements, contracts	Indefinite	Audit and management
Members allowances register	Six years	Tax and Limitation Act 1980 (as amended)