

# Hopesay Parish Council Data Retention Policy

Adopted at the full council meeting 24/02/20, reviewed 18/10/21.

Introduction: Hopesay Parish Council is required to manage its data and keep a data retention schedule in accordance with the Freedom of Information Act 2000 and the GDPR 2018. There is a clear need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes and legal proceedings. Subject to these reasons for retaining documents, and as a basic starting point, papers and records may be destroyed if they are no longer of use or relevant. If necessary, document(s) will be retained until proper advice has been received.

Historical documents not retained by the parish council which are of historical importance will be offered to the County Records Office if appropriate.

Many documents are now only held electronically and the same arrangements for keeping records and copies will be applied to electronic documents and paper documents.

This policy is intended to provide clarity to document / record retention by Council and is based on NALC Legal Topic Note 40 and SLCC 'documents for retention and disposal' advice. Document retention and this policy will be reviewed at least annually.

Councillors (Members) are responsible for the security and appropriate retention of any data related to Council business that they keep on their personal machine(s) e.g. laptop, mobile phone, etc.

Planning: Hopesay Parish Council no longer receives hard copies of planning applications. Instead, planning applications and associated documents are available for councillors and the general public to view online, via the Planning Portal on the Shropshire Council website. Availability of planning applications going back to 2007 has been checked and as far as this parish council can ascertain, all previous applications are available to view online. Therefore, the only paper copies this parish council now retains are the few relating to the parish council, the village hall, the village shop, the Arbor Tree, and a few that were considered contentious.

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

Hopesay Parish/Neighbourhood Plans should be kept indefinitely (final/adopted versions), for historical purposes.

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

Correspondence: If related to audit matters, correspondence should be kept for the appropriate period specified in the Annex on the last page. In planning matters, correspondence sent to the parish council should be retained until the application has been granted, and if appealed, until the appeal has been completed. For other correspondence (unless relating to staff), there are no firm guidelines, but such correspondence will be retained for as long as it is useful or relevant. Information received from other bodies, and in sector magazines and newsletters, will be retained for as long as it is useful and relevant.

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Staffing and employment documentation: Staffing records and documentation should be kept securely and in accordance with data protection principles contained in the Data Protection Act 1998 and in the GDPR 2018. The principles provide that personal data in relation to staff should not be kept for longer than is necessary for the purpose it was held. However even after an employment relationship has ended, a council will need to retain staff 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. 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). The time for lodging a claim at an employment tribunal is usually measured from the date that the employment relationship ended or the date of the act complained of.

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

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
Trust Deeds	Indefinite

Where the limitation periods above are longer than other periods specified, the documentation should be kept for the longer period. Some types of legal proceedings may fall within two or more categories. E.g. Rent arrears could fall within the following three categories (depending on the circumstances): contract (6 years) – because all tenancies and leases are contracts; leases (12 years) – if the arrears are due under a lease; and rent (6 years) – if the arrears are due under a tenancy (and not a lease).

Relevant documentation should be kept for the longest of the limitation periods.

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, Council will weigh (i) the costs of storing relevant documents and (ii) the risks of claims being made; the value of the claims; and the inability to defend any claims made should relevant documentation be destroyed.

Council will also ensure that it complies with any terms contained in its insurance policies in respect of the retention of documents and information.

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Data Protection and Freedom of Information: The ICO Section 46 Code of Practice records management 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. The Code of Practice is available on the internet and can be accessed via the following link:

<https://ico.org.uk/media/for-organisations/documents/1624142/section-46-code-of-practice-records-management-foia-and-eir.pdf>

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

## Destruction / deletion of documents and data:

The method of disposal should be appropriate to the nature and sensitivity of the documents concerned. A record of the disposal (name of document, date and method of disposal) will be kept to comply with the General Data Protection Regulations.

- Non-confidential records: place in waste paper bin for disposal.
- Confidential records or records giving personal information: shred documents.
- Deletion of computer records: confidential or personal information electronic data will be deleted using 'virtually impossible to retrieve' programs as advised by the Information Commissioner.
- Transmission of records to an external body such as the County Records Office.

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## ANNEX: MINIMUM RETENTION OF DOCUMENTS REQUIRED

Document	Minimum Retention Period	Reason
Minutes, minute books	Indefinite	Archive
Agendas	5 years	Management
Accident/Incident reports	20 years	Potential claims
Scales of fees and charges	6 years	Management
Receipt & payment accounts	Indefinite	Archive
Receipt books of all kinds	6 years	VAT
Bank statements of all kinds*	Last completed audit year*	Audit
Paying in books, cheque books*	Last completed audit year*	Audit
Quotations and tenders	6 years	Limitation Act 1980
Paid invoices	6 years	VAT
Paid cheques (where possessed)	6 years	Limitation Act
VAT records	6 years (20 yrs on rents)	VAT
Petty cash, postage, phone	6 years	Tax, VAT, Limitation Act
Timesheets	3 years	Audit, best practice
Wages books/payroll	12 years	Superannuation
Insurance policies	While valid (the very minimum) but see below	management
Insurance company names & policy numbers	Indefinite	management
Certificates for Insurance against liability for employees	40 years from date on which insurance commenced or was renewed	The Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753), Management
Equipment in public use (parks, play areas) inspection records	21 years	Potential claims
Investments	Indefinite	Audit, management
Title deeds leases agreements contracts	Indefinite	Audit, management
Members allowances register	6 years	Tax, limitation act
Non-specific information from other bodies	As long as it is useful or relevant	N/A
Local/historical information	Indefinite – to be securely kept for the benefit of the parish	N/A

\* Hopesay Parish Council will keep these items for longer than the minimum period to maintain a more complete financial record