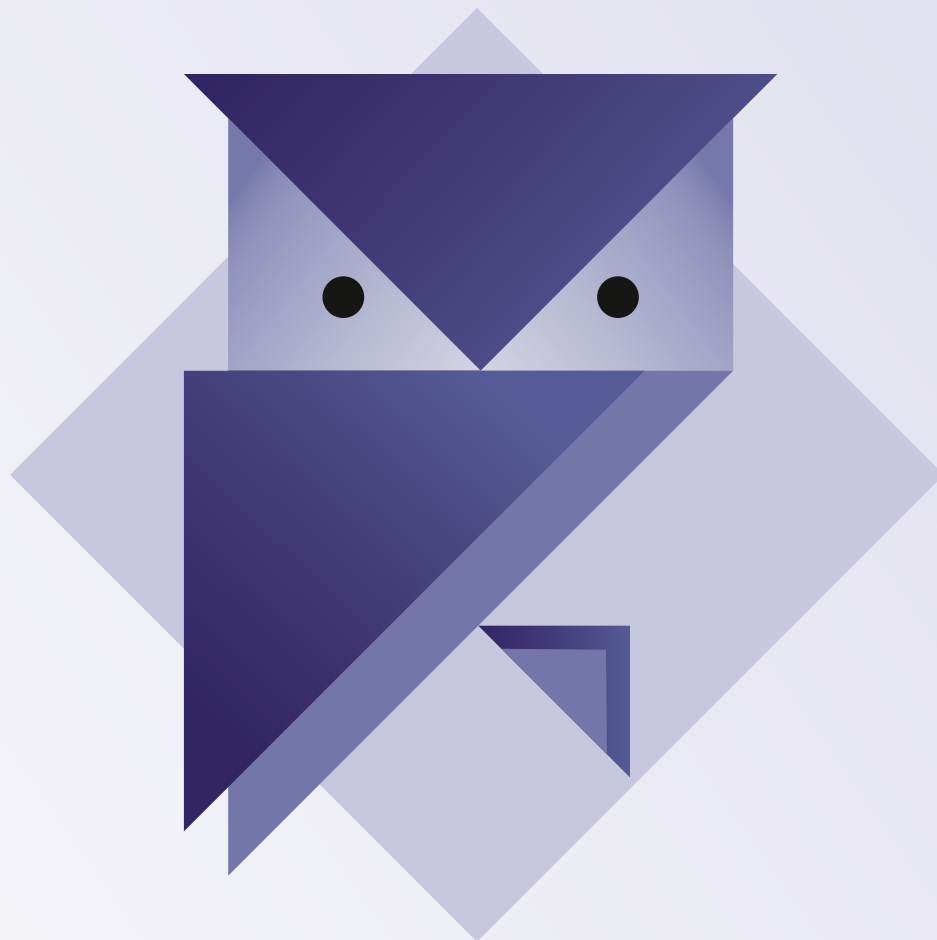




Ministry  
of Justice

Information **Wise**  
Make **every day** easier



# WHAT TO KEEP

## THE MOJ'S RETENTION POLICY AND GUIDANCE

2023

# Introduction

Information underpins everything we do, including developing our policies and delivering services to our customers. It informs the evidence-based decisions that we make every day.

As part of good information management, we should be confident that we know where and for how long to hold different types of information and what we should do with it when we no longer have a lawful basis to hold it. Sometimes we will need to return the information to its originator, sometimes we will need to transfer it to another organisation such as The National Archives, and sometimes we will need to delete or destroy the information.

This document outlines our retention policy for information, data and records and is one of the policies for which the Departmental Records Officer (DRO) is responsible. This policy should be read in conjunction with MoJ's information management policy<sup>1</sup> (which includes more information about the DRO's role and responsibilities) and our information risk policy.<sup>2</sup>

This policy applies to all staff employed by the MoJ, its agencies and associated bodies, and to contractors and third-party suppliers who manage information on our behalf.

- 1 Further information can be found on the intranet
- 2 Further information can be found on the intranet

# Definitions

Within MoJ, we hold different types of information. For the purposes of this policy and guidance, the following definitions are used:



**Information** is any individual fact or content, number, image or sound and can be held or used in any format.



**Records** are the information or data which we need to keep in order to:



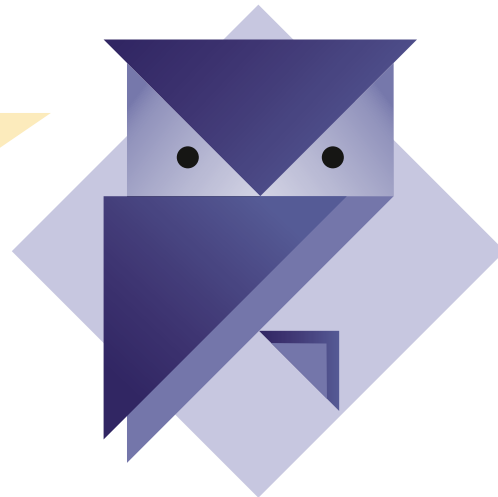
**Data** is a form of information that is held digitally in a structured way.



**Personal data** is a combination of any two or more pieces of information that identify a living individual.<sup>3</sup>

- show what decisions we have made, how we have implemented the minister's priorities and how we have spent public money
- help us to manage our ongoing services and to provide answers required by Parliament or the public (e.g. in response to parliamentary questions or Freedom of Information requests)
- comply with our responsibilities as line managers

Records come in many formats including email, spreadsheets, images, tables and recordings. More detailed guidance about what is and isn't a record can be found in Table 2.



3 Article 4(1) of the General Data Protection Regulation 2018 states: "personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person" (<https://gdpr-info.eu/art-4-gdpr/>)

# Principles

1. We only hold the information that we need and do not keep it longer than is necessary.
  2. We comply with our legal obligations, including suspensions on the destruction of information imposed by inquiries.
  3. We comply with retention policies in Data Sharing Agreements and contracts, ensuring that we confirm that records or data have been deleted when the agreement or contract requires us to do so.
  4. If in exceptional circumstances, we hold information on personal devices, personal email accounts or non-corporate systems,<sup>4</sup> we transfer it to corporate systems as soon as possible, and we delete the information from its original location.
  5. Records (including emails) held by line managers, recruiting managers and others involved in HR processes are held securely on personal drives and in line with legal requirements. Retention periods for these records are set out in Table 1.
  6. All other records are held for the periods set out in the relevant records retention and disposition schedules (RRDS):<sup>5</sup>
    - a. Some of these records are held in case management systems.
    - b. All other records, (including emails) should be stored in the corporate memory (this might be Just Store or a shared drive or an MS Teams site in SharePoint). Corporate records are not to be held on personal drives, OneDrive, Trello or other open access internet tools, mailboxes, nor in personal email accounts in in line with the *Using non-corporate communication channels (e.g. WhatsApp, private email, SMS) for government business guidance*.<sup>6</sup>
    - c. See Table 3 for detail about the records that should be selected for the corporate records.
  7. Where records need to be retained for the national memory (the public record), the Departmental Records Officer's team will manage this process. This applies to records in all formats, including those held in case management systems (e.g. cases heard in the Crown Court). If you are not sure if records in your case management system is covered, please check your RRDS.
- 4 Using non-corporate communication channels (e.g. WhatsApp, private email, SMS) for government business guidance is available at: <https://www.gov.uk/government/publications/non-corporate-communication-channels-for-government-business>
- 5 RRDS are published at: <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>. If you cannot find the relevant RRDS for your work, contact [Records\\_Retention@justice.gov.uk](mailto:Records_Retention@justice.gov.uk)
- 6 Using non-corporate communication channels (e.g. WhatsApp, private email, SMS) for government business guidance is available at: <https://www.gov.uk/government/publications/non-corporate-communication-channels-for-government-business>

8. Some data is held in systems or portals. The retention periods for data in these systems and portals is set out in the Data Protection Impact Assessment.
9. Any personal data which is not part of a record is kept for as short a time as possible and then destroyed.
10. Ephemeral information, such as instant messages, canteen menus or room bookings, should be deleted as soon as possible.
11. All other information, regardless of format, is kept for a maximum of three years. If the information is needed for more than three years, it should be held in the corporate memory.
12. When moving job roles or leaving the department, data and information held will be reviewed as part of the exit process. All data and information held by employees and line managers is subject to the retention periods in the table below. As part of good information management practice, data and information will be deleted and/or moved into the corporate memory or appropriate location for safekeeping.

## Legal requirements

Some records have to be retained in compliance with specific pieces of information such as the Limitations Act 1980. These retention periods are set out in the appropriate RRDS.

Other legislation which affects the length of time that we keep information includes:

- **Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR)** which require us to protect the rights of an individual (data subject) and require us to keep personal data for no longer than is necessary.
- **Public Records Act 1958** which requires government departments, the courts and tribunals to identify the records which need to be selected for the public record (permanent preservation), and to destroy all other records as necessary.
- **Inquiries Act 2005** which provides the governance by which a statutory inquiry can impose a suspension on the destruction of records. MoJ is currently subject to two relevant suspensions:
  - **UK Covid-19 Inquiry**, which requires us to keep information about our preparations for a national emergency as well as records of decisions, communications and policies developed throughout the pandemic.<sup>7</sup>
  - **Infected Blood Inquiry**, which requires us to keep information about infected or contaminated blood, any illnesses arising from the use of those products and blood donations by groups at high risk of illnesses which are transmitted through blood products.<sup>8</sup>

7 Further information can be found on the intranet

8 Further information about the Infected Blood Inquiry is available at on its website: <https://www.infectedbloodinquiry.org.uk/about>. If you are not sure whether this suspension applies to your team, contact [Records\\_Retention\\_@justice.gov.uk](mailto:Records_Retention_@justice.gov.uk)

# Tables

## Table 1: HR records held by managers and business areas

This table does not cover information held on SOP, Oleo, or any other system managed by SSCL.

This table covers records held by line managers, recruiting managers, National Security Vetting contacts, HR caseworkers and volunteers such as bullying and harassment advisers, mental health allies and nominated officers (whistle-blowing).

All records (including emails) should be held on the individual's personal drive and deleted in line with the retention periods below.

If you hold information that is not covered by the table, contact [Records\\_Retention@justice.gov.uk](mailto:Records_Retention@justice.gov.uk).

Type of record	Held by	Retention period
Leave sheets (annual, flexi, etc)	Employee	Three years
<b>Performance including:</b> <ul style="list-style-type: none"> <li>• performance management</li> <li>• talent management</li> <li>• reward and recognition</li> <li>• personal development</li> </ul>	Line manager	Three years
Attendance management, sick leave, occupational health, workplace adjustments	Line manager	<b>Signed fit notes</b> from doctors: return to employee within one month of return to work <b>All other records:</b> seven years
Health and safety	Line manager	Three years

Type of record	Held by	Retention period
Discipline (dismissal and non-dismissal)	Line manager HR case worker	Three years from date of last document
Grievance, investigations and appeals	Line manager HR case worker Investigating officer	Three years from date of last document
Recruitment – applications, sifting, supporting documents (paper originals)	Recruiting manager	Two years <sup>9</sup> from date decision made
Vetting documents (both at recruitment or while in service)	National Security Vetting contacts	One year
Resignation and associated leavers' paperwork	Line manager	Three years from last date of service
Case files held by staff with who hold voluntary roles	Volunteers including, but not limited to: <ul style="list-style-type: none"> <li>• nominated officers (whistle-blowing)</li> <li>• bullying and harassment advisers</li> <li>• mental health allies</li> </ul>	Three years from date of last document
HR records held by business areas (e.g. to monitor recruitment and retention)	Business support teams (e.g. at division, directorate and group level)	Records needed for financial purposes: seven years from end of financial year All other records: three years from end of financial year
Expenses (including receipts)	Employee	Three years

9 Paragraph 65 of Civil Service recruitment principles: [https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/03/02a\\_RECRUITMENT-PRINCIPLES-April-2018-FINAL-.pdf](https://civilservicecommission.independent.gov.uk/wp-content/uploads/2019/03/02a_RECRUITMENT-PRINCIPLES-April-2018-FINAL-.pdf)



## Table 2: What is and isn't a record

If you hold information that is not covered by this table, or if you need advice on how/where to save records, contact [Records\\_Retention\\_@justice.gov.uk](mailto:Records_Retention_@justice.gov.uk).

Type of information	Is it a record?
Recordings of meetings, presentations and broadcasts	It varies. Check the <a href="#">Acceptable Use Protocol for Recordings</a> for more detailed guidance <sup>10</sup>
Information contributes to policy or decision-making process	Yes
Information contributes to an action taken or decision made	Yes
Information contributes to a change to organisational policy or procedure	Yes
Information has financial or legal implications (e.g. a contract, a grievance case)	Yes
Information supports and/or helps the running of MoJ business (e.g. team budgets, business continuity management)	Yes
Information needs to be approved by, or reported to, another individual or internal or external body (e.g. Permanent Secretary, spending team)	Yes
Information includes a precedent or contains something unique of historical interest (e.g. audio clip or video file)	Yes
Information was created as a result of specific legislation (e.g. Finance Acts)	Yes
Information relates to (either directly or indirectly) the sexual abuse of children or to child protection and care (i.e. of potential interest to the Independent Inquiry into Child Sexual Abuse)	Not necessarily – must be kept

<sup>10</sup> Further information can be found on the intranet

Type of information	Is it a record?
Information relates to (either directly or indirectly) blood donations, contaminated or infected blood products, HIV, hepatitis, (i.e. of potential interest to the Infected Blood Inquiry)	Not necessarily – must be kept
Information about staff	Not necessarily – check Table 1
None of the above – then the information is not a record and can be destroyed when it is no longer required (in line with principles above)	No

## Table 3: Specific types of information that should be treated as records and part of the corporate memory

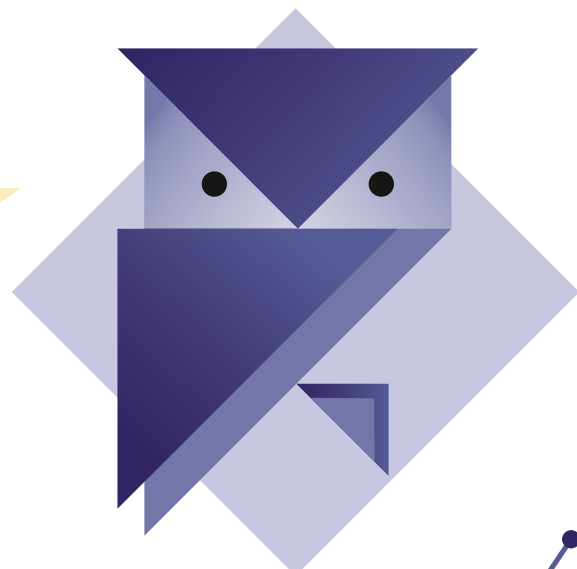
This table gives more information about types of records than Table 2. If the information that you hold isn't covered, but you think it is a record, contact [Records\\_Retention\\_@justice.gov.uk](mailto:Records_Retention_@justice.gov.uk) for further help.

Type of information	Records to be saved in the corporate memory
<b>Ministerial business</b>	<ul style="list-style-type: none"> <li>• Advice on and briefings for ministerial visits/visitors</li> <li>• Submissions requiring policy decision</li> <li>• Submissions requiring funding decision</li> <li>• Policy decisions</li> <li>• Funding decisions</li> </ul>
<b>Development of government policy and/or legislation</b>	<ul style="list-style-type: none"> <li>• Drafts for comment</li> <li>• Drafts reflecting significant changes in approach</li> <li>• Final versions</li> </ul>

Type of information	Records to be saved in the corporate memory
<p><b>Projects and research</b></p>	<ul style="list-style-type: none"> <li>• High-profile or innovative projects concerning changes to MoJ policy, planning and business:               <ul style="list-style-type: none"> <li>• initiation documents</li> <li>• interim and final evaluation reports</li> <li>• project proposals</li> <li>• project research, feasibility studies, plans, specifications</li> <li>• terms of reference, minutes, agendas, etc.</li> </ul> </li> <li>• Publications produced by partners, e.g. annual reports</li> <li>• High-profile research and final reports</li> <li>• Routine projects, study groups, research and statistical data</li> </ul>
<p><b>Stakeholder management</b></p>	<ul style="list-style-type: none"> <li>• Memoranda of understanding</li> <li>• Financial reports</li> <li>• Review meeting notes</li> <li>• Audited accounts</li> <li>• Correspondence</li> </ul>
<p><b>Business support and administration</b></p>	<ul style="list-style-type: none"> <li>• Group, directorate or division information (e.g. risk registers, headcount information, information asset registers, management information and statistics)</li> <li>• Copies of directorate financial information (final versions should also be held by the finance directorate)</li> <li>• Meetings, events and engagement activities</li> <li>• Accommodation</li> </ul>

## Further help

If you need further information, contact:  
[Records\\_Retention@justice.gov.uk](mailto:Records_Retention@justice.gov.uk).





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