



# Court of Appeal Criminal Division and Courts-Martial Appeal Court

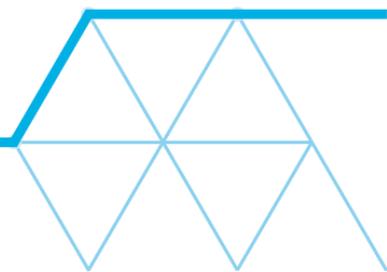
## Records Retention and Disposition Schedule

### Introduction

1. This schedule has been drawn up following consultation between HM Courts and Tribunals Service (HMCTS) and staff working for the Departmental Records Officer (DRO) in the Ministry of Justice.
2. As a public body, the MoJ takes its responsibilities for managing information seriously. These responsibilities include compliance with the Public Records Act 1958, General Data Protection Regulation, the Data Protection Act 2018, Freedom of Information Act 2000 and amending legislation. The MoJ uses Records Retention and Disposition Schedules (RRDSs) to manage its compliance with its statutory obligation to identify what we hold, how long we keep it and what should happen to these records at the end of that time.
3. Some of the records of the Court of Appeal Criminal Division are selected for permanent preservation.<sup>1</sup> The National Archives (TNA) sets out the criteria for the records it will accept in its Operational Selection Policy 40 (OSP 40) *Records of the Crown Court and Court of Appeal (Criminal Division)*: [www.nationalarchives.gov.uk/documents/information-management/osp40final.pdf](http://www.nationalarchives.gov.uk/documents/information-management/osp40final.pdf).
4. All cases heard in the Courts-Martial Appeal Court are selected for permanent preservation, as set out by TNA in section 12 of OSP 46 Records relating to Military Law and Courts-Martial: [www.nationalarchives.gov.uk/documents/information-management/osp46.pdf](http://www.nationalarchives.gov.uk/documents/information-management/osp46.pdf).

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<sup>1</sup> Public Records Act 1958 s.3(6): [www.legislation.gov.uk/ukpga/Eliz2/6-7/51/section/3](http://www.legislation.gov.uk/ukpga/Eliz2/6-7/51/section/3)



5. The records selected for permanent preservation are transferred to The National Archives (TNA) by the DRO's team. To avoid confusion, this process includes:
  - a. Records are reviewed by the DRO's staff prior to transfer to TNA, following criteria agreed between the two organisations.
  - b. Where records meet the criteria, they are prepared and then transferred to TNA.
  - c. In line with section 3.2.2 of OSP 40, some records are retained by MoJ until the defendant is 100 years old.
  - d. Where records do not meet the criteria, they will be destroyed.
  - e. The DRO makes the final decision about what is/is not transferred to TNA.
  - f. We have included TNA's classification of these records for convenience. To see other records with the same classification at TNA, you can search or browse TNA's catalogue using this number.<sup>2</sup>
6. The DRO's team is managing the transition from the '30-year rule' to the '20-year rule' in compliance with The Public Records (Transfer to the Public Record Office) (Transitional and Saving Provisions) Order 2012: <http://www.legislation.gov.uk/ukxi/2012/3028/contents/made>.<sup>3</sup>
7. The majority of the work of the Court of Appeal Criminal Division is governed by the Criminal Appeal Act 1968<sup>4</sup> and supporting rules.
8. The work of the Courts-Martial Appeals Court is governed by Courts-Martial Appeal Act 1968<sup>5</sup> and subsequent rules.
9. This schedule is split into three sections:
  - a. Records unique to the work of the Court of Appeal Criminal Division
  - b. Records unique to the work of the Courts-Martial Appeal Court
  - c. Records held by various teams within the MoJ and its associated bodies and where a common retention and disposition policy is applied.
10. If a Freedom of Information Act 2000 request or a subject access request under the General Data Protection Regulation and Data Protection Act 2018 is received, **a hold must be put on the destruction of relevant records until 20 working days after the request is resolved.**

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<sup>2</sup> To search TNA's catalogue (Discovery), go to: [discovery.nationalarchives.gov.uk/](http://discovery.nationalarchives.gov.uk/) and put quotation marks - "" around the classification number. To browse Discovery, go to: <http://discovery.nationalarchives.gov.uk/browse> and click on the first letter of the classification scheme.

<sup>3</sup> Further information about the transition to the '20-year rule' can be found at: <http://www.nationalarchives.gov.uk/information-management/manage-information/policy-process/legal-obligations-transfer/>

<sup>4</sup> To read the Criminal Appeal Act 1968, visit: <http://www.legislation.gov.uk/ukpga/1968/19/contents>

<sup>5</sup> To read the Courts-Martial (Appeals) Act 1968, visit: <http://www.legislation.gov.uk/ukpga/1968/20/contents>

11. While the Independent Inquiry into Child Sexual Abuse (IICSA) continues its investigations, the moratorium on the destruction of records of potential interest to IICSA remains in place. All government departments and their associated bodies (in common with other public sector bodies) are required to comply with the moratorium. All business areas should apply the moratorium to any records covered by the following criteria:

- a. documents which contain or may contain content pertaining directly or indirectly to the sexual abuse of children or to child protection and care
- b. the document types include, but are not limited to, correspondence, notes, emails, and case files, regardless of the format in which they are stored (digital, paper, CDs, etc)
- c. for the purposes of this instruction, the word “children” relates to any person under the age of 18
- d. further information about the moratorium is available on IICSA’s website at: [www.iicsa.org.uk/news/chair-of-the-inquiry-issues-guidance-on-destruction-of-documents](http://www.iicsa.org.uk/news/chair-of-the-inquiry-issues-guidance-on-destruction-of-documents).

12. As part of its commitment to transparency, this schedule will be published on the MoJ’s webpage: [www.gov.uk/government/publications/record-retention-and-disposition-schedules](http://www.gov.uk/government/publications/record-retention-and-disposition-schedules).

## The schedule

No.	Record type	TNA Classification	Retention and disposition
<b>1. Unique records held by the Court of Appeal Criminal Division<sup>6</sup></b>			
1.	<b>Appeals against Conviction and Appeals against Sentence</b>	J 82	<p>Keep for <b>two years</b> from the date of final disposal and then review.</p> <p>Cases which meet the criteria in a-f) below should be transferred to offsite storage or held on the Court's case management system until the records can be transferred to the DRO's team prior to transfer to TNA or kept in offsite storage until the defendant is 100 years old<sup>7</sup>:</p> <ul style="list-style-type: none"> <li>a) Set legal precedent</li> <li>b) Where life sentences have been imposed</li> <li>c) Where the defendant is detained at Her Majesty's Pleasure</li> <li>d) Criminal Cases Review Commission References</li> <li>d) Attorney General's unduly lenient sentence references</li> <li>e) Hospital orders without limit of time and all other cases where sentences or orders exceed seven years</li> <li>f) are considered as having special interest (e.g. receive a lot of media coverage)</li> </ul> <p>All other cases should be destroyed.</p>

<sup>6</sup> Court of Criminal Appeal Indexes are no longer produced so have been removed from the schedule. TNA holds records from 1908-1990 (classification: J 81). For more information see: <http://discovery.nationalarchives.gov.uk/details/r/C9689>

<sup>7</sup> Some cases that are to be retained may be a combination of digital and paper. If the record is to be retained, then papers should be digitised at this point and added to the digital records. Once the digital copy has been quality-checked, the papers can be destroyed.

2.	<p>Record of appeals received and disposed (held on the court's case management system) including, but not limited to:</p> <ul style="list-style-type: none"> <li>a) Notice and Grounds</li> <li>b) Transcripts from first instance court</li> <li>c) Single Judge / Registrar referral decisions</li> <li>d) Criminal Appeal Office case summary</li> <li>e) Full Court Order(s)</li> <li>f) Disposal decision (including lapses and abandonments)</li> <li>g) Transcripts of judgment</li> </ul>		Keep for <b>100 years</b> and then destroy.
<b>2. Unique records held by the Courts-Martial Appeal Court<sup>8</sup></b>			
3.	<b>Courts-Martial Appeal Court Cases</b>	J 135	<p>Keep at the court for <b>two years</b> from the date of final disposal.</p> <p>Either transfer to offsite storage or hold on the Court's case management system until the records can be transferred to the DRO's team who will manage the transfer to TNA.</p>
<b>3. Records managed by an MoJ-wide common retention and disposition policy</b>			
4.	HR information (held by line managers)		Destroy in line with the <i>What to keep</i> <sup>9</sup> guidance
5.	Finance and risk management		Store in folders by financial year which are closed annually. Keep for <b>seven years</b> after closure and then destroy.

<sup>8</sup> Courts-Martial Appeal Court Indexes are no longer produced so have been removed from the schedule. TNA holds records for 1952-1984 (classification: J 152). For more information see: <http://discovery.nationalarchives.gov.uk/details/r/C9759>

<sup>9</sup> *What to keep* is available at: <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>

6.	Business continuity plans		Updated annually. Keep previous versions for <b>three years</b> and then destroy.
7.	All other types of record not specified above, including copies of records which are owned by other business areas <sup>10</sup>		Keep for <b>three years</b> and then destroy.

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**Signed: 08 August 2019**

Last amended: May 2017

<sup>10</sup> If the business identifies record types which need a new retention period, they should contact the DRO's team.

