Probate Registries

HM Courts and Tribunals Service

Records Retention and Disposition Schedule

## Introduction

1. This schedule applies to the records that are created and managed by staff employed in the Probate Registries in HM Courts and Tribunals Service (HMCTS). It has been agreed following consultation with the Departmental Records Officer’s (DRO) team 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 (GDPR), the Data Protection Act 2018, Freedom of Information Act 2000 (FoIA) and amending legislation. The MoJ uses Records Retention and Disposition Schedules (RRDS) to manage its compliance with statutory obligations to identify what information and records we hold, how long we keep it and what should happen to these records at the end of that time.
3. The work of the Probate Registries is governed by The Non-Contentious Probate Rules 1987[[1]](#footnote-1), the Civil Procedure rules and supporting rules.

## More about this schedule

1. Many of the records described below must be permanently retained by the appropriate Registry[[2]](#footnote-2). These records (including wills and grants) are stored in offsite storage. Sealed copies can be requested from the Registry.
2. This schedule covers the records held in the Principal Probate Registry and District Probate Registries. Other records in the family jurisdiction are described in the County Court RRDS. This schedule is split into three sections:
   1. Records unique to the Probate Registries
   2. Records unique to HMCTS
   3. Records held by various teams within the MoJ and its associated bodies and where a common retention and disposition policy is applied.
3. 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 relevant records for at least **three months** after the request is resolved.
4. While the Independent Inquiry into Child Sexual Abuse (IICSA) continues its investigations, the moratorium on the destruction of records of potential interest 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:
   1. documents which contain or may contain content pertaining directly or indirectly to the sexual abuse of children or to child protection and care
   2. 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)
   3. for the purposes of this instruction, the word “children” relates to any person under the age of 18
   4. further information about the moratorium is available on IICSA’s website at: <https://www.iicsa.org.uk/news/chair-of-the-inquiry-issues-guidance-on-destruction-of-documents>.
5. As part of its commitment to transparency, this schedule will be published on the MoJ’s webpage: <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules>.

## The schedule

| No. | Record type | Retention and disposition |
| --- | --- | --- |
| 1. Unique records held by the Probate Registries | | |
|  | a) Wills and grants of representation from 1858[[3]](#footnote-3)  b) Abandoned cases  c) Forms of Renunciation  d) Summons  e) Citations  f) Probate refused  g) Subpoenas | Keep the following permanently[[4]](#footnote-4):   * Wills and grants of representation (including video recordings of witnessed signatures) * Statement of Truths * Codicils * Renunciations (revocations) * Probate engrossment * Powers of attorney (or power of consent) * Reason for delay * Alteration of grant * All birth, death and marriage court cases (divorce, adoption, etc) * Deed poll * Ancillary affidavits and witness statements * Inventory and account of estates * Order of domicile * Forged wills and related paperwork * Notarial or official copies of foreign wills * Official copies of entrusting documents * Notarial or official copies of certificates of inheritance   Keep all other documents for **50 years** and then destroy. |
|  | Probate applications  a) completed applications  b) withdrawn applications | a) Keep in Registry until then transferred to offsite storage for **preservation**.  b) Keep for **two years.** Remove original will(where included) and then destroy |
|  | a) Requests for Probate records  b) Settling applications  c) Caveats (withdrawn, expired and removed)  d) Standing searches  e) Safe Custody Will deposits | Keep for **three years** from the date of issue and providing there are no ongoing issues, destroy.  Where there are ongoing issues, keep until one year from date of resolution |
|  | Probate Registry statistics | Keep for **three years** from date of last action and then destroy |
| 2. Records unique to HMCTS | | |
|  | Financial and accounting records of the court | Keep for **seven years** after closure and then destroy |
|  | Records created as part of governance and assurance processes including:   * Key Control Check Sheets (KCCS) * Standard Operating Controls (SOC) * Previous equivalents | Destroy in line with the HMCTS Governance and Assurance RRDS |
|  | One Performance Truth (OPT statistics) | Keep for **three months** and then destroy |
|  | Other correspondence (other than case related correspondence) | Keep for **one year** and then destroy |
|  | Recordings or notes taken at hearings | Keep for **six years** from date of recording/note taken and then destroy. |
|  | **Financial**  a) Copy bank paying-in slips  b) Monthly statements of balance and related vouchers  c) Bank reconciliation records  d) Fee exemption/remission register  e) Refund documentation (Refund Authorisation forms)  f) List of maintenance transactions  g) Variations list and amendments list  h) Maintenance write-off list  i) Fee exemption/remission applications (approved) | For items a) - h), keep for **seven years** from date of last entry and then destroy  i) Keep for the remainder of the financial year, then for a further **two years**, andthen destroy |
| 3. Records managed by a common retention and disposition policy | | |
|  | HR information (held by line managers) | Destroy in line with the *What to keep*[[5]](#footnote-5)guidance |
|  | Business continuity plans (held by business) | Updated annually. Keep previous versions for **three years** and then destroy. |
|  | Litigation cases | Keep for **six years** from last action and then destroy |
|  | Finance and risk management information | Keep for **seven years** and then destroy. |
|  | All other types of record not specified above, including copies of records which are owned by other business areas[[6]](#footnote-6) | Keep for **three years** and then destroy. |

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**Signed: 1 March 2021**

1. These rules can be found at: <http://www.legislation.gov.uk/uksi/1987/2024/contents/made> [↑](#footnote-ref-1)
2. This complies with Senior Courts Act 1981 s.124 <http://www.legislation.gov.uk/ukpga/1981/54/section/124> [↑](#footnote-ref-2)
3. For wills and letters of administration before 1858, see: <http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/wills-or-administrations-before-1858/> [↑](#footnote-ref-3)
4. Calendar books from each Registry are held in offsite storage as well [↑](#footnote-ref-4)
5. *What to keep* is available at: <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules> [↑](#footnote-ref-5)
6. If the business identifies record types which need a new retention period, they should contact the DRO’s team. [↑](#footnote-ref-6)