Official Solicitor and Public Trust Office

Records Retention and Disposition Schedule

## Introduction

1. This schedule applies to the records that are created and managed by staff employed in the Official Solicitor and Public Trust Office (OSPT). It has been drawn up following consultation between OSPT and 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 Official Solicitor to the Senior Courts is governed by the Senior Courts Act 1981, Directions of the Lord Chancellor, Common Law and established practice. The work of the Public Trustee is governed by the Public Trustee Act 1906 and supporting rules.

## More about this schedule

1. None of the records listed below are selected for permanent preservation under the Public Records Act[[1]](#footnote-1).
2. This schedule is split into two sections:
   1. Records unique to OSPT
   2. 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.[[2]](#footnote-2)
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. While the Infected Blood Inquiry continues its investigations, OSPT will comply with the moratorium on the destruction of records relevant to this Inquiry. Further information about the Inquiry’s requirements can be found on its website: [https://www.infectedbloodinquiry.org.uk/evidence/.](https://www.infectedbloodinquiry.org.uk/evidence/)
6. 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 OSPT | | |
| 1a. Civil litigation | | |
|  | General litigation including, but not limited to:   * Personal injury * Medical negligence * Professional negligence * Criminal Injuries Compensation Authority, Applications * Inheritance Act claims * Judicial review applications * Possession * Injunction (excluding Family Law Act) Debt | Apart from the exceptions listed below, keep for **six years** from date case is closed and then destroy.  **Exceptions**  a) If the Official Solicitor is appointed to act for a client who is a minor, **destroy on the Client’s 24th birthday**.  b) Cases that have a charge on the property are reconciled with the Charges spreadsheet and outstanding costs. Once the charge is removed the case can be destroyed as per the case type retention criteria.  c) Rejected or void cases are kept for **six months** and then destroyed. |
|  | Contempt (remaining cases)[[3]](#footnote-3) | Keep for **six years** from date case is put away and then destroy. |
|  | Bail Applications | Keep for **one year** from date case is put away and then destroy. |
| 1b. Court of Protection Property and Affairs | | |
|  | Court of Protection applications (Property and Affairs – PAA) | Apart from the exceptions listed below, keep for **six years** from date case is closed and then destroy.  **Exceptions**  a) If the Official Solicitor is appointed to act for a client who is a minor, **destroy on the Client’s 24th birthday**.  b) Cases that have a charge on the property are reconciled with the Charges spreadsheet and outstanding costs. Once the charge is removed the case can be destroyed as per the case type retention criteria.  c) Rejected or void cases are kept for **six months** and then destroyed. |
| 1c. Family litigation | | |
|  | Private law cases, including, but not limited to:   * divorce, * nullity, * judicial separation, * dissolution of civil partnership – Main suit and Ancillary Relief (financial remedy) – private law children cases, * Family Law Act injunctions, * Forced Marriage Protection cases, * adoption cases | Apart from the exceptions listed below, keep for **six years** from date case is closed and then destroy.  **Exceptions**  a) If the Official Solicitor is appointed to act for a client who is a minor, **destroy on the Client’s 24th birthday**.  b) Cases that have a charge on the property are reconciled with the Charges spreadsheet and outstanding costs. Once the charge is removed the case can be destroyed as per the case type retention criteria.  c) Rejected or void cases are kept for **six months** and then destroyed. |
|  | Public law including, but not limited to:   * care proceedings, * placement proceedings | Apart from the exceptions listed below, keep for **six years** from date case is closed and then destroy.  **Exceptions**  a) If the Official Solicitor is appointed to act for a client who is a minor, **destroy on the Client’s 24th birthday**.  b) Rejected or void cases are kept for **six months** and then destroyed. |
| 1d. Health care and welfare | | |
|  | * Medical * Welfare * Deprivation of Liberty Safeguards (DOLs) * inherent jurisdiction * advocate to the court * Harbin v Masterman | Apart from the exceptions listed below, keep for **six years** from date case is closed and then destroy.  **Exceptions**  a) If the Official Solicitor is appointed to act for a client who is a minor, **destroy on the Client’s 24th birthday**.  b) Cases that have a charge on the property are reconciled with the Charges spreadsheet and outstanding costs. Once the charge is removed the case can be destroyed as per the case type retention criteria.  c) Rejected or void cases are kept for **six months** and then destroyed. |
|  | | |
| 1e. International Child Abduction and Contact Unit (ICACU) | | |
|  | ICACU cases including, but not limited to:   * child abduction, * requests for co-operation * ICACU | Apart from the exception listed below, keep for **three years** from date case is closed and then destroy.  **Exception**  Rejected or void cases are kept for **six months** and then destroyed. |
| 1f. Reciprocal Enforcement of Maintenance Orders (REMO) | | |
|  | Reciprocal Enforcement of Maintenance cases | Apart from the exception listed below, keep for **three years** from date case is closed and then destroy.  **Exception**  Rejected or void cases are kept for **six months** and then destroyed. |
|  | Specific measure cases | Keep for **six months** from date of receipt (unless case is still active) and then destroy.  Keep active cases until **six months** after the last substantive action and then destroy. |
| 1g. Official Solicitor - Trust and Estates | | |
|  | a) Administration of deceased persons’ estates  b) Trusts (including guardianship of minors’ estates)  c) Conveyancing  d) Receivership/Deputyship cases  e) Criminal Injuries Compensation Board awards | Apart from the exceptions listed below, keep for **six years** from date case is closed and then destroy.  **Exceptions**  a) If the Official Solicitor is appointed to act for a client who is a minor, **destroy on the Client’s 24th birthday**.  b) Cases that have a charge on the property are reconciled with the Charges spreadsheet and outstanding costs. Once the charge is removed the case can be destroyed as per the case type retention criteria.  c) Rejected or void cases are kept for **six months** and then destroyed. |
|  |  |  |
|  | Judicial Trustee cases | Keep for **100 years** from the final distribution and closure of the case.  Transfer to offsite storage on completion of the case. |
| 1h. Public Trustee – Trust and Estates | | |
|  | Trustee cases  a) Trust deeds  b) Account records  c) Wills & letters of administration  d) Correspondence | a) Permanently retained by OSPT[[4]](#footnote-4)  b) Keep for **six years**.  Keep the first and last/distribution account which are permanently retained along with the trust deeds.  Destroy the remainder of the record.  c) Keep for **100 years** from the final distribution and closure of the case.  Transfer to offsite storage on completion of the case  d) Keep for **six years** from date case is marked as finished and then destroy. |
|  | a) Law of Property – notices affecting Land  b) Acceptance folders | Keep for **six years** and then destroy |
| 1i. OSPT corporate records | | |
|  | a) OSPT policies | Keep for **10 years** and then review:   * Where operationally relevant, keep for another ten years and repeat the process until the item is no longer needed. * Where no longer needed, destroy immediately. |
|  | Destruction log (including case metadata) | Keep for **99 years** and then destroy |
|  | Enquiry Matters – new matter created annually to record enquires. If an enquiry becomes a case, then the record is transfer to the ‘live’ matter. | Keep for **one year** after the matter is closed and then destroy. |
| 2. 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 |
|  | Responses to Subject Access Requests | Keep for **nine months** and then destroy. |
|  | Background information (held by business) for responses to   * Freedom of Information Act * Environmental Information Regulations   **NB.** The answers to these requests are held by the Disclosure Team in MoJ HQ[[6]](#footnote-6) | Keep for **one year** and then review:   * Where operationally relevant, keep for **another** **year** and then repeat the process until the item is no longer needed.   Where no longer needed, destroy immediately. |
|  | Finance and risk management information | Keep for **seven years** and then destroy. |
|  | Business continuity plans | Updated annually. Keep previous versions for **three years** and then destroy. |
|  | Paper copies of records that have been digitised | Keep for up to **30 days** from date scanned (this allows for time to check that digital copies are usable) and then destroy. |
|  | All other types of record not specified above, including copies of records which are owned by other business areas[[7]](#footnote-7) | Keep for **three years** and then destroy. |

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1. Public Records Act 1958 s.3(6) [↑](#footnote-ref-1)
2. See rows 19 and 20 for maximum retention period [↑](#footnote-ref-2)
3. This work was stopped prior to 2013 [↑](#footnote-ref-3)
4. In line with probate legislation [↑](#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. See row 40 of the MoJ HQ schedule [↑](#footnote-ref-6)
7. If the business identifies record types which need a new retention period, they should contact the DRO’s team. [↑](#footnote-ref-7)