Sentencing Council

Records Retention and Disposition Schedule

## Introduction

1. This schedule applies to the records[[1]](#footnote-1) that are created and managed by staff employed by the Sentencing Council for England and Wales (Sentencing Council). It has been agreed following consultation between the Sentencing Council 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 Sentencing Council’s work is governed by Coroners and Justice Act 2009 and amending legislation.

## More about this schedule

1. Some of the records listed below may be selected for permanent preservation under the Public Records Act[[2]](#footnote-2) and are transferred to The National Archives (TNA). To help you to locate any records that have already been transferred, we have included TNA’s classification[[3]](#footnote-3) of these records.[[4]](#footnote-4)
2. Currently the age of the records being transferred to TNA is reducing from 30 years to 20 years.[[5]](#footnote-5)
3. The DRO’s team selects records for permanent preservation and transfer to TNA in line with the following process:
	1. Records are reviewed by the DRO’s team, following criteria set out in Annex A of TNA’s *Best practice guide to appraising and selecting records for The National Archives*[[6]](#footnote-6).
	2. Where records meet the criteria, they are prepared and then transferred to TNA.
	3. Where records do not meet the criteria, they are destroyed.
	4. The DRO makes the final decision about what is/is not transferred to TNA.
4. This schedule is split into two sections:
	1. Records unique to the Sentencing Council
	2. Records held by various teams within the MoJ and its associated bodies and where a common retention and disposition policy is applied.
5. 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.[[7]](#footnote-7)
6. 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>.
7. 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 | TNA Classification | Retention and disposition |
| --- | --- | --- | --- |
| 1. Unique records held by the Sentencing Council |
|  | Members – papers relating to appointments of members to the Sentencing Councila) Successful applicantsb) Unsuccessful applicants |  | a) Keep for **three years** after the appointment ends and then destroyb) Keep for **two years** from the end date of the recruitment campaign and then destroy[[8]](#footnote-8)  |
|  | Administration of Council meetings[[9]](#footnote-9) a) administration (background, arrangements, correspondence, agendas, etc)b) copies of published minutesc) documents related to the running of Sub-Groups (Governance, Analysis and Research, and Confidence and Communications) |  | Keep for **one year** from date of meeting and then destroy |
|  | The inception, constitution and remit of the Council:* documents relating to the setting-up of the Council, and,
* documents that outline the Council’s structure and scope, including terms of reference, governance policies or other papers outlining plans for the running of the Council and the Office’s business
 | TBC | Keep for **10 years** and then review:* Where a record may potentially be considered suitable for permanent preservation, keep until transferred to the DRO’s team.
* Where no longer needed, destroy immediately.
 |
|  | Policy documents[[10]](#footnote-10) including, but not limited to, the following:* Project Initiation Documents (PIDs) and supporting documentation (including business cases)
* Circulated Council/subgroup papers (papers circulated to Council members or subgroup members, where related to the development or evaluation of a guideline)
* Consultation responses
* Summaries/analysis of consultation responses
* Draft guidelines circulated to Council members
* Guideline/other decision logs.
 | TBC | Where the guideline is not superseded within 10 years, keep until **10 years after in-force date** and review:* Where operationally relevant, keep for another **five years** and repeat the process until the item is no longer needed.
* Where a record may potentially be considered suitable for permanent preservation, keep until transferred to the DRO’s team.
* Where no longer needed, destroy immediately.

Where the guideline is superseded, keep **for one year** from the in-force date of the new guideline:* Where operationally relevant, keep material related to superseded guideline for another **five years** and repeat the process until the item is no longer needed.
* Where a record may potentially be considered suitable for permanent preservation, keep until transferred to the DRO’s team.
* Where no longer needed, destroy immediately.

Copies should be destroyed at project end, following confirmation that a record has been stored.[[11]](#footnote-11) |
|  | Transcripts of judges’ sentencing remarks | TBC | If transcripts relate to a specific guideline (i.e. were obtained in relation to development or evaluation of a guideline):Where the guideline is not superseded within 10 years, keep until **10 years after in-force date** and review:* Where operationally relevant, keep for another five years and repeat the process until the item is no longer needed.
* Where a record may potentially be considered suitable for permanent preservation, keep until transferred to the DRO’s team.
* Where no longer needed, destroy immediately.

Where the guideline is superseded, keep for **one year** from the in-force date of the new guideline:* Where operationally relevant, keep material related to superseded guideline for another five years and repeat the process until the item is no longer needed.
* Where a record may potentially be considered suitable for permanent preservation, keep until transferred to the DRO’s team.
* Where no longer needed, destroy immediately.

Where the transcripts do not relate to a specific guideline:Keep for **five years** after project for which they were obtained has ended, then:* Where responses still relate to issues under consideration or operationally relevant, keep for another **five years** and repeat the process until the item is no longer needed.
* Where no longer needed, destroy immediately.

In all cases, paper copies should be destroyed as soon as possible after use, and at project end if not before.Refer to relevant data sharing agreement for further information |
|  | (**Note**: this excludes any papers that are otherwise included in Item 4)Records created prior to publishing reports etc on the Sentencing Council’s website.[[12]](#footnote-12) This includes, but is not limited to, drafts or copies of:* draft guidelines
* consultation documents,
* definitive guidelines
* consultation response documents
* statistical bulletins
* resource assessments
* evaluation reports
* research findings

**Reminder**: This excludes any papers set out in row 4. |  | Copies/drafts of publications should be destroyed **within a month of publication**, unless exceptionally there are reasons to keep them for longer (e.g. for contractual purposes) |
|  | Original/unpublished versions of datasets from:* Court Proceedings Database
* Crown Court Sentencing Survey
* Bespoke data collection exercises

This excludes published datasets. |  | If the data are accessed via a data sharing agreement, then **keep/delete in line with the relevant DSA**.Otherwise, keep for **ten years** and then review:* Where operationally relevant, keep for another five years and repeat the process until the item is no longer needed.
* Where no longer needed, destroy immediately.
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|  | Field research (e.g. with sentencers)a) Audio recordings from interviewsb) Transcripts/summaries of individual interviews and focus groups |  | Keep for **five years** from research end date and then destroy.Copies should be destroyed at project end, following confirmation that a record has been stored. |
|  | a) Summaries of findings (the write-up of research)b) Unpublished data analysis (including draft/working analysis used to produce statistical bulletins, resource assessments and evaluation reports) |  | Keep for **five years** after end of project or document finalised: * Where responses still relate to issues under consideration or operationally relevant, keep for another **five years** and repeat the process until the item is no longer needed.
* Where no longer needed, destroy immediately.

Copies should be destroyed at project end, following confirmation that a record has been stored. |
|  |
| 2. Records managed by a common retention and disposition policy |
|  | Paper copies of records that have been digitised |  | Keep for no longer than **30 days** from date scanned and then destroy[[13]](#footnote-13). |
|  | a) Records and information held in open internet tools (e.g. YouTube videos, podcasts)[[14]](#footnote-14) b) Records and information held on mobile phones (e.g. text messages, WhatsApp)c) Instant Messages (Skype, Teams, etc) |  | Keep for **three months** and then transfer to the corporate memory or destroy |
|  | HR information (held by line managers) |  | Destroy in line with the *What to keep*[[15]](#footnote-15) guidance |
|  | Responses to Subject Access Requests |  | Keep for **nine months** and then destroy.  |
|  | Background information (held by business) for responses to Information requests made under: * Freedom of Information Act
* Environmental Information Regulations
 |  | Keep for **two years** from date closed (whether routine or ICO) and then destroy. |
|  | Routine correspondence including ‘Treat Official’ |  | Keep for **five years** from date of last correspondence and then destroy |
|  | GDPR and Data Protection Act registration, notification, records (paper and electronic) |  | Keep for **two years** and then destroy |
|  | Data loss incident records (held by business) |  | Keep for **three years** from incident closure and then destroy |
|  | Business continuity plans (held by business) |  | Updated annually. Keep previous versions for **three years** and then destroy. |
|  | Contracts: including but not limited to, signed contracts, records of performance, meetings, complaints, changes to requirements, variations and extensions |  | Keep for **six years** after contract ends and then destroy.[[16]](#footnote-16) |
|  | Finance and risk managementinformation |  | Keep for **seven years** and then destroy. |
|  | Submissions, policy briefings (including for Justice Select Committee), briefings for ministers and other correspondence with Private Office, Chief Executives’ Offices, etc |  | Keep for **seven years** from date of last action and then review: * Where operationally relevant, keep until **20 years** from last action and then transfer to the DRO’s team to consider for permanent preservation.
* Where no longer needed, destroy immediately.
 |
|  | All other types of record not specified above, including copies of records which are owned by other business areas[[17]](#footnote-17) |  | Keep for **three years** and then destroy. |

Steve Wade
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**Signed 06 August 2020**

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1. Records include, but are not limited to, emails, documents, spreadsheets, images and recordings [↑](#footnote-ref-1)
2. Public Records Act 1958 s.3(6) [↑](#footnote-ref-2)
3. To search TNA’s catalogue (Discovery), go to: <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. [↑](#footnote-ref-3)
4. Sentencing Council staff should contact the Departmental Records Officer’s team to discuss arrangements for accessing historic records. [↑](#footnote-ref-4)
5. The timetable governing the transition to the 20-year rule is set out in The Public Records (Transfer to the Public Record Office) (Transitional and Saving Provisions) Order 2012: <http://www.legislation.gov.uk/uksi/2012/3028/contents/made> [↑](#footnote-ref-5)
6. This can be found at: <https://www.nationalarchives.gov.uk/documents/information-management/best-practice-guide-appraising-and-selecting.pdf> [↑](#footnote-ref-6)
7. See rows 12 and 13 for maximum retention period [↑](#footnote-ref-7)
8. This enables the Sentencing Council to comply with any requests from the Commissioner for Public Appointments who may investigate a complaint about a specific campaign which ended in the previous 12 months. [↑](#footnote-ref-8)
9. Minutes are published on the Sentencing Council’s website at: <https://www.sentencingcouncil.org.uk/publications?s&cat=minutes> [↑](#footnote-ref-9)
10. Superseded versions of publications can be found on the archive of the Sentencing Council’s website at: [https://webarchive.nationalarchives.gov.uk/\*/http://sentencingcouncil.judiciary.gov.uk/](https://webarchive.nationalarchives.gov.uk/%2A/http%3A//sentencingcouncil.judiciary.gov.uk/) and [https://webarchive.nationalarchives.gov.uk/\*/http://www.sentencing-guidelines.gov.uk/](https://webarchive.nationalarchives.gov.uk/%2A/http%3A/www.sentencing-guidelines.gov.uk/) [↑](#footnote-ref-10)
11. This includes paper copies and those stored in personal email accounts, etc [↑](#footnote-ref-11)
12. Published on the Sentencing Council’s website at: <https://www.sentencingcouncil.org.uk/publications/> [↑](#footnote-ref-12)
13. This allows for time to check that digital copies are usable before destruction [↑](#footnote-ref-13)
14. Staff should check the intranet for more detailed guidance: *Guidance for using Open Internet Tools* [↑](#footnote-ref-14)
15. *What to keep* is available at: <https://www.gov.uk/government/publications/record-retention-and-disposition-schedules> [↑](#footnote-ref-15)
16. Limitation Act 1980 s.5 sets the time limit for actions founded on simple contracts (signed under hand) at six years [↑](#footnote-ref-16)
17. If the business identifies record types which need a new retention period, they should contact the DRO’s team. [↑](#footnote-ref-17)