

National Retention Policy for Local Authority Records 2024 - Legal Services- Approved by LGMA for use on the 20th of November 2022

Functional Heading:

Legal Services

Sub-Functions	Activities	Retention Recommendation	Comments
<p>Legal Advice</p>	<p>Provision of legal advice to business units within LA by internal law agent</p>	<p>Retain legal advice relating to litigation for the duration of the legal proceedings + a further 7 years. If advice leads to a change in service provision provided by the Council retain records of advice indefinitely. Legal advice which doesn't lead to change in services or become part of legal proceeding should be retained for 7 years then destroyed.</p>	<p>Solicitors (Amendment) Act, 1994</p>
	<p>Provision of legal advice to business units within LA by external law agent</p>	<p>Retain legal advice relating to litigation for the duration of the legal proceedings + a further 7 years. If advice leads to a change in service provision provided by the Council retain records of advice indefinitely. Legal advice which doesn't lead to change in services or become part of legal proceeding should be retained for 7 years then destroyed.</p>	
	<p>Obtaining/procurement of legal opinion from external 3rd party legal firms</p>	<p>Retain contract with solicitor or barrister providing the legal opinion until the sought opinion and explanatory follow up covered by the contract has been delivered. Then retain documents for a further 7 years. Then destroy.</p>	

Sub-Functions	Activities	Retention Recommendation	Comments
	Legal opinions obtained from external 3rd party legal firms	Retain legal opinion provided for the duration for which the service or underpinning legislation to which the legal opinion relates is in effect. Once service/transaction is discontinued or legislation is superseded then retain legal opinion for a further 7 years then destroy.	
	Case law -reference material	Copies of relevant case law which are publically available can be retained indefinitely (if so required) for reference purposes.	Specific advices and case law /reference material may be retained on case files to which they relate
Litigation	Procurement of solicitor and/or barrister for purposes of defending or prosecuting cases through the Courts.	If solicitor or barrister is on a retainer then retain retainers agreements for the duration of the period of retention. If solicitor or barrister is on a specific instance contract for service then retain contract until the specific services covered by the contract has been delivered. In both cases retain documents for a further 7 years after contract ceases. Then destroy.	Statute of limitations Act, 1957; Solicitors (Amendment) Act, 1994

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	Written client instructions & briefs provided to Solicitors and Barristers	Retain instructions and briefs provided to solicitors or barrister for duration of their contract for service then retain contract or until legal proceedings have been exhausted (whichever is the longest in duration). Then retain documents for a further 7 years. Then destroy.	Solicitors (Amendment) Act, 1994
	Case files for litigation in District; Circuit and High Courts	Retain case files until legal proceedings have been exhausted. Then retain documents for a further 7 years. Then destroy	Solicitors (Amendment) Act, 1994
	Judicial Reviews	Retain until review proceedings have been exhausted plus a further 7 years. Then offer to the archivist. If no archivist then see comment**	** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.

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Legal agreements	Case files relating to land acquisitions and land disposal by agreement	For completed sales retain for the period for which the Council owns the land or property plus a further 13 years. Then offer to the archivist. If no archivist then see comment** Exception being for unsuccessful or discontinued purchases retain records for 7 years from date when purchase discontinued then destroy.	Property Services (Regulation) Act 2011: Civil Law (Miscellaneous Provisions) Act, 2011; Land & Conveyancy Law Reform Act, 2009; Registration of Deeds & Title Registration of Title Act, 2006; (Amendment) Act, 1997
	Case file relating to public work contracts	Retain until contract covering works & related services or supplies & services and any contract extensions has been delivered in full + a further 7 years. Then offer to the archivist. Where no archivist then retain indefinitely	Exception being Sealed Contracts – a sealed contract includes professional indemnity insurance which carries a 12 year statute of limitations. Exception being EU funded schemes which should be retained to comply with EU fund requirements (i.e.) Article 140 of REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL. There is an absolute legal requirement to retain all relevant documentation relating to EU funding for a minimum period of 3 years after the closure of the Operational Programme under which the funding was provided and letter issued by EU Court of Auditors to that effect.
	Case files relating to loans and mortgages	Retain for term of loan (deed of discharge issued) + 13 years. Then Archive a record of all loan recipients (see notes)	Part 3, Housing (Miscellaneous Provisions) Act, 2014 S.I. No. 484/2015 - Housing (Sale of Local Authority Houses) Regulations 2015 A record of all loan recipients (giving name, amount of loan, loan period) should be retained and transferred to the Archive. General admin files on the operation of the scheme should be retained as archives (electronic on Housing manual). <i>*Personal data is either requested from applicants and/or supplied by applicant as part of correspondence. Data is then processed internally by LA.</i>

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	Leases	Retain for duration of lease plus a further 13 years then offer to the archivist. If no archivist then see comment**	
	Compulsory Purchase Orders (CPOs)	Retain all CPO documentation until Completion of order + exhaustion of all appeals period has expired and land taken in to Council ownership plus a further 13 year period. Offer to Archivist. Then offer to the archivist. If no archivist then see comment**	Law Reform Commission Land Clauses Consolidation Act, 1845; Acquisition of Land (Assessment of Compensation) Act, 1919; Local Government No. 2 Act, 1960 S. 10; Housing Act, 1966; Planning and Development Act, 2000 Part 14; Planning and Development (Strategic
	Establishment orders and bye-laws	Retain for the duration for which establishment orders and the bye-law are in effect plus the previous version of the bye-law. Notice of bye-law(s), public consultation submissions and correspondence with the relevant Minister(s); other LAs and An Garda Siochana should retained for duration of the current bye-law. When bye-law is superseded all documents should be offered to the archivist. If no archivist please see comment** A high level register containing details of all bye-laws including historical/superseded bye-laws should be retained in the business unit indefinitely	Local Govt Act, 2001. SI 362/2006 - LG Act 2001 (Bye-Laws) Regulations, 2006

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	Rights of way and way leave agreements	Retain for duration of wayleave/right of way plus a further 13 years then offer to the archivist. If no archivist then see comment**	Land and Conveyancing Law Reform Act 2009 ** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.
	Contracts & leases (still in effect)	Retain for duration of contract or lease plus a further 7 years. Exception being contracts or leases executed under seal plus one year for service of proceedings. Retain these for 13 years after contract/lease expires. Then offer to the archivist. If no archivist then see comment**	** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.
	Contracts & leases (expired)	See retention recommendation for contracts & leases still in effect.	

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	Agreements with other LAs re provision of service on behalf of other LAS	Retain for duration of agreement with other LA/LAs plus a further 7 years. Then offer to the archivist. If no archivist then see comment**	** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.
	Confidential agreements	Retain for duration of agreement with other party plus a further 7 years. Then offer to the archivist. If no archivist then see comment**	** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.

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Conveyancing	Conveyancy of properties that LA is seeking to purchase	Retain for 13 years (i.e.) being the 12 year liability period for documents executed under seal plus one year for service of proceedings. Then offer to the archivist. If no archivist then see comment**	Statute of limitations Act, 1957 ** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive

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<p>Claims</p>	<p>Case files relating to claims made against LA. Files may contain correspondence, reports, etc</p>	<p>Records* to be retained until claim has been resolved and/or all legal proceeding has been completed including appeals period or a settlement reached, Then for a further 7 year. Then offer the records of only those cases which impacted or changed work practices and business processes to the archivist . However personal data contained in claims is to be minimised before archiving or indefinite storage. If no archivist then If no archivist then see comment**</p>	<p>Statute of limitations Act, 1957 *Personal data is either requested from applicants and/or supplied by applicant as part of application.</p> <p>While there a no legal requirement to keep details of all historical individual claims indefinitely successful claims which have an impact on how a LA does it's business should be archived. All other claims should be anonymised and kept only for statistical purposes.</p> <p><i>** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.</i></p>

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	<p>Case files relating to claims made against LA by minors. Files may contain correspondence, reports, etc</p>	<p>Records* to be retained until the minor reaches 18 years of age and claim has been resolved and/or all legal proceeding has been completed including appeals period or a settlement reached, Then for a further 7 year. Then offer the records of only those cases which impacted or changed work practices and business processes to the archivist . However personal data contained in claims is to be minimised before archiving or indefinite storage. If no archivist then If no archivist then see comment**</p>	<p>Statute of limitations Act, 1957 *Personal data is either requested from applicants and/or supplied by applicant as part of application.</p> <p>While there a no legal requirement to keep details of all historical individual claims indefinitely successful claims which have an impact on how a LA does it's business should be archived. All other claims should be anonymised and kept only for statistical purposes.</p> <p><i>** In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.</i></p>

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	Case files relating to claims made by the LA against other parties	Records to be retained until claim has been resolved and/or all legal proceeding has been completed including appeals period or a settlement reached, Then for a further 7 year. Then offer the records of only those cases which impacted or changed work practices and business processes to the archivist . However personal data contained in claims is to be minimised before archiving or indefinite storage. If no archivist then If no archivist then see comment**	<p>Statute of limitations Act, 1957</p> <p>*Personal data is either requested from applicants and/or supplied by applicant as part of application.</p> <p>While there a no legal requirement to keep details of all historical individual claims indefinitely successful claims which have an impact on how a LA does it's business should be archived. All other claims should be anonymised and kept only for statistical purposes.</p> <p>** <i>In the event of no archivist then the records should be retained indefinitely (either on-site or in off site storage in either soft or hard copy) or until they can be appraised at a future date for their archival value by an archivist either employed directly or otherwise engaged by the Local Authority. The archivist either employed directly or otherwise engaged by the Local Authority is to notify senior manager/certifying officer in business section before taking any decision other than to permanently retain the records within the archive.</i></p>

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	General correspondence with IPB or other insurance policy provider re claims	Retain for duration that insurance cover is in place with that provider plus a further 7 years then destroy. Exception being where legal proceedings are underway. In these instances records to be retained until claim has been resolved and/or all legal proceeding has been completed including appeals period or a settlement reached, Then for a further 7 year. Then destroy.	
	Claims against LA's insurer	Retain while policy is active then for a further 7 years. Exception being where a claim is still going through the legal process. In that case retain relevant records until legal proceedings have finished or a settlement reached, Then for a further 7 year. Then offer the records of only those cases which impacted or changed work practices and business processes to the archivist . However personal data contained in claims is to be minimised before archiving or indefinite storage. If no archivist then If no archivist then see comment**	

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	Excess payments	<p>Retain for 7 years from the end of each calendar year in which excess payment is made. Then destroy.</p> <p>Exception will be where a legal challenge/case has commenced or are ongoing regarding the claim made. In these instances, the records are retained until the legal proceedings have completed.</p>	<p>Statute of Limitations (Acts 1957-2010) May be retained on the main litigation file.</p>
	Payment of awards	<p>Retain for 7 years from the end of each calendar year in which awards payment is made. Then destroy.</p> <p>Exception will be where a legal challenge/case has commenced or are ongoing regarding the claim made. In these instances, the records are retained until the legal proceedings have completed.</p>	<p>May be retained on the main litigation file.</p>
E-mail storage	Retention of e-mails related to business transactions (i.e.) Individual e-mails held by staff members on their PC and portable devices.	E-mails related to specific transactions and business activities are subject to the retention periods recommended for those transactions and business activities and do not have a separate retention period.	<p>E-mails that relate to specific transactions and business activities should be stored within the files for those transactions and activities rather than retained in a separate file. This will facilitate period cleansing of non-essential and non-work related e-mails.</p> <p>Each business unit is responsible for ensuring its staff adhere to the retention periods set out for business/transaction related e-mails. All the other revised record retention schedules will be revised to include the agreed e-mail retention recommendations and that email retention should be the responsibility of all business units and not</p>

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	E-mail retention on storage systems & back ups	Once e-mails related to specific business transactions have been stored and retained in the relevant file storage for that transacton/activity then unattached e-mails can be permanently deleted/destroyed from e-mail storage systems on an initially 7 year basis. This retention period will reduce to 3 years following the initial 7 year period. Please see comment****	LAs that use File Management/Business Enterprise Systems that support the transfer and storage of e-mails from Outlook to their system can adopt the retention recommendation listed here. However, for those LAs that do not use a File Management/Business Enterprise Systems that supports the transfer and storage of e-mails from Outlook and use a separate e-mail storage system, they should apply the recommended retention periods for each business activity to the e-mails stored on that seperate storage system. ****It is recognised that there is a need for transitional period of 7 years so as to allow staff in business units to commence the identification of busienss related e-mails and seperation/deletion of no-business related e-mails. It is recognised that this will be labour intensive hence a phased approach of 6 + 1 years to begin with. The aim ultimately though is to reduce the retention period to 3 years after the



