



# **GDPR Toolkit**

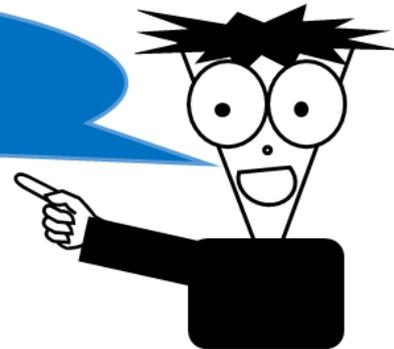
## **DATA RETENTION POLICY**

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## INTRODUCTION

Please read the READ ME User Guide first to make sure you know and understand the need to add, amend, or delete in order to reflect your people, processes and technologies as well as the data you hold and the jurisdiction(s) you operate in.

Please browse through this READ ME guide to make sure you understand before starting to use the toolkit



The READ ME User Guide will help you navigate around the GDPR-Toolkit and identify what you need to do for your organisation.

## DISCLAIMER

GDPR can be complicated and there are different laws in UK, EU, Jersey and Guernsey. Simply having Templates, Documents, Samples and Guidance does not make you compliant.

The reason for this disclaimer is that I cannot warrant or guarantee materials for every system or circumstance or jurisdiction and the client/user/recipient is obliged to review, test and where necessary customise or take advice to generally assert that they are satisfied before using this “live”.

If DIY isn't for you, that's OK. I'm rubbish at electrical work, plumbing or carpentry. Call an expert. There are many out there and data protection is too important for you, your organisation and the people who trust you with their data for you to get it wrong.

## SUPPORT

For those organisations without the resources, skills or experience I can help with training or provide support to customise the documents to meet your particular needs. [TimHJRogers@AdaptConsultingCompany.com](mailto:TimHJRogers@AdaptConsultingCompany.com)

## RETENTION OF RECORDS PROCEDURE

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## 1. Purpose

The purpose of this Policy is to ensure that necessary records and documents of [Organisation name] are adequately protected and maintained and to ensure that records that are no longer needed by [Organisation name] or are of no value are discarded at the proper time. This Policy is also for the purpose of aiding employees of [Organisation name] in understanding their obligations in retaining electronic documents - including e-mail, Web files, text files, sound and movie files, PDF documents, and all Microsoft Office or other formatted files.

## 2. Policy

This Policy represents the policy regarding the retention and disposal of records and the retention and disposal of electronic documents.

## 3. Administration

Attached as Appendix A is a Record Retention Schedule that is approved as the initial maintenance, retention and disposal schedule for physical records of [Organisation name] and the retention and disposal schedule of electronic documents. The Finance Officer (the "Administrator") is the officer in charge of the administration of this Policy and the implementation of processes and procedures to ensure that the Record Retention Schedule is followed. The Administrator is also authorized to: make modifications to the Record Retention Schedule from time to time to ensure that it is in compliance with local, state and federal laws and includes the appropriate document and record categories for [Organisation name], monitor local, state and federal laws affecting record retention; annually review the record retention and disposal program; and monitor compliance with this Policy.

## 4. Suspension of Record Disposal In Event of Litigation

In the event the Foundation is served with any subpoena or request for documents or any employee becomes aware of a governmental investigation or audit concerning [Organisation name] or the commencement of any litigation against or concerning the Foundation, such employee shall inform the Administrator and any further disposal of documents shall be suspended until such time as the Administrator, with the advice of counsel, determines otherwise. The Administrator shall take such steps as are necessary to promptly inform all staff of any suspension in the further disposal of documents.

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## 5. Applicability

This Policy applies to all physical records generated in the course of the Organisation's operation, including both original documents and reproductions. It also applies to the electronic documents described above.

This Policy was approved by [Records Manager]

## 6. RECORD RETENTION SCHEDULE

The Record Retention Schedule is organized as follows:

### Section Topic

- A. Accounting and Finance
- B. Contracts and Memorandums of Understanding
- C. Corporate Records
- D. Correspondence and Internal Memoranda
- E. Electronic Documents
- F. Legal Files and Papers
- G. Miscellaneous
- H. Personnel Records
- I. Property Records
- J. Tax Records
- K. Contribution Records

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## A. ACCOUNTING AND FINANCE

| Record Type  | Retention Period |
|--|------------------|
| Accounts Payable ledgers and schedules   |                  |
| Accounts Receivable ledgers and schedules  |                  |
| Annual Audit Reports and Financial Statements  |                  |
| Annual Audit Records, including work papers and other documents that relate to the audit |                  |
| Annual Plans and Budgets   |                  |
| Bank Statements and Canceled Checks  |                  |
| Employee Expense Reports   |                  |
| General Ledgers  |                  |
| Interim Financial Statements   |                  |
| Notes Receivable ledgers and schedules   |                  |
| Investment Records   |                  |
| Internal Audit work papers and findings  |                  |

## B. CONTRACTS

| Record Type  | Retention Period |
|--|------------------|
| Contracts and Related Correspondence (including any proposal that resulted in the contract and all other supportive documentation) |                  |

## C. CORPORATE RECORDS

| Record Type  | Retention Period |
|--|------------------|
| Corporate Records (minute books, signed minutes of the Board and all committees, corporate seals, articles of incorporation, bylaws, annual corporate reports) |                  |
| Licenses and Permits   |                  |
| Memorandums of Understanding   |                  |

## D. CORRESPONDENCE AND INTERNAL MEMORANDA

**General Principle:** Most correspondence and internal memoranda should be retained for the same period as the document they pertain to or support. For instance, a letter pertaining to a particular contract would be retained as long as the contract (7 years after expiration). It is recommended that records that support a particular project be kept with the project and take on the retention time of that particular project file.

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Correspondence or memoranda that do not pertain to documents having a prescribed retention period should generally be discarded sooner. These may be divided into two general categories:

1. Those pertaining to routine matters and having no significant, lasting consequences should be discarded *within two years*. Some examples include:
  - Routine letters and notes that require no acknowledgment or follow-up, such as notes of appreciation, congratulations, letters of transmittal, and plans for meetings.
  - Form letters that require no follow-up.
  - Letters of general inquiry and replies that complete a cycle of correspondence.
  - Letters or complaints requesting specific action that have no further value after changes are made or action taken (such as name or address change).
  - Other letters of inconsequential subject matter or that definitely close correspondence to which no further reference will be necessary.
  - Chronological correspondence files.

Please note that copies of interoffice correspondence and documents where a copy will be in the originating department file should be read and destroyed, unless that information provides reference to or direction to other documents and must be kept for project traceability.

2. Those pertaining to non-routine matters or having significant lasting consequences should generally be retained permanently.

## E. ELECTRONIC DOCUMENTS

1. **Electronic Mail:** Not all email needs to be retained, depending on the subject matter.
  - Staff will strive to keep all but an insignificant minority of their e-mail related to business issues.
  - Staff will not store or transfer [Organisation name]related e-mail on non-work-related computers except as necessary or appropriate for company purposes.
  - Staff will take care not to send confidential/proprietary Foundation information to outside sources.
  - Any e-mail staff deems vital to the performance of their job should be copied to the staff's thumb drive.
2. **Electronic Documents:** including Microsoft Office Suite and PDF files. Retention also depends on the subject matter.
  - **PDF documents** – The length of time that a PDF file should be retained should be based upon the content of the file and the category under the various sections of this policy. The maximum period that a PDF file should be retained is 6 years. PDF files the employee deems vital to the performance of his or her job should be printed and stored in the employee's workspace.
  - **Text/formatted files** - Staff will conduct annual reviews of all text/formatted files (e.g., Microsoft Word documents) and will delete all those they consider unnecessary or outdated. After five years, all text files will be deleted from the network and the staff's desktop/laptop. Text/formatted files the staff deems vital to the performance of their job should be printed and stored in the staff's

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workspace.

### 3. Web Page Files: Internet Cookies

- All workstations: Internet Explorer should be scheduled to delete Internet cookies once per month.

[Organisation name] does not automatically delete electronic files beyond the dates specified in this Policy. It is the responsibility of all staff to adhere to the guidelines specified in this policy.

## F. LEGAL FILES AND PAPERS

| Record Type   | Retention Period |
|---|------------------|
| Legal Memoranda and Opinions (including all subject matter files) |                  |
| Litigation Files  |                  |
| Court Orders  |                  |
| Requests for Departure from Records Retention Plan                |                  |

## G. MISCELLANEOUS

| Record Type   | Retention Period |
|---|------------------|
| Consultant's Reports  |                  |
| Material of Historical Value (including pictures, publications) |                  |
| Policy and Procedures Manuals – Original                        |                  |
| Policy and Procedures Manuals - Copies                          |                  |
| Annual Reports  |                  |

## H. PERSONNEL RECORDS

| Record Type   | Retention Period |
|---|------------------|
| Employee Personnel Records (including individual attendance records, application forms, job or status change records, performance evaluations, termination papers, withholding information, garnishments, test results, training and qualification records) |                  |
|   |                  |
| Employment Contracts – Individual   |                  |
|   |                  |

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## I. PROPERTY RECORDS

| Record Type  | Retention Period |
|--|------------------|
|  |                  |
| Correspondence, Property Deeds, Assessments, Licenses, Rights of Way |                  |
|  |                  |
| Original Purchase/Sale/Lease Agreement                               |                  |
|  |                  |
| Property Insurance Policies  |                  |

## J. TAX RECORDS

**General Principle:** must keep books of account or records as are sufficient to establish amount of gross income, deductions, credits, or other matters required to be shown in any such return.

These documents and records shall be kept for as long as the contents thereof may become material in the administration of federal, state, and local income, franchise, and property tax laws.

| Record Type  | Retention Period |
|--|------------------|
| Tax-Exemption Documents and Related Correspondence |                  |
| Tax Rulings  |                  |
| Excise Tax Records                                 |                  |
| Tax Bills, Receipts, Statements                    |                  |
| Tax Returns - Income, Franchise, Property          |                  |
| Tax Workpaper Packages - Originals                 |                  |
| Sales/Use Tax Records                              |                  |
| Annual Information Returns - Federal and State     |                  |
| Tax or other Government Audit Records              |                  |

## K. CONTRIBUTION RECORDS

| Record Type              | Retention Period |
|--------------------------|------------------|
| Records of Contributions |                  |

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## 7. DOCUMENT CONTROL

[document owner] is the owner of this document and is responsible for ensuring that this procedure or process is reviewed in line with the review requirements.

Consultation Phase: A document which is circulated for comment to key stakeholders to ensure support for scope, format, and content.

Draft Phase: Ostensibly the last draft, capturing all the points from the previous consultation phase and circulated for comment before being finalised.

Final Phase: A document which is FINAL. This is the baseline document which may subsequently amend over time.

| VERSION      | DESCRIPTION OF CHANGE           | AUTHOR   | APPROVAL   | DATE OF ISSUE |
|--------------|---------------------------------|----------|------------|---------------|
| Consultation | Initial Issue for consultation. | [Author] | [Approver] | March 2018    |
|              |                                 |          |            |               |

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## 8. GUIDANCE ON STATUTORY RETENTION PERIODS

### Retention Periods – Jersey

[https://cab.org.je/index.php?option=com\\_content&view=article&id=112:time-limits-on-legal-action-46015&catid=82&Itemid=100](https://cab.org.je/index.php?option=com_content&view=article&id=112:time-limits-on-legal-action-46015&catid=82&Itemid=100)

1. Breach of contract – 10 years from the date of the breach of contract you are complaining about. This includes claims against debtors;
2. Enforcement of Court judgments for debt - 10 years from the date of the judgment;
3. Claims based on negligence – 3 years from the date when you suffered loss or damage;
4. Claims to share an estate – 1 year and 1 day from the date of death;

Note the Guernsey Regulator has said that Data Processor/Controller agreements should be retained for at least 6 years.

### Statutory Retention Periods - Uk

The main UK legislation regulating statutory retention periods is summarised below. If employers are in doubt, it's a good idea to keep records for at least 6 years (5 in Scotland), to cover the time limit for bringing any civil legal action.

### Record Types

#### **Accident books, accident records/reports**

**Statutory retention period:** 3 years from the date of the last entry (or, if the accident involves a child/ young adult, then until that person reaches the age of 21). (See below for accidents involving chemicals or asbestos).

**Statutory authority:** The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) (SI 1995/3163) as amended, and Limitation Act 1980. Special rules apply concerning incidents involving hazardous substances (see below).

#### **Accounting records**

**Statutory retention period:** 3 years for private companies, 6 years for public limited companies.

**Statutory authority:** Section 221 of the Companies Act 1985 as modified by the Companies Acts 1989 and 2006.

#### **Income tax and NI returns, income tax records and correspondence with HMRC**

**Statutory retention period:** not less than 3 years after the end of the financial year to which they relate.

**Statutory authority:** The Income Tax (Employments) Regulations 1993 (SI 1993/744) as amended, for example by The Income Tax (Employments) (Amendment No. 6) Regulations 1996 (SI 1996/2631).

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## **Medical records and details of biological tests under the Control of Lead at Work Regulations**

**Statutory retention period:** 40 years from the date of the last entry.

**Statutory authority:** The Control of Lead at Work Regulations 1998 (SI 1998/543) as amended by the Control of Lead at Work Regulations 2002 (SI 2002/2676).

## **Medical records as specified by the Control of Substances Hazardous to Health Regulations (COSHH)**

**Statutory retention period:** 40 years from the date of the last entry.

**Statutory authority:** The Control of Substances Hazardous to Health Regulations 1999 and 2002 (COSHH) (SIs 1999/437 and 2002/2677).

## **Medical records under the Control of Asbestos at Work Regulations: medical records containing details of employees exposed to asbestos and medical examination certificates**

**Statutory retention period:** (medical records) 40 years from the date of the last entry; (medical examination certificates) 4 years from the date of issue.

**Statutory authority:** The Control of Asbestos at Work Regulations 2002 (SI 2002/ 2675). Also see the Control of Asbestos Regulations 2006 (SI 2006/2739) and the Control of Asbestos Regulations 2012 (SI 2012/632)

## **Medical records under the Ionising Radiations Regulations 1999**

**Statutory retention period:** until the person reaches 75 years of age, but in any event for at least 50 years.

**Statutory authority:** The Ionising Radiations Regulations 1999 (SI 1999/3232).

## **National minimum wage records**

**Statutory retention period:** 3 years after the end of the pay reference period following the one that the records cover.

**Statutory authority:** National Minimum Wage Act 1998.

## **Records of tests and examinations of control systems and protective equipment under the Control of Substances Hazardous to Health Regulations (COSHH)**

**Statutory retention period:** 5 years from the date on which the tests were carried out.

**Statutory authority:** The Control of Substances Hazardous to Health Regulations 1999 and 2002 (COSHH) (SIs 1999/437 and 2002/2677).

## **Records relating to children and young adults**

**Statutory retention period:** until the child/young adult reaches the age of 21.

**Statutory authority:** Limitation Act 1980.

## **Retirement Benefits Schemes – records of notifiable events, for example, relating to incapacity**

**Statutory retention period:** 6 years from the end of the scheme year in which the event took place.

**Statutory authority:** The Retirement Benefits Schemes (Information Powers) Regulations 1995 (SI 1995/3103)

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## **Statutory Maternity Pay records, calculations, certificates (Mat B1s) or other medical evidence**

**Statutory retention period:** 3 years after the end of the tax year in which the maternity period ends.

**Statutory authority:** The Statutory Maternity Pay (General) Regulations 1986 (SI 1986/1960) as amended.

## **Wage/salary records (also overtime, bonuses, expenses)**

**Statutory retention period:** 6 years.

**Statutory authority:** Taxes Management Act 1970.

## **Working time records**

**Statutory retention period:** 2 years from date on which they were made.

**Statutory authority:** The Working Time Regulations 1998 (SI 1998/1833).

## **Non Statutory Retention Periods - Uk**

For many types of HR records, there is no definitive retention period: it is up to the employer to decide how long to keep them. Different organisations make widely differing decisions about the retention periods to adopt. Employers must consider what a necessary retention period is for them, depending on the type of record.

The advice in this factsheet is based on the time limits for potential UK tribunal or civil claims. The period is often a question of judgement rather than there being any definitive right answer. For example, some records managers in public sector organisations recommend keeping an employee's records until they reach the age of 100, especially for pension purposes

The UK Limitation Act 1980 contains a 6-year time limit for starting many legal proceedings. So where documents may be relevant to a contractual claim, it's recommended that these are kept for at least a corresponding 6-year period.

## **Record Types**

### **Actuarial valuation reports**

**Recommended retention period:** permanently.

### **Application forms and interview notes (for unsuccessful candidates)**

**Recommended retention period:** 6 months to a year. (Because of the time limits in the various discrimination Acts, minimum retention periods for records relating to advertising of vacancies and job applications should be at least 6 months. A year may be more advisable as the time limits for bringing claims can be extended. Successful job applicants documents will be transferred to the personnel file in any event.

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**Assessments under health and safety regulations and records of consultations with safety representatives and committees**

**Recommended retention period:** permanently.

**Inland Revenue/HMRC approvals**

**Recommended retention period:** permanently.

**Money purchase details**

**Recommended retention period:** 6 years after transfer or value taken.

**Parental leave**

**Recommended retention period:** 18 years from the birth of the child.

**Pension scheme investment policies**

**Recommended retention period:** 12 years from the ending of any benefit payable under the policy.

**Pensioners' records**

**Recommended retention period:** 12 years after benefit ceases.

**Personnel files and training records (including disciplinary records and working time records)**

**Recommended retention period:** 6 years after employment ceases.

**Redundancy details, calculations of payments, refunds, notification to the Secretary of State**

**Recommended retention period:** 6 years from the date of redundancy

**Senior executives' records (that is, those on a senior management team or their equivalents)**

**Recommended retention period:** permanently for historical purposes.

**Statutory Sick Pay records, calculations, certificates, self-certificates**

**Recommended retention period:** The Statutory Sick Pay (Maintenance of Records) (Revocation) Regulations 2014 (SI 2014/55) abolished the former obligation on employers to keep these records. Although there is no longer a specific statutory retention period, employers still have to keep sickness records to best suit their business needs. It is advisable to keep records for at least 3 months after the end of the period of sick leave in case of a disability discrimination claim. However if there were to be a contractual claim for breach of an employment contract it may be safer to keep records for 6 years after the employment ceases.

**Time cards**

**Recommended retention period:** 2 years after audit.

**Trade union agreements**

**Recommended retention period:** 10 years after ceasing to be effective.

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## **Trust deeds and rules**

**Recommended retention period:** permanently.

## **Trustees' minute books**

**Recommended retention period:** permanently.

## **Works council minutes**

**Recommended retention period:** permanently.