

FRAMFIELD PARISH COUNCIL

DOCUMENT & RECORDS RETENTION POLICY

**A policy for the requirements of keeping
documents, records and datasets**

ADOPTED January 2017

1. Purpose

Documents & Records

Councils can accumulate a lot of documents and need a system for filing current papers, sorting those which need to be preserved and destroying those which are no longer required. Full details are given in Chapter 11 of Local Council Administration by Charles Arnold Baker.

1.1 Legal Position

A Parish Council has custody of the 'specified papers' of the parish or community. These papers are defined as the public books, writings and papers of the parish (including photographic copies) and all documents directed by law to be kept therewith.

- a) The council has power to provide depositories for parish and community documents and may require a district or unitary council to provide a depository. Where there is no council, the district or unitary council must provide a depository.
- b) Local government electors have a right to inspect the minutes of council and, usually, committee meetings and to make copies. Electors may also inspect orders for the payment of money and, at audit time, any interested person may inspect the accounts and supporting papers. Local council members have a separate statutory right to inspect the council's accounts and to make copies.
- c) As a general rule, it is desirable in the interests of open government and good community relations to allow interested persons, whether electors or not, to inspect any documents they please. However, due regard should be given to the need for security and, in relation to personal information about individuals, for confidentiality. Due regard must also be had for the relevant statutory controls over the disclosure of information in the Data Protection Act 1998 and the Human Rights Act 1998. The statutory provisions regarding exempt information set out in Part VA of the Local Government Act 1972 (inserted by Local Government (Access to Information) Act 1985) does not apply to local councils as a matter of law, but there is nothing to prevent a local council from adopting them wholly or in part.

1.2 Filing Current Papers

Normally these would be kept in a filing cabinet in folders. If the number of files and folders is large a list should be kept which is regularly updated. Lists of files can be kept on a computer.

2. Retention of Documents

- a) Many documents are now only kept in electronically, so the same arrangements for keeping records and copies will be applied to an electronic document as for a paper document.
- b) Attached is a table (section 5) indicating the appropriate retention periods, for audit purposes, and the reasons.

- c) Other documents not mentioned in the table and not covered in Chapter 11 of 'Local Council Administration' may be treated as follows:

2.1 Planning Documents

Copies of Structure Plans, Local Plans, and Planning Circulars e.g. the PPG series issued by the Office of the Deputy Prime Minister, now being superseded by PPS (Planning Policy Statement) should be kept as long as they are in force.

The retention of planning application papers will depend upon whether or not planning permission is granted or refused.

- a) Where planning permission is granted, the planning application, any plans and the decision letter should normally be retained until the development has been completed so that, if required, the council can check that the development proceeds in accordance with the terms and conditions of the permission. Where planning permission is granted on appeal, a copy of the appeal decision should also be retained likewise. It may sometimes be sensible to retain an appeal decision indefinitely because of the wider implications (e.g. the decision may set a precedent for other developments in the locality).
- b) Where planning permission is refused, the papers should be retained until the period which an appeal can be made has expired. If an appeal is made, and dismissed, the decision letter may, as (a) above, be worth retaining against further applications retaining to the same site.
- c) Framfield Parish Council is only a consultee for planning applications. Once a planning application has been determined by Wealden District Council Planning Authority the only documentation to kept are the planning meeting minutes and delegated comments. All Planning documentation will be held and archived under Wealden District Council's Records and retention Policy.

2.2 Magazines and Journals & Publications

The Local Council Review will be retained for 5 years: other regular publications received may merit similar treatment. Information from other bodies (e.g. circulars etc. from County Associations, NALC and other bodies will be kept for as long is useful and relevant.

2.3 Correspondence

If related to audit matters, correspondence should be kept for the appropriate period specified in the table – section 5 hereto. In planning matters, correspondence should be retained for the same period as suggested for other planning papers. For other correspondence, no firm guidelines can be laid down (but see the next paragraph).

As good practice, the council's documentation will be reviewed at least annually. Anything that is no longer of use or value can be destroyed, but if the Parish Council is in doubt on this point it should seek advice from the County Association and retain the document(s) until that advice has been received. Documents of historical importance, if not retained by the council, should be offered first to the county record office. The county archivist there will always be willing to advise of which records should be permanently preserved.

2.4 Other documents

Documents of title and leases must be stored securely. These documents are retained by a Solicitor.

Minute books, registers of allotments, and other documents which need to be retained indefinitely must also be stored securely. If no longer in use, consideration should be given to depositing them on loan at the local record office, where they will be properly looked after and will be available for inspection by the public. The same is true of other documents of historical interest which the Parish Council may have inherited or acquired.

3. Retention of documents and records for legal purposes

- 3.1 Most legal proceedings are governed by the Limitations Act 1980. The 1980 Act provides that legal claims may not be commenced after a specific period. The specific period varies, depending on the type of claim in question. The table below sets out the limitation periods for the different categories of claim. The reference to 'category' in the table refers to claims brought in respect of that category.

Category	Limitation Period
Negligence (and other 'Torts')	6 years
Defamation	1 year
Contract	6 years
Leases	12 years
Sums recoverable by statute	6 years
Personal Injury	3 years
To Recover Land (if applicable)	12 years
Rent (if applicable)	6 years
Breach of Trust	None

- a) Where the limitation periods above are longer than other periods specified in this policy, the documentation should be kept for the longer period specified. Some types of legal proceedings may fall within two or more categories. Rent arrears, for example, could fall within the following three categories (depending on the circumstances):

- contract (6 years) – because all tenancies and leases are contracts;
- leases (12 years) – if the arrears are due under a lease; and
- rent (6 years) – if the arrears are due under a tenancy (and not a lease).

In these circumstances, the relevant documentation should be kept for the longer of the three limitation periods.

- b) The same principles apply in the case of debts. If the debt arises under a simple contract the limitation period will be 6 years but if the debt arises under a lease the limitation period will be 12 years (unless it relates to rent in which case the limitation period will be 6 years). For sums due under leases which are 'reserved as rent' for example, service charges expressed to be payable as 'additional rent'; the limitation period for service charges in those circumstances will be 6 years – even though the sums are due under a lease.

c) There is no limitation period in respect of trusts, therefore trust deeds and schemes and other similar documentation should never be destroyed.

d) Some limitation periods can be extended. For example:

- where individuals first become aware of damage caused at a later date (e.g. in the case of personal injury);
- where a person is a child or suffers from a mental incapacity;
- where there has been a mistake by both parties;
- where one party has defrauded another or concealed facts.

In these circumstances council will need to weigh (i) the costs of storing relevant documents and (ii) the risks of:

- claims being made;
- the value of the claims; and
- the inability to defend any claims made should relevant documentation be destroyed.

e) The higher the value of a contract or the higher the risk or value of a claim being made, the more likely it is that the greater expense/ inconvenience of storing documents for longer periods can be justified. It may be that the Parish Council periodically or when required will scan documents on to DVD to reduce the cost for storage space.

3.2 Section 4 indicates the appropriate minimum retention periods for the most important documents for audit and other reasons. There is a clear need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes and legal proceedings (see section 2).

3.3 Documentation relating to staff will be kept securely and in accordance with the eight data protection principles contained within the Data Protection Act 1988. The principles provide that personal data in relation to staff should not be kept for longer than is necessary for the purpose it is held. However, even after an employment relationship has ended, the Parish Council may need to retain and access staff records for former staff for the purpose of giving references, payment of tax, nation insurance contributions and pensions, and in respect to of any related legal claims made against the Parish Council.

3.4 The Local Government (Records) Act 1962 provides that the Parish Council may acquire records of local or historical interest, and accept gifts or records of general and local interest in order to promote the use of such records (defined as materials or other form setting out facts or events or otherwise recording information).

4. Electronic Device Management and Storage

- All official Council proceedings, documentation and communications which are stored on computer are to be backed up to an external electronic device. This will ensure that any accidental loss of data due to computer damage or loss will be minimised. The backed up data may be held on disc, or other external device.

- The Parish Council computer will be password protected and must have anti-virus and firewall software installed on it, this shall be renewed as required.
- ‘Current’ paper records are stored in the clerk’s office.
- Individual Councillors should not store documentation, either electronically or in paper format unless it is current and required.
- Individual councillors are strongly advised to undertake “weeding” and “housekeeping” on a regular basis. On resigning from the council, a Councillor should delete all electronic data they hold, and destroy hard copy documents.
- Councillors should be aware that if they hold records, it may be subject to the provisions of the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004.

5. Retention of records & documents available for audit

The table below indicates the appropriate minimum retention periods for the most important documents for audit and other reasons in relation to a Parish Council. There are however, items not applicable to Framfield Parish Council because they are either not applicable (e.g. Burial Grounds), or not used (e.g. Register/file of members allowances – because no Parish Councillor claims expenses).

There is a clear need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes and legal proceedings (see section 2).

Document	Minimum Period of Retention	Reason
Minute Books/minutes	Indefinite	Archive/Public Inspection. 7 years on Parish Council website
Scales of Fees and Charges	5 years	Management
Hand written minutes and meeting notes for transcription to typed documents	Destroyed once typed and documents are formally approved	Only typed, approved version retained
Correspondence (including electronic) and general files	If associated with any other area as per this table, otherwise review annually. Records of a short term value should be destroyed in the normal course of business	Management/archive
Receipt and payment(s) accounts	Indefinite	Archive
Receipt books of all kinds	6 years	VAT
Bank statements, including deposit/savings accounts	Last completed audit year	Audit
Bank paying-in books	Last completed audit year	Audit

Cheque book stubs	Last completed audit year	Audit
Quotations and tenders	12 years/indefinite	Limitation Act
Paid invoices	6 years	VAT
Paid cheques	6 years	Limitation Act
VAT records	6 years	VAT
Petty cash, incl sundries	6 years	Tax, VAT, Limitation Act
Timesheets	Last completed audit year	Audit
Wages books/records	12 years	Superannuation
Insurance policies	While valid	Management
Insurance certificates/Employers' Liability Certificates	Indefinite	Management
Title deeds, leases, agreements, contracts	Indefinite	Audit, Management
Register/file of Members allowances (if applicable)	6 years	Income Tax, Limitation Act
For Halls, Centres, Recreation Grounds - applications to hire - lettings diaries - copies of bills to hirers - record of tickets issued (if applicable)	6 years	VAT
For Allotments - register and plans	Indefinite	Audit, Management

6. Management of documents and records

- A system of records management which incorporates arrangements for disposal of records is required and the system or policies relating to record management should include a review of council documentation at least annually. Documents of historical importance, if not retained by the council, should be offered first to the county record office. The county archivist there will always be willing to advise on which records should be permanently preserved.
- E-mails are as much an official communication as is a letter, memo or a fax, and may be disclosed in response to a Freedom of Information or Data Protection request and in legal cases. For example - electronic messages can be a legally binding agreement, such as contract, which can be set up via e-mail. If an e-mail contains important information or an important decision, it should be added to the relevant paper or electronic file/folder.

- Most e-mails are about trivial matters. It is a drain on resources to store them on the records management system and to search them when responding to a subject access request and so should be deleted.
- It is unlikely that any Information Technology for the Parish Council, or a Councillor's personal computer employ the benefits equal to that of corporate security management systems. Therefore, all superfluous or outdated electronic data should be deleted as soon as possible to minimise any misuse, and so that a backlog does not accumulate, as this becomes difficult to manage.
- Any documentation or records should be given to the clerk for retention where required. Under the Data Protection Act, the Parish Council should not keep information about people longer than necessary; this includes e-mails to/from or about people.

7. Legislative & Regulatory Framework

- Limitation Act 1980
- Data Protection Act 1998
- Freedom of Information Act 2000
- Lord Chancellor's Code of Practice on the Management of Records under Freedom of Information

8. References to specific policies

- Data Protection Policy
- Freedom of Information Policy

9. Contact details

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10. Policy Adoption

This policy was adopted by Framfield Parish Council at its meeting on the 31st January 2017.

Subsequent minor text amendments can be made under authority delegated to the Clerk.

11. Document Revision History

Date	Version	Revision
10/10/2016	Draft	Final draft
31/01/2017	1.0	Final adopted version, minute reference XXXXXX .

End