**PURPOSE**

Practices are accountable for the way in which they use and dispose of their assets and this includes disposal of their records. They also need to be in a position to explain the absence of records that were once held. The destruction of records is an irreversible act, while the cost of preserving records worthy of preservation is high and continuing.

In establishing our policy on retention periods and destruction processes for business operational records and personal identifiable information, best practice guidance has been adopted from the following to ensure suitable compliance:

* the Information Governance Alliance / Records Management Code of Practice for Health & Social Care 2016
* the Data Security & Protection Toolkit
* the Information Commissioner’s Office Storage Limitation principles
* requirements of GDPR (General Data Protection Regulations) 2016
* and the Data Protection Act 2018

Records of NHS organisations are public records in accordance with Schedule 1 of the Public Records Act 1958 which requires the Practice to have effective management systems in place to deliver high quality care. This includes the arrangements for the safe keeping and eventual disposal of all types of records.

The Data Protection Act and Caldicott principles must continue to be applied to all records whether a record is active or archived for retention.

**Responsibility**

The Practice Manager has lead responsibility for records management within the practice. As records activity is undertaken throughout the Practice, it is the responsibility of all staff to comply with the principles established in this protocol.

**Records and Information Lifecycle**

This protocol outlines the periods which will be observed for the storage of records once the decision is taken to close a record for archiving and retention, until such time that it is then appraised as meriting safe and confidential disposal.

For guidance on the correct management and use of ‘live’ records prior to their closure, please refer to the Practice protocols for information governance, data security and our Data Privacy and Fair Processing Notices.

**POLICY**

**Retention of Records**

In establishing retention periods for the records covered by this policy, the Practice considered long-standing good practice, established thinking about the usefulness of the records for business purposes, periods during which the records support necessary accountability for the practice and instances where statutory authorities apply. The provisions of the Data Protection Act 2018 (DPA) and the requirements of GDPR must be complied with.

This policy applies to records of NHS patients treated on behalf of the NHS, records of staff, complaints, corporate records and other records held by the Practice in either paper or electronic format.

This policy sets out recommended retention periods only in line with the storage limitation principle (please see definition below). The Practice should always consider the lawful strategic and operations value of any documentation to determine if there is a justifiable reason for retention before destroying it, whilst not retaining personal identifiable information longer than necessary. If personal data if not actually being used then routine consideration must be given to whether or not the Practice should continue to retain it until the recommended retention period has been reached. In short, data should not be retained longer than necessary.

*What is the storage limitation principle under GDPR?*

*Article 5(1)(e) says:*

*“1. Personal data shall be:*

*(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject (‘storage limitation’)”*

Even if you collect and use personal data fairly and lawfully, you cannot keep it for longer than you actually need it. Personal data held for too long will, by definition, be unnecessary and we are unlikely to have a lawful basis for retention. The GDPR does not dictate how long personal data should be retained and it is up to the Practice to justify this, based on the purposes for processing. However, consideration should always be given to the fact that the retention periods listed in the following retention schedule must always be considered as minimum.

The Practice must be able to justify why it needs to keep personal data in a form that permits identification of individuals. If it does not need to identify individuals, then data should be anonymised so that such personal identification is no longer possible. Our Data Privacy and Fair Processing Notices (for staff and patients) outline the Practice’s principles in connection with the storage, use and retention of identifiable data.

The retention of information for the purpose of direct care of a patient will never be questioned and the ability of electronic care systems to store information means that the potential of ‘whole care records’ may be possible for the life of a patients across all care sectors.

When a patient dies, the DPA no longer applies to the record and the Freedom of Information Act (FOIA) becomes relevant, as this applies whether the individual is alive or not. The retained records cannot be accessed by anyone who does not have a lawful basis to review the records. Clinical information will remain confidential for several decades after death and the duty of confidence must always be considered to apply.

When considering retention periods, it will also be important for the Practice to consider whether there is broader reason to retain data. For instance, it may be appropriate to retain data for longer if there is a suggestion that a legal claim may result in respect of which the data are relevant. Whilst such considerations are a feature of the suggested retention periods referred to below, it must be remembered that specific circumstances may lead to a different period of retention being justifiable.

**PROCEDURE**

**Recommended Retention Periods**

This protocol looks at categories of information held within the Practice and where appropriate distinguishes between retentions period for ‘significant’, ‘major’ and ‘minor’ records. The data and information categories covered by this policy are:

* Financial & Accounting Records
* Asset Management for Buildings & Equipment
* Risk Management / Health & Safety
* Service Operational Records
* Delivery of Patient Care
* Human Resource Management

The retention periods assigned to each type of records are as follows:

|  |  |
| --- | --- |
| Significant | Permanent or destroy as indicated |
| Major | 8 – 12 years dependent on importance |
| Minor | 3 years or less |

The subsequent Data & Record Retention Schedule outlines examples of the type of record within each category, the recommended retention period and

consideration for retention or destruction. If a particular type of information record type is not included within the table, then the examples provided within each category should provide a clear indication as to the appropriate retention period. The core principle is that the Practice must be able to justify the decision taken to either maintain the record or destroy it.

Where NHS guidance is not available for specific data records the Practice has determined an appropriate minimum retention period for personal identifiable information. Retention periods adopted are in line with known legal, statutory and contractual requirements in order to meet future potential requests for information or to deal with potential claims.

**Record Storage**

Irrespective of the retention periods, the Practice will ensure that all personal data is kept secure for the period in which it will be retained. This is fundamental to the DPA and GDPR.

For records retained over long periods of time, consideration must be given to how the Practice can achieve an appropriate level of capacity to be able to collect, preserve, protect and analyse digital and paper evidence; so that such data can be effectively used in any legal matters, in security investigations, in disciplinary matters, in an employment tribunal or in a court of law.

Data records should be routinely archived when they are superseded, at the completion of each financial year or when they are no longer active. When the decision is taken to archive a record, determine how long the record should be retained and clearly mark the record with the date it should be reviewed for disposal.

Paper

Consideration must be given to how records will be retained securely but accessibly through the lifecycle and how the Practice will ensure the record will only be accessed by those who have authority to do so.

When archiving information, consideration must be given to the future authenticity of the record and any other information (eg supporting email chains, operational register entries) that may be required to make it accurate and useful should access be required at a later date. This may be particularly relevant when considering retained summary information for former employees.

Electronic

Digital or electronic information must be stored in such a way that throughout the lifecycle it can be recovered in an accessible format in addition to providing information about who accessed the record.

The authenticity of the record may be dependent on a number of factors and if it is to remain reliable and accessible when needed, consideration must be given to future accessibility of attachments, hyperlinks, embedded documents or web links. Any inter-links with paper record systems should also be identified and referenced.

Offsite

If records are to be maintained offsite for any reason, a full inventory must kept outlining what is held off site, retention periods applied to the record, a disposal log maintained and privacy impact assessments conducted on the offsite storage providers. Consideration will also need to be given to whether transmission of data will occur outside the EEA (bearing in mind that servers may be located anywhere in the world) which will be relevant to the content of relevant Privacy Notices.

**Review for Continued Retention**

The periods given in the following Retention Schedule are the minimum periods that records must be retained for NHS business and clinical purposes. In most cases, it will be appropriate to destroy the records immediately once this period has expired but care must be taken before any record that is physically destroyed to determine it is no longer required.

Where on appraisal it is determined lawfully appropriate and justifiable to maintain a record for longer than the stated minimum, the reasons for the decision must be recorded and a specified period for further review must be established. Failure to do so is likely to place the Practice in breach of its data protection obligations or will alternatively reduce its ability to justify the decision taken.

**Destruction of Confidential Records**

The Practice will implement and routinely review processes for effectively destroying and/or deleting personal data at the end of each retention period. When disposal of a significant record takes place appropriate records recording the disposal will be maintained at the time of their destruction.

Electronic Data

There is a significant difference between permanently deleting personal data, and taking it ‘offline’. If personal electronic data is later transferred to paper

format, the reduced accessibility and availability of the data will reduce the risk of misuse or mistake. However, the Practice can only store data offline (rather than delete it) when we can justify holding it.

The word ‘deletion’ can mean different things in relation to electronic data, and it is recognised that it is not always possible to delete or erase all traces of the data. The key issue is to ensure that the Practice puts the data beyond use and complies with the ICO requirements in such circumstances.

*The ICO will be satisfied that information has been ‘put beyond use’, if not actually deleted, provided that the data controller holding it:*

* *is not able, or will not attempt, to use the personal data to inform any decision in respect of any individual or in a manner that affects the individual in any way;*
* *does not give any other organisation access to the personal data;*
* *surrounds the personal data with appropriate technical and organisational security; and*
* *commits to permanent deletion of the information if, or when, this becomes possible.*

Paper Based Records

Destruction of confidential records must ensure that their confidentiality is fully maintained. Normally destruction of patient identifiable information will be by way of in-house shredding (using a minimum 3 cut machine specification) or contractually using sealed confidential waste systems through an authorised and verified secure waste management contractor.

Electronic & Computer Hardware

Disposal of electronic and computer hardware, containing confidential records, will be arranged through the appointed Informatics Support Service for primary care. They will ensure that the asset is disposed of in a secure and appropriate manner.

**DATA & RECORD RETENTION SCHEDULE**

*Retention periods are classified into operational categories. Within each category Significant Major or Minor classifications are adopted. Examples of each classification type are provided.*

***END OF RETENTION PERIOD – Review and if no longer required then DESTROY SECURELY***

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| --- | --- | --- |
| **RECORD CLASSIFICATION & TYPE** | **RETENTION PERIOD** | **COMMENTS & NOTES ON DESTRUCTION** |

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| --- | --- | --- |
| **FINANCIAL & ACCOUNTING RECORDS** | | |
| **SIGNIFICANT** | **Permanent** | **(or as indicated)** |
| * Annual accounts – Final (one set) |  | 30 years – CQC retention period |
| * Mortgage Documentation / Property valuations |  | Lifetime of mortgage plus 8 years to bring or defend any claims arising |
| **MAJOR (A)** | **12 years** | Retention required for tax purposes, financial auditing and bringing or defending legal claims arising |
| * Approved suppliers |  |  |
| * Computerised accounts records |  |  |
| * Contracts – financial |  |  |
| * Leases |  | From termination of lease. |
| * Medical equipment purchase orders |  |  |
| * Notional / cost rent valuations |  |  |
| * Staff salaries paid & superannuation records |  |  |
| **MAJOR (B)** | **8 years** | (from completion of annual accounts) Length of retention required for the detection/prevention of crime, tax auditing and defending legal claims. |
| * Bank statements and banking records inc payments & receipts |  |  |
| * Donations & gifts register |  |  |
| * Income & expenditure journals / cashbooks / invoices / payment records / receipt books |  |  |
| * Stock control records & annual stock take audit |  |  |
| * Tax forms / VAT forms / Inland Revenue / NI returns |  | Unless advised otherwise by Accountant |
| * Chequebook counterfoils / paying-in slips / cleared cheques |  |  |
| * Delivery notes / supply records / purchase orders |  |  |
| * Budgets / cashflow / estimates / quotations |  |  |
| * Petty cash records |  |  |
| * Travel & subsistence claims |  |  |

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| **ASSET MANAGEMENT – BUILDINGS & EQUIPMENT** | | |
| **SIGNIFICANT** | **Permanent** | **(or as indicated)** |
| * Asbestos surveys |  | 40 years |
| * Building and engineering records inc contracts, specifications, drawings, planning applications, building regulations |  | Lifetime of the building or disposal of installation to which they refer plus 6 years |
| * Building inspection records (eg boilers / lifts)   – where risk of liability |  | Lifetime of installation / equipment  30 years |
| * Property acquisitions & disposals dossier / Property title deed |  | 30 years from disposal |
| **MAJOR (A)** | **12 years** | For auditing and insurance purposes and for the bringing or defending of legal claims. |
| * Electrical & fire safety certificates |  |  |
| * Equipment inspection records / monitoring and maintenance |  | From completion of monitoring / service |
| * Leases |  | From termination of lease |
| **MAJOR (B)** | **8 years** | Retention period required for bringing or defending legal claims, particularly when failings forming the basis of a claim may not present for number of years. |
| * General maintenance records / maintenance or service contracts / minor building works |  | From end of contract |
| * Water safety records / legionella |  |  |
| * Electrical testing records (PAT) |  |  |
| * Instruction manuals / software licenses |  | Lifetime of the equipment / software |
| * Key registers |  |  |

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| **RISK MANAGEMENT / HEALTH & SAFETY** | | |
| **SIGNIFICANT** | **Permanent** | **(or as indicated)** |
| * Exposure to hazardous substances / employee occupational surveillance |  | 40 years from incident date or last entry on record |
| * Serious incident records |  | 20 years |
| **MAJOR (A)** | **12 years** |  |
| * Accident book / accident & near miss incident records / notifiable diseases and dangerous occurrences reported / exposure to hazardous substances |  | From last entry / where litigation commenced keep as indicated by legal advisor |
| * Complaints register, investigation documents / PALs interventions |  | Where litigation commenced keep as indicated by legal advisor |
| * Health & safety risk assessments inc fIre / incident report forms |  |  |
| * Litigation records / medico-legal claims and correspondence |  | Review after 7 years or in case of a child 7 years after claimant reaches age of 18 following case closure and retain as advised by legal advisor (in case of mental illness retain indefinitely) |
| **MAJOR (B)** | **8 years** | Relevant to limitation periods |
| * Fraud case files |  |  |
| * Risk assessments general / COSHH / control systems |  |  |
| * Significant event (not serious) |  |  |
| **MINOR** | **3 years** |  |
| * Clinical waste notes / cleaning schedules & audits / refrigeration & cold chain, medical gas storage, transportation & safety records |  |  |
| * Medical device alerts |  | Retain until updated or device withdrawn/ where risk of litigation retain for 30 years |

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| **OPERATIONAL RECORDS** | | |
| **SIGNIFICANT** | **Permanent** | **(or as indicated)** |
| * Destruction records |  | Recording the destruction of any significant records |
| * Documents establishing practice relationship with statutory bodies and/or regulatory bodies / legal responsibilities |  |  |
| * CQC registration certificates / Statement of Purpose |  | Until change in registration |
| * Insurance certificates |  | 40 years |
| * Partnership agreements |  | 6 years & 10 months from change in partnership or partnership dissolved |
| **MAJOR (B)** | **8 years** | Relevant to limitation periods |
| * Access to Medical Record requests (eg 3rd party) / Subject Access Request (SAR) where challenged / Freedom of information requests appealed |  |  |
| * Audit (clinical) |  |  |
| * Business plans, business relationship documentation, contracts, SLAs |  | 6 years & 10 months from end of relationship or documentation superseded |
| * CQC statutory notifications |  |  |
| * Website / Intranet |  |  |
| **MINOR** | **3 years** |  |
| * Audit (administrative) / QOF documentation |  |  |
| * Diaries / visitors Book / minutes of meetings |  |  |
| * Licences (TV / music) |  |  |
| * Memberships, certifications and/or accreditation with professional associations |  | From end of membership / accreditation |
| * Patient surveys / FFT |  |  |
| * Policies & procedure / protocols |  | From relegation or replacement |
| * Subject Access Requests (SAR) routine / Freedom on information requests routine |  |  |
| * CCTV images / recorded conversations |  | Varies (1-2 months) Can only be retained long enough for any incident to come to light unless retention otherwise justified (eg potential negligence) |

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| **DELIVERY OF PATIENT CARE** | | |
| **SIGNIFICANT** | **Permanent** | **(or as indicated)** |
| * Child protection register |  | Until patient’s 26th birthday |
| * Immunisation & vaccination records – children & young people |  | Until patient’s 26th birthday or 10 years following death whichever sooner |
| * Maternity records (not part of EPR) / Birth notifications CHIS |  | 25 years |
| * Patient Group Directive (PGD) / Patient Specific Directive (PSD) – children & young people |  | Until patient’s 26th birthday |
| * Patient medical record * Electronic patient record |  | Retain for period of registration /  Must not be destroyed or deleted, after retention period record should be inaccessible to users with clear audit trail recording access |
| * Patient medical record * Lloyd George paper record * Armed forces record * Prison service record * Screening recall registers (manual) |  | Retain for period of registration / Must not be destroyed |
| * Research & development records |  | 30 years |
| **MAJOR (A)** | **12 years** | Relevant to limitation periods |
| * Appointment books (electronic & paper) inc home visit & message books / registration records |  |  |
| * Immunisation & vaccination records – adults |  | From conclusion of treatment |
| * Operating theatre records |  | Where not retained within the clinical record |
| * Patient Group Directive (PGD) / Patient Specific Directive (PSD) – adults |  | From conclusion of treatment |
| **MAJOR (B)** | **8 years** | Relevant to limitation periods |
| * Controlled drug registers |  | From last entry unless contains detail of out of date stock or patient returns destroyed then retained for 8 years |
| * Death certificate counterfoils & death registers |  |  |
| * Medical reports (inc DVLA) / GMS1 forms / OOH advices & record sheets / patient activity data |  | Where not contained within EPR |
| * Scanned documentation (non-electronic communication) |  | Until computer system back up undertaken and verified |
| * Temporary resident records (copies) |  |  |

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| **HUMAN RESOURCE MANAGEMENT** | | |
| **SIGNIFICANT** | **Permanent** | **(or as indicated)** |
| * Clinical training records |  |  |
| * Employment tribunal case files |  | 10 years or as indicated by legal advisor |
| * Pension Data (non-electronic predating April 2016) |  | Retained indefinitely in case of future queries until subjects 75th birthday |
| * Summary Personnel Record (significant major information for retention as outlined in following checklist) |  | 6 years after subject leaves service or their 75th birthday whichever later |
| * Training Records * Clinical |  | 8 years after subject leaves service or their 75th birthday whichever later |
| **MAJOR (A)** |  |  |
| * Training Records * Statutory & Mandatory (exc Clinical) | **12 years** | From completion of training and relevant to limitation periods |
| **MAJOR (B)** | **8 years** | From termination of employment or 75th birthday whichever sooner / create Summary Personnel Record (see advice table) and destroy rest of file and relevant to limitation periods |
| * Appraisal / performance review / disciplinary records / investigation files / grievances |  |  |
| * Flexible Working Requests |  |  |
| * Medical Indemnity / professional registration / DBS clearance |  |  |
| * Occupation health records / risk assessments / immunity status |  | From termination of employment or 75th birthday whichever sooner unless under surveillance (retain to 75th birthday) |
| * PAYE records / incremental records / pension forms |  |  |
| * Recruitment documentation / appointment letter, acceptance, contract of employment, proof of identity , evidence of right to work, mechanism of ID, occupational health clearance, qualifications, references, contact details |  |  |
| * Resignation / notice letter / redundancy records |  |  |
| * Sickness certificates / self-certification forms / SSP |  | After the end of tax year to which they relate |
| * Training records (other – see significant & major) |  |  |
| * Attendance records / time sheets / leave sheets / study leave requests / maternity & paternity leave / rotas / duty rosters |  | Relevant to legal claims |
| * Expenses claims / SMP |  | After end of tax year |
| * Job descriptions & competencies |  | Retain for 3 years after replacement or relegation |
| * National minimum wage records / practice pay scales |  |  |
| * Training Plans |  |  |
| **MINOR** |  |  |
| * Recruitment documentation (unsuccessful applications) shortlisting and interview scoring sheets / notes and job advertisements |  | 12 months |

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| **SUMMARY PERSONNEL RECORD** | |
| A summary personnel record should be created 8 years after a subject leaves the employment of the practice. The summary should be retained for a further 4 years. | |
| Record Contents:   * Name (& previous names) * Addresses * Date of birth * Start and end dates * Termination reason * Current disciplinary actions\* * Employment history / positions held & dates * Pay Bands * Payroll number * NHS pensions membership & eligibility * Immunity status | * Training summary\* * DBS number & date * Professional registration * Medical indemnity provision * Current occupational health records * Details of any work related injury or exposure to hazardous substances * Lists of locations where worked whilst employed   (Justifiable supporting paperwork and documentation may be retained with the Summary Personnel Record if required) |
| \*Information may held in a separate files so they can be expired at appropriate time | |