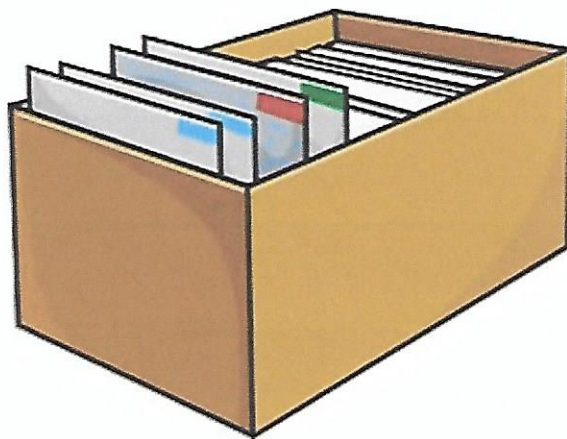


# Little Gaddesden Parish Council

## **DOCUMENTS AND RECORDS SECURITY & RETENTION POLICY**

25<sup>th</sup> May 2018 (review May 2020)



### **Origin of this Policy**

This policy is substantially based on the National Association of Local Councils (NALC) Legal Topic Note 40, dated Sept 2016.

### **Purpose of this policy**

- To assist in identifying records that may be worth preserving permanently as part of the Parish Council's archives.
- To prevent the premature destruction of records that need to be retained for a specified period to satisfy legal, financial and other requirements of public administration.
- To ensure compliance with the Freedom of Information Act 2000 and the General Data Protection Regulations (GDPR)

### **Retention of documents**

1. Attached at the end of this policy is an Annex indicating the appropriate minimum retention periods for audit and other purposes. There is a clear need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes. Subject to these reasons for retaining documents, papers and records may be destroyed if they are no

longer of use or relevant. If in doubt, document(s) will be retained until proper advice has been received.

The principles underlying records management – creation, retention, identification, and retrieval of records – apply equally to both electronic and paper records. This means that procedures for e-mail and information held on shared and personal hard drives, mobile phones tablets etc have to be as robust and detailed as those for other records.

2. Other documents not mentioned in the Annex may be treated as follows -

### ***Planning papers***

- a. Where planning permission is granted, the planning application, any plans and the decision letter will 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 will also be retained likewise. An appeal decision will be retained indefinitely because of wider implications (e.g. the decision may set a precedent for other developments in the locality). However the backstop date for retention should usually be longer than 3 years.
- b. Where planning permission is refused, the papers will be retained until the period within which an appeal can be made has expired. If an appeal is made, and dismissed, the decision letter will be, as in (a) above, be retained against further applications relating to the same site.
- c. Copies of Structure Plans, Local Plans and similar documents will be retained as long as they are in force.

***Insurance policies*** - all insurance policies will be kept for as long as it is possible for a claim to be made under them. Irrespective of how long policies and correspondence are retained, in accordance with NALC recommendations, a permanent record of insurance company names and policy numbers for all insured risks will be kept. Article 4 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753) requires local councils, as employers, to retain certificates of insurance against liability for injury or disease to their



employees arising out of their employment (this insurance is mandatory pursuant to the Employers' Liability (Compulsory Insurance) Act 1969) for a period of 40 years from the date on which the insurance is commenced or renewed.

***Information from other bodies*** (e.g. circulars etc. from County Associations, NALC and other bodies (e.g. principal authorities) – such information will be retained for as long as it is useful and relevant.

***Magazines and Journals*** – The Parish Council will retain its own publications (e.g. newsletters). The Legal Deposit Libraries Act 2003 (the 2003 Act) requires a local council which after 1 February 2004 has published works in print (this includes a pamphlet, magazine or newspaper, a map, plan, chart or table), to deliver, at its own expense, a copy of them to the British Library Board (which manages and controls the British Library). The British Library holds books, periodicals, manuscripts and other publications for reference, study and information. Printed works as defined by the 2003 Act published by a local council therefore constitute materials which the British Library holds. Journals published by others (e.g. local government news journals and magazines) will be retained as long for as they are useful and relevant.

***Correspondence*** – if related to audit matters, correspondence will be kept for the appropriate period specified in the Annex below. In planning matters, correspondence will be retained for the same period as suggested for other planning papers (i.e. a maximum of 3 years). For other correspondence (unless relating to staff), no firm guidelines can be laid down (but see paragraphs 7 – 11 below).

***Documentation relating to staff*** - will be kept securely and in accordance with the data protection principles contained in the GDPR. The principles provide that personal data in relation to staff should not be kept for longer than is necessary for the purpose it was 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, national insurance contributions and pensions, and in respect of any related legal claims made against the Parish Council. The time limits within which a claim (and any appeal) may be lodged against an employer at an employment tribunal are set out in the legislation that contains the employment right in question or failing that by reference to the Limitation Act 1980 (as amended) considered in paragraph 7

below. The time for lodging a claim at an employment tribunal is usually measured from the date that the employment relationship ended or the date of the act complained of. Subject to where the Limitation Act 1980 applies, the most common time limit for lodging a claim at an employment tribunal is 3 months (for example a claim for unfair dismissal must, by virtue of s.111 of the Employment Rights Act 1996, be lodged at an employment tribunal within 3 months of the date of the termination of the employment contract) although 6 months applies in redundancy and equal pay claims.

***Local/historical information*** - The Local Government (Records) Act 1962 provides that Parish Councils may acquire records of local interest and accept gifts or records of general and local interest in order to promote the use of such records (defined as materials in written or other form setting out facts or events or otherwise recording information). These will be retained indefinitely.

### **Arrangements for the deposit, storage and management of documents**

3. In accordance with s. 227 of the Local Government Act 1972 (the 1972 Act), if a Parish Council requests, the District Council must provide proper depositories for all the specified papers (defined as public books, writings, council papers and all documents directed by law to be kept) belonging to the parish for which there is no other provision. Documents of local and/or historical importance, if not retained and stored by a local council, with or without reliance on the provisions of s.227 of 1972 Act, should be offered first to the county record office if there is one. The County Archivist will advise on which records should be permanently preserved.
4. Local councils are advised by NALC to implement system(s) of paper and electronic records management (including those records retained for audit purposes reviewed annually by a council's internal auditor). Such systems should ensure the storage and security of, access to and disposal of both paper and electronic records. It is essential that any such system(s) (and policies) relating to record management include an annual review of the records themselves and also the effectiveness of such systems(s) (and policies).



## Retention of documents for legal purposes

5. Most legal proceedings are governed by the Limitation Act 1980 (as amended). The 1980 Act provides that legal claims may not be commenced after a specified period. The specified 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	12 years
Rent	6 years
Breach of Trust	None

6. Where the limitation periods above are longer than other periods specified in this policy, the documentation will 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, NALC advises that the relevant documentation should be kept for the longest of the three limitation periods.

7. 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).

8. As there is no limitation period in respect of trusts, the Parish Council will never destroy trust deeds and schemes and other similar documentation.
9. For the sake of completeness it should be noted that some limitation periods can be extended. Examples include:
  - where individuals first become aware of damage caused at a later date (e.g. in the case of personal injury);
  - where damage is latent (e.g. to a building); or
  - where a person suffers from a mental incapacity;
  - where there has been a mistake or where one party has defrauded another or concealed facts.
10. In such circumstances the Parish 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.
11. 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. The Parish Council will take account of the precise wording of insurance policies to ensure that it complies with any terms the policies contain in respect of the retention of documents and information.

### **Security of Information held**

12. Hard copy information including any personal data should be kept in a secure fireproof cabinet.
13. Digitally held data should be kept on a password protected device such as a computer, tablet, memory stick, mobile phone.
14. To avoid data loss a secure back up copy should be held on another password protected device not kept in the same place as the original.
15. Councillors are requested to keep their personal e-mails separate from their

personal e-mails.

16. Councillors are asked when sending e-mails to multiple persons to use the bcc function to prevent sharing e-mail addresses with others. This does not apply to internal communications between councillors and the Clerk.

Signed by the Chair of LGPC.....



Date 19/11/2018.



DOCUMENT	MINIMUM RETENTION PERIOD	REASON
▪ Minute books	Indefinite	Archive
▪ Scales of fees/charges	5 years	Management
▪ Receipt and payment account(s)	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	6 years	Limitation Act 1980 (as amended)
▪ Paid invoices	6 years	VAT
▪ Paid cheques	6 years	Limitation Act 1980 (as amended)
▪ VAT records	6 years	VAT
▪ Petty cash, postage and telephone books	6 years	Tax, VAT, Limitation Act 1980 (as amended)
▪ Timesheets	Last completed audit year	Audit
▪ Wages books	12 years	Superannuation
▪ Insurance policies	See under para. 2 above	Management
▪ Certificates for Insurance against liability for employees	40 years from date on which insurance commenced or was renewed	The Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753), Management.
▪ Investments	Indefinite	Audit, Management
▪ Title deeds, leases, agreements, contracts	Indefinite	Audit, Management
▪ Members allowances register	6 years	Tax, Limitation Act 1980 (as amended)
▪ Budget documents	5 years	Management
▪ Local Historical Information.	Indefinitely	Preservation of historical records
▪ Planning applications	3 years	To check build against



		the consent
▪ E-mails from residents	2 years	To avoid unnecessary retention of personal data - GDPR