

MADELEY TOWN COUNCIL RETENTION OF DOCUMENTS POLICY

Introduction

1. Information about local council documentation is contained in Chapter 11 of 'Arnold-Baker on Local Council Administration' (Tenth Edition). This Note is intended to update and supplement that information, with particular reference to the length of time documents should be retained by local councils. Many documents are now only held electronically so the same arrangements for keeping records and copies should be applied to an electronic document as for a paper document.

Retention of documents

2. Attached is an Annex indicating 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. Subject to these reasons for retaining documents, and as a basic starting point, papers and records may be destroyed if they are no longer of use or relevant. If in doubt, document(s) should be retained until proper advice has been received.

Local/historical information

3. 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).

Retention of documents for legal purposes

4. 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

5. Where the limitation periods above are longer than other periods specified in this Note, the documentation should be kept for the longer period specified. Some types of legal proceedings may fall within two or more categories

7. As there is no limitation period in respect of trusts, councils are advised that they should never destroy trust deeds and schemes and other similar documentation.

8. For the sake of completeness it should be noted that some limitation periods can be extended. Examples include:

- where individuals do not become aware of damage until a later date (e.g. in the case of disease);
- where damage is hidden (e.g. to a building);
- where a person is a child or suffers from a mental incapacity;
- where there has been a mistake by both parties or
- where one party has defrauded another or concealed facts.

9. In such circumstances Madeley Town 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.

Data Protection and Freedom of Information Considerations

10. The Lord Chancellor's Code of Practice on the Management of Records issued under section 46 of the Freedom of Information Act 2000 applies to public authorities and also bodies which are subject to the Public Records Act 1958 (the 1958 Act). Although local councils are not subject to the 1958 Act, they should familiarise themselves with the contents of the Code of Practice so they can formulate their own system of records management.

11. The General Data Protection Regulations (GDPR) will be applied from 25th May 2018. Under the GDPR, the data protection principles set out the main responsibilities for organisations.

Article 5 of the GDPR requires that personal data shall be:

- a) processed lawfully, fairly and in a transparent manner in relation to individuals;
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- 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 subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals; and
- f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

ANNEX TO RETENTION OF DOCUMENTS POLICY

RETENTION OF DOCUMENTS REQUIRED FOR THE AUDIT OF PARISH COUNCILS

DOCUMENT	MINIMUM RETENTION PERIOD	REASON
Minute books	Indefinite	Archive
Scales of fees	6 years	Management
Receipt and payment account(s)	Indefinite	Archive
Receipt books	6 years	VAT
Bank statements	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 generally but 20 years for VAT on rents	VAT
Petty cash	6 years	Tax, VAT, Limitation Act 1980 (as amended)
Timesheets	Last completed audit year 3 years	Audit (requirement) Personal injury (best practice)
Wages records	12 years	Superannuation
Personnel records	6 years after employee leaves	Limitation Act 1980 (as amended)
Insurance policies	While valid	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

DOCUMENT RETENTION	MINIMUM RETENTION PERIOD	REASON
Title deeds, leases, agreements, contracts	Indefinite	Audit, Management
Members allowances	6 years	Tax Limitation Act 1980 register (as amended)

For Halls, Centre, Recreation Grounds

application to hire lettings diaries copies of bills to hires record of tickets issued	6 years	VAT
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For Allotments

register and plans	Indefinite	Audit, Management
Plot holder tenancy records	6 years	Audit.