

Holme Grange School



DATA RETENTION POLICY

Date:	Amendment:	Reviewed by:	Authorised by:
April 2024	Next review date		
August 2022	Reviewed	Darren Gosling	Passed to SMT for review on 29/09/22
April 2021	Reviewed	Darren Gosling	SMT April 2021 and passed to Governors
November 2019	New Policy	Darren Gosling	

Data Retention Policy

This policy sets out the minimum periods of retention of the personal data that we process. We will seek to balance the benefits of keeping detailed and complete records – for the purposes of good practice, archives or general reference – with practical considerations of storage, space and accessibility. However, there are legal considerations in respect of retention of records and documents, which must be borne in mind. These include:

- statutory duties and government guidance relating to schools, including eg KCSIE;
- disclosure requirements for potential future litigation;
- contractual obligations;
- the law of confidentiality and privacy; and
- the General Data Protection Regulations (GDPR) & the Data Protection Act (DPA) which enshrines UK law;

These will inform not only minimum and maximum retention periods, but also what to keep and who should be able to access it.

Child protection and document retention

In the light of the Independent Inquiry into Child Sexual Abuse and various high-profile safeguarding cases, all independent schools are aware of the emphasis currently being placed on long-term, lifetime or even indefinite keeping of full records related to incident reporting. Regardless of suggested retention timescales set out below, Holme Grange School may at its discretion extend this rule to any and/or all personnel and pupil files on a 'safety first' basis.

These guidelines have been drafted in full awareness of these considerations. Data protection issues should never put child safety at risk, nor take precedence over the general prevention and processing of safeguarding.

Meaning of "Record"

In these guidelines, "record" means any document or item of data which contains evidence or information relating to the school, its staff or pupils. Some of this material, but not all, will contain personal data of individuals as defined in GDPR.

An obvious example of a record containing personal data would be a database (such as a mailing list or the staff Single Central Record), or a pupil or personnel file specific to an individual. However, a "record" of personal data could arise simply by holding an email on the school's systems: your policies should ensure staff do not use email accounts or inboxes as proxy filing systems for key documents.

Many, if not most, new and recent records will be created, received and stored electronically. Others (such as Certificates, Registers, or older records) will be original paper documents. The format of the record is less important for retention purposes than its contents, and the reason for keeping it (although format is of course an important consideration in terms of how best to preserve documents securely).

Secure disposal of documents

When data is to be destroyed, this may be carried out by an appropriately licenced third party. For confidential, sensitive or personal information to be considered securely disposed of, it must be in a condition where it cannot either be read or reconstructed. Skips and 'regular' waste disposal will not be considered secure.

Paper records or images should be placed in one of the school's four 'Shred on Site' confidential waste units; devices for digital storage and recordings should be dismantled or broken into pieces.

Where third party disposal experts are used they will be subject to adequate contractual obligations to the school to process and dispose of the information confidentially and securely.

Timescales for retention

The timescales below are given as a guide for minimum retention periods. Figures given are not intended as a substitute to exercising thought and judgment, or taking specific advice, depending on the circumstances. Indeed, the essence of this guidance can be boiled down to the necessity of exercising thought and judgment – practical considerations mean that case-by-case 'pruning' of records may be impossible. It is therefore accepted that sometimes a more systemic or broad-brush approach is necessary.

Holme Grange School will err on the side of retention, rather than disposal, of staff and pupil files until more settled guidance is given to schools. This will protect the rights of the individual to bring a claim or for the purpose of 'Safety First'.

TABLE OF RETENTION PERIODS

Holme Grange has developed this table with reference and guide from ISBA.

Any queries or questions regarding this Data Retention Policy should be referred to the HR and Compliance Manager.

Type of Record/Document	Retention Period ¹
<u>EMAILS ON SERVER</u> <ul style="list-style-type: none"> • Pupil email account • Staff emails 	<p>Delete upon leaving school, or within one year</p> <p>Routine deletion of historic emails after 2-3 years and delete account within 1 year of leaving school.</p>
<u>SCHOOL-SPECIFIC RECORDS</u> <ul style="list-style-type: none"> • Registration documents of School • Attendance Register • Minutes of Governors' meetings • Annual curriculum • Lunch Register • Prep Register 	<p>Permanent (or until closure of the school)</p> <p>6 years from last date of entry, then archive.</p> <p>6 years from date of meeting</p> <p>From end of year: 3 years (or 1 year for other class records: e.g. marks / timetables / assignments)</p> <p>Current Term only</p> <p>Current Academic Year</p>

<p><u>INDIVIDUAL PUPIL RECORDS</u></p> <ul style="list-style-type: none"> • Admissions: application forms, assessments, records of decisions • Examination results (external or internal) • Pupil file including: <ul style="list-style-type: none"> - Pupil reports - Pupil performance records - Pupil medical records • Special educational needs records (<i>to be risk assessed individually</i>) • Pastoral Meeting Notes • Early Years Funding records • Trip Letters and Consent 	<p><i>NB – this will generally be personal data</i></p> <p>25 years from date of birth (or up to 7 years from the pupil leaving). If unsuccessful: up to 1 year.</p> <p>7 years from pupil leaving school</p> <p>ALL: 25 years from date of birth (subject to where relevant to safeguarding considerations: any material which may be relevant to potential claims should be kept for the lifetime of the pupil).</p> <p>Date of birth plus up to 35 years (allowing for special extensions to statutory limitation period)</p> <p>7 years from pupil leaving school unless incident which should be kept as child protection files/incident reporting</p> <p>7 years</p> <p>Current Academic Year</p>
<p><u>SAFEGUARDING</u></p> <ul style="list-style-type: none"> • Policies and procedures • DBS disclosure certificates (if held) • Accident / Incident reporting • Child Protection files • Video recordings of meetings 	<p>NB see note above: IICSA, child protection & document retention</p> <p>Keep a permanent record of historic policies</p> <p><u>No longer than 6 months</u> from decision on recruitment, unless DBS specifically consulted – but a record of the checks being made must be kept, if not the certificate itself.</p> <p>Keep on record for as long as any living victim may bring a claim (NB civil claim limitation periods can be set aside in cases of abuse). Ideally, files to be reviewed from time to time if resources allow and a suitably qualified person is available.</p> <p>If a referral has been made / social care have been involved; or child has been subject of a multi-agency plan; or there is a risk of future claims – indefinitely.</p> <p>If low-level concerns, with no multi-agency action, apply applicable school low-level concerns rationale (this may be 25 years from date of birth OR indefinitely).</p> <p>Where any one-on-one meetings of classes, counselling, or application interviews are recorded (e.g. for safeguarding purposes), a shorter-term retention policy is acceptable based on the DSL’s view of how quickly a concern will likely be raised: e.g. 3-6 months or immediately upon DSL review.</p>

<p><u>CORPORATE RECORDS</u> (where applicable)</p> <ul style="list-style-type: none"> • Certificates of Incorporation • Minutes, Notes and Resolutions of Boards or Management Meetings • Register of Members/Shareholders 	<p>eg where schools have trading arms</p> <p>Permanent (or until dissolution of the company)</p> <p>Minimum – 10 years</p> <p>Permanent (minimum 10 years for ex members/shareholders)</p>
<p><u>ACCOUNTING RECORDS</u> ³</p> <ul style="list-style-type: none"> • Accounting records (<i>normally taken to mean records which enable a company's accurate financial position to be ascertained & which give a true and fair view of the company's financial state</i>) <ul style="list-style-type: none"> • Tax returns • VAT returns • Budget & internal financial reports • Bursary applications 	<p>Minimum – 6 years for UK charities (and public companies) from the end of the financial year in which the transaction took place</p> <p>Minimum - 6 years</p> <p>Minimum – 6 years</p> <p>Minimum – 3 years</p> <p>Minimum – 1 year from pupil leaving school</p>
<p><u>CONTRACTS AND AGREEMENTS</u></p> <ul style="list-style-type: none"> • Signed or final/concluded agreements (<i>plus any signed or final/concluded variations or amendments</i>) • Deeds (or contracts under seal) 	<p>Minimum – 7 years from completion of contractual obligations or term of agreement, whichever is the later</p> <p>Minimum – 13 years from completion of contractual obligation or term of agreement</p>
<p><u>INTELLECTUAL PROPERTY RECORDS</u></p> <ul style="list-style-type: none"> • Formal documents of title (trade mark or registered design certificates; patent or utility model certificates) • Assignments of intellectual property to or from the school • IP / IT agreements (including software licences and ancillary agreements e.g. maintenance; storage; development; coexistence agreements; consents) 	<p>Permanent (in the case of any right which can be permanently extended, eg trade marks); otherwise expiry of right plus minimum of 7 years.</p> <p>As above in relation to contracts (7 years) or, where applicable, deeds (13 years).</p> <p>Minimum – 7 years from completion of contractual obligation concerned or term of agreement</p>
<p><u>EMPLOYEE / PERSONNEL RECORDS</u></p> <ul style="list-style-type: none"> • Single Central Record of employees • Contracts of employment 	<p><i>NB this will contain personal data</i></p> <p>Keep a permanent record that mandatory checks have been undertaken (but do <u>not</u> keep DBS certificate information itself: 6 months as above)</p> <p>7 years from effective date of end of contract</p>

<ul style="list-style-type: none"> • Employee appraisals or reviews • Staff personnel file • Payroll, salary, maternity pay records • Pension or other benefit schedule records • Job application and interview/rejection records (unsuccessful applicants) • DBS certificates • Immigration records • Health records relating to employees • Low-level concerns about adults 	<p>Duration of employment plus minimum of 7 years As above, but <u>do not delete any information which may be relevant to historic safeguarding claims.</u></p> <p>Minimum – 6 years</p> <p>Possibly permanent, depending on nature of scheme</p> <p>Minimum 3 months but no more than 1 year</p> <p>6 months maximum (Though the DBS number and date of issue should be recorded on SCR for ALL current staff)</p> <p>Minimum – 4 years</p> <p>7 years from end of contract of employment</p> <p>Regular review recommended to justify longer-term retention as part of safeguarding files.</p>
<p><u>INSURANCE RECORDS</u></p> <ul style="list-style-type: none"> • Insurance policies (will vary – private, public, professional indemnity) • Correspondence related to claims/renewals/ notification re: insurance 	<p>Duration of policy (or as required by policy) plus a period for any run-off arrangement and coverage of insured risks: ideally, until it is possible to calculate that no living person could make a claim.</p> <p>Minimum – 7 years</p>
<p><u>ENVIRONMENTAL, HEALTH & DATA</u></p> <ul style="list-style-type: none"> • Maintenance logs • Accidents to children ⁴ • Accident at work records (staff) ⁴ • Staff use of hazardous substances ⁴ • COVID-19 risk assessments, consents etc. <i>(for now: this to be subject to further review)</i> 	<p>10 years from date of last entry</p> <p>25 years from birth (longer for safeguarding)</p> <p>Minimum – 4 years from date of accident, but review case-by-case where possible</p> <p>Minimum – 7 years from end of date of use</p> <p>Retain for now legal paperwork (consents, notices, risk assessments) but not individual test results</p>
<ul style="list-style-type: none"> • Risk assessments (carried out in respect of above) ⁴ 	<p>7 years from completion of relevant project, incident, event or activity.</p>
<ul style="list-style-type: none"> • GDPR records of processing activity, data breach records, impact assessments 	<p>No limit (as long as no personal data held), but must be kept up to date, accurate and relevant.</p>

FOOTNOTES:

1. General basis of suggestion:

Some of these periods will be mandatory legal requirements (e.g. under the Companies Act 2006 or the Charities Act 2011, depending on status), but in the majority of cases these decisions are up to the institution concerned. The suggestions will therefore be based on practical considerations for retention such as limitation periods for legal claims, and guidance from Courts, weighed against whether there is a reasonable argument in respect of data protection.

2. The High Court has found that a retention period of 35 years was within the bracket of legitimate approaches. It also found that it would be disproportionate for most organisations to conduct regular reviews, but at the time of writing the ICO (Information Commissioner's Office) still expects to see a responsible assessment policy (e.g. every 6 years) in place.
3. Retention period for tax purposes should always be made by reference to specific legal or accountancy advice.
4. Be aware that latent injuries can take years to manifest, and the limitation period for claims reflects this: so keep a note of all procedures as they were at the time, and keep a record that they were followed. Also keep the relevant insurance documents.

Farrer & Co LLP
August 2022

Retention of Disciplinary Records - FAQs

1. How long should records of disciplinary matters be retained on personnel files?

There is no statutory minimum or maximum length of time for which disciplinary records should be retained (be they formal or informal), but records of this nature should only be kept for as long as is necessary in accordance with a School's data retention policy, and must remain confidential, even after deletion. Once the employment relationship is ended, personal information that is no longer of any relevance, nor legally required to be retained (for example, for safeguarding reasons (see further below)), should be confidentially destroyed. However, we recommend retaining disciplinary records for a minimum of 6 months following termination of employment in order to account for the risk of the employee bringing a claim against the school post termination.

There should be clear procedures on how 'spent' disciplinary warnings are handled. For example, are they removed entirely from the employee's personnel record, or are they retained but simply disregarded in determining a future disciplinary sanction? Generally, we would recommend the latter, as there is no legal requirement to remove disciplinary warnings from an employee's file once spent. It is helpful to retain a full record of disciplinary matters brought against an employee in order that it can give a full view of an employee's history, as and when this is required (for example in relation to promotions, or when providing a reference, or in the event of a subsequent claim).

2. What if the allegations relate to safeguarding or child protection concerns?

Separate rules apply in relation to allegations of a safeguarding nature, in accordance with the statutory guidance “Keeping Children Safe in Education” (KCSIE). Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records unless the individual gives their consent for retention of the information. Adequate records should be retained, however, in respect of all other allegations where the harms threshold under Part 4 of KCSIE is met.

Schools and colleges have an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the enquiry. All other records should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date from the allegation if that is longer.

Low-level concerns under Section Two, Part 4 of KCSIE should be recorded in writing. The record should include details of the concern, the context in which the concern arose, and action taken. It is for schools and colleges to decide how long they retain such information, but it is recommended within KCSIE that it is retained at least until the individual leaves their employment. As noted above, however, we would recommend that such records are retained for at least a period of 6 months following termination of employment in order to account for the risk of the employee bringing a claim against the school post termination.

3. If a formal warning is given to a member of staff and it is described as being ‘spent’ after 12 months, what does this mean?

A ‘spent’ formal warning is one that is no longer considered to be relevant (except in limited circumstances) after a set period of time. Your Disciplinary Procedure should confirm the period in which formal warnings will remain live. This is often specified to be 12 months in which case the warning will expire 12 months from the date upon which it is confirmed to the employee (this could be orally at the disciplinary hearing, or in writing if the outcome is communicated after the hearing).

A spent warning may be retained on an employee’s personnel file (depending on the School’s retention policy in this regard) but will generally be disregarded in deciding the outcome of any future disciplinary proceedings. However, spent warnings can be taken into account where this is not the principal reason for any dismissal or other sanction; in other words, where the circumstances justified the sanction issued irrespective of the spent warning. For example, a spent warning could be considered by way of context when reviewing a case of similar misconduct, where that misconduct in itself is the reason for the dismissal or other sanction issued.

**Harrison Clark Rickerbys
February 2022**