

PFCC Decision Report

<p>Report reference number: 121 – 19</p> <p>Classification (e.g. Not protectively marked/restricted): Not protectively marked</p>
<p>Title of report: Review of Records Retention and Disposal Policy 2019</p>
<p>Area of county / stakeholders affected: Countywide</p>
<p>Report by: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer) Anna Hook (Head of Performance and Scrutiny, DPO, Interim Lead for Emergency Services Collaboration Programme)</p> <p>Date of report: 3 December 2019</p> <p>Enquiries to: Anna Hook (anna.hook@essex.police.uk)</p>

1. Purpose of the report

To present the reviewed Records Retention and Disposal Policy for adoption and publication.

2. Recommendations

- That the reviewed policy attached at Appendix 1 be adopted and published by the PFCC.
- That the PFCC's Data Protection Officer (DPO) is tasked with project managing a cross-organisational exercise to ensure compliance with the updated policy by the end of January.
- That the content of the policy and the process for implementing it is communicated to all staff via the whole team meeting and weekly SMT Update email.
- That an internal audit of compliance with the policy be added to the Internal Audit Plan for 2020/21.

3. Benefits of the proposal

Compliance with the attached Records Retention and Disposal Policy will allow the PFCC to meet the requirements of the General Data Protection Regulation (GDPR) in relation

to not retaining unnecessary information. This will also benefit our responses to FOI requests.

4. Background and proposal

On review of the current Records Retention and Disposal Policy it was identified that the content should be updated and should align where possible to Information and Data Asset Registers, which have benefitted from being continuously reviewed in order to ensure GDPR and Data Protection Act 2018 compliance. Asset owners across the organisation have had several opportunities to feed into this process over the past few months, resulting in the current policy content.

It is proposed that this Policy is adopted by the PFCC and that, in doing so an action plan is developed and implemented to ensure that the policy is enacted and, where records are disposed of, this is recorded on a Disposal Register.

5. Alternative options considered and rejected

We have the option to make no change to the existing policy, however, it is evident that some information is out of date, and that the existing policy does not accurately reflect GDPR considerations. Failure to update the policy would therefore constitute a failure to comply with the GDPR and may attract unwanted attention or enforcement action from the Information Commissioner's Office (ICO).

6. Police and Crime Plan

This proposal cuts across all strategic objectives in regard to how we undertake our business in a compliant manner.

7. Police operational implications

N/A

8. Financial implications

N/A

9. Legal implications

Various statutes and regulations are relevant to this policy, including:

- The Limitation Act 1980, which sets time limits within which different types of legal proceedings can be commenced. Consequently, it is necessary to have minimum retention periods for some financial records, contracts, personnel records and so forth that may need to be produced in connection with legal proceedings. These are reflected in the refreshed policy attached for adoption at Appendix 1.
- The Openness of Local Government Bodies Regulations 2014, section 8 of which specifies a requirement to create, keep and make available for inspection records of certain kinds of decisions for six years after the decision was taken, and to retain background information for four years.
- The Employers' Liability (Compulsory Insurance) Act 1969 and subsequent Regulations (1998) stipulate that employers' liability insurance certificates dating

from 1 December 1998 must be kept for 40 years after the date on which the insurance to which the certificate relates commences or is renewed.

- The Health and Safety at Work etc Act 1974 and its associated Regulations stipulate minimum retention periods for certain records which are reflected in the policy attached for approval at Appendix 1.
- The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995, which stipulate that a record of deaths, injuries at work or disease shall be kept for at least three years from the date on which the record was made.
- The Value Added Tax Act 1994, which provides a retention period of six years for VAT records.

10. Staffing implications

There will be resource required to assist in the initial delivery of disposals required by this policy implementation, and in the development and maintenance of a disposals register.

11. Equality and Diversity implications

The Equality Act 2010 states that discrimination claims must be brought within 3 – 9 months of the alleged act. This is reflected in the policy attached for approval at Appendix 1.

12. Risks

There are no key risks associated with this proposal. The risks associated with not agreeing the recommendations are set out in section 5 above.

13. Governance Boards

This topic has been discussed previously at SMT on 16 and 30 July 2019. The content of the proposed policy was shared with the Kent PCC's office for comment as a "critical friend" before being presented to the PFCC's SMT for agreement in principle on 3 December 2019.

14. Background papers

Appendix 1 – Draft Records Retention and Disposal Policy

Report Approval

The report will be signed off by the OPFCC Chief Executive and Treasurer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O. Sign: [Signature]
Print: P. East
Date: 11 December 2019

Chief Finance Officer / Treasurer Sign: [Signature]
Print: ABBEY
Date: 12/12/19

Publication

Is the report for publication? YES
NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

.....
.....N/A.....

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES NO
2. Of Appendix? YES NO

If 'YES', please provide details of required redaction:

.....
.....N/A.....

Date redaction carried out:

Treasurer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive/Treasurer

Decision and Final Sign Off

I agree the recommendations to this report:

Sign:

Print:

PFCC/Deputy PFCC

Date signed:

I do not agree the recommendations to this report because:

.....
.....
.....

Sign:

Print:

PFCC/Deputy PFCC

Date signed:

Police, Fire and Crime
Commissioner
for Essex

**RECORDS RETENTION AND
DISPOSAL POLICY**

Version Control	Version 4.0	October 2019
Reviewed By	A Hook	July 2019
Policy owner	P Brent-Isherwood	October 2019
First Published	J Drewett	November 2012
Next Review Date	A Hook	October 2022

Version history

Version Number	Date	Reason for review	Comments
1.0	November 2012		First publication
2.0	February 2016	Policy update	Jackie Madden
3.0	July 2019	Policy update	Anna Hook
4.0	October 2019 November 2019	Review by MO and Kent PCC as "critical friends"	Pippa Brent-Isherwood

Records Retention and Disposal Policy

Policy Statement

1. The records of the PFCC are its corporate memory and are necessary to ensure good corporate governance, accountability and legislative compliance, as well as to provide evidence of decisions and actions and inform future decision-making. This policy sets out what records the PFCC holds and how long they will be retained before they are disposed of.
2. All records created during the course of the PFCC's work are the property of the PFCC and will be regulated in accordance with the Data Protection Act and subject to requests under the Freedom of Information Act.
3. The Commissioner undertakes to:
 - Manage records according to this policy
 - Comply with legal obligations and best practice that apply to the management of their records
 - Keep records electronically where appropriate
 - Ensure that information is not kept for longer than is necessary. Often, information-rich cumulative or summary records will be retained in the longer terms while more detailed, bulky but ephemeral records can and should be destroyed earlier
 - Retain the minimum amount of information that they require to carry out their statutory functions
 - Store records safely and efficiently, utilising appropriate storage methods at all points in their lifecycle and disposing of them appropriately when they are no longer required
 - Safeguard records necessary for business continuity in the event of an emergency or disastrous occurrence
 - Encourage effective access to and use of records as a source of corporate information
 - Identify and make provision for the preservation of records of historical value
4. This policy supports the Commissioner's Access to Information Policy, Publication Scheme, plans and strategies and is designed to provide clarity and consistency in records management.

Introduction

5. Retention periods are given in whole years and are from the end of the financial year to which the records relate. Records should be disposed of by arranging for collection of confidential waste for destruction or shredding, including all copies in whatever format.
6. Aside from the standard procedure, set out below, whenever there is a possibility of litigation or a request under the Freedom of Information Act the records that are likely to be affected should not be amended or disposed of until the threat of litigation has ended or the appeal processes under the Freedom of Information Act have been

exhausted. In these circumstances the Monitoring Officer (the Chief Executive) should be consulted.

7. A record of disposals in accordance with this policy should be completed and maintained by the Commissioner on an electronic database.

8. Records held by Essex Police and Essex County Fire and Rescue Service will be covered by their own policies and procedures.

Freedom of Information Act 2000

9. The Act introduced rights of access to information whereby the public has a general right of access to all types of recorded information held by public authorities, subject to certain exceptions (providing the public interest in disclosure does not outweigh the public interest in maintaining exemption).

10. Information is exempt from the provisions of the Act if it is accessible by other means. If the information is already covered in the PFCC's Publication Scheme and is available via the website there will not be a requirement to provide that information in response to an individual request.

General Data Protection Regulation (GDPR) 2016 and Data Protection Act (DPA) 2018

11. The EU GDPR was approved by the EU Parliament on 14 April 2016 and enforced from the 25 May 2018. The GDPR applies to 'controllers' and 'processors' of personal data. The GDPR applies to processing carried out by organisations operating within the EU. It also applies to organisations outside the EU that offer goods or services to individuals in the EU. The GDPR does not apply to certain activities including processing covered by the Law Enforcement Directive, processing for national security purposes and processing carried out by individuals purely for personal/household activities.

12. The UK data protection regime is set out in the Data Protection Act 2018, along with the GDPR (which also forms part of UK law).

13. The Data Protection Act 2018 complements the GDPR 2016 and controls how personal information is used and managed by organisations, with the requirement to make sure information is used fairly, lawfully and transparently. Particular requirements include the need not to retain personal data longer than it is required, and to be clear about the purpose for holding the data. This will be supported by the delivery of this Records Retention and Disposal Policy.

Aims and Objectives

14. It is recognised that information is a vital asset of the Commissioner's office, which depends on reliable, up-to-date information systems to support the work that it does and the services provided to the communities of Essex.

15. The purpose of this Records Retention and Disposal Policy is to establish a framework for the creation, maintenance, storage, use and disposal of the PFCC's records, so as to support strong corporate governance processes and facilitate the PFCC's compliance with relevant legislation.

16. This policy and the standards set out within will help the Commissioner's office to:

- Ensure the retention and availability of the minimum amount of relevant information that is necessary for it to operate.
- Comply with legal and regulatory requirements, including the Freedom of Information Act 2000, the General Data Protection Regulation (GDPR) 2016, the Data Protection Act 2018 and the Environmental Information Regulations.
- Save employees time and effort when retrieving information by reducing the amount of information that may be held unnecessarily.
- Minimise the administrative overhead to the Commissioner's office and save money in terms of storage costs where hard copy information is taking up office space and electronic documents are using excessive storage capacity on computer equipment such as network servers.
- Ensure that records that are of historical value are appropriately retained for the benefit of future generations.
- Assure the public that, when we are dealing with any of their data, the PFCC holds it in an appropriate way.

Scope

17. This policy applies to the PFCC and all their staff. It also applies to consultants and volunteers engaged in the work of the PFCC.

18. This policy covers all records created in the course of PFCC business and activities. A "record" is defined as recorded information in any form created or received by the PFCC or individual members of staff to support and evidence the PFCC's activities. It may be held in an electronic and / or a paper (hard copy) form. A "vital record" is a record without which the PFCC could not function or be reconstructed in the event of a disaster.

Exemptions to the Policy

19. Records containing personal data – Any record containing personal data "should not be kept for longer than necessary" in order to comply with the Data Protection Act 2018.

20. Potential litigation or regulatory investigation – The destruction of records *should always be suspended* if they relate to existing litigation or regulatory investigation or any possibility of anticipated litigation or regulatory investigation. Deliberate destruction of relevant records in such circumstances could involve the criminal offence of obstructing or perverting the course of justice.

21. Records held by the PFCC purely for their own personal purposes are their own responsibility; they are not records that relate to the functions of the PFCC. These records will not be managed according to this policy, as they will be considered the PFCC's own records.

22. The serving PFCC will not accept responsibility for records retained or processed by a former PCC or PFCC, or for records left in their buildings without authority.

Roles and Responsibilities

23. The Data Protection Officer (DPO) is responsible for developing corporate records management policies, procedures and guidance and communicating them to all staff.

24. All staff are responsible for documenting their work and maintaining records in line with the PFCC's policies and procedures. This includes disposing of records not required for a specific legal, business, operational or historical purpose in a timely and efficient manner, and in accordance with the retention schedule attached at Appendix 1.

Standard Procedure

25. The PFCC will be registered with the Information Commissioner as a data controller.

26. This policy should be used by all staff as a day-to-day reference point relating to the management of records. The most effective point in the lifecycle of any record at which to decide how long it should be retained, and for what reason, is when the record is created. When opening a new file or creating any new record, this policy should act as a guide as to the conditions under which that record should be managed, stored and ultimately disposed of.

27. Office space is at a premium and it may not be possible to retain files on-site for the entire length of time for which they have to be retained. Suitably secure off-site storage may be used for records that are no longer required on a constant basis but which are not yet ready for disposal, however the retention schedule attached at Appendix 1 should always be consulted when transferring files off-site.

28. Vital records will be identified and steps taken to ensure their survival in the event of a disastrous occurrence.

29. Information which does not need to be retained because it is duplicated, unimportant or of short term use can be destroyed under this standard procedure (this relates to both electronic and hard copy documents), including:

- compliment slips
- catalogues and trade journals
- telephone message slips
- non-acceptance of invitations (please also see Gifts and Hospitality Register)
- messages or notes not related to the Commissioner's business
- requests for standard information provided by the PFCC
- out of date distribution lists
- working papers which lead to a final report
- duplicated and superseded material such as stationery, manuals, drafts, address books and reference copies of annual reports

- e-copies of documents (also held on email) where a hard copy has been printed and filed

30. In order to protect themselves and minimise risk, the PFCC should not maintain records longer than it needs to; nor should it destroy records sooner than is required. The attached Schedule sets out the retention periods for particular records. Where a record class is not listed below, records held by the PFCC should usually be retained for the duration of the term of office in which they were created, and for the duration of the subsequent term.

APPENDIX 1

Schedule

1. Office of the Police, Fire and Crime Commissioner for Essex

Function	Records	Retention
PFCC owned Meeting	Agendas, minutes and reports (including appendices) Background papers Rough / draft / audio minutes	6 years 4 years Destroy on completion of agreed document and no later than one month from meeting
PFCC Decision Log	Decision Reports	Permanent
Partnership, agency and external meetings	Minutes Agendas and reports	6 years
Working Groups / Steering Groups	Minutes Agendas and reports	6 years
Appointments of Chief Constable and PFCC officers and staff	Advertisements Application forms Interview reports Ethnic monitoring questionnaire / reports Personnel files (including contracts and particulars of employment, current address details and sickness records) Unsuccessful candidate information	1 year In accordance with the Essex Police Records Retention Schedule Creation + 5 years Until termination of employment + 6 years Completion of employment process + 6 Months
Termination of Chief Constable and PFCC staff contracts	Resignation, redundancy dismissal, death, retirement	In accordance with the Essex Police Records Retention Schedule
Appointment of the Chief Fire Officer	Advertisements Application forms Interview reports Ethnic monitoring questionnaire / reports Personnel files (including contracts and particulars of employment, current address details and sickness records) Unsuccessful candidate information	Until termination of employment + 6 years Creation + 5 years Until termination of employment + 6 years Completion of appointment process + 6 months

Function	Records	Retention
Termination of Chief Fire Officer contracts	Resignation, redundancy dismissal, death, retirement	In accordance with Essex County Fire and Rescue Service's Records Retention Schedule
Complaints against the Chief Constable and PFCC officers	Correspondence	5 years from last action
Complaints against the Chief Fire Officer	Correspondence	5 years from last action
Disciplinary hearings against staff	Disciplinary hearings against staff	Settlement of case + 6 years (unless merged with staff personnel file)
Independent Custody Visiting Team	Minutes, agendas, reports and registers of visits Custody visitor details Handbook	6 Years 1 year after end of appointment Until superseded
Corporate planning and reporting	Policing Plans Fire and Rescue Plans Annual Reports	Permanent
Statutory inspections, reviews and external audit	HMICFRS reports External Audit reports Internal Audit reports	Permanent
PFCC Staff Confidentiality Agreement	Signed Agreement	1 year, then reviewed
Public correspondence	Correspondence	5 years from last action
FOI requests	FOI requests	2 years from last action
Restorative Justice Volunteers	RJ volunteer personal information, including supervision records, contact details, training records & expenses	Delete after 1 year of active volunteer leaving (from exit interview date), 3 months of 'did not start' volunteer's last contact and 1 month of application sent but no further action.
RJ participant information	RJ participant information	Delete 6 years post case closure.

2. Police, Fire and Crime Commissioner and Deputy Police, Fire and Crime Commissioner

Function	Records	Retention
Registers of Interests and Hospitality	Register of Interests Register of Hospitality	Permanent
Expenses claims	Claim forms and receipts	3 years

3. Management

Function	Records	Retention
Policy development	Policies Strategies Constitutions Standing Orders / Financial Regulations Instructions / Procedures Organisation Charts	Permanent until superseded or revoked, with previous version held for 6 years
Information management	Records of transfer to archives	6 years
	Summary of responses to enquiries	6 years
	Responses to consultation	6 years
	Disposal record	6 years
Marketing and media relations	Media releases	2 years
	Developing and promoting PFCC events	2 years
Diaries and calendars	Electronic and manual diaries / calendars	Electronic detail archived in line with Essex Police Retention Schedule Manual diaries retained for 2 years
Legally Qualified Chairs and Independent Member details	Contact details	Until no longer required to deliver this function

4. Finance

Function	Records	Retention
Annual reports	Annual Statement of accounts Annual Report	Permanent
Approvals / purchases	Purchase sales order Delivery and goods received notes	In line with the Essex Police and ECFRS retention schedules
Asset acquisition and disposal	Management of the acquisition and disposal process for assets	In line with the Essex Police and ECFRS retention schedules
Budget setting	Final annual budget Draft budgets and estimates	Permanent In line with the Essex Police and ECFRS retention schedules
	Quarterly budget reviews (P&R papers)	6 years
Expenditure	Invoices / receipts Income and expenditure accounts	In line with the Essex Police and ECFRS retention schedules

Function	Records	Retention
	Bank statements	
Internal Audit	Internal Audit reports and audits	Reports and audits to be retained for 6 years, associated background information retained for 4.
External Audit	External Audit reports and audits	Reports and audits to be retained for 6 years, associated background information retained for 4.
Grant Agreement	Grant Agreements	Period of the grant + 6 years
Collaboration / Partnerships	Section 22 Agreements	End of the collaboration + 6 years
Collaboration / partnerships	Local Business Case for Joint Governance	10 years of the business case + 6 years

5. Legal

Function	Records	Retention
Claims and disputes	Settlement of claims and disputes (incl. insurance claims and claims of infringement of intellectual property rights)	Settlement of claim / dispute + 6 years (unless signed as a deed – see below)
Contracts	Contracts	Termination + 6 years (unless signed as a deed – see below)
Deeds	Deeds	Settlement or termination + 12 years
Private hire agreements	Private hire agreements	Termination of agreement + 6 years
Insurance policies	Insurance policies	Termination of policy + 6 years
Intellectual property	Control of disclosure of intellectual property Administration of intellectual property agreements Intellectual property agreements	Disclosure + 6 years Termination of agreement + 6 years Termination of agreement + 6 years
Employers' liability insurance certificate	Employers' liability insurance certificate	40 years after the date on which the insurance to which the certificate relates commences or is renewed
Equality	Information relating to potential discrimination claims	9 months from the alleged act

6. Health and Safety

Function	Records	Retention
Risk assessments	Risk assessments	Review date + 5 years
Accidents / dangerous occurrences	Accident Books Reporting and investigation of accidents / dangerous occurrences	Completion of book + 3 years Date of accident + 40 years
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995	Records of deaths, injuries at work or disease	Min. 3 years from the date on which the record was made
Negligence actions not involving personal injury	Negligence actions not involving personal injury	15 years from act / omission
Testing, maintenance and inspections	Conduct of testing, maintenance and statutory inspections and any necessary action Maintenance schedules Inspection certificates Repair reports	Life of plant / equipment + 6 years Creation + 2 years Creation + 6 years Life of plant / equipment + 6 years