

Police, Fire and Crime
Commissioner
for Essex

**RECORDS RETENTION AND
DISPOSAL POLICY**

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Records Retention and Disposal Policy

Policy Statement

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.

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 Legislation and subject to requests under the Freedom of Information Act

The Commissioner undertakes to:

- Manage records according to this policy.
- Manage records in accordance with the Principles recommended within the Data Protection Act as detailed in the Privacy Notice.
- Comply with legal obligations and best practice applicable to the management of their records.
- Keep records electronically where appropriate.
- Ensure that information is kept for the minimum period required and strictly in line with the attached Retention Schedule.
- Information-rich cumulative or summary records may be retained in the longer term, 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.

This policy will benefit from being considered in conjunction with: The Commissioner's Access to Information Policy, The Data Asset Register, where the individual assets and their processing pathways are documented, The Publication Scheme, and additional plans and strategies designed to provide clarity and consistency in records management.

Introduction

Retention periods are given in whole years and are from the end of the financial year to which the records relate.

Aside from the standard procedure, set out below, whenever there is a possibility of litigation, a request under the Freedom of Information Act, or a Subject Access Request (SAR), the records that are likely to be affected should not be amended or disposed of until the threat of litigation has ended, the appeal processes under the Freedom of Information Act or the completion of the SAR have been exhausted. In these circumstances the Monitoring Officer (the Chief Executive) should be consulted.

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

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

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).

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

The EU GDPR was approved by the EU Parliament on 14 April 2016 and enforced from the 25 May 2018. This has been replaced by the UK GDPR from 1st January 2021 following the UK's exit from the EU. The UK GDPR applies to 'controllers' and 'processors' of personal data.

The UK GDPR applies to processing carried out by organisations operating within the UK. It also applies to organisations that offer goods or services to individuals in the UK.

The UK 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.

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

The Data Protection Act 2018 complements the UK GDPR and controls how personal information is used and managed by organisations, with the requirement to make sure information is used fairly, lawfully and transparently.

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 aspect will be supported by the delivery of this Records Retention and Disposal Policy.

The PFCC is registered with the Information Commissioner as a Data Controller (registration no. Z3451171). This means that the PFCC will be held accountable for how the data, once it has come into our care, is processed.

Purpose

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. 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, to support strong corporate governance processes and facilitate the PFCC's compliance with relevant legislation.

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 UK General Data Protection Regulation (UK GDPR), 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 and offering clarity as to where all data is located up to the point of destruction.
- 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

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

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.

Records containing personal data which refers to any record containing personal data "should not be kept for longer than necessary" to comply with Data Protection Act 2018.

Retaining records or information beyond the retention period

In the majority of cases records will be disposed of when they reach the end of retention period. However, when assessing whether a record or information is required to be retained for a longer period than that identified within the Records Retention and Disposal Schedule, consideration should be given to whether the holding of information for longer than necessary which leaves the organisation vulnerable to risks of theft, misuse, disclosure complications, legal discovery, and non-compliance fines. There may also be additional costs associated with extended retention. Examples of when information may be required to be held for longer periods are where:

- The information is subject to a request for information under access to information legislation, such as a Subject Access Request under the Data Protection Act 2018.
- The PFCC is subject to on-going legal action.
- The information is subject to an investigation e.g. an Independent Inquiry.
- There is greater public interest in an issue requiring long term preservation e.g. records pertaining to the contracts for senior officers.

Changes are made to the regulatory or legislative framework affecting the retention of the records.

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.

Permanent preservation of physical records

A determination may occasionally be made that certain documentation should be retained for extended periods or on a permanent basis.

Reasons may include:

- Cases attracting significant media attention
- Cases relating to a public figure that generated significant contemporary interest or controversy
- Cases that led to a change in the interpretation of the law
- Cases with outcomes that set a precedent (pathfinder cases)
- An issue that affected a large number of individuals and had a significant impact on them (damage or distress)
- Upper Tribunal Appeals
- Cases which proceeded to High Court, Court of Appeal, Supreme Court, European Court of Justice or International Court
- Cases that resulted in the significant fine being issued
- Cases which resulted in Judicial Reviews

Documents, which are marked for permanent preservation must not be destroyed and should be clearly marked to prevent accidental destruction. They should be archived, securely and traceably according to the Records Management Policy.

Personal Records

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.

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

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

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 in Appendix 1.

Standard Data Handling Procedure

The PFCC will be registered with the Information Commissioner as a data controller (ICO registration no: Z3451171)

This policy should be used by all staff as a day-to-day reference point relating to the management of records. When a record is created, is the most effective point in the lifecycle of that record to decide how long it should be retained, and for what reason.

You should be aware that the data record will be subject to the retention date which relates to the last documented use of the document, so the date of last use should be linked to the deletion date.

Setting up a data record

When the data asset is received into the care of PFCC the member of staff responsible should name the document according to the format indicated within the Electronic Filing System Policy.

Once the asset is named, it should be recorded on the Data Asset Register by the responsible Data Asset Owner. (DAO). The DAO should ensure that the date shown on the DAR reflects the date PFCC became the data controller. This date of entry should correspond with the data deletion trigger date for that particular asset.

Destruction at end of retention period

Records should be disposed of by arranging for collection of confidential waste, by an authorised contractor, for destruction or shredding, including all copies in whatever format, either physical or logical.

A certificate of destruction should be recorded on the IAR to verify destruction and illustrate compliance. Similarly, electronic copies which have been destroyed should be confirmed and the confirmation recorded.

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.

Records removed for offsite storage must be catalogued and an editable tracker retained. The tracker should be audited in line with the Data Asset Register to ensure documents which are offsite can be easily identified and retrieved for destruction according to the Retention Schedule.

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

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.

In order to protect themselves and minimise risk, not only should the PFCC not maintain records longer than it needs to; neither 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.

Compliance monitoring

Regular audits to ensure records management practices relating to retention and disposal are compliant will be conducted.

Quarterly dip-sampling audits are undertaken by the Data Protection Officer (DPO) who then reports their findings to the Senior Management Team.

DAOs are required to keep the Records Inventories in their area up to date. An annual audit programme of the data collected in the Data Asset Register will be coordinated by the DPO.

These audits will:

- Identify any practice in operational areas, which is not compliant with this policy;
- Identify key areas of concern and raise with DAOs to mitigate risk;
- Maintain required standards by implementing procedures, including:
 - Obtaining feedback where the procedures do not match the desired levels of performance;
 - highlight where non-conformance to the procedures is occurring;
 - and suggest a tightening of controls and adjustment to related procedures.

The results of these audits will be reported to the Senior Management Team meetings.

The Data Protection Officer will monitor response timescales for Freedom of Information requests (specifically where failures result from inability to locate information in a timely fashion).

Failure to comply with this policy

You should be aware that non-compliance with the provisions of this policy may result in disciplinary action which could lead to dismissal and criminal prosecution under the Data Protection Act 2018 ('the Act') or Misconduct in Public Office.

APPENDIX 1 - Retention Schedule

Ref	Function	Records	Retention period	Reason for Retention	Disposal method
1. Office of the Police, Fire and Crime Commissioner of Essex					
1.1	PFCC owned Meetings	Agendas, minutes, and reports (including appendice) Background papers / drafts. Recordings to assist minutes	6 years 4 years Destroy on completion of agreed document/no later than 1 month from subsequent meeting	Business Need	shred and electronic
1.2	PFCC Decisions	Decision Reports	Permanent	Statutory	N/A
1.3	Partnership, Agency, external meetings	Minutes, agendas, and reports	6 years	Statutory	shred and electronic
1.4	Working Groups Steering Groups	Minutes, agendas, and reports	6 years	Business Need	shred and electronic
1.5	Appointments of Chief Constable and PFCC officers and staff	Advertisements, application forms, interview reports. Ethnic monitoring reports Personnel files Unsuccessful candidate information	1 year In accordance with the Essex Police Records Retention + 5 years Until termination of employment + 6 years Completion of appt process + 6 Months	Statutory	shred and electronic
1.6	Termination of Chief Constable and PFCC staff contracts	Resignation, redundancy dismissal, death, retirement	In accordance with the Essex Police Records Retention Schedule	Statutory	shred and electronic
1.7	Appointment of the Chief Fire Officer	Advertisements, application forms, interview reports Ethnic monitoring reports Personnel files Unsuccessful candidate information	Until termination of employment + 6 years Creation + 5 years Until termination of employment + 6 years Completion of appt process + 6 months	Statutory	shred and electronic
1.8	Termination of Chief Fire Officer contract	Resignation, redundancy dismissal, death, retirement	In accordance with Essex County Fire and Rescue Service's Records Retention Schedule	Statutory	shred and electronic
1.9	Complaints against Chief Constable and PFCC officers	Correspondence	5 years from last action	Statutory	electronic

1.10	Complaints against Chief Fire Officer	Correspondence	5 years from last action	Statutory	electronic
1.11	Complaint Reviews	Correspondence	6 years from last action	Statutory	shred and electronic
1.12	Disciplinary hearings against staff	Correspondence and Disciplinary hearings information against staff	Settlement of case + 6 years (unless merged with staff personnel file)	Employment Act 2002 1969	shred and electronic
1.13	Independent Custody Visiting Team	Minutes, agendas, reports and registers of visits volunteers personnel records Handbook	6 Years 1 year after end of appt Until superseded	Statutory	shred and electronic
1.14	Corporate planning and reporting	Policing Plans, Fire and Rescue Plans Annual Reports	Permanent Permanent	Statutory	N/A
1.15	Statutory inspections, reviews/audits	HMICFRS reports. External Audit & Internal Audit reports	Permanent	Statutory	N/A
1.16	PFCC staff Confidentiality Agreement	Signed Agreement	End of Employment Term	Business Need	electronic
1.17	Public correspondence	Correspondence	5 years from last action	Business Need	electronic
1.18	Restorative Justice Volunteers	RJ Volunteer personnel records	1 year after end of employment (3 months if non-starter, 1 month if app not progressed)	Statutory	shred and electronic
1.19	RJ participant information	RJ participant information, records, and correspondence	6 years from last action post case closure	Statutory	electronic
1.20	Archive ECFRS	FRA documents and papers	20 years from date of meetings	Business Need	electronic

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

2.1	Registers of Interests and Hospitality	Register of Interests Register of Hospitality	Permanent Permanent	Statutory	N/A
2.2	Expenses claims	Claim forms and receipts	3 years	Business Need	Electronic

3. Management					
3.1	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	Statutory	Shred and electronic
3.2	Information management	Transfer records to archives, Enquiry responses Summary, Consultation responses and Disposal records	6 years	Statutory	Shred and electronic
3.3	Marketing and media relations	Media releases Developing and promoting PFCC events	2 years 2 years	Business Need	electronic
3.4	Diaries and calendars	Electronic diaries / calendars Hard copy diaries / calendars	In accordance with Essex Police Records Retention Schedule 2 years from completion	Statutory	Shred and electronic
3.5	LQC and IPM (Misconduct Panels)	Contact details	Until no longer required to deliver this function	Business Need	electronic
3.6	Information Requests	FOI requests, SARs, EIRs (requests, data, and responses) and associated correspondence	3 years from date of disclosure of information	FOI Act 2000	electronic
3.8	Information Request Appeals	FOI requests, SARs, EIRs (requests, data, responses) and associated appeals correspondence	6 years from date of disclosure of information	FOI Act 2000	Electronic
4. Finance					
4.1	Annual reports	Annual Statement of accounts Annual Report	Permanent	Business Need	N/A
4.2	Approvals / purchases	Purchase sales orders, goods received, delivery notes	In line with Essex Police and ECFRS Records Retention Schedules	Business Need	N/A
4.3	Budget setting	Final annual budget Draft budgets and estimates. Quarterly budget reviews (P&R papers)	Permanent In line with Essex Police and ECFRS Records Retention Schedules 6 years	Statutory Business Need	N/A shred and electronic
4.4	Expenditure	Invoices, receipts, income and expenditure accounts, bank statements	In line with the Essex Police and ECFRS retention schedules	Statutory	shred and electronic

4.5	Internal Audit	Internal Audit Reports Associated correspondence	6 years 4 years	Statutory	electronic
4.6	External Audit	External Audit Reports Associated correspondence	6 years 4 years	Statutory	shred and electronic
4.7	Grant Agreements	Agreements and associated correspondence	Period of the grant + 6 years	Statutory	shred and electronic
4.8	Collaboration / Partnerships	Section 22 Agreements	End of the collaboration + 6 years	Statutory	shred and electronic
4.9	Collaboration / Partnerships	Local Business Case for Joint Governance	10 years of the business case + 6 years	Statutory	shred and electronic

5. Legal

5.1	Claims and Disputes	Settlement of claims and disputes (incl. insurance claims, infringement of intellectual property rights)	Settlement of claim /dispute + 6 years (unless signed as a deed – see below)	Statutory	shred and electronic
5.2	Contracts	Contracts and associated correspondence	Termination + 6 years (unless signed as a Deed – see 5.3 below)	Statutory	shred and electronic
5.3	Deeds	Deeds	Settlement or termination + 12 years	Statutory	shred and electronic
5.4	Private Hire Agreements	Private hire agreements	Termination of agreement + 6 years	Statutory	shred and electronic
5.5	Insurance policies	Policies and associated correspondence	Termination of policy + 6 years	Statutory	shred and electronic
5.6	Intellectual property	Control of disclosure of intellectual property Intellectual property agreements and administration	Disclosure + 6 years Termination of agreement + 6 years	Statutory	shred and electronic
5.7	Employers' Liability insurance	Employers' liability Insurance Certificate	40 years after the date the insurance commences or is renewed.	Statutory	shred and electronic
5.8	Equality	Information relating to potential discrimination claims	9 months from the alleged act	Employment Act 2002 1969	shred and electronic

6. Health and Safety

6.1	Risk assessments	Risk assessments	Review date + 5 years	H&S at Work Act 1974	shred and electronic
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6.2	Accidents / dangerous occurrences	Accident books, reports and investigations of accidents and dangerous occurrences.	Completion of book + 3 years. Date of accident + 40 years	H&S at Work Act 1974	shred and electronic
6.3	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995	Records of deaths, injuries at work or disease	Minimum of 3 years from the date on which the record was made	H&S at Work Act 1974	shred and electronic
6.4	Negligence actions not involving personal injury	Acts of negligence not involving personal injury	15 years from act / omission	H&S at Work Act 1974	shred and electronic
6.5	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	H&S at Work Act 1974	shred and electronic