

EATON BRAY PARISH COUNCIL

LOCAL COUNCIL'S DOCUMENTS AND RECORDS (LTN 40)

Last Issued: November 2007 by NALC (National Association of Local councils)

LOCAL COUNCIL DOCUMENT AND RECORD RETENTION

Introduction

1. Information about local council documentation is contained in Chapter 11 of 'Local Council Administration' by Charles Arnold Baker (7th 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.

Financial returns and accounts

2. Section 11.12 on page 107 of 'Local Council Administration' (7th Edition) requires clarification. Parish councils and parish meetings without a separate parish council (both bodies caught by s.2 Audit Commission Act 1998) are required to make annual returns pursuant to the Accounts and Audit Regulations 2003 (SI. 533) as amended by the Accounts and Audit (Amendment)(England) Regulations 2006 (SI. 564) rather than pursuant to s.168 Local Government Act 1972.

Retention of documents

3. Attached is an Annex indicating the appropriate retention periods for audit and other purposes and the reasons for retention. Additionally, further guidance is set out at paragraph 6 below in respect of the retention of documents in case of a legal dispute.
4. Other documents not mentioned in the Annex and not covered in Chapter 12 of 'Local Council Administration' may be treated as follows -

Planning papers

- a. Where planning permission is granted, the planning application, any plans and the decision letter should normally 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 should also be retained likewise. It may sometimes be sensible to retain an appeal decision indefinitely because of wider implications (e.g. the decision may set a precedent for other developments in the locality).
- b. Where planning permission is refused, the papers should be retained until the period within which an appeal can be made has expired. If an appeal is made, and dismissed, the decision letter may, as in (a) above, be worth retaining against further applications relating to the same site.
- c. Where a substantial number of planning applications come from the council, it may well be advisable to keep a card index, or similar system of record.
- d. Copies of Structure Plans, Local Plans and similar documents should be retained as long as they are in force.

Insurance policies - insurance policies and significant correspondence should be kept for as long as it is possible for a claim to be made under the policy. Irrespective of how long policies and correspondence are retained, the recommendation is that councils ensure that they keep a permanent record of insurance company names and policy numbers for all insured risks. 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)

National Association of Local Councils

Tel: 020 7637 1865 ☎ Fax: 020 7436 7451 ☎ e-mail: nalc@nalc.gov.uk ☎ website: www.nalc.gov.uk

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) too numerous to mention) – such information should be retained as long as it is useful and relevant.

Magazines and Journals – the Local Council Review is worth keeping for at least five years; other regular publications received may merit similar treatment.

Correspondence – if related to audit matters, correspondence should be kept for the appropriate period specified in the Annex hereto. In planning matters, correspondence should be retained for the same period as suggested for other planning papers. For other correspondence, no firm guidelines can be laid down (but see the next paragraph).

Personnel matters– documentation relating to staff should be kept securely and kept for as long as it would be possible for a claim to be made against the council.

5. Local Councils are advised to implement a system of records management which incorporates arrangements for disposal of records. It is essential that any such system or policies relating to record management includes a review of council documentation at least annually. Anything that is no longer of use or value can be destroyed, but if a council is in doubt on this point it should seek advice from NALC and retain the document(s) until that advice has been received. Documents of historical importance, if not retained by the council, should be offered first to the county record office. The county archivist there will always be willing to advise on which records should be permanently preserved.

Retention of documents for legal purposes

6. Most legal proceedings are governed by ‘the Limitation Acts’. The Acts (notably the Limitation Act 1980) state 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

7. 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. 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).
8. In these circumstances, NALC advises that the relevant documentation should be kept for the longer of the three limitation periods.

9. 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). A final complication relates to sums due under leases which are 'reserved as rent'. Sometimes, for example, service charges are expressed to be payable as 'additional rent'. The limitation period for service charges in those circumstances will be 6 years – even though the sums are due under a lease.
10. 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.
11. 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 is under a disability; or
 - where there has been a mistake or where one party has defrauded another or concealed facts.
12. In such circumstances individual councils 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.
13. It hardly needs to be said that 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. Councils should also confirm the precise wording of any insurance policies they have to ensure that they comply with any terms they contain in respect of the retention of documents and information.

Data Protection and Freedom of Information Considerations

14. In November 2002, the Lord Chancellor issued a Code of Practice pursuant to section 46 of the Freedom of Information Act 2000. The Code, which is called the 'Lord Chancellor's Code of Practice on the Management of Records' applies to public authorities and also bodies which are subject to the Public Records Act 1958. 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. The Code of Practice is available on the internet and can be accessed via the following link:

<http://www.foi.gov.uk/reference/imp/imp/codemanager.htm#part1>
15. Further information in respect of Freedom of Information is set out in LTN 37 (Freedom of Information) and in respect of Data in LTN 38 (Data Protection).

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
23	Health and Safety	Sets out need for public liability insurance.
28	Basic Charity Law	Sets out duties of custodian trustees to hold title deeds of charity
37	Freedom of Information	Sets out the information councils are obliged to disclose.
38	Data Protection	Sets out the circumstances in which personal data should not be disclosed.
42	Occupiers Liability	Sets out need for public liability insurance.
68	Negligence	Sets out the need for public liability insurance.

ANNEX TO LEGAL TOPIC NOTE 40

RETENTION OF DOCUMENTS REQUIRED FOR THE AUDIT OF PARISH COUNCILS

DOCUMENT	MINIMUM RETENTION PERIOD	REASON
• Minute books	Indefinite	Archive
• Scales of fees and 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	12 years/indefinite	Statute of Limitations
• Paid invoices	6 years	VAT
• Paid cheques	6 years	Statute of Limitations
• VAT records	6 years	VAT
• Petty cash, postage and telephone books	6 years	Tax, VAT, Statute of Limitations
• Timesheets	Last completed audit year	Audit
• Wages books	12 years	Superannuation
• 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
• Title deeds, leases, agreements, contracts	Indefinite	Audit, Management
• Members allowances register	6 years	Tax, Statute of Limitations

DOCUMENT	MINIMUM RETENTION PERIOD	REASON
For Halls, Centre, Recreation Grounds		
<ul style="list-style-type: none"> • application to hire • lettings diaries • copies of bills to hires • record of tickets issued 	6 years	VAT
For Allotments		
<ul style="list-style-type: none"> • register and plans 	Indefinite	Audit, Management
For Burial Grounds		
<ul style="list-style-type: none"> • register of fees collected • register of burials • register of purchased graves • register/plan of grave spaces • register of memorials • applications for interment • applications for right to erect memorials • disposal certificates • copy certificates of grant of exclusive right of burial 	Indefinite	Archives, Local Authorities Cemeteries Order 1977 (Sl. 204)

© NALC 2007