

GDPR data retention policy

Client matters files are retained by Monan Gozzett LLP (“the firm”) upon the basis that the firm reserve the right to destroy any file at any time and at our discretion instead retain digital copies of some or all parts of a destroyed paper file in accordance with the minimum retention periods below.

The firm reserve the right to extend any minimum retention period referred to below upon the basis of any risk assessment carried out at any time.

| Data type | Minimum retention period | Justification |
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| Will files | <p>7 years after the death of the client.</p> <p>In the instance where we are not aware of their death, the file should be retained until the client is 101 years old upon which effort should be taken to contact the client before destroying the file.</p> <p>The file and supporting documentation should be kept for as long as the Will is stored.</p> <p>In the event that a Will is released at the request of a client or their representative, the file should be retained for a further 7 years.</p> | <p><u>Best practice guidance from the Law Society</u></p> <p>Original Wills should be kept until after the death of the client, or until you are able to return the original to the client, even where it is known that the Will is revoked. Original Wills should not be destroyed until any risk of claim has passed.</p> <p><u>s2 Limitation Act 1980 and s5 Limitation Act 1980</u></p> <p>Time limit for actions founded on tort and time limit for actions founded on simple contract.</p> |
| Lasting Power of Attorney files | 7 years | <p><u>s2 Limitation Act 1980 and s5 Limitation Act 1980</u></p> <p>Time limit for actions founded on tort and time limit for actions founded on simple contract.</p> |
| Court of Protection files | In any case where the client lacks, or lacked capacity (within the meaning of the Mental Capacity Act 2005, which includes minors). The minimum retention period would be 7 years from the date upon which the disability ceased, or ceases. | <p><u>s28 Limitation Act 1980 and s38 Limitation Act 1980</u></p> <p>The limitation period may not start to run until a claimant, deemed to have been under disability (e.g. minor child, person with capacity problems, or suffering undue influence has become free of that disability. Where a cause of action is apparent, a minor child will have 6 years from the date of attaining 18 years to take action.</p> |
| Probate files (contentious and non-contentious) | <p>15 years from the date of the deceased’s death.</p> <p>Except for where the deceased is the first spouse or civil partner to die and transferable NRB or TRNRB can be transferred on to the second spouse</p> | <p><u>s22 Limitation Act 1980</u> The limitation period for claims against personal representatives is 12 years from the date on which the right to receive the property accrues, or from the date the right to receive the share accrues. This may be from the end of the</p> |

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| | <p>or civil partner on their death. In this case, the documents relating to this should be retained until the end of the administration period of the estate of the second to die.</p> | <p>executors' year rather than the date of death.</p> <p><u>s14b Limitation Act 1980</u> 15 year long-stop provision in relation to Negligence claims</p> |
| Trust files | <p>Should be retained for so long as the Trust is active plus 15 years.</p> <p>In any case where the Trust has a child beneficiary (as defined by the Children Act 1989), the file may be retained for 7 years from the date the child reaches the age of majority.</p> <p>The retention period could be up to 150 years.</p> | <p><u>s14b Limitation Act 1980</u> 15 year long-stop provision in relation to Negligence claims.</p> <p><u>s21 Limitation Act 1980</u> A breach of trust claim must be brought within 6 years from accrual of the right of action.</p> <p><u>s28 Limitation Act 1980</u> and <u>s38 Limitation Act 1980</u> The right of action does not accrue until the beneficiary's interest has vested.</p> <p>Business need. HMRC can investigate for up to 12 years after an assessment. To be safe, Trustees should retain all tax papers for the period of 12 years after the end of the Trust period.</p> <p><u>s28 Limitation Act 1980</u> and <u>s38 Limitation Act 1980</u> The limitation period may not start to run until a claimant, deemed to have been under disability (e.g. minor child, person with capacity problems, or suffering undue influence has become free of that disability. Where a cause of action is apparent, a minor child will have 6 years from the date of attaining 18 years to take action.</p> |
| Criminal files | <p>7 years</p> <p>In any case where the accused is fully acquitted by the alleged offence is categorised by the CPS as a potential "double jeopardy offence", the file should be retained for 15 years.</p> | <p><u>s2 Limitation Act 1980</u> and <u>s5 Limitation Act 1980</u> Time limit for actions founded on tort and time limit for actions founded on simple contract.</p> <p><u>CPS Casework Retention Schedule</u> Double Jeopardy files should be retained for 15 years before review.</p> |

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| | <p>In the event that a client is convicted of an offence, that file shall be kept for 7 years, or until the release of the accused from custody (if a custodial sentence is imposed), whichever is the longer.</p> <p>In any case where the client lacks, or lacked capacity (within the meaning of the Mental Capacity Act 2005, which includes minors). The minimum retention period would be 7 years from the date upon which the disability ceased, or ceases</p> <p>Where a client receives a life imprisonment the file is to be retained indefinitely.</p> <p>Where a file relates to a safeguarding matter, the file is to be retained indefinitely.</p> | <p>To mirror <u>s5b Criminal Procedure and Investigations Act 1996 (s23(1) Code of Practice</u> which applies to Police retention of files.</p> <p><u>s28 Limitation Act 1980</u> and <u>s38 Limitation Act 1980</u> The limitation period may not start to run until a claimant, deemed to have been under disability (e.g. minor child, person with capacity problems, or suffering undue influence has become free of that disability. Where a cause of action is apparent, a minor child will have 6 years from the date of attaining 18 years to take action.</p> |
| Civil files | <p>7 years</p> <p>In any case where we act for a child (as defined by the Children Act 1989), the file may be retained for 7 years from the date the minor reaches the age of majority.</p> <p>In any case where the client lacks, or lacked capacity (within the meaning of the Mental Capacity Act 2005). The minimum retention period would be 7 years from the date upon which the disability ceased, or ceases</p> | <p><u>s2 Limitation Act 1980</u> and <u>s5 Limitation Act 1980</u> Time limit for actions founded on tort and time limit for actions founded on simple contract.</p> <p><u>s28 Limitation Act 1980</u> and <u>s38 Limitation Act 1980</u> The limitation period may not start to run until a claimant, deemed to have been under disability (e.g. minor child, person with capacity problems, or suffering undue influence has become free of that disability. Where a cause of action is apparent, a minor child will have 6 years from the date of attaining 18 years to take action.</p> |
| Family files | <p>7 years</p> <p>In any case where we act for a child (as defined by the Children Act 1989), the file may be retained for 7 years from the date the minor reaches the age of majority.</p> | <p><u>s2 Limitation Act 1980</u> and <u>s5 Limitation Act 1980</u> Time limit for actions founded on tort and time limit for actions founded on simple contract.</p> <p><u>s28 Limitation Act 1980</u> and <u>s38 Limitation Act 1980</u> The limitation period may not start to run until a claimant, deemed to have been under disability (e.g. minor child,</p> |

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| | | person with capacity problems, or suffering undue influence has become free of that disability. Where a cause of action is apparent, a minor child will have 6 years from the date of attaining 18 years to take action. |
| Other original documents | <p>Should be returned to the client at the end of the matter where possible.</p> <p>Otherwise, indefinitely.</p> <p>Other than documents which can be stored electronically with no reasonably foreseeable need for the original to be kept.</p> <p>Other than documents which can be obtained through other means, such as Marriage/birth certificates on request from the General Register Office, which will be destroyed with the file if they have not been retrieved at the request of the client or their authorised representative.</p> | Business need |
| CRM enquiry data | 12 months | <p><u>The fifth data protection principle under Data Protection Act 2018</u></p> <p>Personal data not kept longer than necessary.</p> |
| Database of present and former clients | Indefinitely | <p><u>s6.1 SRA Code of Conduct for Firms</u></p> <p>To be able to identify potential conflicts of interests when being requested to act in connection with new matters.</p> |
| Employee data | 7 years from the date the employment ends | <p><u>s2 Limitation Act 1980</u> and <u>s5 Limitation Act 1980</u></p> <p>Time limit for actions founded on tort and time limit for actions founded on simple contract.</p> <p>Business need</p> <p>HMRC can ask to check payroll records for the previous 3 tax years.</p> |