

1. Introduction

In the course of carrying out various functions, James Morgan creates and holds a wide range of recorded information. Records will be properly retained to enable James Morgan to meet its business needs, legal requirements, to evidence events or agreements in the event of claims, allegations or disputes and to ensure that any records of historic value are preserved.

The untimely destruction of records could affect:

- the conduct of James Morgan's business;
- the ability of James Morgan to defend or instigate legal actions;
- James Morgan's ability to comply with statutory obligations;
- James Morgan's reputation.

Conversely, the permanent retention of records is undesirable and disposal is necessary to free up storage space, reduce administrative burden and to ensure that James Morgan does not unlawfully retain records for longer than necessary (particularly those containing personal data).

This policy supports James Morgan in demonstrating accountability through the proper retention of records and by demonstrating that disposal decisions are taken with proper authority and in accordance with due process.

2. Purpose

The purpose of this policy is to provide guidance as to set out the length of time that James Morgan's records should be retained and the processes to review the records as to any further retention or for disposing of records at the end of the retention period. The policy helps to ensure that James Morgan operates in compliance with the General Data Protection Regulation and any other legislative or regulatory retention obligations.

3. Scope

The policy covers the records listed in the Data Processed Register irrespective of the media on which they are created or held including:

- paper;

- electronic files (including database, Word documents, power point presentations, spreadsheets, webpages and e-mails);
- photographs, scanned images, CD-ROMs and video tapes.

And includes all types of records which James Morgan creates or holds. The records may include, but are not limited to, the following:

- client files;
- notes for and of conferences / consultations;
- submissions from external parties;
- contracts and invoices;
- registers;
- legal advice;
- file notes;
- notebooks;
- financial accounts;
- employee information;
- James Morgan's publications.

4. Application

The policy applies equally to full time and part time employees on a substantive or fixed term contract and to associated persons who work for James Morgan.

5. Minimum Retention Period

Unless a record has been marked for 'permanent preservation' it should only be retained for a limited period of time. A recommended minimum retention period is provided for each category of record in the Data Processed Register. The retention period applies to all records within that category.

The recommended minimum retention period derives from either:

- business need i.e. running of the barrister practice;
- legislation;
- responding to complaints;
- taking or defending legal action.

6. Disposal

6.1 What is Disposal

The barrister is responsible for ensuring that the Register is periodically reviewed (at least annually) to determine whether any retention periods have expired. Once the retention period has expired, the record must be reviewed and a 'disposal action' agreed upon.

A 'disposal action' is;

- the destruction of the record; or
- the retention of the record for a further period within the barrister practice; or,
- alternative disposal of the record e.g. returned to the instructing solicitor.

6.2 Making and Recording the Disposal Decision

A review of the record should take place as soon as possible after the expiry of the retention period or, if that is not feasible, the record should be retained and a later review date set. It need not be a detailed or time consuming exercise but there must be a considered appraisal of the contents of the record. **The review should be conducted by the barrister.**

The disposal decision must be reached having regard to:

- on-going business and accountability needs (including audit);
- current applicable legislation;
- whether the record has any long-term historical or research value;
- best practice in the legal industry
- costs associated with continued storage versus costs of destruction;
- the legal, political and reputational risks associated with keeping, destroying or losing control over the record.

Decisions must not be made with the intent of denying access or destroying evidence.

7. Destruction

No destruction of a record should take place without assurance that:

- the record is no longer required by any part of the practice;
- no work is outstanding by any part of the practice
- no litigation or investigation is current or pending which affects the record;

- there are no current or pending FOIA or GDPR subject access requests which affect the record.

7.1 Destruction of Paper Records

Destruction should be carried out in a way that preserves the confidentiality of the record. Non-confidential records can be placed in ordinary rubbish bins or recycling bins. Confidential records should be placed in confidential waste bins or shredded and placed in paper rubbish sacks for collection by an approved disposal firm. All copies including security copies, preservation copies and backup copies should be destroyed at the same time in the same manner.

7.2 Destruction of Electronic Records

All electronic records will need to be either physically destroyed or wiped. Deletion of the files is not sufficient.

8. Further Retention

The record may be retained for a further period if it has on-going business value or if there is specific legislation which requires it to be held for a further period.

9. Further Information

This policy should be read in conjunction with: James Morgan General Data Protection Policy.