

Matthew Mills – Barrister GDPR Data Retention and Disposal Policy

Matthew Mills

Radcliffe Chambers

ICO Reference Number: ZA330138

Policy effective from: 25/05/18

1. Introduction

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

The untimely destruction of records by Matthew Mills could affect:

- the conduct of business;
- the ability to defend or instigate legal actions;
- the ability to comply with statutory obligations; and
- his 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 Matthew Mills does not unlawfully retain records for longer than necessary (particularly those containing personal information).

2. Purpose

This policy supports Matthew Mills 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.

The purpose of this policy is to provide guidance on the length of time that Matthew Mills' records should be retained and his processes to review the records to consider further retention or disposal at the end of the retention period. The policy helps to ensure that Matthew Mills operates in compliance with the General Data Protection Regulation ('the GDPR') 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 databases, Word documents, power point presentations, spreadsheets, webpages, e-mails and other documents created using Microsoft Office or similar software);
- photographs and scanned images; and
- CD-ROMs and video tapes.

The policy covers all types of records that Matthew Mills creates or holds. The records may include, but are not limited to, the following:

- client files;
- minutes of meetings;
- submissions from external parties;
- contracts and invoices;
- registers;
- legal advice;
- file notes;
- financial accounts;
- employee information; and/or
- Matthew Mills' 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 Matthew Mills.

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 for various categories of records is set out in the table below.

	Category of record	Recommended minimum retention period
1	Electronic records of emails	7 years
2	Papers and electronic records stored on device belonging to instructing solicitor or client (e.g. a USB stick or CD)	7 years
3	Other papers the contents of which are also recorded electronically and held by Matthew Mills	No minimum retention period (as contents recorded electronically)
4	Other papers or other records relating to a matter on which Matthew Mills has been instructed	7 years

Please note that these are only recommended minimum retention periods. For particular matters, Matthew Mills may decide that there is no need to retain the record for the minimum period.

The recommended minimum retention period derives from either:

- business need, i.e. the running of Matthew Mills’ practice;
- legislation;
- responding to complaints; and
- taking or defending legal action.

6. Disposal

6.1 What is Disposal?

Matthew Mills 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; or,
- alternative disposal of the record, e.g. returning a record to the instructing solicitor(s).

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 will be conducted by Matthew Mills.

The disposal decision must be reached having regard to:

- on-going business and accountability needs (including audit);
- current applicable law;
- 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; and
- the legal, political and reputational risks associated with keeping, destroying or losing control over the record.

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

7. Destruction

No destruction of a record should take place without Matthew Mills having reasonably satisfied himself that:

- the record is no longer required by any part of his practice;
- no work is outstanding by any part of his practice;
- no litigation or investigation is current or pending which affects the record; and
- there are no current or pending Freedom of Information Act or GDPR subject access requests which affect the record.

7.1 Destruction of Paper Records

Confidential paper records should be placed in confidential waste sacks and these sacks should be made available for collection in order that they can be destroyed. It is essential that any documents that are to be thrown away and contain confidential or personal information must be disposed of in this way, in order to avoid breaches of confidence or of the GDPR.

Disposal of documents other than those containing confidential or personal information may be disposed of by binning or recycling.

7.2 Destruction of Electronic Records

In the event that IT equipment that holds electronic records needs to be disposed of, confidential information must be destroyed or wiped using a recognised method to put the data beyond recovery. For mobile phones, smart phones and tablets these should be reset to factory settings. For laptops, PCs, and Macs merely deleting the files, single-pass overwriting, or reformatting the disk is insufficient. The steps taken to delete data must be recorded in the IT Asset Register, together with the date on which the steps were taken.

8. 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 the Matthew Mills' Barrister Data Protection Policy.