

Guidance on keeping Archives of Solicitors and Law Firms

On behalf of the Institute of Advanced Legal Studies, it is my pleasure to endorse this *Guidance on Keeping Archives of Solicitors and Law Firms*. Legal archives are a valuable resource and their preservation is important for future generations of historians. At IALS, we have a longstanding commitment to the preservation of archival material, particularly through the *Legal Records at Risk* project. This Guidance provides best practice to solicitors and firms in supporting this endeavour. I am certain that it will prove useful and I also hope that the Guidance will encourage members of our legal community to play their part in preserving our shared history.

Professor Carl Stychin
Director, Institute of Advanced Legal Studies
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Play Your Part to Protect the Evidence of Our Past

This guidance is for solicitors and staff in legal firms responsible for case files or storage of solicitors' business records.

It is also relevant to:

- individuals and organisations with records stored by solicitors
- insolvency practitioners
- archivists and heritage practitioners

This guide is to help you ensure that records of historical value survive when disposal decisions are made. It will help you identify record types and explore future options for their preservation.

This guide is approved by the British Records Association, Business Archives Council and Institute of Advanced Legal Studies.

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Why preserve archives of solicitors and law firms?

Archives are records kept because they contain information of evidential and historical value. Archives also have value for social and economic history research, family history and local history.

Solicitors create documents and hold records on behalf of clients. These records can be in hardcopy, such as agreements, minutes, letters, plans, or printed photographs. These can also be digital file formats, such as spreadsheets, photographs, documents, or emails stored on hard drives, removable media, cloud storage or servers.

Solicitors' records chart legal decisions which underpin and reflect our changing society and landscapes. Documents can be decades or even centuries old and reflect:

- families and individuals
- major legal cases
- the solicitor's own business
- wider businesses and charities
- property and estate management

Important written records can have enduring value as sources of evidence for:

- the development of firms and the law
- family history
- the histories of our homes, key buildings and landscapes
- international relations and developments

Many solicitors, private individuals and organisations retain their records in-house. Others deposit historical records they no longer need with local record offices and other collecting archive or heritage organisations. The retention of records of historical value, including those containing personal data, is supported by UK data protection legislation. Read about how archives process data in The National Archives' [Guide to Archiving Personal Data](#). When records are deposited with an archive service, they are made available for public access in line with legislation and can enhance:

- historical research
- exhibitions by community groups and heritage organisations
- educational resources which engage people of all ages with the past.

When records are not deposited with an archive service they can be at risk from:

- destruction (accidental or purposeful)
- poor physical storage conditions
- sale and splitting of collections
- improper management of personal data contained within the records.

This guide encourages solicitors and private individuals to consider depositing items no longer of use to the business or client with an established archive service to ensure they are preserved and made accessible.

Advantages to legal practitioners

Legal practitioners have an important role to play in ensuring archives survive. In turn solicitors and other practitioners enjoy the following advantages:

- Increased confidence in reviewing records at times of staff changes, office moves, business restructures or closures
- Meeting ethical and legal requirements around the disposal of records
- Receiving professional best practice advice from archivists
- Reduced storage space and costs
- Enhancing the legal profession's profile and meeting Corporate Social Responsibility goals
- Demonstrating solicitors' engagement with the wider community. Deposits of records are good news stories which can be celebrated by record offices and depositing firms alike.

FAQs on how to preserve records

How should we manage records at our firm?

Businesses should keep records still in use. Categories of records should be assigned retention periods which outline the amount of time they are to be kept before their review and disposal. The records should be listed and stored within the firm's own storage or records management system for retrieval when needed. After their retention has been exceeded, the records are ready for review. Material of historical value should be retained or offered to a record office. A professional archivist from the record office will be able to help with this review.

Explore [The National Archives guidance on managing records](#) for more information on retention and requirements under law.

Protect physical records against disasters (for example, fire, flood, and theft). Explore The National Archives' [guide for protecting archives and manuscripts against disasters](#). Records require stable environmental storage conditions to prevent their deterioration. **Standards recommend lower and upper limits of temperature (between 13 and 20 degrees celsius) and relative humidity (between 35% and 60%).**

Digital documents are just as important as hard copy records and merit preservation where they are the evidential copy. They need to be maintained with regular backups made to prevent data loss. Digitisation of hard copies can enhance access but should not be a replacement of evidential hardcopy versions.

What kinds of historical records should we keep?

Solicitors' firms create two broad categories of records which contain documents of historical interest:

- client records
- records of the firm itself

These will be on paper and parchment as well as in digital formats. They can be older material or recent records.

1 Client records

These can include:

- legal opinions and cases
- wills, deeds and other property agreements
- entire personal, family or organisational records deposited with the solicitor for safekeeping.

These usually do not belong to the firm. See the [Law Society's guidance](#) on ownership of client documents. They normally remain the property of the client for whom they were drawn up or stored on behalf.

Non-current client records should not be disposed of unless the retention policy has been made clear to clients. Often documents such as property deeds are returned to clients. Firms may wish to highlight to the owner the potential for historical value in records before handing them over and the option of deposit with a record office.

If the firm is unable to contact the client, it may be appropriate to offer these documents to a record office or other archive service. Client records should be placed on long-term deposit where the firm retains ownership on behalf of the client. They cannot be gifted unless the client authorises the donation. Terms and conditions of deposit, including withdrawal clauses, will be set out in a supplied deposit agreement (see FAQs).

Deeds and wills

- Deeds can be key sources for local history and contain plans. Some may not be of value where they duplicate the [HM Land Registry](#) (post 1925) or historic deed registries such as the Middlesex Deeds Registry.
- Probates of will and testaments are registered with church courts (up to 1858) or National Probate Office (from 1858). Original wills usually survive in these registries. Record offices therefore tend not to accept single probate copies where no contextual documents survive.

Read the [The Law Society's](#) practice notes on client file management and retention:

- [File closure management](#)
- [Retention of wills and probate practice note](#)
- [Retention of trusts practice note](#)

2 Business records of the firm

Common business records which should be kept for historical reasons include:

- **Corporate and administration:** certificates of incorporation, articles of association, partnership agreements, executive minutes, rules, policies, business plans and procedures, reports (including annual report), shareholding, risk and seal registers, files of individuals in key positions (such as Partners, Chairman, Director, Secretary) on company matters, events and notices; office diaries, letter books and files, day books or office diaries (especially in 19th century, recording daily tasks), project files, files regarding mergers and acquisitions of law firms
- **Office premises:** contacts and agreements, deeds, plans, inventories and valuations and photographs
- **Finance:** annual statement of accounts and returns, audits, statutory reports, budget policy and planning documents, ledgers and accounts (general, client,

disbursement etc); bill, brokerage and cash books and journals recording financial transactions.

- **Client administration (not the client papers themselves):** letter books, registers of deeds, wills etc; schedules of documents
- **Staff and employment:** including lists and registers, pension scheme, magazines, photographs of social events, and documents on staff clubs/societies.
- **Marketing:** advertising material, artwork, leaflets, posters, press releases, scrapbooks, anniversary and other events, photographs, audio-visual material (films, video footage and audio cassettes).
- **Reference material:** not created by the company. Kept for reference this can provide context and may be appropriate for a library.

3 Manorial records

A manor was a property with tenants over whom the landlord exercised rights of jurisdiction in a court. If the firm or client has acted for Lord of the Manor or a family which held manorial rights, the business may hold manorial records. These documents are important historical sources for the medieval period to the early 20th century. They have statutory protection, under the [Law of Property Act 1922, s144A Manorial documents](#).

Seek advice if you discover manorial records. See the [Manorial Documents Register](#) for more information about manorial documents and their places of deposit.

4 Notary Public records

Record-keeping by a Notary Public is regulated by the Faculty Office of the Archbishop of Canterbury. Read record-keeping guidance in [Practice Rule 23](#) of [The Faculty Office](#). Notaries usually create single documents for client purposes such as the attestation of the authenticity of documents, conveyancing and probate activities. Only certain records created by notaries will be of historical value. Most documents which need to be kept for longer periods of time should be stored by the firm rather than passed to a record office.

What are the benefits of keeping historical records / depositing them with a record office or other archive service?

Some firms retain and manage their historical records in-house. Investing in storage and staff to manage these records can be a huge benefit. Explore [Managing Business Archives](#) for examples where businesses have used their unique history and archive collection to differentiate themselves from others, boost client numbers and strengthen staff engagement. The site also provides [guidance on seeking professional advice](#).

Local record offices and other archive services collect and care for records covering their geographical or specialist subject areas and make them available to research. The archives can be often part of a wider library or museum service.

Unlike storage companies, they preserve and make available historic records. They:

- acquire records by deposit or gift
- provide access to the public in line with data protection legislation
- employ professionally-trained archivists and conservators to care for and manage access to material
- demonstrate good practice in the storage of records

Records can be gifted. This transfers ownership of documents to the record office.

Material can also be placed on long-term deposit. They remain the property of the firm and can be returned if required. For example, if a client or successor in title claims a set of property deeds. In the event of withdrawal of a long-term deposit, the record office will expect a financial reimbursement for the administration, storage and/or care of the records; terms will be specified in the deposit agreement supplied by the record office.

My firm is moving/closing what should I do?

Establish contact with a record office or other archive service. An archivist will help you review records and advise on arrangements for their transfer. If you are unsure who to contact, email [Archives Sector Development](mailto:asd@nationalarchives.gov.uk) at The National Archives (asd@nationalarchives.gov.uk).

If the firm is to merge with another, plans should be made for records which are no longer required. Contact the [Crisis Management Team](#) for Business Archives which exists to support closures and insolvency cases.

How do I contact a record office or other archive service to deposit records?

Seek authorisation for transfer of records from a manager or senior partner.

Client material can relate to multiple localities, organisations and/or persons. There may be several archive services that could be suitable places to deposit records.

Contact a local record office or other archive service. If you are unsure, seek advice from [Archives Sector Development](#) at The National Archives (asd@nationalarchives.gov.uk) or the [British Records Association](#).

How should I prepare the records?

Summarise the records you have for potential transfer. This kind of listing will help archivists provide you with deposit advice. Record:

- main types of records
- date ranges
- extent ie number of boxes/files and/or size (in MB/GB) of digital material
- for client records, list client's name(s) and geographical coverage

Example: Bloggs & Bloggs, solicitors of York (fictitious firm)

Client (note where records are of the solicitors firm itself or predecessor name)	Type (and comment)	Dates	Extent	Geographical scope
Joe Bloggs of Barnsley	Property deeds (appear to be damaged)	1850-1988	2 bundles	Barnsley, Yorkshire
Bloggs & Bloggs, solicitors of York	Partners minutes and ledgers Photographs of partners and scrapbooks	1955-1980 1990s-2010	C30 volumes 2 boxes and 8 digital folders of JPGs (55 MB of data)	Yorkshire
I love Legal Records Ltd (of London until 2007, then Leeds 2007-)	Legal and property case files (detailed schedule available, digital records cannot be accessed)	2000s	39 boxes and 2 external hard drives	National
Client documents (unsorted)	Deeds, printed leaflets (identification by specialist needed)	16 th century?-1920s	2 boxes	Unknown but includes Ripon, Yorkshire, Nottingham and London

Leave documents in their original order. For example, bundles containing deeds and correspondence should be left intact, not separated out; paper and digital records can be listed as per their original filing structure.

For larger collections an archivist may survey and appraise the records at the firm's premises or review off-site storage lists.

Once the records for deposit are agreed, delivery can be arranged. . The record office may request a one-off donation or an on-going financial contribution towards the costs of storage, repackaging, physical conservation, digital preservation or cataloguing of the records.

Financial arrangements can be specified in a supplied deposit agreement. This should be signed off at a senior level for example by a partner in the firm with responsibility for disposal of company or client assets.

Documents are accepted at the discretion of the archivist. If the record office is unable to take records, they may suggest alternative archive services which may be interested. The Archives Sector Development team at The National Archives can advise on alternative options (asd@nationalarchives.gov.uk).

What about the UK General Data Protection Regulation (GDPR)?

UK GDPR sits alongside the Data Protection Act 2018. As noted earlier in this guidance, the legislation does **not** require the destruction of all records containing personal data. Firms or a place of deposit for the records may process personal data for [archiving in the public interest](#) purposes. The legislation recognises that records containing personal data about living persons can be of historical value. In the case of deposit, archive services will

- restrict access to items containing personal data
- check and select items to keep
- Dispose of material allocated for destruction in a secure way.

Explore The National Archives guidance on [Archiving Personal Data](#).

What is a deed of gift or loan deposit agreement?

A gift or loan are the common ways to cover the transfer of records:

- A deed of gift transfers ownership of the records and usually associated rights such as copyright to the record office.
- A long-term deposit agreement ensures that ownership and rights remain with the owner. The record office usually supplies the agreement for signature.

Both documents summarise the content of the archive and responsibilities towards it. Keep the gift or deposit agreement and any receipts and lists from the record office for reference.

What will happen to the records after a record office or other archive service has them?

The deposit may be a chance to publicise good news. The archives may seek financial support such as towards essential cataloguing activities. The record office will:

- Store them securely
- Register or accession them and provide a receipt on request
- Catalogue them within the resource/funding available to them
- Then make them available for research
- Share them with the community and for education

The firm's staff may be able to assist cataloguing of the collection and support events.

Further advice

- **The National Archives** is the home to archives of UK central government. It also has leadership responsibilities for archives in England. The Archive Sector Development team at The National Archives advises all archives and organisations and individuals holding archives. Sector Development Managers help companies by giving advice on record-keeping, archives storage or disposal and access arrangements. Contact Archives Sector Development asd@nationalarchives.gov.uk
- **The Business Archives Council** promotes the preservation and use of business records. The charity represents the interests of owners, users and custodians of archives generated by businesses. Contact the [Business Archives Council](#) for advice, training and networking opportunities.
- Since its foundation in 1932, the [British Records Association](#) has worked with solicitors' firms for decades to preserve records. It offers advice and guidance on preservation and deposit of documents.
- [Legal Records at Risk](#) project is led by the Institute of Advanced Legal Studies to develop a national strategy to identify and preserve our legal heritage in the UK.
- [Managing Business Archives](#) provides best practice advice on how to make a firm's archive work for the business. It also hosts contact details for the [Crisis Management Team for Business Archives](#) which supports cases of records at risk.
- [Selden Society](#) is a learned society and publisher devoted to English legal history. The Society's publications evidence the historical value of legal archives.