

# Data Retention Policy: Procedures, Minimisation and Schedule of Retention Periods

This document is an inward facing policy for the Company to wholly adopt into its corporate structure, as to its official process for deciding how long it will retain different kinds of Personal Data.

Date created:

Last Reviewed:

## INTRODUCTION

It is a requirement under UK law that any organisation which processes the Personal Data of natural persons must do so according to the principles set under the General Data Protection Regulation (GDPR). This policy document refers specifically to one of those – the principle that data shall only be processed for as long as it is necessary for the purpose it was initially intended.

The GDPR does not set out any specific minimum or maximum periods for retaining Personal Data. Article 5 (1, e) states that Personal Data shall be: “kept in a form which permits identification of data subjects for no longer than necessary to the purposes for which the Personal Data are processed.”

In practice, this principle means that organisations must:

- Review the length of time they keep Personal Data
- Consider the purpose or purposes of holding information when deciding whether (and for how long) to retain it
- Securely delete information that is no longer needed for this purpose or these purposes
- Update, archive or securely delete information if it goes out of date
- Think carefully about what data it wishes to keep for longer for internal monitoring and statistical purposes and ensure any such records have any information which could identify individuals removed.

## 1. OVERVIEW

- 1.1** Humphrey and Brand Residential LLP (“The Company”) endeavours to meet the highest working standards and intends to comply fully with any current or future Data Protection Legislation.
- 1.2** Under the GDPR, the Company is bound to uphold the Principles of Data Protection, namely:
  - (a)** To process Personal Data fairly, lawfully and in a transparent manner
  - (b)** To collect data only for specified, explicit and legitimate purposes
  - (c)** To ensure data is adequate, relevant and limited to what is necessary for its specified purposes
  - (d)** To ensure data is accurate and up to date
  - (e)** To retain data only for as long as it is necessary for its specified purposes
  - (f)** To process data securely and protect against unauthorised disclosure, loss, destruction or damage
- 1.3** As such, the Company adheres to this Policy to ensure that data is either securely deleted, minimised or anonymised when it is no longer needed for its intended purposes.
- 1.4** Some kinds of Personal Data are important for the Company’s internal management: to protect against any potential litigation; for the purposes of insurance claims; or to otherwise provide necessary contemporaneous records. In such cases retaining or processing data for longer periods are justified. Where this is the case Personal Data will be kept for an appropriate period after the termination of any contract or business agreement, or other relationship with a Data Subject which requires the processing of their Personal Data.
- 1.5** Upon the expiry of the retention period for certain kinds of data which the Company still wishes to process for the purposes of maintaining historic records and / or archives, the Data will be anonymised. This means that no part of the Data can be used to identify a Data Subject, including the erasure of

basic contact details, any unique identifiers which attribute the data to a natural person, and any piece of data which could be used to identify an individual if combined with other reasonably available data.

**1.6** Data retention periods shall be specific to the types of data being held and are outlined in the Company's Schedule of Data Retention Periods below. These will be determined with reference to applicable legal bases under the Company's 'Data Protection: Legal Basis for Processing Policy'.

**1.7** Where Data is necessary to comply with legal requirements other than the Data Protection Legislation, the Company shall retain such Data for at least this period and will have reference to:

- Trade, tax, employment and administrative law
- Regulators' Codes of Conduct and suggested retention periods
- The Limitations Act 1980

**1.8** In the absence of any legal requirement, the Company shall retain Personal Data only for as long as necessary to fulfil the specified purpose/s for processing plus a reasonable additional period to provide a buffer and time for administration processes to be undertaken.

**1.9** Every effort will be made to ensure the erasure or return of data to a Data Subject when the data is no longer necessary to fulfil its specified purpose.

**1.10** Any change/s to retention periods or process purposes will be communicated to the Data Subject.

## **2. RESPONSIBLE PERSONS**

**2.1** Responsibility for the Company's Data Protection ultimately falls to the highest level of management, and in our organisation we have nominated a Data Protection Manager who is responsible for ensuring this policy is adhered to (also called the "Responsible Person"). They are:

**Laura Humphrey, Partner, [laura@humphreyandbrand.com](mailto:laura@humphreyandbrand.com)**

**2.2** Responsible Persons have the authority to:

- Monitor departmental compliance with the Data Protection Legislation
- Restrict employees' access to certain kinds of data
- Purge any Company database of expired data

## **3. DATA RETENTION PROCEDURES**

**3.1** The Company adopts an organised approach to attributing appropriate data retention periods to the data it processes about Data Subjects.

**3.2** This approach shall be adhered to by all employees responsible for creating and organising databases containing personal information.

**3.3** Any new or existing database will be formatted or otherwise organised in a manner which allows for the labelling of data retention periods, or expiry dates onto data records. This may include any of the following measures:

- A scheme of retention codes to allow for ease of identifying how long captured data should be stored.
- Automated purging of electronic records and files
- Periodic purging of emails and correspondence

## **4. DATA DELETION PROCEDURES**

**4.1** The company shall ensure it takes all appropriate measures to delete or destroy any data which is no longer lawfully held according to the retention period associated with its intended purpose of processing.

**4.2** A Responsible Person shall have appropriate authority to ensure the delete of paper records whose retention period has expired on a regular basis, using such methods as:

- (a) separating out data for those Data Subjects who are inactive
- (b) regular review of inactive clients;

- (c) maintenance of a journal of expiring data to conduct a comprehensive data purge at regular intervals.

## 5. SCHEDULE OF RETENTION PERIODS

5.1 The Company shall adopt the following retention periods to ensure Personal Data are retained only for as long as necessary to fulfil its intended purpose:

Data Type	Retention Period	Justification
<b>APPLICANTS FOR EMPLOYMENT</b>		
Application form / Recruitment process records	Duration of recruitment process + 7 months	INTEREST: to preserve evidence of recruitment process in case of litigation or applicant enquiry.
All employee records relevant to legal claim intimated or issued	Duration of litigation or 7 years, whichever is longer	LEGAL: duty to preserve and disclose relevant evidence in relation to actual or potential claims.
Applicant reference – name, contact information and notes	Recruitment + 7 months	INTEREST: to preserve evidence of recruitment process in case of litigation or applicant enquiry.
<b>EMPLOYEES</b>		
Application forms / CVs and related application documents	Duration of employment plus 7 years	INTEREST: to track and maintain an accurate record of recruitment documentation both in relation to the individual contract and statutory employment rights generally
Statement of employment particulars / Contract of employment / Side letters varying key terms	Duration of employment plus 7 years	CONTRACT: an accurate and up to date record of key terms (e.g. pay, job title, etc) necessary for performance of contract. LEGAL: compliance with s.1 Employment Rights Act 1996 and other employment legislation / evidencing same in case of claim/s.
Agreements collateral to contact of employment / non-disclosure agreements	Duration of employment plus 7 years	INTEREST: to promote and secure a secure working environment and protect our assets.
Appraisal / Performance review records / Disciplinary & grievance documents / Training records / Attendance	Duration of employment plus 7 years	INTEREST: demonstrating compliance with contractual terms and conditions and legislation / evidencing same in case of claim/s / ensuring staff have necessary training / maintaining records of employment history.
Notes of meetings relating to employment	Duration of employment plus 7 years	INTEREST: demonstrating compliance with contractual terms and conditions and legislation / evidencing same in case of claim/s / maintaining records of employment history.
Unique ID and photograph	Duration of employment plus 7 years	INTEREST: to identify employees and link to documentation.

Driving licence	Duration of employment plus 7 years	INTEREST: to comply with the terms of motor insurance policies and insure those who drive are road legal]
Emergency contact information / next of kin	Duration of employment plus 1 year	INTEREST: to uphold the best interests of the employee are met in an emergency (processed under Art 14(5) disproportionate effort to notify Data Subject)
Employee P45	Duration of employment plus 7 years	LEGAL: retained in evidence of company returns under s. 21 (1) (2) Finance Act 1998.
Payroll and wage Records (to include workers' pay, tax code, DOB, hours, overtime, deductions, absence, leave, benefits, gender and NI number)	7 years from end of relevant financial year	LEGAL: Payroll and wage records must be kept under s. 21 (1) (2) Finance Act 1998 LEGAL: Reg 97 Income Tax Regulations 2003 requires PAYE records to be held for not less than 3 years following tax year end but these records wholly or mainly fall within definition of payroll and wage records
Annual leave records	7 years from end of relevant financial year	LEGAL: Payroll and wage records must be kept under s. 21 (1) (2) Finance Act 1998 Also to demonstrate compliance with Working Time Regs 1998 and preserve evidence in relation to any claim/s for breach of contract or unlawful deduction from wages.
Bank details	Duration of employment plus 6 months	CONTRACT: necessary to make payments for work undertaken.
Disclosure and Barring Service (DBS) checks and disclosures of criminal record forms	6 months following commencement of employment unless assessed as relevant to ongoing employment in which case duration of employment plus 6 months	INTEREST: to comply with duty to safeguard children and vulnerable individuals and provide a 6 month period for deletion and resolution of any dispute or complaint arising from recruitment. Processed under DPB Sch. 1.1 – for the purposes of employment and under an appropriate policy.
Immigration checks and right to work	Duration of employment / engagement plus 3 years	LEGAL: The Immigration (Restrictions on Employment) Order 2007 requires records to be kept for a minimum of 2 years from termination of employment.
Pensions (auto-enrolment data, joining date, opt-in/out, contributions paid)	7 years	LEGAL: Pensions Regulator 'Detailed Guidance for Employers – Keeping Records' April 2017
Health related information (medical questionnaires, GP fit notes, sickness absence, self cert forms, OH reports, etc.)	Duration of employment / engagement plus 7 years	INTEREST: to inform decisions around risk assessments, adjustments and sickness absence management. (also) LEGAL: for the purposes of compliance with duty of care (common law, time limitation 3 years) and to make reasonable adjustment (Equality Act 2010, time limitation

		5 months max plus possible extension for justice and equity) and to preserve evidence in case of alleged breach of implied term (common law, time limitation 6 years) / Special category processed under Art 9.2(b): employment.
Health records for employees who are exposed to hazardous conditions and fall under Health Surveillance (name, gender, DOB, address, NI number, employment commencement date, health surveillance check details)	40 years	LEGAL: Individual's health monitoring under HSE <a href="http://www.hse.gov.uk/health-surveillance/record-keeping/index.htm/">http://www.hse.gov.uk/health-surveillance/record-keeping/index.htm/</a> / Special category processed under Art 9.2(b): employment.

<b>APPLICANTS (PROPERTY)</b>		
Applicant profiles (name, contact details, budget, preferences, notes)	Duration of active engagement + 5 years	INTEREST: To administer sales and lettings and manage applicants' property search.
Referencing information (contract details, nationality, copies of ID, credit referencing agency reports, third party references)	Six months after application (or duration of Tenancy + 7 years)	INTEREST: To administer appropriate pre-tenancy checks with the landlord
Copies of immigration documents / Visas / Right to rent / Proof of address / Bank statements	Six months after application (or duration of Tenancy + 7 years)	INTEREST: To administer appropriate pre-tenancy checks with the landlord

<b>CLIENTS (LANDLORDS &amp; VENDORS)</b>		
Client name and contact details, property details, notes	Duration of contract plus 7 years	CONTRACT: necessary to perform contract INTEREST: To efficiently administer our relationship with the client LEGAL: Some information required by record keeping obligations under s.21 Finance Act, 1998
Terms of business. contract and work orders, where these includes personal data	Duration of contract plus 7 years	CONTRACT: to perform our duties within contracted terms, and further to evidence in the event of legal claims.
Valuation forms (name, contact details, reasons for moving, ownership details)	Duration + 7 years	INTEREST: To maintain appropriate records of client accounts
Confirmation of instructions	Duration of engagement + 7 years	CONTRACT: To prepare and issue contract terms, and further as evidence in the event of claims.
Non-Resident Landlord Scheme information (Name, Contact Details, Proxy Address)	End of relevant financial year + 7 years	LEGAL: Non-resident Landlord Scheme record-keeping requirements

Managed property information dorms	End of relevant tax year + 7 years	INTEREST / LEGAL: Administration of client accounts, and to meet ARLA record keeping requirements
Photographs of property interior	Duration of Contract ONLY	CONTRACT / INTEREST: To market the property on behalf of the client / with the tenant's permission (if inhabited by a third-Party)
Gas Safety certificates (name, contact details, property address)	Duration + 7 years	LEGAL: Gas Safety (Installation and Use) Regulations 1998
Property / viewing information Form	Duration of Contract +7 years	INTEREST: To administer client accounts and further to evidence thorough administration in the event of legal claims

## CONTRACTORS

Contractor contact information, nationality, DOB, commission, insurance policy number, bank details	Duration of engagement + 7 years	INTEREST: To maintain adequate records of our contractors, and administer payments and work orders, and to evidence in legal claim/s
Contractor receipts and invoices	Duration of engagement + 7 years	LEGAL: In support of company return s. 21 (1) (2) Finance Act 1998.
Supplier assessments	Duration of engagement + 7 years	CONTRACT: to ensure suppliers meet appropriate standards as per our contract with them.
Maintenance jobs	Duration + 7 years	INTEREST: To administer work order as per contract with third party, and further as evidence in the event of legal claims.

## FINANCIAL

All sales and income, invoices, business expenses, debtors, VAT records, payroll and PAYE records	7 years after end of relevant tax year	LEGAL: records in support of company return s. 21 (1) (2) Finance Act 1998
Employee information forms for payroll processing	Duration of Engagement + 7 years	CONTRACT / LEGAL: to process payroll as per contract terms, and further to demonstrate pay and evidence for company return under s. 21 (1) (2) Finance Act 1998
Records evidencing client accounts (monies received, held and paid out, amounts, dates, names, property addresses, ref. numbers, balances held, names of persons for whom money is held, reconciliation documents, receipts issued.	7 years after end of relevant tax year	LEGAL: ARLA Code requires records of money in out and held for the end of the relevant tax year plus 6 years (plus 1 year buffer)

Records of client identification and due diligence process	Duration of engagement + 5 years	LEGAL: Money Laundering Regulations require 5 years of identity records in the event of an investigation.
Records of client transactions, receipts, cheques and correspondence	Duration of engagement + 10 years	LEGAL: Money Laundering Regulations require 10 years of financial records in the event of an investigation.

## MARKETING

Business development leads (soft opt-in)	Duration of active engagement plus 5 years	INTEREST: to market to existing leads, and those who are a point of contact for clients or potential clients
Business development leads (Cold – direct marketing)	Duration of consent (refreshed every 5 years)	CONSENT: to send direct marketing materials to potential clients who we have no active relationship with.

## TENANTS

Tenancy management details (name, contact details, nationality, DOB, NI number, university number, Visa, bank details, notes)	Duration of tenancy + 7 years	INTEREST: To administer tenant's contract with landlord, and further as evidence in legal claims
Copies of ID / Immigration documents / Visa /	Duration of tenancy + 7 years	LEGAL / INTEREST: To confirm right to rent in the UK under Immigration Act 2014 s.22 ( <a href="#">Guidance</a> : Duration + 1 year) and further under legitimate Interest in retaining referencing information
Viewing information sheets	Duration of engagement + 7 years	INTEREST: To maintain appropriate records of our activities
Tenancy documentation (check-in forms, agreements, invoices, renewal letters,	Duration of engagement + 7 years	CONTRACT: Necessary to administer the contract with the tenant, and further to evidence in the event of legal claims
Paper deposit forms / receipts (to evidence compliance with deposit scheme)	End of relevant tax year + 7 years	LEGAL: ARLA Code requirement to the end of the relevant tax year plus 6 years (plus 1 year buffer) / Housing Act 2004
Tenancy Deposit Scheme records (name, bond amount, tenancy details)	Duration of tenancy + time taken to process any deductions	LEGAL: To comply with legal requirement under Housing Act 2004

## OTHER

Consents for the processing of Personal Data	For as long as the data is being processed and 7 years thereafter	INTEREST: to preserve evidence relevant to any claim or action taken under the Data Protection Legislation.
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All documents relevant to claims or legal processes generally	Duration of litigation or legal process + 1 year	LEGAL: where any claims or legal process arises to comply with duty to preserve evidence under the Civil Procedure Rules
General emails / correspondence	Servers purged so no older than seven years	INTEREST: to maintain appropriate records of all correspondence relating to the organisations' activities.
Property Keys signing out register (agent, applicant, property Address)	End of financial year + 7 years	INTEREST: To keep appropriate records of our activities and as evidence in legal claim/s
Corporate contacts and business partner details	Duration of Active Contact plus 5 years for re-uptake of contact	INTEREST: to maintain a general knowledge base about our corporate contacts
Referee information (former landlords, employers' contact details, notes in relation to applicants)	Six months after application OR Duration of tenancy + 7 years	INTEREST: to ensure proper references are collected for our clients, and further to demonstrate checks were made in the event of legal claims
Website metadata and cookies	2 years	INTEREST: to analyse data and maintain an effective and secure website. (Session IDs expire when the user leaves the web page – Google analytics expire after two years)

## 6. DEFINITIONS

6.1 The following defined terms are used in the context of this Policy:

- (a) **Consent:** The freely-given, unambiguous indication that a Data Subject has provided a positive affirmation that they consent to particular kinds of data being processed for particular purposes. Consent is necessary for certain special categories of sensitive data and in order to justify the processing of data for longer than is required under other legal bases.
- (b) **Data Controller:** An organisation which holds, transfers or otherwise processes Personal Data and is in a position to make a decision about that processing.
- (c) **Data Officer:** An officer or employee of the Company who has delegated responsibility for ensuring and / or promoting compliance with the Company's data protection policies.
- (d) **Data Protection Legislation:** The General Data Protection Regulation (EU 2016/679) and the Data Protection Act 2018 (pending at the time this policy was produced).
- (e) **Data Subject:** A living identifiable individual about whom we hold Personal Data.
- (f) **Personal Data (or 'The Data'):** Any information which can identify a natural person either directly or indirectly, alone or in combination with other data. For the purposes of this Policy, the only Personal Data which is captured by the Data Protection Legislation is that which is processed by automated electronic means, or which is organised in any kind of structured filing system which can be searched and individuals found by using specific criteria.
- (g) **Privacy Notice:** Formal written notification given to data subjects at the point where their data is collected, outlining which categories of data will be processed, the purpose for processing, retention periods and information about their rights to make requests and complaints.
- (h) **Responsible Person (Data Protection Manager):** the designated officer or officers within the Company who take responsibility for matters relating to Data Protection. In our organisation, the Responsible Persons is:

**Laura Humphrey, Partner, [laura@humphreyandbrand.com](mailto:laura@humphreyandbrand.com)**