

COLEORTON PARISH COUNCIL

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RETENTION OF DOCUMENTS AND RECORDS POLICY

Introduction.

The Parish Council is required to retain paper and electronic data for a variety of reasons. There is a clear need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes and legal proceedings. Subject to these reasons for retaining documents, and as a basic starting point, papers and records will be destroyed if they are no longer of use or relevant.

Planning papers.

- a. Where planning permission is granted, the planning application, any plans and the decision will be retained until the development has been completed so that, if required, the council can check that the development proceeds in accordance with the terms and conditions of the permission. Where planning permission is granted on appeal, a copy of the appeal decision will be retained.
- b. Where planning permission is refused, the papers will be retained until the period within which an appeal can be made has expired. If an appeal is made, and dismissed, the decision notice will be retained against further applications relating to the same site.
- c. Copies of Structure Plans, Local Plans and similar documents will be retained as long as they are in force.

Insurance policies.

All insurance policies will be kept for as long as it is possible for a claim to be made under them. Irrespective of how long policies and correspondence are retained, the Parish Council will keep a permanent record of insurance company names and policy numbers for all insured risks. Article 4 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753) requires local councils, as employers, to retain certificates of insurance against liability for injury or disease to their employees arising out of their employment (this insurance is mandatory pursuant to the Employers' Liability (Compulsory Insurance) Act 1969) for a period of 40 years from the date on which the insurance is commenced or renewed.

Correspondence.

If related to audit matters, correspondence will be kept for the period specified in Annex A. In planning matters, correspondence will be retained for the same period as for other planning papers. Other correspondence will be retained for as long as it is useful and relevant.

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Documentation relating to staff.

This will be kept securely and in accordance with the eight data protection principles contained in the Data Protection Act 2018 and General Data Protection Regulations (GDPR). The principles provide that personal data in relation to staff should not be kept for longer than is necessary for the purpose it was held. However, even after an employment relationship has ended, the Parish Council will retain and access records for former staff for the purpose of giving references, payment of tax, national insurance contributions and pensions, and in respect of any related legal claims made against the council.

The time limits within which a claim (and any appeal) may be lodged against an employer at an employment tribunal are set out in the legislation that contains the employment right in question or failing that by reference to the Limitation Act 1980 (as amended) considered below. The time for lodging a claim at an employment tribunal is usually measured from the date that the employment relationship ended or the date of the act complained of. Subject to where the Limitation Act 1980 applies, the most common time limit for lodging a claim at an employment tribunal is 3 months (for example a claim for unfair dismissal must, by virtue of s.111 of the Employment Rights Act 1996, be lodged at an employment tribunal within 3 months of the date of the termination of the employment contract) although 6 months applies in redundancy and equal pay claims.

Local/historical information.

The Local Government (Records) Act 1962 provides that parish councils may acquire records of local interest and accept gifts or records of general and local interest in order to promote the use of such records (defined as materials in written or other form setting out facts or events or otherwise recording information).

Arrangements for the deposit, storage and management of documents.

Documents of local and or historical importance, if not retained and stored by the Town Council, will be offered first to the Leicestershire County Record Office.

The Parish Council will implement a system of paper and electronic records management (including those records retained for audit purposes reviewed annually by a council's internal auditor). Such systems will ensure the storage and security of, access to and disposal of, both paper and electronic records. This system and policy relating to record management will include an annual review of the records themselves and also the effectiveness of the system and policy.

Retention of documents for legal purposes.

Most legal proceedings are governed by the Limitation Act 1980 (as amended). The 1980 Act provides that legal claims may not be commenced after a specified period. The specified period varies, depending on the type of claim in question. The table below sets out the limitation periods for the

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different categories of claim. The reference to 'category' in the table refers to claims brought in respect of that category.

| Category | Limitation Period |
|--------------------------------|--------------------------|
| Negligence (and other 'Torts') | 6 years |
| Defamation | 1 year |
| Contract | 6 years |
| Leases | 12 years |
| Sums recoverable by statute | 6 years |
| Personal Injury | 3 years |
| To Recover Land | 12 years |
| Rent | 6 years |
| Breach of Trust | None |

Where the limitation periods above are longer than other periods specified above, the documentation will be kept for the longer period specified. Some types of legal proceedings may fall within two or more categories. Rent arrears, for example, could fall within the following three categories (depending on the circumstances):

- contract (6 years) – because all tenancies and leases are contracts;
- leases (12 years) – if the arrears are due under a lease; and
- rent (6 years) – if the arrears are due under a tenancy (and not a lease).

In these circumstances the relevant documentation will be kept for the longest of the three limitation periods.

The same principles apply in the case of debts. If the debt arises under a simple contract the limitation period will be 6 years but if the debt arises under a lease the limitation period will be 12 years (unless it relates to rent in which case the limitation period will be 6 years). A final complication relates to sums due under leases which are 'reserved as rent'. Sometimes, for example, service charges are expressed to be payable as 'additional rent'. The limitation period for service charges in those circumstances will be 6 years – even though the sums are due under a lease.

ANNEX A

| DOCUMENT | MINIMUM RETENTION PERIOD | REASON |
|-----------------|---------------------------------|---------------|
|-----------------|---------------------------------|---------------|

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| | | |
|--|--|--|
| ▪ Minute books | Indefinite | Archive |
| ▪ Scales of fees and charges | 6 years | Management |
| ▪ Receipt and payment account(s) | Indefinite | Archive |
| ▪ Receipt books of all kinds | 6 years | VAT |
| ▪ Bank statements, including deposit/savings accounts | Last completed audit year | Audit |
| ▪ Bank paying-in books | Last completed audit year | Audit |
| ▪ Cheque book stubs | Last completed audit year | Audit |
| ▪ Quotations and tenders | 6 years | Limitation Act 1980 (as amended) |
| ▪ Paid invoices | 6 years | VAT |
| ▪ Paid cheques | 6 years | Limitation Act 1980 (as amended) |
| ▪ VAT records | 6 years | VAT |
| ▪ Petty cash, postage and telephone books | 6 years | Tax, VAT, Limitation Act 1980 (as amended) |
| ▪ Timesheets | Last completed audit year | Audit |
| ▪ Salary details | 12 years | Superannuation |
| ▪ Insurance policies | While valid | Management |
| ▪ Certificates for Insurance against liability for employees | 40 years from date on which insurance commenced or was renewed | The Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753), Management. |
| ▪ Investments | Indefinite | Audit, Management |
| ▪ Title deeds, leases, agreements, contracts | Indefinite | Audit, Management |
| ▪ Members allowances register | 6 years | Tax, Limitation Act 1980 (as amended) |

| | | |
|---|------------|-------------------|
| For all Buildings and Recreation Grounds | | |
| ▪ application to hire | 6 years | VAT |
| ▪ lettings diaries | | |
| ▪ copies of bills to hirers. | | |
| For Allotments | | |
| ▪ register and plans | Indefinite | Audit, Management |
| For Burial Ground | | |

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| <ul style="list-style-type: none"> ▪ register of fees collected ▪ register of burials ▪ register of purchased graves ▪ register/plan of grave spaces ▪ register of memorials ▪ applications for interment ▪ applications for right to erect memorials ▪ disposal certificates ▪ copy certificates of grant of exclusive right of burial | <p style="text-align: center;">Indefinite</p> | <p>Archives, Local Authorities Cemeteries Order 1977 (Sl. 204)</p> |
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