

Retention Policy

1 Introduction

- 1.1 This policy sets out how long employment/recruitment-related information will normally be held by us and when that information will be confidentially destroyed.

2 Responsibility

- 2.1 **Toni Pike** is responsible for implementing and monitoring compliance with this policy.
- 2.2 They will undertake an annual review of this policy to verify that it is in effective operation.

3 Our process

- 3.1 Information (hard copy and electronic) will be retained for the period specified in our Records Retention Schedule.
- 3.2 All information must be reviewed before destruction to determine whether there are special factors that mean destruction should be delayed, such as potential litigation, complaints or grievances.
- 3.3 Hard copy and electronically-held documents and information must be deleted at the end of the retention period, unless there is a requirement to delay deletion (as per paragraph 3.2)
- 3.4 Hard copy documents and information must be disposed of by putting into the shredding bags.

Records Retention Schedule

This Record Retention Schedule sets out the time periods that different types of records must be retained for business and legal purposes.

The retention periods are based on business needs and legal requirements and should be read in accordance with Flourish Education's data protection policy. If you maintain any types of records that are not listed in this schedule and it is not clear what retention period should apply, please contact Amy Bullock for guidance.

Any deviance from the retention periods in this schedule must be approved in advance by Amy Bullock.

The first section of this policy will address employment records, the second section will address work-seeker records.

1 Internal employee/applicants for internal roles

Record	Retention Period	Storage Format	Lawful basis and reference
<p>Rejected job applicant records, including:</p> <ul style="list-style-type: none"> • Contact details • CV/Applications • References • Test results • Interview notes 	<p>Six months after applicant is notified of rejection. The application forms should give applicants the opportunity to object to their details being retained</p>	<p>Paper or electronic</p>	<p>Legitimate business interest</p> <ul style="list-style-type: none"> • To ensure that you do not accept multiple applications from the same rejected candidate • To consider alternative roles for the candidate • To demonstrate fair and non-discriminatory recruitment process • Kept in line with the Equality Act 2010 (s.123)
<p>Application records of successful candidates, including:</p> <ul style="list-style-type: none"> • CV/Applications • References • Training certificates • Correspondence concerning employment • Test result • Interview notes 	<p>Up to the end of six years after employment ceases</p>	<p>Paper or electronic</p>	<p>Legitimate business interest</p> <ul style="list-style-type: none"> • To protect the business against any legal claims for breach of contract <ul style="list-style-type: none"> ○ Kept in line with the Limitation Act 1980 (s.5) • To demonstrate compliance with a fair and non-discriminatory recruitment process
<p>Employment contracts including:</p> <ul style="list-style-type: none"> • Training records • Written particulars of employment • Changes to terms and conditions 	<p>Up to the end of six years after employment ceases [if document executed as a deed- this should be 13 years after employment ceases- s.8 Limitation Act 1980]</p>	<p>Paper or electronic</p>	<p>Legitimate business interest</p> <ul style="list-style-type: none"> • To protect the business against any legal claims for breach of contract <ul style="list-style-type: none"> ○ Kept in line with the Limitation Act 1980 (s.5) • Confirmation of rights and obligations owed and due by employee- employer

<p>Employee performance and conduct records:</p> <ul style="list-style-type: none"> • Probationary reviews • Review and appraisal notes • Promotions/demotions 	<p>Up to seven years after employment ceases</p>	<p>Paper or electronic</p>	<p>Legitimate business interest</p> <ul style="list-style-type: none"> • To protect the business against any legal claims for breach of contract <ul style="list-style-type: none"> ◦ Kept in line with the Limitation Act 1980 (s.5) • Confirmation of rights and obligations owed and due by employee- employer
<p>Other employment records</p> <ul style="list-style-type: none"> • Redundancy records • Annual leave records • Parental leave records • Sickness records • Return to work meetings 	<p>Up to the end of six years after employment ceases</p>	<p>Paper or electronic</p>	<p>Legitimate business interest</p> <ul style="list-style-type: none"> • To protect the business against any legal claims for breach of contract <ul style="list-style-type: none"> ◦ Kept in line with the Limitation Act 1980 (s.5) • Confirmation of rights and obligations owed and due by employee- employer
<p>Directors' service contracts and any variations</p>	<p>Up to the end of six years after employment ceases if document executed as a deed- this should be 13 years after employment ceases- s.8 Limitation Act 1980]</p>	<p>Paper or electronic</p>	<p>Legitimate business interest</p> <ul style="list-style-type: none"> • To protect the business against any legal claims for breach of contract • Confirmation of rights and obligations owed and due by employee- employer <p>Legal obligation</p> <ul style="list-style-type: none"> • Retained for one year from the date of termination or expiry • Kept in line with Companies Act 2006 (s.228)

Copies of identification documents/right to work	Kept for two years from date of termination of employment	Paper or electronic	<p>Legal obligation</p> <ul style="list-style-type: none"> Kept in line with the Immigration (Restrictions on Employment) Order (Art 6(1)(b))
<p>Records relating to/demonstrating compliance with Working Time Regulations 1998:</p> <ul style="list-style-type: none"> Registration of work and rest periods Working time opt-out forms 	Kept for two years from the date on which the record was made	Paper or electronic	<p>Legal obligation</p> <ul style="list-style-type: none"> Kept in line with the Working Time Regulations 1998 (Regulation 9)
<p>Criminal records information</p> <ul style="list-style-type: none"> Information forms DBS check forms DBS certificates 	It would be advisable to consider six months as the maximum time frame (unless safeguarding issues or other similar extenuating circumstances are raised).	Paper or electronic	<p>Legitimate business interest</p> <ul style="list-style-type: none"> To demonstrate that safeguarding processes were followed [Framework requirements]
Gender pay gap reporting information	Kept available for a period of at least three years beginning with the date of publication	Paper or electronic	<p>Legal obligation</p> <ul style="list-style-type: none"> Kept in line with Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (Regulation 15)

2 Work-seeker records

Record	Retention Period	Storage Format	Lawful basis and reference
<p>Work-seeker records</p> <ul style="list-style-type: none"> Name/address and if under 22, date of birth Any terms between recruitment business and the work-seeker and any variations Details of the work-seeker's training, experience, qualifications and any authorisation to undertake particular work Names of hirers to whom the work-seeker is introduced or supplied Details of any resulting engagement and date from which it takes effect Details of any enquiries made under Regulations 19, 20 and 22 about the work-seeker and the position concerned 	<p>Kept for one year after you last provided your work-finding service</p> <p>[For data to be processed longer than this period, you would need to establish a legitimate business interest.</p> <p>The maximum this data should be kept for is up to the end of six years from the date of your work-finding services in line with the Limitation Act 1980 but only if a real possibility of legal action being taken by a worker]</p>	<p>Paper or electronic</p>	<p>Legal obligation</p> <ul style="list-style-type: none"> Kept in line with the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (Reg 29) <p>Legitimate business interest</p> <ul style="list-style-type: none"> To protect the business against any legal claims for breach of contract <ul style="list-style-type: none"> Kept in line with the Limitation Act 1980 (s.5) To keep records to demonstrate that safeguarding processes are adhered to and followed To contact the candidate for any further work-finding services To protect your business against any legal claims
<p>Records relating to/demonstrating compliance with Working Time Regulations 1998:</p> <ul style="list-style-type: none"> Registration of work and rest periods Working time opt-out forms 	<p>Kept for two years from the date on which the record was made</p>	<p>Paper or electronic</p>	<p>Legal obligation</p> <ul style="list-style-type: none"> Kept in line with the Working Time Regulations 1998 (Reg 9)

Copies of identification documents/right to work	Kept for two years from date of termination of employment	Paper or electronic	Legal obligation <ul style="list-style-type: none"> Kept in line with the Immigration (Restrictions on Employment) Order (Art 6(1)(b))
Criminal records information <ul style="list-style-type: none"> Information forms DBS check forms DBS certificates 	It would be advisable to consider six months as the maximum time frame (unless safeguarding issues or other similar extenuating circumstances are raised).	Paper or electronic	Legitimate business interest <ul style="list-style-type: none"> To demonstrate that safeguarding processes were followed
Gender pay gap reporting information	Kept available for a period of at least three years beginning with the date of publication	Paper or electronic	Legal obligation <ul style="list-style-type: none"> Kept in line with Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (Regulation 15)

3 Payroll and salary records

Record	Retention Period	Storage Format	Lawful basis and reference
Payroll information	Kept for three years after the end of the tax year to which they relate	Paper or electronic	Legal obligation <ul style="list-style-type: none"> Kept in line with Income Tax (Pay As You Earn) Regulation 2003 (Regulation 97)
Intermediary reporting information <ul style="list-style-type: none"> HMRC have produced guidance on the different information required 	Kept for three years after the end of the tax year to which they relate	Paper or electronic	Legal obligation <ul style="list-style-type: none"> Kept in line with Income Tax (Earnings and Pensions Act 2003) (Section 716B) as well as The Income Tax (Pay As You Earn) (Amendment No.2) Regulations 2015

<p>VAT records</p> <ul style="list-style-type: none"> • Keep records of sales and purchases • Keep a separate summary of VAT called VAT account • Issue correct VAT invoices 	<p>Kept for six years</p>	<p>Paper or electronic</p>	<p>Legal obligation</p> <ul style="list-style-type: none"> • Please see government guidance
<p>Company accounts</p>	<p>Kept for six years from the end of the last company financial year they relate to (there are circumstances that this would need to be kept shorter/ longer for- please see government guidance for more information)</p>	<p>Paper or electronic</p>	<p>Legal obligation</p> <ul style="list-style-type: none"> • Please see government guidance
<p>CIS records</p>	<p>Kept for at least three years after the end of the tax year that they relate to</p>	<p>Paper or electronic</p>	<p>Legal obligation</p> <ul style="list-style-type: none"> • Kept in line with The Income Tax (Construction Industry Scheme) Regulations 2005 (Regulation 51)
<p>National minimum wage records</p> <ul style="list-style-type: none"> • Records demonstrating compliance with national minimum wage requirements including hours worked 	<p>Kept for three years beginning with the day upon which the pay reference period immediately following that to which they relate ends</p>	<p>Paper or electronic</p>	<p>Legal obligation</p> <ul style="list-style-type: none"> • Kept in line with National Minimum Wage Regulations 2015 (Regulation 59)

Sickness records	Should not be kept for longer than three years	Paper or electronic	<p>Legitimate business interest</p> <ul style="list-style-type: none"> To demonstrate that statutory sick pay has been paid/demonstrate why it was not paid in the event that HMRC investigate
Statutory Maternity/paternity and adoption pay	Kept for three years after the end of the tax year in which the period of statutory pay ends	Paper or electronic	<p>Legal obligation</p> <ul style="list-style-type: none"> Kept in line with Statutory Maternity Pay (General) Regulations 1986 (and other corresponding legislation) (Regulation 26)
Pensions auto-enrolment	Kept for a minimum of six years, some records will need to be kept for a longer period	Paper or electronic	<p>Legal obligation</p> <ul style="list-style-type: none"> Please consider Pensions Regulator guidance

Safeguarding concerns

If concerns have been raised about an adult's behaviour around children, the general rule is that you should keep the records in their personnel file either until they reach the age of 65 or for 10 years – whichever is longer (IRMS, 2016; Department for Education (DfE), 2020). This applies to volunteers and paid staff.

For example:

- if someone is 60 when the investigation into the allegation is concluded, keep the records until their 70th birthday
- if someone is 30 when the investigation into the allegation is concluded, keep the records until they are aged 65.

You should keep records for the same amount of time regardless of whether the allegations were unfounded. However, if you find that allegations are malicious you should destroy the record immediately.

Information should be kept for this length of time even if the person stops working or volunteering for the organisation.

In some cases, records should be kept for longer periods