Highland Council

Records Retention & Disposal Policy

Contents

1. Document Control

1.1 Version History

Version	Date	Author	Change
V1	18/08/2010	Susan Beckley, Highland Council Archivist	Approved by Resources Committee
V2	28/05/2014	Philip Mallard, Senior Information & Security Officer, Trevor Nicol, Records Manager	New approach to focus on defining retention periods in the corporate retention schedules and making the disposal process more effective and efficient. Approved by Resources Committee.
V2.1	25/02/2015	Philip Mallard, Senior Information & Security Officer	Annual IM Policy Framework Review. Policy renamed from 'Records Retention Policy & Disposal Authority' to 'Records Retention & Disposal Policy'. Approved by Resources Committee.
V3	23/11/2016	Philip Mallard Information & Records Manager	Approved by Resources Committee IM Policy Framework Annual Review Update relating to records held on behalf of third parties.

1.2 Document Approval

Name	Title	Role
	Resources Committee	Approval
Michelle Morris	Depute Chief Executive	Review and acceptance
Vicki Nairn	Head of Digital Transformation & SIRO	Review and acceptance
	Information Management Governance Board (IMGB)	Review and acceptance

2. Introduction

The Council's records are its corporate memory, supporting its core functions and providing evidence of actions and decisions. They are a vital corporate asset, enabling effective management and compliance with legal and regulatory obligations.

All records created and received by the Council in the course of its business are Council Information Assets and owned by the Council and not by the individuals, teams, departments or services that create the records.

The Council's Records Management Policy supports compliance with the Public Records (Scotland) Act 2011 and the Code of Practice on Records Management under Section 61 of the Freedom of Information (Scotland) Act 2002.

Effective records management requires the management of records throughout their lifecycle from creation to disposal. The Records Retention and Disposal Policy sets out the Council's approach to the retention and disposal of its records.

3. Purpose and Scope

This Records Retention and Disposal Policy is part of the Information Management Policy Framework and supports the Records Management Policy through setting out the roles and responsibilities of Information Asset Owners and supporting staff in making record retention and disposal decisions.

The Policy applies to any person with access to Council records or any Council Information Asset. This includes staff, contractors, agency staff, members and those working on behalf of the Highland Council.

4. Related Policies

This policy is complementary to and should be read in conjunction with the following policies that make up the Information Management Policy Framework

- Records Management Policy
- Information Management Policy
- Data Protection Policy
- Information Security & Assurance Policy

5.   Policy Statement

The Council will ensure that records and information are not kept for longer than is necessary to carry out its statutory functions, service provision and community obligations, whilst having due regard for legislative and evidential requirements.

5.1   Definition of a Record

The Records Management Policy sets out the Council's agreed definition of a record:

 "Information created, received and maintained as evidence and information by an organisation or person, in pursuance of legal obligations, or in the transaction of business". (The international Records Management Standard ISO 15489-1:2001)

The Council recognises this as its definition of a record and that information includes all formats, whether paper or electronic e.g. hand written notes, letters, word documents, spreadsheets, scanned images, photographs, audio, emails, etc.

5.2   Records Management Processes and Record Keeping Systems

The Council's Records Management Policy sets a range of council commitments in relation to its records management processes and record keeping systems. The following commitments are particularly relevant to the Records Retention and Disposal Policy:

- deliver consistency in the management of records across the Council;

- ensure records keeping systems comply with the Council's Business Continuity Plan by identifying and preserving its vital records;

- ensure the Council's Retention Schedules and Disposal Authority processes are observed to ensure records are retained for the appropriate and agreed period of time;

- ensure records with long-term historical value are transferred to the custody of the Highland Archive Service for permanent preservation;

- ensure compliance with legal, audit and operational requirements affecting the retention of records, including the Public Records (Scotland) Act 2011, Data Protection Act, Freedom of Information (Scotland) Act and Environmental Information Regulations.

5.3   Corporate Retention Schedules

A corporate retention schedule is the mechanism to ensure the Council is maintaining necessary records for the appropriate length of time. It determines the length of time records are required to be kept and provides the authority for disposal.

The Corporate Retention Schedules are an active management document designed to reflect the record types used by the Council and are subject to continual monitoring and review. They promote greater control over the Council's records, enabling Managers to dispose of records no longer needed, and ensuring the retention of appropriate records consistent with effective service delivery and the Council's legal and regulatory obligations.

The periods of retention for each type of record, the tools to manage the process of declaring a record and the disposal of it, together form an important part of the Council's Information Architecture.

The retention periods set out in the Corporate Retention Schedules must be followed by all Council Services, subject to the Disposal Authority Process set out in section 5.7 of this policy.

5.4   Setting the Corporate Retention Schedules' Retention Periods

In setting the retention periods for the Corporate Retention Schedules, the Council will consider the following factors.

Legislation / Regulations

- Is there any legislation or regulation affecting retention of the records?
- Is the type of information likely to be required for conducting legal proceedings in the event of legal action being taken by, or against the Council? Time limits for commencing litigation can be found in the Prescription and Limitation (Scotland) Act 1973.
- Identify any particular regulatory agencies or statutes that may govern the business process generating the records.
- Identify any past/anticipated issues facing the Council from a litigation, regulatory or compliance perspective.

Operational / Business Need

- How long are the records likely to be needed to carry out the Council's functions?
- How long are the records required for evidential purposes in respect of business processes or decision making?
- How long do the records need to be kept for accountability/internal audit purposes?
- How serious would the consequences be if they were no longer available?

Ownership of records

- Are the records owned by the Council or are they being managed by the Council on behalf of another organisation? For example NHS records being processed as part of integrated Health and Social Care.

- For records managed on behalf of another organisation, are retention periods being set by that organisation? If so these must be followed, particularly when this information contains personal data (these retention periods should be incorporated into the Council Corporate Retention schedules).
- Are there particular arrangements for the disposal of records managed on behalf of another organisation? Should they be returned to the owning organisation? Should they be destroyed using particular methods? Are there requirements for historical archiving and has the process been agreed with the external organisation?

Archival Value

- Do the records have long term historical value? If so it may be appropriate to transfer them to the Highland Archive Centre.
- Do the records document the Council's policies, structures and processes so that its activities may be understood by future generations?

Risk Assessment / Data Protection and Freedom of Information Legislation

- What are the risks involved in keeping these records?
- Will they be liable for disclosure under the Data Protection or Freedom of Information (Scotland) Acts, incurring costs of processing?
- If they contain personal data, have they served the purpose for which they were created?

Relationship with other records

- Are the records needed in order to understand or use other records? The retention periods of related records should be co-ordinated.

Open data and Re-use

- Is the record a dataset that has established use, either within the organisation, or outside?
- Would the destruction of a dataset that has been made available as open data impact on current re-use and therefore could there be business impacts or impacts on services to the highlands as a result?

Financial / Resource

- Can the records be retained for a shorter period to achieve savings in storage and management costs, whilst still maintaining compliance with this policy and the Records Management Policy?

5.5   Reviewing the Corporate Retention Schedules' Retention Periods

Where an Information Asset Owner identifies a business or legal reason for a

retention period to be changed, this must be brought to the attention of the Records Manager and a review will be carried out in accordance with the process set out below:

1) The Records Manager will review the case for a change and seek further information on the justification for the change.

2) If there is a legal basis for a retention period then this will be referred to Legal Services to provide advice.

3) If the retention period is based on best practice then this will be considered by the Records Manager and a recommendation produced. The recommendation will be based on the factors set out in section 5.4.

4) The advice from both the Records Manager and Legal Services, combined with the business case for change from the service will be provided to the Information Management Governance Board (IMGB). The IMGB will review the information provided to them and take further advice from the Records Manager and Information & Records Manager.

5) The IMGB will make a decision on the change and the Corporate Retention Schedules will be updated with immediate effect.

6) If a decision cannot be made due to the level of risk or where there is disagreement amongst IM Lead Officers then this will be referred to the Executive Leadership Team for final consideration.

5.6   Retention and Disposal Decisions

The Information Asset Owner responsible for a group of records is accountable and responsible for authorising the disposal of records. The authority to approve disposal actions may be delegated to a nominated person such as an Information Asset Manager (who has day to day responsibility for the management of the information). In the event of the decision being delegated then the Information Asset Owner (IAO) will remain accountable for that decision.

Retention and Disposal decisions must follow the retention periods as set out in the Corporate Retention Schedules, unless the disposal authority process as set out below requires a period of further retention. If the records under consideration for disposal are not clearly identified in the Corporate Retention Schedules then advice must be sought from the Records Manager. If there is a gap in the Corporate Retention Schedules then the review process set out in section 5.5 must be followed in order to create an additional entry. No disposal of records must take place unless there is an appropriate entry in the Corporate Retention Schedules.

It is also important to consider whether documents are the Council record or whether they are a copy. Copies of documents where the Council record is held by another part of the Council should be destroyed as soon as the business requirement for

them has ended. As these documents are not considered to be a record then the retention of them is not governed by the Corporate Retention Schedules. The Information Asset Owner must confirm which department holds the definitive versions/originals to ensure an appropriate decision is taken.

The Corporate Retention Schedules set out the action that must be taken once a retention period has expired.

Disposal actions can be:

- Archive
- Destroy
- Review
- External Transfer

5.7   Disposal Authority Process

Prior to any disposal of Council records the following steps must be undertaken.

1) **Review of outstanding Requests**

    At the end of a record's retention period the Information Asset Owner or delegated representative must ensure that there are no outstanding requests for information involving that record. In particular the IAO must consider whether any of the following requests have been received by the Council.
    a. FOI request
    b. Subject Access Request
    c. Legal Disclosure request

2) **Pending Legal Action Review**

    In addition to the above the IAO must assess if the documents are expected to be relevant to a pending legal case. In this case legal advice should be sought to ensure that the retention beyond the period set out in the Corporate Retention Schedules is appropriate. All documents that are required for legal proceedings should be kept until the threat of proceedings has passed.

3) **Final Review**

    The Information asset owner should consider if there is an overwhelming operational / business need to retain the records beyond the retention period identified in the Corporate Retention Schedules. In this event, advice must be sought from the Records Manager and records may only be retained with the approval of the Information Management Governance Board.

4) **Disposal**

    Where there are no such outstanding requests the record(s) can be disposed of with the approval of the IAO or delegated representative:

- o **Where the disposal action is to 'Archive':**

  The Information Asset Owner or delegated representative must arrange for the Archivist to review the record.

- o **Where the disposal action is to 'Destroy':**

  The records must be destroyed. Any destruction must be done securely and follow Council's Information Security Policy and staff guidance on confidential waste destruction.

- o **Where the disposal action is to 'Review':**

  The Information Asset Owner should consider if there is an operational / business need to retain the records for a further period. Advice must be sought from the Records Manager.

- o **Where the disposal action is "External Transfer":**

  The Information Asset Owner must arrange for the external transfer to the organisation as per the instructions in the Corporate Retention Schedules and in accordance with the agreements with the third party organisation on whose behalf the Council is managing the records.

5) **Recording the Disposal**

   The disposal action must be recorded in a Disposal Log.

5.8   Exceptions to the Disposal Authority Process (Automated Destruction)

The only exception to the Disposal Authority Process is where it has been agreed by the Information Asset Owner and the Information & Records Manager that an automated process may be used to destroy electronic records.

Automated destruction of records shall only be approved where there are technical controls available to place a hold on the record or group of records to prevent the automated destruction of these records.

Where automated destruction of electronic records is in place the Information Asset Owner must ensure they have processes in place to instigate a hold on records to prevent destruction when the council becomes aware that a request has been received for records that may be automatically destroyed or where the council requires the records as per stage 1 to 3 of the Disposal Authority Process.

6.   Records Retention and Disposal Governance

6.1   Information Management Governance Board (IMGB)

The IMGB has been created to oversee the delivery of the Highland Council Information Management Strategy and govern the implementation of this across the Council. An IM Lead Officer from each of the Services represents their Service Director on the Board. Each Service Director is required to identify a member of their senior management team to act as IM Lead Officer for their service.

The IMGB has a duty to consider and make recommendations to the Council's Executive Leadership Team about information and records management issues and to influence strategy and policy development.

The IMGB is responsible for the approval of changes to the Corporate Retention Schedules and for approving exceptions in the event of an overwhelming operational / business need. It is also responsible for the approval of records management guidance and processes to support delivery of the Records Management Policy and Records Retention and Disposal Policy.

7.   Roles and responsibilities

This section sets out the responsibilities for Records Retention and Disposal.

7.1   All Staff and Any Person Handling Council Information

Records Management is everybody's responsibility and is something that should be considered as part of normal everyday working practice.   This includes staff, contractors, suppliers, members and any person who handles Council Information Assets.

Staff and those handling Council information should understand the information that they create, receive and use and be able to identify information that is or may become a record. Records management processes that are in place must be followed and record keeping systems should be used in accordance with provided instructions and guidance.

Any person handling Highland Council Information must ensure that the records for which they are responsible are accurate and are created, maintained and disposed of in accordance with this policy, the Records Management Policy and the Corporate Retention Schedules.

Records must not be disposed of unless this has been approved by the Information Asset Owner and is in accordance with the retention period as set out in the current Corporate Retention Schedules.

The inappropriate destruction or deletion of records may result in the Council being unable to prove that it has or has not acted in a particular way. This may, for example, have financial repercussions or leave the Council unable to prove its case in a court of law. The destruction of a record that is the subject of an on-going request for information is likely to result in the loss of trust in the Council, and leave it

open to criticism from members of the public and the media. Furthermore, under Section 65 of the Freedom of Information (Scotland) Act 2002, any member of staff who alters, erases or conceals records with the intention of preventing them from being disclosed, could be found guilty of a criminal offence which carries a maximum fine of £5000.

7.2   Managers and Supervisors

Managers are responsible for information held within their area (both paper and electronic).

Managers and supervisors must ensure that their staff have understood their obligations under this Policy and other information management policies. Managers should support their staff in this regard by highlighting relevant parts of policies that apply to the roles being performed by a member of staff.

Managers and supervisors must ensure that Records are not disposed of unless this has been approved by the Information Asset Owner, follows the Disposal Authority Process and is in accordance with the retention period as set out in the current Corporate Retention Schedules.

7.3   Information Asset Owners & System Owners

An Information Asset Owner (IAO) is a senior manager (head of service or equivalent) who has been identified as being accountable for a Council Information Asset. A System Owner is a person who has been identified as being accountable for a Highland Council ICT System. The IAO is supported by an Information Asset Manager (IAM), who has responsibility for management of the information within that Information Asset.

IAO and System Owners must ensure that the management of their Information Asset is consistent with this policy, the Records Management Policy and the other information management policies.

IAO and System Owners must ensure they comply with this policy when making a decision on the disposal of Council records.

Role descriptions for IAO and IAM have been developed and approved by IMGB. An online learning module has also been provided for Information Asset Owners and Information Asset Managers that provides further explanation on their role and this must be completed by them.

7.4   Information & Records Manager

The Information & Records Manager is responsible for ensuring all Highland Council records are held within appropriate records management systems and structures.

The Information & Records Manager is supported in this by the Records Manager and Records Management Service.

The Records Manager provides a Records Management Service to the council under a Service Delivery agreement between the Council and High Life Highland. This includes the provision of advice on records management, the management of the council's Corporate Records Stores (including both paper records stores and the corporate electronic records store), and maintaining both the Council's Corporate Retention Schedules and Corporate Information Asset Register.

The Records Manager supports compliance with this policy by maintaining the Corporate Retention Schedules, providing effective records management guidance to IAO and IAM and ensuring records in its custody are disposed of in accordance with this Policy.

7.5   Information Management Lead Officer

The IM Lead Officer is a senior representative (head of service or equivalent) for each Council Service Director that represents their Service on the IMGB and provides a strategic lead for information management issues (including records management) within each Service.

This includes a requirement to liaise directly with the Records Manager and the Information & Records Manager or to nominate representatives as the first point of contact for record keeping matters.

IM Lead Officers shall ensure that their service contributes to the development of and complies with the Corporate Retention Schedules and Disposal Authority Process.

7.6   Information Management Link Officer

The IM Link Officer is a role that exists to provide support to the IM Lead Officer and the Corporate IM functions in the implementation of Information and Records Management. An IM Lead Officer may choose to identify IM Link Officers to support them in their role.

7.7   Legal Services

Legal Services advise on whether retention periods are prescribed by law and to ensure that corporate interests are met through the appropriate retention periods being set in the Corporate Retention Schedules.

Advice will be provided to the IMGB as required to support it in its role.

8.   Staff Communication & Training

This policy will be made available to staff through the Intranet and for others who are within the scope of the policy through the Highland Council website.

As part of the core training, staff and any person handling Council information are provided with an online learning module that provides an introduction to the expectations the Council places on those handling information. This includes the records management as well as the information security and data protection issues of which all staff should be aware.

All staff must complete the information management online learning module and managers must ensure that this has been completed by their staff and is part of employee review and development.

Any other person handling Highland Council information must also complete this training and the relevant Information Asset Owners and Manager within the Council responsible for the contract must ensure this takes place.

Further online learning modules related to records management may be provided to staff and these must be completed where they are relevant to their role. Staff will be informed when they must complete these additional training modules.

A specific online learning module has been provided and is mandatory for Information Asset Owners and Information Asset Managers.

9.   Review

This policy will be reviewed on a regular basis and adapted appropriately to ensure that it continues to meet the business and service delivery requirements of the Highland Council.