

# EBERNOE PARISH COUNCIL

## DOCUMENT RETENTION SCHEME

### 1. Introduction

- 1.1 The Council recognises the need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes and proceedings.
- 1.2 In agreeing a document retention scheme, the Council has addressed these needs, and taken into account its obligations under the Local Government Act 1972, the Audit Commission Act 1998, the Public Records Act 1958, the Data Protection Act 1998, the Employers' Liability (Compulsory Insurance) Regulations 1998, the Limitation Act 1980, the Employment Rights Act 1996, the Local Authorities Cemeteries Order 1977, the Local Government (Records) Act 1962, the Freedom of Information Act 2000 and the Lord Chancellor's Code of Practice on the Management of Records Code 2002 .

### 2. Retention of documents for legal purposes

- 2.1 Most legal proceedings are governed by the Limitation Act 1980. 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 different categories of claim.

<b>Category</b>	<b>Limitation Period</b>
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

- 2.2 Some types of legal proceedings may fall into two or more categories. In these circumstances, the documentation should be kept for the longest of the differing limitation periods.
- 2.3 As there is no limitation period in respect of trusts, the Council will never destroy trust deeds and schemes and other similar documentation.

2.4 Some limitation periods can be extended. Examples include:

- where individuals first become aware of damage caused at a later date (e.g. in the case of personal injury);
- where damage is latent (e.g. to a building);
- where a person suffers from a mental incapacity;
- where there has been a mistake or where one party has defrauded another or concealed relevant facts.

2.5 In such circumstances, the Council will weigh up (i) the costs of storing relevant documents and (ii) the risks of:

- claims being made;
- the value of the claims; and
- the inability to defend any claims made should relevant documentation be destroyed.

2.6 The need to retain any documents should be considered on an individual basis. As a guide, and in the absence of any prevailing Act, Code, Order or Regulation to the contrary, documents may be destroyed if there are no longer of use or relevant. If in doubt, advice should be sought from the Parish Clerk.

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