

THE LEGAL RECORDS AT RISK (LRAR) PROJECT

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<http://ials.sas.ac.uk/research/areas-research/legal-records-risk-lrar-project>

Legal Records at Risk Guideline 2: advice to legal institutions on disposing of records

This guideline has been produced by LRAR¹ to give advice and assistance to institutions specialised to law seeking practical help in disposing of their unwanted records. There are *two* ways to undertake this activity:

1. By destroying/deleting the bulk of records once they are no longer required for business use or to comply with legal retention stipulations; and
2. By preserving a small proportion of records of permanent value in an archives, either in-house or by deposit in an external facility, where they will, once all confidentiality and other requirements have expired, be available for research or re-use.

It should be clearly understood that moving paper records en masse to a warehouse/basement or storing digital records on a lower tier server is not archiving (notwithstanding the hijacking of the term by the IT community and 3rd party storage providers) but an interim measure to reduce storage costs pending disposal. If records are left indefinitely in storage costs mount, it is harder to find information and compliance risk increases.

The business benefits of destroying redundant information are obvious: they include storage cost savings, reduced duplication and improved accuracy of records, faster information retrieval, less wastage of staff time, reduced compliance risk and reduced information security risk, resulting in a more efficient service to clients and stakeholders.

The business benefits to legal bodies of preserving records of permanent value and making them available for research in an archives include:

- Internal: re-use of records for strategic planning, corporate branding, community engagement; compliance with regulatory and legal requirements (especially around the management of client files); removal of on-going costs where an external archive repository is used and an improved understanding of historical context.
- External: the legal body seen as caring about/part of the community; good PR – the institution gaining a reputation for transparency, honesty, learning from mistakes; rebuttal of damaging myths about the legal profession and legal services; underwriting the institution's accountability to society and the regulators on which its legitimacy exists and a better understanding on the part of the public of the value of legal services.

¹ The LRAR project seeks to develop a national strategy and process to rescue private sector legal records of potential research value which are at risk of loss through globalisation, digital obsolescence, lack of interest on the part of their information owners or lack of archival resources.

Checklist for institutions specialised to law seeking to dispose of records

Any legal body experiencing the following problems: spiralling storage costs, space problems, difficulties locating relevant information, non-compliance with the Data Protection Act or information security breaches should seek expert help. The most cost-effective measure is to appoint a full- or part-time professionally qualified records manager to institute and run an on-going programme of records management and disposal. If this is not deemed possible at the time, LRAR recommends (and can provide contacts details for) using a professional records management/archives consultancy service to undertake the records disposal project; a professional service will prevent project creep and unwarranted costs. The project can be undertaken in-house, but will inevitably take longer and cost more than necessary if inexperienced persons are seconded from their day jobs to do the work. Whichever course is chosen, the following checklist should be followed:

Basic records disposal checklist:

1. A survey of the records the institution wishes to dispose of (in both paper and electronic format), including their function and value to the institution, should be undertaken.
2. An appraisal of the records (paper and digital) should then be carried out to determine whether they are redundant or of potential research value. This appraisal should also include clarification of business need and specify legislative retention requirements.
3. A detailed report should be presented to senior management on the records, their storage and physical condition/format and recordkeeping costs. A records retention schedule should be included recommending either destruction or deposit in an archives.
4. Once the recommendations are approved by senior management, an appropriate repository should be approached to accept the selected records as listed. The repository will advise the institution about conditions of deposit, standard access/closure periods and charges (eg for transport of records). Any special confidentiality requirements on the part of the institution and options for an on-going deposit agreement with the repository for records of value as they become surplus to the institution's requirements should be raised at this point.
5. Once a deposit agreement is reached, the repository will arrange to collect the records.

On-going records management checklist: to prevent the same issues, unnecessary costs and risks recurring in the future, the institution should consider employing a professional to:

1. Regularly survey and assess *all* the institution's records and information management requirements to assist in space planning, IT planning, business continuity planning and legislative compliance (eg with the Data Protection Act).
2. Draw up, update and monitor compliance with a retention and disposal schedule for *all* records which will provide directions for disposal of records by destruction or deposit in an archives at the appropriate time.
3. Provide practical recordkeeping advice on, eg, document management, email management, IT systems selection, off-site storage requirements (eg paper records; Cloud storage), information security and on particular issues such as digital media storage, digital continuity, physical conservation of paper and scanning.