

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 3: advice to legal institutions on identifying records of permanent research value

This guideline seeks to assist institutions specialised to law and individual legal practitioners to decide which of the information they hold may be of value to future researchers and could therefore be offered to an archive repository. It is a work in progress and will be added to as more records of permanent value are identified.

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What do we mean by “legal records”?

The LRAR project seeks to broaden the concept of "legal" records from the traditional definition of them as court records or formal documents such as deeds to the governance and business records of private sector institutions specialized to law¹. In doing so, it seeks to rescue and find an archival home for any and all private sector legal records which are of potential research value, whether for legal research or for national or local social, geographical, gender, race or genealogical study.

Where will a researcher find legal records?

There is a dearth of private sector legal records available for research in UK archives and little systematic collection of records of private sector institutions specialised to law. A researcher seeking to find and evaluate records documenting the development of non-governmental legal services in the UK and their impact on cultural and social change or national and local history will find it an interesting exercise, to say the least.

Legal records will be found in:

- [The National Archives](#) (TNA), which systematically collects and holds records of the courts, the legal records of government bodies and records of public sector legal institutions, some of which may have previously been private or later been privatised. It also holds personal or quasi-personal papers of judges and other prominent legal practitioners who have held a public role.
- There are a few in-house collections of “legal archives” maintained by institutions specialised to law to keep their business records of historic value, which they may make available to the public.²
- Some university special collections departments collect and hold the archives of legal bodies³ or prominent legal practitioners and researchers.
- Businesses with in-archives will keep their own legal records where these are of interest⁴.
- Local authority archives have for many years collected private sector legal records, but on an ad hoc and random basis. The principal category of “legal” records held in these archives comprises deeds deposited by law firms with the [British Records Association](#) (BRA) for later distribution to local archives, not the records of the law firms themselves.

¹ Such as law firms, barristers’ chambers, legal executives, arbitrators and mediators, patent agents, licensed conveyancers, will writers and ancillary bodies such as legal stationers and law publishers.

² These are: Ede & Ravenscroft; Faculty Office; Human Rights Society; Inns of Court; Institute and Faculty of Actuaries; Law Centres Network; Legal Action Group; Lexis Nexis Butterworths; The Law Society. (Source: The National Archives’ [Discovery](#)). At the time of writing not one UK law firm has been located which maintains an in-house archive routinely opened to the public.

³ Notably the archives of several educational bodies in the Records of Legal Education Archives at IALS, the archive of the British Institute of Human Rights at King’s College London Archives, the British Maritime Law Association archive at University College London Special Collections; London Court of International Arbitration records at London Metropolitan Archives; Mediation UK and National Family Mediation records at The London School of Economics Archives and Special Collections; the Howard League for Penal Reform archive at Warwick University Modern Records Centre.

⁴ See, for example, arbitration records held by the Transport for London Corporate Archives http://ials.sas.ac.uk/sites/default/files/files/Research/LRAR/2016-05-23_TfL_case_study_report_final.pdf

The BRA has since discontinued this process but will continue to advise law firms on deposit of their records with archives.

Collection of private sector legal material is not systematic. It depends on a) the legal institution/individual information owner knowing about archives and contacting them b) the will and capacity of the archives to take the records c) how pro-active the archives is in its collecting. Some archives, therefore, hold the records of institutions specialised to law or the papers of prominent legal practitioners and some do not. LRAR seeks to change this random harvesting process by devising a national strategy for the systematic collection and preservation of private sector legal records.

Where should private sector information owners look to deposit their records?

- National and Greater London legal institutions: [London Metropolitan Archives](#) collects archives relating to the City of London and to the Greater London area which are of London-wide significance. It also collects the records of national institutions, primarily those whose headquarters are based in London.
- Regional or local bodies such as law firms: the [local authority record office](#) should be approached.
- Records of legal education bodies: the [Records of Legal Education Archives](#).

What records should be retained permanently in-house or offered to an archives?

The permanent preservation of records of research value should not be confused with the need to retain some administrative records to meet legislative requirements or business reference,⁵ or with retention of client files, essential for as long as the relationship lasts. Many legal institutions maintain either in-house or externally hosted facilities to store such records; a small number may combine their in-house store with an archive used for business reference which they may also make available to the public on demand. Where such a facility is not available, an external archives repository should be considered.

The categories of records listed in the appendix overleaf are of probable research value and could be offered to an archives in whichever format they were originally created, whether paper or digital⁶. The categories may overlap as many institutions have combined responsibility for eg, membership and regulatory functions or provide legal consultancy and education services.

⁵ For example, financial, HR, facilities, audit and other administrative records, which will have to be kept for varying amounts of time but many of which will have little or no research value. Where there is doubt the prospective archive repository should be contacted for advice.

⁶ Many archive repositories now have, or are making arrangements to create, a digital archive facility.

Appendix: generic categories of legal records of potential research value

Barristers Chambers' records

| Record category | Sample records of value |
|-------------------------------|--|
| Complaints and enquiries | <ul style="list-style-type: none"> • Annual reports of complaints and enquiries received • Complaints and enquiries files: representative samples of unusual complaints and enquiries eg which resulted in major changes to a Chamber's internal procedures or external image* |
| Corporate management | <ul style="list-style-type: none"> • Agenda, minutes and papers of Board/Council and Committee meetings • Agenda, minutes and papers of Annual General Meetings • Business plans • Organisation charts • Diaries • Biographies of Chambers' barristers |
| External relations management | <ul style="list-style-type: none"> • Design and control of Chamber's corporate identity • Consultation papers • Seminars and conventions organised by the Chambers • Published material (retain one copy only) • Websites (retain regular snapshots) |
| Finance | <ul style="list-style-type: none"> • Fees books • Annual report and accounts |
| Governance | <ul style="list-style-type: none"> • Regulations and rules • Registers of members' interests • Directories of members of Chambers |
| Procedures and policies | <ul style="list-style-type: none"> • Policy and strategy documents • Standards • Procedures • Handbooks • Best practice guidance notes |
| Training and education | <ul style="list-style-type: none"> • Policy files • Registers of pupils • Pupillage files – samples (eg of prominent pupils) could be preserved for research with permission of the individual* |

* Records containing personal data are closed by all archival repositories for 75-100 years unless permission to release the material earlier for research is given by the data subject. Anonymised data may be made available for research by special arrangement. Depositors may also stipulate their own confidentiality rules.

Providers of legal services: records of arbitrators and mediators, law centres, law firms, licensed conveyancers, legal executives, costs lawyers, insolvency practitioners, notaries, patent and trade mark attorneys, scriveners, will writers

| Category | Sample records of potential research value |
|-------------------------------|--|
| Client records | <ul style="list-style-type: none"> • Case files: unusual or high profile cases* • Client documents (wills, deeds etc) where these cannot be returned to the client • Client case registers or databases # • Client care policy and procedures |
| Complaints and enquiries | <ul style="list-style-type: none"> • Annual reports of complaints and enquiries received • Complaints and enquiries files+ |
| Corporate governance | <ul style="list-style-type: none"> • Certificate of incorporation or registration as a company • Agenda, minutes and papers of Board/Council and Committee and Senior Management Team meetings • Partnership regulations and rules • Corporate risk registers • Business plans • Organisation charts • Biographies of officers/partners |
| External relations management | <ul style="list-style-type: none"> • Design and control of corporate identity • Consultation papers • Marketing campaigns • Seminars and conventions organised by the firm • Published material • Websites (regular snapshots) |
| Finance | <ul style="list-style-type: none"> • Annual report and accounts |
| Procedures and policies | <ul style="list-style-type: none"> • Policy and strategy documents • Procedures |
| Relations with regulators | <ul style="list-style-type: none"> • Accreditation records • Practising certificate • Monitoring and investigations files |
| Training and development | <ul style="list-style-type: none"> • Policy and frameworks files • Training programmes which resulted in major changes |

* Records containing personal data are closed by all archival repositories for 75-100 years unless permission to release the material earlier for research is given by the data subject. Anonymised data may be made available for research by special arrangement. Depositors may also stipulate their own confidentiality rules.

Such records are of interest to social historians in particular; where anonymised, information in such databases may be made available for research under [Section 33](#) of the Data Protection Act 1998

+ Sampling of these records might be appropriate eg of complaints and enquiries which resulted in major changes to the firm's internal procedures or external image.

Professional membership associations' records

| Record category | Sample records of value |
|-----------------------------------|--|
| Corporate governance | <ul style="list-style-type: none"> • Charters, Constitution and bye-laws • Agenda, minutes and papers of Board/Council/Senior Management Team and Committee meetings • Minutes of Annual General Meetings • Memorandum of Understanding • Regulations and Rules • Corporate risk registers • Registers of members' interests • Business plans • Organisation charts |
| External relations | <ul style="list-style-type: none"> • Design and control of the organisation's corporate identity • Consultation papers • Seminars and conventions organised by the organisation • Published material • Websites (regular snapshots) |
| Finance | <ul style="list-style-type: none"> • Annual report and accounts |
| Membership | <ul style="list-style-type: none"> • Directories of members • Biographies of officers or prominent members • Members' files – samples (eg of prominent members' files) could be preserved for research with permission of the individual* |
| Procedures and policies | <ul style="list-style-type: none"> • Corporate policy and strategy documents • Standards/Codes of Conduct/Handbooks • Procedures • Best practice guidance notes |
| Training and education of members | <ul style="list-style-type: none"> • Policy and frameworks files • Training programmes which resulted in major changes |

* Records containing personal data are closed by all archival repositories for 75-100 years unless permission to release the material earlier for research is given by the data subject. Anonymised data may be made available for research by special arrangement. Depositors may also stipulate their own confidentiality rules.

Regulators' records

| Category | Sample records of potential research value |
|--|--|
| Complaints and enquiries | <ul style="list-style-type: none"> • Annual reports of complaints and enquiries received • Complaints and enquiries files+ |
| Corporate governance | <ul style="list-style-type: none"> • Charters, Constitution and bye-laws • Agenda, minutes and papers of Board/Council and Committee meetings • Agenda, minutes and papers of Annual General Meetings • Corporate risk registers • Business plans • Organisation charts • Biographies of officers |
| External relations | <ul style="list-style-type: none"> • Design and control of the regulator's corporate identity • Consultation papers • Seminars and conventions organised by the regulator • Published material • Websites (regular snapshots) |
| Finance | <ul style="list-style-type: none"> • Annual report and accounts |
| Procedures and policies | <ul style="list-style-type: none"> • Policy and strategy documents • Standards • Codes of Conduct • Procedures • Handbooks • Best practice guidance notes |
| Regulatory | <ul style="list-style-type: none"> • Annual Regulatory return • Regulatory risk registers • Licensing registers • Monitoring records+ • Investigations+ • Interventions+ |
| Training and education of licensed members | <ul style="list-style-type: none"> • Policy and frameworks files • Training programmes which resulted in major changes |

+ Sampling of these records might be appropriate eg of complaints and enquiries which resulted in major changes to a regulator's internal procedures or external image; of major investigations and interventions

Legal education/legal research associations/legal pressure groups/legal consultants' records

| Category | Sample records of potential research value |
|----------------------|---|
| Corporate governance | <ul style="list-style-type: none"> • Constitution and bye-laws • Agenda, minutes and papers of Board/Council and Committee meetings • Agenda, minutes and papers of Annual General Meetings • Chairpersons' and secretaries' correspondence |
| External relations | <ul style="list-style-type: none"> • Design and control of corporate identity • Consultation papers and schemes • Seminars and conventions organised by the association • Published material • Websites (regular snapshots) |
| Finance | <ul style="list-style-type: none"> • Annual report and accounts |
| Membership | <ul style="list-style-type: none"> • Registers, directories and lists of members • Membership rules • Members' files – samples (eg of prominent members' files) could be preserved for research with permission of the organisation or individual* |

* Records containing personal data are closed by all archival repositories for 75-100 years unless permission to release the material earlier for research is given by the data subject. Anonymised data may be made available for research by special arrangement. Depositors may also stipulate their own confidentiality rules.

Individual practitioners' records

Many legal practitioners (arbitrators, mediators, barristers, solicitors) keep their own records of proceedings in which they were involved, plus background information and their own case notes; LRAR has been approached for advice on which material, if any, should be offered to archives. Selection of records in this category should be subject to the following criteria:

- Are the records copies of material available elsewhere (eg published material, copies of the court record)?
- Do the records belong to the practitioner or to the organisation or individual s/he was providing a service for?
- Are the records still covered by guarantees of confidentiality/legal professional privilege?
- Do the records contain personal data?

As a rule of thumb archive repositories will accept records from private practitioners where they are confident that the records are not duplicated elsewhere and that there has been no breach of client confidentiality. Archives will accept records which contain personal data or the data of commercial clients provided they are convinced that the potential research value outweighs the cost of maintaining the data until it can be made available to the public.