

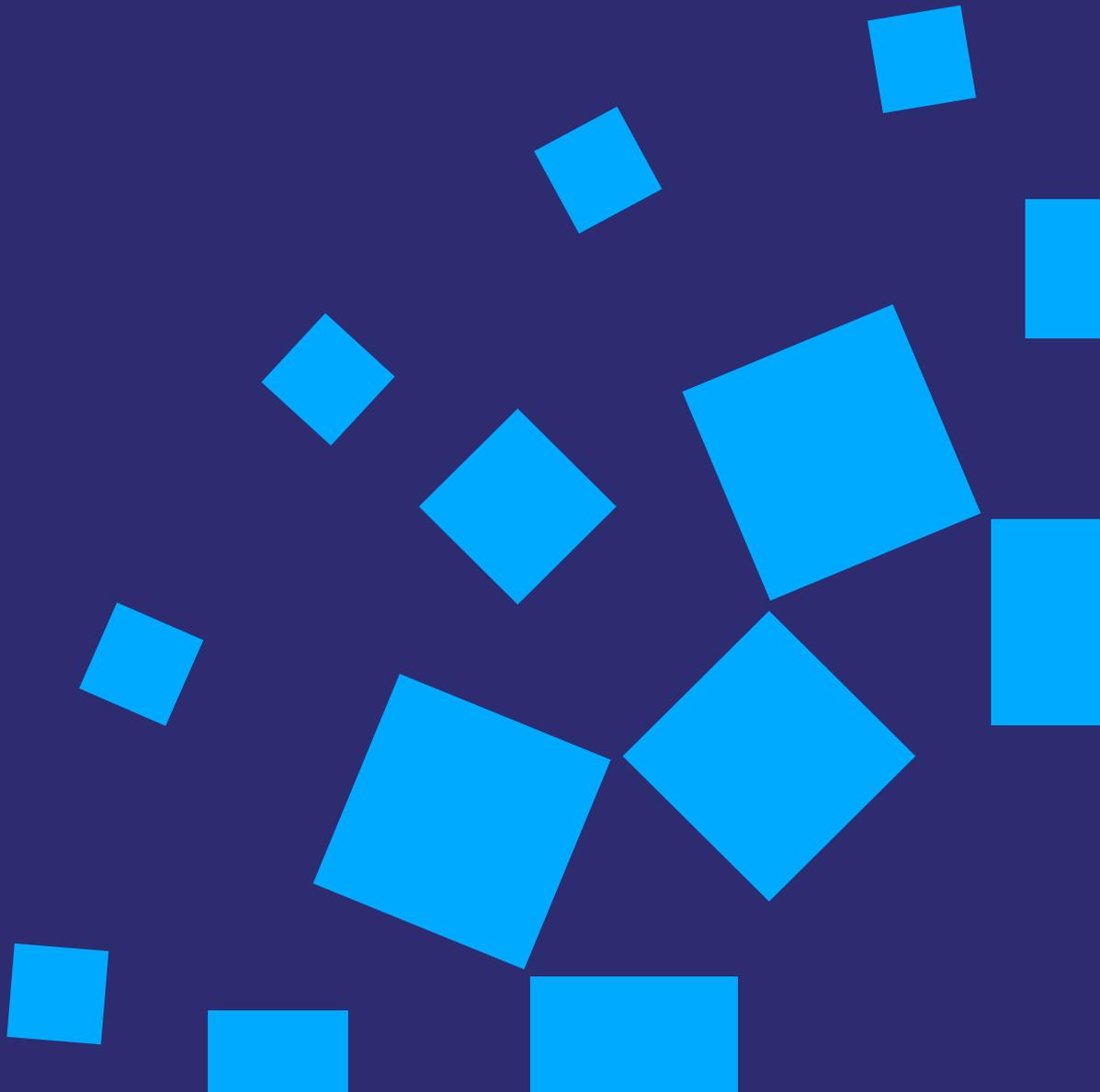


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APP on Archiving of records in the public interest

Consultation



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1 Preservation of records in the public interest

- 1.1 Certain police records should be archived for their historical value and enduring public interest, or for scientific and statistical purposes. This applies to records that are beyond their required retention periods, have reached the end of their business life and have no further business, legal or regulatory use. A justification is required for keeping records permanently. Where costs are incurred, a business case may be required.
- 1.2 Records selected for permanent preservation must be held separately from records still within their normal retention periods. Permanently preserved records may be kept:
 - at a force location (record store)
 - at an external archive

2 Processing of archived records

- 2.1 Some information archived by forces may contain personal data. In these circumstances, forces must ensure that they comply with the appropriate data protection requirements and safeguards for archiving in the public interest, as set out under the General Data Protection Regulation (GDPR) or Part 3 of the Data Protection Act (DPA) 2018.
- 2.2 If the primary purpose of the archive, research or statistics is specifically to support the police in the ongoing prevention, investigation or detection of crime, the processing may still be for law enforcement purposes and may fall under Part 3 of the DPA 2018. If the information is being held for more general public archiving purposes, or for wider scientific, historical or statistical use for general public benefit, it will fall under the GDPR.
- 2.3 Under section 36, Part 3 of the DPA 2018, controllers will need a specific authorisation in law for archiving beyond their law enforcement purposes. Authorisation by law can include clear common law tasks, functions or powers (including implied powers), as well as those set out in statute or statutory guidance (including a statutory code). Principle 7 of the Information and Records Management Code of Practice (currently subject to consultation) introduces the requirement for archiving in the public interest.

3 Assessment

- 3.1 Normally, a collection of records will be considered for permanent preservation, rather than individual records. Collections could include:
- crime files and evidence relating to a significant case
 - records of a significant project or change initiative
 - files recording research and analysis undertaken in relation to major changes in attitudes or policies
 - individuals, national events and international events of significant interest or controversy
 - details of significant force policies and procedures
- 3.2 Forces should have systems and processes in place for early identification of records that meet the criteria for permanent preservation. It may not always be obvious that this is the case at an early stage, so there is an ongoing need to consider whether records justify permanent retention throughout their life. When the retention period for the identified record has expired, as determined by the Forces' Retention Schedules or Management of Police Information (MoPI) guidelines, and when it is clear that the record will otherwise be disposed of, the record collection should be reviewed in its entirety and one of the following decisions should be made:
- keep all contents
 - keep selected contents
 - dispose of all content

4 Preservation criteria

4.1 Forces should seek to preserve records that:

- relate to a crime or incident of local or national importance
- demonstrate major changes to the force
- capture something of significance happening for the first time
- reflect changes in attitudes or policies
- promote or document issues unique to the force
- provide evidence of major projects, functions or activities
- describe a high-level decision-making process or a specific decision
- contain material that reflects the views or activities of individuals who have played a significant role in the development of the forces
- possess aesthetic qualities and/or would be valuable for exhibition or academic research

4.2 Where a record collection is to be preserved, it may be appropriate to retain only a sample or selection of the records. This could include key documents that contain significant information or describe important decisions, documents that provide a representative sample of a larger number of broadly similar records, or more aesthetic or otherwise impactful records.

5 Safeguards

- 5.1 Section 41 of the DPA 2018 sets out the safeguards for archiving under Part 3 and article 89(1). Part 2, section 19 of the DPA 2018 sets out the safeguards for GDPR.
- 5.2 These safeguards prohibit the processing of personal data for archiving purposes where:
- it is carried out for the purposes of measures or decisions with respect to a particular data subject
 - the processing is likely to cause substantial damage or distress to a data subject
- 5.3 Under article 89(1) of the GDPR, forces must ensure that technical and organisational measures are in place to respect the principles of data minimisation when archiving in the public interest.

6 Public access

- 6.1 When a record that is no longer required for business or policing purposes is identified for permanent preservation, a sensitivity review needs to be undertaken. The sensitivity review ensures that material is held correctly according to its security classification and that records are made available to the public as soon as possible, in accordance with the Freedom of Information Act 2000 (FOIA). If any of the information is exempt from disclosure under the FOIA, it will need to be appropriately redacted before being transferred to the archive with FOIA exemptions applied.
- 6.2 In instances where an exemption could be applied, it is at the force's discretion whether or not to apply this exemption. The force should take into account considerations of data protection, risk to individuals and compliance with other legislation.
- 6.3 The starting point for the FOIA is that the public has a general right of access to information held by a public authority, unless any exemptions from disclosure apply. The force should justify exemption from disclosure, rather than any applicant having to justify access.
- 6.4 Forces should record which FOI exemptions apply and why the information contained in the records fall under these exemptions. Forces should also determine how long the exemptions apply for.

7 Archive arrangements

- 7.1 Forces should have arrangements in place to archive documents selected for permanent preservation, in line with the criteria in paragraph 4.1, which are no longer required for a policing or organisational purpose. This may be in partnership with an external archive service, with the arrangements governed by an information-sharing agreement that details the responsibilities of each party.
- 7.2 Where storage of historic records is outsourced to an external archive service, the provider should be compliant with BS EN 16893:2018, 'Conservation of Cultural Heritage – Specifications for location, construction and modification of buildings or rooms intended for the storage or use of heritage collections', and BS 4971:2017, 'Conservation and care of archive and library collections'. If the force intends to preserve the records itself, it should endeavour to comply with both of these standards.
- 7.3 In the case of digital records, care must be taken to ensure long-term accessibility in the case of format obsolescence, including preserving metadata and minimising quality loss and data loss.
- 7.4 When a force archives records in-house, the data controller should ensure that an identified individual is responsible for managing the archive that includes the preservation (including digital preservation), storage, sensitivity review and cataloguing of the materials.
- 7.5 If forces agree archiving arrangements with a third party, they should retain responsibility for:
- decisions about disclosing any elements of records that are subject to FOIA exemptions, including undertaking the necessary redaction
 - the records overall, ensuring that:
 - the conditions and terms of contract are maintained
 - all records remain accounted for
 - there is an audit of the movement of files and boxes in and out of the store, as well as who has requested access and why

- 7.6 An information-sharing agreement should detail:
- who has data controller responsibilities
 - who will manage information access requests
 - how records will be transferred
 - how this will be recorded by the force
 - any processes for the force to recall the records
- 7.7 Forces should keep a catalogue or index of records permanently archived, either in-house or with a local archive, including:
- detail relating to the nature of the record
 - the date of any last record in a collection
 - their security classification
 - their context and location
- 7.8 In summary, force archiving and redaction arrangements, whether in-house or external, must include:
- arrangements that keep collections, in all formats, safe and accessible
 - arrangements for managing FOIA requests
 - adherence to the DPA 2018 and GDPR safeguarding requirements
 - resource commitments (people, facilities, finance, IT) necessary to maintain the arrangements
 - coherent policies, plans and procedures
 - an appraisal, selection and sensitivity review process
 - arrangements that build in data protection legislation safeguards, including completion of a Data Protection Impact Assessment (DPIA) where the archiving is likely to result in a high risk to the rights and freedoms of individuals
 - a disaster recovery plan

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