

File retention following an intervention into a firm

14 October 2013

1. We are consulting on proposed changes to how long the SRA keeps files following an intervention into a firm and/or an individual's practice. Under the current practice, the SRA is required to retain substantial quantities of client files for very long periods, at considerable cost. This cost is passed on to those we regulate and, in turn, to consumers. The SRA considers that these costs could be reduced without significant detriment.

Background

2. The SRA has powers to intervene into a firm, or an individual's practice, when it has reason to suspect that the interests of clients are threatened by dishonesty, failure to account for client's money, or a breach of the Code of Conduct.
3. Upon intervention, the SRA ensures that all client papers are removed as soon as possible. This includes client files and original documents as well as accounting records. Following an intervention, the appointed agents will make every effort to return live files to clients. There will, however, be some clients who cannot be traced. There will also be files which were stored in the archive of the intervened firm in respect of which we will take no steps. The residual current files and the archived files of the intervened firm are in those circumstances stored by the SRA in the Intervention Archives Department ("IAD") which is currently operated on an outsourced basis by Capita. A client of the intervened firm can contact IAD to seek the return of their files or papers. However, the vast majority do not and the files will therefore remain in storage.
4. The issue for consideration is how long these papers should be retained after intervention. The SRA's file retention policy must balance the rights and interests of the individuals affected by an intervention and the costs to those we regulate and the public. In each case we have to apply to the court for approval to destroy files – we therefore need to be able to show the court that what we propose is reasonable. For the reasons set out in this paper, we consider that considerable reductions in the retention period could be made safely.
5. The proposal in this document concerns what the SRA should do with physical files/papers it takes control of, following an intervention into a firm. Different, and sometimes complex, issues are presented when taking control

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of electronic documents and the SRA is therefore considering that matter separately. It should also be noted that this paper considers only the policy for retention of papers by the SRA following an intervention. The policy is not intended to apply to the retention policies of law firms, where different considerations apply.

6. We particularly welcome views from the practitioners and firms we regulate, consumers of legal services, other regulators and from those who may have an interest in how the SRA's Compensation Fund is applied given that the cost of interventions, which includes the cost of dealing with the archived files of the intervened firm, are met by the Fund.

Interventions

7. The powers to intervene are contained in the Solicitors Act 1974 (as amended) and other legislation. The powers exist in order to protect the public, whether they are exercised on the grounds of suspected dishonesty, breaches of the SRA Accounts Rules or a breach of the Code of Conduct. The powers enable the SRA to step in, for example, to prevent escalation of default, including where some other regulatory breach is the basis of the exercise of the powers.
8. The powers also exist to protect the Compensation Fund. The powers of intervention have their origin in the need to protect the Compensation Fund which was established under the Solicitors Act 1941. The costs of the exercise of the powers in suspected dishonesty cases were, under the 1974 Act, recoverable from the Fund. That was extended to all interventions by the Legal Services Act 2007.
9. A decision to intervene will only be made where one of the grounds set out in legislation have been met and it is necessary to intervene in order to protect the public interest.
10. The SRA's primary objective when engaging with firms is to ensure that clients are protected and to avoid intervention unless absolutely necessary. Intervention will usually be the last resort in such cases but will often be necessary more urgently in other situations such as to avoid risk to the public arising from the activities of a practitioner suspected to be dishonest or continuing risk to clients arising from a client account shortage.
11. Costs which follow an intervention include:
 - the cost of the in-house team of intervention officers,
 - the cost for the external services of intervention agents (solicitors firms on a panel),
 - the costs of Capita which provides logistical supports on an intervention such as the collection and transport of files and the databasing of live files; and
 - the cost for the archiving, repatriation and ultimate destruction of closed client files taken into the SRA's possession at the point of intervention.

12. The most significant "in-year" variable costs (driven by the number of interventions and the scale of each) are the second and third of these elements. The final element is also affected by the number and scale of interventions but the costs associated with this have a longer term impact given the current approach to the length of time for which closed client files from intervened firms must be kept.

File retention

13. The SRA's current policy is to hold all files for a certain number of years depending on the file type. The minimum period is seven years from the date of intervention. That policy was approved by the Court in 2009 and is attached at Annex 1.
14. We have reviewed this policy and we now believe that the retention periods are too long for a number of reasons.
 - Very few clients ever come forward to claim their old files. The table at Annex 2 shows that only 0.55 per cent of client papers are ever claimed. Of that small figure only a little over half relates to files rather than original documents (which will be retained for much longer periods). The table also shows that of the clients who do come forward, most do so within the first two to three years of an intervention. We therefore continue to hold just over six million files knowing that very few will ever be returned to the clients.
 - The policy places us in a position where a firm could quite properly destroy a very old client file one day and the following day, after an intervention, the SRA is compelled to retain it for a further seven years. We therefore think that the retention period should run from closure date of the file rather than the date of intervention.
 - A number of interventions only relate to the archived files of a firm which had closed down many years earlier. Retaining those files for a further seven years seems disproportionate.
 - Recent interventions into larger firms have revealed numbers of archived files well beyond anything envisaged at the time of the previous court application. Based on interventions over the last 20 years, the historic average number of archive files was 4,000/5,000 files. With interventions into larger firms, we are seeing unprecedented numbers of archived files – on one intervention this year, we took possession of some 450,000 files. In other words, 100 times more than the historic norm with the consequent costs that will bring of applying the existing retention periods.
15. In cases where intervention into a firm seems probable or where practitioners have taken the decision to close their firm, the SRA is pressing firms to address historic archiving issues as a matter of urgency. The Law Society has provided guidance to the profession to assist firms in their archiving and destruction of client files in certain areas of practice.

16. However, the SRA continues to encounter firms which have failed to manage their archives effectively. The SRA is seeing archiving contracts where law firms only pay costs to storage companies/third parties when files are deposited or extracted; so there is a cost to the firm attached to managing their archive properly and a financial incentive not to do so.
17. Given this, and for the reasons set out above, the SRA proposes to adopt a more proportionate file retention policy and thus significantly reduce archiving costs. By taking a more targeted approach and only sifting certain types of files which are most likely to reveal original documents, this will result in a reduction of costs.
18. It is important that the SRA takes initiatives as a mature regulator to ensure that the impact on the Compensation Fund (which bears the costs of interventions) is managed. It is therefore, necessary to consider whether the SRA's regulatory policies and processes work in the public interest.

Proposal

19. The SRA proposes to secure and retain client files for a reasonable period which gives clients the opportunity to contact the SRA. Original documents will continue to be retained for longer periods and our proposed new list of what shall constitute an original document and the retention periods that shall apply are attached at Annex 3. The document in Annex 3 is the proposed guidance document for IAD and includes an explanation of why we no longer believe that certain types of document which were identified in the previous policy as needing longer storage periods need to be retained. We have therefore, reduced the list of original documents significantly as the Annex sets out.
20. The SRA also proposes that there should still be varying retention periods for files depending upon the types of matter concerned. It is proposed that for sensitive matters, for example concerning children or trusts, wills and probate, longer retention periods should apply. The proposed retention periods are set out in Annex 4. Again there is an explanation of why the reduced periods (when compared with the previous policy) have been applied.
21. To inform our view, we have examined approximately 30 interventions which have been carried out in the last 18 to 24 months and have calculated the cost of storing those files in line with the current policy as £4.4m.
22. Applying the proposed list of what shall constitute an original document and the time periods that shall apply, we have made estimates of the numbers of files falling into the new categories. Based on these estimates and applying a blanket seven-year retention period, it is envisaged that the costs of storage in line with the new policy would be approximately £1.9m.
23. The savings on the 30 interventions would therefore, be £2.5m across the lifetime of the interventions. These savings are only based on the interventions which have been carried out recently. The proposed policy would apply to all future interventions and therefore, will continue to produce savings in the future.

24. We believe that our proposal is proportionate and targeted, in the sense that it achieves the necessary level of protection for consumers and safeguards the public interest while allowing us to keep the costs of the storage process to a manageable level. The proposal will allow for the efficient allocation of our resources. Having regard to the relatively small numbers of clients (of an intervened firm) who contact the SRA to retrieve papers it is considered that the proposed retention periods have a minimal impact on consumers. The risks associated with the proposed amendment are therefore, considered to be minimal.

Consultation questions

1. Do you agree with the proposal?
2. If you do not agree with the proposal, we seek your views on alternative ways of managing the costs associated with file retention having regard to
 - intervened practitioners being liable to pay the cost of intervention; and
 - the Compensation Fund being applied to cover costs, charges or expenses incurred following a decision to intervene into a solicitor's practice/authorised body.
3. Are there any consequences, risk and/or benefits which have not been outlined?

How to respond

The SRA welcomes views on the proposal and any other aspect of this consultation and you can respond in a variety of ways.

Online

You can submit your response using our consultation response form.

Email

Send your response to consultation@sra.org.uk.

Please ensure that

- you add the title "File retention following an intervention into a firm" in the subject field,
- you identify yourself and state on whose behalf you are responding (unless you are responding anonymously),
- you attach a completed About You form;
- if you wish us to treat any part or aspect of your response as confidential, you state this clearly.

Post

If you wish to submit your response by post, please send your response and a completed [About You form](#) to:

Solicitors Regulation Authority
c/o Ms Yvette Wigg
The Cube
199 Wharfside Street
Birmingham
B1 1RN

Deadline

Please send your response by **9 December 2013**.

Confidentiality

A list of respondents and responses may be published by the SRA after the closing date. Please express clearly if you do not wish your name and/or response to be published. Though we may not publish all individual responses, it is SRA policy to comply with all [Freedom of Information](#) requests.

File retention following an intervention into a firm consultation: Annex 1

Intervention Archives – File Destruction Policy (currently in force)

Background

Under the provisions of the Solicitors Act 1974 (as amended) the Law Society has power to intervene into the practice of a solicitor in certain circumstances as set out in Schedule 1 of that Act. The powers to intervene are exercised on behalf of the Law Society by the SRA.

The SRA normally uses intervention service providers to take possession of all practice papers of the intervened firm, to compile a database of the papers and then to attempt to return all current files and original documents to clients of the firm.

Invariably, there will be some clients who cannot be traced. There will also be files which were stored in the archive of the intervened firm in respect of which we will take no steps. The residual current files and the archived files of the intervened firm are then stored by the SRA in the Intervention Archives Department (“IAD”) which facility is currently operated on an outsourced basis by Capita.

A client of the intervened firm can contact IAD to seek the return of their files or papers. However, the vast majority do not and the files therefore remain in storage.

The SRA has therefore developed the policy set out below for the retention of such files for defined periods following which the secure destruction of the files will take place.

Principles

- Where the intervened firm was actively trading until the date of intervention, all files will be retained for a minimum period of 7 years from the date of the intervention.
- Where the intervened firm had been closed for some time prior to the intervention, all files will be retained for a minimum period of 7 years from the date of closure of the firm.
- Different retention periods will be applied to different categories of files before any destruction.

- Irrespective of categorisation, all files relating to an intervention on which a Statutory Trust Account is held will not be destroyed until 6 months after the distribution scheme has been approved.
- All files will be sifted prior to destruction to ensure that all original documentation has been extracted.
- All such original documentation will be stored indefinitely.
- No destruction will take place until a person with proper delegated authority had sanctioned it.
- All destruction will be carried out in a manner to ensure the confidentiality of the information contained on the files.

Policy

1. All Intervention files will be sorted into the categories set out in the Schedule appearing as **Appendix 1**.
2. The minimum period for retention of any file is seven years from the date of the intervention into the firm where it was actively trading prior to the intervention, or, in cases where the firm had closed down prior to the intervention, seven years from the date of closure of the firm.
3. The relevant date for the purpose of paragraph 2 above will be determined by a Senior Advisor in Post Enforcement or their manager or the Director of Post Enforcement or such other person with the appropriate delegated power to do so
4. Any file relating to an intervention on which any money is held in a Statutory Trust Account either by the SRA or its appointed agent should still be sorted in accordance with the categorisations set out in Appendix 1. However, no such file can be destroyed until at least six months have passed following the authorisation of distribution of money from that Statutory Trust Account.
5. Prior to the destruction of any file, it will be sifted in to ensure the removal of all original documentation as set out in **Appendix 2**. Such documentation will be stored separately.
6. The destruction of any files must be approved under the appropriate delegated authority. A form for granting such approval is set out at Appendix 3. The approval form can be signed by a Senior Advisor in Post Enforcement, their line managers or the Director of Post Enforcement.
7. All destruction of files will be conducted in accordance with the SRA's policy on confidential destruction.

Appendix 1

Categorisation of Files in IAD and Appropriate Retention Periods

	Category	Includes	Retention
1	Property Purchase & Mortgage Files	Purchase Re-mortgage Deed of postponement Mixed property purchase & sale Deed of Easement e.g. rights of way Deed of covenant	16
2	Property Sale & Other Property Matters	Sale of property Planning Housing General advice	7
3	Leasehold Matters	Lease agreements Licence agreements Variations Surrender Assignment Rent review General advice	Term + 7

4	Litigation	Civil Criminal Tribunals – Employment, Pensions, Welfare	7
5	Private Client	Non litigation advice – employment, pensions, personal insolvency, tax, powers of attorney (non-enduring)	7
6	Immigration	General Advice Tribunal Asylum	7
7	Trusts, Wills & Probate	Will Drafting Probate etc Trust matters Enduring powers of attorney Settlements Court of protection	21
8	Business	Company formation Partnership Formation Sale/ merger/purchase Insolvency Investment/Share issue	7

9	Divorce, Children Disputes & Ancillary Relief	Divorce Children	3 years after youngest child is 18
10	Administration	Employment/Tax records Insurance Law Soc correspondence Diaries Manuals Electronic records	11
11	Firm Accounts	Office Account	11
12	Client Accounts	Ledgers Bank Statements Stubs, Paying Slips, Receipts etc	11

Appendix 2

Schedule of Original Documents

1. Conveyancing Deeds
2. Abstract of Title
3. Lease/Counterpart Lease/Licence to Assign or Sub-let
4. Life Assurance/Mortgage of Life Policy
5. Power of Attorney
6. Charge Certificate
7. Land Certificate
8. Tenancy Agreement
9. Assignment of Mortgage Deed
10. Mortgage Deed/Legal Charge
11. Guarantee Certificate
12. Endowment Policy
13. NHBC Certificate
14. Leasehold Assignment
15. Assent
16. Grave Deeds
17. Deed of Covenant
18. Grant of Easement
19. Marriage and Civil Partnership Certificates
20. Birth Certificate
21. Immigration Order
22. Passport
23. Deed of Separation/Matrimonial Deeds
24. Share Certificate

25. Deed of Partnership
26. Patents and Assignments of Copyrights
27. Will/Codicil
28. Bank Pass Book
29. Retirement Policy
30. Deed of Gift/Trust
31. Investment Business/Assignment of Goodwill
32. Bonds
33. Change of Name Deeds
34. Statutory Declaration
35. Personal effects/valuable items
36. Documents of historical or archival value.

Appendix 3

Authorisation for Destruction of Files

I, [name of authorised signatory] am satisfied that in relation to the files set out on the schedule attached to this authorisation:

1. More than 7 years have passed since the date of intervention *or*
More than 7 years have passed since the closure of the firm.
2. The files to be destroyed are all older than the retention period laid down for that type of file.
3. The files have been examined and all original documents have been extracted for separate storage.
4. There is no Statutory Trust Issue arising on this intervention or to the extent that there were statutory trust issues, these have been resolved.
5. There are no other issues arising on this intervention which would require further retention of the files (e.g. police interest or ongoing compensation fund claim).

I therefore authorised destruction of the files in accordance with the Society's procedures for the destruction of confidential documentation

Signed

Date

File retention following an intervention into a firm consultation: Annex 2

Summary of all Repatriated Files as at 29 April 2013

Repatriated within	Grand Total	As a % of all Files in Archives
1 year	10,099	0.17%
2 years	7,640	0.13%
3 years	6,709	0.11%
4 years	3,607	0.06%
5 years	1,906	0.03%
6 years	1,075	0.02%
7 years	773	0.01%
8 plus years	1,721	0.03%
Grand Total	33,530	0.55%
Total Number of files in Archives	6,063,975	

Repatriated within	NOT Original Documents		Original Documents	
	Number	As a % of all Repatriated Files	Number	As a % of all Repatriated Files
1 year	4,738	14.13%	5,361	15.99%
2 years	5,071	15.12%	2,569	7.66%
3 years	4,018	11.98%	2,691	8.03%
4 years	1,944	5.80%	1,663	4.96%
5 years	1,064	3.17%	842	2.51%
6 years	598	1.78%	477	1.42%
7 years	355	1.06%	418	1.25%

8 plus years	540	1.61%	1,181	3.52%
Grand Total	18,328	54.66%	15,202	45.34%

File retention following an intervention into a firm consultation: Annex 3

Original documents/wills and deeds (proposed)

1. Only original (and not copy or certified copy) documents can be Original Documents ("ODs").
2. All Property Deeds and associated property documents for the same property should be amalgamated together and retained for either 2 years (registered titles), 21 years (unregistered title) from the date of intervention. Although this may appear to be a short timeframe it is worth noting that letters will always be sent to the current owners of unregistered properties or land notifying them of the position and asking them for their urgent instructions. Retention timescales also will be highlighted in the letter. A retention period of 80 years will apply to unregistered titles where a contact address is not available. In relation to registered titles, most property documents will have already been incorporated into the title and therefore be redundant. Hence the two year retention period.
3. Commercial leases/tenancy agreements and associated documents should be retained for their duration plus 3 years. Note. Most disputes will take place shortly after the lease has expired.
4. All non property related ODs including Wills/Codicils, Powers of Attorneys, Declarations of Trusts, Grave Deeds and Share/Bond Certificates should be retained separately for 80 years. Retention periods are longer for these documents not only because of the importance of the document itself but also because the beneficial owners may have moved and be difficult or impossible to contact.
5. For a new list of ODs, see Appendix 1

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
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	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
1.	<p>Conveyancing Deeds.</p> <p>If you find more than one of the following items bundled together, please keep items together and index as Conveyancing Deeds.</p> <p>If you just have one single item please list as an individual: Deeds, Indemnity Policy, Redemption Certificate, Discharge of Registered Charge, Transfer of Land, TP1, TP2, TR1, TR2, TR5, DS1, DS3, Abstract of title, Lease/Counterpart/ Licence to Assign/Sublet, Charge Certificate, Mortgage Deed, Land Certificate, Tenancy Agreement/ Severance (relating to ownership of property, joint tenants or tenants in common), Guarantee Certificate, NHBC Certificate, Leasehold Assignment, Assent, Deeds of Covenant/Grant of Easement.</p> <p><i>Official documents confirming ownership of property</i></p>	<p>Rename as 'Property Deeds/Documents'</p> <p>2 year retention from date of intervention for registered deeds and documents</p> <p>21 year retention from date of intervention for unregistered deeds and documents</p> <p>80 year retention from date of intervention for unregistered deeds and documents where no contact address is available</p> <p>All stand alone documents relating to the same property should be incorporated together in a Property Deeds/Documents packet.</p> <p><u>Sifting of Property Deeds</u></p> <p>If a deeds packet is uplifted, then limited sifting is necessary to assess whether the packet contains non property related ODs. Examples of such documents could include a Power of Attorney, Deed of Gift/Trust or a Will. See Appendix 1. If present these should be extracted, indexed and stored separately. All leases and associated lease documents should also be extracted stored separately.</p> <p>The sifting of Property Deeds should also endeavour to ascertain whether the property</p>	<p>See above</p> <p>See above</p>

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
		<p>has a registered or unregistered title. Notification letters will be sent to clients with unregistered titles</p> <p>Sifting of registered deeds packet should also include Title Indemnity documents which should be extracted and stored separately</p> <p><u>Sifting of Purchase Files</u></p> <p>7 year retention of purchase files from the date of file closure.</p> <p>As the title will be registered or registration will be imminent, sifting, should be limited to the following list of ODs;</p> <p><u>Property related</u></p> <ul style="list-style-type: none"> - Commercial lease / Assignment - - Title Indemnity Policy <p><u>Non property related</u></p> <ul style="list-style-type: none"> - Will/Codicil - Declaration of Trust - Power of Attorney - Grave Deeds - Share & Bond Certificates 	See above

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
		<p><u>Releasing Documents to Client (current owner)</u></p> <p>ALL documents relating to the same property should be sent to client irrespective if they have just requested one document</p>	
2.	<p>Abstract of Title. (even if not signed, place with deeds where possible)</p> <p><i>A schedule listing documents which sets out the history of ownership of a property</i></p>	<p>Amalgamate or retain into 'Property Deeds'</p> <p>2, 21 or 80 year retention from date of intervention depending on whether title is registered or unregistered and whether or not a contact address is available.</p>	Potentially important OD
3.	<p>Lease/Counterpart/Licence to Assign/Sublet Notices.</p> <p><i>A document giving the lessee ownership of the property for a limited period subject to annual rent.</i></p>	<p>Retain and store within its term.</p> <p>This category is intended for shorter leases (typically 25 years or less) usually reserving a non-nominal rent. Does not relate to residential leasehold purchases.</p>	<p>Long leases (typically 60 years or longer) of flats/houses should be categorised as 'Property Deeds/Documents' as the nature of transactions relating to such leases are akin to sales/purchases.</p>

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
		<p>If a lease packet containing Lease documents is uplifted then a similar approach to a deeds packet is needed i.e. only a cursory inspection is required to ensure no other Original Documents (or completely unrelated documents) are included. If included these will need to be extracted and stored separately as different retention periods apply.</p> <p>Note to Capita. The ownership of a lease vests in the tenant not the owner of the property.</p>	It may be presumed (subject to the cursory inspection) that all documents contained in such a packet relate to the same Lease.
4.	<p>Life Assurance / Mortgage of Life Policy / (only policy documents)</p> <p><i>Insurance policy which on death of policy holder will pay out a sum which will cover the outstanding value of the mortgage</i></p>	Remove from list of ODs.	Copy obtainable from Insurer (inc details of any existing mortgage).
5.	<p>Power of Attorney or Court of Protection Deputy.</p> <p><i>Written authority by a person "donor" giving authority for another person "attorney" authority to act on the donors behalf and manage their financial affairs.</i></p>	<p>Retain as an OD.</p> <p>80 year retention from date of intervention</p>	Very important document. Not usually obtainable from any other source.

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
6.	Charge Certificate. <i>Official certificate detailing ownership of property and any mortgages and/ or interest in a property</i>	Remove from list of ODs.	Now obsolete.
7.	Land Certificate. <i>Official certificate detailing proof of ownership and detailing boundaries and any covenants etc</i>	Remove from list of ODs.	Now obsolete.
8.	Tenancy Agreement. including: Severance / House Share Agreement / Occupation / Licence Agreement Relating to ownership of property	Retain as an OD if still 'in the room'.	Important document. May not be available from any other source.
9.	Assignment of Mortgage Deed. <i>The mortgage lender or borrower transfer the mortgage to a third party</i>	Amalgamate into 'Mortgage Deed'. 2, 21 or 80 year retention from date of intervention depending on whether the title is registered or unregistered and whether a contact address is available.	Similar document with same ownership (lender).
10.	Mortgage Deed / Legal Charge. including: Legal Mortgage / Postponement / Consent / Notice of Charge / House Share Agreement / Declaration of Occupancy	2, 21 or 80 year retention from date of intervention To categorise as OD only where document is uplifted as standalone document. If uplifted as part of a deeds packet then to	If the document is uplifted as a standalone document then it may be of particular importance and should be retained. Otherwise mortgages are either registerable at the Land Registry or would have been retained by the lender as security.

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
	<i>Official document giving lender legal right and interest in the property.</i>	remain with those deeds as 'Property Deeds/Documents'. To include: -Assignment of Mortgage Deed.	
11.	Guarantee Certificate. <i>Guarantee which covers work for a set period of time</i>	Remove from list of ODs. No need to sift. If uplifted as part of a deeds packet then to remain with those deeds as 'Property Deeds/Documents'.	Copy obtainable from Provider.
12.	Endowment Policy. <i>This combines a mortgage loan with life insurance, at the end of the term the policy should have generated enough income to cover the cost of the mortgage</i>	Remove from list of ODs.	Copy obtainable from Provider.
13.	NHBC Certificate. (only if in date) <i>National House Builders Federation. This is a guarantee on the property for 10 years</i>	Remove from list of ODs. No need to sift. If uplifted as part of a deeds packet then to remain with those deeds as 'Property Deeds/Documents'.	Copy obtainable from Provider.
14.	Leasehold Assignment. <i>Transfer by the original tenant "assignor" of their right to a sub tenant "assignee"</i>	Amalgamate into 'Lease' or Lease Packet. Retain for term	Similar document with same ownership (current tenant).

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
16.	<p>A s s e n t including:AS1</p> <p><i>Formal document required to transfer ownership of a property to a entitled person after the death of owner</i></p>	<p>Amalgamate into 'Property Deeds'</p> <p>2, 21 or 80 year retention from date of intervention</p>	<p>Similar document with same ownership (current property owner).</p>
18.	<p>Grave Deeds.</p> <p><i>Official document showing ownership of a Grave</i></p>	<p>Retain as an OD</p> <p>80 year retention from date of intervention</p>	<p>Important document. May not be obtainable from any other source.</p>
19.	<p>Deeds of Covenant / Easement.</p> <p><i>Covenant - legal obligation to do or not to do something, the deed confirms you will abide by the covenant. Easement - entitlement to exercise some right over another person land/property i.e. right of way, the deed confirms you will abide by the easement</i></p>	<p>Amalgamate into 'Property Deeds'</p> <p>2, 21 or 80 year retention from date of intervention</p>	<p>Similar document with same ownership (current property owner).</p>
20.	<p>Marriage Certificate. (only if foreign)</p> <p>Including: Civil Partnership Certificates</p>	<p>Remove from list of ODs</p>	<p>Both British & Foreign Marriage Certificates are easily obtainable.</p>
21.	<p>Birth Certificate. (only if foreign)</p>	<p>Remove from list of ODs</p>	<p>Both British & Foreign Birth Certificates are easily obtainable.</p>
22.	<p>Immigration Order. (only if in date)</p> <p><i>Document showing immigration</i></p>	<p>Remove from list of ODs.</p>	<p>Copy obtainable from UKBA.</p>

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
	<i>status known as leave to remain</i>		
23.	Passport. (only if in date)	Remove from list of ODs.	Copy obtainable from Issuer.
24.	Deed of Separation/Matrimonial D e e d s . including: Pre Nuptial Agreement	Remove from list of ODs.	Found on Family files (21-year retention period).
25.	Share Certificate. <i>Official document confirming ownership of shares</i>	Retain as an OD. 80 year retention period To include: Bonds.	Important documents. Only likely to be on Probate matters where owner is deceased and Executors/Beneficiaries may not be aware the documents exist.
26.	Deed of Partnership. <i>An agreement between people who want to jointly run a business</i>	Remove from list of ODs.	Clients will have had at least 7 years to request the file.
27.	Patents / Copyrights. including: Assignments <i>A document confirming exclusive rights to an invention, usually determining how things are made or work.</i>	Re m o v e f r o m l i s t o f O D s .	Clients will have had at least 7 years to request the file. Registered documents obtainable from other sources. None have been requested by clients
28.	Will / Codicil. (not Probate) including: Deed of Family Arrangement <i>Codicil - a document which amends, clarifies a specific</i>	Re t a i n a s a n O D f o r 8 0 y e a r s . <u>Not</u> including Grants of Probate / Letters of Administration.	Very important document. Not obtainable from any other source. Available from Probate Registry.

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
	<i>provision in a Will</i>		
29.	Bank Pass Book. (Only if there is a balance on the book) <i>A book issued by bank/building society to access account</i>	Remove from list of ODs.	Copies are usually obtainable from bank/building society. Usually found on Probate files (21-year retention period).
30.	Retirement Policy. <i>Similar to a Partnership Deed, which details the provisions for business when one partner retires.</i>	Remove from list of ODs.	Clients who will have had at least 7 years to request the file. Only one repatriated.
31.	Deed of Gift / Trust. including: Change of Trustee <i>An official document which voluntarily and without recompense transfers ownership of real, personal or intellectual property</i>	Retain as an OD.	Very important document. Not obtainable from any other source.
32.	Investment Business / Goodwill. including: Assignment of Goodwill / Compromise Agreement / Purchase / Sale of Business Agreement. <i>Taking over customers or trade from a successful business</i>	Remove from list of ODs .	Clients who will have had at least 7 years to request the file.
33.	Bonds. <i>Purchase of a saving investment</i>	Amalgamate with 'Share Certificate'. 80 year retention period	Similar document with same ownership (person named).

	CURRENT ORIGINAL DOCUMENT	* PROPOSAL *	*REASON
34.	Change of Name Deed. <i>Legal document whereby a person changes their name</i>	Remove from list of ODs.	Open to client to swear another declaration.
35.	Statutory Declaration. including: Affidavit / Declaration of Solvency <i>An official declaration (statement of fact) which is signed by client and witness by solicitors</i>	Retain as an OD. <u>Not</u> including Declarations of Solvency. 80 year retention period	Important document. Not obtainable from any other source. Obsolete after 5 years (therefore 7-year file retention period sufficient).
36.	Personal Effects / Valuables Items	Retain in line with ODs. 80 year retention period	May be valuable or have sentimental value to client.

Appendix 1

Categories of Original Document:

§ Property Deeds/Documents	2, 21 or 80 years from date of intervention depending on whether registered or not and whether a contact address is available
§ Lease Documents	Duration of commercial lease + 3 years
§ Power of Attorney	80 years
§ Tenancy Agreement	Duration of tenancy agreement
§ Grave Deeds	80 years
§ Share Certificates / Bonds	80 years
§ Will / Codicil	80 years
§ Deed of Gift / Trust	80 years
§ Statutory Declaration	80 years
§ Personal Effects/Valuables	80 years
§ Documents of historic value	Indefinitely

File retention following an intervention into a firm consultation: Annex 4

File retention periods (proposed)

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
1	Administration (admin files and records of intervened firm)	Employment/Tax records of the Intervened Solicitor Firm Insurance Law Soc correspondence Diaries Manuals Electronic records Loose papers Post Misc paperwork Tax records PAYE records Wages Trade invoices/creditors	11 From date of intervention	3 (from date of intervention)	Some of these documents may not be required for intervention purposes and could even have been uplifted in error (due to time pressures on the day of intervention). It is proposed that a new process is implemented whereby the intervened solicitor(s) are informed at the outset (and perhaps again at a later date) that any such documents will destroyed if not collected within three years of the intervention. The proposed retention change is deemed reasonable and proportionate when balancing the need to preserve documents against the continued cost to the profession of prolonged retention periods.

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
2	Business	Company formation Company Licence Copyright/ Patent/Trademark Partnership Formation Sale/Merger/ Purchase Insolvency Investment Share Issue Business Agreements	7 from date of intervention	7 (from the date the matter was concluded)	In balancing the interests of the client with the cost of storing completed files for an extended period, it is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.
3	Client and Office Accounts	Ledgers Bank Statements Cheque Stubs, Paying Slips, Receipts etc Solicitors Fees	11 from date of intervention	7 from date of intervention	Intervened solicitor will be informed that such records may be destroyed 5 years from the date of intervention. If records are needed for longer than this for statutory trust, comp fund or other investigative purposes then documents can be retained longer.
4	Divorce, Children Disputes & Ancillary Relief	Divorce Children Child Protection Court of Protection Custody/Contact (incl Grandparents) Injunctions Separation	21 from date of intervention	21 (from the date the matter was concluded)	Can often contain sensitive information including settlements and trusts relating to children An extended retention period of 21 years from the date of file closure is considered appropriate due to the nature of matters and in order to cover all possible periods of childhood.
6	Immigration	General Advice Tribunal	7 from date	7	In balancing the interests of the client with the cost of storing completed files for an extended period, it

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
		Asylum Application for a Passport Citizenship/Nationalisation Work Permits	of intervention	(from the date the matter was concluded or from the last corresponde nce on file)	is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.
7	Leasehold and Tenancy	Lease agreements Licence agreements Variations Surrender Assignment Licence to Assign Tenancy agreements	Has no fixed retention period	7 years from file closure	In balancing the interests of the client with the cost of storing completed files for an extended period, it is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.
8	General litigation	Civil Criminal Harassment Tribunals Personal Injury/RTA's Industrial Injury Medical Negligence Mental Health Act/Sections Prison Matters Application for an Alcohol/bar	7 from date of intervention	7 (from the date the matter was concluded)	In balancing the interests of the client with the cost of storing completed files for an extended period, it is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
		club licence			
9	Personal Injury files	Personal Injury/RTA's	7 from date of intervention	7 from date of intervention	It is common for these files to involve sensitive issues and involve children.
10	Medical Negligence files	Medical negligence files	7 years from the date of intervention	15 years from the date of intervention	

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
11	Private Client	Non litigation advice : General Advice that does not go to Litigation Employment / Pensions Personal insolvency Tax Landlord & Tenant Disputes Tenancy Agreement (rental property) Property Maintenance Housing Disrepair Planning Permission Powers of attorney (not-enduring or lasting) Change of Name Complaint about a Solicitor/Law Society Council Tax arrears Debt Defamation Employment Education Issues Insurance Claim / Policy Statutory Declaration	7 from date of intervention	7 (from the date the matter was concluded)	In balancing the interests of the client with the cost of storing completed files for an extended period, it is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
12	Property Purchase & Mortgage Files	Purchase Purchase of a Freehold Purchase of a Long Leasehold Re-mortgage Deed of postponement Mixed property purchase & sale Deed of Easement e.g. rights of way Deed of covenant Default in repayment in mortgage Right to Buy Transfer of Equity	16 from date of intervention	7 (from the date the matter was concluded)	In balancing the interests of the client with the cost of storing completed files for an extended period, it is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.
13	Property Sale & Other Property Matters	Sale of property Sale of a Freehold Sale of Long Leasehold	7 from date of intervention	7 (from the date the matter was concluded)	In balancing the interests of the client with the cost of storing completed files for an extended period, it is deemed reasonable and proportionate to retain files for 7 years from the date the file was closed.
14	Trusts, Wills & Probate	Will Drafting Probate Trust matters Lasting/Enduring Powers of Attorney Settlements	21 from date of intervention	21 (from the date the matter was concluded)	Can often contain sensitive information including settlements and trusts relating to both adults children An extended retention period of 21 years from the date of file closure is considered appropriate due to the nature of matters and in

	MATTER TYPE	INCLUDES	CURRENT RETENTION PERIOD	PROPOSED RETENTION PERIOD	REASON
		Court of Protection			order to cover all possible periods of estate planning.