

Guidance on Retention of Records in Dental Practice

Explanatory Notes

The Data Protection Bill, incorporating the EU General Data Protection Regulation (GDPR) which will become UK law from 25th May 2018, requires all Data Controllers to “document all the processing of personal data” which they carry out, including the period for which data are retained.

What the law requires

- Article 30 of the GDPR sets out explicitly what ‘documentation’ is required, and this includes (Art.30(f)): “...where possible, the envisaged time limits for erasure of the different categories of data”
- The Information Commissioner’s Office (ICO) suggests that these time limits may be set “by internal policy or industry guidelines”.
- Article 5 of the GDPR sets out the six data protection principles, the fifth of which says that data: “Shall be kept in a form which allows identification of data subjects for no longer than is necessary...” but goes on to say that secure archiving is allowed subject to safeguards and “in the public interest or for scientific, historical or research purposes”
- Articles 17 and 19 cover the data subject’s “right to erasure” of their data and provides two relevant circumstances in which this right is over-ridden: performance of a “public duty” or “for the exercise or defence of legal claims”
- Within the General Dental Services (NHS) there is a mandatory requirement to keep patient records for a minimum of two years

None of the above specifies *maximum* periods for data retention. The following are examples of “industry guidance”:

- The Information Governance Alliance ‘Code of Practice for Records Management in Health and Social Care 2016’ (RMCoP) sets out the recommended NHS guidance (see table below)
- Dental indemnity bodies have referred to the above and suggest a maximum retention period of 30 years, and...
- The British Dental Association (source noted in NHS Records Management 2009) has regard to relevant statute such as the Consumer Protection Act 1987 and has recommended 11 years retention for adults and for children when they attain 25 years of age or 11 years whichever is the longer (all measured from the date of the last record entered)
- It is recognised that some electronic records, i.e. those held on proprietary practice management software may not be erasable, however, software suppliers must ensure security of archived data and it must be supplied to the data controller on expiry of contract

The RMCoP

Here are some relevant extracts from the IGA/NHS recommendations which may assist for patient clinical data. Other data categories are listed in the attached template:

Data Category	Start of Retention Period	Recommended Minimum Length of Retention	Comment
NHS GDS patient notes not included below	Date of last entry	<ul style="list-style-type: none">10 years	As recommended by NHS
Patients undergoing treatment for cancer	Date of diagnosis	<ul style="list-style-type: none">30 years or 8 years post mortem	
Patients with long term or recurrent disease	Date of last entry	<ul style="list-style-type: none">30 years from discharge	Could include chronic unresponsive periodontal disease
Clinical Audit	Date of creation	<ul style="list-style-type: none">5 years	Where personal data is identifiable
Patients where serious incidents occurred	Date of incident investigation closure	<ul style="list-style-type: none">20 years	
Patients where minor incidents occurred	Date of incident investigation closure	<ul style="list-style-type: none">10 years	
Patients involved in complaints or litigation	Date of resolution or completion of litigation	<ul style="list-style-type: none">10 years after closure	

- See: <https://digital.nhs.uk/information-governance-alliance/>

Data Retention Schedule

Under the Data Protection Act 2017 and the General Data Protection Regulation

Cemaes Bay Dental Practice

Data Category	Commencement of Retention Period	Minimum Recommended Retention Period	Maximum Duration of Archived Retention	Notes
Patient clinical data – adults (unless listed below)	Discharge or last entry in record	<ul style="list-style-type: none"> 11 years 	<ul style="list-style-type: none"> 30 years 	Maximum retention period as advised in IGA RMCoP 2016*
Patient clinical data – children (unless listed below)	Discharge or last entry in record	At age 25 (or age 26 if last entry at age 17) or 11 years whichever is the later	<ul style="list-style-type: none"> 30 years 	As above & British Medical Association recommendation for General Practice records
Patient clinical data for those with long-term unresponsive clinical conditions	Date of last entry in record		<ul style="list-style-type: none"> 30 years 	IGA RMCoP
Clinical audit records	Date of audit		<ul style="list-style-type: none"> 5 years 	Where identification of individual patients is possible (IGA RMCoP)
Staff records, Occupational Health records	Date of leaving		<ul style="list-style-type: none"> 6 years 	IGA RMCoP
Staff records: radiological dosimetry results	Date of record		<ul style="list-style-type: none"> 40 years 	IRR legislation 1999
Contracts for services	Date of cessation of contract		<ul style="list-style-type: none"> 6 years 	e.g. self-employed staff or maintenance contracts (Statute of Limitations)
Financial records	Date of completion of record		<ul style="list-style-type: none"> 6 years 	HMRC recommendation: look-back period
Subject Access Requests	Date of supply of information		<ul style="list-style-type: none"> 3 years 	IGA RMCoP
Software licences	Date of inception		<ul style="list-style-type: none"> Lifetime of software 	Data must be supplied to data controller and erased when contract expires
Significant incident log	Date of incident		<ul style="list-style-type: none"> Major – 20 years Minor – 10 years 	IGA RMCoP Non-clinical – 12 years advised

*Medical Records Code of Practice (2016): Information Governance Alliance/DHSC/NHS Digital

Signature of Data Protection Officer/Data

Controller: *[delete as appropriate]*

Print Name:

Review Date:
