



*PROTECTION OF VULNERABLE ADULTS
(POVA) SCHEME*

RECORD RETENTION AND DISPOSAL POLICY

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Protection of Vulnerable Adults (POVA) Scheme

Record Retention and Disposal Policy

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RECORD RETENTION AND DISPOSAL POLICY

1.0 Operational Context and interpretation of terms used

1.1 The Protection of Vulnerable Adults (PoVA) scheme, as set out in Part 7 of the Care Standards Act 2000, was implemented on a phased basis from 26 July 2004. Except for a number of “legacy” cases, the PoVA provisions of that Act have been repealed and replaced by a new vetting and barring scheme introduced by the Safeguarding Vulnerable Groups Act 2006 with arrangements being made under transitory and transitional provisions for the transfer of POVA cases to the new system. Those arrangements involve the transfer of the POVA case files from the POVA team in Darlington (who operated the scheme on behalf of the Secretary of State for Health) to the Independent Safeguarding Authority (ISA) which is responsible for the establishment and maintenance of new barring lists and the operation of the new vetting and barring scheme.

1.2 The Secretary of State for Health has a duty to make proper provision for the care of the records he holds. The Department of Health’s (DH) general data protection policy is published on the Department’s website. This document sits alongside that general policy and sets out the document retention and disposal policy applied to the POVA scheme and provides for the systematic review, retention and destruction of personal information contained in POVA case files held by the Secretary of State after they have been closed. It applies to all records regardless of media type, created and maintained by the POVA team.

1.3 Underpinning this policy is the need for information to be regularly assessed and retained for the legitimate purposes of the relevant body charged with safeguarding of vulnerable adults and for personal information not to be retained for longer than is necessary for those purposes.

1.4 For the purpose of this document, where an individual has been included (other than provisionally) in the list kept by the Secretary of State of individuals who are considered unsuitable to work with vulnerable adults (“the POVA list”) and banned from working in regulated care settings under the POVA scheme, such cases are referred to as “barred cases”. All POVA referrals where the determination is not to include the individual in the POVA list are termed “non-barred cases”. Where no determination as to barred/non-barred status is made in respect of a referral because the statutory criteria for referral are not met e.g. the alleged misconduct took place in a non-regulated setting and/or there is clear evidence that the referred person was not involved in the harm/risk to a vulnerable adult that formed the basis of the referral and/or the allegations which were made would have no bearing on a consideration of unsuitability in the future, these cases are referred to as “non-determined cases”. The “relevant safeguarding authority” is the Department of Health where the Secretary of State retains safeguarding functions in relation to vulnerable adults under the Care Standards Act 2000 or the ISA as appropriate. An explanation of what is meant by “records” appears at section 4 below.

1.5 PoVA cases where the individual's name was included on the PoVA list prior to 20 January 2009 have already been transferred to the ISA for their storage. PoVA cases where the individual's name was not placed on the PoVA list are currently stored by DfE on behalf of DH and will be transferred to the ISA at the earliest opportunity. For further information see *Annex E*.

2.0 Executive Summary

2.1 The Secretary of State's retention policy requires that personal information be destroyed on a date determined in accordance with the terms of this document (save for those rare documents which must be retained in compliance with the Public Records Act). However, the policy also permits the retention of particular records, where it is lawful and appropriate and/or in the wider public interest to do so. This policy sits alongside the Department of Health's data protection policy which is published on the DH website.

2.2 Information received in relation to POVA referrals and decisions in relation to barred and non-barred cases is retained for a period after their determination. Information is also retained in some cases which are not determined as a decision to bar or not to bar because the alleged misconduct did not take place in a regulated setting; an exception applies in respect of referral information in non-determined cases where there is clear evidence that the referred person was not involved in the harm/risk to a vulnerable adult that formed the basis of the referral and/or the allegations which were made would have no bearing on a consideration of unsuitability in the future; in those cases the referral information is destroyed. Where a person's name has been included on the POVA list, but is subsequently removed, on his/her removal, the retained information must be treated in the same way as non-barred cases.

Barred cases

2.3 Case records relating to those barred under the relevant legislation are retained while their name remains on the POVA list or for 3 years after the date of their death (if notified to the Department) or until eighty (80) years after the final entry on the record, whichever is the earlier.

Non-barred cases

2.4 Records for cases where there has been no POVA listing, should also be retained, subject to assessment of the evidence, potential residual risk and the retention criteria set out below, the provisions at Annex A and the terms of any relevant legislation.

2.5 At the expiry of the retention period, the records should be reassessed and the level of residual risk reviewed within 40 working days of that date and a decision taken as to whether there is any justification for further retention. Where the decision is to retain the information for a further period, that decision should be recorded on a relevant schedule to include brief details of reasoning for further retention along with a new review date.

2.6 If the records are to be destroyed, all documents related to that case must be considered in line with three categories:

- Original case documents — if necessary, to be returned to the supplying person/organisation in a secure manner. Those which do not need to be

or cannot be returned should be destroyed in accordance with the terms of this policy.

NOTE: on this point, the general assumption is that these documents become DH property to store/dispose of at the discretion of officials, unless the contrary is made clear by the person or organisation sending the documents at the time of supplying the information¹. Where these documents are DH property, they should be destroyed in accordance with the terms of this policy;

- Departmental records which do not constitute personal data and may be of wider public interest should be checked against the department's policy relating to the Public Records Act to ensure they are not to be preserved (if not, these will be destroyed in accordance with this policy); and
- All other POVA team records and documentation regardless of media type, i.e. file notes, notes of telephone conversations etc – to be destroyed in accordance with the terms of this policy. See Annex B relating to the handling of email records)

2.7 Decision letters to individuals must notify them that information gathered during the course of their case will be held in accordance with this policy, to be taken into account in the event of any misconduct coming to the relevant safeguarding authority's attention in the future .

2.8 Any queries or complaints from individuals regarding the operation of this policy should be addressed to:

POVA Policy Manager
Room 123 Wellington House
133-155 Waterloo Road
London, SE1 8UG

2.9 If, after the handling of the query or complaint, the individual remains dissatisfied they may request that the matter be reviewed internally. To ensure a fair and unbiased review this should be undertaken by an independent manager whose team members were not involved in the initial complaint request. It is required under this policy that such a review be completed within 20 working days.

2.10 If the query or complaint cannot be resolved internally to the complainant's satisfaction, individuals should be referred to the Information Commissioner's Office (ICO).

2.11 The Department of Health will at all times act in accordance with our obligations and rights as a Data Controller under the Data Protection Act

¹ Where a request is made to return original documents these must be returned in a secure manner.

1998. DH's Data Protection policy and Information Charter is available on the DH website

2.12 It is recognised that the Secretary of State may for his legitimate purposes need to access the information held in PoVA files which are transferred to the ISA.

3.0 Introduction

3.1 This Records Retention and Disposal Policy sets out the DH's policy requirements in terms of the long term retention, and ultimate disposal, of personal information held on individuals who have come to the attention of the Secretary of State (SoS) in respect of the PoVA scheme. The Department has a duty to keep certain records for specified periods of time. This provides the Department with facts, figures and evidence likely to be required if it is ever challenged in respect of the service provided to an individual, the retention of personal information, or for use should an individual again come to the SoS' attention.

3.2 The policy provides for the systematic review, retention and destruction of records received or created in the course of the PoVA team's business. It contains guidelines regarding how long records should be kept, how and when they should be reviewed and how they should be disposed of once they have become redundant.

3.3 It is the Department's policy that personal information will normally be destroyed (save for those rare records which must be retained in compliance with the Public Records Act) on a date determined in accordance with the terms of this document. However, the policy must remain flexible enough to allow the destruction or retention of particular records where it is appropriate and lawful and in the wider public interest to do so.

4.0 Definitions

4.1 Records include physical files (i.e. paper copies of information contained in the file, such as telephone notes, referral information, representations etc) and also e-mail, WebPages, and other electronic material associated with the files (see *Annex B*).

5.0 Requirement for a Records Retention and Disposal Policy

5.1 Legal compliance

In addition to specifying what records must be kept, this retention policy dictates how the records must be kept and for how long and provides for regular reviews to ensure each individual's information is only retained for as long as it remains appropriate. This will ensure that the Department complies with the law, in terms of its duties under the Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Act 1998, and its obligations

under the Public Records Act 1958, and will promote efficiency in terms of eliminating the holding of unnecessary/redundant information (in all its forms).

6.0 Aims of the Policy

6.1 The aim of this policy is to:-

- ensure that the Department holds the information it needs to support the decisions it has made, in effect an audit trail;
- provide evidence of incidents of misconduct whether alleged or proven;
- establish the context of the information i.e. who created which elements of the record, during which business process(es) and how the file is related to other records (if any);
- ensure that the record reliably includes all the information which was actually used in, or created by, the decision-making process and that its integrity and authenticity can be demonstrated;
- ensure that the record is present and can be accessed i.e. it is possible to locate and access the information;
- ensure that integrity can be maintained for as long as the record is needed, despite any changes in data storage locations or migration between hardcopy and other permanent storage media ; and
- ensure that information is not retained for longer than is necessary, in accordance with the law.

7.0 Requirements for “proper and complete” records

7.1 To constitute a “proper record” a file may contain different levels and amounts of information and, for consistency; this information needs to be filed in a particular order. There is therefore an overriding need to ensure that this file formatting is as agreed and is maintained by everyone who has access to the file, particularly if the file is moved to another storage media. It is the responsibility of the operational area who has custody of the file(s) to maintain the correct format of the file(s) and to ensure this information is passed to other operational areas should they take over custody.

7.2 To be a “complete” record, the file must contain all information made available to, or created by, officials to enable them to reach any decision. If documents are, or information is, submitted to the Secretary of State to assist in the decision making processes, then that information should form part of the “record”.

8.0 Access and security

8.1 The 7th Data Protection Principle (Data Protection Act 1998 Schedule 1), insofar as the record relates to personal information, requires that:

“Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.”

8.2 In this context, *technical* measures must ensure a level of security appropriate to the harm resulting from a potential breach of security relative to the data being protected, and *organisational* measures include ensuring that only those staff with legitimate reasons for doing so, have access to the personal data.

9.0 Retention Criteria

9.1 The period of retention for records will be determined by the retention criteria which are:

Statutory requirement

Some records exist within a statutory framework where specific legislation determines a minimum period for which the information must be kept. In such cases, legislative timescales will apply rather than the retention periods outlined in Annex A.

Administrative need

Records, for example case files and any related correspondence files, have a clear lifecycle beginning with their creation, current use, semi currency (which includes any retention period) when they are referred to less as the case comes to a close and finally to non-currency when all action, including retention/review action, has been concluded and the information held in the record should be confidentially destroyed.

Whilst this might not apply to all the information held by the Department there is the requirement to retain those records needed for the legitimate purposes of the relevant safeguarding authority as set out below e.g. to defend decisions taken and/or to review such decisions in the light of changed circumstances, however, this should be in accordance with the criteria set out in Annex A.

10.0 Records Retention and Disposal Policy

Barred cases

10.1 Case records relating to those barred from working with vulnerable adults under Part 7 of the Care Standards Act 2000 are retained while their name remains on the PoVA list; or for 3 years after the date of their death (if notified to the Department) or until eighty (80) years after the final entry on the record, whichever is the earlier. However, it should be noted that this will be an issue for the ISA to consider, applying their own policy. By the end of 2010, all cases belonging to DH will have been either destroyed or transferred to the ISA before this arises.

Non-barred cases

10.4 Records for cases where there has been no PoVA listing, should be retained in accordance the provisions at Annex A and the terms of any relevant legislation.

Non-determined cases - Exceptions from retention

10.6 An exception applies in respect of referral information where no determination as to barred/non-barred status is made because there is clear evidence that the referred person was not involved in the harm/risk to a vulnerable adult that formed the basis of the referral and/or the allegations which were made would have no bearing on a consideration of unsuitability in the future. In those cases the referral information is destroyed immediately. (Information may be retained where the case is non-determined because it outside the scope of the relevant statutory criteria for referral.)

11.0 Responsibilities of officials

11.1 It is the responsibility of all officers managing records, whether these are paper based or computerised, to ensure that information is retained in accordance with this policy and with relevant legislation, in particular, rights of access under both the Data Protection and Freedom of Information Acts where all records held must be considered. In doing so, it must be ensured that the records held are accurate and that they retain their authenticity.

NOTE: The SoS is not obliged by either the Freedom of Information Act or the Data Protection Act to retain records for future requests. The relevant legislation for record retention purposes, in this context, is the Public Records Act 1958, in particular section 3.

11.2 Responsible officers will review information in accordance with review dates, so that information which does not need to be retained can be disposed of securely. Those records which are no longer required will be disposed of in accordance with this policy (and the review dates set under *Annex A*), in a timely and secure manner ensuring the confidentiality of personal data during disposal.

11.3 Upon the initial review and categorisation of files anticipated at Annex E below (Transfer of files to ISA), those records which are found to have already been retained for longer than the retention periods set out in Annex A, will be dealt with in accordance with the terms of this policy. For example, if on review a case is found to be one that should be excluded (as per paragraph 2.2), it should be destroyed unless there appears to be a residual risk to vulnerable adults. Where it remains appropriate to retain such records, a new review date should be set according to the relevant criteria set out in Annex A (calculated from the date of the review) with reasons given for the continuing retention.

11.4 Retained records may only be used in a way which is compatible with the purpose(s) for which they have been collected. Statutory provisions may further restrict those who have access to retained records for their own use and purposes. Only appropriate staff members will have access to the retained records. Retained information may be the subject of requests for access from the Police and other agencies. Such requests will be considered on a case by case basis and in accordance with relevant legislation.

Retention periods – non-barred cases

11.5 Retention periods for non-barred cases vary depending on the reason(s) for referral or category of case. The length of the retention period should be based on the appropriate criteria outlined at Annex A. Records that will serve no further foreseeable purpose, as determined on review at the end of the appropriate retention period (see *Annex A*), are to be destroyed in accordance with this document.

11.6 Some cases may involve more than one type of harm and it is the most serious which should be considered against these retention criteria. Annex A provides only broad guidelines and each case will need to be considered on its own individual merits.

11.7 Annex A covers five retention periods for non-barred cases 3, 5, 10 years, 20 years and 30 years. Each period relates to the priority of case assigned, which depends on the seriousness of the harm or risk of harm to which the referral relates and other circumstances of the case if appropriate. This will determine whether they are categorised as high, medium or low. The seriousness of the case will depend on the specific type of harm involved in the referral. For example, the most serious type of harm relates to physical or sexual abuse, so this will be assigned the longest retention period of 30 years

11.8 Where a POVA bar is removed, the records should be updated and considered in accordance with the retention criteria outlined above and set down in Annex A. The conditions for retention of records which have been subject to review at the end of their retention period are set out at Annex C, Section 2.

11.9 Information related to an individual who has come to the attention of the Secretary of State but has not been placed on any list, should be categorized in accordance with Annex A and, where appropriate, the papers held for the proper retention period or destroyed. If, on review at the end of this period, there is sufficient residual concern about the potential risk posed by the individual, or a likely Departmental business requirement (such as needing to explain why the individual was not placed on, or was removed from, the list), the information shall be retained for a further period (in accordance with the criteria at Annex C, Section 2) and subject to a further review at the end of that period.

Retention periods – non-determined cases

11.10 The above paragraph applies also to non-determined cases unless there is clear evidence that the referred person was not involved in the harm/risk to a vulnerable adult that formed the basis of the referral and/or the allegations which were made would have no bearing on a consideration of unsuitability in the future; in those cases the referral information should be destroyed immediately. In addition, a shorter period of retention (3 years) has been allocated for those cases which are 'out of scope' by reason of the alleged misconduct arising in a non-regulated care setting where that misconduct is of a relatively minor nature.

11.11 At the end of the retention period, if it is decided that there is no longer any justification for retaining the records further, all records related to that case will be segregated into three categories:

- Original case documents — if necessary, to be returned to the supplying person/organisation in a secure manner. Those which do not need to be or cannot be returned should be destroyed in accordance with the terms of this policy.

NOTE: on this point, the general assumption is that these documents become DH/ISA property to store/dispose of at the discretion of officials, unless the contrary is made clear by the person or organisation sending the documents at the time of supplying the information². Where these documents are DH/ISA property, they should be destroyed in accordance with the terms of this policy;

- Departmental records which do not constitute personal data and may be of wider public interest should be checked against the department's policy relating to the Public Records Act to ensure they are not to be preserved (if not, these will be destroyed in accordance with this policy); and
- All other documentation, i.e. file notes, notes of telephone conversations etc – to be destroyed in accordance with the terms of this policy. (See Annex B relating to the handling of email records)

12.0 Disposal

12.1 Provided records are not needed to comply with legal, financial or audit requirements, at the end of the retention period the records will be assessed to ensure changes in legislation, disputes and/or case reviews/enquiries/appeals do not require extended retention. Any changes in retention or appeals legislation should be reflected in this document. If there

² Where a request is made to return original documents, such documents must be returned in a secure manner.

is no reason to extend the retention period, records will be confidentially destroyed.

12.2 Files/records to be destroyed should be crosscut-shredded and the material pulped or burned or disposed of in accordance with (secure) organisational procedures. Optical or other disks should be shredded or disposed of in accordance with (secure) organisational procedures.

12.3 Information held within IT systems will also be covered by the requirements of this policy, however, the archiving and/or disposal will have to be carried out in accordance with departmental procedures on redundant IT systems and/or electronic data.

12.4 On this point, it is important that procedures around the archiving or disposal of documents which are linked to electronic data have built in mechanisms whereby both sources are handled in parallel. This will ensure electronic data is disposed of at the same time as the linked paper source and vice versa.

12.5 For all files, or parts thereof, which are destroyed, the related schedule should be permanently retained in a master schedule file in accordance with relevant Departmental procedures.

12.6 All disposal processes will be compliant with HMG standards for the secure sanitisation of protectively marked data, whether held electronically or on paper.

13.0 Ownership

13.1 The maintenance and development of this records retention policy and the retentions schedules is the responsibility of the POVA File Retention Policy Manager until such time as the POVA files are transferred to the ISA.

14.0 Notification of referred individuals

14.1 Decision letters to individuals must notify them that information gathered during the course of their case will be held in accordance with this policy, to be taken into account in the event of any misconduct coming to the relevant safeguarding authority's attention in the future.

15.0 Challenges or Complaints

15.1 Any queries or complaints from individuals regarding the operation of this policy should be addressed to:

POVA Policy Manager
Room 123 Wellington House
133-155 Waterloo Road
London, SE1 8UG

15.2 If, after the handling of the query or complaint, the individual remains dissatisfied they may request that the matter be reviewed internally. To ensure a fair and unbiased review this should be undertaken by an independent manager whose team members were not involved in the initial complaint request. It is required under this policy that such a review be completed within 20 working days.

15.3 If the query or complaint cannot be resolved internally to the complainant's satisfaction, individuals should be referred to the Information Commissioner's Office (ICO).

15.4 The Department of Health will at all times act in accordance with our obligations and rights as a Data Controller under the Data Protection Act 1998. Our Data Protection policy and Information Charter is available on our website.

Annex A - Retention Priorities and Criteria – Non-barred cases (and non-determined cases)

The retention periods detailed below apply to the categories outlined according to the criteria described in each case and are to be applied **only** when the evidence on each record has been fully assessed in accordance with this policy. The initial assessment will be undertaken by DH and will take place directly (or soon) after the date of the last final action on each case. All subsequent assessments will be made by the ISA. The ISA will then apply its own policy on receipt of the information and it will be for them to deal with future retention periods.

This annex is designed to be used as a guide only, as each case will need to be assessed and considered on an individual bases, depending on the factors pertinent to that case, before a retention period and review date, if any, is applied.

High [Priority] – Criteria for Decision to Retain for Period 30 Years

Each case will be assessed and considered on an individual basis, directly or soon after the last final action on the case. Cases are to be considered for destruction where the Secretary of State (SoS) is satisfied that the allegations are unfounded or malicious or did not otherwise take place, i.e. where the SoS found that there is no evidence that the individual had any involvement in causing harm or risk of harm or the referral relates to a non-care position. Only where there is evidence of extremely serious misconduct e.g. murder, attempted murder, conspiracy to murder, rape, aggravated assault will a retention period of 30 years be given.

Provided records are not needed to comply with legal, financial or audit requirements, at the end of the retention period the records will be assessed to ensure changes in legislation, disputes and/or case reviews/enquiries/appeals do not require extended retention. If there is no reason to extend the retention period, records will be confidentially destroyed.

Medium [Priority] – Criteria for Decision to Retain for Period 20 Years

Each case will be assessed and considered on an individual basis, directly or soon after the last final action on the case. Cases are to be considered for destruction where the Secretary of State is satisfied that the allegations are unfounded or malicious or did not otherwise take place, i.e. where the SoS found that there is no evidence that the individual had any involvement in causing harm or risk of harm or the referral relates to a non-care position. Only where there is evidence of very serious misconduct e.g. allegations of assault causing serious harm, repeated incidents of neglect and emotional / psychological abuse will a retention period of 20 years be given.

Provided records are not needed to comply with legal, financial or audit requirements, at the end of the retention period the records will be assessed to ensure changes in legislation, disputes and/or case reviews/enquiries/appeals do not require extended retention. If there is no reason to extend the retention period, records will be confidentially destroyed.

Low [Priority] (level (3)) – Criteria for Decision to Retain for Period 10 Years

Each case will be assessed and considered on an individual basis, directly or soon after the last final action on the case. Cases are to be considered for destruction where the Secretary of State is satisfied that the allegations are unfounded or malicious or did not otherwise take place, i.e. where the SoS found that there is no evidence that the individual had any involvement in causing harm or risk of harm or the referral relates to a non-care position. Only where there is evidence of serious misconduct e.g. frequently repeated incidents of serious physical/assault and/or verbal abuse, serious or repeated financial abuse, professional misconduct leading to neglect or medical mismanagement will a retention period of 10 years be given.

Provided records are not needed to comply with legal, financial or audit requirements, at the end of the retention period the records will be assessed to ensure changes in legislation, disputes and/or case reviews/enquiries/appeals do not require extended retention. If there is no reason to extend the retention period, records will be confidentially destroyed.

Low [Priority](level (2)) – Criteria for Decision to Retain for Period 5 Years

Each case will be assessed and considered on an individual basis, directly or soon after the last final action on the case. Cases are to be considered for destruction where the Secretary of State is satisfied that the allegations are unfounded or malicious or did not otherwise take place, i.e. where the SoS found that there is no evidence that the

individual had any involvement in causing harm or risk of harm or the referral relates to a non-care position. Only where there is evidence of misconduct e.g allegations of serious incidents or repeated incidents of verbal abuse, physical abuse (rough handling for instance) serious or repeated financial abuse will a retention period of 5 years be given.

Provided records are not needed to comply with legal, financial or audit requirements, at the end of the retention period the records will be assessed to ensure changes in legislation, disputes and/or case reviews/enquiries/appeals do not require extended retention. If there is no reason to extend the retention period, records will be confidentially destroyed.

Low [Priority] (level (1)) (Out of scope cases) – Criteria for Decision to Retain for Period 3 years

Each case will be assessed and considered on an individual basis, directly or soon after the last final action on the case. Cases are to be considered for destruction where the Secretary of State is satisfied that the allegations are unfounded or malicious or did not otherwise take place, i.e. where the SoS found that there is no evidence that the individual had any involvement in causing harm or risk of harm or the referral relates to a non-care position. Only where records are considered to be 'out of scope' of the POVA scheme, but there is evidence to support allegations of relatively minor misconduct where barring would be unlikely to be considered on a future 'in scope referral' unless repeated within a 3 year time e.g. isolated or infrequent incidents of verbal or petty financial abuse in non regulated care settings, will a retention period of 3 years be given.

Provided records are not needed to comply with legal, financial or audit requirements, at the end of the retention period the records will be assessed to ensure changes in legislation, disputes and/or case reviews/enquiries/appeals do not require extended retention. If there is no reason to extend the retention period, records will be confidentially destroyed.

Considerations as to whether to retain information at the initial review period for all levels:

For each category, a review and assessment of the evidence held on the record would follow the behaviour since the referral so in some cases, further retention will be considered necessary where it is judged there may be a residual risk to vulnerable adults.

Evidence of more than one allegation, including information from different sources indicating concerns.

Information which indicates further relevant offences have been committed

Any information received from Police, Social Services, or Employers that there

may be serious concerns about a person (even where a criminal trial has not taken place, or has not resulted in a conviction)

Evidence of repeated dismissal or other disciplinary actions

Indications that a case may be subject to ongoing public concerns, raise issues of public confidence

Annex B – Email

Email

Email is one of the mechanisms for information exchange in which inappropriate or damaging information can most often be found, creating the basis for disputes. This may be due to the common, but inaccurate, perception that once deleted, email is gone forever or because people tend to be more casual in their use of email than when writing a letter or file note.

It is important that email be viewed and used in the same way as other business correspondence and that staff understand that any email they send is a permanent record and can be recovered. It is equally important to emphasize that, until the hard drive of a PC or server is destroyed, it is often possible to retrieve deleted electronic records.

NOTE: Reformatting such drives is not a secure method of protecting sensitive electronic data. Hard drives should be physically destroyed or, if being reused, should be electronically shredded using recognized hard drive shredding software.

As with any other document, the length of time email should be retained depends on its content and it should be evaluated accordingly. It is common, however, for staff not to be particularly diligent with respect to deleting email that no longer needs to be retained. Limiting the amount of memory available for saving email within the department's systems can force email users to delete or move less important email in order to make room for new email. However, there may be a practice of moving such emails into 'personal' folders or areas and subsequent failure to scrutinize and dispose of outdated or redundant content.

Case related emails which need to be saved must be either:

- (ii) printed in hard copy and kept in the appropriate file; or
- (ii) downloaded to a computer file/folder/area and kept electronically or on disk as a separate file, in accordance with departmental standards on such storage/retention.

Annex C

Section 1– Requests for Review of Barring Decision

(i) Where an individual who is listed on POVA requests a review of his/her listing, either by the Secretary of State or the First Tier Tribunal, and his/her name is retained on the list, records relating to that individual will be held until the individual's name is removed, whereupon the criteria in Annex A would apply, or until eighty (80) years after the final entry on the record, whichever is earlier (see note 2 – paragraph 9.6 above).

(ii) In cases where new information has come to light as a result of the request for a review where the direction or listing decision is not revoked, the records shall be updated and retained for a period of 80 years after the final relevant case record, or 3 years after notification of an individual's death.

(iii) In cases where, following a review, the direction or listing decision is revoked and the individual's name is removed from either the PoCA list or List 99, the records shall be updated and retained in accordance with the retention criteria outlined above and that set down in Annex A.

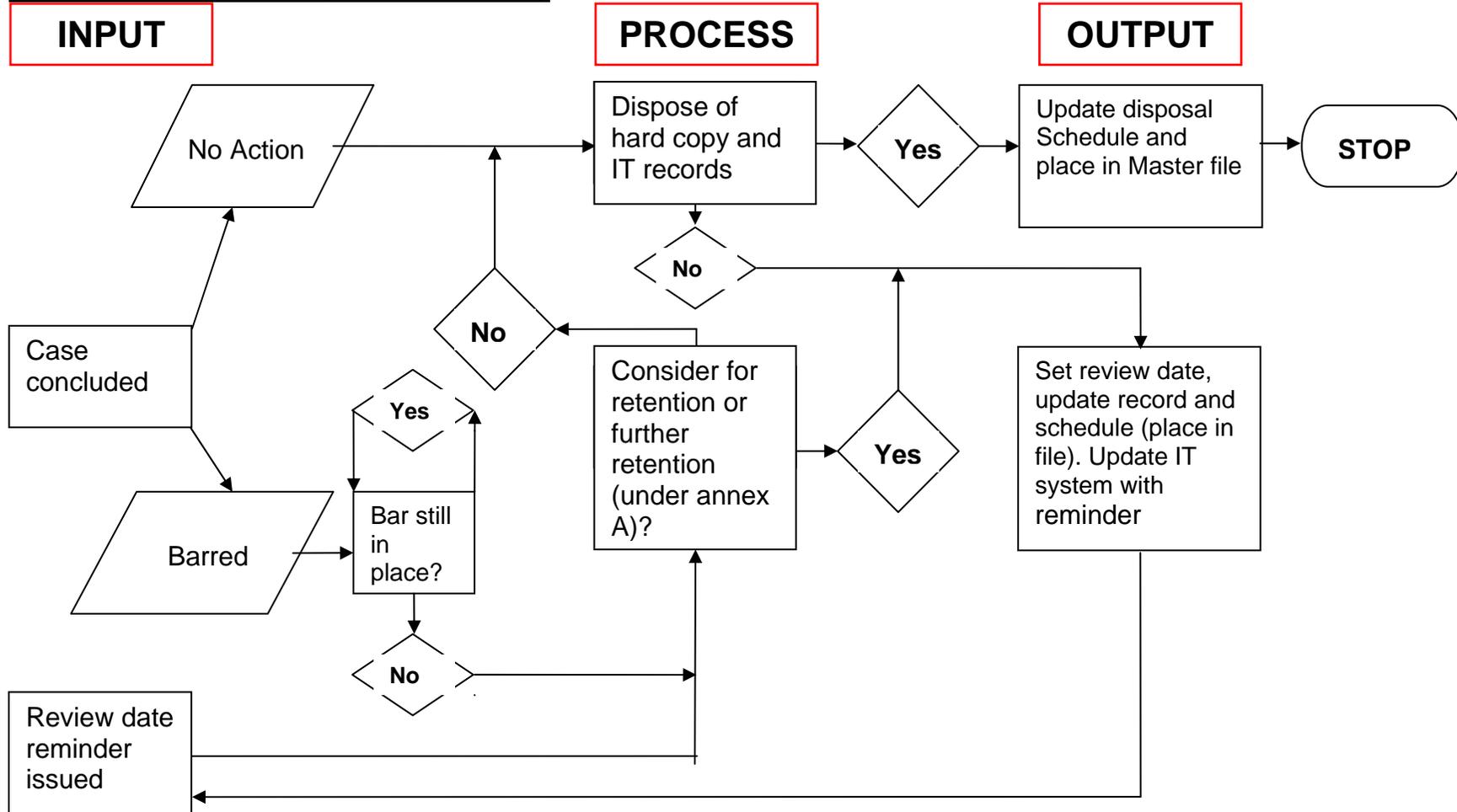
Section 2 – Retention Period

(iv) Representations submitted by individuals, whether barred or not, requesting that their information be destroyed will be considered on a case by case basis. In such instances advice should be sought from relevant internal advisers before any action is undertaken. Where it is agreed that such information be destroyed, this will be carried out in accordance with this policy. Only in exceptional cases should documentation not be retained in accordance with the terms of this policy.

(vi) For each of the cases outlined in this annex, if on review at the end of the retention period, there is sufficient residual concern regarding the potential risk to vulnerable adults posed by the individual, the information shall be retained for a further 5 years and on-going retention reviewed again at the end of that period.

(vii) If, after the initial retention period has expired, it may be necessary to retain records to ensure ministerial accountability for decisions made in the case, the information shall be retained for a further period of five (5) years from the date of the review after which it will again be considered for disposal in accordance with the terms of this policy.

Annex D – Overview of operation of Policy



Annex E - Transfer of non-bar files to the ISA

At the time of publishing this policy, referral cases, which have not been included on the PoVA list (non-barred cases), are currently housed and archived by DfE under an SLA with DH. However, plans for these files to be transferred to the ISA are underway following the introduction of the new Vetting and Barring Scheme on 12 October 2009.

In addition, at the time of publishing this policy document, DH has not undertaken an exercise to categorise these archived files in line with Annex A. However, in readiness for the transfer of the non-bar cases, DH has prepared a schedule of the non-bar cases, categorised by the date of last action (closed). The schedule provides the ISA with the number of cases closed in each year that the POVA scheme was in operation. It will also provide the date of last action for each individual case. The schedule provides the ISA with sufficient information to highlight which cases must be categorised and reviewed to meet earliest retention period highlighted at Annex A. This policy document therefore sets the framework for the review and categorisation of the non-bar cases, which [it is anticipated that] the ISA will need to undertake.

It is recognised/accepted by the ISA that the Secretary of State may for his legitimate purposes need to access the information held in PoVA files which are transferred to the ISA.