

## Business rules for creation, management and disposal of records on behalf of the NHSBSA

### Issue sheet

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## 1. Introduction

### 1.1 Need for guidance

Most records arise organically from the business process and do not need to be formally created as that process is happening; the exception to this is minutes of standing committees (where there is a person designated to create the record) or of certain kinds of meetings with staff (e.g., a disciplinary, grievance or union negotiation meeting). Once records are created they are likely to be re-used for a number of different reasons, and therefore have to have certain characteristics.

These characteristics, as laid out in the international standard on records management<sup>1</sup> are that the record:

- is authentic – that it is what it says it is
- is reliable – it can be trusted as a full and accurate record
- has integrity – it has not been altered since finalised
- is usable – the record can be retrieved, read, understood and used for as long as it is required.

The NHSBSA's policy<sup>2</sup> on records management includes a statement indicating the organisation's commitment to creating appropriate and complete records of its business transactions, these records being appropriately managed subsequent to their creation until their ultimate disposal. This guidance is concerned primarily with reliability, and ensuring that the NHSBSA's records are full and accurate and in accordance with the Lord Chancellor's Code of Practice on Records Management which recommends the development of business rules to decide what records are to be kept. It is intended to ensure that all staff are aware of what is meant by a complete record and what factors need to be considered when ensuring that the NHSBSA's records have the required characteristics.

## 2. The NHSBSA's recordkeeping environment

### 2.1 Business environment: business aims, legislation and guidance

An organisation does not create documents and records as an activity in itself, but rather expects that its information will support its business aims and responsibilities, as well as support compliance with legislation and advice. It is by assessing these requirements that an organisation can determine what kind of records it needs to create, what are the business and legislative requirements for use, and what is an appropriate retention time for records. The records required by the NHSBSA are determined by the requirements of:

#### 1. legislation and guidance

<sup>1</sup> ISO 15489-1:2001 *Information and documentation – Records management – Part 1: General*, ISO/BSI 2001

<sup>2</sup> NHSBSARM001 *NHSBSA Records Management Policy*

[http://www.nhsbsa.nhs.uk/Documents/NHSBSACorporatePoliciesandProcedures/Records\\_Management\\_Policy.pdf](http://www.nhsbsa.nhs.uk/Documents/NHSBSACorporatePoliciesandProcedures/Records_Management_Policy.pdf)

2. governance and transparency
3. maintenance of its authority and assets,
4. good and effective business management.

This means that for a record to be considered “adequate” it must support the NHSBSA’s business aims and responsibilities in all of these areas.

A record must also support the organisation’s compliance with (and must itself be compliant with) legislation to which the organisation is subject. This includes (but is not limited to) the following Acts:

- Public Records Acts 1958, 1967
- Freedom of Information Act 2000
- Data Protection Act 1998
- Copyright, Designs and Patents Act 1988
- Health and Safety Act 1974
- Limitation Act 1980
- Companies Act 2006
- Control of Substances Hazardous to Health Act 2002.

Where the organisation is not bound by legislation, there may be bodies whose advice and guidance are relevant to the NHSBSA. These include (but are not limited to):

- the Department of Health
- the NHS
- the Ministry of Justice
- the Information Commissioner
- The National Archives.

The NHSBSA is subject to both external and internal audit and must be able to account for its decisions and actions. The NHSBSA must be able to defend its rights to take certain actions; these rights will on some occasions be given in law and on other occasions based on the organisation’s foundation documents. It must also be able to manage and defend its assets, whether these are physical (e.g., property) or intangible (e.g., intellectual property). The NHSBSA has a responsibility for doing its business in as efficient and cost-effective way as possible. This includes the way in which it manages its information assets, and requires the organisation to ensure that its information is clearly identified, available and accurate.

## **2.2 Business rules in records management context**

The rules in this guidance apply to all records in all formats, including e-mail. Records that are transitory (having little or no legal, evidential or historical value) should still meet the basic requirements in this guidance. There is other records management documentation (e.g., the file-plan and retention schedule) which will give more specific procedural guidance on how to implement the requirements.

These business rules are intended as a high-level guide to the corporate responsibility to create and maintain good quality records of business activity. It is intended that this guidance be supported by local guides to recordkeeping, which contain further advice on specific issues mentioned in these rules.

Organisations such as the NHSBSA have been creating adequate records for a long time and many of these characteristics, and many of the requirements of these Rules, are already in place or are part of the assumed processes of the staff. However, it is important that the characteristics of records be articulated given the rate of change of the electronic environments in which records are created, managed and maintained.

The aim of the business rules is to enable the NHSBSA to produce and maintain adequate records of its internal and external business activities. Adequate records are those that:

- are reliable and credible, and whose reliability can be demonstrated
- were created by individuals with first-hand experience or knowledge of the activity being recorded or by systems routinely used for creating records
- were created as a by-product of the activity (and not recollected later)
- are demonstrably authentic
- have demonstrably been kept secure from alteration and therefore have integrity
- can be located, within their original context and with related records, over as long a period of time as has been considered necessary.

### **3. Business rules: Full and adequate records**

#### **3.1 What records should be created?**

##### **3.1.1 When to create records**

In complex organisations such as the NHSBSA, there are many types of records created, both in structured and unstructured environments. However, there is a core set of types of business evidence which should always be available. The NHSBSA should always be able to provide adequate and reliable records as evidence of:

- policy
- decisions and the reasons for decisions
- business actions/business activity, and procedures underlying these activities
- compliance with relevant legislation, standards etc.

Ensuring that these areas have adequate records means that the organisation can manage litigation and audit. It also improves business performance, as there is information available internally about what has been done in the past and how, ensuring that current activities can be managed and tracked, work is not unnecessarily repeated, and business experience is available for later exploitation.

### **3.1.2 When not to create records**

- When there is no activity or decision to record (records should, however, be kept in cases where the lack of decision arises from discussion, disagreement or dispute).
- When only personal opinion (not professional or expert advice) is being recorded.
- When the information already exists with its creator (e.g. keeping a copy of an attachment).

In the same way as staff within NHSBSA have individual responsibility to ensure that their activity is appropriately recorded, they have an equal responsibility to ensure that they do not create inappropriate records. The NHSBSA is responsible for all the information that it holds. This includes informal or private documents and emails which were not intended as formal records. All information can be requested under the Freedom of Information Act and although there are exemptions (acceptable reasons for refusing to disclose) it is not legitimate to refuse to disclose because the information was private or informal, or because disclosure would be embarrassing. The NHSBSA does permit a certain amount of private use of e-mail and other applications. However, it is the responsibility of individual members of staff to ensure that they:

- do not inadvertently include casual records in a formal context (e.g. by inadvertently filing informal material along with business records)
- do not make personal or informal comments or observations in documents being used as part of a business process (e.g., in e-mail)
- do not unnecessarily collect or retain personal information
- remember that everything created on NHSBSA equipment on NHSBSA time belongs to the NHSBSA.

If you create personal documents, including email, make sure you delete them. If you have a personal opinion which you would not be happy to see published do not write it down.

### **3.2 What makes an adequate record?**

The point of a record is to provide reliable and available information about business activity and business decisions. The characteristics of an adequate record relate to:

- (a) content

(b) associated information about the record (known as metadata).

### 3.2.1 Names and other metadata

The requirements of content and metadata for particular record types (e.g., minutes, references) depend on the nature of the business activity and the evidential value of the record. Some records (e.g., legal records) will have very specific requirements for the information which needs to be included, and some records have specific requirements as to metadata (e.g., some financial records may need one or more authorised signatures). In practice, the nature of the activity and the evidential value are reasonably easy to assess. Many business activities are either process-driven by use of forms or are managed within a structured technical environment (i.e., a business application) which will prompt for the required information.

Very formal activities – and ones where the record may have high evidential value – may not be managed through an application but will nonetheless have clearly defined and well-known procedures which will include provision for what information is to be included in the record. Some simple activities can be recorded in one record, more complicated activities may need several, so a file will become “the record”. This is the situation with, for example, pension members’ files and fraud case files.

A record of a business activity, however transient the record is, should include in its content:

- the main activity performed or decision taken (e.g. payment of prescription charges, calculation of a pension scheme member’s benefits, minutes of a meeting)
- the names (preferably with job titles) of those involved
- any related or following action or decision, if relevant.

Each record should include, as a minimum, in its metadata:

- name of the document or file
- date (including start date for a file)
- author (including job title)
- location.

The name should make sense to other people; please see guidance on naming conventions in NHSBSARM015 *NHSBSA Corporate records management guidance*. The location of electronic records will automatically be attributed based on where on the server it is saved, hence it is important to give logical names to each level of file. Hard-copy files should have the physical location written on the file cover.

## **3.2.2 Managing current records**

### **3.2.2.1 Location and filing**

The majority of the NHSBSA's records are digital-born. Although electronic systems all provide a "search and retrieve" facility, this is a very blunt instrument for making the most of the business' information assets. Records should be correctly filed, which means that they should be filed in a way that keeps them in the context in which they were created, and in association with other records relevant to the same activity. This is particularly important for unstructured records, where staff take decisions as to which folder will hold the record.

All activities, whether internal administrative functions or outward-facing business streams, will be covered at the higher (i.e. more general) levels by the NHSBSA model corporate file-plan, which is included in NHSBSARM014 *Business Classification Scheme*. This should form the basis of local filing plans, particularly in those functions and activities (e.g. line-managing staff, managing projects, meetings) which are common to all business areas. Some local variations may be possible but these are to be agreed centrally in advance. Using a standard file-plan makes it easier to attribute other corporate requirements to files (e.g. retention periods or security classifications), as well as making it easier for all staff to find their way around the organisation's information without needing unreasonable amounts of local business knowledge.

### **3.2.2.2 Management and access**

Records should be managed as actively as possible. This is greatly facilitated by use of a clear filing plan, and by the provision of procedural guidance locally. Records should be created contemporaneously with, or as soon as possible after, the business activity to which they relate, and all filing, both electronic and hard-copy, should be done as soon as possible. Staff should actively manage the maintenance of files, by closing and disposing of completed files, weeding on a regular basis, and having established routines and documentation for the disposal or transfer of records (see 3.2.2.3 below).

Staff must be aware of any need to limit access to files and are responsible for ensuring that these limitations are enforced. Access limitations will apply to hard-copy as well as to electronic records. The guidelines laid out in the Information Security Policy and advice available from the Information Governance section will be the relevant resource in this regard.

There are occasions when the need for a restriction passes, and the staff responsible for the record are also responsible for ensuring that changes in status are recognised. Information that was restricted may, for example, cease to be sensitive when a contract is awarded or a Director appointed, or minutes approved. The cessation of a restriction should be acted upon, e.g., by removing passwords or other protection, or of flags or other indicators of restrictions.



### **3.2.2.3 Disposal and documentation**

When a record or file is no longer actively required for business purposes, action needs to be taken with it. This will either be that the file is disposed of, or that it is transferred for retention for a specified period of time. Staff must be familiar with the relevant sections of the corporate retention schedule, so that responsible decisions about disposal can be taken. It is also the responsibility of staff to notify central records management staff if there is a change in the business use of a record, as this may mean that a longer or shorter retention period is appropriate.

Since the NHSBSA is subject to the Public Records Act, all disposal activity (whether destruction or transfer to storage) should be recorded so that it can be audited, that is, there should be a list of files destroyed and files transferred. Files that are managed within an application may be able to provide such lists from the software. The easiest way to manage files outside of a structured environment is to maintain a file or series list, which will identify each of the business activities and all of the files that are generated in consequence, and which demonstrates the date on which files were either destroyed or were transferred into storage.

### **3.2.2.4 Records and personal information**

The NHSBSA is subject to the Data Protection Act 1998; this legislation is concerned with the way in which organisations collect, hold, use and dispose of personal information about living, identifiable individuals. Details of how compliance is to be achieved, and of restrictions placed by this legislation on information use, are available from the Information Governance section. Personal information can be of any kind but will include name, contact details, references or employment history. Sensitive personal information includes but is not limited to information on a person's ethnic or racial origin, marital status or criminal convictions.

It is necessary for some business purposes to collect personal, and sometimes sensitive personal, information about individuals. However it is important that this information is only collected when it is necessary, that it is only used for the purposes for which it was collected, and that it is disposed of, appropriately, once that business use has ended. Personal information should be disposed of as soon as is practicable after the process for which it was required has been completed. This may mean that such files have to be weeded once the process is completed, if the main file is not disposed of at that point.

### **3.2.2.5 Special case – Email**

Emails can be records like any other document, but they often require more attention than other types of records, because:

- they are created in a separate application (so it may not be immediately obvious that there is a connection with another file)
- they are often informal

- the subject of the email can change if it is a long string. This last causes difficulty because the subject line becomes irrelevant (but may still be the document title)
- the email can contain both formal and informal aspects, the former of which may be a record and the latter of which is not.

In some areas of the business emails may be included in applications that manage business activities (i.e. emails are saved into an application along with all other documents). Where this is not the case, email should be used with care. This means:

- minimise use of email as the sole or major evidence of a business activity
- where it is a component of a record of activity, file it out of the email application and keep it along with the file or files on that activity
- ensure there is clarity about responsibility for the email – the person with responsibility for the activity has responsibility for the records, and this includes email. Do not assume the recipient will keep a copy.
- ensure that the metadata is correct and reliable.

### **3.3 Records in the future**

Organisations are dynamic and their business activities, environment and responsibilities change on a regular basis. The requirements for good records management does not change and organisations therefore have to take steps to ensure that the records that are created as part of the business activity in the future still comply with business rules, policy and procedure.

#### **3.3.1 Training and guidance**

All new staff should receive training in addition to being provided with the standard operating procedures for recordkeeping for their area, records management requirements for the organisation, and be made aware of their individual responsibilities in these areas.

Decisions about filing, naming and location should not be left to the individual member of staff. Each area of activity should have written procedures and guidance for creating and keeping records, based on corporate guidance, which are made available to new staff with the requirement that records be managed in this way. Each area should have a member of staff whose responsibilities include the maintenance of this guidance to ensure that it remains relevant to the local business activity, and also remains in line with corporate policy and advice.

#### **3.3.2 Planning and new activities**

It is important to remember that while the rules apply to records currently generated, and by current systems and applications, they must also be planned for when introducing new activities, making new policy decisions on information management, and especially when considering new software applications or information technology solutions.

Any new activity within the organisation will create records, some of which can be quickly disposed of, and some of which may require longer retention. Part of the recordkeeping responsibilities of staff is to ensure that records management requirements for new records are identified and administered. This will include:

- clarifying responsibility for creating and maintaining records generated by the new activity
- identifying the best filing context and metadata for records, using available guidance
- ensuring that the records are adequately represented in corporate guidance (e.g., the retention schedule) and requesting that updates be made if necessary
- ensuring that local guidance (e.g., procedures manuals or standard operating procedures for staff) are updated as necessary to reflect new activities, and that any changes are communicated to relevant staff.

### **3.3.3 Collaborative work**

Additional attention may need to be paid to the requirements of records which arise from collaborative work. This includes collaborative work between staff groups, across sections or divisions, or between the NHSBSA and external bodies. The person (or organisation) responsible for creating, managing, maintaining and eventually disposing of the records of that business activity needs to be identified early in the project. They need to know not only that they have this responsibility, but also what exactly that responsibility involves, and how they are to ensure that they create appropriate records and manage them adequately.

Where collaboration occurs the person, team or organisation which is leading the work – e.g., the project lead – should assume responsibility for the records. They will create them, in accordance with agreed standards, and are responsible for ensuring that they are correctly identified, kept safe, managed correctly and disposed of appropriately. Others involved in the collaborative work may keep local copies but are to dispose of them once they are no longer required. There may be some circumstances in which a formal agreement about the management and especially the disposal of records is appropriate, in order to protect the intellectual property, commercial or other professional privileges associated with the content.

Where the NHSBSA is in collaboration with an outside body and is the lead in that piece of work, it should assume responsibility for the records, which should be created, managed, used and disposed of in accordance with the standards set out in the records management policy, business rules and associated guidance.

## **4. Other guidance**

The NHSBSA supports its staff in meeting the organisation's records management requirements by providing guidance and training in component activities.

Internal documents that are of relevance are:

NHSBSARM001 *NHSBSA Records management policy*

NHSBSARM002 *NHSBSA Records management strategy*

NHSBSARM012 *NHSBSA Corporate records retention schedule*

NHSBSARM014 *NHSBSA Corporate business classification scheme*

**\*\* NOT YET APPROVED \*\***

NHSBSARM015 *NHSBSA Corporate records management guidance*

NHSBSARM017 *NHSBSA Data handling and storage policy*

NHSBSARM018 *NHSBSA Corporate business classification scheme – scope notes*

**\*\* NOT YET APPROVED \*\***

NHSBSAIGM002 *NHS Business Services Authority Information governance policy*

NHSBSAIS001 *NHS Business Services Authority Information security policy*  
*NHSBSA Data classification matrix*

NHSBSABCP001 *NHS Business Services Authority Business continuity management policy*

NHSBSABCP002 *NHS Business Services Authority Business continuity management strategy*

Approved documents are available on the Corporate Policies and Procedures page of the NHSBSA website at <http://www.nhsbsa.nhs.uk/2342.aspx>