



## Guide No. 3      Legislation affecting records and record-keeping

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This handout provides an introduction to legislation which affects records and record-keeping. There are a number of pieces of legislation of relevance to the Religious Society of Friends which have an impact on the way records are managed. Below are some Acts of Parliament which make reference to records and record-keeping. The retention periods given in your meeting's retention schedule (see *Guide no. 2 Meetings' records and their retention and disposal*) should refer to legislation where relevant.

### 1. Data Protection Act, 1998

#### a. Principles of the Act

The Act gives individuals the right to access information about them that is held by organisations. If records contain *personal* information about **living** persons, you will need to be especially careful about how you manage and store them. The underlying principles of the Act are to:

- protect individuals' rights to know what personal information is held about them and how it is used, and

- that those who hold and use personal information must be open about how the information is used, and follow the eight principles of good information handling (see below).

The eight principles of good information handling are:

1. Personal data shall be processed fairly and lawfully.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data should be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or purposes.
6. Personal data should be processed in accordance with the rights of data subjects under this Act.
7. 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. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

In many ways, the provisions of the Act accord with the Quaker testimony to Truth and traditional church government. Compliance with the Act should be viewed as engaging in good and responsible practice.

#### b. Meetings' responsibilities

Britain Yearly Meeting and its Area Meetings are each registering as individual charities. When a meeting becomes a charity, it should register with the Information Commissioner under the Data Protection Act. Those meetings who have not yet registered, are covered by BYM's original central registration under the Data Protection Act. BYM's central registration continues to cover data held by other constituent parts of BYM, including central and other standing committees. For further information, see *section d. BYM policies and guidance* below.

Meetings and committees have a responsibility to maintain their records in compliance with the Act, and Clerks and Custodians of Records need to be familiar with the basic legislative requirements and with BYM policies (see *Quaker, Faith and Practice*, 4th edition, 2009, §4.45).

#### c. Responsibilities of Custodians of Records

The main things Custodians of Records should know about the Act are:

- It only concerns *personal* information about *living* individuals. It is therefore unlikely to apply to records over 100 years old. If records

being transferred to a repository contain information on living individuals then the closure periods should be extended (see *Guide No. 8 Use and access to records and archives*).

- It allows an organisation, to which a person has joined, to hold and use information given to them for its 'necessary administration' (for example membership records).
- Personal information should not be kept for longer than is necessary. The Act, however, gives no simple rule for deciding on how long is 'necessary'. A large number of Quaker records contain personal information; recommended retention periods for Quaker records is given in *Guide No. 2 Meetings' records and their retention and disposal* and there is additional guidance in *Guide No. 8 Use and access to records and archives*.
- Information about living Friends can be used only within Britain Yearly Meeting, and cannot be shared with a third party without consent or justification. See *Guide No. 8 Use and access to records and archives*.
- Information should be kept securely. All paper files containing information about individuals should be kept secure, preferably in locked filing cabinets with restricted access. Reasonable steps should be taken to keep information held on computer secure, whether at a Meeting House or at a Friend's home. See also *Guide No. 7 Preservation and storage of records and archives*.

#### d. BYM policies and guidance

Britain Yearly Meeting has an Information and Data Protection Policy, overseen by Yearly Meeting Trustees. Advice on data protection for meetings is given in [Data Safety and Information Security Guidance for Meetings](#). Further information about data protection can be found at [www.quaker.org.uk/clerks](http://www.quaker.org.uk/clerks) or by contacting Quaker Communications, Friends House, 173, Euston Road, London, NW1 2BJ, telephone 020 7663 1114, email [securitycommittee@quaker.org.uk](mailto:securitycommittee@quaker.org.uk).

## 2. Copyright, Designs and Patents Act, 1988

### a. Requirements of the Act

Researchers, authors, local history magazine editors and others may request permission to publish extracts or texts from Quaker records. The Copyright, Designs and Patents Act requires clear knowledge of the ownership of copyright in records before any outside person may copy any part of the record. Where electronic records are involved, the software as well as the content of the records may be subject to copyright, and the two may be owned by different parties.

### b. Meetings' responsibilities

An Area or Local Meeting holds the copyright of any records or unpublished documents that it has composed, produced or commissioned. Requests to make copies or reproductions, or quote extracts from documents will therefore normally require the permission of the meeting or the clerk if this power has

been delegated. This may apply to all forms of reproduction (photocopying, microfilming, digitisation, scanning, photographing or other methods).

Any reproduction should include an appropriate acknowledgement of ownership or statement of permission. For example, Friends House Library asks for the following standard acknowledgements when materials from its collections are quoted or used:

- when quoting from manuscripts: *The Library Committee of the Religious Society of Friends in Britain*
- when reproducing a picture: *Reproduced with permission of the Library Committee of the Religious Society of Friends in Britain*
- when using material published, composed, produced or commissioned by the Yearly Meeting: *Copyright of the Library of the Religious Society of Friends in Britain*

### **3. Other legislation affecting records**

#### **a. Companies Acts, 1985 and 1989**

Stipulates statutory minimum retention periods for:

- Minutes (lifetime of company)
- Accounts (current financial year + 6 years)

#### **b. Disability Discrimination Act, 1995**

Recommends minimum retention periods for records relating to:

- Advertising of vacancies (filling of vacancy + 6 months)
- Job applications:
  - Successful (transfer to staff personnel file)
  - Unsuccessful (filling of vacancy + 6 months)

#### **c. Financial Services Act, 1986, and related regulations**

Stipulates a statutory minimum retention period for:

- Financial records (current financial year + 6 years)
- Salary advices (current financial year + 3 years)

#### **d. Health and Safety at Work Act, 1974, and its regulations**

Stipulates statutory minimum retention periods for:

- Records relating to risk assessments (Review 3 years from creation)
- Monitoring of working environments (creation + 40 years)
- Monitoring of employees' health (creation + 40 years)
- Accident books (completion of book + 3 years)
- Accident/dangerous occurrence report forms (date of occurrence + 3 years)

#### e. Limitation Act, 1980

Recommends minimum retention periods for some financial records, contracts, some court actions and personnel records:

- Complaints (settlement of dispute + 6 years)
- Appeals (settlement of dispute + 6 years)
- Disciplinary hearings against staff (settlement of case + 6 years unless merged with personnel file)
- Staff personnel files (termination of employment + 6 years or 75 years if contain pension information)
- Reporting and investigation of accidents (date of accident + 40 years)
- Procurement records (e.g. Tenders)
  - Successful (termination of supply contact + 6 years)
  - Unsuccessful (creation + 1 year)
- Hiring out of conference facilities (termination of agreement + 6 years)
- Private hire agreements (termination of agreement + 6 years)
- Insurance policies (termination of policy + 6 years)
- Insurance claims (settlement of claim + 6 years)
- Conduct of testing, maintenance and statutory inspections (life of plan/equipment + 6 years)
- Maintenance logs and schedules (creation + 2 years)
- Inspection certificates (creation + 6 years)
- Payroll payments (creation + 6 years)
- Share certificates (disposal of shares + 6 years)

#### f. Race Relations Act, 1976

Recommends minimum retention periods for:

- Advertising of vacancies (filling of vacancy + 6 months)
- Job applications:
  - Successful (transfer to staff personnel file)
  - Unsuccessful (filling of vacancy + 6 months)
- Ethnic monitoring questionnaire/reports (creation + 5 years)

#### g. Sex Discrimination Acts, 1975 and 1986

Recommends minimum retention periods for:

- Advertising of vacancies (filling of vacancy + 6 months)
- Job applications:
  - Successful (transfer to staff personnel file)
  - Unsuccessful (filling of vacancy + 6 months)

#### h. Value Added Tax Act, 1994

Stipulates a statutory minimum retention period for:

- Purchase orders (creation + 6 years)
- Delivery and goods received notices (creation + 6 years)
- Income and expenditure accounts (creation + 6 years)
- Management of bank accounts (creation + 6 years)
- Assessment of tax liabilities (current tax year + 6 years)
- Submission of tax returns (creation + 6 years)

i. Civil Evidence Act, 1995

Resolved many of the problems of legal admissibility of evidence generated by or held on computers, by shifting the argument away from admissibility to the evidential value or weight of a document. A court will still need to be satisfied as to the authenticity of the document, and procedures need to be in place to prove this.

j. Electronic Communications Act, 2000

Provides for legal recognition of electronic signatures and the process under which they are generated, communicated or verified.

#### 4. Further advice

For further advice on managing records and archives you can either write to Friends House Library, Euston Road, London NW1 2BJ, telephone 020 7663 1135 or send an email to [library@quaker.org.uk](mailto:library@quaker.org.uk)

#### Guides in this series

- Guide No. 1 The job of the Custodian of Records
- Guide No. 2 Meeting records and their retention and disposal
- Guide No. 3 Legislation affecting records and record-keeping
- Guide No. 4 Records creation
- Guide No. 5 Minutes and supporting papers
- Guide No. 6 Electronic records
- Guide No. 7 Preservation and storage of records and archives
- Guide No. 8 Use and access to records and archives
- Guide No. 9 Depositing archives with appropriate repositories
- Guide No. 10 Disaster preparedness
- Guide No. 11 Creating exhibitions and displays
- Guide No. 12 Records equipment and suppliers
- Guide No. 13 Glossary
- Guide No. 14 Frequently Asked Questions

All guides can be downloaded from the Britain Yearly Meeting website [www.quaker.org.uk/library](http://www.quaker.org.uk/library) on the Support for Meetings page or requested from the Library.

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