

retention of documents – how long is long enough?

How long is a piece of string? Tricky. Twice the length from one end to the middle, you say? Well, yes, but still not very helpful in determining how long the string actually is, is it? We can do slightly better with the question as to how long a business should retain its documents; but a definitive answer is almost as elusive.

With the increasing sophistication of computer storage systems, it is now possible to store many hundreds of thousands of documents relatively cheaply. With the drop in price of file servers and the advent of backup hardware, digitising newly created documentation is a real possibility for many practices that have never needed computerised records; they simply digitise newly created documents as it is created.

With many years of old paper documents, the time implications of digitising them can be significant. The space implications of digitising them can also be significant. The space implications of digitising them can also be significant.

Document retention

Be it schematics for the construction of a building, advice issued to clients on a negligence claim, or documents supporting the valuation of a house, papers produced which are vital to the service that is provided. Indeed, the documents produced might be the very service itself. Storage space is finite for all businesses – everything cannot be stored indefinitely. The danger with destroying documents early, however, is readily apparent.

Although general guidance can never address the specifics of individual situations, and specific advice should always be taken, the following areas should definitely frame the debate:

1. PI policy requirements
2. Contractual requirements and liability periods
3. Other factors

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PI DOCUMENTS - HOW LONG IS LONG ENOUGH?



- Contractual uncertainty
- Can't rely on contract limitations
- No clear division of services amongst project team
- No written evidence to defend negligence claim
- Claims succeed which would otherwise have failed
- Breach of PI policy?

PI policy requirements

It is a matter of call in trying to answer the question as to how long to retain documents at the terms of your PI policy. Practices may have different requirements. Some may be silent on the issue, to others may be onerous terms as to both how long to retain your documents and in what format they should be retained. The reason for this is obvious; in the event of a claim, the insurer will be interested in how you have managed your records. In the event of a claim, the insurer will be interested in how you have managed your records.

'The Insured, as a condition precedent to their right to be indemnified under the Policy, must keep all documents in a suitable secure location outside of normal business hours and shall maintain duplicates of all computer related records off site for a period of not less than 12 years following completion of the project to which the documents relate.'

The Insured shall make available to Insurers all documents in their possession, custody or control at any reasonable times and Insurers shall have the right to inspect and copy during the period of the Policy and thereafter, all books, records, documents and other records of the Insured and their agents in connection with this Policy and the Project of which the documents relate.