

Records Matter

A view from regulation and oversight bodies
on the importance of good record keeping



Good record keeping is the responsibility of every public servant, including those at a senior level who are responsible for fostering a good records keeping culture in their organisations and making sure that decisions are recorded properly.





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Foreword

We are pleased to issue this joint foreword to the important and topical issue of good record keeping.

We know that the job of delivering services to members of the public is a busy and challenging one. However we are aware that for many organisations the practice of good record keeping is not given the priority it deserves. The importance of good record keeping cannot be overstated. This is because records provide evidence of activity. They can help to tell us why a decision was made, who made it and when. They are necessary to create confidence in any decision making process, to promote accountability and transparency, and to enable others to verify what has been done. Good record keeping is also vital for corporate memory.

This publication does not give detailed guidance on how to create records - this should be contained within the policies and procedures of organisations. The aim of this guide is to demonstrate the importance of keeping good quality records. It aims to show why a culture of good record keeping is vital for a responsive public sector. Its content is formed from our collective experience of complaint handling, investigations, audits and inspections carried out over many years.

Good record keeping means:

- complying with legal, regulatory, business, and accountability requirements;
- creating a written record of decisions and key matters discussed in meetings, conversations, emails, etc;
- documenting the reasons for decisions;
- saving records in a structured or managed way so they can be easily retrieved; and,
- following any relevant policies and procedures

We often come across some excellent examples of good record keeping during our work. Unfortunately we also see the consequences of poor record keeping practices. For example, the evidence sessions of the Renewable Heat Incentive Inquiry highlighted significant issues with the quality of record keeping, including a lack of records on who took key decisions, how these decisions were made, and what was actually agreed.

In our view there is a need for more compliance work to ensure proper record keeping is observed as we move forward. One important caveat is that holding excessive documentation can be just as bad as keeping inadequate records. Common sense must be exercised to ensure that sensible, accurate, open and proportionate records are maintained.

This publication looks at our findings and recommendations in a number of cases. It is split into two main sections – **‘Creating Records’** and **‘Managing Records’**.

As regulation and oversight bodies, our various powers enable us to:

- release a report, highlighting where problems have occurred;
- recommend changes to existing practices; or,
- impose fines

Our reports can lead to criticism of public bodies, potentially leading to reputational damage. However, at the heart of our work is the aim of improving public services in Northern Ireland. We believe that by highlighting these cases, organisations will be able to see that often only a small amount of attention to the discipline of good record keeping is needed to prevent similar mistakes being made in the future.

We hope you find the publication useful.



Section One - Creating Records

In a work context, information is constantly being created. When someone sends an email, drafts a brief, writes a report, adds data to a spread sheet, or makes notes of a meeting, information is created for a specific business purpose.

It is not necessary to save every single piece of information as a business record. However, the cases highlighted here help to demonstrate how important it is for public bodies to make formal records of their actions, and in particular in relation to their decision-making.

At its most basic, the simple act of recording what has been decided, and why, could save a considerable amount of time and effort in the future. For example, it is not unusual for people to leave a meeting with different interpretations of what was discussed. An agreed record helps everyone have a common understanding of what has been decided, as well as remind people of who is responsible for undertaking an action or task.

Recording decisions can also help a public body defend its actions when challenged. For example, it will be able to show how its decisions were reached and that it has properly thought through the consequences of its actions.

A lack of proper records also makes it more difficult to convince others that a body has behaved properly. In an audit, investigation, or in the event of legal challenge, it may be difficult to prove that due process was followed if a body is unable to provide the relevant documents.

Finally, given the need for public services to be citizen-focused, it is important to acknowledge that poor record keeping can have a devastating effect on service users, particularly within areas such as health or social care. If something has gone wrong, accurate information is crucial to an understanding of what happened and why.

From a regulation and oversight perspective, if there is good record keeping it is possible to get the full story from the documentary record without the need for supplementary questioning of the people that have been involved.

However, it is important to note that this does not mean excessive documentation - it means maintaining sensible, necessary, accurate, open and proportionate records.



Case Study 1

In an audit of a Departmental Funding Scheme, the Northern Ireland Audit Office (NIAO) found that, in some instances there was a lack of detail around how funding allocations and prioritisations were agreed.

It discovered that one project, which was initially ranked as the 27th highest scoring project, subsequently moved up to seventh. This enabled it to receive £870,000 in funding.

In its report, the NIAO said that these types of decisions should be clearly documented, as a clear audit trail can justify why decisions were made and demonstrate that assessment processes have been applied fairly, consistently and transparently.

Key message

Every day, people in the public sector make decisions about how to spend public money. Good record keeping can help to show that the money has been spent wisely.



Case Study 2

A man complained that a government agency did not look properly at the impact of four planning applications near his house. An Ombudsman investigation found that the agency did not make proper records of its decision-making in the case. It did not record the reasons why it chose not to do a detailed Transport Assessment of the applications. It also failed to record the reasons why it thought the accident history in the area was not relevant.

Although there was no evidence to show that the agency had made the wrong decision, the Ombudsman found there had been maladministration because of the agency's failure to record its decision-making.

Key message

Giving reasons for decisions is a key tenet of good administration and is essential for fairness and transparency. Records can act as a 'shield' for a public body to defend its actions when challenged.

Case Study 3

When a member of the public said that he had waited too long for a Housing Association to repair his home, the Ombudsman asked it for all documents about the case. The investigation found that the Maintenance Officer who visited the house did not make a note of what condition it was in, nor what repairs were needed.

There was also no record of whether or not the man, who was registered disabled, needed the help of an Occupational Therapist. Important internal discussions about the case, and conversations between staff from the Housing Association and the tenant had not been documented on file.

The report into the complaint was critical of the record keeping at numerous points in this case. As a result of these and other failures the Ombudsman recommended that the body should apologise to the complainant and remind its staff about the importance of good record keeping.

Key message

Accountability of public sector bodies is crucial. Bodies must take a comprehensive view of how they are documenting information. They need to recognise that information has a value, particularly personal data and that not demonstrating due care and attention can lead to risks to individual's rights and freedoms as well as repercussions, such as reputational damage.

Section Two - Managing Records

Managing records in the public sector should be viewed as a core corporate function, as well as a statutory obligation. The most senior official within a public body has overall responsibility for its records management compliance. Therefore it is important that they engrain a culture of accountability within their organisation. It also means ensuring staff are properly trained and resourced to carry out these vital functions.

Describing information and records accurately allows users to understand what they are, where they came from, what has happened to them and the relationships they have with other information assets.

Making information easy to find and use also has a significant impact on the efficiency of an organisation. It is vital to ensure information is discoverable, accessible and usable. This is important for business reasons but also to comply with the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the General Data Protection Regulations (GDPR) and the Data Protection Act 2018.

Developments in technology have resulted in a change in how decisions are made and recorded, leading to a blurring of the lines between personal and business communications. This presents challenges in documenting decisions, alongside complications for the retention and accessibility of records. However, it is worth noting here that changes in technology do not change the statutory information rights obligations of public authorities. If a phone call, messaging app, email or social media exchange relates to a key business discussion or decision, the information needs to be captured and managed appropriately. This applies to personal as well as business accounts.

Information security is also an important issue for the public sector. Organisations need to ensure that the information and records they create are secured so they cannot be:

- tampered with or inappropriately altered;
- inappropriately deleted or misplaced; or
- accessed by unauthorised personnel.



Case Study 1

A police officer who added new information to the Police National Computer (PNC) mistakenly added it to the record of another individual with a similar name and the same date of birth. The information related to allegations that the man presented a risk to others.

As a result the innocent individual was reported to social services and he was prevented from looking after his son and grandson. After intervention from the Information Commissioner's Office (ICO), the force involved admitted there had been human error. It corrected the mistake, apologised to the man and reminded its staff about the importance of accuracy during data input.

Key message

Policies and procedures for effective record keeping are essential but only when they are supported by regular training and guidance for staff. All staff handling records should be provided with mandatory training on commencement of employment regardless of their grade or role and refresher training should be provided at regular intervals.

Case Study 2

The NIAO reported on the events that led to the collapse of an arm's length body and highlighted completely inadequate record keeping as a key factor. One of the most worrying issues was around the documentation supporting the appointment of a Chief Executive. The early stages of the appointment process was contracted out to a private HR firm which did not keep detailed records. The Chief Executive appointed did not have the qualifications set out in the job specification and did not meet the essential criteria, yet still passed the four stages of the recruitment process.

As part of the appointment process was contracted out, the parent department did not seem to be aware that the individual did not meet the essential criteria for the post.

Key message

Where third parties, are involved in public administration, it is essential that the public body retains the control over the documentation. Public bodies should ensure that records are kept and managed in a way that safeguards the integrity of staff and maximises public confidence in the organisation's ability to deliver public services properly. Documentary evidence is needed to provide assurance that things have been done properly.



Case Study 3

A member of the public complained to the Ombudsman about the care and treatment her husband received in hospital before his death. Part of her complaint was that four pages of notes which contained information about her husband's final days were missing from his medical file.

The Trust was unable to explain to the family why the four pages were missing. This, and the considerable delay in providing the family with the file, led to them believing that his medical record had been tampered with.

Because it could not provide robust evidence to back up its findings, the Ombudsman was unable to accept the Trust's conclusions that the missing pages did not contain records relevant to the patient's care.

The Trust agreed to apologise to the man's family and to provide a financial award to acknowledge the distress its actions had caused.

Key message

Incomplete records can lead to suspicions of wrongdoing or a sense that the body has something to hide.

Case Study 4

A box containing personal information for 25 candidates who attended an assessment centre was lost by a third-party provider. The documentation included copies of passports, qualification certificates and background security clearance documents.

The ICO discovered that there was no audit trail for the handling and storage of the records. Even though the box was delivered to and signed for by the third-party provider, it still could not be found. The ICO also said that checks of the building to try and locate the information were not properly carried out.

Following the incident, the data controller reviewed the security of its processes. It awarded the contract to a new supplier and refined the transportation process to include pre and post-assessment checks to safeguard delivery. It also developed a data protection checklist to be applied following completion of all assessments, and introduced an electronic process to avoid the need for hard copies to be sent to a third-party supplier via courier.

Key message

Information security is essential to good record keeping. Maintaining the confidentiality, availability and integrity of information is vital to ensuring that the citizen can be confident that public bodies are looking after their data.

The essentials of good record keeping

Good record keeping practice in organisations is dependent on individual members of staff knowing when to create and save records. However, staff making these judgments need to be supported by appropriate policies and procedures.

In preparing their guidance to staff, all bodies should have reference to the General Data Protection Regulations and the Data Protection Act 2018. These make it a statutory requirement for organisations to properly record their processing of personal information and the decisions lying behind that processing.

Bodies should also consider their wider records management responsibilities in line with the Section 46 Code of Practice of the Freedom of Information Act 2000. These include having in place arrangements that support records management, having efficient and effective storage systems for records, and knowing what records they hold and where they are.

As general good practice, all bodies should always strive to keep accurate official records and handle all information as openly and transparently as possible. They should also consider, as a matter of good practice, adopting a duty to document. This would assist public authorities in complying fully with their obligations under information rights legislation.

Good record keeping can be achieved by following a number of key principles.

These include:

Capturing all key decisions and actions, as well as the rationale behind them

This can often be with just a short file note, but should be done throughout the decision-making process, and as close as possible to when key decisions are made.

Managing records and information effectively and appropriately

Bodies should identify what should be kept and follow structured retention systems which allow them to show that any records destroyed were done so as part of normal business practice.

Obtaining buy-in from all staff, especially senior management

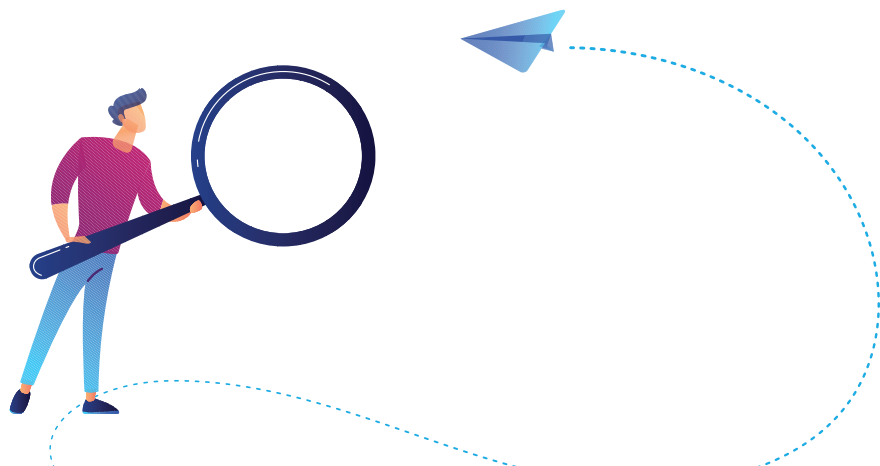
Leadership from the top helps to create a culture of good record keeping in organisations, leading to greater business efficiency, reduced risk and improved corporate knowledge.

Appropriate training

All staff should understand their record keeping responsibilities and be aware of all relevant policies and practices within their organisation.

Using information and communication technologies with integrity

This means ensuring that all communications undertaken in the course of business, using all methods or technologies, are sympathetically integrated into the work of public bodies and a proper record of discussions and decision making is preserved.



Conclusion

Our investigations, audits and inspections help us shine a light on the issue of record keeping in public bodies. The case studies chosen for this publication demonstrate the impact of poor practice in this area, and show how vital it is to embed good quality record keeping throughout organisations.

Put simply, the examples from this publication and our wider experience from the field of regulation and oversight demonstrate the fact that for all organisations and citizens, **records matter**.



About us

The Northern Ireland Public Services Ombudsman (NIPSO)

The Ombudsman looks at complaints made about health and social care services, government departments and agencies, social housing providers, local government and education.

The Ombudsman receives over 2,000 enquiries and complaints each year.

www.nipso.org.uk

The Northern Ireland Audit Office (NIAO)

The Comptroller and Auditor General is Head of the NIAO. He and the NIAO are totally independent of Government. He certifies the accounts of Government Departments and a range of other public sector bodies. He has statutory authority to report to the Assembly on the economy, efficiency and effectiveness with which Departments and public bodies use their resources. The NIAO's work covers 108 public organisations which spend over £25.7 billion of public money annually.

www.niauditoffice.gov.uk

The Information Commissioner's Office (ICO)

The Information Commissioner's Office is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

Each year, the ICO addresses tens of thousands of enquiries, written concerns and complaints about information rights issues.

www.ico.org.uk

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