

This guidance is tailored specifically for official receivers. It is discretionary and not designed for use by third parties. This version was the most up to date guidance available to official receivers was issued on 3 April 2020.

16. Accounting and other records

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The following abbreviations are used in this guidance:

FCU – Forensic Computing Unit

Frequently asked questions

What are records?

Records are books, papers or electronic / digital files kept by a company, partnership or individual to explain their financial transactions and detailing their assets and liabilities.

For a business they can include correspondence, notes of meetings, marketing materials and legal documents, for example leases, contracts of sale and charges.

Records may also be held by individuals who do not carry on a business, for example bank statements, vehicle registration documents, loan agreements, share certificates or statements, credit card statements etc.

Why is it important for the official receiver to collect or secure the insolvent's records?

The records help the official receiver:

- identify and realise assets, for example book debts;
- identify undisclosed assets;
- identify creditors and provide contact details;
- identify undisclosed creditors which may lead to assets hidden by the company, partners or bankrupt;
- support claims for antecedent recoveries, for example transactions at undervalue or preferences, and directors' loan accounts; and
- establish the cause of failure which may lead to a criminal referral, a disqualification report or a bankruptcy restrictions report.

Accounting records, in any format, should not be relied upon alone, without reference to other indicators as to the financial health of the company, partnership or bankrupt.

Do all records have to be collected?

The official receiver may decide in a limited number of cases not to collect or secure the records, for example where it is clear at an early stage what the cause of failure is and there is no prospect of further asset enquiries or further investigation. In the vast majority of cases the official receiver will be expected to collect or secure the records.

How to collect the records?

Depending on the individual circumstances of each case the records may be collected:

- on inspection;
- from other office holders;
- by arrangement, from the trading premises or property of a third party;
- at interview or otherwise by personal delivery from the director/partner/bankrupt/third party;

- by post or courier;
- by the official receiver's agents; or
- by retaining an online (cloud-based) accounting service.

Do I have to take extra care when collecting or securing computer records?

Yes, you must not attempt to access digital media or online (cloud-based) accounts to inspect the records or confirm any of the information provided by the director, partner or bankrupt, for example passwords, details of the software used and the period the data covers.

How do I deal with computer records?

You should not attempt to access the computer or other media containing the records. The media should be packed up correctly and sent to the FCU to extract the data. FCU can store computers or other media with the external contractor, if required. The official receiver should not send computers or other media to the external contractor for storage. More information on the role of FCU can be found in the [Enforcement and Investigation Guide](#).

How do I deal with an online accounting system (cloud-based storage)

Details of the system used and access codes should be obtained and contact made with the provider to ensure ongoing provision of services. the FCU should be consulted before the account is accessed.

Is there a glossary of computer terms?

A comprehensive glossary of computer terms can be found in the Enforcement and Investigation Guide ([paragraph 322.2](#)).

Does the official receiver have to issue a receipt?

In all cases the official receiver must issue a receipt (form BPRCT) on collecting physical records or digital media.

Can an accountant or other person enforce a lien over the records?

An accountant, solicitor or other person may claim a lien over the records of a company, partnership or bankrupt for fees owed but the lien is unenforceable against the official receiver, liquidator or trustee. Where an accountant or other person claims a lien a request should be made to deliver the records to the official receiver.

When should I consider sending the paper records to the external contractor?

Records should be sent to storage with the external contractor where the case has been referred for further investigation, where the records may be required to complete the administration of the case and where the records cannot be destroyed locally.

What should I check before authorising destruction of records?

You should always check the case management system to see if there are any ongoing cases connected to the individual partnership or company, particularly investigation cases.

If you do find a connected case (for example you have the bankruptcy of a director while the company liquidation is being dealt with by another office), you should always contact the official receiver, investigator or IP to confirm they do not need you to retain the records.

When can I destroy records?

If collected, records may be destroyed immediately the administration is complete and the case is marked no further investigation, for example in a non-trading or small trader bankruptcy application. Form BPDC should be completed and scanned into the case management system. Where the bankrupt has been trading, or in company and partnership cases, then HMRC should be asked if they wish to inspect the records before destruction. After 12 months the records may be destroyed, if appropriate, without reference to HMRC.

How do I destroy paper records locally?

Local destruction of paper/hardcopy records is achieved by placing them in the confidential waste bins provided. Records should not be sent to the external contractor solely for destruction.

How do I destroy computer records?

When the administration of the case and any investigation has been completed FCU should be instructed to destroy the equipment under their control within the agency's guidelines, unless they belong to a third party (see paragraph 16.62).

Do I have to enter a review date on records sent to storage?

Yes, all records sent to storage must have a review date. There are three review dates, short (3 years), medium (6 years) and exemption. The [Retention Period Guide](#) shows the length of time records marked "exemption" should be kept before being reviewed.

Can all records held in storage be destroyed?

No, where there is the possibility of a rescission, annulment or stay the records should not be destroyed. There are a number of other possible reasons why the official receiver may need to retain records. Further details are set out in paragraph 16.68.

When can I destroy records held in storage?

The records should be destroyed when the review date becomes due unless the administration of the case is not complete. If the records are to remain in storage a new review date must be entered into the external contractor's data base and the case management system.

When can I destroy records in further investigation cases?

This depends upon the type of enforcement proceedings being taken, for example prosecution, disqualification or bankruptcy restriction taken. Further details are set out in paragraphs 16.41 to 16.52.

What will happen to the official receiver's paper files?

The paper files currently held by the official receiver, either in storage or in the office, should have a review date. When the review date is reached they should either be destroyed, if no longer required, or a new review date entered.

What happens to files and records of historical interest?

Some files and records may be kept for a long period if they are of “public interest”. Such files may additionally be offered to the National Archives.

The insolvent’s records, the legislative framework and the official receiver’s powers duties

16. Accounting and other records

This chapter provides guidance on the official receivers’ duty to deal with the books and records of insolvents. The chapter sets out procedures to be applied in securing, taking custody of, preserving and destroying the records in all formats.

The insolvent’s records: the legislative framework and official receiver’s powers and duties

16.1 Introduction

For the purpose of this chapter the term “records” includes all books of account, papers and other documents which set-out the financial and business life of the insolvent.

“Records” include books of account, papers, computer records and other electronic / digital records including those held in the “cloud” (online).¹ They can also include correspondence, notes of meetings (especially in companies and partnerships), marketing materials and legal documents, for example leases, contracts of sale and charges. Formal financial statements may be produced by accountants or financial advisors but still form part of the “records” of an individual, partnership or company (but see paragraph 16.18).

1. Section 436

16.2 Requirement to keep accounting records

A company or limited liability partnership (LLP) is required to keep sufficient accounting records to show and explain the transactions and to disclose at any time, with reasonable accuracy, the financial position of the company or LLP¹.

An individual must maintain sufficient records to enable tax returns to be completed and submitted to HMRC².

The accounting records must be kept for:

- three years from date of creation for a private company or LLP³, or
- six years from date of creation for a public limited company³.
- the fifth anniversary of 31st January following the year of assessment or six years from the end of an accounting period where the individual carried on a trade or profession alone or in partnership², or
- the first anniversary of 31st January following the year of assessment for a private individual³.

1. Companies Act 2006, section 386, (and as applied and amended by regulation 6 of The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008)

2. Taxes Management Act 1970, section 12B

3. Companies Act 2006, section 388(4), (and as applied and amended by regulation 6 of The Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008).

16.3 The official receiver's duty as liquidator or trustee

The official receiver as liquidator or trustee is required to get in, realise and distribute the insolvent's estate¹. The official receiver will need to refer to the insolvent's records in order to discharge this duty. The records help the official receiver to identify the insolvent's assets and liabilities, establish the cause of failure and identify any potential recoveries, for example preferences, transactions at undervalue or directors' loan accounts. The official receiver can be held to be negligent and liable for damages for failing to act on information in the insolvent's records, for example for not giving notice of the proceedings to creditors named in the records².

1. Sections 144 and 305(2)

2. *Pulsford v Devenish* [1903] 2 Ch.625

16.4 The official receiver's duty to investigate

The official receiver has a statutory duty to investigate the affairs of a failed company (or LLP), and where the official receiver thinks necessary, the affairs of a bankrupt¹. The examination of the insolvent's records will usually be an important part of any investigation.

1. Section 132 and 289; Limited Liability Partnerships Regulations 2001, regulation 5

16.5 Requirement to deliver records to the official receiver

Directors and bankrupts have a duty to co-operate with the official receiver and provide such information as the official receiver may reasonably require¹. They are required to deliver up accounting records in their control². The official receiver also has powers to ask the court to assist with the delivery or seizure of records from any person with records under their control³. These provisions apply to Limited Liability Partnerships and partnerships⁴.

1. Sections 235 and 291

2. Sections 312

3. Sections 234, 236, 365 and 366

4. Limited Liability Partnerships Regulations 2001, regulation 5; Insolvent Partnerships Order 1994

16.6 Failure to keep or deliver accounting records

An officer of the company, past or present, or a bankrupt is guilty of a criminal offence if they do not adequately account for a substantial loss of property, fail to deliver records as requested by the official receiver or falsify any accounting records¹.

1. Sections 208, 209, 354 and 355

16.7 Records subject to a lien

The official receiver may be informed that the records are subject to a lien by a third party. A lien may be understood, in its simplest form, as the legal right to retain possession until a claim has been met.

16.8 Effect of a lien

A lien or other right to retain possession of any records is unenforceable to the extent that the official receiver, liquidator or trustee would be denied possession of the records¹. A lien may be validly claimed against records which evidence ownership of property, for example the title deeds to a freehold property or records in connection with a registered charge. The official receiver should follow the guidance in Destruction of records before destroying any records subject to a valid lien.

1. Sections 246 and 349

16.9 The official receiver's use of compulsory powers in company investigations

Where a case is allocated for investigation within IES the official receiver remains the office-holder and responsible for the collection and retention of the records.

Compulsory powers in a disqualification investigation should only be used in exceptional circumstances. It would usually be appropriate where the company's bank or solicitors is willing to provide the information but only subject to a court order. The IES investigator will inform the official receiver, and communication will be maintained, where the IES investigator, in consultation with the IES deputy official receiver and, if appropriate, Enforcement Technical, determine it is appropriate to use those compulsory powers in connection with disqualification proceedings.

16.10 The Criminal Procedure and Investigation Act 1996

The Criminal Procedure and Investigation Act 1996 together with its Code of Practice regulates the recording, retention and disclosure of unused material in criminal prosecutions. A failure to comply with the requirements of the Criminal Procedure and Investigation Act 1996 can lead to prosecutions being stayed for abuse of process or other grounds.

To comply with the requirements of the Criminal Procedure and Investigation Act 1996 the official receiver should be able to evidence when accounting records and a company's statutory records were collected or delivered, from/by whom, in what form, details of the records collected and where they are stored. Every official receiver's office must have a Disclosure Liaison Officer (DLO) who will be the official receiver or a deputy official receiver.

Further information on disclosure in disqualification, bankruptcy restrictions and prosecutions cases can be found in Enforcement and Investigation Guide.

Securing, collecting and listing an insolvent's records

16.11 Introduction

On the making of a winding-up or bankruptcy order the official receiver should contact the director, partner or bankrupt as soon as possible to complete the ICON, usually by telephone. The official receiver should use this opportunity to establish the nature and whereabouts of the records and to make arrangements for their custody or collection, as appropriate. Where the company uses an online cloud-based provider for their records the official receiver should obtain full details of the service provider, account name, login details, password and payment details. The official receiver should NOT access the cloud account but may need to make contact with the service provider to ensure the service is maintained, see paragraph 16.38.

16.12 The decision to collect the records

In the vast majority of liquidation cases and bankruptcy cases where the debtor has carried on a business the official receiver should take custody of the accounting records. In making a decision that the records are not required the official receiver should consider whether the records may be required to:

- assist in the realisation of assets, for example book debts;
- identify creditors;
- support claims for antecedent recoveries, for example preferences; and
- investigate the cause of failure which may lead to identifying assets, a statement of facts, a disqualification report or a bankruptcy restrictions report.

Where the official receiver decides not to collect the insolvent's records, for example in a clear no further enquiry bankruptcy application or non-trading case, this must be clearly recorded, with the reason for the decision, on the electronic case file.

16.13 Collecting the records

The official receiver, as a result of any initial contact with the directors, partners or bankrupt, should have established the whereabouts and volume of the records. There may have been no contact with a director, partner or bankrupt where a decision to carry out an inspection is made. The official receiver may recover the records:

- on inspection;
- from other office holders;
- by arrangement, from the trading premises or property of a third party;

- at interview or otherwise by personal delivery from the director/partner/bankrupt/third party;
- by post or courier;
- by the official receiver's agents; or
- by retaining an online (cloud-based) accounting service.

Once the quantity and location of the records is known, the most appropriate method of collection should be decided.

16.14 Issuing a receipt for records

A separate receipt (form BPRCT) must be issued on each occasion records are recovered or delivered to the office. The receipt will enable the official receiver to establish an audit trail of which records were received, when they were received and from whom they were recovered. Further detail on receipting records can be found in paragraphs 16.23 to 16.25.

16.15 Advice on boxing-up voluminous paper records

Where the records are of a particularly high volume and in no obvious logical order the official receiver should consider putting the records into boxes according to age, for example "sales day book, sales invoices, cash book for 2016-17".

Where professionally prepared accounts exist and the records underlying those accounts have been bundled by the auditors they should be left in that format and the descriptions used by the auditors adopted for recording purposes. Where such bundling has not occurred, the records could simply be listed as "accounting records for the year ending..." as it is rare for the accuracy of such accounts to be questioned.

16.16 Collection of records held by an investigating authority

In rare cases the records may be held by a third party for the purposes of an ongoing investigation, for example by the Serious Fraud Office or the police. The records should not be collected but left with the investigating authority. The official receiver should obtain a list of the records held by the investigating authority. If required, arrangements should be made for the records to be inspected.

16.17 Records held by other office holders

Where there were previous insolvency proceedings, for example a voluntary liquidation, the records may be held by the previous office holder. The office holder is required to deliver up the records¹, although an administrative receiver may be permitted to retain custody of records required for the purpose of the receivership². The official receiver should make arrangements with the office holder to collect the records and issue a receipt.

In some cases it may be appropriate to simply have the records destroyed through an existing storage contractor, for example where an administrator has ended the administration through a winding-up procedure and it is clear there are no outstanding matters to deal with or likelihood of further investigation. The official receiver should follow the guidance in Retention or destruction of records

1. Sections 143(2), 305(2) and *Engel v South Metropolitan Brewing Co* (1892) 1 Ch. 422

2. *Gomba Holdings Limited v Minories Finance Limited* (1989) All ER 261 Vol.1

16.18 Accountants' and solicitors' files (including working papers)

When seeking information from an accountant or solicitor it should be noted that their files and working papers remain their property and do not form part of the records of a company, partnership or bankrupt¹. Where an accountant, solicitor or other third-party hands over their files or working papers these papers should be stored separately. The official receiver should ensure the prompt return of files or working papers as soon as enquiries have been completed.

1. *Re Chantry Martin & Co. v Martin* (1953) 2 ALLER 691

16.19 Accountants' or solicitors' client files

Where a winding-up or bankruptcy order is made against a firm of accountants or solicitors, the clients' papers do not form part of the records of the partnership or the bankrupt. The papers should be returned to the clients as soon as possible. Under no circumstances should they be destroyed. Where the clients cannot be traced the matter should be initially referred to the relevant accountancy body or The Law Society.

16.20 Collecting or securing records held on computers or digital media

The official receiver, when collecting computerised records (including media such as external hard drives, discs, etc.) should obtain the following information from the director, partner or bankrupt:

- details of the software package(s) used and/or installed on the system, including which version;
- details of all passwords used by key users;
- the period the data relates to;
- whether any of the hardware is damaged; and
- whether any third parties have accessed the media and why.

The official receiver must not access the media to inspect the records or to confirm any of the information provided by the director, partner or bankrupt, for example passwords or a list of creditors.

If the computers or media can be removed each media item should be placed into an approved evidence bag and tagged on site, ideally in the presence of the director, partner or, bankrupt and include details of the unique tag reference number when completing the form BPRCT.

Similarly, where computers or digital media are delivered to the office, bag and tag each media item, ideally in presence of company officer, partner, bankrupt or third party, and include the unique tag reference when completing the BPRCT.

Further information on dealing with computerised records is contained in paragraph 16.28.

16.21 Inspection of site based computerised records

The official receiver may be required to inspect the computer system on site because it cannot be moved. The official receiver should establish who owns the system and obtain the information about the system (see paragraph 16.20). The official receiver should not turn the system off or on or attempt to access the data. The official receiver should arrange for FCU to visit the site and extract the data as a matter of urgency. FCU should be accompanied on their visit by a member of the official receiver's staff.

16.22 Securing records stored in cloud-based (on-line) system

Increasingly the records of the insolvent will be held under the control of a third party as they are stored online in a cloud facility. In this context, the cloud refers to storage devices that are never physically accessed by users. Rather the software and data is

stored on servers held by the service provider, in a secured area, accessible by the user and protected by a user name and password. Cloud-based software can be used from any device with an internet connection.

Where records stored in the cloud are identified early contact with the provider is essential to ensure the records are preserved.

The provider is no longer able to ask the official receiver to pay any arrears relating to pre-order fees¹ but providers will likely charge ongoing rates and the official receiver may have to personally guarantee this. Costs incurred to preserve the records in the cloud are an expense of the bankruptcy estate in the same way as paying for external storage. The cost is included in the general administration fee, therefore the costs whether paid by invoice or using the office GPC should be charged to VOTE (see chapter 48).

Once the full account details have been established these should be passed to FCU by email including a completed “Request for Service” form. FCU can then access the data on their stand-alone machines. The equipment used by the FCU is separate and is protected by anti-virus software and is encrypted. Do not attempt to login to the account from your own workstation, unless you have been provided with a ‘safe’ account to work on from FCU.

Further information on cloud-based accounting systems is contained in paragraphs 16.37 to 16.40

1. Section 233

16.23 Content of the receipt (BPRCT)

In some cases, it may not be necessary for the receipt to list the records in detail. A record of the number of boxes or other containers delivered or, if there are only a few items, the number of books, envelopes or vouchers, etc. may be sufficient. Discretion should be used given the circumstances of each individual case. The fundamental requirement of recording which records were received, when they were received and from whom they were recovered remains.

16.24 Further investigation cases and the SRHO

In further investigation cases where a schedule of books, papers and records (SRHO) handed over to the official receiver has not been completed the official receiver should seek to obtain one. Where the official receiver does not consider this necessary, for example for the investigation of post bankruptcy order credit offences, or the director, partner or bankrupt refuses to complete the SRHO the official

receiver should refer to the relevant chapters of the Enforcement and Investigation Guide.

16.25 Further investigation checklist

In further investigation cases the official receiver should make the following checks to ensure compliance with any future disclosure requirements:

- the details of the records received are properly entered into the case management system;
- the SRHO, or relevant page of the PIQ, has been properly completed and the list includes first and last entries;
- a separate receipt has been issued for each delivery of records;
- for each receipt there is an identifiable SRHO, or relevant page of the PIQ;
- the records have been physically checked to ensure they correspond accurately with the SRHO or PIQ; and
- whether any records received after the first interview have been listed on a SRHO and correctly entered into the case management system.

Storage, preservation and inspection of records

16.26 Introduction

The procedure for storing and accessing computerised records where the official receiver has recovered physical hardware or digital media is explained in paragraphs 16.28 to 16.33. More information on cloud-based accounting systems is provided at paragraphs 16.37 to 16.40. All other records of the company, partnership or bankrupt retrieved by the official receiver should be listed, boxed and stored securely on site in the official receiver's office, or with the agency's external storage contractors, as appropriate. If kept in the office the storage boxes must be labelled in such a way that their contents may be found and retrieved without difficulty. The location of the records should be recorded in the case management system and a copy of form SRHO placed in every box to help subsequent identification. If any of the records are moved to a new box this must also be recorded, together with the date on which it occurred.

16.27 Use of external storage contractors

The Service has a national contract for the external storage of records. Details of the [contract and use of the facility](#) can be found on the intranet. Computers / media and records for cases marked as “further investigations” should not routinely be sent to the storage contractor (see paragraphs 16.29 and 16.30).

16.28 Dealing with computerised records

Computerised records may be kept on a desk top computer, lap top computer, on various forms of electronic media, for example DVDs, CDs, external hard drives, network attached storage devices, memory sticks etc.

To prevent any corruption of the data or allegation of tampering, on no account should the official receiver’s staff attempt to access the original records or use passwords provided by the insolvent to access the original data.

Where the official receiver wishes to retrieve the information stored, either to administer the estate or for further investigation, e-mail the FCU attaching a “Request for Service” form. The FCU works to the Association of Chief Police Officers (APCO) guidelines on digital evidence, which is a standard understood and generally used in British courts.

The [procedure for requesting service](#) from FCU is available on the intranet.

16.29 Storing the original computer and/or media

The original computer/media will be returned to the official receiver by FCU, re-bagged and re-tagged. In all cases the original computer/ media should be stored in the sealed evidential bags which should not be unsealed unless specific instructions to do so are given by IES or lawyers. The official receiver should not use the external contractor to store items returned by FCU and instead should store them securely on site unless the volume means they can only be stored off-site.

16.30 Storage for further investigation cases

Where the case has been marked “further Investigation” the records must be held in “secure storage”. “Secure storage”, in this instance, means that the records are stored within the official receiver’s office in a recorded location and in boxes marked “Not to be destroyed”. Where records have to be held by the storage contractor arrangements must be made to ensure they are placed in a secure area and safe from destruction.

16.31 Inspection of records – investigation proceedings

In investigation cases there may be times when records held by the official receiver, either in the office or in storage may need to be inspected by an investigation officer, prosecution solicitor or defence solicitor. Where an investigation officer wishes to inspect the records at the external storage contractor's premises the investigation officer should be sent form IOAUTH and a copy should be sent to the storage contractor. In all other instances the official receiver should follow the guidance in paragraph 16.33 in response to a request to inspect books and papers.

Digital media should not be made available for inspection without first consulting FCU.

16.32 Inspection of records held by a third party – further investigation

In some investigation cases the records may be held by a third party, for example an insolvency practitioner. The official receiver should contact the third party to determine the volume of records involved, for example the number of boxes and should arrange to visit the premises to enable a detailed examination of the records to be undertaken. The official receiver should, if possible, list or obtain a list from the third party, the records held and ensure they are recorded on the case management system before a further report is submitted.

16.33 Inspection of records – non-investigation proceedings

An officer of the company, partner, bankrupt, other government department, or other third party, may wish to review the records held by the official receiver. On receiving such a request, the official receiver must confirm that they are entitled to inspect the records by following the guidance in Obtaining, releasing and formal disclosure of information. On being satisfied the person is entitled to inspect the records the official receiver should make suitable arrangements for the records to be inspected in the office. If applicable the records should be retrieved from the storage contractor. Where the box or boxes contain the records of other insolvents, care should be taken to ensure only those records belonging to the relevant company, partnership or bankrupt are available for inspection.

Digital media should not be made available for inspection without first consulting FCU.

16.34 Appointment of an insolvency practitioner as liquidator or trustee - records held in office

Where an insolvency practitioner is appointed the official receiver should arrange for the collection of, or transfer of, responsibility for the records. If the insolvency practitioner refuses to collect physical records the official receiver should send the records by post or courier.

Where an invoice is issued to the official receiver by courier it should be sent to Estate Accounts and Scanning (EAS) with the payment charged against the estate.

The official receiver should not store records in the office following handover of the case to an insolvency practitioner unless they are required for prosecution, disqualification or bankruptcy restriction purposes.

16.35 Appointment of an insolvency practitioner as liquidator or trustee - records held in storage

The official receiver should inform the insolvency practitioner immediately that the records are held in storage or in the cloud and arrange for the costs to be met directly by the insolvency practitioner. Where an agreement regarding the records cannot be reached the official receiver should arrange for the storage contractor to deliver the records to the insolvency practitioner's office, or give fair warning to the insolvency practitioner that payment for cloud access / storage will cease.

The costs of delivery should be charged to the estate and the case management system should be updated when the records have been delivered.

16.36 Records held or delivered to an insolvency practitioner

When handing over or delivering records to an insolvency practitioner the official receiver should ask for the records to be stored in the same format they were handed over. Where an insolvency practitioner re-boxes the records they should be asked to make a file note explaining when and why this occurred.

Cloud-based accounting software

16.37 Introduction

In 2019 HMRC rolled out its Making Tax Digital initiative driving a need to move away from paper towards digitally formatted records and accounts. With the decline in desk-top based computer applications which store all information locally on hardware it is inevitable that more businesses will move to business accounting software applications where the information is stored on a remote server operated by the provider.

In a cloud based system the user has no control of the software or the database, including an ability to independently back-up data. The user pays for the software and storage by monthly or annual subscription.

Due to the changing nature of cloud storage, the sheer volume of cloud providers (all with their own protocols) and technological advances in this field, this guidance includes a series of points to consider rather than a set of hard and fast rules to follow. Currently the main providers of Cloud based accounting systems are:- FreeAgent; Sage Business, QuickBooks, Xero; Zoho

16.38 Securing records held in the cloud

Access to the information will depend on maintaining payments for the service. The provider is no longer able to ask the official receiver to pay any arrears relating to pre-order fees¹ but providers will likely charge ongoing rates and the official receiver may have to personally guarantee this. Costs incurred to preserve the records in the cloud are an expense of the bankruptcy estate in the same way as paying for external storage. The cost is included in the general administration fee, therefore the costs whether paid by invoice or using the office GPC should be charged to VOTE (see chapter 48). Further information on securing access and the records can be found in paragraph 16.39

1. Section 233

The official receiver should follow the same procedure when collecting any form of computerised / digital records and obtain the following information from the director, partner or bankrupt:

- details of the service provider;
- account name;
- details of all log-in details and passwords used by key users;
- the period the data relates to;
- details of payment for the service and when the next payment is due.
- if access to the service is restricted to registered devices and details of those devices.

Once the full account details have been established these should be passed to the FCU by email including a completed “Request for Service” form. FCU can then access the data on their stand-alone machines. The equipment used by the FCU is separate and is protected by anti-virus software and is encrypted. Do not attempt to login to the account from your own workstation, unless you have been provided with a ‘safe’ account to work on from FCU.

16.39 Accessing the records

Online accounting solutions are not designed to enable the user to produce back-ups that can be restored to produce a true duplicate of the accounts. This means the FCU can’t produce a copy of the accounts that can be removed and restored again at a later date in the same way they can with more traditional computerised accounting records held on local systems.

In all cases, consult with FCU on the most secure and practical method of data retrieval before doing anything. Please note, this is an evolving area of technology and so consultation with FCU is important to maximise the data collected and to maintain clear audit trails. Also be aware that FCU may not have the technology for certain activities we may need them to undertake.

In broad terms it is possible to produce a set of reports designed to capture all the accounting information in sufficient detail to enable any future questions about the finances of the business to be answered after access to the service has lapsed.

Where possible FCU will log on and produce a forensic copy that can be worked on by an investigator. The safest way is for FCU to set up a separate distinct ‘read only’ folder which can be accessed by the investigator. None of the data can then be changed.

With some service providers, ‘read only’ access reduces the content that can be looked at. Each service provider has its own protocols and specific ways of working. Therefore, in some cases the best option is to download all reports and migrate all data (or as much as possible) into Excel and save these documents in Wisdom. However, cloud accountancy packages have been designed to only access the parts that you want on an ongoing basis, as the information is live and changeable. Some service providers, therefore, have no facility to download the data in this way.

A workaround may be to limit access to the online records, download as many reports/spreadsheets as possible, within a short time frame and not access the account again, to reduce risk of changing live data. Record the dates the account has been accessed, log all data downloaded and then save everything in the case management system as a record to preserve an audit trail.

Remember it is not just financial or accountancy packages that can be stored on the cloud. Correspondence, email, word documents, spreadsheets, etc can be stored. Many of the records of a company, partnership or bankrupt records are likely in the future to held in the cloud.

16.40 Lapsed subscriptions

In some cases the company or bankrupt may have ceased trading some time prior to the insolvency. In these instances, any subscription for the service may have lapsed, although the requirement to preserve records (see paragraph 16.2) applies to cloud-based records.

Where the company, partnership or bankrupt paid an annual subscription, then there is a good chance of accessing the account, as there could be some time left, but monthly subscriptions may well be in arrears and the subscription have lapsed.

If the subscription has expired and the director, partner or bankrupt has not taken any steps to download or preserve the data, then the service provider should be contacted at the earliest opportunity to discuss reviving or continuing access. It is unlikely that a cloud service provider will wipe the data on the spot, as there is always the possibility that someone will pay for it later. They will keep the data for a specified period, but this is unknown and is likely to vary with each service provider.

The appropriate and proportionate length and cost of continuing services should be decided on a case by case basis, depending on what is actually stored on the cloud, what other records are available, whether the case is likely to be marked for further investigation.

The investigation decision and preserving records

16.41 Introduction

Where the official receiver decides the case should be marked further investigation the records of the company, partnership or bankrupt should be preserved and not destroyed. Where the investigation results in a criminal referral, disqualification or bankruptcy restrictions report it is essential the official receiver, in liaison with the IES investigator, maintains the integrity of the records. The provisions of the Criminal Procedure and Investigation Act 1996 must be followed.

16.42 Paper records must not be annotated or digital records altered

Paper records of a company, partnership or bankrupt should not be amended, annotated or ruled off after the last entry by the official receiver, agency staff, directors, partners, the bankrupt, accountants preparing statements of affairs or other third party. The integrity of computerised / digital records must be maintained, and no additions or alterations should be made. On no account should the official receiver attempt to access the original computer or media recovered from the company, partnership or bankrupt, nor use any passwords to turn on the original computers or access cloud-based systems to view the records.

16.43 Computer records – internal security

In order to prevent fraud by employees the computer system may incorporate security procedures to prevent unauthorised alterations. These restrictions are unlikely to apply to a director, partner or bankrupt who usually have the authority and ability to make such alterations. The official receiver should find out what security protections are in place and if applicable obtain any security codes or passwords from the director(s), partner(s) or bankrupt.

16.44 Preserving records until the investigation is complete

The official receiver must not destroy, or consent to the destruction of, any records until:

- all prosecution, disqualification or bankruptcy restriction proceedings have been disposed of (including appeals); or
- the case has been written off for further investigation purposes.

It is essential that case records are marked with this inhibition and, if applicable, the external storage contractors have been told the records are to be retained until further notice. Payments for cloud storage should be maintained by the official receiver (see paragraph 16.22).

16.45 Recording preservation times

The official receiver should ensure that entries are made in the case management system to ensure that records are preserved for the appropriate period. The official receiver should review these dates periodically to ensure they are still appropriate.

16.46 Record preservation times for prosecution cases

The Criminal Procedure and Investigation 1996 Code of Practice makes specific provision for the preservation of records, including computers and media, and other documents connected with a criminal investigation and prosecution. The criteria likely to apply to cases reported by the official receiver are:

- all material must be retained until a decision is taken whether to institute proceedings against a person or persons for an offence;
- if a criminal investigation results in proceedings being instituted, all material must be retained at least until the accused is acquitted or convicted or the prosecutor decides not to proceed with the case; or
- where the accused is convicted, all material which may be relevant must be retained at least until either;

a) six months from the date of conviction,

b) the release of the accused from custody, if a custodial sentence is imposed and the accused is sent to prison (i.e. the sentence is not suspended), or

c) the period of suspension is expired, if a custodial sentence is imposed but is suspended,

whichever is the longer i.e. the material must always be preserved for at least six months after conviction.

Since it is unlikely that the official receiver will be notified of dates of release from custody it should be assumed for preservation purposes that custody will last for the whole length of the sentence imposed.

16.47 Record preservation times in appeal cases

Where there is an appeal against conviction, or it is likely to be considered by the Criminal Cases Review Commission the records should be preserved until:

- the appeal is determined: or
- the Commission decides not to refer the case to the Court of Appeal: or
- the Court of Appeal determines the appeal resulting from a reference by the Commission.

16.48 Disqualification cases

There is no legislative requirement relating to the preservation of a company's records following a disqualification undertaking or the making of a disqualification order. Unused material available at the time of any hearing cannot be used as evidence in any subsequent appeal and should be destroyed in accordance with Retention or destruction of records.

The official receiver, in consultation with the IES investigator, should consider the following matters when deciding to preserve records:

- the records should be preserved for a minimum of at least four weeks from the date on which the judgment or order of the court is sealed, the time within which an appeal is permitted;
- whether a disqualified director is likely to apply for leave to appeal out of time (this would extend the four week period mentioned above);
- where an undertaking has been given the defendant is free at any stage to make an application to vary the disqualification undertaking¹
- the records may be relevant to an application made for leave to act as a director²; and
- the records may be relevant to an application for disqualification made by the Office of Fair Trading (OFT) or other specified regulator³.

1. Company Directors Disqualification Act 1986, section 8A

2. Company Directors Disqualification Act 1986, section 17

3. Company Directors Disqualification Act 1986, section 9C

16.49 Bankruptcy restriction

The official receiver should consider the following matters when deciding to preserve records:

- is the bankrupt likely to apply for a bankruptcy restrictions undertaking to be annulled or its length amended;
- is the bankrupt subject to a bankruptcy restrictions order likely to apply to the court for leave to appeal against the order; and
- is the bankrupt likely to make an application to court for leave to act as a company director¹.

1. Company Directors Disqualification Act 1986, section 17

16.50 Suggested time limits for preserving records

After taking into consideration the matters referred to in paragraph 16.48 (disqualification) or 16.49 (bankruptcy restrictions), consideration should be given to

preserving the accounting records for at least six months after the making of the order or the provision of an undertaking. In a high profile or contentious case, or if there is information to suggest that an application for leave to appeal, or leave to act as a director will be made, the official receiver may consider it preferable to retain the records for a longer period, such as 12 months. The length of time records should be kept should be made by the official receiver after considering the circumstances of each case.

16.51 Disqualification cases – insolvency practitioner appointed liquidator

On the completion of the disqualification proceedings the official receiver should confirm whether the liquidator is still in office or the company has been dissolved. Where the liquidator is no longer in office or the company has been dissolved the official receiver should destroy the records.

16.52 Insolvency practitioner still in office as liquidator or trustee

Where the disqualification or bankruptcy restriction proceedings have been completed and an insolvency practitioner is still in office as liquidator or trustee, the official receiver has an obligation to return the records to the insolvency practitioner. There is no obligation on the insolvency practitioner to accept the records. If the insolvency practitioner does not respond to the official receiver's invitation to collect the records the official receiver should give fair warning that the official receiver's enquiries are concluded and, having no further need for the records, will arrange for their destruction. If no response is received the records should be destroyed. The costs of destruction form part of the official receiver's administration fee.

Using records in evidence

16.53 The use of records in civil proceedings

The records of a business or public authority may be used in civil proceedings without further proof together with a certificate signed by the official receiver confirming the document(s) form part of the books and/or papers of the company, partnership or bankrupt. A copy of the document is admissible, even where it is a

copy of a copy. The image or print out of records kept on a computer or other digital medium may be introduced as evidence in civil proceedings.

16.54 The use of records in criminal proceedings

The level of proof in criminal proceedings is higher than in civil proceedings. The official receiver, or a member of their staff, may introduce physical records as evidence as an exhibit to their witness statement. The official receiver should ensure that the records have been correctly listed to establish the records belong to the company, partnership or bankrupt. An image or print out of records kept on a computer or other digital medium may be introduced as evidence where:

- the receipt of the computers or other medium has been made; and
- FCU have provided a witness statement

Where required the FCU will provide a member of staff to produce a witness statement and to attend court. The witness statement will explain when the computer or other media were received, what the FCU did to obtain an image or print out of the digital records.

Retention or destruction of records

16.55 Introduction

The official receiver should be aware that the records, either all or in part, of a company, partnership or bankrupt must be preserved where

- the case is marked for investigation;
- they are required for disqualification, disqualification or bankruptcy restrictions proceedings;
- HM Revenue and Customs (HMRC) have requested they be preserved (see paragraph 16.57),
- there is the possibility of a stay of proceedings, rescission or annulment of the order,
- a rescission stay or annulment is likely (see paragraph 16.67), or
- any of the exemptions mentioned in paragraph 16.68 apply.

Guidance on the action to take where records cannot be destroyed can be found at paragraph 16.65.

16.56 Records may be destroyed, sold or otherwise disposed of

The official receiver whilst acting as liquidator or trustee may destroy, sell or otherwise dispose of the insolvent's records¹ unless they are subject to a lien.

1. Insolvency Regulations 1994, regulations 16 and 30

16.57 Notification to HMRC

Where the official receiver wishes to destroy the records and the winding-up order or bankruptcy order is less than a year old the official receiver should notify HMRC that the records will be destroyed, unless the company has been dissolved.

Form BPOGD.VAT should be sent to insolvency.helpdesk@hmrc.gov.uk or HMRC, ICHU, BP5102, Dunstanburgh House, Benton Park View, Newcastle upon Tyne, NE98 1ZZ and form BPOGD.Tax to HM Inspector of Taxes. The official receiver should insert a date three months from the date of the form after which the records will be destroyed if no objection has been received. HMRC can ask for the records to be retained by returning Part B of the form within the three months. If both forms are not returned within three months the records may be destroyed without further reference to HMRC. Where at least one of the forms is returned the official receiver should retain the papers for six years, or whatever shorter period is requested for insolvencies involving a large quantity of records). The official receiver should record the decision in the electronic case file together with a scanned copy of the completed form BPOGD.VAT or BPOGD.Tax as appropriate.

16.58 Obtaining confirmation in cases of urgency

Where the official receiver wishes to destroy records immediately, for example to avoid taking possession of a large quantity of books and papers, the official receiver should:

- telephone the sections of HMRC dealing with VAT and income tax and obtain an appropriate e-mail address
- ask for form BPOGD to be returned by the due date with confirmation that the records may be destroyed; and
- send the appropriate BPOGD form (suitably amended) with an urgent return date, for example within 7 days.

Where HMRC do not reply within the time specified the official receiver should follow up the request by phone and e-mail.

16.59 HMRC and a large quantity of records

HMRC's response to form BPOGD may result in the need to retain a large quantity of records. The official receiver should invite the relevant section(s) of HMRC to make an early inspection of the records to try and identify those whose retention is essential. After the inspection the official receiver may be able, with the agreement of HMRC, to destroy those records which are not required.

16.60 The procedure for destroying records

In every case form BPDC (Books and Papers – matters to be considered before destruction) should be completed, signed by the official receiver, passed to the officer responsible for the storage and destruction of books and papers and scanned into the electronic case file. The case management system should always be checked to confirm that there are no connected cases being dealt with by another office or with EIS for further investigation. If there is a connected case always contact the official receiver, investigator or IP to confirm your records are not required and may be destroyed. See paragraph 16.68 for records which should not be destroyed.

16.61 How to destroy records locally

The decision to destroy records locally should be recorded as a general note in the electronic case file. The paper and hard copy records should be placed in the confidential waste bins provided in each office. Computers and other digital media should not be destroyed locally. Records should not be sent to external storage solely to be destroyed.

16.62 Destruction or storage of computers and other media by FCU

The official receiver should ensure that the computer, IT equipment or other media containing the records is owned by the company, partnership or bankrupt. When completing the Request for Service form the official receiver should only ask for the equipment to be returned if it is owned by a third party or to be returned. In all other cases the computer, IT equipment or other media will be destroyed or, if necessary, hard drives will be removed from computers/servers and will be securely stored offsite for a minimum of 10 years by the FCU. The official receiver should inform FCU, following the guidelines if the hard drives should be kept for longer than 10 years.

FCU will ensure the destruction of the computer equipment complies with the Data Protection Act 2018 and the Waste Electrical and Electronic Equipment Directive (known as the WEEE directive).

16.63 Records should not generally be returned to a director, partner or bankrupt

Where the official receiver is liquidator or trustee they should not dispose of the records by returning them to the director(s), partner(s) or bankrupt unless:

- a winding-up order has been stayed or rescinded
- a bankruptcy order has been rescinded or annulled
- the records are personal to the director, partner or bankrupt
- the computer, IT equipment or media contains data which is personal, for example family photographs, to the director, partner, bankrupt or third party.

A request by the liquidator or trustee to return records to a director, partner or bankrupt should generally be refused unless one of the above exceptions applies.

16.64 When the records, computer or other media may be returned to a director, partner or bankrupt

Where the director, partner or bankrupt identifies papers as personal and they are not relevant to the administration of the estate they may be returned. The official receiver must obtain a receipt for the papers from them. Where the records are kept on a computer or other IT equipment owned by a director, partner or bankrupt they may be returned when the equipment is returned. The official receiver must obtain a receipt from the director, partner or bankrupt when the equipment is returned. The computer or other IT equipment should only be returned when the administration and any investigation have been completed.

16.65 Records cannot be destroyed

Where the records cannot be destroyed immediately the official receiver should record a review date in accordance with the Records Management Strategy Retention Periods Guide. There are three review periods, three years, six years and exemption. The records of a company, partnership or bankrupt are classified as “exemption” where the period of retention is to be decided on a case by case basis, but generally not longer than 6 years. Once the review date has been recorded the records should be sent to external storage.

16.66 Monthly audit of review dates

The official receiver should conduct a monthly audit of review dates. Where the review date is reached the records should be destroyed, where appropriate, by the external contractor. If the records should be preserved the review date should be updated and the new date recorded on ISCIS.

16.67 Rescission, annulment or stay

Where a rescission, annulment or stay of any insolvency proceedings is likely records should not be disposed of under the normal procedures. Where a rescission or stay of proceedings is ordered in a winding up the records should be disposed of as directed by the court. If the court makes no such direction the records should be returned to the company. Where a bankruptcy order is rescinded, or annulled, any records held by the official receiver should be returned to the bankrupt.

Where a prosecution has been proceeded with and there is a rescission, annulment or stay guidance should be sought from the Defendant Liaison and Proceedings Team.

16.68 Records which should not be destroyed

There are a number of other possible reasons why the official receiver may need to retain records. These include:

- asset realisation;
- public or private examination;
- company pension scheme;
- investigation by an other body or government department/agency;
- discharge application;
- civil proceedings;
- requests by third parties;
- embarrassment to the Service;
- a current Freedom of Information request;
- employers liability insurance policies and requests from former employees;
- insolvent insurance companies and insurance broker;
- administrative receivership; and
- historical interest.

16.69 Asset realisation

Where assets remain unrealised, for example book debts and antecedent recoveries, care should be taken to preserve all those records which will be helpful in

their collection. After the assets have been realised or written off any relevant papers should be retained to enable any enquiries or complaints to be dealt with.

16.70 Public or private examinations

Where the official receiver intends to hold a public or private examination (see chapter 20 and 21) any records likely to be used during the hearing should be preserved. Where the proceedings are adjourned and likely to be revived the official receiver should preserve those records necessary for the revived hearing.

16.71 Employer's pension scheme

Where the insolvent has run or contributed to a pension scheme for its employees the official receiver should separate, at an early stage, the relevant papers, including wage records, policies, trust deeds, and scheme rules. The official receiver must consult the other parties concerned to determine which records, if any, will be needed in connection with the pension fund. Once the records required for the administration of the pension fund have been identified, the official receiver should preserve them until they are no longer required. If the records required to administer the pension fund cannot be identified, the relevant records separated by the official receiver, should be retained for two years after the company's dissolution and then destroyed.

16.72 Investigation by other agency or government department

The official receiver should retain all records subject to investigations or reviews by another body, for example the Police or Trading Standards, or other government department or agency, such as the Serious Fraud Office. The records should be kept until the review, investigation or criminal proceedings have been completed.

16.73 Discharge application

Where the bankrupt's discharge has been suspended the official receiver should consider whether an application for discharge will be made in the future. Where an application is anticipated the official receiver should preserve those records likely to be referred to at any hearing. The nature of the records to be preserved will depend upon the reasons for the initial suspension. The records should not be maintained for a period longer than the official receiver's file (see paragraph 16.86).

16.74 Civil proceedings

Where civil proceedings have been taken, or may be started, against the official receiver or against the company, partnership or bankrupt, the claimant must be asked, in writing, whether they wish any records to be retained. For example, a member of the public lodges a claim for negligence or a former employee lodges a claim in respect of an industrial injury or disease. The official receiver should always try to ascertain the precise records required. Where this is possible the official receiver may destroy the records that are not required for the proceedings. The official receiver, before destroying any records must be reasonably certain the records will not be needed in the proceedings.

Where the company, partnership or bankrupt has, or had, employees and public liability insurance the official receiver must enter the full details of the insurance company or companies together with scanned copies of the insurance documents on the case management system to avoid the possible loss of this information.

16.75 Requests to preserve records from third parties

Where a third party asks for records to be preserved and provides a good reason the records should not be destroyed without further reference to that person. If the records are voluminous and the third party:

- does not have a statutory right to require the records to be preserved;
- they are not required for criminal, disqualification or bankruptcy restriction proceedings; or
- there are no matters in which the official receiver or BEIS generally have a direct interest;

the third party should be asked to pay the storage charges. If the third party is unable or unwilling to pay the storage charges the official receiver should give fair warning that the records will be destroyed.

16.76 Destruction would embarrass the Service

The official receiver should consider whether destruction of the records would lead to embarrassment for the Service for example where action is being taken against the official receiver.

16.77 Employers liability insurance policies

Since 1 October 2008, an employer is no longer obliged to keep out of date insurance certificates. It is considered prudent for the official receiver to retain

details of employers' liability certificates to protect against delayed claims in the future. For example, claims arising from exposure to asbestos. Any employers' liability insurance certificates which are recovered should be scanned and saved into the folder Official Receiver Operations – sub folder – Employer Liability Insurance to ensure the certificates are kept for the required 40 years and not destroyed with the case file under our standard timescales. Once scanned and saved original employers' liability insurance certificates may be destroyed.

16.78 Requests for insurance details from former employees

The official receiver may be contacted by a former employee of a company trying to trace the insolvent employers' insurance details. Where the official receiver is unable to provide these details, because no policy document was handed over or the details were not recorded on the office file the official receiver should refer the employee to the The Employers' Liability Tracing Office (ELTO) (<http://www.elto.org.uk/>)

16.79 Insolvent insurance companies and insurance brokers

Where an insurance company or insurance broker becomes insolvent the records may be of historic interest. The official receiver should not destroy the records without agreement of the History Committee of the Chartered Insurance Institute (customer.serv@cii.co.uk) who may wish to arrange for the preservation of some or all of the records.

16.80 Administrative receivership

Where an administrative receiver is in office and the company is being wound up the administrative receiver should be asked, in writing, whether they require records to be retained. The official receiver should retain those records requiring the administrative receiver to notify the official receiver when the records are no longer required.

16.81 Historical interest

The official receiver should consider whether the insolvency is of any historical interest, either nationally or locally, and the records ought to be preserved. Alternatively, the official receiver may have received interest in the insolvency or records from a local museum, the Public Record Office, the British Archives Association or the Royal Commission on Historical Manuscripts or other body.

Where the official receiver believes the insolvency or records are of historical interest, they should refer the case to the Information Management Team. If appropriate, arrangements will be for the relevant body to have the records on a permanent loan basis.

Destruction of records held by an insolvency practitioner

16.82 Introduction

Where an insolvency practitioner has been appointed the insolvent's records (including papers required for the administration of the estate) may, after completion of the administration of the case, with the permission of the official receiver be destroyed by the insolvency practitioner¹.

Where a liquidator or trustee vacates office and the administration of the case is not complete the records of the company, partnership or bankrupt must be handed to the new liquidator or trustee, which may be another insolvency practitioner.

1. Insolvency Regulations 1994, regulations 16 and 30

16.83 Destruction of the records by the insolvency practitioner

Where the insolvency practitioner's administration of the case is complete the official receiver should consider whether to:

- grant permission for the records to be destroyed in situ or
- return the records to the official receiver.

Before granting permission to destroy the official receiver should consider whether HMRC should be advised (see paragraph 16.57). Where, having regard to the guidance in Retention or destruction of records the official receiver is satisfied the records are not required the insolvency practitioner should be asked to complete and return form BPDC. Once the form BPDC has been completed and returned the official receiver should review it and where authority to destroy is given form BPIP should be sent to the insolvency practitioner.

16.84 Official receiver retrieves records from the insolvency practitioner

Where the official receiver requires the records for the future administration of the estate he should arrange for their collection from the insolvency practitioner.

Official receiver's case files

16.85 Introduction

With the introduction of electronic case management and filing the requirement for any form of paper case file for insolvency cases is largely a thing of the past. There remains a number of exceptions where the official receiver's paper documents should be kept.

16.86 Arrangements for remaining paper files

The Insolvency Service still has a number of paper files in its offices or at external storage. Where appropriate the official receiver should ensure that those paper files are destroyed in accordance with the Retention Periods Guide. Case files are usually destroyed six years from when the case is closed.

The official receiver should conduct a regular audit of review dates. Where the review date is reached the case file should be destroyed, where appropriate, by the external contractor. If the records need to be preserved the review date should be updated and the new date recorded on the case management system.

16.87 Official receiver's electronic case files

Each office creates and maintains its own electronic case file. Paper documents are scanned into the electronic case file, either locally or by the Agency's scanning centre. The original paper documents should then be destroyed. The electronic case files are destroyed in accordance with the [Retention policy for information and personal data relating to insolvency casework](#)

16.88 Retention of "public interest" case files and records

A small number of cases which meet a public interest criteria should be retained for a longer period or, in some instances, permanent preservation. These cases will be usually, but not exclusively, dealt with by the Service's Public Interest Unit.

Cases are defined as public interest cases if they meet one of the following criteria:

- the case is a long-established company - for instance one incorporated 100 years ago;
- if the case has been referred to in an Agency Annual Report;
- if the case concerns a famous/infamous individual or has received prolonged media interest;
- where some, or all, of the accounting records have been identified as of historical interest, and arrangements have been made for their permanent retention;
- if the case sets a precedent;
- if the case involves a novel or unusual occupation;
- the case may be the subject of future research because of the nature of the business; and/or
- it is thought to be of national or local significance for any other reason.

16.89 Preserving paper documents in “public interest” cases

In cases which meet the “public interest” criteria the official receiver should consider preserving the paper documents, such as the questionnaire booklet(s), narrative statements, creditor petition statement of affairs, etc, after they have been scanned into the electronic case file.

The official receiver should annotate those cases which are considered to meet the public interest criteria on the case management system, and notify the Information Management Team. The Agency Records Officer will obtain the individual files and associated papers, and ask the National Archives what interest, if any, they have in the case file and records. Where the National Archives have no interest in the case the Agency Records Officer may offer the case file and records to other archives, including local authority record offices. If there is no interest in preserving a potential public interest case the case papers may be destroyed in accordance with the local destruction policy. Any other records may be destroyed in accordance with the Retention Periods Guide.