

# St Helens Archive Service

## Restricted Records Policy

### 1. Purpose of the Policy

St Helens Archive Service is committed to making the records in collections accessible to as wide an audience as possible. There are occasions when accessibility may be prevented due to legislation, condition or other restrictions.

This Policy sets out the reasons for restricting access to records, the closure periods during which access is restricted and ways in which researchers can obtain information from such records.

This policy complies with legislation such as Freedom of Information and the General Data Protection Regulation.

There are GDPR provisions for preserving records which are in the public interest, which affect the application of the rights of the individual and some of the principles.

### 2. Condition restrictions

2.1. If items are deemed too fragile for public handling due to their format (such as glass negatives) or condition (loose covers and spines, water damage or brittle and flaking paper or parchment), a surrogate or facsimile may be available, or research may have to be conducted on behalf of the user to extract the required information. If an item is in need of conservation activities, this will be detailed on the Conservation Log (see St Helens Archive Service Conservation Policy).

### 3. Catalogue restrictions

3.1. Before a recently acquired collection is catalogued, the extent of any sensitive content is not fully known. If researchers are aware of a specific unlisted collection and wish to access it, the Archivist will assess the suitability of allowing access to whole or part of the collection that they deem suitable for viewing. As with most archival repositories, St Helens Archive Service has a backlog of items to be catalogued, with priority given to collections deemed most important to the overall borough collection.

### 4. Depositor restrictions

4.1. Occasionally, the depositor of a collection may request that part, or all of that collection be closed for a specified number of years. Requests for information under FOI or GDPR may be possible.

- 4.2. In some cases, St Helens Archive Service are the holders but not the owners of the material. Access to these collections may require approval from the owners.

## **5. Legislation restrictions**

Although the aim is to make as much of the holdings as accessible as possible, there are restrictions under specific legislation that St Helens Archive adheres to. Users should contact the service to find out about restrictions on records as access may be granted to documents with sensitive material redacted.

### **5.1. Data Protection Act (DPA)**

This regulates the processing of information relating to individuals and restricts access to the personal data of third parties. St Helens Archive Service has a legal obligation to comply with current data protection legislation that aims to protect all personal data that is collected, processed, stored and disposed of by an organisation. The act restricts access to sensitive data for the lifetime of a person. If this is not known, the Act assumes this to be 100 years. Once an individual is deceased, their data is no longer covered by the Act, however the information may still be damaging to living relatives and exemptions under Freedom of Information may apply. Please be aware the DPA covers all an individual's personal data present within a volume or on a page, and therefore it is required that this data is protected even when looking for a specific person or entry.

### **5.2. Public Records Act 1958 (PRA)**

St Helens Archive Service recognises and implements legislation relating to the Public Records Act, in that Archives transferred from certain public bodies (e.g. courts and hospitals) shall not be made available for public consultation until the expiration of 50 years (this was reduced to 30 years by the Public Record Act 1967).

### **5.3. Freedom of Information Act (FOI)**

The Freedom of Information Act was introduced to bring about a culture of openness within the public sector and gives users the general right of access to information held by St Helens Archive Service. In certain circumstances, St Helens Archive Service may use various exemptions contained within the act as guidance for maintaining access restrictions in addition to, or in place of, the Data Protection Act. The exemptions the restriction periods are based on are within Section 32 (absolute closure on court records~), section 40 (information which constitutes personal data under the Data Protection Act), section 44 (information which may breach another act or legislation).

### **5.4. Register of Electors**

Under current legislation, registers less than 10 years old can only be searched under supervision and only handwritten notes can be taken. No form of electronic, photographic or mechanical copying can be permitted by law. Regulations also deny St Helens Archive Service any disclosure of the information from these registers over the phone or in writing until 10 years after their publication. Data contained within the registers may only be used for research purposes and not for commercial activities such as mailshots. Electoral Registers under 10 years old can be consulted at St Helens Archive Service, Registers over 10 years old can be consulted at Eccleston Library.

### **5.5. Court records**

Magistrates' Court records **less than 30 years old** are closed under FOI 2000. Section 32 of the Freedom of Information Act provides an absolute exemption of access to court records under 30 years old.

Magistrates' Court records **more than 30 years old** are restricted for 100 years under DPA 1998 and FOI 2000. Although adult court registers over 30 years old are accessible after the 30 year restriction, entries involving juveniles are restricted for 100 years under DPA 1998 (or a FOI s40 personal information exemption if the subject is deceased) as well as the Children's Act 2004 (a FOI s44 exemption for breach of another Act). In addition, cases identifying victims of sexual offences are restricted for 100 years under DPA 1998 and the Sexual Offences Act 2003 (FOI s40 and 44 exemptions as before). As these entries are included throughout the registers rather than separately, access must be restricted to the entire series of registers for the full period.

#### **5.6. School records**

Admission registers are restricted for 100 years under DPA 1998. These can potentially contain sensitive personal data relating to pupils and parents. However, information can be extracted from individual entries on request when provided with a name, date, and (in cases where the entry relates to the individual asking for access) proof of identity.

Logbooks are restricted for 100 years under DPA 1998. These can contain sensitive medical and personal information relating to pupils, parents and staff. Logbooks less than 100 years old may be requested, however a member of the Archive team will need to assess its contents. If the logbook contains no sensitive information, the restriction will be reduced to 30 years and noted on the catalogue entry for the reference of future researchers. If the logbook does contain sensitive information, then access may be restricted to certain sections of the book or the 100 years restriction on the entire volume will be maintained.

Punishment books and other records relating to identified individual pupils are restricted for 100 years under DPA 1998. Even if a data subject is deceased, FOI 2000 section 40 (personal information) will still apply. In addition, the volumes will contain information on numerous third parties (i.e. other pupils and staff).

#### **5.7. Medical records**

Registers and records containing clinical information are restricted for 100 years under DPA 1998. Even if a data subject is deceased, FOI exemptions under sections 40 (personal information) and 41 (information provided in confidence) will still apply.

Registers of deaths containing clinical information are restricted for 100 years under FOI 2000. Sections 40 (personal information) and 41 (information provided in confidence) apply, as well as the risk of potential damage and distress to surviving relatives.

Maternity registers are restricted for 100 years under DPA 1998. Even if a data subject is deceased, FOI 2000 exemptions under sections 40 (personal information) and 41 (information provided in confidence) will still apply. Maternity records are classed as being records relating to the mother, not to the child.

Asylum records are restricted for 100 years under DPA 1998. Even if a data subject is deceased, FOI 2000 sections 40 (personal information) and 41 (information provided in confidence) will still apply. The volumes will also contain information on numerous third parties, and there is potential for the information to cause distress to surviving relatives.

Poor Law / workhouse records are open as the entire workhouse records are more than 100 years old. Please note that large numbers of workhouse records were destroyed during World War II.

### **5.8. Other records**

Other types of records may be subject to legislative restrictions such as records of religious organisations, personal records, business or organisation records, and Trade Union records.

## **6. Review**

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<b>Approved by</b>	Bill Renshaw
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