

# **CROWN OFFICE CIRCULAR 29 OF 2001**

## **CROWN OFFICE AND PROCURATOR FISCAL SERVICE**

**CROWN OFFICE  
EDINBURGH**

**CROWN OFFICE CIRCULAR No 29/2001  
SUBJECT: Management No 3**

### **RETENTION OF CASE PAPERS BY PROCURATOR FISCAL**

**Solemn cases**

#### **HIGH COURT CASE PAPERS AND SECTION 76 CASE PAPERS**

**All High Court cases dealing with undernoted offences should be retained for a period of 10 years at Crown Office prior to being transferred to the National Archive Service (NAS).**

- Murder
- Culpable Homicide
- Terrorism
- All Sexual Offences
- Perjury
- Mobbing
- Any case of significant legal interest
- Any case involving new investigative procedures or legal precedent
- Any unusual or rarely charged offence; i.e. abduction
- Any case involving eminent or famous people
- All cases of life imprisonment
- Any psychiatric disposal

The papers will be retained at Crown Office. A complete set of papers should be transferred to Crown Office at the conclusion of the trial or appeal proceedings. Offices should allow the statutory time period to lodge an appeal – 2 weeks – to elapse before sending papers to Crown Office. The disposal instruction should be completed after the conclusion of the proceedings and then the PF papers should be transmitted to Crown Office.

All cases not falling within the above-named categories should be retained for a period of 5 years or the length of the sentence imposed whichever is longer. The Crown Office papers will be transferred to the PF Office.

There is a discretion allowing Procurators Fiscal to identify any other cases not falling within the above-named categories that should be retained for historical interest or for other purposes such as risk assessment.

#### **SHERIFF AND JURY**

Subject to the exceptions listed below all Sheriff and Jury papers should be retained for a period of 3 years after the conclusion of the trial or appeal proceedings have been concluded or for the length of the sentence if the case has been the subject of a remit.

### **Exceptions**

- Sexual Offences
- Any conviction in which an aggravation/marker has been added
- Any case where the Procurator Fiscal considers retention is necessary for the purposes of risk assessment
- Any case of significant legal interest
- Any case involving new investigative procedures or legal precedent
- Any unusual or rarely charged offence
- Any case involving eminent or famous people
- The above cases should be retained for a period of 10 years.

There will be a residual discretion for Procurators Fiscal to identify any cases which may be of historical interest for longer retention periods and/or transmission to National Archives Service.

### **SUMMARY CASES**

Subject to the exceptions referred to below, it is proposed that all offices retain these papers for a period of two years or until the expiry of the sentence. If the aggravation/marker has been attached to the conviction the papers should be retained for 10 years.

It is recognised that particularly in relation to sexual offences some cases that proceed on summary complaint may represent the beginning of a period of offending and may be of significance at a later stage in the determination of risk assessment. Thus, papers relating to sexual offences should be retained for 5 years and then reviewed to determine whether the papers can be destroyed.

There is a discretion for the Fiscal to identify papers that should be retained for a longer period.

Any case of legal significance etc, should be identified and transferred to Crown Office for transmission to NAS.

### **COMPLAINTS AGAINST THE POLICE**

For cases prosecuted on indictment – the papers should be retained for 5 years.

For cases prosecuted by summary proceedings – the papers should be retained for 2 years.

For cases marked no proceedings – the papers should be retained for 2 years.

## **NO PROCEEDINGS AND ALTERNATIVES TO PROSECUTION**

### **Summary Cases**

For cases where an alternative to prosecution has been accepted, the papers should be retained for 1 year.

For cases marked no proceedings, the normal summary rules apply.

### **Solemn Cases**

Cases marked no proceedings by Crown Counsel or exceptionally by the Fiscal prior to full committal, should be retained for 10 years if the offence falls within any of the categories where papers are to be retained for 10 years in relation to High Court or Sheriff and Jury cases.

In all other cases, if the case is marked no proceedings but is considered to be of gravity that would warrant solemn proceedings, the papers should be retained for a period of 3 years.

## **FIXED PENALTIES AND CONDITIONAL OFFERS OF FIXED PENALTIES UNDER THE ROAD TRAFFIC ACTS**

The papers should be retained for 6 months.

## **NO PRO MEANTIME**

These are “live” cases and do not fall within the retention policy. Following the instruction in Chapter 3 at paragraph 3.29 of the Book of Regulations, these cases require to be audited for ECHR requirements and considered on a regular basis. Once a decision is taken to close the case and mark it no proceedings, it will fall under that category for retention purposes.

## **CASES INVOLVING DISQUALIFICATION FROM DRIVING**

Case papers may be required to prove disqualification, or for the purpose of an application for the restoration of a licence or to prove that the accused to a minimum period of disqualification of 3 years due to previous offending in the preceding 10 years. Accordingly, the papers should be retained for a period of 10 years.

## **PROBATION ORDERS, CSO's etc**

Papers are to be retained until the end of the probation period or 5 years, whichever is longer.

## **FATAL ACCIDENT INQUIRIES**

All Fatal Accident Inquiry papers should be submitted to Crown Office at the conclusion of the proceedings with a view to the papers being transmitted to the

National Archive Service. The papers will be held at Crown Office for a period of 5 years prior to transmission to the National Archive Service.

## **DEATHS**

Death papers should be retained for 3 years.

This will not include deaths that have been the subject of a Fatal Accident Inquiry, or deaths where there has been a criminal investigation and have been marked no pro meantime.

**ANDREW C NORMAND**  
**CROWN AGENT**  
**18 December 2001**