

TERMS AND CONDITIONS OF DEPOSIT

1.0 Background

Edinburgh City Archives Service [the Archives Service] is the designated place of deposit for the official records of City of Edinburgh Council [the Council] and its predecessor authorities. It also holds privately deposited records of historical significance that relate to its area. This is in accordance with the powers bestowed under sections 53 and 54 of the Local Government etc. (Scotland) Act 1994 and the Collecting Policy of the Archives Service which is available on the Archives Service's website or by request. The following clauses detail the terms and conditions concerning the deposit of records with the Archives Service.

2.0 Ownership and copyright

2.1 Deposit is the physical act of transferring records into the custody of the Archives Service.

2.2 Gifting is the transfer of legal ownership from the depositor to the Council. Thereafter, the records become the physical property of the Council and its successor bodies. Records cannot be withdrawn once gifted.

2.3 By signing the Gift or Purchase section of the form the depositor warrants that s/he is the legal owner of the deposited records. If signing on behalf of the owner, the depositor warrants that s/he has powers to do so. Where ownership is unknown, a depositor may also sign this section indicating the position in the comments box.

2.4 Records deposited under indefinite loan (a period within which this agreement shall remain in force unless revoked by the depositor), temporary loan (as specified in the form), departmental transfer or charge and superintendence remain the legal property of the depositor who can withdraw them at any time subject to the terms of withdrawal as laid out in 7.0 below

2.5 Assigning ownership of records to the Council is not the same as assigning copyright. The Archives Service will explain and discuss this with depositors at the time of deposit so that they may choose to assign copyright to the Council if they so wish.

3.0 Deposit

3.1 The Archives Service reserves the right to refuse any records that are not covered by the Archive Service's Collections Policy. The Archives Service will also return to the depositor any records that are deemed to be of no historical interest or, with the consent of the depositor will transfer them to a more appropriate place of deposit or destroy them.

3.2 For legal purposes, depositor details will be maintained permanently in electronic and manual formats. To ensure compliance with the Data Protection Act 1998 [DPA], the Council is registered with the Data Protection Registrar and undertakes to process data that it holds on depositors lawfully. While the name of a depositor may be included in finding aids to provide a greater understanding of the provenance of the collection, full contact details for the depositor will not be released without the express permission of the individual concerned.

3.3 In order that the Council can comply with the DPA, which includes the principle that personal data shall be kept up to date and accurate, the Archives Service should be notified of any changes in depositor details. The Council will not accept responsibility for any consequences that may result from failure to notify such changes.

3.4 The Council will become the joint data controller for records that are not gifted to it. This means that the depositor and the Council are both responsible for compliance with the principles of the DPA. Under the Act, the Council has an exemption under the second and fifth principles that permits the keeping of records indefinitely for historical research purposes, provided that they are not used to support measures or decisions with respect to individuals and provided they are not processed in such a way that substantial distress or damage is, or is likely to be caused. As a result, the Archives Service reserves the right to refuse to take any records which may still be needed by the owner to support decisions concerning individuals as defined in the DPA, and the Council will not be liable for use made of the records by the owners should the records be unlawfully processed.

4.0 Preservation and conservation

4.1 Records will be stored and maintained in appropriate environmental conditions with protection against intruders and fire. For any records that require specialist attention e.g. films, suitable accommodation will be found elsewhere in consultation with the depositor.

4.2 The Archives Service will take all reasonable precautions to protect the records from loss, theft, illegal access and malicious damage, but shall not otherwise be liable beyond this.

4.3 The Archives Service maintains the right to deny physical access to records in too fragile a state for public consultation but, in accordance with Freedom of Information legislation, rights of access to the information they contain remain unaffected.

4.4 For security, identification and retrieval purposes, records will be numbered with a unique reference code that will cause no damage to the records.

4.5 Records may receive conservation and preservation treatment, as appropriate, within the overall conservation and preservation programme of the Archives Service.

4.6 The Archives Service may produce surrogate copies of records to ensure the long-term preservation of the originals. These copies will be the legal property of the Council and will be made available for research purposes, subject to any conditions detailed in the deposit agreement.

5.0 Listing

5.1 Records will be listed by professionally qualified archivists or individuals under professional supervision as part of the Archive's programme of listing all collections in its custody. A copy of the list will be provided free of charge to the depositor and to the National Register of Archives (Scotland).

5.2 Copyright in all such lists and other finding aids, manual and computerised, shall vest in the Council as does the right to publish finding aids on the web or by any other means deemed appropriate.

6.0 Access

6.1 Records will be made available to the public free of charge for purposes of research in the Archive's searchroom during its advertised opening hours. Access to records will be in accordance with professional archival standards and recommendations. In exceptional circumstances some unlisted records may be made available for research purposes at the discretion of the City Archives.

6.2 Access restrictions may be placed on some records for a designated period of time in accordance with Data Protection legislation. However, the Council retains the right to refuse records with permanent closure periods since such restrictions preclude their research potential.

6.3 Subject to the deposit agreement, copies of records may, at the discretion of archives staff, be supplied to users of the Archives Service on payment of current reprographic charges (See the schedule of charges). All copying will be in line with current copyright legislation. Persons requesting copies of records in copyright will sign a copyright declaration form. The Council is not responsible for any abuse of copyright made by users of the copying service.

6.4 Note that since Edinburgh City Archives is part of a Scottish public authority, any gifted material becomes subject to the provisions of the Freedom of Information (Scotland) Act 2002 [FoI] and all material – gifted or loaned – is subject to the Environmental Information (Scotland) Regulations 2004.

6.5 The permission of the Archives Service must be sought for publication, in whole or in part, of any deposited records. If permission is required from the depositor, the Archives Service will act as intermediaries.

6.6 Unless stated otherwise in the deposit agreement, the Council reserves the right to publish in whole or in part any deposited records for access, educational and outreach purposes. These copies will be the legal property of the Council.

7.0 Terms of Withdrawal

7.1 For collections that have not been gifted to Edinburgh Council, the owner or individual acting on the owner's behalf is entitled to withdraw records for an agreed period. One month's notice must be given in writing prior to the withdrawal date and evidence of legal ownership must be produced. The Council will not be responsible for any damage caused during the period of withdrawal.

7.2 If records are to be withdrawn permanently, four month's notice must be given in writing by the owner or individual acting on the owner's behalf. In such circumstances, the Council reserves the right to copy the records in whole or in part and to hold these copies once the records have been withdrawn. These copies will be the legal property of Edinburgh Council and will be made available for research purposes, subject to legal restrictions or a revised deposit agreement.

7.3 The Council reserves the right to make a charge to cover the cost of any conservation or preservation work carried out on items within the collection and, depending on the length of deposit, may include administration and cataloguing costs. Any such charges will be in accordance with the Archives Service's outlays on conservation/preservation, cataloguing and storage costs. Further information can be provided upon request.