

Guidance from the Crisis Management Team: Advice for insolvency practitioners

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<https://managingbusinessarchives.co.uk/getting-started/business-archives-risk/crisis-management-team/>

How Insolvency Practitioners Can Rescue Archives

Play your part to protect history

This guidance is written for insolvency practitioners. It is to help you ensure records of historical value survive when a business or charitable organisation fails. This guide has been approved by the Business Archives Council.

What are archives?

Archives are records kept because they contain information of historical value. They can be important for legal purposes. Archives also have value for social and economic history research, family history and local history. Archives tell the story of an organisation and its locality. They are a shared testament to the contributions of the people who worked for it, and of those who engaged with it.

Records can be in hardcopy, such as minute books, letters, building plans, or photographs. They can also be digital, such as spreadsheets, digital photographs, documents, or emails. These can be on hard drives, removable media, cloud storage or servers.

Advantages to insolvency practitioners

Insolvency practitioners have an important role to play. They can help ensure archives survive when a business or charitable organisation fails.

In turn administrators and liquidators enjoy the following advantages:

- **Meet ethical requirements.** Administrators and liquidators are bound by a code of ethics. This code requires the practitioner to understand the context of an insolvency case. It also promotes the need to gain specific knowledge to manage implications of actions around winding up a company. This includes the disposal of assets such as archives.
- **Receive professional best practice advice** from archivists, free of charge.
- **Ensure no ongoing liability** as agreements transfer ownership to an archive repository.

- **Enhance the insolvency profession's profile** and meet Corporate Social Responsibility goals. Successful cases of rescue are good news stories. These can be celebrated by repositories and office holders alike. A key example is the Thomas Cook archive now cared for by The Record Office for Leicestershire, Leicester and Rutland which was dealt with by the Official Receiver as liquidator and insolvency practitioners from AlixPartners acting as Special Managers.

Katie Hudson, Official Receiver, at the Insolvency Service said:

We were keen to ensure that Thomas Cook's historical records found an appropriate home. The Crisis Management Team for business archives assisted us with the process which ran very smoothly, and enabled us to transfer the archive to The Record Office for Leicestershire, Leicester and Rutland. The Record Office have great plans for the archive and researchers will be able to use the records for generations to come.

The following guide will help you save records of historical value.

You **should not dispose of records before beginning this process**, as archives may be lost. Where possible, keep records in the order you find them. Their location provides important contextual information for archivists and will inform their work.

Contact the Crisis Management Team for Business Archives for advice. They can act as the point of contact between insolvency practitioners and the archives sector. There is no cost associated with this advice.

Due diligence: what you need to do

Businesses of all kinds have records worthy of permanent preservation. The archives of long-standing companies of local or national significance will be especially important to safeguard. Archives of recently established companies of local or national standing, for example within sectors of contemporary significance, are also important. They will tell the story of business in the twenty-first century. Any business well-known or established within a specific community of place or practice will also have records of interest.

If you are unsure whether a business has records that may be worthy of permanent preservation, contact the Crisis Management Team for Business Archives for advice.

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1. Find out if there is an existing historical archive in-house and kept in designated location(s). Managed archives are usually accompanied by useful lists and records on past use. These describe the contents and evidence the value of the records to the organisation and

researchers. The staff who have looked after the records may include trained archivist(s). They will be invaluable as sources of advice on past decisions and requirements. Businesses with a managed corporate archive should have an exit plan in place.

2. If there is no collected archive, **keep a brief summary of the kinds of records you find and their location**. This can be onsite, on hard drives and shared drives and/or offsite storage. Include information about the date range(s) they cover, and their format. Explore common kinds of records in the FAQs (below). Any artefacts (for example, signs, pictures or tools) can be part of the archive and/or suit a future art gallery or museum collection. Advice may be sought from an archive and/or the Museums Association.

3. **Ask staff in the organisation if any records have already been deposited with an archive repository**. If it is unclear, search The National Archives' Discovery Catalogue under 'Record Creators'. You can also contact the Crisis Management Team for Business Archives for advice.

If archives are already deposited:

- contact the archive repository
- introduce your role and find out more about previous deposit(s)
- outline the records which are in possession of the business or charitable firm. The repository will be able to work with you to help decide what records to keep. They may review summary details lists and/or survey records. Before transfer, the repository will supply a deed of gift. The administrator or liquidator signs the deed on behalf of the organisation. The agreement transfers ownership of the archive to the repository. See the FAQs (below) for more on deeds of gift. It may be unclear whether records are already at an archive repository. Contact the Crisis Management Team for Business Archives for advice.

If records are not deposited with an archive repository:

- contact the Crisis Management Team for Business Archives
- outline the name and background of the business you are working on
- explain the kinds of records you have identified. The Crisis Management Team will connect you up with the relevant archive repository. This will enable you to discuss the potential for deposit, and the repository will work with you to help decide what records to keep. They may review summary details lists and/or survey records. Before transfer, the repository will supply a deed of gift. The administrator or liquidator signs the deed on behalf of the organisation. The agreement transfers ownership of the archive to the repository. See the FAQs (below) for more on deeds of gift.

FAQS

What kinds of records should we be looking for?

Both official and unofficial records are important, on paper and in digital format. This could be older material or recent records which tell the story of the company. Common kinds of archive documents include:

- **Corporate and administration:** certificates of incorporation, articles of association and other foundation records, executive minutes, rules, policies, business plans and procedures, reports (including annual report), shareholding registers, files of individuals in key positions (such as Chairman, Director, Secretary) on company matters, events and notices.
- **Legal and premises:** contacts and agreements, statutory reports, patents and licenses to operate, property records including deeds, plans, inventories and valuations.
- **Finance:** annual statement of accounts, returns, audits, statutory reports, budget policy and planning documents, ledgers, cash books and other series recording financial transactions.
- **Production/Operations:** including departmental work, branches, members and cases including registers, lists, files, factory and sales records.
- **Staff and employment:** including lists and registers, pension scheme, magazines, photographs of social events, and documents on staff clubs/societies.
- **Marketing:** advertising material, artwork, leaflets, posters, press releases, scrapbooks, photographs, audio-visual material (films, video footage and audio cassettes).
- **Reference material:** records not created by the company but kept by the firm. These can provide context and show the relationships the business had.
- **Artefacts**, such as tools, signs or marketing items may well have significance and directly relate to the archive.

Insolvency practitioners need to keep some company records. What should happen with these records once work is at an end?

Alert the archive service to the more recent records you are retaining. Tell them how long you intend to keep them. The archive service will agree when to hand over these records to them. Transfer will ensure they join the main records of the business.

What about the UK General Data Protection Regulation (GDPR)?

UK GDPR is incorporated into the Data Protection Act 2018. The regulation does not require the destruction of all records containing personal data. The legislation has an important exemption: archiving in the public interest. This recognises that key records containing personal data about living persons can be of historical value. Archive services restrict access to items containing such personal data. Keep records containing personal data and allow the archive service to appraise them. The repository staff will select items to keep. Dispose of material allocated for destruction in a secure way.

The National Archives has published guidance on Archiving Personal Data in line with the Data Protection Act 2018.

What is a deed of gift?

A deed of gift transfers ownership of the records to the archive repository. The administrator or liquidator signs over the material on behalf of the insolvent organisation. The archive repository usually supplies the agreement for signature. The deed summarises the archive and

responsibilities. A clause releases insolvency practitioners from future responsibilities or liabilities which may arise. For details on what to expect see published guidance for archivists.

What will happen to the records once the archive repository has them?

The deposit may be a chance to publicise good news. The archives will be kept at the expense of the repository. Access will comply with legislation around data protection. They will:

- Store them securely
- Register or accession them
- Catalogue with funding available to them
- Then make them available for research
- share them with community and for education

Ex-company staff or customers may be able to contribute to cataloguing and events

Can you point me to successful examples of this process?

Explore recent case studies on the [Managing Business Archives](#) website.