Law Society of Ontario | Barreau de l'Ontario

Closed Files

Lawyers and paralegals typically store recently closed files at their offices and more dated closed files at a storage facility. Should you find client files, please do the following:

- ☐ Locate the licensee's closed file list. This is a list made at the time files were closed and/or sent to off-site storage. This list will assist you in determining the age of the client files.

- ☐ If you cannot locate a closed file list, get a sense of the age of the client files by looking for the date on the first document in the file. **As client files contain confidential and privileged information, limit your viewing of the files to the document dates.**

- ☐ In order to determine if the client files can be destroyed due to age, refer to the Law Society's Retention and Destruction of Closed Files Guidelines.

  - The Guidelines for Lawyers can be located at www.lso.ca/lawyers/practice-supports-and-resources/topics/managing-files/file-retention-and-destruction
  - The Guidelines for Paralegals can be located at https://lso.ca/paralegals/practice-supports-and-resources/topics/managing-files/file-retention-and-destruction

- ☐ Before destroying any files, locate and set aside the following materials:

  - Wills, or Powers of Attorney documents
  - Files relating to the preparation of testamentary documents – usually labelled with the words "Will", "Powers of Attorney", or "Codicil"
  - Corporate Minute Books (usually burgundy or black binders) or Corporate Seals

  If you find any of these types of documents / client property mixed in the boxes of client files, refer to our other guides for information on how to deal with them. For example, refer to the guide entitled "Wills and Will Files" for information on how to handle Wills, Powers of Attorney, and other testamentary documents.

- ☐ Also set aside any rolodex or other lists of client contact information you may discover as it may prove very useful for any new lawyer or paralegal who may take possession of client documents and files.

- ☐ Once you are satisfied that the files can be destroyed, and that all of the client property, documentation and contact information listed above has been set aside, you may dispose of files in keeping with the Retention and Destruction of Closed Files Guidelines.

- ☐ Be sure to maintain confidentiality when disposing of files. If paper documents are shredded or incinerated, ensure that confidentiality is maintained both during the destruction process and the disposal. If you choose to outsource the destruction of client files, ensure that the third-party provider is reputable and will ensure that the files remain secure until they are destroyed. **Please note that recycling client files or leaving client files for garbage pick-up is NOT an acceptable way to destroy client files.** More information on managing closed client files can be found in the Guides to Retention and Destruction of Closed Client Files referenced above.

- ☐ If you require assistance with the interpretation of the Retention and Destruction guidelines, reach out to a colleague of the deceased or incapacitated lawyer / paralegal to see if they would be willing to assist you.