



Records disposal schedule

Records Disposal Schedule Legal Aid Services NT Legal Aid Commission

Disposal Schedule No. 2016/10

July 2016

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Preamble

Introduction

The *Information Act* states that public sector organisations must safeguard their records and must not delete or otherwise dispose of a record unless authorised to do so¹. Disposal of records is permitted through the use of records disposal schedules and enable regular, planned and authorised disposal of records controlled by an agency.

Records retention decisions are based on:

- the current and future business needs of the organisation
- compliance with legal and governance requirements of the organisation
- the current and future needs of internal and external stakeholders, including the wider community.

Records disposal schedules provide continuing authorisation for the legal disposal of records and are authorised by the records service, archives service and chief executive officer of the public sector organisation responsible for the schedule.

Records disposal schedules apply to records created and maintained in any format, including electronic records, records in business systems, and parts of records.

In the Northern Territory government there are two types of records disposal schedules:

- General records disposal schedules that apply to records common to most or all NT Government public sector organisations (http://www.nretas.nt.gov.au/knowledge-and-history/ntas/records/records_disposal), and
- Functional records disposal schedules that apply to records specific to an NT Government public sector organisation or function.

Functional records disposal schedules should be used in conjunction with general records disposal schedules.

Structure of a Records Disposal Schedule

Records disposal schedules set out minimum requirements for the creation, maintenance, retention or destruction actions to be taken in relation to existing or future records described in each class. Records disposal schedules specify

- a) whether a class of record has temporary or permanent status;
- b) the retention period for a temporary class of record;
- c) authorised disposal actions for a class of record.²

Each class of records created by an agency is described using classifications based on business analysis.

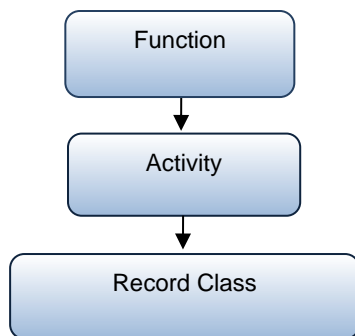
¹ S.145 *Information Act*

² S.136A(3) *Information Act*

Disposal schedules are developed using the functional structure based on the business classification scheme of the *Keyword AAA: A Thesaurus of General Terms* produced by the State Records Authority of NSW and modified for use by NT Government public sector organisations.

Within the schedule, functions are documented as the highest level terms and business activities under the functions, followed by record classes, as shown in diagram 1.

Diagram 1



Function

The function or keyword is the highest level in the classification scheme in this disposal schedule. The function is indicated at the start of each section and a description (scope note) provided.

Activity

Activities are the processes or operations that make up the business function. This is the second level in the classification scheme in this disposal schedule. The description (scope note) provides details of the transactions that take place in relation to the activity, for example, REPORTING or POLICY.

Record Class

A record class is a group of records that relate to the same activity, function or subject and require the same disposal action. The descriptions can relate to one record (such as a register) or a group of records documenting a particular set of business transactions.

Status and Disposal Action

The appraisal status of a record class is assigned as either permanent or temporary.

Permanent Records: Records appraised with permanent status have been identified as archives and must be transferred to the NT Archives Service for their preservation and eventual public access.

The retention period for permanent records is the maximum period before the records must be transferred to the NT Archives Service. Permanent records must be transferred no later than 30 years after creation in accordance with the Information Act, unless exemption has been granted (see Archives Management Standards Transfer of Archives, and Exemption from Compulsory

Transfer of Permanent Records to the NT Archives Service). An Application to Transfer Records form must be submitted to the NT Archives Service before records will be accepted for transfer.

Temporary records: The retention period for temporary records is the minimum period before the records can legally be destroyed. The retention period is calculated after an event or a disposal trigger such as 'date of action completed', 'date of audit' or 'date of birth'. Destruction should be done following consultation with relevant operational business employees responsible for the records.

Retention periods for temporary records in a records disposal schedule are minimum periods only and agencies may keep records for a longer period if considered necessary for business requirements.

Reasons for longer retention could include,

- administrative need or agency directives,
- legal requirements such as current or pending legal action,
- relevance to an investigation or inquiry which is in progress,
- is subject to an Information Access application, or
- subject to a disposal freeze.

Records created prior to 1 July 1978 must not be disposed of without the authorisation of the NT Archives Service in accordance with Archives Management Standard Records Created Prior to 1978, unless specified in a schedule.

Sentence records with this records disposal schedule using the following five steps:

1. Determine the appropriate function and activity of the records. This can be done by examining an existing record or when creating a new record.
2. Identify the disposal class.
3. From the disposal action in the class, identify the trigger event and a date when the record can be disposed of, alternately, identify that the record is to be retained permanently as archives.
4. If the trigger event has already occurred (such as action is completed), confirm and implement the disposal action.
5. If the trigger event has not occurred (e.g. the record is still in active use), set a review date for the future.

About this Records Disposal Schedule

Purpose

The purpose of this Records Disposal Schedule is to enable regular, planned and authorised disposal of records of the legal aid services function of the NT Legal Aid Commission.

Scope

Application of this Records Disposal Schedule is mandatory for Legal Aid Services records of the NT Legal Aid Commission.

This Records Disposal Schedule applies to legal aid services records in all formats.

Responsibility

The Director of the NT Legal Aid Commission is responsible for the content and implementation of this Records Disposal Schedule including the provision of advice and training, and for monitoring compliance.

Authority

This Records Disposal Schedule is authorised in accordance with S. 136B of the *Information Act*. Disposal Schedule No. 2016/10 was approved by the Director of the NT Archives Service (The Archives Service), A/Senior Director of ICT Policy and Governance (The Records Service), and the Director of the NT Legal Aid Commission on 7 July 2016 and is effective immediately.

Schedule of amendments to the Legal Aid Services Records Disposal Schedule were authorised by the Director NT Legal Aid Commission on 17 January 2019 and are effective immediately.

Page	Element	Type of edit	Description of amendment
4	New class 1.2.1	Category B	Records documenting formal social support services provided to clients who are minors (less than 18 years) relating to criminal law matters, family law matters and civil law matters.
4	New class 1.2.2	Category B	Records documenting formal social support services provided to adult clients relating to criminal law matters, family law matters and civil law matters.

Regulatory Framework

The regulatory basis for this Records Disposal Schedule is defined in:

- *Legal Aid Act (1990)*
- *Legal Aid Regulation*
- *Legal Profession Act*
- *Information Act*
- NT Government Records Management Standards
- NT Government Archives Management Standards
- Australian Standards AS ISO 15489:2002-Records Management

Related Documents

This Records Disposal Schedule is to be read in conjunction with:

- NT Government Records Management Standard – Records Disposal
- policies and procedures of the NT Legal Aid Commission
- current authorised disposal schedules for the NT Legal Aid Commission

Normal Administrative Practice

Public sector organisations are permitted to dispose of some short term or ephemeral documents under the authority of the Disposal Schedule for Short Term Value Records. These include:

- duplicate (eg information or reference copy)
- obviously unimportant (e.g. telephone message slips)
- of short term facilitative value (e.g. compliment slips)
- a combination of these

The guiding principle is that organisations should be sure that destroying these records will not destroy evidence that might be needed.

Records that have been captured into a recordkeeping system should be destroyed using the Disposal Schedule for Short Term Value Records unless the class of records has been identified in a specific disposal schedule.

Notification of Destruction

Provide formal notification of destruction of all records to the NT Records Service.

Note: In the case of the Disposal Schedule for Records of Short Term Value (Disposal Schedule No. 2003/10), notification is only required for the destruction of records described in Disposal Class No. 1.10.1.

Acknowledgement

The NT Archives Service and the NT Records Service acknowledge that material produced by National Archives of Australia, State Records Authority of New South Wales, State Records of South Australia, Public Records Office of Victoria, Territory Records Office and Standards Australia was used in the development of this schedule.

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Compliance Checklist

- Implement a records disposal program to ensure regular appraisal, sentencing, destruction and transfer of all records
- Assign responsibility for the management and application of regular records disposal action using authorised records disposal schedules, to an appropriately skilled records manager who consults with the NT Archives Service and NT Records Service
- Familiarise all employees of the organisation with the authorised records disposal schedules relevant to the organisation's records
- Identify and sentence all records described in this schedule in all formats including electronic records and records in business systems, copies of records and parts of records
- Ensure all copies of temporary records are destroyed in any format (including backups), unless otherwise stated in a disposal schedule
- Apply this records disposal schedule to records in the organisation's records management systems, including systems for the management of paper records, electronic records, or records in any other format
- Apply this records disposal schedule to records in the organisation's business systems, either directly or by linking the business system to a records management system
- Implement quality assurance mechanisms to periodically check that the disposal class originally assigned at the creation of the records is still applicable at the time of sentencing of the record
- Implement review or quality control procedures in recordkeeping systems to
- Stop applying sentences from previous schedules that have been revoked or amended
- Retain all records in good order and condition to be available for retrieval during the retention period.
- Identify and update control records so that you can demonstrate what happened to each record, whether paper or electronic
- Implement an appropriate and approved strategy for retention of records of continuing value, eg. preservation in original form, migration to new systems, and conversion to long term medium
- Dispose of all records sentenced according to this schedule in all formats including electronic records and records in business systems, copies of records and parts of records
- Transfer records of permanent value to the NT Archives Service for retention as archives not later than 30 years after creation
- Inactive records can be transferred to offsite service providers providing they have been sentenced
- Destroy time expired temporary records in a secure manner that ensures complete deletion/destruction beyond any possible reconstruction
- Notify the NT Records Service of destruction of all records
- Do not destroy records that are not described in an authorised records disposal schedule.

Compliance Checklist

ensure disposal actions are implemented
correctly

- Identify records that require re-sentencing where a previous disposal schedule has been superseded
- Do not destroy any records created prior to 1 July 1978 without specific authorisation from the NT Archives Service

Disposal Schedule

1. Legal Aid Services

The function of providing legal aid services to the people of the Northern Territory. Includes legal advice, duty lawyer representation, assessing applications for grants of legal aid, reconsideration and review, ongoing assistance with a grant of legal aid, and referral to private solicitors to provide services on behalf of the NT Legal Aid Commission.

1.1 Advice

The activities associated with offering opinions by or to the organisation as to an action or judgement. Includes the process of advising.

Class No.	Description of Records	Status and Disposal Action
1.1.1	Records documenting formal advice, application for aid and ongoing assistance to clients relating to criminal law matters where client is sentenced to life, indefinite sentence or continuing detention orders. Includes In-house and Assignments criminal law files, related charge sheets, court documents and other correspondence.	TEMPORARY Destroy 99 years after file closed
1.1.2	Records documenting formal advice, application for aid and ongoing assistance to clients of an Independent Children's Lawyer Includes In-house and Assignments files, court documents and other correspondence.	TEMPORARY Destroy 21 years after youngest child's date of birth
1.1.3	Records documenting formal advice, application for aid and ongoing assistance to juvenile clients regardless of matter type. Includes Inhouse and Assignments files regardless of matter type.	TEMPORARY Destroy 21 years after youngest child's date of birth OR 7 years after end head sentence OR 7 years after file closed (if no sentence)
1.1.4	Records documenting formal advice, application for aid and ongoing assistance to clients relating to immigration matters Includes Inhouse and Assignments files, court documents and other correspondence.	TEMPORARY Destroy 10 years after file closed

1. Legal Aid Services

The function of providing legal aid services to the people of the Northern Territory. Includes legal advice, duty lawyer representation, assessing applications for grants of legal aid, reconsideration and review, ongoing assistance with a grant of legal aid, and referral to private solicitors to provide services on behalf of the NT Legal Aid Commission.

1.1 Advice

The activities associated with offering opinions by or to the organisation as to an action or judgement. Includes the process of advising.

Class No.	Description of Records	Status and Disposal Action
1.1.5	Records documenting formal advice, application for aid and ongoing assistance to clients relating to Criminal Law matters. Includes Inhouse and Assignments files, related charge sheets, court documents and other correspondence.	TEMPORARY Destroy 7 years after file closed or 7 years after end of head sentence, whichever is the later
1.1.6	Records documenting initial advice given to clients of the Commission on Advice Sheets and Duty Lawyer Sheets Includes related charge sheets, court documents and other correspondence	TEMPORARY Destroy 7 years after action completed
1.1.7	Records documenting formal advice, application for aid and ongoing assistance to clients relating to family and civil law matters. Includes Inhouse and Assignments files, related charge sheets, court documents and other correspondence	TEMPORARY Destroy 7 years after action completed
1.1.8	Records documenting formal advice and application for aid for clients who are refused legal aid. Includes Assignments file, related charge sheets, court documents and other correspondence	TEMPORARY Destroy 7 years after action completed

1. Legal Aid Services

1. Legal Aid Services

The function of providing legal aid services to the people of the Northern Territory. Includes legal advice, duty lawyer representation, assessing applications for grants of legal aid, reconsideration and review, ongoing assistance with a grant of legal aid, and referral to private solicitors to provide services on behalf of the NT Legal Aid Commission.

1.1 Advice

The activities associated with offering opinions by or to the organisation as to an action or judgement. Includes the process of advising.

Class No.	Description of Records	Status and Disposal Action
1.1.9	Records documenting formal advice, application for aid and ongoing assistance to clients in Criminal law matters with review of sentence Includes Inhouse and Assignments files, related charge sheets, court documents and other correspondence	TEMPORARY Destroy 7 years after expiry or revocation of order
1.1.10	Records documenting formal advice, application for aid and ongoing assistance to clients in Criminal Law matters in the Court of Criminal Appeal Includes Inhouse and Assignments files, related charge sheets, court documents and other correspondence	TEMPORARY Destroy 7 years after end of head sentence or 99 years after file closed (depending on Court of Criminal Appeal outcome)

1. Legal Aid Services

The function of providing legal aid services to the people of the Northern Territory. Includes legal advice, duty lawyer representation, assessing applications for grants of legal aid, reconsideration and review, ongoing assistance with a grant of legal aid, and referral to private solicitors to provide services on behalf of the NT Legal Aid Commission.

1.2 Client Service

The activities associated with the planning, monitoring, evaluating and delivery of services provided to clients by the organisation.

Class No.	Description of Records	Status and Disposal Action
1.2.1	Records documenting formal social support services provided to clients who are minors (less than 18 years) relating to criminal law matters, family law matters and civil law matters.	TEMPORARY Destroy 21 years after the child's date of birth
1.2.2	Records documenting formal social support services provided to adult clients relating to criminal law matters, family law matters and civil law matters.	TEMPORARY Destroy 7 years after action completed

2. Contingency Legal Aid fund

The function of providing a Contingency Legal Aid Fund to provide financial assistance to cover the reasonable cost of disbursements and out of pocket expenses incurred during the course of litigation after the investigation stage. Financial assistance is granted to enable a person to bring or defend a civil proceeding in any civil matter where there are reasonable prospects of success and the applicant is likely to be awarded damages or costs.

2.1 Financial Assistance

The activities associated with providing financial assistance to people or organisations.

Class No.	Description of Records	Status and Disposal Action
2.1.1	Records documenting Applications to the Contingency Legal Aid Fund Includes both approved and refused applications and other correspondence	TEMPORARY Destroy 7 years after action completed
2.1.2	Records documenting the administration of the Contingency Legal Aid Fund Includes the register of applications, minutes of meetings, panel members, and balance reports	TEMPORARY Destroy 7 years after action completed