

State Records Authority of New South Wales

Functional Retention and Disposal Authority: FA442

This authority covers records documenting the function of
NSW Local Courts, District Courts, Children's Court,
Coroners Court, and Drug Court

This retention and disposal authority is approved under section 21(2)c of the *State Records Act 1998* following prior approval by the Board of the State Records Authority of New South Wales in accordance with section 21(3) of the Act.

State Records Authority of New South Wales

Functional Retention and Disposal Authority

Authority no FA442

SR file no SR2024/8

Scope This retention and disposal authority covers records documenting the function of NSW Local Courts, District Courts, Children's Court, Coroners Court, and Drug Court.

Public office Department of Communities and Justice, District Court Civil Jurisdiction, District Court Criminal Jurisdiction, State Coroner's Court, Drug Court of New South Wales, Children's Court of New South Wales, Local Court of New South Wales, Department of Communities and Justice

Approval date 10/05/2024

About the Functional Retention and Disposal Authority

Purpose of the authority

The purpose of this retention and disposal authority is to identify those records created and maintained by NSW public offices which are required as State archives and to provide approval for the destruction of certain other records created and maintained by NSW public offices, after minimum retention periods have been met.

The approval for disposal given by this authority is given under the provisions of the *State Records Act 1998* only and does not override any other obligations of an organisation to retain records.

The retention and disposal of State records

The records retention and disposal practices outlined in this authority are approved under section 21(2)(c) of the *State Records Act 1998 (NSW)*. Part 3 (Protection of State Records) of the Act provides that records are not to be disposed of without the consent of the State Records Authority of New South Wales (State Records NSW) with certain defined exceptions. These exceptions include an action of disposal which is positively required by law, or which takes place in accordance with a normal administrative practice (NAP) of which State Records NSW does not disapprove. Advice on the State Records Act can be obtained from State Records NSW.

The authority sets out how long the different classes of records generated by an organisation must be kept to meet its legal, operational and other requirements, and whether the records are to be kept as State archives. State Records NSW reviews and approves organisations' retention and disposal authorities under the *State Records Act*. It is the duty of a public office, in submitting a draft retention and disposal authority for approval, to disclose to State Records NSW any information which affects the retention of the records covered by the authority.

State Records NSW's decisions take into account both the administrative requirements of public offices in discharging their functional responsibilities and the potential research use of the records by the NSW Government and the public. One of State Records NSW's functions is to identify records as State archives. These are records which document the authority and functions of Government, its decision-making processes and the implementation and outcomes of those decisions, including the nature of their influence and effect on communities and individual lives. Criteria for the identification of State archives are listed in *Building the Archives: Policy on records appraisal and the identification of State archives*.

Implementing the authority

This retention and disposal authority covers records controlled by the public office and applies only to the records or classes of records described in the authority. The authority should be implemented as part of the records management program of the organisation. Two primary objectives of this program are to ensure that records are kept for as long as they are of value to the organisation and its stakeholders and to enable the destruction or other disposal of records once they are no longer required for business or operational purposes.

The implementation process entails use of the authority to sentence records. Sentencing is the examination of records in order to identify the disposal class in the authority to which they belong. This process enables the organisation to determine the appropriate

retention period and disposal action for the records. For further advice see *Implementing a retention and disposal authority*.

Where the format of records has changed (for example, from paper-based to electronic) this does not prevent the disposal decisions in the authority from being applied to records which perform the same function. The information contained in non paper-based or technology dependant records must be accessible for the periods prescribed in the classes. Where a record is copied, either onto microform or digitally imaged, the original should not be disposed of without authorisation (see the *General Retention and Disposal Authority – Original or source records that have been copied*). Public offices will need to ensure that any software, hardware or documentation required to gain continuing access to technology dependent records is available for the periods prescribed.

Disposal action

Records required as State archives

Records which are to be retained as State archives are identified with the disposal action 'Required as State archives'. Records that are identified as being required as State archives should be stored in controlled environmental conditions and control of these records should be transferred to Museums of History NSW when they are no longer in use for official purposes.

Transferring records identified as State archives and no longer in use for official purposes to Museums of History NSW should be a routine and systematic part of a public office's records management program.

Records approved for destruction

Records that have been identified as being approved for destruction may only be destroyed once a public office has ensured that all other requirements for retaining the records are met. Retention periods set down in this authority are *minimum* periods only and a public office should keep records for a longer period if necessary. Reasons for longer retention can include legal requirements, administrative need, government directives and changing social or community expectations. A public office **must not** dispose of any records where the public office is aware of possible legal action (including legal discovery, court cases, formal applications for access) where the records may be required as evidence.

Once all requirements for retention have been met, destruction of records should be carried out in a secure and environmentally sound way. Relevant details of the destruction should be recorded. See *Destruction of records: a practical guide*.

Organisations should review functional retention and disposal authorities regularly to ensure that they remain relevant as the organisation's functions and activities, operating environment and requirements for records change. Retention requirements may change over time. This can occur when:

- business needs or practices change
- new laws, regulations or standards are introduced
- new technology is implemented
- government administration is restructured and functions are moved between entities, or

- unforeseen or new community expectations become apparent.

State Records NSW recommends that organisations check any functional retention and disposal authorities more than 5 years old to ensure that the retention periods and disposal actions remain relevant.

Regardless of whether a record has been approved for destruction or is required as a State archive, a public office or an officer of a public office **must not** permanently transfer possession or ownership of a State record to any person or organisation without the explicit approval of State Records NSW.

Administrative change

This retention and disposal authority has been designed to link records to the functions they document rather than to organisational structure. This provides for a stable retention and disposal authority that is less affected by administrative change. The movement of specified functions between branches or units within the public office does not require the authority to be resubmitted to State Records NSW for approval. However, when functions move from one public office to another the public office that inherits the new function should contact State Records NSW to discuss use of any existing retention and disposal authority approved for use by a predecessor organisation.

Amendment and review of this authority

State Records NSW must approve any amendment to this authority. Public offices that use the authority should advise State Records NSW of any proposed changes or amendments to the authority.

State Records NSW recommends a review of this authority after five years to establish whether its provisions are still appropriate. Either the public office or State Records NSW may propose a review of the authority at any other time, particularly in the case of change of administrative arrangements, procedures or to operating environments which are likely to affect the value of the records covered by this authority.

In all cases the process of review will involve consultation between State Records NSW and the public office. If the process of review reveals that this authority requires amendment, the necessary amendments should be made and approved.

Contact Information

State Records NSW
PO Box 516
Kingswood NSW 2747
Telephone: (02) 9714 3080
E-mail: govrec@staterecords.nsw.gov.au

**Functional Retention and Disposal Authority
NSW Local Courts, District Courts, Childrens Court, Coroner's
Court, and Drug Court**

Authority number: FA442

Dates of coverage: Open

List of Functions and Activities covered

Function	Activity	Reference	Page
CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS		1.0.0	6
	All courts	1.1.0	6
	Children's Court	1.2.0	6
	Coroners Court	1.3.0	7
	District Court	1.4.0	8
	Drug Court	1.5.0	10
	Local Court	1.6.0	11
COURT PROCESSES AND ADMINISTRATION		2.0.0	14
LICENSING, REGISTRATION AND OTHER SERVICES		3.0.0	16

**Functional Retention and Disposal Authority
NSW Local Courts, District Courts, Childrens Court, Coroner's
Court, and Drug Court**

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

1.0.0 CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS

1.1.0 All courts

1.1.1	Records of court proceedings or processes created wholly or in part prior to 1900 .	Required as State archives
1.1.2	<p>Summary records of matters commenced and heard before the Courts, including:</p> <ul style="list-style-type: none"> • information contained in Courtnet or JusticeLink • any indexes and registers providing a summary of details of cases. <p>See COURT PROCESSES AND ADMINISTRATION for registers and summary records relating to the enforcement of judgments and orders or the collection and payment of fines</p>	Required as State archives
1.1.3	Judgments, decisions and orders maintained separately from the case files to which they relate.	Required as State archives
1.1.4	Records of court listings relating to proceedings or matters before the courts, such as day books, diaries and court lists (including online).	Retain until administrative or reference use ceases, then destroy
1.1.5	Judges', Magistrates' and Coroners' notebooks.	Retain until administrative or reference use ceases, then destroy
1.1.6	Records of general correspondence relating to matters before the courts.	Retain until administrative or reference use ceases, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - Children's Court

1.2.0 Children's Court

The Children's Court deals with matters involving children, including criminal and care and protection proceedings.

See Functional Retention and Disposal Authority *Children's Court Clinic* for records relating to the Children's Court Clinic.

1.2.1	Records relating to finalised or completed care and protection matters. Includes documents filed by the parties and generated by the Court.	Required as State archives
1.2.2	Records relating to finalised or completed criminal matters. Includes documents filed by the parties and generated by the Court.	Retain minimum of 45 years after action completed or until no longer required for working with children checks or criminal checks, whichever is longer, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - Coroners Court

1.3.0 Coroners Court

The Coroners Court deals with matters involving sudden, unexpected, or unexplained deaths, suspected deaths, and fires and explosions.

1.3.1	Records relating to Coroners matters where: <ul style="list-style-type: none"> • the matter proceeded to a hearing of an inquest or inquiry, or • the matter was dispensed with but a brief of evidence was called for or further investigation undertaken. 	Required as State archives
1.3.2	Records relating to Coroners matters where the inquest or inquiry was dispensed with , no brief of evidence was called for or further investigation undertaken. Includes documents filed by the parties and generated by the Court.	Retain minimum of 100 years after action completed, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - District Court

1.4.0 District Court

The District Court deals with serious criminal offences, appeals from lower courts and civil proceedings, and records may include documentation of predecessors such as Courts of Quarter Sessions.

It also has a residual jurisdiction which refers to matters transferred to the jurisdiction of the District Court under the *Compensation Court Repeal Act 2002*. Following the abolition of the Compensation Court, most of that Court's work was transferred to the Workers Compensation Commission, however certain matters (relating to Police, Bush Fire and Emergency Services, coal miners' dust diseases and sporting injuries) were transferred to the District Court and are commonly referred to as its 'residual jurisdiction'.

1.4.1	<p>Records relating to finalised or completed District Court civil matters, including where:</p> <ul style="list-style-type: none"> • a judgment was entered against one of the parties • a defence was lodged against the claim and determined by the Court. <p>Includes documents filed by the parties and generated by the Court.</p>	Retain minimum of 18 years after date of commencing action, then destroy
1.4.2	<p>Records relating to finalised or completed District Court criminal matters.</p> <p>Includes documents filed by the parties and generated by the Court.</p>	Retain minimum of 25 years after action completed or until no longer required for a working with children check or a criminal records check, whichever is longer, then destroy
1.4.3	<p>Records relating to the establishment, review and monitoring of support programs and services, such as rehabilitation programs for Circle Sentencing.</p> <p>Includes the selection of members of the community to act as role models, advocates, mentors, etc for Aboriginal Circle Sentencing programs.</p>	Required as State archives
1.4.4	<p>Records relating to cases pertaining to payment of superannuation benefits in the residual jurisdiction.</p> <p>Includes documents filed by the parties and generated by the Court.</p>	Retain minimum of 7 years after action completed, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - District Court

1.4.5	Records relating to matters pertaining to payment of compensation matters in the residual jurisdiction. Includes documents filed by the parties and generated by the Court.	Retain minimum of 35 years after action completed, then destroy
-------	---	---

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - Drug Court

1.5.0 Drug Court

The Drug Court of NSW is a specialist court that provides an alternative to prison for eligible participants with drug dependencies who have committed certain crimes.

1.5.1	Records relating to finalised or completed Drug Court matters. Includes documents filed by the parties and generated by the Court.	Retain minimum of 25 years after action completed or until no longer required for a working with children check or a criminal records check, whichever is longer, then destroy
1.5.2	Records relating to the establishment, review and monitoring of support programs and services , such as rehabilitation programs, for the Drug Court.	Required as State archives

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - Local Court

1.6.0 Local Court

Most criminal and civil matters first enter the New South Wales court system via the Local Court, and records may include documentation of predecessors such as Courts of Petty Sessions and Magistrates Courts. Criminal and civil cases heard by NSW Local Court include bail applications, apprehended violence orders (AVO), some family law, and vehicle licensing appeals.

See **COURT PROCEEDINGS - District Court** for records relating to the establishment, review and monitoring of support programs and services, such as rehabilitation programs.

1.6.1	<p>Records relating to civil proceedings where:</p> <ul style="list-style-type: none"> • a judgment has been entered against one of the parties • proceedings have not been dismissed as 'inactive'. <p>Includes documents filed by the parties and generated by the Court.</p>	Retain minimum of 14 years after date of commencing action, then destroy
1.6.2	<p>Records relating to civil proceedings where the matter has been considered as 'inactive' and dismissed for lack of progress pursuant to civil procedure rules.</p> <p>Includes documents filed by the parties and generated by the Court.</p>	Retain minimum of 5 years after date of commencing action, then destroy
1.6.3	<p>Records relating to finalised or completed Local Court criminal matters.</p> <p>Includes documents filed by the parties and generated by the Court.</p>	Retain minimum of 25 years after action completed or until no longer required for a working with children check or a criminal records check, whichever is longer, then destroy
1.6.4	<p>Records relating to maintenance and family matters or proceedings prior to 1976.</p> <p>Includes documents filed by the parties and generated by the Court.</p>	Required as State archives
1.6.5	Records relating to Family Law from 1976 onwards .	Retain minimum of 18 years after

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

CHILDREN'S, CORONERS, DISTRICT, DRUG & LOCAL COURTS - Local Court

	Includes documents filed by the parties and generated by the Court.	action completed, then destroy
1.6.6	Records relating to Fair Rents Board matters handled by the Court. Includes documents filed by the parties and generated by the Court, such as files, agreements, and determinations.	Required as State archives
1.6.7	Records relating to industrial matters , including relating to prosecutions for breaches of health and safety regulations.	Retain minimum of 7 years after action completed, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

COURT PROCESSES AND ADMINISTRATION

2.0.0 COURT PROCESSES AND ADMINISTRATION

Records relating to the conduct of common court administration processes.

2.0.1	Records of court processes and administration created wholly or in part prior to 1900.	Required as State archives
2.0.2	Records of advice or notifications regarding policies and procedures that apply across the Court system or Department, e.g. circulars, directions or instructions received from head office or the Director.	Retain until administrative or reference use ceases, then destroy
2.0.3	Details of Court orders or warrants forwarded to police, sheriff or other law enforcement agencies for action and receipts received by the Court confirming the actioning or issue of a warrant or notice issued by the court.	Retain minimum of 7 years after action completed, then destroy
2.0.4	Applications for transcripts or recordings of court proceedings or copies of judgments and orders. Includes application and associated correspondence with the applicant.	Retain minimum of 2 years after action completed, then destroy
2.0.5	Registers recording details of judgments or orders from another State for enforcement (e.g. Australian Register of Judgements).	Retain minimum of 14 years after action completed, then destroy
2.0.6	Superseded records relating to the administration of court (including sheriff) processes. This may include records relating to the payment of recognisances or other securities (e.g. bail and suitor's fees) to the court, the impounding of stock or assets, the execution of writs, warrants, issue of summonses or notices, court attendance or jury service, gaol returns (e.g. advising of service of time for default of payment of fines). Note: Refer to entry 2.0.1 for requirements applying to pre 1900 records. Where these types of records date from 1900 onwards and may be the only extant records relating to the early operations of the Courthouse, Museums of History NSW should be contacted to discuss potential retention of the records as State archives.	Retain minimum of 7 years after action completed, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

COURT PROCESSES AND ADMINISTRATION

2.0.7	<p>Maintenance payments accounting records. Includes maintenance account ledgers and balance sheets.</p>	Retain minimum of 25 years after action completed, then destroy
2.0.8	<p>Superseded accounting records, excluding maintenance accounting records.</p> <p>This includes superseded categories of cash, receipt and accounting books, and records documenting the receipt or expenditure of public monies, including the payment of fines.</p>	Retain minimum of 7 years after end of financial year to which the transaction relates, then destroy
2.0.9	Records relating to the management of compensation trust accounts.	Retain minimum of 7 years after account finalised and closed, then destroy
2.0.10	<p>Urinalysis specimen and attendance registers and individual urinalysis toxicology reports for Drug Court program participants.</p>	Retain minimum of 3 years after action completed, then destroy

NSW Local Courts, District Courts, Childrens Court, Coroner's Court, and Drug Court

Authority number: FA442

Dates of coverage: Open

No.	Description of records	Disposal action
-----	------------------------	-----------------

LICENSING, REGISTRATION AND OTHER SERVICES

3.0.0 LICENSING, REGISTRATION AND OTHER SERVICES

Licensing, registration processes and other services provided by the Courts on behalf of other government agencies.

3.0.1	Records relating to family endowment and pension applications or claims under State legislation or schemes. Includes claims registers.	Required as State archives
3.0.2	Records relating to family endowment and pension applications or claims under Commonwealth legislation or schemes. Includes claims registers.	Retain minimum of 6 years after action completed, then destroy
3.0.3	Records relating to the registration of bills of sale.	Required as State archives
3.0.4	Records relating to applications for licences required to conduct regulated activities (e.g. Sunday trading) or carry out various occupations (e.g. hawkers, pedlars, auctioneers, real estate, stock and station agents, second hand dealers, collectors, business agents, money lenders, etc.) and to the regulation of bookmakers and betting activities. Includes betting tickets statements, registers of issued licences, applications, supporting documentation and associated correspondence.	Retain minimum of 7 years after action completed, then destroy
3.0.5	Records relating to the receipt of applications for birth, death or marriage certificates and lodgement of notices of intention to marry. Includes correspondence with the applicant.	Retain minimum of 7 years after action completed, then destroy
3.0.6	Registers of marriage from local celebrants.	Required as State archives