

State Archives and Records Authority of New South Wales

Functional Retention and Disposal Authority: FA362

This authority covers records documenting the function of protection of children and young people

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 Archives and Records Authority of New South Wales in accordance with section 21(3) of the Act.

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Functional Retention and Disposal Authority

Authority no FA362

SR file no 20/0501

Scope This retention and disposal authority covers records documenting the function of protection of children and young people.

Public office Office of the Children's Guardian

Approval date 5 May 2015

Revised 12 February 2021
(see footnotes in authority for details of changes)

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 Archives and Records Authority of New South Wales (State Archives and 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 Archives and Records NSW does not disapprove. Advice on the State Records Act can be obtained from State Archives and 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 Archives and 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 Archives and Records NSW any information which affects the retention of the records covered by the authority.

State Archives and 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 Archives and Records NSW's functions is to identify and preserve 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*. The Policy also explains the roles and responsibilities of State Archives and Records NSW and of public offices in undertaking appraisal processes and disposal activities.

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 State Archives and Records NSW when they are no longer in use for official purposes.

The transfer of control of records as State archives may, or may not, involve a change in custodial arrangements. Records can continue to be managed by the public office under a distributed management agreement. Public offices are encouraged to make arrangements with State Archives and Records NSW regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to State Archives and Records NSW should be a routine and systematic part of a public office's records management program. If the records are more than 25 years old and are still in use for official purposes, then a 'still in use determination' should be made.

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

State Archives and 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 Archives and 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 Archives 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 Archives and Records NSW
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Functional Retention and Disposal Authority Protection of children and young people

Authority number: FA362

Dates of coverage: Open

List of Functions and Activities covered

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No.	Description of records	Disposal action
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1.0.0 ADOPTION AND OUT-OF-HOME-CARE¹

The regulation, accreditation and monitoring of the provision of adoption and out-of-home care services.

1.1.0 Accreditation, registration and monitoring (service providers)

Activities associated with the administration of accreditation, registration and monitoring schemes for service providers.

See **ADOPTION AND OUT OF HOME CARE - Case monitoring and review** for records relating to the monitoring of children in-out-of-home care

See **POLICY, PROCEDURES AND STANDARDS** for records relating to policies, procedures, standards, guidelines, etc. developed by the organisation relating to the care and protection of children and young people and the provision of adoption and out-of-home care services

See General Retention and Disposal Authority *Administrative records* **LEGAL SERVICES - Litigation** for records relating to the handling of appeals to an external body, such as a court or tribunal

1.1.1	Public registers of agencies or organisations registered or accredited to provide adoption and out-of-home care services. ²	Required as State archives
1.1.2	Records relating to the accreditation, registration and monitoring of providers subject to a decision to withdraw accreditation or deregister the provider.	Required as State archives
1.1.3	Records relating to the accreditation, registration and monitoring of adoption and out-of-home-care service providers. Includes dealing with queries, provision of advice, the monitoring and supervision of compliance, re-accreditation, variations to conditions, notes or reports of visits or inspections, reviews of or appeals against decisions, etc.	Retain minimum of 50 years after cessation of registration or accreditation of the organisation, then destroy

¹ February 2020 Entries 1.4.1 and 1.4.2 covering policies, procedures and standards moved to 5.0.1.

² February 2020 Scope expanded to include accredited adoption service providers.

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ADOPTION AND OUT-OF-HOME-CARE - Carer authorisation and registration

1.2.0 Carer authorisation and registration

The registration and authorisation of individuals to provide out-of-home-care.

1.2.1	Records comprising the register of persons who are authorised, or who apply for authorisation, to provide statutory or supported out-of-home care, i.e. the Carer's Register. Includes details of the outcomes of carer applications, the surrendering, suspension, or cancellation of authorisations and household member information required for determining carer suitability.	Required as State archives ³
1.2.2	Records relating to the registration of workers providing direct care to children and young people in residential care settings.	Retain minimum of 50 years after action completed, then destroy ⁴

1.3.0 Case monitoring and review

The monitoring and review of children and young people in out-of-home care.

1.3.1	Records documenting the episodes of care and placement history, the receipt and review of care plans for children or young people in out-of-home care and the giving of consent to certain applications relating to children or young people in out-of-home care. Includes: <ul style="list-style-type: none">• summary data/information registers documenting episodes of care and placement history maintained to facilitate monitoring arrangements• copies of care plans and care plan reviews submitted by service providers• review reports• applications to vary accreditation conditions relating to particular children and young people.	Required as State archives
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³ February 2020 disposal action changed from retain in agency to required as State archives.

⁴ February 2020 new entry to cover the Residential Care Workers Register.

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CHILDREN'S EMPLOYMENT - Employment authorisation

2.0.0 CHILDREN'S EMPLOYMENT

The regulation and authorisation of children's employment.

2.1.0 Employment authorisation

The processing of applications relating to the employment of children and young people.

See **WORKER CHECKS - Applications (7.2.5)** for records relating to the register of authorised employers of children.

2.1.1	Records relating to the receipt and handling of child employment notifications, applications or requests. Includes records of notifications, applications and requests received from employers, the approval or variation of authorities and associated compliance monitoring or advice provided to an employer concerning the notification, application or request.	Retain until child would have reached 25 years of age or minimum of 7 years after action completed, whichever is longer, then destroy
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EDUCATION AND AWARENESS - Training and resource development

3.0.0 EDUCATION AND AWARENESS

Education and awareness raising activities to assist promote the safety, welfare and wellbeing of children and young people.

3.1.0 Training and resource development

The development and provision of training and resources to promote the safety, welfare and well-being of children and young people.

3.1.1	Final versions of published guidelines and information resources produced to assist individuals or organisations to implement practices supportive of the safety, welfare and well-being of children and young people.	Required as State archives
3.1.2	Records relating to the development and review of content for guidelines, information resources, training, seminars, workshops, etc. Includes final versions of content delivered at training sessions, as well as processes of researching, drafting and consultation regarding content.	Retain minimum of 7 years after superseded, then destroy
3.1.3	Records relating to the administration of seminars, forums, workshops, training programs, etc. Records include: <ul style="list-style-type: none">• programs and handouts• records of registration of attendees• records of venue bookings, arranging speakers, catering arrangements, etc., and• participant evaluations.	Retain until administrative or reference use ceases, then destroy

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OFFENDER COUNSELLING - Accreditation

4.0.0 OFFENDER COUNSELLING⁵

Activities associated with the administration of accreditation schemes for counsellors working with child sex offenders.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Enquiries** for records relating to routine enquiries

4.1.0 Accreditation

Activities associated with the administration of accreditation, registration and monitoring schemes for service providers.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Enquiries** for records relating to requests for and the handling of enquiries regarding information about accreditation processes.

See General Retention and Disposal Authority *Administrative records* **LEGAL SERVICES - Litigation** for records relating to the handling of appeals to an external body, such as a court or tribunal

4.1.1	Records of child sex offender counsellor accreditation panels. Records include agenda, tabled papers, minutes of meetings, and reports of determinations and decisions.	Required as State archives
4.1.2	<p>Records relating to successful applications for accreditation:</p> <ul style="list-style-type: none"> • to provide counselling or therapy for child sex offenders • to provide programs for child sex offenders.⁶ <p>Include applications, renewals and associated supporting material, notification of the outcome of the application and issue of accreditation certificate, reviews of or appeals against decisions and published details of counsellors' accreditation level and competency.</p>	Retain minimum of 7 years after cessation of accreditation, then destroy
4.1.3	Records relating to unsuccessful applications for accreditation to provide counselling or therapy for child sex offenders. Includes applications and associated supporting material, notifications and correspondence	Retain minimum of 2 years after action completed, then

⁵ Entry 4.1.4 removed as records are covered by GA28 COMMUNITY RELATIONS – Enquiries. Entries 4.3.1 and 4.3.2 covering policy, procedures and guidelines moved to 5.0.1

⁶ Accreditation of programs for child sex offenders added February 2020

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OFFENDER COUNSELLING - Complaints

	with the applicant regarding the outcome of the application or reviews of or appeals against decisions.	destroy
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4.2.0 Complaints

The receipt and handling of complaints made against counsellors.

4.2.1	Records relating to the handling of complaints concerning accredited counsellors. Includes: <ul style="list-style-type: none">the receipt, referral or notification of the complaint to the appropriate body or organisation and associated correspondencecorrespondence with either the complainant or the subject of the complaint concerning the outcomes of the complaint or review of the counsellor's accreditation status.	Retain minimum of 10 years after completed, or where the complaint involves a child or young person, until the child or young person would have attained the age of 25 years, whichever is longer, then destroy
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POLICY, PROCEDURES AND STANDARDS

5.0.0 POLICY, PROCEDURES AND STANDARDS⁷

The establishment of policies, procedures and standards for carrying out activities and processes.

5.0.1	<p>Records relating to the development, establishment and review of the regulatory framework for implementing child safe standards, and policies, procedures, standards and guidelines relating to:</p> <ul style="list-style-type: none">• the care and protection of children and young people, the provision of adoption and out of home care services, including those applying to service providers• the conduct of working with children and disabled people checks• the accreditation of counsellors with sexual offenders. <p>Records include:</p> <ul style="list-style-type: none">• policy proposals• background research• records of consultations or meetings with staff, stakeholders etc• draft versions of policies containing significant changes/alterations or formally circulated for comment, and• reports analysing issues or documenting the outcomes or recommendations of policy reviews.	Required as State archives
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⁷ Function added February 2020. Previously policies and procedures were covered under individual functions. Scope expanded to include policies relating to the conduct of checks of people working with disabled people under the National Disability Insurance Scheme.

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REPORTABLE CONDUCT

6.0.0 REPORTABLE CONDUCT⁸

The management of reportable conduct notifications.

6.0.1	Records relating to the management of statutory notifications, e.g. notifications of reportable allegations such as a sexual offence or misconduct, ill-treatment, neglect or assault of a child, where the organisation conducts an investigation into reporting entity's response to the allegation.	Required as State archives
6.0.2	Records relating to the management of statutory notifications, e.g. notifications of reportable allegations such as a sexual offence or misconduct, ill-treatment, neglect or assault of a child, where the organisation does not conduct an investigation into the reporting entity's response to the allegation. Includes notification, report of investigation by the organisation who conducted the internal investigation, monitoring of the entity's response to the allegation, monitoring the progress of an entity's investigation. Note: reportable conduct records relating to an Aboriginal child or Torres Strait Islander are required to be retained permanently by the organisation.	Retain minimum of 50 years after action completed, then destroy
6.0.3	Records relating to the management of complaints in relation to notifications of reportable conduct, e.g. dissatisfaction with the head of relevant entity's response to a report about a reportable allegation.	Retain minimum of 50 years after action completed, then destroy

⁸ Function added February 2020. Reportable Conduct Scheme was transferred from the NSW Ombudsman to the Children's Guardian.

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WORKER CHECKS - Advice

7.0.0 WORKER CHECKS⁹

The administration of statutory working checks, e.g. working with children checks and working with disabled people checks.

7.1.0 Advice

The activity of providing advice to government and non-government organisations or to the public concerning working with vulnerable people such as children and the disabled.

7.1.1	Records relating to advice provided by the organisation to other organisations, employers, and the public about policies, procedures, standards, practices or requirements.	Retain minimum of 5 years after action completed, then destroy
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7.2.0 Applications

Activities associated with receipt, processing and notification of the outcome of requests for working with children and disabled individuals. Includes registering employers of individuals required to have a working check.

Includes receiving information from employer organisations about persons whose applications for child-related employment have been rejected because of a risk assessment conducted as part of employment screening processes.

7.2.1	<p>Records relating to the management of applications for a working with children or working with disabled people check. Includes approved and refused applications, and approved applications that are subsequently cancelled, and associated compliance monitoring or advice provided concerning the application or request. Includes:</p> <ul style="list-style-type: none">• conduct of risk assessments including criminal record checks, relevant apprehended violence orders (AVOs) and completed disciplinary proceedings, request for information to government and non-government agencies, correspondence with the applicant concerning verification of the information and risk assessment reports• notification and provision of advice of the outcome of the screening check	Retain minimum of 15 years after expiry of approval, refusal or cancellation, then destroy
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⁹ Function added February 2020.

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WORKER CHECKS - Applications

	<ul style="list-style-type: none"> • appeals to external bodies from individuals seeking a review of their prohibited status • notifications received from employers of applicants rejected for employment on the basis of risk assessment outcomes. 	
7.2.2	Criminal history of an individual provided for assessment purposes.	Retain until no longer required for screening purposes, then destroy
7.2.3	Records relating to an application for a working check that are withdrawn by the applicant or closed by the organisation.	Retain minimum of 2 years after action completed, then destroy
7.2.4	<p>Records relating to notifications received from law enforcement agencies, employer organisations etc that are maintained for screening and checking purposes. Includes:</p> <ul style="list-style-type: none"> • relevant apprehended violence orders • notifications from employer organisations about any employee against whom relevant employment proceedings have been conducted • notifications of reportable conduct • reviews of categories of relevant employment proceedings, and • records of relevant employment proceedings transferred to the organisation where a business has closed down. 	Retain minimum of 50 years after action completed, then destroy
7.2.5	Records relating to the registration of employer organisations for the purpose of the working with children check, and the registration of authorised employers of children.	Retain minimum of 7 years after registration ceases, then destroy

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WORKER CHECKS - Audits & monitoring

7.3.0 Audits & monitoring

The activity of conducting audits to ensure compliance with agreed or legislated standards and procedures. Includes auditing employer organisations who have rejected applications for child-related employment because of an adverse risk assessment.

7.3.1	Records relating to monitoring and auditing of employees, volunteers and employers' compliance with legislative requirements. Records include: records of audit planning, minutes or notes of meetings, notes taken at interviews, correspondence, audit reports, and records of remedial action.	Retain minimum of 6 years after action completed, then destroy
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7.4.0 Evaluations and reviews

The activity of evaluating or reviewing the suitability of potential or existing programs or processes. Includes assessing the training needs of staff involved in the conduct of background checks and risk assessments.

7.4.1	Records relating to the evaluation or piloting of programs, models or tools to make workplaces safer for children, and the review of screening processes.	Retain minimum of 10 years after action completed, then destroy
7.4.2	Records relating to training and development needs assessments for staff undertaking working checks.	Retain minimum of 10 years after action completed, then destroy