

State Archives and Records Authority of New South Wales

Functional Retention and Disposal Authority: FA386

This authority covers records documenting the function of corruption prevention

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 FA386

SR file no 16/0625,
20/0078

Scope This retention and disposal authority covers records documenting the function of corruption prevention.

Public office Independent Commission Against Corruption

Approval date 19/12/2017

Amended 14 October 2020
Removal of records of assumed identities and informers from entry 2.2.1 and addition of new entry (2.2.7) to cover the records.

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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 Kingswood NSW 2747
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Functional Retention and Disposal Authority Corruption prevention

Authority number: FA386

Dates of coverage: Open

List of Functions and Activities covered

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Functional Retention and Disposal Authority

Corruption prevention

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1.0.0 CORRUPTION PREVENTION

The function of minimising opportunities for corruption by educating and advising on improvements to procedures and systems.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Conferences** for records relating to forums and conferences initiated by the organisation.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Liaison** for records relating to liaison with other organisations to facilitate general exchanges of information about corruption prevention.

1.1.0 Advice

The activity of providing advice on corruption prevention strategies and methodologies.

See **INVESTIGATIONS - Assessments Process** for records relating to routine advice regarding the organisation and the assessments process.

See **INVESTIGATIONS - Investigation Management** for records relating to specific advice provided as part of an investigation.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Enquiries** for records relating to handling of enquiries regarding routine information about the organisation and its services.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Advice** for records relating to providing advice to a Minister, the Premier or other government organisations.

1.1.1	Records relating to the provision of routine advice by the organisation. Includes telephone advice, internal advice and advice to areas outside the organisation's jurisdiction.	Retain minimum of 10 years after action completed, then destroy
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1.2.0 Education

The activity of educating the general public and the public sector about the effects of corruption and strategies to minimise corruption risks.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Addresses** for records relating to the giving of addresses for professional or community relations purposes.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Conferences** for records relating to administrative arrangements for conferences, seminars, forums, training courses, workshops and information sessions arranged by the organisation.

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CORRUPTION PREVENTION - Education

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Marketing** for records relating to the process of analysing creating and promoting services.

1.2.1	Final versions of material illustrative of education programs. Includes course or workshop handbooks and education/awareness campaign materials.	Required as State archives
1.2.2	Records relating to the development of education programs, courses and campaigns.	Retain minimum of 10 years after action completed, then destroy

1.3.0 Prevention

The activity of examining the laws governing, and the practices and procedures of NSW public authorities and public officials, with a view to reducing the likelihood of corrupt conduct occurring.

1.3.1	Records relating to the development and review of corruption prevention policies and procedures. Includes projects conducted or commissioned by the organisation which contribute to the development of corruption prevention initiatives, strategies or policy. Includes final reports of projects, final versions of policies and drafts circulated for comment and feedback.	Required as State archives
1.3.2	Records relating to the development of corruption prevention project proposals and conduct of research activities, including survey responses and material from surveys and questionnaires. Includes internal research work performed for other business units.	Retain minimum of 10 years after action completed, then destroy

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INVESTIGATIONS - Assessments Process

2.0.0 INVESTIGATIONS

The function of investigating corruption involving or affecting public authorities and public officials, and the use of special powers to inquire into allegations of corruption.

2.1.0 Assessments Process

The activity of assessing and dealing with information that is alleged to concern or may concern corrupt conduct.

See **INVESTIGATIONS - Investigation Management** for records relating to cases that result in a formal investigation.

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Enquiries and Public Reaction** for records relating to routine advice and feedback regarding the organisation and the assessments process, includes notes made regarding enquiries.

2.1.1	<p>Records relating to allegations of corruption that do not proceed to a formal investigation. Includes complaints or notifications that:</p> <ul style="list-style-type: none">• are not substantiated,• are discontinued, not proceeded with, or otherwise resolved,• are referred or reported to a relevant authority for action. <p>Includes the management of frivolous or vexatious complaints and protests against decisions.</p> <p>Includes legacy records relating to the management of complaints against NSW Police Officers.</p>	Retain minimum of 10 years after action completed, then destroy
2.1.2	Records relating to complaints that are outside jurisdiction of the organisation.	Retain minimum of 5 years after action completed, then destroy

2.2.0 Investigation Management

The activity of managing investigations and inquiries.

See **INVESTIGATIONS - Assessments Process** for records relating to the assessment of complaints and notifications that do not result in a formal investigation.

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INVESTIGATIONS - Investigation Management

2.2.1	Records relating to the management of investigations and hearings. Includes terms of reference, the use of formal powers under legislation, transcripts and recordings, financial analysis, surveillance, profiles, reporting, witness interviews, briefs of evidence, statements, summons and public comment.	Required as State archives
2.2.2	Records relating to the general administration of investigations and hearings. Includes covert operations and surveillance operations. Includes diaries and notes made by investigators, hearing associate working files, transcription working files, bench books containing general hearing details and notes made by the sitting Commissioner and/or their associate, management of witnesses summoned to a hearing and administering suppression orders and variations, general liaison with informants, etc.	Retain minimum of 10 years after action completed, then destroy
2.2.3	Photographic records and audio visual recordings not used in evidence, and records relating to the collection, collation, access, dissemination, exchange and sharing of information with other government agencies. Includes legacy records relating to approval to conduct operational surveillance.	Retain until no longer needed for operational or investigative purposes, then destroy
2.2.4	Records relating to the administration of seized documents and other property.	Retain minimum of 20 years after finalisation of matter, return or disposal of documents/property, then destroy
2.2.5	Final versions of policy and procedures for the management and conduct of investigations and complaints. Includes policies on use of coercive powers, handling investigation records and information management, property movement and control, use of official diaries, informants, assumed identities, dealings with witnesses, indemnities, natural justice and use of electronic devices.	Required as State archives
2.2.6	Records relating to the development and review of policies and procedures regarding investigations, inquiries and complaints.	Retain minimum of 10 years after action completed, then destroy
2.2.7	Records relating to the management of assumed identities and human sources. Includes: <ul style="list-style-type: none"> • applications and approvals for use of assumed 	Retain minimum of 50 years after action completed, then destroy

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INVESTIGATIONS - Investigation Management

	identities, usage reports, and revocations <ul style="list-style-type: none">• register of human sources detailing full names, code names, case officer and date of registration.	
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