

## **State Records Authority NSW**

### **Functional Retention and Disposal Authority: FA444**

This authority covers records documenting the function of  
Legal profession regulation

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 NSW in accordance with section 21(3) of the Act.



# State Records Authority NSW

## Functional Retention and Disposal Authority

**Authority no** FA444

**SR file no** SR2024/12

**Scope** This retention and disposal authority covers records documenting the function of legal profession regulation.

**Public office** Legal Profession Admission Board

**Approval date** 12 July 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 NSW (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 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 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 Museums of History 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 Museums of History NSW regarding the management of State archives.

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@records.nsw.gov.au](mailto:govrec@records.nsw.gov.au)

## Functional Retention and Disposal Authority Legal Practitioners Admission Board

Authority number: FA444

Dates of coverage: Open

No.	Description of records	Disposal action
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### 1.0 LEGAL PROFESSION ADMISSIONS

The function of determining the eligibility and suitability of people seeking to be admitted as a lawyer in NSW, and the accreditation of law degree courses and courses of practical legal training.

Includes applications for appointment as a public notary from legal practitioners.

See General Retention and Disposal Authority *Administrative records* **GOVERNING AND CORPORATE BODIES - Meetings** for minutes, agenda and papers tabled at meetings of the Legal Practitioners Admission Board, the former Barristers Admission Board and the former Solicitors Admission Board and sub-committees.

See General Retention and Disposal Authority *Higher and further education* for records relating to the enrolment of students into tertiary education, e.g. the College of Law

1.1	<p>Key records relating to the admission of Legal Practitioners, and the appointment of public notaries. Includes:</p> <ul style="list-style-type: none"> <li>• Rolls of Admission</li> <li>• indexes to Rolls of Admission.</li> <li>• the development and approval of rules for admission of legal practitioners</li> <li>• the Public Notary Roll.</li> </ul>	Required as State archives
1.2	<p>Records relating to successful applications for admission as a Legal Practitioner or appointment as a Public Notary.</p> <p>Includes applications for exemption from academic or practical training requirements, and referral of matters for decision to the Supreme Court.</p> <p>Note: Original hardcopy documentation provided by applicants should be returned once scanned according to established rules and procedures.</p>	Retain minimum of 70 years after date of admission or appointment, then destroy
1.3	<p>Records relating to unsuccessful applications for admission as a Legal Practitioner or Public Notary where:</p> <ul style="list-style-type: none"> <li>• a precedent is set or there is a change of policy</li> </ul>	Retain minimum of 30 years after date of application, then destroy

## Legal Practitioners Admission Board

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Dates of coverage: Open

No.	Description of records	Disposal action
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### LEGAL PROFESSION ADMISSIONS

	<ul style="list-style-type: none"> <li>• where the candidate meets the academic and practical training criteria but is not admitted by the Board.</li> </ul> <p>See General Retention and Disposal Authority <i>Administrative records</i> <b>STRATEGIC MANAGEMENT - Policy</b> for records relating to additional documents that would have supported the change in policy</p>	
1.4	<p>Application records of short-term value. Includes:</p> <ul style="list-style-type: none"> <li>• unsuccessful applications for exemptions from academic or practical training requirements for admission made by persons not registered as students-at-law</li> <li>• unsuccessful applications for admission as a legal practitioner or appointment as a public notary where the candidate does not meet the criteria</li> <li>• notifications from Supreme Court confirming admission of legal practitioner under mutual recognition</li> <li>• issue of certificates of admission to applicants</li> <li>• the certification of current admission as a legal practitioner</li> <li>• issue of copies of certificates of current appointment of public notaries</li> <li>• copies of mutual recognition admission applications made to the Supreme Court and lodged with the Board</li> </ul> <p>applications for a declaration of early assessment of suitability for compliance certificate, e.g. under Section 21 of the Legal Professional Uniform Law.</p>	<p>Retain minimum of 5 years after date of application, then destroy</p>
1.5	<p>Records relating to successful and unsuccessful applications for accreditation of new and revised law degree courses and courses of practical legal training.</p> <p>Includes notifications of proposed or actual changes to curriculum and notifications by the Board of the withdrawal of accreditation or other accreditation-related decisions.</p>	<p>Retain minimum of 10 years after action completed or minimum of 10 years after expiry of accreditation, whichever is longer, then destroy</p>



## Legal Practitioners Admission Board

Authority number: FA444

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### *LEGAL PROFESSION ADMISSIONS*

1.6	Records relating to documentation of variations made to the Public Notary Roll.	Retain until variation is superseded, then destroy
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