

## **State Records Authority of New South Wales**

### **Functional Retention and Disposal Authority: FA341**

This authority covers records documenting the administration and conduct of court proceedings and processes

This functional 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.



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## Functional Retention and Disposal Authority

**Authority no** FA341

**SR file no** 09/0379

### Scope

This functional retention and disposal authority covers records documenting the administration and conduct of court proceedings and processes.

### Public office

Children's Court, Coroner's Court, District Court, Local Court and Industrial Magistrate's Court

### Approval date

Jenni Stapleton  
A/Director

State Records Authority of New South Wales

29/10/2013

Date

## **About the Functional Retention and Disposal Authority**

### **Purpose of the authority**

The purpose of this functional 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 State Records 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 does not disapprove. Advice on the State Records Act can be obtained from State Records.

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. The State Records Authority ('State Records') reviews and approves organisations' retention and disposal authorities under the State Records Act.

This authority is the product of an appraisal process conducted in accordance with State Records' *Standard on the appraisal and disposal of State records*. It is the duty of a public office, in submitting a draft functional retention and disposal authority for approval, to disclose to State Records any information which affects the retention of the records covered by the authority.

State Records' 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' 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 and of public offices in undertaking appraisal processes and disposal activities.

### **Implementing the authority**

This functional 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. Advice on sentencing can be obtained from State Records. 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 also the *General Retention and Disposal Authority – Imaged records*). 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 Records 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 Records regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to State Records' control 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, and government directives. 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 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.

### **Administrative change**

This functional 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 for approval. However, when functions move from one public office to another the public office that inherits the new function should contact State Records 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 must approve any amendment to this authority. Public offices that use the authority should advise State Records of any proposed changes or amendments to the authority.

State Records recommends a review of this authority after five years to establish whether its provisions are still appropriate. Either the public office or State Records may propose a review of the authority at any other time, particularly in the case of change of administrative arrangements or procedures 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 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  
PO Box 516 Kingswood NSW 2747  
Telephone: (02) 8247 8627  
Facsimile: (02) 8247 8626  
E-mail: [govrec@records.nsw.gov.au](mailto:govrec@records.nsw.gov.au)

## Functional Retention and Disposal Authority Court proceedings and administration

**Authority number: FA341**

**Dates of coverage: Various**

<b>List of Functions and Activities covered</b>
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<b>Reference</b>	<b>Function</b>	<b>Activity</b>	<b>Page</b>
1.0.0	Court Proceedings		6
1.1.0		All courts	6
1.2.0		Children's Court	6
1.3.0		Coroner's Court	6
1.4.0.		District Court	7
1.5.0		Industrial Magistrate's Court	8
1.6.0		Local Court	8
2.0	Court processes and administration		9
3.0	Licensing, registration and other services		12

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No	Function/Activity	Description	Disposal Action
1.0.0	<b>Court Proceedings</b>		
1.1.0	<b>All courts</b>		
1.1.1	<b>Date range: pre-1900</b>	Records of court proceedings or processes created wholly or in part prior to 1900.	Required as State archives
1.1.2	<b>Date range: Open</b>	Summary records of matters commenced and heard before the Courts. Records include information contained in Courtnet or JusticeLink and indexes, registers and process books providing summary details of plaintiffs, parties, claims, causes or charges and details of the outcome of proceedings, judgments or orders made. Includes plaint and minute books, appeals registers, police charge and summons books.  See <b>Court processes and administration</b> for registers and summary records relating to the enforcement of judgments and orders or the collection and payment of fines	Required as State archives
1.1.3	<b>Date range: Open</b>	Judgments, decisions and orders maintained separately from the case papers to which they relate.	Required as State archives
1.1.4	<b>Date range: 1900+</b>	Records documenting court listings. This includes day books, diaries and court lists (including online) relating to proceedings or matters before the courts.	Retain until administrative or reference use ceases, then destroy
1.1.5	<b>Date range: 1950+</b>	Judges' notebooks	Retain until administrative or reference use ceases, then destroy
1.2.0	<b>Children's Court</b>		
1.2.1	<b>Date range: Open</b>	Care and protection proceedings. Records relating to finalised or completed Court cases that pertain to Children's Court care and protection matters. The records include documents filed by the parties and documents generated by the Court in relation to the case.	Required as State archives
1.3.0	<b>Coroner's</b>		

## Court proceedings and administration

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No	Function/ Activity	Description	Disposal Action
<i>Court Proceedings - Coroner's Court</i>			
	<b>Court</b>		
1.3.1	<b>Date range: Open</b>	Records relating to Coroners matters where: <ul style="list-style-type: none"> <li>• the matter proceeded to a hearing of an inquest or inquiry, or</li> <li>• the matter was dispensed with but a brief of evidence was called for or further investigation undertaken.</li> </ul> The records include documents filed by the parties and documents generated by the Court in relation to the inquest.	Required as State archives
1.3.2	<b>Date range: c.1940+</b>	Records relating to Coroners matters where the inquest or inquiry was dispensed with and no brief of evidence was called for or further investigation undertaken.	Retain minimum of 100 years after action completed, then destroy
1.4.0.	<b>District Court</b>		
	<b>Civil jurisdiction</b>		
1.4.1	<b>Date range: c.1940+</b>	District Court Civil proceedings Records relating to finalised or completed Court cases pertaining to District Court Civil matters. Includes cases where either a judgment was entered against one of the parties or a defence was lodged against the claim and determined by the Court. The records include documents filed by the parties and documents generated by the Court in relation to the case.	Retain minimum of 14 years after date of issue of the statement of claim or summons, then destroy
	<b>Residual jurisdiction</b>	This refers to matters transferred to the jurisdiction of the District Court under the <i>Compensation Court Repeal Act 2002</i> . 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'.	
1.4.2	<b>Date range: c.2002+</b>	Records relating to cases pertaining to payment of superannuation benefits. Includes documents filed by the parties and	Retain minimum of 7 years after

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No	Function/Activity	Description	Disposal Action
<i>Court Proceedings - District Court - Residual jurisdiction</i>			
		documents generated by the Court in relation to the case.	action completed, then destroy
1.4.3	<b>Date range: c.2002+</b>	Records relating to cases pertaining to compensation matters. Includes documents filed by the parties and documents generated by the Court in relation to the case.	Retain minimum of 35 years after action completed, then destroy
1.5.0	<b>Industrial Magistrate's Court</b>		
1.5.1	<b>Date range: 1920+</b>	Industrial matters Records relating to cases pertaining to industrial matters. Includes proceedings relating to the recovery of money under industrial instruments or awards, prosecutions for breaches of industrial instruments and health and safety regulations.	Retain minimum of 7 years after action completed, then destroy
1.6.0	<b>Local Court</b>	May include records of predecessors such as Courts of Petty Sessions and Magistrates Courts.	
	<b>Civil jurisdiction</b>		
1.6.1	<b>Date range: 1900+</b>	Local Court Civil Claims proceedings where a judgment has been entered against one of the parties or where proceedings have not been dismissed as 'inactive'. Includes documents filed by the parties and documents generated by the Court in relation to the case.	Retain minimum of 14 years after date of issue of the statement of claim, then destroy
1.6.2	<b>Date range: 1900+</b>	Local Court Civil Claims proceedings that have been dismissed for lack of progress. Records relating to cases pertaining to Local Court Civil Claims proceedings where the matter has been considered as 'inactive' and dismissed for lack of progress pursuant to civil procedure rules. Includes documents filed by the parties and documents generated by the Court in relation to the case.	Retain minimum of 5 years after date of issue of the statement of claim, then destroy
	<b>Family law</b>		

## Court proceedings and administration

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Dates of coverage: Various

No	Function/Activity	Description	Disposal Action
<i>Court Proceedings - Local Court</i>			
1.6.3	<b>Date range: 1900-c.1975</b>	Maintenance and family proceedings (pre 1976)  Records relating to Court cases that pertain to maintenance matters or proceedings. The records include documents filed by the parties and documents generated by the Court in relation to the case.	Required as State archives
1.6.4	<b>Date range: c.1976+</b>	Family Law proceedings (1976 onwards).  Records relating to Court cases that pertain to Family Law from 1976 onwards. The records include documents filed by the parties and documents generated by the Court in relation to the case.	Retain minimum of 10 years after action completed, then destroy
	<b>Other</b>		
1.6.5	<b>Date range: c.1940-c.1987</b>	Fair Rents Board files, agreements and determinations.  Records relating to cases pertaining to Fair Rents Board matters handled by the Court. The records include documents filed by the parties and documents generated by the Court in relation to the case.	Required as State archives
2.0	<b>Court processes and administration</b>	Records relating to the conduct of common court administration processes.  See <b>Court Proceedings</b> for records relating to finalised or completed Court cases, including documents filed by the parties or generated by the Court in relation to the case.  See <b>Licensing, registration and other services</b> for records relating to the administration of licensing or registration processes.  See General Retention and Disposal Authority <i>Administrative records</i> <b>EQUIPMENT &amp; STORES</b> for records relating to the acquisition, maintenance and disposal of equipment and stores including furniture, stationary, office equipment, etc.  See General Retention and Disposal Authority <i>Administrative records</i> <b>FINANCIAL MANAGEMENT - Accounting</b> for current records relating to the receipt or expenditure of public monies. This includes records relating to the receipt or waiver of payment of fees and debt adjustment	

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No	Function/Activity	Description	Disposal Action
<i>Court processes and administration</i>			
		<p>records.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> <b>FLEET MANAGEMENT</b> for records relating to the acquisition, maintenance, use and disposal of motor vehicles by the court.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> <b>INFORMATION MANAGEMENT - Distribution</b> for lists or details of reference materials or information resources.</p> <p>See General Retention and Disposal Authority <i>Administrative records</i> <b>STRATEGIC MANAGEMENT - Reporting</b> for records relating to the provision of periodic reports or statistical returns concerning court operations.</p>	
2.1	<b>Date range: pre-1900</b>	Records of court processes and administration created wholly or in part prior to 1900.	Required as State archives
2.2	<b>Date range: 1900+</b>	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
2.3	<b>Date range: 1900+</b>	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
2.4	<b>Date range: 1900+</b>	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
2.5	<b>Date range: 1900+</b>	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
2.6	<b>Date range: 1900+</b>	Superseded records relating to the administration of court (including Sherriff) processes. This may include records relating	Retain minimum of 7 years after

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No	Function/Activity	Description	Disposal Action
<i>Court processes and administration</i>			
		<p>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).</p> <p><b>Note:</b> Refer to entry 2.1 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, State Records should be contacted to discuss potential retention of the records as State archives.</p>	action completed, then destroy
2.7	<b>Date range: 1900+</b>	Maintenance payments accounting records. Includes maintenance account ledgers and balance sheets.	Retain minimum of 25 years after action completed, then destroy
2.8	<b>Date range: 1900+</b>	<p>Superseded accounting records, <b>excluding maintenance accounting records</b>. 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> <p>See General Retention and Disposal Authority <i>Administrative records</i></p> <p><b>FINANCIAL MANAGEMENT - Accounting</b> for current records relating to the receipt or expenditure of public monies. This includes records relating to the receipt or waiver of payment of fees and debt adjustment records.</p>	Retain minimum of 7 years after end of financial year to which the transaction relate, then destroy
2.9	<b>Date range: 1900+</b>	Records relating to the management of compensation trust accounts.	Retain minimum of 7 years after account finalised and closed, then destroy
2.10	<b>Date range: c.1999+</b>	Urinalysis specimen and attendance registers and individual urinalysis toxicology reports for Drug Court program participants.	Retain minimum of 3 years after action

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No	Function/Activity	Description	Disposal Action
<i>Licensing, registration and other services</i>			
3.0	<b>Licensing, registration and other services</b>	Licensing, registration processes and other services provided by the Courts on behalf of other government agencies.	completed, then destroy
3.1	<b>Date range: Open</b>	Records relating to family endowment and pension applications or claims. Includes claims registers.	<b>Applications lodged under State legislation or schemes:</b> Required as State archives <b>Applications lodged under Cth schemes:</b> Retain minimum of 6 years after action completed, then destroy
3.2	<b>Date range: Open</b>	Records relating to the registration of bills of sale.	Required as State archives
3.3	<b>Date range: Open</b>	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
3.4	<b>Date range: Open</b>	Records relating to the receipt of applications for birth, death or marriage certificates and lodgement of notices of intention to marry. Includes copies of applications, notices and associated correspondence with the applicant.	Retain minimum of 7 years after action completed, then destroy
3.5	<b>Date range: Open</b>	Registers of marriage from local celebrants.	Required as State archives