

State Archives and Records Authority of New South Wales

General Retention and Disposal Authority: GA28

This authority covers records documenting the function of common administrative records created and maintained by New South Wales Public Offices

This general 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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General Retention and Disposal Authority
Common administrative records created and maintained by New
South Wales Public Offices

Authority number: GA28

Dates of coverage: 1940+

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LEGAL SERVICES - Advice

13.0.0 LEGAL SERVICES

The function of providing legal services to the organisation. Includes the interpretation and provision of advice to the organisation regarding legal matters, the drawing up of legal agreements and the handling of legal action and disputes. Also includes legal advice received from in-house consultants and external sources including the Crown Solicitor's Office.

See the organisation's functional retention and disposal authority for records relating to legal services if the organisation has specific responsibilities for the provision of legal services, such as the Crown Solicitor's Office or Legal Aid Commission.

See the relevant function/AGREEMENTS for records relating to legal input into the drawing up of agreements/contracts.

See **STRATEGIC MANAGEMENT - Legislation** for records relating to the development, implementation and review of legislation concerning the operations and functional responsibilities of the organisation.

13.1.0 Advice

The activities associated with offering opinions by or to the organisation as to an action or judgement. Includes the process of advising.

See the relevant function/activity for records relating to legal advice retained on a particular case or claims files, e.g. use COMPENSATION - CLAIMS for legal advice regarding individual compensation claims.

See **GOVERNMENT RELATIONS - Advice** for records relating to the provision of advice to Cabinet, the portfolio Minister and other government organisations concerning substantive aspects of the organisation's policies and procedures, functions, obligations, legislation or liabilities.

See **GOVERNMENT RELATIONS - Inquiries** for records relating to legal advice regarding inquiries.

See **GOVERNMENT RELATIONS - Reporting** for records relating to the drafting, submission and final, approved versions of formal reports to government.

13.1.1	Records relating to legal advice from internal or external legal service providers, including the Crown Solicitor's Office, regarding:-Cabinet matters-interpretations of legislation administered by the organisation-proposals for new or amended legislation for the organisation-industrial issues involving the organisation-matters which are precedent setting in nature-matters resulting in significant changes to the organisation's policies.	Required as State archives
13.1.2	Records relating to legal advice from internal or external legal providers, including the Crown Solicitor's Office, that does not relate to:-Cabinet matters-interpretations of legislation administered by the organisation-proposals for new or amended legislation	Retain minimum of 15 years after action completed, then destroy

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LEGAL SERVICES - Agreements

	for the organisation-industrial issues involving the organisation-matters which are precedent setting in nature-matters resulting in significant changes to the organisation's policies.	
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13.2.0 Agreements

The processes associated with the establishment, negotiation, maintenance and review of agreements.

See **CONTRACTING-OUT** for records relating to the acquisition of legal services through a contracting-out or outsourcing process.

See **TENDERING** for records relating to receiving and assessing tenders.

13.2.1	<p>Records relating to the establishment, negotiation, maintenance and review of agreements regarding the provision of legal services, advice or representation that do not form part of contracting-out or tendering arrangements. Records include:</p> <ul style="list-style-type: none"> • correspondence and negotiations including minutes or notes of meetings with main stakeholders • drafts containing significant changes/alterations or formally circulated for comment • final, approved versions of agreements • reviews of agreements. 	<p>Retain minimum of 7 years after expiry or termination of agreement or minimum of 7 years after action completed, whichever is longer, then destroy</p>
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Claims

See the relevant function/CLAIMS for records relating to legal input into insurance or compensation claims.

See **LEGAL SERVICES - Litigation** for records relating to claims proceeding to a lawsuit or other legal proceedings.

Committees

See **COMMITTEES** for records relating to the formation, meetings and decisions of committees, task forces, working groups or parties etc.

13.3.0 Compliance

The activities associated with complying with mandatory or optional accountability, legal, regulatory or quality standards or requirements to which the organisation is subject. Includes compliance with legislation and with national and international standards.

See the organisation's functional retention and disposal authority for records relating to compliance if one of the functions of the organisation is to measure the compliance of other organisations with their policies, standards and requirements on legal services.

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LEGAL SERVICES - Compliance

See **LEGAL SERVICES - Litigation** for records relating to prosecution of the organisation for breaches of compliance requirements.

13.3.1	<p>Records relating to the organisation's compliance with mandatory or optional standards or statutory requirements relating to the provision of legal services, e.g. those in Quality System Guidelines AS/NZS ISO 9001:1994 for the legal profession.</p> <p>Note: Retention period is provided as a guide only. Any records providing evidence of organisational compliance with statutory or operating requirements must be kept as long as the organisation has to account for its actions.</p>	Retain minimum of 6 years after action completed, then destroy
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Contracting-out

See **CONTRACTING-OUT** for records relating to the acquisition of legal services through a contracting-out or outsourcing process.

See **TENDERING** for records relating to receiving and assessing tenders.

Inquiries

See **GOVERNMENT RELATIONS - Inquiries** for records relating to the organisation's involvement in an inquiry, including organisation submissions.

Intellectual property

See **INFORMATION MANAGEMENT - Intellectual property** for records relating to the management of copying services in the organisation.

See **LEGAL SERVICES - Advice** for records relating to legal advice furnished to the organisation by internal and external legal service providers regarding the management or use of intellectual property.

See **LEGAL SERVICES - Litigation** for records relating to lawsuits or legal proceedings resulting from breaches of intellectual property rights.

See **PUBLICATION - Intellectual property** for records relating to managing applications to reproduce published or unpublished material.

See **STRATEGIC MANAGEMENT - Agreements** for records relating to intellectual property agreements.

See **STRATEGIC MANAGEMENT - Intellectual property** for records relating to the establishment, registration and documentation of the organisation's intellectual property.

See **TECHNOLOGY & TELECOMMUNICATIONS - Intellectual property** for records relating to managing applications to reproduce portions of software developed by the organisation.

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LEGAL SERVICES - Litigation

13.4.0 Litigation

The activities involved in managing lawsuits or legal proceedings between the organisation and other parties in a court or other tribunal. Includes cases settled by mediation, alternative dispute resolution etc.

Note: Some copies of documents generated by lawsuits or legal proceedings can be destroyed in accordance with the normal administrative practice (NAP) provisions of the State Records Act 1998 when no longer required for reference purposes (e.g. copies of briefs that are sent to the court and then returned at the conclusion of the matter). However, any copies with significant or substantial annotations should be retained with other records relating to the lawsuit or proceeding and disposed of in accordance with the disposal actions under this activity.

13.4.1	<p>Records relating to issues, claims or case matters which:</p> <ul style="list-style-type: none"> • set legal precedents, or • result in significant changes to the organisation's policies or procedures, or the way in which the organisation operates. <p>Records include:</p> <ul style="list-style-type: none"> • briefs for counsel • copies of documents required by or lodged with a court • records of consultation with the Attorney General's Department or other organisations • records documenting compliance with court instructions, e.g. subpoenas and discovery orders. 	Required as State archives
13.4.2	<p>Records relating to issues, claims or case matters which:</p> <ul style="list-style-type: none"> • do not set legal precedents, or • do not result in significant changes to the organisation's policies or procedures, or the way in which the organisation operates. <p>Records include:</p> <ul style="list-style-type: none"> • briefs for counsel • copies of documents required by or lodged with a court • records of consultation with the Attorney General's Department or other organisations • records documenting compliance with court instructions, e.g. subpoenas and discovery orders. 	Retain minimum of 7 years after action completed, then destroy

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LEGAL SERVICES - Litigation

	<p>Note: Consideration may need to be given to retaining these records longer in some circumstances, e.g. for records relating to criminal matters or matters relating to minors where appeals or challenges may be lodged many years after the matter is concluded. Organisations should also ensure that all appeals have been exhausted before disposing of records relating to the handling of the matter or court proceedings.</p>	
13.4.3	Records relating to the management of subpoenas and discovery orders where the organisation is not a party to the proceedings. Includes detailed lists and copies of records found.	Retain minimum of 2 years after action completed, then destroy

Meetings

See the relevant function/activity for records relating to meetings held as part of the management or conduct of those activities or processes, e.g. use LEGAL SERVICES - AGREEMENTS for records relating to meetings held to discuss the formulation of agreements, e.g. use LEGAL SERVICES - LITIGATION for records relating to meetings held in order to discuss the progress of litigation.

See **COMMITTEES** for records relating to the formation, meetings and decisions of committees, task forces, working groups or parties, etc.

See **GOVERNMENT RELATIONS - Meetings** for records relating to meetings between Chief Executives and Ministers, Ministerial employees or senior executives of other government organisations when those meetings are not related to specific functions and activities.

See **STRATEGIC MANAGEMENT - Meetings** for records relating to general, section or unit meetings.

13.5.0 Planning

The process of formulating ways in which objectives can be achieved. Includes determination of services, needs and solutions to those needs.

See **STRATEGIC MANAGEMENT - Planning** for records relating to strategic, corporate and business planning.

13.5.1	Final, approved versions of plans regarding legal programs and services, and associated correspondence indicating who the plans apply to and responsibilities for their implementation.	Retain minimum of 5 years after plan is superseded, then destroy
13.5.2	Records relating to the development and review of the organisation's plans regarding legal programs and services. Records include: <ul style="list-style-type: none"> • background research • draft versions of plans containing significant changes/alterations or formally circulated for 	Retain minimum of 3 years after action completed, then destroy

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LEGAL SERVICES - Policy

	<p style="text-align: center;">comment</p> <ul style="list-style-type: none"> • notes of meetings or reports analysing issues and the outcomes of consultation with employees, unions, other stakeholders, etc. 	
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13.6.0 Policy

The activities associated with developing and establishing decisions, directions and precedents which act as a reference for future decision making, as the basis from which the organisation's operating procedures are determined.

See **GOVERNMENT RELATIONS - Policy** for records relating to advice or notifications regarding policies that apply to the whole-of-government, e.g. Premier's Memoranda and Circulars, Treasurer's Directions.

See **GOVERNMENT RELATIONS - Submissions** for records relating to submissions by the organisation on the development or review of government-wide policies developed by central coordinating agencies.

See **LEGAL SERVICES - Compliance** for records relating to the organisation's compliance with mandatory or optional standards or statutory requirements regarding legal services.

See **STRATEGIC MANAGEMENT - Implementation** for records relating to the implementation of government-wide policies by the organisation.

See **STRATEGIC MANAGEMENT - Policy** for records relating to the organisation's policies on cross-functional or organisation-wide matters.

13.6.1	<p>Final, approved versions of policies regarding the provision of legal services, advice and representation, and associated correspondence indicating who the policies apply to and responsibilities for their implementation.</p>	<p>Retain minimum of 5 years after policy is superseded, then destroy</p>
13.6.2	<p>Records relating to the development and review of the organisation's policies regarding the provision of legal services, advice and representation.</p> <p>Records include:</p> <ul style="list-style-type: none"> • policy proposals • background research • records of consultations or meetings • draft versions of policies containing significant changes/alterations or formally circulated for comment • reports analysing issues and the outcomes of consultation with employees, stakeholders, etc. 	<p>Retain minimum of 3 years after action completed, then destroy</p>

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LEGAL SERVICES - Procedures

13.7.0 Procedures

Standard methods of operating laid down by an organisation according to formulated policies.

See **STAFF DEVELOPMENT - Training** for records relating to training in procedures.

13.7.1	Final, approved versions of procedures regarding the provision of legal services, advice and representation and associated correspondence indicating who the procedures apply to and responsibilities for their implementation.	Retain minimum of 5 years after procedures are superseded, then destroy
13.7.2	Records relating to the development and review of the organisation's procedures regarding the provision of legal services, advice and representation. Records include: <ul style="list-style-type: none"> • background research • draft versions of procedures containing significant changes/alterations or formally circulated for comment • reports analysing issues and the outcomes of consultation with employees, unions, stakeholders, etc. 	Retain minimum of 3 years after action completed, then destroy

13.8.0 Reporting

The processes associated with initiating or providing a formal response to a situation or request (either internal, external or as a requirement of corporate policies), and providing formal statements or findings of the results of the examination or investigation.

See **PUBLICATION - Production** for records relating to the production of reports, e.g. typesetting, printing, etc.

13.8.1	Records relating to formal reports regarding legal services programs and services. Records include: <ul style="list-style-type: none"> • background research • draft versions of reports containing significant changes/alterations or formally circulated for comment • final, approved versions of reports. 	Retain minimum of 7 years after action completed, then destroy
13.8.2	Records relating to internal periodic reports on general administrative matters used to monitor and document recurring activities to support legal services programs and services. Records include: <ul style="list-style-type: none"> • background research 	Retain minimum of 3 years after action completed, then destroy

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LEGAL SERVICES - Research

	<ul style="list-style-type: none"> • draft versions of reports containing significant changes/alterations or formally circulated for comment • final, approved versions of reports. 	
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13.9.0 Research

The activities involved in investigating or enquiring into a subject or area of interest in order to discover facts, principles etc used to provide legal support for the development of projects, standards, guidelines, etc., and the business activities of the organisation in general.

See the organisation's functional retention and disposal authority for records relating to research if research is a core function of the organisation.

See the relevant function/activity for records relating to background research undertaken when developing particular products or documentation, e.g. use LEGAL SERVICES - ADVICE for records relating to research for the provision of legal advice, e.g. use LEGAL SERVICES - PLANNING, LEGAL SERVICES - POLICY or LEGAL SERVICES - PROCEDURES for records relating to background research for the development and review of plans, policies and procedures.

13.9.1	Final, approved reports consolidating research collected for legal services purposes.	Retain minimum of 5 years after action completed, then destroy
13.9.2	Research data including literature searches, questionnaires, statistics, surveys and other raw data.	Retain until administrative or reference use ceases, then destroy

13.10.0 Reviewing

The activities involved in re-evaluating or re-examining products, processes, procedures, standards and systems. Includes recommendations and advice resulting from these activities.

See **LEGAL SERVICES - Planning** for records relating to the review of plans.

See **LEGAL SERVICES - Policy** for records relating to the review of policies.

See **LEGAL SERVICES - Procedures** for records relating to the review of procedures.

13.10.1	Records relating to the review of legal services programs and services. Records include: <ul style="list-style-type: none"> • documents establishing the review • background research • draft versions of review reports containing 	Retain minimum of 5 years after action completed, then destroy
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LEGAL SERVICES - Reviewing

	<p>significant changes/alterations or formally circulated for comment</p> <ul style="list-style-type: none">• final, approved versions of reports• project or action plans.	
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Submissions

See **COMMUNITY RELATIONS - Submissions** for records relating to the organisation's submissions to support proposed community relations initiatives.

See **GOVERNMENT RELATIONS - Inquiries** for records relating to submissions regarding formal committees of inquiry initiated by Government.

See **GOVERNMENT RELATIONS - Submissions** for records relating to submissions by the organisation on the development or review of government-wide policies.

See **LEGAL SERVICES - Advice** for records relating to legal advice provided in relation to a submission to government or community organisations.

Tendering

See **CONTRACTING-OUT** for records relating to the acquisition of legal services through a contracting-out or outsourcing process.

See **TENDERING** for records relating to receiving and assessing tenders.