



Australian Government

National Archives of Australia

Records Authority

2010/00322036

Comcare

*Asbestos Related Compensation Claims &
Workers' Compensation Claim Management*

2011

CONTENTS

<u>INTRODUCTION</u>	3
<u>APPLICATION OF THIS AUTHORITY</u>	3
<u>CONTACT INFORMATION</u>	4
<u>AUTHORISATION</u>	5
<u>CLASSES</u>	6
ASBESTOS RELATED COMPENSATION CLAIMS	6
WORKERS' COMPENSATION CLAIM MANAGEMENT	8

INTRODUCTION

Comcare and the National Archives of Australia have developed this Records Authority to set out the requirements for keeping or destroying records for the core business areas of Workers' Compensation Claim Management and Asbestos Related Compensation Claims. It represents a significant commitment on behalf of Comcare to understand, create and manage the records of its activities.

This Authority is based on the identification and analysis of the business of Comcare. It takes into account the agency's legal and organisational records management requirements, and the interests of stakeholders, the agency and the National Archives of Australia.

The Authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. This Authority gives Comcare permission under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired. Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are approved by the National Archives of Australia on the basis of information provided by the agency.

As changes in circumstances may affect future records management requirements, the periodic review of this Authority is recommended. All amendments must be approved by the National Archives.

APPLICATION OF THIS AUTHORITY

1. This Authority replaces Records Authority 669 (1990, re-issued 1994). The superseded Authority can no longer be used by Comcare to sentence records after the date of issue of this Authority.

2. This Authority is to be used to sentence records. Sentencing involves the examination of records in order to identify the individual disposal class to which they belong. This process enables sentencers to determine how long records need to be kept. Advice on sentencing is available from the National Archives.

3. This Authority should be used in conjunction with general records authorities such as:

- the Administrative Functions Disposal Authority (AFDA) and/or AFDA Express issued by the National Archives to cover business processes and records common to Australian Government agencies;
- encrypted records;
- source records that have been copied.

4. The Normal Administrative Practice (NAP) provision of the Archives Act gives agencies permission to destroy certain records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in this Authority but can be used as a tool to assist in identifying records for destruction together with an agency's Records Authority or Authorities, and with AFDA and AFDA Express. The National Archives recommends that agencies develop and implement a Normal Administrative Practice policy to assist in planning and implementing activities to determine whether records should be kept or destroyed. Advice and guidance on destroying records as a normal administrative practice and on how to develop an agency NAP policy is available from the National Archives' website at www.naa.gov.au.

5. Where the method of recording information changes (for example from a manual system to an electronic system, or when information is migrated from one system to a new system) this Authority can still be used to sentence the records created, providing the records document the same core business. The information must be accessible for the period of time prescribed in this Authority. Comcare will need to ensure that any software, hardware or documentation required to enable continuing access to the information is available for the periods prescribed.

6. Records coming within 'Retain as national archives' classes in this Authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the Archives Act. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the Archives when they cease to be current and, in any event, within 15 years of the records coming into existence, under section 27 of the Archives Act.

7. In general, retention requirements indicate a minimum period for retention. Comcare may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where Comcare believes that its accountability will be substantially compromised because a retention period or periods are not adequate, it should contact the National Archives for review of the retention period.

8. From time to time the National Archives will place a freeze on some groups of records to prevent their destruction. Further information about disposal freezes and whether they affect the application of this Authority is available from the National Archives website at www.naa.gov.au.

9. Records in the care of agencies should be appropriately stored and preserved. Agencies need to meet this obligation to ensure that the records remain authentic and accessible over time. Under section 31 of the *Archives Act 1983*, access arrangements are required for records that are in the open access period (currently after 20 years).

10. Appropriate arrangements should be made with the National Archives when records are to be transferred into custody. The National Archives accepts for transfer only those records designated as national archives.

11. Advice on how to use this Authority is available from Comcare's records manager. If there are problems with the application of the Authority that cannot be resolved, please contact the National Archives.

CONTACT INFORMATION

For assistance with this authority or for advice on other records management matters, please contact National Archives' Agency Service Centre.

Queen Victoria Terrace
Parkes ACT 2600
PO Box 7425
Canberra Mail Centre ACT 2610

Tel: (02) 6212 3610
Fax: (02) 6212 3989
Email: recordkeeping@naa.gov.au
Website: www.naa.gov.au

AUTHORISATION

RECORDS AUTHORITY

Person to whom notice of authorisation is given:

Mr Paul O'Connor
Chief Executive Officer
Comcare
14 Moore Street
Canberra ACT 2600

Purpose:

Authorises arrangements for the disposal of records in accordance with section 24(2)(b) of the Archives Act 1983.

Determines records classed as 'Retain as national archives' in this Records Authority to be part of the archival resources of the Commonwealth under section 3C of the Archives Act 1983.

Application:

Core business records relating to:

- Asbestos Related Compensation Claims
- Workers' Compensation Claim Management

This authority will apply only with the consent of the agency currently responsible for the business documented in the records described.

Authorising Officer

Date of issue:



24 March 2011.

Ross Gibbs
Director-General
National Archives of Australia

ASBESTOS RELATED COMPENSATION CLAIMS

The core business of managing a claim or demand of any kind, whether or not the claim or demand involves legal proceedings, for the payment of compensation or damages to a person in respect of an asbestos related condition suffered by the person or another person arising from a breach of a common law or statutory duty of care by the Commonwealth or an entity that was a Commonwealth authority when the breach of duty occurred. Excludes claims or demands against the Australian Postal Corporation or Telstra Corporation Limited. Includes:

- Acceptance of service of common law asbestos related claims and the management of such claims on behalf of the Commonwealth
- Engagement of solicitors and counsel
- Provision of legal services and legal policy advice
- Payment of awards (of damages and legal costs)
- Collection of recoveries from other liable parties
- Payment of legal expenses (solicitor and counsel fees and disbursements)
- Investigation of possible fraud in relation to asbestos related compensation claims
- Operational and administrative tasks supporting the asbestos related compensation claims function.

For claims for injury, disability, disease or fatality suffered by a worker of the Commonwealth or ACT Government that does not relate to asbestos, use WORKERS' COMPENSATION CLAIM MANAGEMENT.

Class No	Description of records	Disposal action
21680	<p>The following significant records:</p> <ul style="list-style-type: none"> • Case records documenting management of claims or demands for compensation for fatality, injury, disease or permanent impairment as a result of the persons' exposure to asbestos. Includes: lodgement and processing of claims; legal support and advice; establishing claimants medical and employment background and facts of the case; resolution via mediation or court proceedings; determination, authorisation and distribution of compensation. • Development, implementation and maintenance of internal policy and procedures for the management of asbestos related claims; • Development, publication and maintenance of forms or communication guides relating to asbestos claims. <p><i>[For legal advice relating to the interpretation of the agency's own legislation, use AFDA/AFDA EXPRESS – LEGAL SERVICES.]</i></p>	Retain as national archives
21682	<p>Records documenting factual and optical surveillance investigations undertaken to confirm or deny an allegation or suspicion of fraud in relation to asbestos related compensation claims. Includes investigations into:</p> <ul style="list-style-type: none"> • Claimants suspected of working whilst claiming to be incapacitated; • Claimants suspected of embellishing their level of incapacity; • Claimants suspected of malingering or claiming excessive benefits; • Claimants suspected of providing false statements regarding their claims; • Suspected fraudulent behaviour by service providers (eg Household assistance providers, medical and allied health practitioners). 	Destroy 80 years after date of claim
21681	<p>Records documenting the calculation of fees payable to providers for rehabilitation or medical services incurred as part of an asbestos related claim. Excludes the calculation of compensation premiums for employers.</p>	Destroy 50 years after action completed

ASBESTOS RELATED COMPENSATION CLAIMS

Class No	Description of records	Disposal action
21683	Records documenting: <ul style="list-style-type: none">• Routine operational administrative tasks supporting the core business of asbestos related compensation claims; and• Routine asbestos related compensation claims activities, other than those covered in classes 21680 - 21682.	Destroy 7 years after last action

WORKERS' COMPENSATION CLAIM MANAGEMENT

The core business of determining liability for new workers' compensation claims for injury, disability, disease or fatality for employees of the Commonwealth Government including employees of the Australian Capital Territory (ACT) Government. Excludes liability determination or management of asbestos related claims and claims for Australian Defence Force personnel. Includes:

- Ongoing management of accepted claims
- Managing and determining benefits payable under legislation such as incapacity payment, medical expenses, home help, aids and appliances, permanent impairments, beneficiary trust accounts for payments to descendants and other benefits that may apply
- Actions against negligent third parties
- Liaison with employers to assist injured employees in their return to work
- Management of reconsiderations requested by claimants or employers including decisions that result in review by a Court or Tribunal
- Management of matters relating to workers' compensation claim management presented before a court or tribunal
- Development, implementation and ongoing management of internal policy and procedures for the management of compensation claims
- Development and distribution of forms and publications regarding workers' compensation
- Investigation of possible fraud in relation to compensation claims
- Operational and administrative tasks supporting the workers' compensation claims management function.

For claims for injury, disability, disease or fatality suffered by a worker of the Commonwealth or ACT Government arising from an asbestos related condition, use ASBESTOS RELATED COMPENSATION CLAIMS.

Class No	Description of records	Disposal action
21672	<p>The following significant records:</p> <ul style="list-style-type: none"> • Agency's court case files documenting management of a workers' compensation matter before a Court or Tribunal, including matters conducted by self insurers, where legal precedent is set; or there is a change to organisational policy as a direct result of the matter; or the matter attracts significant media attention or public interest. Excludes prosecutions of employers or self insurers for failure to meet obligations under occupational health and safety legislation. • Case management of significant workers' compensation claims for fatality, injury, disease or permanent impairment, where legal precedent is set; or there is a change to organisational policy as a direct result of the matter; or the matter attracts significant media attention or public interest. 	Retain as national archives
21674	<p>Records documenting the tasks associated with Workers' Compensation Claims Management:</p> <ul style="list-style-type: none"> • Case management of workers' compensation claims for fatality, injury, disease or permanent impairment, excluding those covered by class 21672. Includes: <ul style="list-style-type: none"> ○ Claims for compensation; ○ Medical certificates; ○ Correspondence with medical practitioners; ○ Correspondence with claimants' employers; ○ Transactions providing evidence of payment of claims expenses including invoices or receipts where available; ○ Correspondence between claimant and Comcare; ○ Incident reports; 	Destroy 80 years after date of claim

WORKERS' COMPENSATION CLAIM MANAGEMENT

Class No	Description of records	Disposal action
21674 (cont)	<ul style="list-style-type: none"> ○ Matters relating to: <ul style="list-style-type: none"> ▪ Pursuing actions against negligent third parties, excluding parties involved in asbestos related cases; ▪ Defending actions for non economic loss; ▪ General debt recovery; ▪ Advice in relation to common law or recovery matters excluding advice given with relation to asbestos related claims; ▪ Complaints from claimants or employers. ● Factual and optical surveillance investigations undertaken to confirm or deny an allegation or suspicion of fraud. Includes investigations into: <ul style="list-style-type: none"> ○ Claimants suspected of working whilst claiming to be incapacitated; ○ Claimants suspected of embellishing their level of incapacity; ○ Claimants suspected of malingering or claiming excessive benefits; ○ Claimants suspected of providing false statements regarding their claims; ○ Suspected fraudulent behaviour by service providers (eg Household assistance providers, medical and allied health practitioners); ○ Any other reported allegations of fraud. 	
21675	<p>Records documenting the management of a workers' compensation matter before a Court or Tribunal, excluding those covered by class 21672. Includes:</p> <ul style="list-style-type: none"> ● Provision of (legal) advice to claims managers to assist in making decisions under safety, rehabilitation and compensation legislation; ● Records relating to Comcare's intervention, advice, assistance or research into the management of a workers' compensation matter for claimants' employed by an employer or self insurer, before a Court or Tribunal; ● Records required under legislative framework for matters before an Administrative Appeals Tribunal or in the Federal or High Courts including (but not limited to) statement of claim, notice of appeal and applicant/respondent submissions; ● Requests for information from employers or self insurers as it relates to the matter; ● Recommendations to internal committees regarding action required as a result of the matter; ● Liaison and communication with employers and self insurers with relation to the matter; ● Internal correspondence and communication relating to the management of a matter before an Administrative Appeals Tribunal or in the Federal or High Courts; ● External liaison and communication relating to the management of a matter before an Administrative Appeals Tribunal or in the Federal or High Courts including liaison and communication between Comcare and external panel firms, employers and claimant legal representation; 	Destroy 80 years after date matter is opened

WORKERS' COMPENSATION CLAIM MANAGEMENT

Class No	Description of records	Disposal action
21675 (cont)	<ul style="list-style-type: none"> Records obtained relating to management of workers' compensation claims for fatality, injury, disease or permanent impairment including (but not limited to) medical and expert reports, Medicare notices, personal injury claim notification, claim assessment documents and police reports; Records relating to the cost of management of a matter before an Administrative Appeals Tribunal or in the Federal or High Courts. <p>Excludes prosecutions of employers or self insurers for failure to meet obligations under occupational health and safety legislation.</p> <p><i>[For the receipt or provision of legal advice relating to the interpretation of an agency's own legislation, use AFDA/AFDA EXPRESS - LEGAL SERVICES.]</i></p>	
21677	<p>Records documenting the tasks associated with Workers' Compensation Claim Management:</p> <ul style="list-style-type: none"> Development, implementation and maintenance of internal policy and procedures for the management of workers' compensation claims; Development, publication and maintenance of forms or communication guides relating to workers' compensation claims; Calculation of fees payable to providers for rehabilitation or medical services incurred by claimants. <p>Excludes the calculation of compensation premiums for employers.</p> <p><i>[For the development, production and promulgation of other publications supporting workers' compensation claim management, use AFDA/AFDA EXPRESS - PUBLICATION.]</i></p>	Destroy 50 years after date superseded
21678	<p>Records documenting the administration and management of beneficiary trust accounts, where Comcare is responsible for managing a trust account for the benefit of a claimant who is under a legal disability, or a descendant (beneficiary) of a deceased claimant. Includes:</p> <ul style="list-style-type: none"> Correspondence between beneficiary's Guardian/Trustee and Comcare; Evidence of requests by the Guardian for reimbursement of costs associated with the beneficiary; Evidence of payment of accounts as a result of a request for reimbursement; Tax declarations. 	Destroy 7 years after date of final payment.
21679	<p>Records documenting:</p> <ul style="list-style-type: none"> Routine operational administrative tasks supporting the core business of workers' compensation claims management; and Routine workers' compensation claims management activities, other than those covered in classes 21672, 21674, 21675, 21677 and 21678. 	Destroy 7 years after last action.