



Australian Government

National Archives of Australia

Records Authority

2024/00959890

Legal and Integrity Policies and Programs

Attorney-General's Department

2024



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INTRODUCTION

The Attorney-General's Department (the Department) 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 of Legal and Integrity Policies and Programs. It represents a significant commitment on behalf of the Department to understand, create and manage the records of its activities.

This authority is based on the identification and analysis of the business of the Department. It takes into account the agency's legal and organisational information management requirements, and the interests of stakeholders, the agency and the National Archives.

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 the Department 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 on the basis of information provided by the agency.

As changes in circumstances may affect future information 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 all classes under the Appointments Management and Legal Liaison functions in the previously issued Records Authority 2002/04572652. These classes have been superseded and cannot be used to sentence records after the date of issue of this authority.
2. This authority, in conjunction with Records Authority 2024/00032523 and Records Authority 2024/00607502, replaces class 3388 under the function of Information Collection in the previously issued Records Authority 2002/04572652. This class has been superseded and cannot be used to sentence records after the date of issue of this authority.
3. This authority replaces classes 3384 and 3385 issued under the Independent Advisory function in Records Authority 2002/04572652. These classes have been superseded and cannot be used to sentence records after the date of issue of this authority.
4. The remainder of the Independent Advisory function of RA 2002/04572652 is replaced by GRA 26 – Advisory Bodies and any subsequent revisions of that records authority.
5. This authority is to be used to determine how long records must be kept. Records are matched to the relevant core business and records class in the authority.
 - Where the minimum retention period has expired and the records are not needed for the Department's business they should be destroyed as authorised in this authority.
 - Records that have not reached the minimum retention period must be kept until they do.
 - Records that are identified as 'retain as national archives' are to be transferred to the National Archives for preservation.
6. This authority should be used in conjunction with general records authorities such as:
 - Administrative Functions Disposal Authority (AFDA) Express Version 2 issued by the National Archives to cover business processes and records common to Australian Government agencies; and
 - General Records Authority 31 - Destruction of source or original records after digitisation, conversion or migration (2015).
7. The normal administrative practice (NAP) provision of the *Archives Act 1983* 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 Express Version 2*. The National Archives recommends that agencies develop and implement a NAP policy. Advice and guidance on destroying records as a normal administrative practice and on how to develop a NAP policy is available from the National Archives' website at www.naa.gov.au.

8. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom of Information Act 1982* or any other relevant act must not be destroyed until the action has been completed.
9. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. 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.
10. Where the method of recording information changes (for example from an analogue system to a digital system, or when information is migrated from one system to a new system) this authority can still be applied, providing the records document the same core business. The information must be accessible for the period of time prescribed in this authority. The Department will need to maintain continuing access to the information, including digital information, for the periods prescribed in this records authority or until the information is transferred into the custody of the National Archives.
11. In general, retention requirements indicate a minimum period for retention. The Department 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 the Department 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.
12. Records identified as 'retain as national archives' class in this authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*. The determination of Commonwealth records as archival resources of the Commonwealth obliges agencies to transfer the records to the National 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 1983*.
13. Records in the care of agencies should be appropriately stored, managed 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 become available for public access including those records that remain in agency custody.
14. 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. Records created digitally after 1 January 2016 can be transferred in digital formats only.
15. Advice on how to use this authority is available from the Department's information 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 information management matters, please contact National Archives' [Agency Service Centre](#).

AUTHORISATION

Records Authority 2024/00959890

Notice of authorisation

Person to whom notice of authorisation is given:

Katherine Jones PSM
Secretary
Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
BARTON 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

All records relating to Legal and Integrity Policies and Programs.

Authority

This authority gives permission for the destruction, retention or transfer to the National Archives of Australia of the records described. This authority will apply only with the consent of the agency currently responsible for the business documented in the records described.

This document has been authorised through a digital workflow (R1183882024).

Authorising Officer	Date of issue
Josephine Secis Assistant Director-General, Collection Management National Archives of Australia	07 Nov 2024

LEGAL AND INTEGRITY POLICIES AND PROGRAMS

The function of developing, delivering, monitoring, reviewing, evaluating and reporting on policies, programs, schemes and other initiatives to regulate, maintain, improve and reform Australian legal, justice and integrity legislation, institutions, systems and frameworks in the following areas of Commonwealth law for which the Department is responsible, including:

- legislative frameworks, including housekeeping legislation such as bulk repeals, substituted reference orders, Statute Law Revision Bills and sunseting, legislative instruments and notifiable instruments, and judicial review of administrative decisions;
- legal system reform;
- regulation of family relationship services;
- marriage law and administration of the Marriage Celebrant Program;
- coordination of legal services and legal issues across Commonwealth agencies, including Legal Services Directions;
- legal financial assistance, including administration of schemes and support services;
- constitutional law policy;
- First Nations justice policy and reforms;
- native title;
- policy and legislative frameworks to combat modern slavery and human trafficking;
- information law, including privacy and data protection policy;
- anti-corruption and fraud prevention, including the Commonwealth Fraud Control Framework;
- human rights, anti-discrimination law and humanitarian law;
- registration and regulation of lobbyists and persons engaged in influence activities on behalf of foreign principals;
- administrative law;
- commercial law, including personal property securities;
- private international law and related casework;
- bankruptcy law and practice;
- e-commerce;
- Commonwealth statutory declarations;
- copyright policy, law and reform, including the negotiation and administration of the Commonwealth government's copyright agreements;
- the promotion of Australia's copyright interests in international forums;
- courts and tribunals, including judicial and tribunal appointments, remuneration and conditions of service; judicial complaints mechanisms; resourcing; jurisdictional issues and reform;
- identity policy and identity verification services, including use of biometrics and related technologies and identity matching services; and
- international law matters related to the listed areas of departmental responsibility.

The **core activities** include:

- providing policy and administrative advice;
- administering legislation, regulations and other legal and administrative instruments and ensuring or verifying compliance with these;
- designing, developing and implementing high-level or strategic policies, plans, programs, strategies and procedures;
- reviewing, evaluating, auditing and reporting on legislation, policy or program coverage, effectiveness, efficiency and operations;
- administering declarations, orders, certifications, registrations, appointments, official notifications and other conditions required by legislation and administrative frameworks. Includes the creation and maintenance of register of statutory, other persons and entity appointments;

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- designing, developing, implementing, managing, maintaining and decommissioning specialised software-based technology solutions that are commissioned, built or significantly customised by the agency specifically to meet unique requirements;
- negotiating, ratifying and monitoring international treaties, conventions, alliances and agreements; and
- verifying and reporting on compliance with regulatory, standards, quality or international requirements.

The performance of the function is supported by **general activities** such as:

- authorising and reviewing decisions and actions;
- identifying and progressing emerging and ongoing issues;
- developing, researching and drafting information products such as newsletters, guidelines and websites;
- developing and delivering training materials, procedural guides, and manuals;
- consulting with stakeholders, including international engagement;
- undertaking research and analysis;
- requesting and requiring the production of information, including under statutory powers;
- planning and reporting;
- responding to public enquiries relating to relevant areas of law and policy;
- managing risks; and
- managing business systems and data sets which support the function.

Cross References to other records authorities

For the provision of legal services to government such as legal advice and opinions, representation, and litigation, use Records Authority 2022/00488938 LEGAL SERVICES TO GOVERNMENT.

For handling legal casework in relation to international treaties and obligations; legal interventions and representation; extradition; international mutual assistance; international transfer of prisoners; child abduction custody, access and maintenance; and federal offender cases, use Records Authority 2022/00488938 LEGAL SERVICES TO GOVERNMENT.

For records relating to anti-terrorism, high risk terrorist offenders, national security information, security law and policy and international co-operation activities across these fields, use Records Authority 2024/00607520 NATIONAL SECURITY POLICIES AND PROGRAMS.

For records relating to cybersecurity, transnational crime, telecommunications interceptions, immigration and criminal detention and international co-operation activities across these fields, use Records Authority 2024/00032523 CRIMINAL JUSTICE POLICIES AND PROGRAMS.

For records relating to legislative frameworks, policies, strategies and programs to protect, improve the safety of, and prevent harm to children, families and elders, use Records Authority 2023/00654800 CHILD, FAMILY AND ELDER PROTECTION POLICY AND PROGRAMS.

For providing and administering grant funding to achieve aims and objectives of government programs consistent with government policy and legislation and where recipients are required to act in accordance with specified terms or conditions for the funding received, use GENERAL RECORDS AUTHORITY 28 GRANTS MANAGEMENT.

For the administration of Royal Commissions, use Records Authority 2010/00039583 ROYAL COMMISSION ADMINISTRATION.

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Cross References to AFDA Express 2

For provision of legal services for internal administrative purposes and operations of the Department itself, use LEGAL SERVICES.

For providing and receiving advice, including advice provided to Cabinet, the Attorney-General and other government agencies, including providing advice on the appointment, reappointment or termination of individuals to boards, committees and statutory positions administered by the Department, including judicial, tribunal and statutory office holder appointments, use EXTERNAL RELATIONS.

For managing the preparation and passage of the Department's legislation through Parliament, including preliminary drafting instructions, proposed bills, consultation with relevant government agencies and stakeholders, preparation of the Explanatory Memorandum, regulatory impact statements and Second Reading Speech, use EXTERNAL RELATIONS.

For making formal proposals and submissions, including to national and international bodies and forums, governments, Cabinet, the portfolio Minister, agencies and other organisations, use EXTERNAL RELATIONS.

For preparing and providing advice and briefs to a Minister, government or incoming government, use EXTERNAL RELATIONS.

For final versions of speeches presented by portfolio Ministers, members of the Government, agency heads, members of governing or advisory bodies, and senior agency staff, use EXTERNAL RELATIONS.

For negotiating, establishing, managing, implementing and reviewing agreements and contracts, including joint venture agreements and memoranda of understanding with State and Territory governments, Commonwealth agencies and Australian stakeholders, use EXTERNAL RELATIONS.

For high level external, including inter-government (both domestic and overseas) or inter-agency, committees, working groups and other bodies, where the agency provides the secretariat, is the Australian Government's main representative, or plays a prominent or central role, including establishment documentation, agenda, final versions of minutes, briefs, reports, recommendations, and tabled papers, use EXTERNAL RELATIONS.

For contributions to and involvement in inquiries relating to this function, including agency statements and submissions, responses to final reports, transcripts of oral evidence given by agency officers and records of implementation of recommendations, use EXTERNAL RELATIONS.

For developing proposals for new legislation and amendments to existing legislation administered by the agency, including submissions prepared for the agency's executive or corporate management committee, use STRATEGIC MANAGEMENT.

For system management records created by identity matching services, use TECHNOLOGY AND INFORMATION MANAGEMENT.

LEGAL AND INTEGRITY POLICIES AND PROGRAMS

Class no	Description of records	Disposal action
63226	<p>Records documenting:</p> <ul style="list-style-type: none"> international treaties, conventions, alliances and agreements to which Australia is a party or signatory and which relate to this function. Includes negotiations, establishment, maintenance and review of agreements and commitments; master or summary registers of statutory appointments and other persons or entities appointed, registered or accredited to meet legal requirements or program participation, such as the Marriage Celebrants Register, Register of Lobbyists, Foreign Influence Transparency Register and Modern Slavery Statement Register; high level advice, research, reviews, evaluations, audits and reports of national significance, including: <ul style="list-style-type: none"> Cabinet matters; constitutional matters, such as constitutional reform; native title matters; First Nations justice policy and reforms; international law, treaties and obligations; appointments for judicial and tribunal offices, including entitlements and remuneration. <p>Excludes interactions with the Attorney-General in relation to individual appointments and post-appointment administration and conditions of service;</p> advice or submissions relating to the establishment of high-level inquiries such as Royal Commissions and public or official inquiries; and matters that have a high government or public profile, are controversial or establish precedents, for example: <ul style="list-style-type: none"> Indigenous copyright issues; parentage law; Commonwealth public interest and test cases; use of Artificial Intelligence (AI) in government; privacy and data protection policy; identity matching; public sector whistleblower policy; sex and gender policy; matters which result in major changes to Commonwealth legislation, functions, policies, processes or programs, for example: <ul style="list-style-type: none"> legislative and regulatory frameworks; powers, structure and operations of the courts; changes to anti-discrimination law and policy; design, development and implementation of approved identity verification systems; 	Retain as national archives

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Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> design, development and implementation of high-level or strategic policies, plans, programs, strategies, procedures, reports and guidelines supporting this function. Includes final versions; research, consultation, white papers, discussion papers, policy papers and major drafts, for example: <ul style="list-style-type: none"> Family Relationship Services Program; Commonwealth Legal Assistance Guidelines; Afghanistan Inquiry Legal Assistance Scheme; Support for Trafficked People Program; Foreign Influence Transparency Scheme; Commonwealth Fraud Control Framework; Legal Services Directions; policy in relation to litigation and Attorney-General interventions; and master statistical collections and data sets showing long term trends. 	
63227	Records documenting the appointment, ongoing registration and termination of marriage celebrants.	Destroy 100 years after date of registration
63228	<p>Records documenting:</p> <ul style="list-style-type: none"> international engagement and programs promoting cooperation and good practice e.g. engagement with the United Nations on human rights; administration of claims, complaints, declarations, orders, certifications, registrations, appeals and official notifications required by legislation or for program participation, including: <ul style="list-style-type: none"> registration and regulation of lobbyists and family dispute resolution practitioners, including the Family Dispute Resolution Register; Enduring power of attorney authorised persons for warrants and other functions; personal property securities; administration of the Foreign Influence Transparency Scheme; handling complaints about federal courts, judicial officers and Administrative Appeals Tribunal members; administration of Commonwealth copyright agreements; policy or program advice, reviews, evaluations and audits that do not meet the significance criteria of matters in 63226; requests for mutual assistance in criminal matters and taking of evidence for use in overseas legal proceedings; research other than that covered in class 63226; and 	Destroy 15 years after action completed

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Class no	Description of records	Disposal action
	<ul style="list-style-type: none">master set of primary training materials, procedural guides and manuals targeted at other agencies and external stakeholders, such as the National Legal Assistance Data Standards Manual and guidance notes for the Legal Services Directions.	
63229	Copies of driver licence images and related biometric data used for identity matching purposes.	Destroy in accordance with terms and conditions of associated agreement
63230	Records documenting: <ul style="list-style-type: none">routine operational administrative tasks supporting the core business; andLegal and Integrity Policies and Programs activities, other than those covered in classes 63226 to 63229.	Destroy 7 years after action completed