

# Office of the Information Commissioner Retention and Disposal Schedule Authorised on 8 December 2016

An authorisation under s.26 of the *Public Records Act 2002* for the disposal of core business records created by Office of the Information Commissioner.

Where printed, this reproduction is only accurate at the time of printing.

Queensland State Archives' [website](#) should always be referred to for the current, authorised version.

## Using this schedule

The Office of the Information Commissioner retention and disposal schedule authorises the disposal of records relating to the review of decisions made by agencies or ministers, mediating privacy complaints, improving awareness and understanding of privacy principles and monitoring compliance with Right to Information and Information Privacy legislation created by Office of the Information Commissioner. It applies to records created in any format, unless otherwise specified in the class description.

The Office of the Information Commissioner retention and disposal schedule can be used in conjunction with the [General retention and disposal schedule](#) (GRDS). Record classes in the Common Activities section of the GRDS can be applied to any function undertaken by the agency, provided the retention period meets all of the agency's specific regulatory requirements and there are no exclusions listed. Schedules should be reviewed at least every 5 years. Any references to repealed legislation may be taken as a reference to current legislation if the context permits.

Any previously authorised retention and disposal schedule covering record classes described in this schedule is now superseded and previous versions should be removed from use. It is the agency's responsibility to maintain the current approved schedule within their business practices and systems. Revoked schedules include:

- QDAN376 v.3 – Office of the Information Commissioner, 8 April 2011.

## When this schedule should not be used

It is an offence under the *Criminal Code Act 1899* (s.129) '*for a person, who knowing something is or may be needed in evidence in a judicial proceeding, damages it with intent to stop it being used in evidence*'. A duty of care exists for agencies to ensure records that may be needed in evidence in a judicial proceeding, including any legal action or a Commission of Inquiry, are not disposed of. Internal processes should be implemented to meet this obligation, which may include consultation with your legal or Right to Information area or issuing an internal records disposal freeze if it is reasonably expected that a judicial proceeding may occur e.g. retaining property files that may contain information on the use of asbestos in buildings.

Additionally, any group of records covered by a disposal freeze issued by the State Archivist cannot be disposed of while the freeze is in place. Disposal freezes generally relate to a particular topic or event which has gained prominence or provokes controversy. Further information about current disposal freezes and whether they affect the use of this schedule is available from the Queensland State Archives [website](#) under Destroy.

Records which are subject to a request for access under the *Right to Information Act 2009*, the *Information Privacy Act 2009* or any other relevant Act must not be destroyed until the action, and any applicable appeal period, has been completed.

## Schedule layout

Each class has been allocated a unique number to aid with the disposal of records. Further implementation information is available on the Queensland State Archives [website](#).

## Records created before 1950

Records described in this schedule that were created before 1950 should be referred to Queensland State Archives for further appraisal before any disposal action is taken by the agency. Further information about pre-1950 records is available from the Queensland State Archives website under [Sentencing](#).

## **Disposal**

No further authorisation is required from the State Archivist for the records disposed of under this schedule. However, disposal must be appropriately documented in accordance with *Information Standard 31: Retention and Disposal of Public Records*. Approval from your CEO or authorised delegate is also required prior to disposal.

Any disposal of public records without authorisation from the State Archivist may be a breach of the *Public Records Act 2002* (s.13).

## **How we can help?**

More information on implementing schedules is available on the Queensland State Archives [website](#). Any enquiries about this schedule or recordkeeping should be directed in the first instance to your Records Manager. If further information is required, please contact Government Recordkeeping, Queensland State Archives on (07) 3037 6630 or email: [rkqueries@archives.qld.gov.au](mailto:rkqueries@archives.qld.gov.au).

**Approved by State Archivist:**

**Mike Summerell**

**Date: 8/12/2016**

## Contents

RIGHT TO INFORMATION AND INFORMATION PRIVACY EXTERNAL REVIEWS .....	5
PRIVACY MEDIATION .....	9
RIGHT TO INFORMATION AND INFORMATION PRIVACY EDUCATION AND AWARENESS .....	11
RIGHT TO INFORMATION AND INFORMATION PRIVACY COMPLIANCE MANAGEMENT .....	13
LEGACY RECORDS .....	16

## RIGHT TO INFORMATION AND INFORMATION PRIVACY EXTERNAL REVIEWS

*The function of reviewing the merits of decisions made by state and local government agencies, ministers and agencies about access to, or amendment of, documents under the Right to Information Act 2009 and the repealed Freedom of Information Act 1992; and about access to, and amendment of, personal information under the Information Privacy Act 2009.*

Disposal authorisation	Description of records	Retention period & trigger
<b>APPLICATIONS</b> <i>This activity covers applications made to the Information Commissioner under the Right to Information Act 2009 and the Information Privacy Act 2009. Such applications include those for an external review of a Right to Information (s.85) decision by a minister or an agency and applications of financial hardship from non-profit organisations under the Right to Information Act 2009. This activity also covers applications to the Information Commissioner for an external review of a decision by a minister or an agency as identified under s.99 of the Information Privacy Act 2009.</i>		
1584	<p><b><i>External review applications – significant</i></b></p> <p>Records relating to applications for external review of a <i>Right to Information Act 2009</i> decision or an <i>Information Privacy Act 2009</i> decision lodged with the Office of the Information Commissioner which:</p> <ul style="list-style-type: none"> <li>• are subject to Queensland Civil and Administrative Tribunal (QCAT) appeal or judicial review through the Supreme Court</li> <li>• involve the declaration of a vexatious applicant</li> <li>• generate significant interest and/or controversy</li> <li>• lead to a major change in government policies, procedures or legislation</li> <li>• are precedent-setting.</li> </ul> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• application for external review</li> <li>• notification to the relevant agency or minister</li> <li>• jurisdiction assessment and identification of resolution strategies documentation</li> <li>• direction as to the procedure to be followed during the review</li> <li>• notification forwarded to a person requiring them to give information or documents relevant to a review or to attend before the Information Commissioner</li> <li>• notification of an extension of time to agency or minister (e.g. letter)</li> <li>• decision made by the Information Commissioner that either varies, affirms or sets aside a decision made</li> </ul>	<p>Permanent.</p> <p>Transfer to QSA after business action completed.</p>

Disposal authorisation	Description of records	Retention period & trigger
	<p>by a minister, department, local government, government owned corporation or a public authority</p> <ul style="list-style-type: none"> <li>• Information Commissioner's copy of the decision given to the relevant participants in the review</li> <li>• referral of a question of law to the QCAT by the Information Commissioner in relation to an external review matter, in accordance with s.118 of the <i>Right to Information Act 2009</i> or s.131 of the <i>Information Privacy Act 2009</i></li> <li>• declaration of vexatious applicant made under s.114 of the <i>Right to Information Act 2009</i> or s.127 of the <i>Information Privacy Act 2009</i></li> <li>• variation or decision to revoke declaration of vexatious applicant</li> <li>• reviews of a decision to declare a person vexatious referred to the Queensland Civil and Administrative Tribunal (s.121 of the <i>Right to Information Act 2009</i> and s.133 of the <i>Information Privacy Act 2009</i>)</li> <li>• appeals under s.119 of the <i>Right to Information Act 2009</i> or s.132 of the <i>Information Privacy Act 2009</i>.</li> </ul>	
1585	<p><b>External review applications – other</b></p> <p>Records relating to applications for external review of a right to information decision or an information privacy decision lodged with the Office of the Information Commissioner that are not covered by disposal authorisation 1584 of this schedule.</p> <p>Includes records relating to applications for external review of a right to information decision that are refused or rejected by the Information Commissioner in accordance with s.94 of the <i>Right to Information Act 2009</i> or s.107 of the <i>Information Privacy Act 2009</i>.</p> <p>Excludes applications refused on the grounds that the applicant is subject to a 'declaration of vexatious applicant' under s.114 of the <i>Right to Information Act 2009</i> or s.127 of the <i>Information Privacy Act 2009</i>. Also excludes records subject to QCAT, judicial review or appeal to the Supreme Court.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• application for external review</li> <li>• notification to the relevant agency or Minister</li> <li>• direction as to the procedure to be followed during the review</li> <li>• jurisdiction assessment and identification of resolution strategies documentation</li> <li>• notification from the Information Commissioner given to the applicant about a decision not to deal with their application for review</li> <li>• notification forwarded to a person requiring them to give information or documents relevant to a review or</li> </ul>	7 years after business action completed.

Disposal authorisation	Description of records	Retention period & trigger
	<p>to attend before the Information Commissioner</p> <ul style="list-style-type: none"> <li>• notification of an extension of time to agency of minister (e.g. letter)</li> <li>• decision made by the Information Commissioner that either varies or affirms a decision made by a minister, department, local government, government owned corporation or a public authority</li> <li>• Information Commissioner's copy of the decision given to the relevant participants in the review.</li> </ul>	
1586	<p><b><i>Disciplinary action</i></b></p> <p>Records relating to notifications issued by the Information Commissioner that an agency's officer has committed a breach of duty in the administration of the Act under s.113 of the <i>Right to Information Act 2009</i> or s.126 of the <i>Information Privacy Act 2009</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• notification sent to agency or minister.</li> </ul>	7 years after business action completed.
1587	<p><b><i>Access and amendment applications by Office of the Information Commissioner staff</i></b></p> <p>Records relating to applications to access or amend personal information made to the Information Commissioner by a staff member of the Office of the Information Commissioner in accordance with s.46 of the <i>Information Privacy Act 2009</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• application to access or amend personal information</li> <li>• notices.</li> </ul>	80 years from date of birth or 7 years from date of separation, whichever is later.
1588	<p><b><i>Financial hardship status</i></b></p> <p>Records relating to applications for declaration of financial hardship status received from a non-profit organisation in accordance with s.67 of the <i>Right to Information Act 2009</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• application by the non-profit organisation to obtain financial hardship status</li> <li>• notice from the Information Commissioner of the decision</li> <li>• notice of any substantial improvement in the non-profit organisation's financial circumstances</li> <li>• notice from the Information Commissioner of a decision to revoke financial hardship status</li> <li>• QCAT appeal records (s.120 <i>Right to Information Act 2009</i>).</li> </ul>	1 year after expiry or revocation of financial hardship status.

Disposal authorisation	Description of records	Retention period & trigger
1589	<b><i>Information in issue</i></b> Agency or ministerial documents subject to external review received by the Information Commissioner in the administration of the external review functions under the <i>Right to Information Act 2009</i> and <i>Information Privacy Act 2009</i> .	Return documents to agency or minister 6 months after the expiry of the appeal period for the external review to which they relate.



## PRIVACY MEDIATION

*The function of administering and mediating privacy complaints received by the Information Commissioner in relation to breaches of the privacy principles in accordance with ss.164–166 of the Information Privacy Act 2009.*

Disposal authorisation	Description of records	Retention period & trigger
<b>COMPLAINTS</b> <i>This activity covers the administration of privacy complaints received by the Information Commissioner in relation to an individual's personal information in accordance with s.165 of the Information Privacy Act 2009.</i>		
1590	<p><b><i>Privacy complaints – significant</i></b></p> <p>Records relating to complaints about an agency's breach of the privacy principles lodged with the Office of the Information Commissioner, which generate significant interest and/or controversy and which may lead to a change in government policies, procedures and legislation.</p> <p>Includes privacy complaints not resolved through mediation and referred to the Queensland Civil and Administrative Tribunal by the Information Commissioner in accordance with s.174 of the <i>Information Privacy Act 2009</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• privacy complaint made or referred to the Information Commissioner</li> <li>• preliminary inquiry documentation</li> <li>• notification of the complaint to the subject of the complaint</li> <li>• request by the complainant or the respondent for a written record of the agreement reached through mediation according to s.171–173 of the <i>Information Privacy Act 2009</i></li> <li>• informal agreement</li> <li>• certified agreement.</li> </ul>	<p>Permanent.</p> <p>Transfer to QSA after business action completed.</p>
1591	<p><b><i>Privacy complaints – other</i></b></p> <p>Records relating to complaints about an agency's breach of the privacy principles lodged with the Office of the Information Commissioner that are not covered by disposal authorisation 1590 of this schedule.</p> <p>Records may include, but are not limited to:</p>	<p>7 years after business action completed.</p>

Disposal authorisation	Description of records	Retention period & trigger
	<ul style="list-style-type: none"> <li>• privacy complaint made or referred to the Information Commissioner</li> <li>• notification of the complaint to the subject of the complaint</li> <li>• preliminary investigation (s.167)</li> <li>• request by the complainant or the respondent for a written record of the agreement reached through mediation according to s.172 of the <i>Information Privacy Act 2009</i></li> <li>• certified agreement.</li> </ul>	
1592	<p><b><i>Privacy complaints – declined</i></b></p> <p>Records relating to complaints, which the Information Commissioner has declined to deal with in accordance with s.168 of the <i>Information Privacy Act 2009</i>.</p> <p>Includes complaints where:</p> <ul style="list-style-type: none"> <li>• the subject of the complaint does not relate to the personal information of the complainant</li> <li>• requirements under s.166(3) of the <i>Information Privacy Act 2009</i> for making a complaint have not been satisfied</li> <li>• the Information Commissioner reasonably believes the complaint is frivolous, misconceived or lacking in substance</li> <li>• there is a more appropriate course of action available under another Act</li> <li>• 12 months have elapsed since the complainant first became aware of the subject of the complaint.</li> </ul> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• privacy complaint made or referred to the Information Commissioner</li> <li>• notice of non-acceptance of the complaint.</li> </ul>	1 year after business action completed.

## RIGHT TO INFORMATION AND INFORMATION PRIVACY EDUCATION AND AWARENESS

*The function of improving awareness and understanding of privacy principles and the interpretation and administration of the Right to Information Act 2009 and the Information Privacy Act 2009 in public authorities.*

*Includes organising education and training programs and issuing guidelines.*

Disposal authorisation	Description of records	Retention period & trigger
<b>GUIDANCE AND TRAINING</b> <i>The activity of providing information, training and guidance on right to information and information privacy to individuals, groups, agencies and ministers. It includes the provision of information to the broader community to build awareness of information privacy and right to information. Includes organising and delivering workshops, seminars, and training programs; the development and publication of guidelines, information sheets and other resources; and the compilation of annotated legislation to support internal and external understanding and application of the Right to Information Act 2009 and the Information Privacy Act 2009.</i>		
1593	<b>Annotated legislation – master set</b> Master set of annotated legislation. Records may include, but are not limited to: <ul style="list-style-type: none"> <li>• approvals for distribution or publication.</li> </ul>	Permanent. Transfer to QSA after business action completed.
1594	<b>Case notes</b> Published case notes of privacy complaints conducted in accordance with the <i>Information Privacy Act 2009</i> .	Permanent. Transfer to QSA after business action completed.
1595	<b>Training material, information and guidelines</b> Training material, general guidance and information prepared for the agencies, ministers and the community on right to information and information privacy matters. Records may include, but are not limited to: <ul style="list-style-type: none"> <li>• guidelines, information sheets and other forms of standard information provided to agencies, ministers and the community</li> <li>• training material and other unpublished tools relating to right to information and information privacy</li> </ul>	7 years after business action completed.

Disposal authorisation	Description of records	Retention period & trigger
	<ul style="list-style-type: none"><li>• supporting documentation</li><li>• research</li><li>• consultation</li><li>• planning</li><li>• arrangements (attendance lists, catering, venue, etc.)</li><li>• records of development.</li></ul> <p><i>See <a href="#">General retention and disposal schedule</a> (GRDS) for records of routine advice provided to agencies and the public.</i></p>	

# RIGHT TO INFORMATION AND INFORMATION PRIVACY COMPLIANCE MANAGEMENT

*The function of monitoring and addressing compliance of agencies with the Right to Information Act 2009 and the Information Privacy Act 2009.*

Disposal authorisation	Description of records	Retention period & trigger
<b>EXTENSIONS</b> <i>The activity of determining applications to the Information Commissioner for an extension of time for non-disclosure of information as outlined in Schedule 4 of the Right to Information Act 2009.</i>		
1596	<p><b>Applications for extensions</b></p> <p>Records relating to applications for an extension of the 10-year period of non-disclosure of information lodged in accordance with the <i>Right to Information Act 2009</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• successful applications for extension of non-disclosure period</li> <li>• unsuccessful applications for extension of non-disclosure period</li> <li>• decision of the Information Commissioner regarding an application</li> <li>• notification of decision</li> <li>• publication of the decision, including on the Office of the Information Commissioner website.</li> </ul>	<p>Permanent.</p> <p>Transfer to QSA after business action completed.</p>
<b>MONITORING</b> <i>The activity of planning compliance programs and conducting regular surveillance of information and privacy issues.</i>		
1597	<p><b>Compliance notices</b></p> <p>Records relating to compliance notices issued to an agency by the Information Commissioner on the grounds that an agency has not complied with the privacy principles in accordance with ss.158–163 of the <i>Information Privacy Act 2009</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• compliance notice given by the Information Commissioner</li> <li>• statements of actions taken by the agency to ensure compliance with the obligation</li> <li>• application to the Information Commissioner to extend the time within which the stated actions must</li> </ul>	<p>Permanent.</p> <p>Transfer to QSA after business action completed.</p>

Disposal authorisation	Description of records	Retention period & trigger
	be taken <ul style="list-style-type: none"> <li>notice of the Information Commissioner refusing or granting an extension of time</li> <li>amendment of compliance notice</li> <li>copy of an agency's application to the Queensland Civil and Administrative Tribunal for a review of the decision to give it a compliance notice</li> <li>copy of the outcome of the Queensland Civil and Administrative Tribunal review.</li> </ul>	
1598	<b>Assessments</b> Records relating to monitoring of agencies to assess their compliance with the <i>Right to Information Act 2009</i> or the <i>Information Privacy Act 2009</i> . Records may include, but are not limited to: <ul style="list-style-type: none"> <li>surveys and questionnaires including responses</li> <li>agency assessments</li> <li>reports on agency assessments.</li> </ul>	7 years after business action completed.
<b>STATUTORY APPROVALS</b> <i>The activity of granting approvals to waivers for compliance with the Information Privacy Act 2009. Includes the published decisions and approvals of the Information Commissioner.</i>		
1599	<b>Waivers</b> Records relating to approvals given to an agency to waive or modify their obligation to comply with the privacy principles in accordance with s.157 of the <i>Information Privacy Act 2009</i> . Records may include, but are not limited to: <ul style="list-style-type: none"> <li>application to waive or modify compliance with privacy principles</li> <li>notification of the decision of Information Commissioner provided to the applicant(s).</li> </ul>	Permanent. Transfer to QSA after business action completed.
1600	<b>Decisions and approvals</b> Published decisions and approvals of the Information Commissioner made in accordance with <i>Right to Information Act 2009</i> or <i>Information Privacy Act 2009</i> .	Permanent. Transfer to QSA after business action completed.

Disposal authorisation	Description of records	Retention period & trigger
	<p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"><li>• master set of published decisions and approvals</li><li>• approval to publish decisions and approvals.</li></ul> <p><i>See the General Retention and Disposal Schedule for records relating to working drafts (transitory and short term section).</i></p>	

## LEGACY RECORDS

*This section of the retention and disposal schedule covers legacy records, which are the responsibility of the Office of the Information Commissioner. It also includes records no longer created by the Office.*

Disposal authorisation	Description of records	Date range	Retention period & trigger
<b>EXEMPTION OF INFORMATION (FOI)</b> <i>This activity covers the review of a decision by a minister to issue a certificate of exemption under the repealed Freedom of Information Act 1992, which was repealed in 2009 and replaced by the Right to Information Act 2009. This activity ceased with the introduction of the Right to Information Act 2009.</i>			
1601	<p><b>Certificates of exemption</b></p> <p>Records relating to the exemption of information from freedom of information requests in accordance with the <i>Freedom of Information Act 1992</i>.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>records relating to the decision by the Information Commissioner that there are no reasonable grounds for the issue of a certificate by a minister that stipulate certain matters are exempt from access</li> <li>notification received by the Information Commissioner from a minister that confirms the exemption certificate. Includes copies of the official notice</li> <li>notification received by the Information Commissioner from a minister about the withdrawal of an exemption certificate</li> <li>copy of the decision that certain documents do not include exempt matter, given to a minister or public authority.</li> </ul>	1992–2009	<p>Permanent.</p> <p>Transfer to QSA after business action completed.</p>