



## Responsible Public Authority: Department of Justice and Attorney-General

Queensland Disposal Authority Number (QDAN)	: 677	Version: 1
Date of approval	: 8 February 2012	
Approved by Acting State Archivist	: Mr Adrian Cunningham	
QSA File Reference	: QSA07/472	

### Scope of disposal schedule

This schedule applies to the functional records of Crown Law in providing advice and litigation support to Queensland Government departments, agencies, statutory bodies, Government Owned Corporations, board and tribunals and local government authorities.

This schedule is to be used in conjunction with the *General Retention and Disposal Schedule for Administrative Records (GRDS)*.

### Records Formats

This schedule applies to records created in all formats, unless otherwise specified in the class description. This includes, but is not limited to records in business systems, maps, plans, photographs, motion pictures and records created using web 2.0 media.

### Authority

Authorisation for the disposal of public records is given under s.26 of *the Public Records Act 2002* (the Act).

No further authorisation is required from the State Archivist for records disposed of under this schedule. However, the disposal of all public records must be endorsed by the public authority's Chief Executive Officer, or authorised delegate, in accordance with *Information Standard 31: Retention and Disposal of Public Records*, and recorded in the public authority's disposal log.

Public records that are not covered by an approved retention and disposal schedule cannot be disposed of by a public authority.

Disposal of public records not covered by an approved retention and disposal schedule is a contravention of s.13 of the Act.



### Revocation of previously issued disposal authorities

Any previously issued disposal authority which applied to disposal classes described in this retention and disposal schedule is revoked. The Department of Justice and Attorney-General through Crown Law should take measures to withdraw revoked disposal authorities from circulation. This includes, but is not limited to:

- Crown Law Records Disposal Schedule F128/6 approved 10 October 1994.

Public records sentenced under revoked retention and disposal schedules should be re-sentenced prior to disposal.

For further advice on the currency of approved retention and disposal schedules, please contact Agency Services at Queensland State Archives on (07) 3131 7777.

### Retention of records

All of the retention periods in this schedule are the minimum period for which the sentenced records must be maintained. Public records cannot be disposed of prior to the expiration of the appropriate retention period. However, there is no requirement for public records to be destroyed at the expiration of a minimum retention period.

Public records must be retained for longer if:

- (i) the public record is or may be needed in evidence in a judicial proceeding, including any reasonably possible judicial proceeding
- (ii) the public records may be obtained by a party to litigation under the relevant Rules of Court, whether or not the State is a party to that litigation
- (iii) the public record must be retained pursuant to the *Evidence Act 1977*
- (iv) there is a current disposal freeze in relation to the public record, or
- (iv) there is any other law or policy requiring that the public record be retained.

This list is not exhaustive.

Public records which deal with the financial, legal or proprietary rights of the State of Queensland or a State related Body or Agency regarding another legal entity and any public record which relates to the financial, legal or proprietary rights of a party other than the State are potentially within the category of public records to which particular care should be given prior to disposal.



Records which are subject to a Right to Information application are to be retained for the period specified in section 9 – INFORMATION MANAGEMENT of the General Retention and Disposal Schedule for Administrative Records in addition to their required retention period according to an approved retention and disposal schedule. The two periods run concurrently, and may result in a longer required retention period overall. This is in order to cover all appeal and review processes. Even though the records subject to an application may be ready for disposal according to an approved retention and disposal schedule at the time of the Right to Information application, the additional Right to Information retention requirements must still be applied. See section 9 – INFORMATION MANAGEMENT of the General Retention and Disposal Schedule for Administrative Records for records of Right to Information applications.

The disposal of public records should be documented in accordance with the requirements of *Information Standard 31: Retention and Disposal of Public Records*.

For further advice on the retention and disposal of public records under an approved retention and disposal schedule, please refer to the Queensland State Archives website or contact Agency Services at Queensland State Archives on (07) 3131 7777.

### **Records created before 1950**

Records described in QDAN 677 v.1 that were created before 1950 should be referred to Queensland State Archives for further appraisal before any disposal action is taken by the public authority. For further advice please refer to the Public Records Brief: Management of Public Records Created Before 1950 which is available from the Queensland State Archives' website.

### **Transfer of public records to Queensland State Archives**

Records covered by a class with the disposal action of 'Retain permanently' should be transferred to Queensland State Archives with the approval of the State Archivist. Records covered by a class with the disposal action of 'Retain permanently by Crown Law' are not eligible for transfer to Queensland State Archives unless re-appraised and assigned a disposal action of 'Retain permanently'.

Agencies are required to submit a transfer proposal containing details of the records under consideration for transfer. Queensland State Archives will assess the transfer proposal before formal approval to transfer is issued. Please refer to the guideline Transferring public records to Queensland State Archives available from the Queensland State Archives' website. The State Archivist reserves the right to revise any previous decisions made with regard to the appraisal and transfer of records. Contact Agency Services at Queensland State Archives on (07) 3131 7777 for further details.



## Contents

<b>1. CLIENT SERVICES .....</b>	<b>6</b>
1.1 ADVICE .....	6
1.2 LITIGATION.....	8
1.3 ADVOCACY.....	10
1.4 CLIENT TRAINING.....	14.
1.5 MATTER REGISTRATION.....	15



## 1. CLIENT SERVICES

The function of providing Crown Law's clients with legal services including advice, representation and litigation as well as ensuring the state of Queensland performs as a model litigant through educating departments in their responsibilities and rights.

Reference	Description of records	Status	Disposal Action
1.1	<p><b>ADVICE</b></p> <p><i>The activities associated with researching, formulating and offering opinions as to a Queensland Government agency's legal rights and responsibilities.</i></p> <p><i>Records include client instructions, briefs, correspondence, research material, financial documentation and final legal advice</i></p>		
1.1.1	<p><b>Legal advice - significant</b></p> <p>Records relating to legal advice provided by Crown Law which:</p> <ul style="list-style-type: none"><li>• is provided by the Crown Solicitor</li><li>• relates to matters of significant historical, environmental, political or public interest</li><li>• has a major impact on an agency's policies or procedures.</li></ul> <p>Includes all advice provided on:</p> <ul style="list-style-type: none"><li>• law reform including drafting or amending legislation</li><li>• Parliamentary, Ministerial, Executive and Judiciary powers and procedures</li><li>• applications for indemnity where a Minister or high ranking official is the applicant</li><li>• Attorney-General fiats</li><li>• Commissions of Inquiry and Public Inquiries (e.g. Commission of Inquiry, Royal Commission, Crime and Misconduct Commission, Parliamentary or Ombudsman's inquiry)</li><li>• section 78B notices issued under the <i>Judiciary Act 1903</i> (Commonwealth)</li><li>• human rights issues</li><li>• Crown assets</li></ul>	Permanent	Retain permanently.



Reference	Description of records	Status	Disposal Action
	<ul style="list-style-type: none"><li>charities and charitable trusts</li><li>native title and land use, management or tenure.</li></ul>		
1.1.2	<b>Legal advice – not significant</b> Records relating to legal advice provided by Crown Law that does not have significance as described in record class 1.1.1 and is NOT included in any other record class in section 1.1.	Temporary	Retain for 10 years after last action.
1.1.3	<b>Legal advice - property</b> Records relating to legal advice provided by Crown Law on development applications and project approvals where the matter is not significant, including: <ul style="list-style-type: none"><li>how to process applications</li><li>which approvals are required</li><li>assessment considerations</li><li>structuring project approvals to meet legislative requirements.</li></ul>	Temporary	Retain for 30 years after last action.
1.1.4	<b>Legal advice - matters involving minors</b> Records relating to legal advice provided by Crown Law on potential claims or proceedings involving minors.	Temporary	Retain until youngest child reaches 27 years of age.
1.1.5	<b>Legal advice - contracts</b> Records relating to legal advice provided by Crown Law on contracts including drafting where the State of Queensland, a department, statutory authority, agency or local authority are a party and the matter is not significant in nature. <i>See reference number 1.1.1 for significant legal advice provided by Crown Law.</i>	Temporary	Retain for 15 years after the expiry or termination of the contract.
1.1.6	<b>Legal advice – electronic copy</b> Master set of electronic copies of all legal advice provided by Crown Law.	Permanent	Retain permanently by Crown Law.



Reference	Description of records	Status	Disposal Action
1.2	<b>LITIGATION</b> <i>The activities associated with providing legal representation in proceedings or potential proceedings, before a court or tribunal. Records include client instructions, briefs, correspondence, research, advice, applications, court documents, lists of evidence, appeals.</i>		
1.2.1	<b>Litigation – significant</b> Records relating to representation and litigation services provided by Crown Law in matters which are: <ul style="list-style-type: none"><li>• precedent setting</li><li>• of significant historical, environmental, and political or public interest</li><li>• have a major impact on an agency's policies or procedures.</li></ul> Includes all litigation and representation on: <ul style="list-style-type: none"><li>• matters involving the discretionary powers of the Governor General, Attorney-General or Solicitor General</li><li>• matters heard before the High Court.</li><li>• services provided by the Crown Solicitor</li><li>• human rights issues</li><li>• native title and land use, management or tenure</li><li>• establishing, managing and protecting Crown assets</li><li>• employee discipline where the case resulted in employee dismissal</li><li>• Commissions of Inquiry and Public Inquiries (e.g. Commission of Inquiry, Royal Commission, Crime and Misconduct Commission, Parliamentary or Ombudsman's inquiry)</li><li>• property and real property transactions.</li></ul>	Permanent	Retain permanently.



Reference	Description of records	Status	Disposal Action
1.2.2	<b>Litigation – not significant</b> Records relating to representation and litigation services provided by Crown Law in matters that do not have significance as described in record class 1.2.1 and are NOT included in any other record class in section 1.2.	Temporary	Retain for 15 years after last action.
1.2.3	<b>Litigation - employee discipline</b> Records relating to representation and litigation services provided by Crown Law in cases of employee misconduct, discipline, code of conduct breaches, dismissals and procedural fairness, primarily under the <i>Public Service Act 2008</i> which are not significant in nature.	Temporary	Retain for 50 years from last action.
1.2.4	<b>Litigation - matters involving minors</b> Records relating to representation and litigation services provided by Crown Law in claims or proceedings involving minors.	Temporary	Retain until youngest child reaches 27 years of age.
1.2.5	<b>Personal injuries – WorkCover claims</b> Records relating to representation and litigation services provided by Crown Law in claims involving personal injury to employees under the <i>Workers' Compensation and Rehabilitation Act 2003</i> which are not significant in nature. <i>See reference number 1.2.1 for significant legal representation.</i>	Temporary	Retain for 25 years after last action.
1.2.6	<b>Litigation – do not proceed</b> Records relating to litigation cases which do not proceed, and are not significant in nature. <i>See reference number 1.2.1 for significant legal representation.</i>	Temporary	Retain for 15 years after last action.





Reference	Description of records	Status	Disposal Action
1.3	<p><b>ADVOCACY</b></p> <p><i>The activities associated with assisting and appearing on behalf of agencies on professional, administrative, industrial and disciplinary boards and tribunals to protect the public from incompetent and improper conduct by members of professions and by commercial organisations. Includes acting as counsel supporting coronial inquests and conducting prosecutions and appeals on behalf of regulatory and disciplinary agencies.</i></p>		
1.3.1	<p><b>Advocacy - significant</b></p> <p>Records relating to advocacy services provided by Crown Law in matters of significant historical, environmental, political or public interest or which set a precedent.</p> <p>Includes advocacy on:</p> <ul style="list-style-type: none"><li>• all services provided by the Crown Solicitor</li><li>• all cases or appeals heard in the High Court</li><li>• child protection matters</li><li>• estates and probates</li><li>• coronial inquests</li><li>• dangerous prisoners.</li></ul> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"><li>• correspondence</li><li>• applications</li><li>• court documents</li><li>• affidavits and statements</li><li>• research</li><li>• briefs</li><li>• advice</li><li>• financial and trust transactions.</li></ul>	Permanent	Retain permanently.



Reference	Description of records	Status	Disposal Action
1.3.2	<p><b>Advocacy – not significant</b></p> <p>Records relating to advocacy services provided by Crown Law that do not have significance as described in record classes 1.3.1 and 1.3.3 and are NOT included in any other record classes in section 1.3.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"><li>• correspondence</li><li>• applications</li><li>• court documents and orders</li><li>• medical and/or criminal records</li><li>• affidavits and statements</li><li>• research</li><li>• briefs</li><li>• advice</li><li>• financial and trust transactions.</li></ul>	Temporary	Retain for 15 years after last action.
1.3.3	<p><b>Advocacy – mental health patients – significant</b></p> <p>Records relating to advocacy services provided by Crown Law for mental health patients who:</p> <ul style="list-style-type: none"><li>• arouse political or public interest</li><li>• have been found permanently of unsound mind</li><li>• have absconded or moved interstate</li><li>• have had 5 or more years continuous contact with the courts and/or tribunals</li><li>• have been granted an appeal before the Mental Health Court</li><li>• have caused the setting of a precedent or change in legislation.</li></ul> <p>Records may include, but are not limited to:</p>	Permanent	Retain permanently.



Reference	Description of records	Status	Disposal Action
	<ul style="list-style-type: none"><li>• correspondence</li><li>• court orders</li><li>• medical and/or criminal records</li><li>• submissions and statements</li><li>• hearing notifications and transcripts</li><li>• court decisions</li><li>• appeals and reviews for the life of the patient.</li></ul> <p><i>Records relating to mental health patients which do not fulfil these criteria should be sentenced under reference numbers 1.3.2 or 1.3.4.</i></p>		
1.3.4	<p><b>Advocacy - mental health patients – sound of mind</b></p> <p>Records relating to advocacy services provided by Crown Law for mental health patients who have been found to be of sound of mind.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"><li>• correspondence</li><li>• medical and/or criminal records</li><li>• submissions and statements</li><li>• hearing notifications and transcripts</li><li>• court decisions.</li></ul>	Temporary	Retain for 10 years after last action.
1.3.5	<p><b>Advocacy - matters involving minors</b></p> <p>Records relating to advocacy services provided by Crown Law in claims or proceedings which involve minors but do not cover child protection matters or are considered significant in nature as defined in reference number 1.3.1.</p>	Temporary	Retain until youngest child reaches 27 years of age.



Reference	Description of records	Status	Disposal Action
1.4	<p><b>CLIENT TRAINING</b></p> <p><i>The activities associated with the development and delivery of training programs to clients. Includes developing material used by presenters and participants and managing the administrative arrangements.</i></p> <p><i>See the General Retention and Disposal Schedule for Administrative Records for records relating to the administration of training e.g. bookings and invitations.</i></p>		
1.4.1	<p><b>Legal training - modules</b></p> <p>Records relating to the development and presentation of training programs provided by Crown Law to government clients on topical legal subjects and issues.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"><li>• final versions of all training documents</li><li>• manuals</li><li>• presentations</li><li>• workbooks</li><li>• attendance records.</li></ul>	Temporary	Retain for 10 years after last action.
1.5	<p><b>MATTER REGISTRATION</b></p> <p><i>The activities associated with providing legal matters with a unique identification number and recording a history of legal matters undertaken by Crown Law.</i></p>		



Reference	Description of records	Status	Disposal Action
1.5.1	<p><b>Register of matters</b></p> <p>Datasets recorded in the Practice Management System or historical systems which provide a summary of all legal matters undertaken by Crown Law.</p> <p>Information includes:</p> <ul style="list-style-type: none"><li>• unique matter identification number</li><li>• instructing client name</li><li>• matter name</li><li>• matter type category</li><li>• responsible lawyer</li><li>• open date</li><li>• close date.</li></ul>	Permanent	Retain permanently.