

# APPRAISAL LOG

Queensland Law Society retention and disposal schedule

Queensland Law Society

Date: 20 October 2021

# APPRAISAL JUSTIFICATION: PERMANENT VALUE QUEENSLAND LAW SOCIETY RECORDS

The following Queensland Law Society records have enduring value to the people of Queensland and must be retained permanently.

Disposal authorisation 2739	Retention period & trigger: Permanent. Transfer to QSA after business action completed.	Date authorised: 20 October 2021
<p><b><i>Justification for minimum retention period:</i></b></p> <p><u><i>Appointment of external intervener</i></u></p> <p>This is a new class of records.</p> <p>Pursuant to Chapter 5 of the <i>Legal Profession Act 2007</i>, the Queensland Law Society can appoint an external intervener to a law practice for the purpose of protecting the interests of the general public, the interest of clients and the interests of lawyers (in so far as they are not inconsistent with the interests of the general public and clients). Appointment of an external intervener occurs in instances where the principal of the law firm is deceased, or the principal has abandoned the law firm. These files document the appointment of an external intervener by the Society to supervise a law practitioner or to take receivership of a law practice. Permanent retention of these summary records supports community confidence in the administration of such activities and corresponds with retention requirements for ‘Audit and investigation summary records’ covered in the <i>Public Trust Office retention and disposal schedule</i> (QDAN 651 v.1).</p> <p><u><i>Approved forms</i></u></p> <p>This is a new class of records.</p> <p>Under machinery provisions contained in the <i>Legal Profession Act 2007</i>, the Queensland Law Society creates and publishes approved forms relevant to its role as a regulatory authority. These forms, which are gazetted and published on the Society's website, have unique identifiers and support a broad framework of activities including fidelity cover, external intervention, practicing certificates, incorporated legal practices, multi-disciplinary partnerships, Australian-registered foreign lawyers, trust accounts, and legal profession regulation. The records themselves comprise final versions of approved forms and provide a lasting record of machinery provisions that form an integral framework for the legal profession in Queensland.</p> <p><u><i>Fidelity Guarantee Fund</i></u></p> <p>This is a new class of records.</p> <p>The Queensland Law Society, pursuant to s.359 of the <i>Legal Profession Act 2007</i>, is required to maintain the Legal Practitioners' Fidelity Guarantee Fund. The purpose of the fund is to reimburse parties who suffer financial loss arising from an act or omission of one or more associates of a law practice. Due to the fund's importance, which protects individuals who suffer financial loss as the result of the dishonesty of a law practice, evidence regarding its establishment, management and administration is of enduring importance to Queensland. Additionally, because the Fund is not licenced under the <i>Corporations Act 2001</i> (Cth) (as per class order relief) or regulated under the <i>Insurance Act 1973</i> (Cth), its limited oversight makes the long-term retention</p>		

of these records all the more important. In determining retention requirements for these records, reference has been made to the *Public Trust Office retention and disposal schedule*, specifically to record categories dealing with the management of the Unclaimed Moneys Fund.

#### Law practices

Section 114 of the *Legal Profession Act 2007* requires that before a law firm starts to engage in legal practice in Queensland, the law firm must give the Queensland Law Society notice of its intention to do so. This information is maintained in the register of law firms. Details listed in the register include name and address of the law firm, members of the law firm, details of professional indemnity insurance, practice specialisation (accreditation) and claims history. The register of law firms is linked to the register of members and therefore links the individual members with the law firms through which they operate either as sole traders, employees, practice managers, etc. These records provide a full history of law firms in Queensland which is not available anywhere else.

The proposed permanent retention of these records aligns with the permanent status applied to similar records covered by the Victorian *Retention and Disposal Authority for Records of the Legal Services Board* (PROS 09/02 VAR 1) and the *Veterinary Surgeons Board of Queensland retention and disposal schedule*.

#### Preparation and approval of Professional Standards (Limitation of Liability) scheme

This is a new class of records.

The *Professional Standards Act 2004* allows occupational associations to develop schemes to improve professional standards, protect consumers and limit the civil liability of members. The Professional Standards Council approved a Limitation of Liability scheme for the Queensland Law Society in 2010. The scheme provides protection against claims above the requisite profession indemnity insurance cover and acts to limit a participating practitioner's damages in causes of action arising from the provision of legal services.

Records of the scheme are required to be kept as evidence of the establishment and ongoing management of the scheme for the benefit of Queensland Law Society members and their clients.

#### Professional Indemnity Insurance

This is a new class of records.

Queensland law practices are required under the *Legal Profession Act 2007* to hold professional indemnity insurance covering financial loss, personal injury and property damage that results from the negligent act, error or omission of a legal practitioner whilst engaged to work on behalf of a client. The Queensland Law Society, pursuant to *Queensland Law Society Indemnity Rule 2005*, is required to take out and keep a Master Policy of indemnity insurance to assist its members. These Master Policies, and the Certificates of Insurance that accompany them, are integral records of the insurance scheme's formation and management over time. For this reason, they are of enduring value to the state.

In determining retention requirements for these records, reference has been made to the permanent status of insurer policy development records covered by the *Workers Compensation Regulation retention and disposal schedule* (QDAN 621 v.2).

#### Register of Australian legal practitioners and Australian registered foreign lawyers

Whilst the Queensland Law Society is a voluntary membership, not-for-profit association, it also has conferred upon it a number of public functions concerning the regulation of the solicitor's branch of the legal profession in Queensland (including the registration of foreign lawyers practising foreign law in Queensland).

A register of Australian legal practitioners and Australian-registered foreign lawyers is kept by the Queensland Law Society in accordance with ss. 81 and 210 of the *Legal Profession Act 2007* and ss. 10 and 22 of the *Legal Profession Regulation 2017* to ensure that there is a record of all the legal practitioners registered with the Society available for reference and use. Details listed in the register include:

- personal details
- employer's details (including practising management status (e.g.: principal, employee))
- practising certificate information and continuing professional development points
- class of membership
- indemnity history
- specialist accreditation (including date of accreditation and type of accreditation), and
- whether the practitioner is a local or foreign lawyer.

The proposed permanent retention of these records aligns with the permanent status applied to similar records covered by the *Victorian Legal Services Board retention and disposal schedule* (PROS 09/02 v.1) and the *Veterinary Surgeons Board of Queensland retention and disposal schedule*.

#### Roll of members

The roll of members is kept by the Queensland Law Society in accordance with rule 14 of the *Legal Profession (Society) Rules 2007* and it is a database which is structured so that all changes are held as historical "audit" records. These records can be viewed as part of the data structure. As a consequence, all of the member's past employers, addresses, Practice Management Certificate changes etc. are available for the entire history of the member from 1992 onwards.

The recommended permanent retention period for these records is appropriate as:

- there is an obligation to the public and the profession to retain an accurate register of members of the Queensland Law Society
- these records form an important part of the history of the legal profession in Queensland.

The proposed permanent retention of these records aligns with the permanent status applied to similar records covered by the *Veterinary Surgeons Board of Queensland retention and disposal schedule*.

#### Submissions – policy and law reform

The purpose of these records is to provide evidence of submissions made by the Queensland Law Society to Government on major law reform and policy matters (including children's welfare, First Nations, and human rights issues). Directly impacting individual citizens and, in regular instances, the broader community, a significant argument exists to preserve these records on a permanent basis.

The proposed permanent retention of these records is consistent with the permanent status applied to records of the same type covered by the *Children’s Rights, Protection and Promotion retention and disposal schedule* (QDAN 636 v.2), the *Crown Law retention and disposal schedule* (QDAN 677 v.1), and the *Queensland Law Reform Commission retention and disposal schedule* (QDAN 702 v.1).

***QSA permanent appraisal characteristics:***

These records provide evidence of the following characteristics from the Queensland State Archives Appraisal Statement and should be retained as archival records for future research:

- 1 – Authority, Foundation & Structure of Government
- 2 – Primary Functions & Programs of Government
- 3 – Enduring Rights & Entitlements
- 4 – Significant Impact on Individuals
- 5 – Substantial Contribution to Community Memory.

***Comparison with other retention and disposal schedules:***

*General retention and disposal schedule* (GRDS):

- Reference 1000 – Advice-significant – Permanent. Transfer to QSA after business action completed.
- Reference 1160 – Legal advice-significant – Permanent. Transfer to QSA after business action completed.

*Children’s Rights, Protection and Promotion retention and disposal schedule* (QDAN 636 v.2) – Reference 2.12.1 – Submissions – Retain permanently by the Commission.

*Crown Law retention and disposal schedule* (QDAN 677 v.1) – Reference 1.1.1 – Legal advice-significant – Retain permanently.

*Queensland Law Reform Commission retention and disposal schedule* (QDAN 702 v.1) – Reference 1.4.1 – Reference submissions – Retain permanently.

*Public Trust Office retention and disposal schedule* (QDAN 651 v.1):

- Reference 6.1.2 – Audit and Investigation - Summary record - Retain Permanently.
- Reference 9.3.1 – Investments - Retain for 20 years after last action.
- Reference 9.3.2 - Investment Register - Retain for 20 years after investments no longer held.
- Reference 9.3.3 - Unclaimed money and property - Summary record - Retain permanently.

*Veterinary Surgeons Board of Queensland retention and disposal schedule* – Reference 1582 – Licence holder registers – Permanent. Transfer to QSA after business action completed.

*Workers Compensation Regulation retention and disposal schedule* (QDAN 621 v.2) - Reference 4.2.1 - Insurance policy directives - Retain permanently.

Victoria – *Retention and Disposal Authority for Records of the Legal Services Board* (PROS 09/02 VAR 1) - Reference 2.1.1 – Registration of legal practitioners and practices – Summary records - Retain as State Archives.

**Previous schedule references:**

*Queensland Law Society retention and disposal schedule* (QDAN 674 v.1):

- Reference 1.1.1 – Register of members – Retain permanently.
- Reference 1.2.1 – Register of law firms – Retain permanently.
- Reference 4.1.1 – Advocacy and advice-major matters – Retain permanently.

**Disposal authorisation 2740**

**Retention period & trigger:**  
Permanent in agency.

**Date authorised:**  
20 October 2021

***Justification for minimum retention period:***

**Safe custody register – external intervention matters**

Property entrusted to the Queensland Law Society for safekeeping is held by the Society as a Bailee. This means that safe custody items cannot be destroyed without client consent, even after the expiration of the 7 year period mandated in Rule 14 of the *Australian Solicitors Conduct Rules 2012*. Items held in Safe Custody by the Queensland Law Society are tracked and managed via the Safe Custody Register, which uniquely identifies the property, notes the date of its receipt and, as relevant, the date it was returned to a client. Due to the fact that a number of items held in Safe Custody will never be destroyed, the register that tracks, manages and holds a history of their safe custody must necessarily be retained on a permanent basis.

The proposed permanent retention of these records is consistent with the permanent status applied to like records covered by the *General retention and disposal schedule* and the *Public Trust Office retention and disposal schedule* (QDAN 651 v.1).

***Comparison with other retention and disposal schedules:***

*General retention and disposal schedule* (GRDS) – Reference 1130 – Master control records-permanent value records – Permanent. Transfer to QSA after business action completed.

*Public Trust Office retention and disposal schedule* (QDAN 651 v.1) – Reference 2.3.3 – Custodial services-summary records – Retain permanently.

Victoria – *Retention and Disposal Authority for Records of the Legal Services Board* (PROS 09/02 VAR 1):

- Reference 3.3.1 – Records relating to the appointment of receivers – Retain as State Archives.
- Reference 3.3.2 – Records relating to the appointment of trust account supervisors and managers – Destroy 50 years after the conclusion of appointment.

**Previous schedule references:**

*Queensland Law Society retention and disposal schedule* (QDAN 674 v.1) – Reference 2.3.2 – Safe custody register – Retain permanently by the Queensland Law Society.

# APPRAISAL JUSTIFICATION: TEMPORARY VALUE QUEENSLAND LAW SOCIETY RECORDS

The following Queensland Law Society records have no enduring value to the people of Queensland and their disposal is subject to meeting specific minimum retention requirements.

Disposal authorisation 2741	Retention period & trigger: 10 years after course materials and resources are superseded.	Date authorised: 20 October 2021
<p><b><i>Justification for minimum retention period:</i></b></p> <p><u>Course materials and resources</u></p> <p>The Queensland Law Society has an active role in the professional development of legal practitioners and is responsible for the professional development curriculum and all associated course materials. The key areas for the Queensland Law Society relating to the accreditation and professional development of legal practitioners are:</p> <ul style="list-style-type: none"> <li>• completion of a Queensland Law Society practice management course by any legal practitioner who will run a sole practice or who will manage a law firm</li> <li>• completion of a Queensland Law Society specialist accreditation course by any legal practitioner who will specialise in a particular field of law (eg: family law, tax law, estate law etc)</li> <li>• completion of ongoing professional development training which counts towards the Continuing Professional Development (CPD) scheme.</li> </ul> <p>Courses are generally provided by the Queensland Law Society on an annual basis as the accreditation and reaccreditation of practising certificates occurs annually.</p> <p>The proposed retention period corresponds with the period set for like records in the <i>Crown Law retention and disposal schedule</i> (QDAN 677 v.1).</p> <p>This minimum retention period allows for records relating to the development and presentation of legal courses to be available for a sufficient length of time:</p> <ul style="list-style-type: none"> <li>• for agency reference and review</li> <li>• for formal audit or review of course materials and resources provided to Australian legal practitioners</li> <li>• to provide evidence for future legal proceedings, including claims or appeals, that may request access to records about course materials relevant to the provision of legal professional development training.</li> </ul> <p><b><i>Comparison with other retention and disposal schedules:</i></b></p> <p><i>University Sector retention and disposal schedule</i> (QDAN 601 v.3) – Reference 601.3/C53 – Resources and materials – Retain for 2 years after last action.</p> <p><i>Crown Law retention and disposal schedule</i> (QDAN 677 v.1) – Reference 1.4.1 – Legal training-modules – Retain for 10 years after last action.</p>		

**Previous schedule references:**

Queensland Law Society retention and disposal schedule QDAN 674 v.1 – Reference 1.3.2 – Course material – Retain for 10 years after course is no longer offered.

**Disposal authorisation 2742****Retention period & trigger:**

10 years after business action completed.

**Date authorised:**

20 October 2021

**Justification for minimum retention period:****Registers of participation in professional development activities**

The Queensland Law Society maintains registers of participation in professional development activities to record the particulars of delegates, presenters and stakeholders. These records capture information that may need to be referred to confirm attendance at professional development activities that count towards the CPD scheme. It is essential that the Society has records of attendees for professional development activities that can be referred back to for a sufficient length of time to confirm attendance should any questions be raised about accreditation or reaccreditation for practising certificates issued by the Society.

The proposed minimum retention period allows for registers detailing participation in professional development activities to be available for a sufficient length of time:

- for agency reference and review
- for audit or review of specialist training processes by the Queensland Law Society
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records about attendance and completion of professional development training by Australian legal practitioners.

**Comparison with other retention and disposal schedules:**

General retention and disposal schedule (GRDS) – Reference 2079 – Training provision – 7 years after business action completed.

**Previous schedule references:**

Queensland Law Society retention and disposal schedule QDAN 674 v.1 – Reference 1.3.1 – Register of overall results – Retain permanently.

**Disposal authorisation 2743****Retention period & trigger:**

7 years after the final matter is registered by the Queensland Law Society.

**Date authorised:**

20 October 2021

**Justification for minimum retention period:****Client file register – external intervention matters**

This is a new class of records.



Client file registers are created by the Queensland Law Society to identify items taken into the control of the Society under ss 517 and 518 of the *Legal Profession Act 2007*. These records are the primary reference for the location of client files held by the Queensland Law Society as the receiver appointed for a law firm. The register is necessary to ensure that the Society can:

- manage client files in their control
- return items to clients
- refer incomplete case files to another legal practitioner following instruction from the client
- manage the records according to any other instructions received from the client.

The proposed minimum retention period allows for the registers to be available for a sufficient length of time:

- for agency reference and review
- to respond to requests from the public about the location of client files taken into the control of the Society.

***Comparison with other retention and disposal schedules:***

*General retention and disposal schedule (GRDS):*

- Reference 1006 – Agreements and contracts register – 12 years after the expiry or termination of the agreement or contract.
- Reference 1130 – Master control records-permanent value records – Permanent. Transfer to QSA after business action completed.
- Reference 1282 – Master control records-temporary value records – For the life of the record.

***Previous schedule references:***

*Queensland Law Society retention and disposal schedule (QDAN 674 v.1) – Reference 2.3.2 – Safe custody register – Retain permanently by Queensland Law Society.*

**Disposal authorisation 2744**

**Retention period & trigger:**

7 years after termination of appointment of an external intervener.

**Date authorised:**

20 October 2021

***Justification for minimum retention period:***

*External intervention records*

Under ss. 503, 516 and 536 of the *Legal Profession Act 2007*, the Queensland Law Society creates records for the daily management of external interventions. A receivership is generally wound up once all trust monies held by the Queensland Law Society on behalf of the law firm as part of the external intervention are disbursed or once the receivership is terminated.

Under s.59 of the *Legal Profession Regulation 2017*, trust records are to be kept for a period of 7 years after the only or last transaction or finalisation of the matter to which the trust record relates. Aligning with this legislative requirement ensures that records relating to the daily management of the receivership are available for reference for a sufficient period of time following the winding up or the termination of the external intervention for a law firm.

The proposed minimum retention period of '7 years after termination of appointment of an external intervener' is appropriate to meet the business and legislative needs of the Queensland Law Society as the external intervener for law firms where the principal is deceased or has abandoned the law firm.

This minimum retention period allows for records dealing with the daily management of external interventions to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of external intervention activities conducted by the Society
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records on the daily management of an external intervention.

***Comparison with other retention and disposal schedules:***

Victoria – *Retention and Disposal Authority for Records of the Legal Services Board* (PROS 09/02 VAR 1):

- Reference 3.3.1 – Records relating to the appointment of receivers – Retain as State Archives.
- Reference 3.3.2 – Records relating to the appointment of trust account supervisors and managers – Destroy 50 years after the conclusion of appointment.

***Previous schedule references:***

*Queensland Law Society retention and disposal schedule* (QDAN 674 v.1) – Reference 2.3.1 – External intervention records – Retain 7 years after last action.

**Disposal authorisation 2745**

**Retention period & trigger:**

7 years after the data is entered into the register of Australian legal practitioners and Australian-registered foreign lawyers.

**Date authorised:**

20 October 2021

***Justification for minimum retention period:***

***Practising certificate records***

The Queensland Law Society regulates the solicitor's branch of the legal profession in Queensland. Practising certificates give legal practitioners the right to practice law in Queensland and legal practitioners that hold a current Queensland practising certificate are eligible for membership of the Queensland Law Society. Practising certificates are reapplied for and issued each year by the Queensland Law Society. Practising certificates are issued to individuals and can be unrestricted or restricted. The practising certificates for Australian-registered foreign lawyers are generally restricted.

Although practising certificates are reapplied for and issued each year, it is important that the records of granting or renewing practising certificates are retained for 7 years after the data is entered in the register to ensure that they are available for the Queensland Law Society to refer back to. Under s.69 of the *Legal Profession Act 2007*, the Queensland Law Society may refuse to grant or renew practising certificates and it may amend, suspend or cancel a practising certificate if the applicant or certificate holder does not meet the conditions. Under s.70 of the *Legal Profession Act 2007*, the Queensland Law Society may decide that an applicant or a certificate holder is not entitled to apply for the grant of a practising certificate for a period of not more than five years. The minimum retention period of 7 years after the data is entered in the register also ensures that there is sufficient time for the practising

certificate details to be checked and amended should there be any issue with the calculation of the Continuing Professional Development (CPD) points used to determine whether the applicant or certificate holder has met the criteria for granting the practising certificate.

This minimum retention period allows for records relating to the grant or renewal of practising certificates to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of the Society's management of the grant and renewal of practising certificates
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records about a legal practitioner's suitability to practice.

***Comparison with other retention and disposal schedules:***

New South Wales – *Functional Retention and Disposal Authority: Legal Practitioners Admission Board (DA146)* – Reference 3.1.7 – Records relating to the certification of current admission as a legal practitioner – Retain for minimum of 6 years after last action, then destroy.

Victoria – *Retention and Disposal Authority for Records of the Legal Services Board (PROS 09/02 VAR 1)*:

- Reference 2.1.2 – Registration of legal practitioners and practices – Granting renewal and management of practising certificates - Destroy 30 years after certificate expires.
- Reference 2.1.3 – Registration of legal practitioners and practices – Unsuccessful applications - Destroy 30 years after the date of decision.

***Previous schedule references:***

*Queensland Law Society retention and disposal schedule (QDAN 674 v.1)* – Reference 1.1.2 – Membership registration records – Retain for 1 year after the data is entered into the register of members.

Disposal authorisation 2746	Retention period & trigger: 7 years after business action completed.	Date authorised: 20 October 2021
<p><b><i>Justification for minimum retention period:</i></b></p> <p><u><i>Applications and registrations – courses and certificates</i></u></p> <p>This is a new class of records.</p> <p>Applications are received by the Queensland Law Society in relation to professional development, specialist accreditation certification, and practice management courses for legal practitioners. In accordance with the <i>Limitation of Actions Act (1974)</i>, which sets a 6 year limitation for actions founded on simple contracts, quasi-contracts or torts (where damages do not involve personal injury), these records are retained to ensure that they can be referred back to if issues are raised about the accreditation process and/or the suitability of a legal practitioner to be accredited to practice law in Queensland.</p> <p>This minimum retention period allows for records relating to the professional development and certification of Australian legal practitioners to be available for a sufficient length of time:</p> <ul style="list-style-type: none"> <li>• for agency reference and review</li> </ul>		

- for formal audit or review of professional development, certification and practice management courses provided by the Queensland Law Society
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records about accreditation processes and questions concerning a legal practitioner's suitability to practice.

#### Approved forms – drafting

This is a new class of records.

The Queensland Law Society creates approved forms relevant to its role as a regulatory authority and requires access to supporting documentation, drafts, and consultation notes for the minimum retention period in order to assist the drafting process.

This minimum retention period allows for records associated with the drafting of the Society's approved forms to be available for a sufficient length of time:

- for agency reference and review.

#### Assessment records

Records relating to the assessment of professional development activities managed by the Queensland Law Society are retained so that the Society can respond to queries concerning results achieved by legal practitioners. The proposed minimum retention period is consistent with appeal timeframes and allows the Queensland Law Society to fulfil its business and legislative requirements. The proposed retention period is consistent with retention periods for similar records covered in *the Education and Training Sector retention and disposal schedule*.

This minimum retention period allows for records concerning the Society's management of professional development activities to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of professional development activities managed by the Queensland Law Society
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records about a legal practitioner's demonstrated competency.

#### Council induction materials – final

This is a new class of records.

The final version of Council induction materials provided to Council members on appointment are retained to ensure that they can be referred back to during the course of the Council members' appointment to verify the information provided to Council on its responsibilities.

The proposed retention period aligns with the period set for records of a similar nature in the *SunWater retention and disposal schedule* (QDAN 650 v.1).

This minimum retention period allows for Council member induction records to be available for a sufficient length of time:

- for agency reference and review.

#### Dispute management records

The Queensland Law Society manages disputes as an Authorised Nominating Authority (ANA) on behalf of the National Mediator Accreditation Committee (NMAC) and facilitates alternative dispute resolution on behalf of the NMAC and others. The Queensland Law Society provides a service to find dispute

resolution providers (accredited mediators, arbitrators and adjudicators) to assist the public with disputes, including payment disputes. Parties who have a dispute can lodge an adjudication application with an ANA, such as the Queensland Law Society, and the ANA nominates an Adjudicator to determine the dispute.

These records relate to the scheduling, management and administration of this process by the Queensland Law Society.

This minimum retention period allows for records regarding the allocation of a dispute matter to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of the Society's dispute management processes.

#### Fidelity Guarantee Fund claim files

This is a new class of records.

The Queensland Law Society holds records relevant to claims made against the Fidelity Guarantee Fund. These records provide evidence of claims, claim investigations, and payments made from the fund. They are retained to support the Society's business needs and to administer its obligations under Chapter 3 Part 3.6 of the *Legal Profession Act 2007*.

In determining an appropriate retention period for these records, reference has been made to the Victorian *retention and disposal authority of the Legal Services Board* (PROS 09/02 V.1).

This minimum retention period allows for records concerning claims made against the Fidelity Guarantee Fund to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of activities associated with Fidelity Guarantee Fund claims
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records dealing with claims made against the Fund.

#### Member services

This is a new class of records.

The Queensland Law Society provides a range of important member services including, but not limited to:

- referrals
- member benefits
- practice support
- social events and networking activities
- professional development, including specialist accreditation.

It is essential that records on the administration and management of member services are retained for a sufficient length of time to ensure that they can be referred back to by the Society and to ensure that member rights are protected.

The proposed retention period reflects the period set for customer services records in the *General retention and disposal schedule*.

This minimum retention period allows for member records to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of activities associated with the delivery of member services
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records, particularly with respect to the accreditation of legal practitioners.

#### Membership records

These records comprise routine correspondence (including changes to personal details and data collection forms) received from members of the Queensland Law Society. Data from these records is subsequently captured in the Roll of members, after which records are retained for their reference and verification value.

This minimum retention period allows for records comprising material recorded in the Roll of members to be available for a sufficient length of time:

- for agency reference and review.

#### National accredited mediators

This is a new class of records.

The Queensland Law Society is a Recognised National Mediator Accreditation Body (RMAB) and ensures compliance with National Standards for the accreditation of dispute resolution providers. Records are created when a person seeks accreditation to conduct mediation processes under the National Mediator Accreditation System. The Queensland Law Society holds records relevant to this process to support its business, evidentiary and accountability requirements, ensuring, for example, that applicants meet relevant standards during the renewal process.

The proposed retention period for these records is consistent with disposal authorisations applied to like records in the New South Wales *retention and disposal authority for Legal services, provision of mediation and alternative dispute resolution services to the community*.

This minimum retention period allows for records concerning the accreditation of mediators to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of the accreditation of dispute resolution providers by the Society
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records about a legal practitioner's demonstrated competency.

#### Nominate Provider records

The Queensland Law Society is an Authorised Nominating Authority (ANA) under the *Building and Construction Industry Payments Act 2004*. As an ANA, the Society receives applications for adjudication, appoints adjudicators and facilitates the process of adjudication. Records held by the Queensland Law Society provide evidence of the nomination and selection process and are retained to support business and legislative requirements.

The proposed retention period for these records is consistent with disposal authorisations applied to like records in the New South Wales *retention and disposal authority for Legal services, provision of mediation and alternative dispute resolution services to the community* (FA338).

This minimum retention period allows for records concerning the nomination and selection of mediation providers to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of the accreditation of dispute resolution providers by the Queensland Law Society
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records concerning the nominated provider process.

Professional Indemnity Insurance – insurer, law practices and practitioners

This is a new class of records.

Records providing evidence of negotiations and contracts with insurers; as well as communications with practitioners and practices in relation to professional indemnity insurance support the Queensland Law Society's business requirements and help it to comply with relevant obligations under the *Legal Profession Act 2007* and the *Queensland Law Society Indemnity Rule 2005*.

The proposed retention period is consistent with similar records covered by the *WorkCover Queensland retention and disposal schedule* (QDAN 484 v.5) and the *General retention and disposal schedule*.

This minimum retention period allows for records about the administration of professional indemnity insurance to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of the Queensland Law Society's compliance under relevant statutory obligations.

Professional Indemnity Insurance – levies

This is a new class of records.

Records relating to the payment of levies for the Professional Indemnity Insurance fund, and records relating to applications for member relief concerning the payment of premiums, are important financial records that should be retained for a minimum period of 7 years to ensure that the Queensland Law Society can efficiently manage and administer the Legal Practitioners' Fidelity Guarantee Fund on behalf of its members.

This minimum retention period allows for records about the Fidelity Guarantee Fund to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of the management of the fund
- to provide future legal proceedings, including claims or appeals, that may request access to records concerning the payment of fund levies.

Trust accounts – examiner reports and law practice declarations

Under ss. 267 to 279 of the *Legal Profession Act 2007*, the Queensland Law Society liaises with professional accounting associations to review breaches of accounting and audit standards in relation to external examinations of law practice trust accounts. As part of this engagement the Queensland Law Society receives copies of external examiners' reports, declarations, and statements which it holds in order to support its regulatory role. The retention of these records for 7 years meets the Queensland Law Society's ongoing business requirements and aligns with the minimum retention period set for Trust accounts – investigation records.

This minimum retention period allows for records relating to examiner reports and law practice declarations to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of external examinations of law practice trust accounts
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records on breaches of accounting and audit standards

**Trust accounts – investigation records**

Under ss. 263 to 266 of the *Legal Profession Act 2007*, the Queensland Law Society may investigate the affairs of a law practice either as a routine matter or following an allegation or suspicion regarding the affairs of the law practice. The Queensland Law Society holds records in relation to these investigations to provide evidence and to support the administration and scheduling of activities. This record class was included in the Society's previous retention and disposal schedule and the retention period remains unchanged in this current version.

This minimum retention period allows for records relating to investigations of law practice trust accounts to be available for a sufficient length of time:

- for agency reference and review
- for formal audit or review of investigations carried out by the Queensland Law Society in relation the affairs of a law practice
- to provide evidence for future legal proceedings, including claims or appeals, that may request access to records on trust accounts investigations undertaken by the Queensland Law Society.

***Comparison with other retention and disposal schedules:***

*General retention and disposal schedule (GRDS):*

- Reference 1037 – Administrative/operational procedures-final – 3 years after business action completed.
- Reference 1067 – Management of customer services – 5 years after business action completed.
- Reference 1159 – Claims-other – 7 years after settlement of claim.

*Building and Construction Industry Payments Agency retention and disposal schedule (QDAN 673 v.1) – Reference 1.1.2 – Registration files – Retain for 4 years after last action.*

*Courts Sector retention and disposal schedule (QDAN 705 v.1) – Reference 1.1.1 – Admissions/registration – Retain for 2 years after the data is entered into the *Roll of Lawyers* (Admission rolls) or application is unsuccessful.*

*Education and Training Sector retention and disposal schedule:*

- Reference 2342 – Admissions – student file – accredited training and higher education – adults - 7 years after business action completed.
- Reference 2345 – Assessment-completed – 5 years after business action completed.
- Reference 2346 – Assessment-results – 1 year after the assessment is validated.
- Reference 2347 – Assessment-result appeals – 2 years after business action completed.



*Legal Services Commission retention and disposal schedule* – Reference 2083 – Audit records – 12 years after finalisation of audits or the decision to prosecute.

*Local Government Association of Queensland Incorporated retention and disposal schedule* (QDAN 688 v.1) - Reference 2.1.1 - Membership records - Retain for 7 years after expiry or cancellation of membership.

*SunWater retention and disposal schedule* (QDAN 650 v.1) - Reference 1.7.1 - Records relating to the administration, implementation and management of induction training programs for SunWater Board members - Retain for 7 years after last action.

*WorkCover Queensland retention and disposal schedule* QDAN 484 v.5 – Reference 3.1.1 – Applications for insurance – 7 years after last action.

New South Wales – *Retention and Disposal Authority for Legal services, provision of mediation and alternative dispute resolution services to the community* (FA338):

- Reference 2.1.2 - Accreditation - Successful applications - Retain minimum of 7 years after accreditation lapses, then destroy.
- Reference 2.1.3 - Accreditation - Unsuccessful applications - Retain minimum of 2 years after action completed, then destroy.
- Reference 2.2.1 - Appointments - Successful applications - Retain minimum of 7 years after panel appointment ceases, then destroy.
- Reference 2.2.2 - Appointments - Unsuccessful applications - Retain minimum of 2 years after action completed, then destroy.

Victoria – *Retention and Disposal Authority for Records of the Legal Services Board* (PROS 09/02 VAR 1):

- Reference 3.4.2 – Records of investigations of claims against the Fidelity Fund that are rejected or partially allowed and are subsequently appealed – Destroy 30 years after appeal concluded.
- Reference 3.4.3 – Records of investigations of claims against the Fidelity Fund that are rejected or partially allowed but are not subsequently appealed – Destroy 15 years after claim settled.
- Reference 3.4.4 – Records of investigations of claims against the Fidelity Fund that are allowed in full – Destroy 7 years after claim settled.

***Previous schedule references:***

*Queensland Law Society retention and disposal schedule* (QDAN 674 v.1):

- Reference 1.1.2 – Membership registration records – Retain for 1 year after the data is entered into the register of members.
- Reference 1.3.3 – Assessment records – Retain for 3 months after release of results.
- Reference 1.3.4 – Compliance records-continuing professional development (CPD) scheme – Retain for 7 years after last action.
- Reference 2.1.1 – Trust accounts-audit records – Retain for 7 years after last action.
- Reference 2.1.2 – Trust accounts-investigation records – Retain for 7 years after last action.
- Reference 5.1.1 – Case management records – Retain for 2 years after last action.
- Reference 5.1.2 – Service provider records – Retain for 7 years after last action.

## APPRAISAL JUSTIFICATION: LEGACY QUEENSLAND LAW SOCIETY RECORDS

This section covers legacy records no longer created by the Queensland Law Society. The following legacy Queensland Law Society records were created between 1927 and 2004.

Disposal authorisation 2747	Retention period & trigger: Permanent. Transfer to QSA after business action completed.	Date authorised: 20 October 2021
<p><b><i>Justification for minimum retention period:</i></b></p> <p><u><i>Disciplinary records</i></u></p> <p>This is a new class of records.</p> <p>It comprises records of complaints and resultant disciplinary action created prior to the establishment of the Legal Services Commission in 2004 and the commencement of s.472 of the <i>Legal Profession Act 2007</i>, which requires the Legal Services Commission to permanently retain in agency a discipline register that may include details relating to earlier disciplinary action.</p> <p>Because of the permanent nature of the Commission's register, these records, which predate and inform the register, must likewise be retained permanently.</p> <p><u><i>Membership cards</i></u></p> <p>Membership cards were created for members prior to the commencement of the Queensland Law Society computer system in 1984. These cards contain the same information as that recorded in the roll of members which the Society is required to maintain permanently under rule 14 of the <i>Legal Profession (Society) Rules 2007</i>. Like the roll of members, these records form an important part of the legal profession's history in Queensland.</p> <p>Permanent retention for these records corresponds with retention requirements for similar professional registration records set in other retention and disposal schedules, e.g. <i>Queensland Audit Office retention and disposal schedule</i>.</p> <p><u><i>Membership files</i></u></p> <p>Membership files for the period from 1927 to 1991 are complementary to the membership cards created by the Queensland Law Society for the same period of time. Like membership cards, these files contain information relevant to the roll of members which the Society is required to keep and administer permanently under rule 14 of the <i>Legal Profession (Society) Rules 2007</i>. In addition, these records form an important part of the history of the legal profession of Queensland.</p> <p><b><i>QSA permanent appraisal characteristics:</i></b></p> <p>These records provide evidence of the following characteristics from the Queensland State Archives Appraisal Statement and should be retained as archival records for future research:</p> <ul style="list-style-type: none"> <li>• 3 – Enduring Rights &amp; Entitlements</li> <li>• 4 – Significant Impact on Individuals</li> <li>• 5 – Substantial Contribution to Community Memory.</li> </ul>		

**Comparison with other retention and disposal schedules:**

*Legal Services Commission retention and disposal schedule* – Reference 2080 – Discipline register – Permanent. Retain in agency.

*Queensland Audit Office retention and disposal schedule* – Reference 2414 – Registration of Companies as Tax Agents – Permanent.

*Queensland Building and Construction Commission retention and disposal schedule* (QDAN 185 v.2) – Reference 3.1.1 – Licensee register – Retain permanently.

**Previous schedule references:**

*Queensland Law Society retention and disposal schedule* (QDAN 674 v.1):

- Reference 6.1.1 – Membership cards – Retain permanently.
- Reference 6.1.2 – Membership files – Retain permanently.

<b>Disposal authorisation 2748</b>	<b>Retention period &amp; trigger:</b> 12 years after business action completed.	<b>Date authorised:</b> 20 October 2021
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**Justification for minimum retention period:****Complaint records**

Prior to the establishment of the Legal Services Commission in 2004, complaints about legal practitioners were received by the Queensland Law Society. Following the establishment of the Legal Services Commission, all records of complaint cases that were still open and ongoing as at 1 July 2004 were transferred to the Commission.

Under s.10(4) of the *Limitation of Actions Act 1974*, an action shall not be brought upon a judgment after the expiration of 12 years from the date on which the judgment becomes enforceable. Because of this, 12 years is a common minimum retention period for records of this type. For instance, records relating to complaints made pursuant to the *Legal Profession Act 2007* are retained by the Legal Services Commission for a minimum of 12 years after the complaint is dismissed, withdrawn, delayed or prosecuted.

The minimum retention period for this disposal authorisation has been updated from '10 years after business action completed' to '12 years after business action completed' to align with the current *Legal Services Commission retention and disposal schedule*.

**Comparison with other retention and disposal schedules:**

*Legal Services Commission retention and disposal schedule* – Reference 2081 – Complaints management – Retain for 12 years after complaint is dismissed, withdrawn, delayed or prosecuted.

**Previous schedule references:**

*Queensland Law Society retention and disposal schedule* (QDAN 674 v.1) – Reference 6.2.1 – Complaint records – Retain for 10 years after last action.