

DISPOSAL AUTHORISATION

Justices of the Peace Branch (DJAG)

Queensland State Archives

An authorisation under s.26 of the *Public Records Act 2002* for the management and disposal of selected core business records of the Justices of the Peace Branch as part of the Department of Justice and Attorney-General (DJAG)



Authority

The disposal authorisations in this document are issued by the State Archivist in accordance with s.26 of the *Public Records Act 2002*.

Authorised by State Archivist: Mike Summerell

Date: 24 July 2019

Table of contents

Authority	2
Table of contents	3
Statement.....	4
Principles.....	4
Disposal Authorisations.....	4
Conditions	7
Exclusions	7
Appendix A: Background.....	8
Appendix B: Appraisal Justification	9

Statement

This document outlines the disposal authorisations approved by the State Archivist for the management and disposal of selected core business records of the Justices of the Peace Branch. This is the first disposal authorisation document specifically developed for the Justices of the Peace Branch as part of the Department of Justice and Attorney-General (DJAG).

See Appendix A for background information on this appraisal.

When these disposal authorisations 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.

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. Further information about current disposal freezes and whether they affect the use of this schedule is available from the [Queensland Government \(For Government\) website](#) under Destroy records.

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. See [Understand your legislative obligations](#) for further information on identifying specific legislative requirements which may apply.

Principles

To ensure that the responsibilities of the archivist under the *Public Records Act 2002* outlined in s.26 are met, the State Archivist authorises the use of the disposal authorisations in this document for the management and disposal of selected core business records of the Justices of the Peace Branch whilst these disposal authorisations are current.

Disposal Authorisations

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
2281	<p><i>Register of Justices of the Peace and Commissioners for Declarations</i></p> <p>Includes registers used to record summary details of all appointed Justices of the Peace and Commissioners for Declarations under s.13 of the <i>Justices of the Peace and Commissioners for</i></p>	<p>Permanent.</p> <p>Transfer to QSA after business action completed.</p>	24 July 2019

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
	<i>Declarations Act 1991</i> and any other repealed legislation.		
2282	<p><i>Justices of the Peace and Commissioners for Declarations – applications – significant documents</i></p> <p>Significant documents received by the Justices of the Peace Branch as part of an application for the appointment of a Justice of the Peace or a Commissioner for Declarations.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> • application forms • oath of allegiance and office or affirmation of allegiance and office • certificates issued upon successful completion of training specific to the role of Justice of the Peace or the role of Commissioner for Declarations. 	100 years after appointment of Justice of the Peace or Commissioner for Declarations ceases.	24 July 2019
2283	<p><i>Justices of the Peace and Commissioners for Declarations – applications – supporting documents</i></p> <p>Supporting documentation for applications received by the Registrar of Justices of the Peace and Commissioners for Declarations to appoint Justices of the Peace or Commissioners for Declarations.</p> <p>Excludes criminal history checks and traffic offences checks undertaken as part of the application process.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> • referee reports 	10 years after registration of Justice of the Peace or Commissioner for Declarations is completed.	24 July 2019

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
	<ul style="list-style-type: none"> • copy of statement of attainment • correspondence • copies of identity documents (eg: birth / marriage / citizenship certificates) • Member of Parliament nomination letters • receipts for payment of fees • statutory declarations • examinations and results • QLD electoral roll confirmation • general file notes. <p><i>See COMMON ACTIVITIES – Criminal history checks in the General retention and disposal schedule (GRDS) for records relating to criminal history or traffic offences checks, disclosures and reports.</i></p>		
2284	<p><i>Justices of the Peace and Commissioners for Declarations – return of official seals and certificates</i></p> <p>Records relating to the return of official seals, certificates or other objects to the Registrar of Justices of the Peace and Commissioners for Declarations following the cessation, revocation, expiration, resignation, disqualification or cancellation of the appointment of a Justice of the Peace or a Commissioner for Declarations.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> • official seals issued to Justices of the Peace and 	Until business action completed.	24 July 2019

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
	Commissioners for Declarations <ul style="list-style-type: none"> • certificates issued to Justices of the Peace and Commissioners for Declarations • any other objects issued to Justices of the Peace and Commissioners for Declarations to demonstrate appointment as a Justice of the Peace or a Commissioner for Declarations • correspondence. 		

Conditions

The Justices of the Peace Branch must seek further written authorisation from the State Archivist for the management and disposal of core business records of the Justices of the Peace Branch if the disposal authorisations in this document are reviewed, superseded or revoked at a future date.

See Appendix B for the appraisal justification relating to the disposal authorisations.

Exclusions

All historical records relating to the appointment of Justices of the Peace (JPs) located in the Queensland State Archives (QSA) collection are exempt from the disposal authorisations listed in this document.

Further authorisation from the State Archivist must be sought for the disposal of core business records of the Justices of the Peace Branch if the core business records are:

- (1) not covered by the disposal authorisations issued in this document
- (2) subject to exemptions or exclusions under the *General retention and disposal schedule* (GRDS).

Appendix A: Background

The Justices of the Peace Branch administer the details of JPs and Commissioners for Declarations (Cdecs) in Queensland.

QSA received a request in 2017 from within the Client Services and Registration and Compliance team (Justices of the Peace Branch) about the appraisal of oaths of allegiance and other JP records.

This request was made in preparation for a digitisation project to be undertaken by the Justices of the Peace Branch to move towards a paperless application system for JPs and Cdecs. A further request was sent to QSA in 2018 for appraisal of selected core business records ahead of the implementation of a paperless application system by the Justices of the Peace Branch in June 2018.

The Justices of the Peace Branch may hold temporary core business records where Disposal Authorisation 2074 under the GRDS is applicable. This disposal authorisation covers a physical source record that has been converted to microfilm or digital format, with conditions that must be met.

The records for appraisal by QSA are:

- (1) The register of JPs and Cdecs kept and maintained by the Justices of the Peace Branch as defined under s.13 of the *Justices of the Peace and Commissioners for Declarations Act 1991*
- (2) Application forms, oaths of allegiance and other significant certificates for appointment of JPs and Cdecs in Queensland
- (3) Other supporting documentation relating to the appointment of JPs and Cdecs in Queensland
- (4) Return of official seals and certificates of JPs and Cdecs in Queensland.

The Justices of the Peace Branch also creates and manages other records that are covered by disposal authorisations under the GRDS.

Appendix B: Appraisal Justification

As part of the development of the disposal authorisations in this document, an appraisal of selected core business records of the Justices of the Peace Branch has been undertaken.

Register of JPs and Cdecs

Initially, the administration of JPs was performed by the Premier's Department. During the mid 1970s, the Register of JPs was transferred to DJAG. In 1991, an electronic database was created to fulfil the registrar's legislative requirement to keep a register under the *Justices of the Peace and Commissioners for Declarations Act 1991*. The earliest date of birth for a JP listed in the register is 1896 – this JP is now deceased.

Under s.13 of the *Justices of the Peace and Commissioners for Declarations Act 1991*, the registrar is to keep a register of all appointed JPs and Cdecs. This register must be kept available for inspection under s.38A of the Act.

As part of the responsibilities of the Justices of the Peace Branch, the Branch assists members of the public by providing an online register of current JPs and Cdecs in Queensland and confirms summary details of the resignation, revocation or cessation of JPs and Cdecs in Queensland. The Justices of the Peace Branch has advised that, following appointment, the person's registered number of office is retained by the person for their lifetime and this number is entered in the register.

For members of the public who are interested in researching the appointment – and length of appointment – of a JP or a Cdec in Queensland, summary details of the notification of the appointment and revocation of JPs and Cdecs are published in the Queensland Government Gazette as required under the repealed *Justices of the Peace Act 1975* and the current *Justices of the Peace and Commissioners for Declarations Act 1991*. QSA also holds a number of series of index records relating to JPs as part of the collection.

Under s.15 of the *Justices of the Peace and Commissioners for Declarations Act 1991*, the Governor in Council may appoint as many persons as JPs and as Cdecs as the Governor in Council thinks necessary. Throughout Queensland, JPs may perform judicial duties in certain circumstances.

In regional and remote communities, JPs and Cdecs perform important roles to assist the members of their communities. The Justices of the Peace Branch is currently providing training in remote regions like the Torres Strait. This training will enable the appointment of JPs and Cdecs where there are currently no appointments. At this time, members of these remote communities must make long and potentially dangerous journeys to access the services of JPs and Cdecs in more populated areas.

Under the *Justices of the Peace and Commissioners for Declarations Act 1991*, the registrar must update the register as required, including:

- to show that a person has resigned – or their position has been revoked – as a JP or a Cdec in Queensland
- there has been a change in registered particulars for a JP or a Cdec
- there is a change in the person's office.

JPs and Cdecs who are registered in Queensland and who have provided 25, 40, 50, 60 or 70 years of continual service can be nominated by their Member of Parliament (MP) for a long service

award. MPs regularly contact the Justices of the Peace Branch to access information about the appointment of JPs and Cdecs for these nominations.

The register – the summary record confirming the appointment and service history of JPs and Cdecs in Queensland – is important to the community and to the legal system. These records provide evidence of the following characteristics from the QSA Appraisal Statement and should be retained as archival records for future research:

- 1 – Authority, Foundation & Structure of Government
- 5 – Substantial Contribution to Community Memory.

Application forms, oaths of allegiance and other significant certificates for appointment of JPs and Cdecs

The Justices of the Peace Branch has implemented a paperless application system from 11 June 2018. This new application system allows the Justices of the Peace Branch to receive most applications electronically: however, a small number of paper applications are still received by the Branch and then converted to electronic format.

To ensure that significant documents concerning the appointment of JPs and Cdecs are available in an electronic format for all applicants for a proposed minimum of 100 years after appointment ceases, the Justices of the Peace Branch are undertaking a project to digitise the following significant paper-based records relating to the appointment of JPs and Cdecs in Queensland:

- application forms
- oath of allegiance and office or affirmation of allegiance and office
- certificates issued upon successful completion of training specific to the role of Justice of the Peace or the role of Commissioner for Declarations.

Summary applicant details are stored in the electronic database maintained by the Justices of the Peace Branch as the register of appointment.

JPs and Cdecs are not employees of DJAG or the Queensland Government and they are appointed to the role without remuneration.

JPs and Cdecs who are registered in Queensland and who have provided 25, 40, 50, 60 or 70 years of continual service can be nominated by their MP for a long service award. MPs regularly contact the Justices of the Peace Branch to access information about the appointment of JPs and Cdecs for these nominations.

JPs and Cdecs are appointed by the Governor in Council. Under s.21 of the *Justices of the Peace and Commissioners for Declarations Act 1991*, the appointment lapses after 6 months if the JP or Cdec has not been registered or proof has not been provided to the Registrar's satisfaction that the JP or Cdec has been appointed, has taken the oath or affirmation of office or has complied with any prescribed conditions. The application forms, oaths of allegiance and office or affirmation of allegiance and office and other significant certificates are essential under s.21 of the Act as proof that the individual has:

- been appointed as a JP or a Cdec
- taken or made the prescribed oath or affirmation
- complied with any prescribed conditions.

JPs and Cdecs in Queensland are part of a long tradition of voluntary legal officers. Similar positions were first established in the judicial system in Great Britain in the 1100s. In Queensland, there would be appointments – such as the first female JP – that would be significant to the history of Queensland.

A recommended minimum retention period of ‘100 years after appointment of Justice of the Peace or Commissioner for Declarations ceases’ is a suitable period of time to retain significant documents relating to the appointment of JPs and Cdecs in Queensland to meet community expectations and to meet the business needs of the Justices of the Peace Branch.

Other supporting documentation for the appointment of JPs and Cdecs

The Justices of the Peace Branch has implemented a paperless application system from 11 June 2018. This new application system allows the Justices of the Peace Branch to receive most applications electronically: however, a small number of paper applications are still received by the Branch and then converted to electronic format.

To ensure that the supporting documentation for the appointment of JPs and Cdecs is available in an electronic format for all applicants for a proposed minimum of 10 years after registration is completed, the Justices of the Peace Branch are undertaking a project to digitise paper-based application files and hybrid paper-digital application files for applicants appointed in the last 10 years. Generally, the supporting documentation for applications for the appointment of JPs and Cdecs includes the following:

- referee reports
- copy of statement of attainment
- correspondence
- copies of identity documents (eg: birth / marriage / citizenship certificates)
- MP nomination letters
- receipts for payment of fees
- statutory declarations
- examinations and results
- QLD electoral roll confirmation
- general file notes.

Summary applicant details are stored in the electronic database maintained by the Justices of the Peace Branch as the register of appointment.

JPs and Cdecs are not employees of DJAG or the Queensland Government and they are appointed to the role without remuneration.

JPs and Cdecs are appointed by the Governor in Council. Under s.21 of the *Justices of the Peace and Commissioners for Declarations Act 1991*, the appointment lapses after 6 months if the JP or Cdec has not been registered or proof has not been provided to the Registrar's satisfaction that the JP or Cdec has been appointed, has taken the oath or affirmation of office or has complied with any prescribed conditions. The supporting documentation for the appointment of JPs and Cdecs is essential under s.21 of the Act as proof that the individual has:

- been appointed as a JP or a Cdec

- taken or made the prescribed oath or affirmation
- complied with any prescribed conditions.

A recommended minimum retention period of '10 years after registration of Justice of the Peace or Commissioner for Declarations is completed' allows sufficient time for the Justices of the Peace Branch to refer to the supporting documentation for JP and Cdec applications to:

- complete the appointment of JPs and Cdecs in Queensland
- complete the registration of details of JPs and Cdecs in the register as defined under s.13 of the *Justices of the Peace and Commissioners for Declarations Act 1991*
- answer queries or complaints from applicants if the appointment lapses under s.21 of the *Justices of the Peace and Commissioners for Declarations Act 1991*
- retain a record of any complaint – and other correspondence concerning the complaint – received from a member of the public about an appointed JP or Cdec.

Return of official seals and certificates of JPs and Cdecs

Under s.21 of the *Justices of the Peace and Commissioners for Declarations Act 1991*, and following the registration of a person as a JP or a Cdec, the registrar will issue a seal of office and certificate of registration in a form approved by the Minister. The official seal and the certificate of registration demonstrate that the person has been appointed as a JP or a Cdec and that they have authority to act in this role in the community.

If a person resigns – or their position is revoked – as a JP or a Cdec, the person who ceases to hold office is required within 14 days to deliver up to the registrar any seal of office or certificate of office issued under the *Justices of the Peace and Commissioners for Declarations Act 1991* or under the repealed Act.

Following receipt, the returned certificates – and any unusable seals of office – are to be securely destroyed by the Justices of the Peace Branch. Any usable seals of office, where no registered number of office forms part of the seal, can be reused and/or reissued for use.

A recommended minimum retention period of 'until business action completed' ensures that the Justices of the Peace Branch may routinely dispose of certificates of registration or unusable seals of office returned following the resignation or revocation of appointment as a JP or a Cdec in Queensland.

Recommendation

The Register of Justices of the Peace and Commissioners for Declarations maintained by the Justices of the Peace Branch has archival value to the State of Queensland and meets the criteria for permanent retention.

Other selected core business records of the Justices of the Peace Branch referred to in these disposal authorisations do not have archival value for the State of Queensland and do not meet the criteria for permanent retention.

It is recommended that the proposed minimum retention periods for selected core business records of the Justices of the Peace Branch outlined in these disposal authorisations be approved.