

# LEGAL SERVICES COMMISSION

# RETENTION AND DISPOSAL SCHEDULE

Authorised 21/03/2018

An authorisation under s.26 of the Public Records Act 2002 for the disposal of records relating to complaints about lawyers, law practice employees and unlawful operators created by Legal Services Commission.

Where printed, this reproduction is only accurate at the time of printing.  
The [Queensland Government \(For Government\) website](#) should always be referred to  
for the current, authorised version.

## Using this schedule

The Legal Services Commission retention and disposal schedule authorises the disposal of records relating to complaints about lawyers, law practice employees and unlawful operators created by Legal Services Commission. It applies to records created in any format, unless otherwise specified in the class description.

The Legal Services Commission 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.

Any references to repealed legislation may be taken as a reference to current legislation if the context permits.

The Legal Services Commission is the responsible agency for the Legal Services Commission. Retention and Disposal Schedule at the time of approval of the schedule. However, in the event of an administrative change, or the transfer of a function from one public authority to another, this retention and disposal schedule will continue to apply to the records covered by the schedule. For further advice on the currency of approved retention and disposal schedules following administrative change, please contact Agency Services at Queensland State Archives on (07) 3037 6630 or [rkqueries@archives.qld.gov.au](mailto:rkqueries@archives.qld.gov.au).

Any previously authorised retention and disposal schedule covering record classes described in this schedule is now superseded and previous versions should be removed from use.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.

Schedules should be reviewed at least every 5 years.

## 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 Government \(For Government\) website](#).

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 Government \(For Government\) website](#).

## 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 Government \(For Government\) 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 Queensland State Archives on (07) 3037 6630 or via the [Queensland Government \(For Government\) website](#).

**Approved by State Archivist:** Mike Summerell

**Date:** 21/03/2018

# Contents

LEGAL SERVICES REGULATION .....	5
LEGAL PRACTICE COMMITTEE MANAGEMENT .....	8

## LEGAL SERVICES REGULATION

*The function of regulating Queensland's legal services through receiving, processing and managing complaints about individual legal practitioners or law practices; initiating 'own motion' investigations as appropriate; conducting compliance audits of incorporated legal practices and multi-disciplinary partnerships; commencing disciplinary or other regulatory action as appropriate; and undertaking related policy development and educational activities.*

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
<p><b>COMPLAINTS MANAGEMENT</b></p> <p><i>Activities associated with receiving and dealing with complaints, including 'own motion' investigations about the conduct of legal practitioners and law practice employees, responding to enquiries regarding the making of a complaint and initiating disciplinary action against legal practitioners and law practice employees. Complaints management includes activities associated with maintaining a discipline register.</i></p> <p><i>Note: Complaint investigation records managed on behalf of the Queensland Law Society are not covered by this Schedule.</i></p> <p><i>Please refer to the Queensland Law Society Retention and Disposal Schedule QDAN 674 for these records.</i></p>			
2080	<p><b>Discipline register</b></p> <p>A discipline register kept in accordance with section 472 of the <i>Legal Profession Act 2007</i> records details of disciplinary actions made by an order of a court or disciplinary body e.g. Queensland Civil and Administrative Tribunal (QCAT) and Legal Practice Committee (LPC) that finds a practitioner guilty of professional misconduct. The Legal Services Commissioner must make the register available for public inspection.</p> <p>Information captured includes, but is not limited to:</p> <ul style="list-style-type: none"> <li>• full name of person against whom disciplinary action was taken</li> <li>• law practice who employed person</li> <li>• disciplinary body (e.g. Queensland Civil and Administrative Tribunal (QCAT) and Legal Practice Committee) which ordered the disciplinary action</li> <li>• findings and penalty of the disciplinary body.</li> </ul>	Permanent. Retain in agency.	21 March 2018
2081	<p><b>Complaints management</b></p> <p>Records relating to complaints made pursuant to the <i>Legal Profession Act 2007</i>. Includes hard copy files and entries in case management system.</p> <p>Includes dismissed, withdrawn, delayed or prosecuted complaints.</p>	Retain for 12 years after complaint is dismissed, withdrawn, delayed or prosecuted.	21 March 2018

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
	<p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• written complaints from legal consumers, other legal practitioners and the Queensland Law Society or Bar Association of Queensland about the conduct of legal practitioners and law practice employees</li> <li>• investigation reports listing the evidence gathered throughout the investigation and recommendations from the Queensland Law Society, Bar Association of Queensland or the Legal Services Commission including 'own motion' investigations</li> <li>• recommendations of the Legal Services Commissioner as to what action is to be taken regarding the complaint</li> <li>• correspondence with practitioners, complainants and professional bodies</li> <li>• file notes relating to phone calls, discussions and meetings with the complainant, respondent, professional bodies and LSC officers.</li> </ul>		
2082	<p><b>Prosecution case files</b></p> <p>Records relating to preparing, filing and prosecuting disciplinary applications and appeals. Includes hard copy files and entries in case management system.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• discipline applications lodged with disciplinary bodies, e.g. Queensland Civil and Administrative Tribunal (QCAT) and Legal Practice Committee (LPC)</li> <li>• correspondence with respondents, witnesses, legal representatives</li> <li>• affidavits filed in the proceedings</li> <li>• witness statements</li> <li>• judgments of the courts and tribunals relating to the prosecution</li> <li>• audit reports.</li> </ul> <p>See 2083 Audit records</p>	Retain for 12 years after final decision is made.	21 March 2018

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
<p><b>COMPLIANCE AUDITS</b></p> <p><i>Activities associated with compliance audits of Incorporated Legal Practices (ILPs), Multi-Disciplinary Partnerships (MDPs) and the compliance of the practice, its officers and employees under section 130 of the Legal Profession Act 2007. The Legal Services Commissioner can undertake three types of audits, self-assessment audits, web-based audits and practice audits or reviews.</i></p>			
2083	<p><b>Audit records</b></p> <p>Records including self-assessment audits, web-based audits and practice audits or reviews.</p> <p>Records may include but are not limited to:</p> <ul style="list-style-type: none"> <li>• draft or completed audit reports</li> <li>• planning and conduct of audits</li> <li>• review comments</li> <li>• correspondence with Incorporated Legal Practices and <i>Multi-Disciplinary Partnerships</i></li> <li>• notification of the Incorporated Legal Practices and <i>Multi-Disciplinary Partnerships</i> commencing business</li> <li>• letters sent to Incorporated Legal Practices and <i>Multi-Disciplinary Partnerships</i> after commencing business.</li> </ul>	12 years after finalisation of audits or the decision to prosecute.	

## LEGAL PRACTICE COMMITTEE MANAGEMENT

*The function of the Legal Practice Committee, a disciplinary body established under the Legal Profession Act 2004 and continued under the Legal Profession Act 2007, is to hear and decide discipline applications lodged with them by the Legal Services Commission.*

*The Committee also has an advisory function to monitor the effectiveness of the legal profession rules - the Australian Solicitors Conduct Rules 2012 (ASCR), the Barristers' Conduct Rules and the Incorporated Legal Practice Rule-and makes recommendations to the Minister.*

Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
<b>DISCIPLINE MANAGEMENT</b>			
<i>Activities associated with receiving and dealing with discipline applications received under Section 80 of the Legal Profession Regulations 2017, from the Legal Services Commission about the conduct of legal practitioners and law practice employees.</i>			
2084	<p><b>Discipline matters</b></p> <p>Records relating to discipline applications lodged by the Legal Services Commission. Includes hard copy files and electronic records.</p> <p>Records may include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• original discipline application registered and stamped by the committee</li> <li>• notices of address for service</li> <li>• statements of agreed facts</li> <li>• submissions from the Legal Services Commission and the legal practitioner</li> <li>• orders made by the committee</li> <li>• transcripts of proceedings</li> <li>• records of penalties and costs of audit</li> <li>• minutes</li> <li>• agendas.</li> </ul> <p>See 2082 Prosecution case files.</p>	12 years after business action completed.	21 March 2018



Disposal Authorisation	Description of records	Retention period & trigger	Date authorised
2085	<p><b>Advisory matters</b> Records relating to advisory matters of the Legal Practice Committee. Records may include, but are not limited to:</p> <ul style="list-style-type: none"><li>• policy papers</li><li>• submissions gathered by willing participants in written documents</li><li>• minutes and agendas</li><li>• reference materials</li><li>• opinions from counsel or legal representatives</li><li>• transcripts.</li></ul>	Permanent. Transfer to QSA after business action completed.	21 March 2018