

Disposal Schedule for Legal Profession Board of Tasmania (LPBT) Records

Disposal Authorisation No: 2510

Reference	Function	Activity	Page
1	BOARD MANAGEMENT		8
1.1		Establishment	8
1.2		Meetings and Hearings	9
2	COMPLAINTS AND ENQUIRIES		11
2.1		Complaints	11
2.2		Enquiries	12
3	MONITORING STANDARDS OF THE LEGAL PROFESSION		13
3.1		Approval of Professional Indemnity Insurance	13
3.2		Advice on appropriate standards of conduct	13
3.3		Emerging legal profession issues	14
3.4		Approval of courses of continuing legal education	14
4	EDUCATION		15
4.1		Conducting education programs for the public	15

Legal Profession Board of Tasmania (LPBT) Records

Retention & Disposal Schedule number: 2510

INTRODUCTION

Overview

Archives Legislation

The *Archives Act 1983* stipulates that State and local government organisations must not dispose of records of any type or format without the written approval of the State Archivist.

Disposal of records involves their destruction, their removal from custody of their creating agency, or their transfer to the Tasmanian Archive and Heritage Office.

Schedule elements and arrangement

The administrative functions covered by this schedule are arranged in alphabetical order as function headings. The activities performed under each function are listed in alphabetical order within each function.

- *Reference*

All function and activity headings and disposal classes are allocated a reference number. These reference numbers are used, in conjunction with the schedule number, to identify records in the Tasmanian Archive and Heritage Office disposal documentation. These numbers can also be used by agencies, in the same way, to indicate disposal authorisation in their records control systems, where the records have been registered in these systems.

- *Disposal Classes*

The groups of records that document, and are derived from, the performance of the functions and activities, are listed as disposal classes under each function/activity set.

It should be noted that Disposal Classes have been described in functional terms irrespective of the format or medium in which the records were created.

- *Status*

All disposal classes have either "PERMANENT" or "TEMPORARY" status. Records identified as "PERMANENT" are those that will be transferred to the Archives Office to be retained as State archives. "TEMPORARY" records are those that can be destroyed under the authority of this schedule.

- *Disposal action*

All temporary records identified in this schedule will have a disposal action which specifies the length of time for which the record must be retained, before it can be destroyed under this authorisation.

Legal Profession Board of Tasmania (LPBT) Records

Retention & Disposal Schedule number: 2510

Review of the schedule

It is the responsibility of agencies to monitor administrative, legal or regulatory changes which may result in the need to alter disposal class descriptions or disposal actions for records covered by this schedule.

When this occurs, this schedule should not be used to dispose of records and the State Archivist should be informed of the need to revise the schedule. If necessary, the procedures for the disposal of unscheduled records can be used in the interim.

Contacts

Please contact Any enquiries relating to this schedule should be directed in writing to the Tasmanian Archive and Heritage Office, 91 Murray Street Hobart, by email, or by phoning 03 6165 5581.

Authorisation

Authorisation

Under Section 20 (2) (b) of the Archives Act 1983, I hereby authorise 'relevant authorities' (as defined in Section 3 of that Act) to manage the disposal of the records described in this schedule in accordance with the procedures specified herein.

Ross Latham

State Archivist

Document Development History

Version	Date	Reason	Sections
1.0	21/11/2018	Initial release	All

Legal Profession Board of Tasmania (LPBT) Records

Retention & Disposal Schedule number: 2510

Interpretation

Definitions

Permanent records are those that will be transferred to the Tasmanian Archive and Heritage Office to be retained as State Archives. The *Archives Act 1983* establishes 25 years as the maximum required timeframe for the transfer of permanent records, unless an extension of time has been approved by the State Archivist.

Temporary records are those that can be destroyed under the authority of this schedule after a minimum retention period, or once certain requirements have been met.

Coverage

This schedule covers functional records of Legal Profession Board of Tasmania.

This schedule does not cover **pre-1960** records. The disposal of those records should be managed according to the procedures for unscheduled records.

The *Disposal Schedule for Short-term Value Records - DA No. 2158* covers the disposal of short-term value records which are created by most agencies. These documents are usually of a trivial nature or of such short-term value that they do not support or contribute to the business functions of the agency.

Records not covered by these schedules, or other authorised disposal schedules, should be disposed of according to the current Tasmanian Archive and Heritage Office procedures for unscheduled records.

Preservation of records

Section 10 (1) (a) of the *Archives Act 1983* requires agencies to preserve records until they are dealt with under the Act. This places a statutory obligation on agencies to ensure that all records, regardless of format, remain accessible while they are in the custody of the agency.

Permanent Records

All disposal classes of records identified as having '**PERMANENT**' status in this schedule should be transferred to the Tasmanian Archive and Heritage Office 25 years after the date of creation. Agencies may make application to the Tasmanian Archive and Heritage Office for earlier transfer of particular groups of records, and the Tasmanian Archive and Heritage Office may also initiate an earlier transfer arrangement.

Records for transfer should be arranged and described in accordance with any instruction provided by the Tasmanian Archive and Heritage Office.

Legal Profession Board of Tasmania (LPBT) Records

Retention & Disposal Schedule number: 2510

Temporary Records

All records identified as having '**TEMPORARY**' status in this schedule will have a disposal action which is the authorised date for destruction. These disposal actions specify minimum retention periods. Temporary records can be kept as long as the agency wishes following expiration of the specified period, but the provisions of the *Archives Act 1983* regarding their proper care and custody will still apply to them.

Frequently the disposal actions will refer to 'after action completed' which means after completion of the transaction to which the records relate. The disposal action 'destroy when reference ceases' authorises the destruction of records when all business needs to refer to the records have ceased.

Destruction of records

The destruction method chosen for records authorised for destruction in this schedule, should be appropriate to the medium in which the record exists. It is the responsibility of the agency to ensure that the identified records are actually destroyed, and that this process is confidential and secure.

The following issues should be considered before destruction of any documents.

Right to Information

Right to Information legislation prescribe rights and processes for access to documents held by government agencies. If a request for access under the legislation has been lodged, all records relevant to the request, regardless of whether they are due for destruction, must be identified and preserved until action on the request and any subsequent reviews are completed.

Personal Information Protection

Personal Information Protection legislation provides appropriate safeguards for government agencies in collecting and handling individual's personal information, creating statutory obligations and a right to make a privacy complaint. If an application is in progress, all records relevant to the application must be identified and preserved until the action and any subsequent actions are completed.

Other Investigations or inquiries

If an investigation or inquiry is in progress, all records relevant to the investigation or inquiry must be identified and preserved until the action and any subsequent actions are completed.

Legal Profession Board of Tasmania (LPBT) Records

Retention & Disposal Schedule number: 2510

Records relating to indigenous people

Key recommendations of the *Bringing Them Home Report 1997* relate to the need for the identification, preservation, indexing, management and access to records relating to Indigenous individuals, families and/or communities in accordance with established privacy principles.

Records relating to indigenous families and communities or which document links between indigenous people and localities are not to be destroyed and should be the subject of consultation with the Tasmanian Archive and Heritage Office.

Native Title

If a native title claim is in progress, all documents relevant to the claim must be identified and preserved until the action and any subsequent actions are completed.

Registration of Destruction

Central to the accountability built into the disposal schedules is the requirement that agencies maintain a *Register of Records destroyed*. It is important to recognise that the formal evidential record of destruction is contained in this registration process. The register is to be made available to the State Archivist (or his nominee) on request.

The register must be clearly identified as the *Register of Records Destroyed* (under Section 20 (2) (b) of the *Archives Act 1983*) and should include the name of the agency. The register can be the same used for registering destructions authorised under other disposal schedules. A sample format indicating the required elements for the register and related procedures are available on the Office of the State Archivist website.

Legal Profession Board of Tasmania (LPBT) Records

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
1	BOARD MANAGEMENT	<p>The function of establishing, managing and administering the Board and its committees. May include:</p> <ul style="list-style-type: none"> • ensuring compliance with relevant legislation • determining strategic direction for the organisation • management of nomination, appointment and separation of members of committees which support the Board • administration of meetings of Board and its committees • administration of hearings of Board • conducting Board meetings and hearings 		
1.1	Establishment	<p>The activities associated with the establishment and membership of committees which support the Board, including:</p> <ul style="list-style-type: none"> • establishment • appointment of members • terms of reference • proceedings, minutes, reports, agenda etc 		

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>BOARD MANAGEMENT - Establishment</i>				
1.1.1		Records relating to the establishment and ongoing membership of the committees which support the Board, including the appointment and resignation of members, and terms of reference. May include: <ul style="list-style-type: none"> • appointments • correspondence • resignations • terms of reference 	Permanent	Retain as State Archives
1.1.2		Records documenting unsuccessful nominations for Board membership. May include: <ul style="list-style-type: none"> • correspondence • resumes 	Temporary	Destroy 2 years after action completed.
1.1.3		Records relating to the management of conflict of interest, misconduct or ethical matters. May include: <ul style="list-style-type: none"> • Declarations of interest • Gifts and Benefits registers • Public Interest Disclosures 	Temporary	Destroy 7 years after action completed.
1.2	Meetings and Hearings	Activities associated with meetings and hearings of the Board and its committees to formulate, discuss, update or resolve issues. This includes:		

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>BOARD MANAGEMENT - Meetings and Hearings</i>				
		<ul style="list-style-type: none"> • consideration of complaints of misconduct made against lawyers • management of the organisation • facilitation and general administration of meetings 		
1.2.1		Final versions of minutes and supporting documentation tabled at Board or committee meetings. Includes: <ul style="list-style-type: none"> • agenda • minutes • papers and discussion papers • reports presented to the meeting 	Permanent	Retain as State Archives
1.2.2		Records of the outcome of consideration of complaints and disciplinary hearings: <ul style="list-style-type: none"> • register of disciplinary action • written reasons and determinations. 	Permanent	Retain as State Archives
1.2.3		Records relating to the facilitation and administrative arrangements for Board meetings. May include: <ul style="list-style-type: none"> • meeting arrangements 	Temporary	Destroy after reference use ceases.

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>COMPLAINTS AND ENQUIRIES</i>				
		<ul style="list-style-type: none"> • meeting invitations • room bookings • catering arrangements • standing notices 		
2	COMPLAINTS AND ENQUIRIES	Function relating to receiving, assessing and investigating complaints made to LPBT alleging misconduct by a lawyer. Includes: <ul style="list-style-type: none"> • complaints which are investigated and finalised, including going to hearing • enquiries received to determine whether there are grounds for a formal complaint 		
2.1	Complaints	Activities relating to receiving, assessing and investigating complaints.		
2.1.1		Records, such as case files, created in relation to the receipt, investigation and hearing of complaints of misconduct made against lawyers. These may include: <ul style="list-style-type: none"> • completed complaint forms detailing allegations • supporting information and reports • correspondence 	Temporary	Destroy 7 years after finalisation of the matter.

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>COMPLAINTS AND ENQUIRIES - Enquiries</i>				
		<ul style="list-style-type: none"> • complaint assessment and investigation reports • audio recordings created during a disciplinary hearing • audio recordings created during an administrative meeting 		
2.2	Enquiries	Activities relating to enquiries made by a member of the public to: <ul style="list-style-type: none"> • determine whether they have grounds for a formal complaint • determine whether the complaint could be resolved by means other than investigation, such as discussion with a partner at the firm or mediation • obtain guidance in relation to perceived misconduct by a legal professional 		
2.2.1		Records made of the enquiry: <ul style="list-style-type: none"> • file notes from phone calls and responses • correspondence with the Complainant • details of allegations of complaint and resolution where the matter has not been converted to a formal complaint 	Temporary	Destroy 7 years after the enquiry was received.

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>MONITORING STANDARDS OF THE LEGAL PROFESSION</i>				
3	MONITORING STANDARDS OF THE LEGAL PROFESSION	Function of monitoring the standard and provision of legal professional services in Tasmania. Includes: <ul style="list-style-type: none"> • approving the terms and conditions of professional indemnity insurance • providing advice on appropriate standards of conduct • monitoring and identifying trends and issues within the legal profession • approving courses of continuing legal education 		
3.1	Approval of Professional Indemnity Insurance	Activities relating to the approval of the terms and conditions of Professional Indemnity Insurance policies which cover the legal profession.		
3.1.1		Records made in relation to the approval of Professional Indemnity Insurance, such as: <ul style="list-style-type: none"> • Professional Indemnity Insurance policies • correspondence • file notes summarising phone calls and responses 	Temporary	Destroy 7 years after action completed.
3.2	Advice on appropriate standards of conduct	The activities associated with providing advice to the legal profession on appropriate standards of conduct,		

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>MONITORING STANDARDS OF THE LEGAL PROFESSION - Advice on appropriate standards of conduct</i>				
		including the development of projects and educational information.		
3.2.1		Records made in relation to advice on appropriate standards of conduct, such as: <ul style="list-style-type: none"> • self-assessment and competency programs • guidance notes • educational fact sheets • correspondence • file notes 	Temporary	Destroy 7 years after action completed.
3.3	Emerging legal profession issues	Activities relating to identifying trends and issues within the legal profession to ensure that standards are maintained or, where trending conduct warrants, disciplinary action.		
3.3.1		Records made in relation to monitoring and identifying trends and issues within the legal profession, such as: <ul style="list-style-type: none"> • inter-jurisdictional research • details of target groups 	Temporary	Destroy 7 years after action completed.
3.4	Approval of courses of continuing legal education	Activities relating to the approval of courses for continuing legal education.		

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
<i>MONITORING STANDARDS OF THE LEGAL PROFESSION - Approval of courses of continuing legal education</i>				
3.4.1		Records relating to the approval of courses for continuing legal education, including: <ul style="list-style-type: none"> • correspondence • Board resolutions 	Temporary	Destroy 7 years after action completed.
4	EDUCATION	The function of educating the public in relation to expectations for a lawyer-client relationship and their rights to make a complaint against a lawyer.		
4.1	Conducting education programs for the public	Activities associated with presenting education programs to the public on topics including: <ul style="list-style-type: none"> • the client-lawyer relationship • aspects of the law which are disputed • rights in relation to lodging a complaint about lawyers • the Board's processes 		
4.1.1		Final version of public education programs and material developed by LPBT, including: <ul style="list-style-type: none"> • community presentations • educational fact sheets • handouts 	Temporary	Destroy 3 years after superseded.

Retention & Disposal Schedule number: 2510

No	Function/Activity	Description	Status	Disposal Action
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EDUCATION - Conducting education programs for the public

4.1.2		Records of administrative arrangements for public educational programs: <ul style="list-style-type: none">• correspondence• presentation arrangements• presentation invitations• room bookings• catering arrangements	Temporary	Destroy 3 years after superseded.
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