

**Disposal Schedule
for
Ombudsman and Health
Complaints Commissioner**

Disposal Authorisation No. 28

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INTRODUCTION

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 the custody of their creating Agency, or their transfer to the Tasmanian Archive & 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 & 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.

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 those 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. Reviews may also be initiated by the Tasmanian Archive & Heritage Office.

Contacts

Any enquiries relating to this schedule should be directed in writing to the Tasmanian Archive & Heritage Office, 91 Murray Street, Hobart, email gisu@education.tas.gov.au , or by phoning 03 6165 5581

TASMANIAN ARCHIVE & HERITAGE OFFICE

DISPOSAL AUTHORISATION No. 28

Title: **Disposal Schedule for Ombudsman and
Health Complaints Commissioner**

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
Build Status**

Version	Date	Author	Reason	Sections
2.0	November 2013	Deborah Drinkell	Update	All
1.0	October 1996	AOT	Initial release	All

Amendments in this Release

Section Title	Section Number	Amendment Summary
All	All	Re-write

INTERPRETATION

Definitions

Permanent records are those that will be transferred to the Tasmanian Archive & 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 to the Tasmanian Archive & Heritage Office 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.

Approved facility is used throughout this schedule to mean an approved hospital, an approved assessment centre or a secure mental health unit as defined by the *Mental Health Act 2013*.

Award is used throughout this schedule to mean an award made under s21 (c) or an agreement registered as an award under s 21(b) of the *Energy Ombudsman Act 1998*, including financial compensation, goods or services, charge waivers or corrective works.

Case Management System is used throughout this schedule to refer to any electronic case management system used by the Office of the Ombudsman and Health Complaints Commissioner to records enquiries and complaints.

Entity is used throughout this schedule to refer to an electricity entity within the meaning of the Electricity Supply Industry Act 1995 and a gas entity within the meaning of the *Gas Act 2000*.

Office is used throughout this schedule to refer to the Office of the Ombudsman and Health Complaints Commissioner, and incorporates the role of Energy Ombudsman.

Provider is used throughout this schedule to refer to a person who provides a health services or who holds himself, herself or itself out as being able to provide a health service.

Public authorities is used throughout this schedule to refer to all State Service Agencies, the Police Service, a local authority, statutory offices, Government Business Enterprises, State-owned companies, the University of Tasmania, and other persons, bodies and authorities that are subject to, and defined in, the *Ombudsman Act 1978*.

Public bodies is used throughout this schedule to refer to public bodies and officers as defined in section 4 of the *Public Interest Disclosures Act 2002*.

Coverage

This schedule covers functional records of the Office of the Ombudsman and Health Complaints Commissioner, incorporating the Energy Ombudsman, and of the Principal Official Visitor

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 & 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 & Heritage Office 25 years after the date of creation. Agencies may make application to the Tasmanian Archive & Heritage Office for earlier transfer of particular groups of records and the Tasmanian Archive & 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 & Heritage Office.

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 the 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.

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 & 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 process 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 Tasmanian Archive & Heritage Office website.

01.00.00	CHARTER OF HEALTH RIGHTS The establishment and review of the Tasmanian Charter of Health Rights under Part 3 of the <i>Health Complaints Act 1995</i> .	
01.01.00	PREPARATION AND REVIEW The activity of developing and reviewing the Tasmanian Charter of Health Rights.	
01.01.01	Final published versions of the Tasmanian Charter of Health Rights.	PERMANENT
02.00.00	COMPLAINT AND DISCLOSURE INVESTIGATIONS The function of receiving, investigating or conciliating complaints <ul style="list-style-type: none"> • under the <i>Ombudsman Act 1978</i>, • under the <i>Energy Ombudsman Act 1998</i>, • under Part 4 of the <i>Personal Information Protection Act 2004</i>, • under Division 7 of the <i>Water and Sewerage Industry Act 2008</i>, • under the <i>Health Complaints Act 1995</i>, • relating to the activities of Official Visitors under the <i>Mental Health Act 2013</i>, and • of disclosures under Part 6 the <i>Public Interest Disclosures Act 2002</i>. 	
02.01.00	Advice provided to public authorities, entities and providers. The activities associated with the provision of advice to public authorities, entities and providers in relation to complaint handling.	
02.01.01	Final versions of advice or guidelines applicable to all public authorities, entities or providers which are subject to complaints legislation.	TEMPORARY Destroy 5 years after superseded.
02.01.02	Records of advice provided to public authorities, entities or providers on general complaint handling matters.	TEMPORARY Destroy 2 years after action completed.
02.02.00	Awards and enforceable agreements The activities associated with the making or registering of awards made by the Ombudsman under Division 2 of the <i>Energy Ombudsman Act 1998</i> , such as; <ul style="list-style-type: none"> • financial compensation • goods or services • charge waivers • corrective works and with enforceable conciliation agreements made under s 39 of the <i>Health Complaints Act 1995</i> .	
02.02.01	Records of awards made by the Ombudsman or of awards made by agreement between a complainant and an entity.	TEMPORARY Destroy 1 year after award reference ceases or after expiry of agreement.

02.03.00	Committees The activities associated with Committees established under s 10 of the <i>Health Complaints Act 1995</i> .	
02.03.01	Records documenting the establishment, terms of reference and published reports of findings and recommendations of Committees. Committees may include; <ul style="list-style-type: none"> • Clinical Advice Committee • Committee on Inquiry into Immunisation. 	PERMANENT
02.03.02	Records of submissions received by Committees in relation to inquiries. These records may include; <ul style="list-style-type: none"> • public submissions received by the Committee on Inquiry into Immunisation. 	TEMPORARY Destroy 5 years after action completed.
02.04.00	Delegations The activities associated with delegation of functions of the Ombudsman under s 10 of the <i>Ombudsman Act 1978</i> and the Health Complaints Commissioner under s 9 of the <i>Health Complaints Act 1995</i> to an officer of the Ombudsman and Health Complaints Commissioner	
02.04.01	Records of Instruments of Delegation issued, amended or revoked.	TEMPORARY Destroy 100 years after action completed.
02.05.00	Determination of annual costs The activities associated with determining costs associated with investigation of water and sewerage complaints, required under s 30 of the <i>Water and Sewerage Industry Act 2008</i> .	
02.05.01	Records supporting the annual calculation of costs in relation to complaints received against Water Corporations, for the purpose of calculating annual licence fees levied on Water Corporations by the State Government.	TEMPORARY Destroy 2 years after action completed.
02.06.00	Enquiry and complaint management The activities associated with receiving, investigating or conciliating enquiries and complaints. Records include; <ul style="list-style-type: none"> • enquiry and complaint case files • reports of suspected breaches of the <i>Mental Health Act 2013</i> reported by Official Visitors. 	
02.06.01	Records relating to complaints which create a legal precedent, contain qualified legal opinion, or result in significant policy or procedural changes being accepted and implemented by a public authority, entity or provider.	PERMANENT
02.06.02	Records relating to complaints which have proceeded to an investigation.	TEMPORARY Destroy 5 years after last case action.

02.06.03	Records relating to complaints which have not proceeded to an investigation and enquiries which have not been accepted as a complaint. Records may include; <ul style="list-style-type: none"> • cases classified as ‘early resolution’ complaints • health cases referred to other bodies without further action • billing disputes with utility entities. 	TEMPORARY Destroy 2 years after case closed.
02.07.00	Legal proceeding The activities associated with applications to the Supreme Court in relation to jurisdictional matters under s 32 of the <i>Ombudsman Act 1978</i> . These applications may be made where there is a question as to the jurisdiction of the Ombudsman.	
02.07.01	Records of final decisions of the Supreme Court and settlement agreements. Settlement agreements may be made prior to a court order being made.	PERMANENT
02.08.00	Liaison The activities associated with maintaining regular general contact between the section and peer Ombudsman and Commissioner organisations, and with public authorities, entities and providers.	
02.08.01	Records documenting contact between the Ombudsman and Health Complaints Commissioner and equivalent roles in international, Commonwealth or other State jurisdictions. Records may include; <ul style="list-style-type: none"> • referrals between jurisdictions • memoranda of understanding regarding referrals and other matters. 	TEMPORARY Destroy 5 years after action completed.
02.08.02	Records documenting general contact with peer Ombudsman and Commissioner organisations, and with public authorities, entities and providers.	TEMPORARY Destroy 2 years after action completed.
02.09.00	Meetings The activities associated with gatherings held to formulate, discuss, update, or resolve issues and matters pertaining to the management of the section. <u>See DA 2157 for team and ad hoc meetings.</u>	
02.09.01	Minutes of meetings of senior managers of the Office. These may include; <ul style="list-style-type: none"> • decisions relating to the core functions of the Office • development of policy • operational budgets • staffing matters. 	TEMPORARY Destroy 5 years after action completed.
02.10.00	Own motion and complaint investigations The activities associated with investigations undertaken as an ‘Own Motion’ under s 13 of the <i>Ombudsman Act 1978</i> and s 40 of the <i>Health Complaints Act 1995</i> , and with complaint investigations which result in reports being produced for publication.	
02.10.01	Records relating to complaints identified as Own Motion investigations.	PERMANENT

02.10.02	Final published versions of complaint investigation reports. These reports are typically matters of public interest.	PERMANENT
02.10.03	Records relating to audits of compliance against recommendations made as a result of an Own Motion investigation.	TEMPORARY Destroy 5 years after last case action.
02.11.00	Policy The activities associated with developing and establishing policies which act as a reference for undertaking investigations.	
02.11.01	Records illustrating the development of policy and documenting policy decisions and the establishment of precedents. Records may include; <ul style="list-style-type: none"> • Service Standards of the Office • internal review policy. 	PERMANENT
02.12.00	Procedures The activities associated with establishing procedures which act as a reference for undertaking investigations. <u>See DA 2157</u> for procedures relating to administrative matters.	
02.12.01	Final versions of procedures used as a reference for undertaking investigations. These records may include; <ul style="list-style-type: none"> • procedures which may be referred to in the event of an appeal in relation to a decision made on an investigation. 	PERMANENT
02.13.00	Reports The activities associated with publication, including tabling in Parliament, of reports produced under <ul style="list-style-type: none"> • s 30 of the <i>Ombudsman Act 1978</i>, • s 56 of the <i>Freedom of Information Act 1991</i>, • s 84 and 85 of the <i>Public Interest Disclosure Act 2002</i>, • s 29 of the <i>Energy Ombudsman Act 1998</i>, • s 53 of the <i>Right to Information Act 2009</i>, • s 32 of the <i>Police Powers (Controlled Operations) Act 2006</i>, • s 42 of the <i>Police Powers (Surveillance Devices) Act 2006</i>, • s 11 of the <i>Telecommunications (Interception) Tasmania Act 1999</i>, • s165 of the <i>Mental Health Act 2013</i>, and • s 12 and 13 of the <i>Health Complaints Act 1995</i>. <p><u>See DA 2157</u> for Annual Reports</p>	

02.13.01	<p>Reports published in relation to investigations or on reference from Parliament or the Governor. These records may include reports of State significance such as;</p> <ul style="list-style-type: none"> • the 2004 and 2006 Reviews of Claims of Abuse from Adults in State Care as Children • 2010 report into the Tamar Unit, Risdon Prison complex. 	PERMANENT
02.13.02	<p>Records of operational, statistical and other routine reports. These records may include;</p> <ul style="list-style-type: none"> • quarterly operational reports to the Minister under the <i>Mental Health Act 2013</i> • annual inspection reports to the Minister under the <i>Police Powers (Surveillance Devices) Act 2006</i>. 	TEMPORARY Destroy 5 years after action completed.
03.00.00	<p>ENERGY OMBUDSMAN BUDGET The function of establishing and administering the Energy Ombudsman budget under Part 6 of the <i>Energy Ombudsman Act 1998</i>. This budget fully funds the functions of the Energy Ombudsman and involves the imposition of a levy on all entities.</p>	
03.01.00	<p>Annual Budget Activities relating to the setting of the annual budget as required under s 39A of the <i>Energy Ombudsman Act 1998</i>.</p>	
03.01.01	<p>Records relating to the development of the annual Energy Ombudsman budget. These budgets are published in the Government Gazette.</p>	TEMPORARY Destroy 7 years after action completed.
03.02.00	<p>Guidelines Activities relating to the establishment and publication of guidelines as required under s 39 of the <i>Energy Ombudsman Act 1998</i>.</p>	
03.02.01	<p>Records relating to the development and any variation or revocation of guidelines prepared for the purpose of establishing and administering the annual Energy Ombudsman budget. These guidelines are published in the Government Gazette.</p>	TEMPORARY Destroy 7 years after action completed.
03.03.00	<p>Levies Activities relating to the calculation of annual levies, notifications to energy entities, publication and audit as required under s 39B and s 39C of the <i>Energy Ombudsman Act 1998</i>.</p>	
03.03.01	<p>Records relating to the establishment and administration of annual levies. These records may include;</p> <ul style="list-style-type: none"> • statistics relating to complaints and enquiries relating to each entity • apportionment calculations • correspondences with entities. 	TEMPORARY Destroy 7 years after action completed

04.00.00	INSPECTIONS Inspections as required under Part 3 of the <i>Telecommunications (Interception) Tasmania Act 1999</i> , under Division 3 of the <i>Police Powers (Controlled Operations) Act 2006</i> and under Division 3 of the <i>Police Powers (Surveillance Devices) Act 2006</i> .	
04.01.00	Delegations The activity of appointing officers delegated to undertake inspections under each Act on behalf of the Ombudsman.	
04.01.01	Records appointing officers to undertake inspections on behalf of the Ombudsman.	TEMPORARY Destroy 100 years after action completed.
04.02.00	Inspections The activity of undertaking regular and ad hoc inspections. These are reports which are required under each Act to be provided to the relevant State Government Minister after each inspection.	
04.02.01	Records of final inspection reports to be provided to the relevant State Minister after each inspection and undertaken under the following legislation; <ul style="list-style-type: none"> • <i>Telecommunications (Interception) Tasmania Act 1999</i> • <i>Police Powers (Controlled Operations) Act 2006</i> • <i>Police Powers (Surveillance Devices) Act 2006</i>. 	TEMPORARY Destroy 100 years after action completed
04.02.02	Records relating to the undertaking of inspections. These records may include; <ul style="list-style-type: none"> • checklists of compliance for each warrant being inspected. 	TEMPORARY Destroy 2 years after action completed.
05.00.00	OFFICIAL VISITOR APPOINTMENTS The function of appointing Official Visitors under the <i>Mental Health Act 2013</i> . The Principal Official Visitor makes appointments of Official Visitors for the purpose of visiting approved facilities.	
05.01.00	Appointments The activities associated with appointing Official Visitors under s 155(2) of the <i>Mental Health Act 2013</i> .	
05.01.01	Records of instruments of appointment.	TEMPORARY Destroy when the Official Visitor reaches 75 years of age or 7 years after separation, whichever is the later.
05.02.00	Delegations The activity of delegating authority to perform functions of the Principal Official Visitor.	

05.02.01	Records of instruments of delegation.	TEMPORARY Destroy 100 years after action completed.
06.00.00	PUBLIC INTEREST DISCLOSURE PROCEDURES The function of providing model guidelines and standards, and reviewing procedures of public bodies established under Part 7 of the <i>Public Interest Disclosures Act 2002</i> . These guidelines and standards assist public bodies in developing procedures. These procedures are submitted to the Ombudsman for approval. The Ombudsman is required to review these procedures at least every 3 years.	
06.01.00	Guidelines and standards The activities associated with issuing and maintaining guidelines and standards relating to the development of public interest disclosure procedures by public bodies	
06.01.01	Final versions of guidelines and standards published.	TEMPORARY Destroy 5 years after superseded.
06.02.00	Procedure approval and review The activity of receiving, approving and reviewing public interest disclosure procedures of public bodies.	
06.02.01	Records of procedures received from public bodies and approvals or amendments made by the Ombudsman.	TEMPORARY Destroy 5 years after superseded.
07.00.00	REVIEWS OF DECISIONS The statutory functions of reviewing under Part 5 the <i>Freedom of Information Act 1991</i> (repealed) and Part 4 of the <i>Right to Information Act 2009</i> decisions made by public authorities, reviewing certain decisions of the Commissioner of Police under s 20 the <i>Witness Protection Act 2000</i> and reviewing decisions about the release of information under s 86C of the <i>Adoption Act 1998</i> .	
07.01.00	Procedures The activities associated with establishing procedures which act as a reference for undertaking reviews.	
07.01.01	Final versions of procedures used as a reference for reviewing decisions. These records may include; <ul style="list-style-type: none"> procedures which may be referred to in the event of an appeal in relation to a decision made on a review. 	PERMANENT
07.02.00	Requests for review The activities associated with the receipt and preliminary assessment of requests for review.	
07.02.01	Records relating to requests for review which have not been accepted by the Ombudsman. These records many include: <ul style="list-style-type: none"> case files containing review request forms information recorded in the Case Management System. 	TEMPORARY Destroy 2 years after action completed.

07.03.00	Reviews undertaken The activities associated reviews of decisions and determinations made.	
07.03.01	Records of final determinations made by the Ombudsman in relation to reviews undertaken. Decisions made by the Ombudsman in relation to reviews create a legal precedent.	PERMANENT
07.03.02	Records relating to reviews undertaken, other than the final determination covered in 07.03.01. These records may include; <ul style="list-style-type: none"> • review request forms • related correspondence or supporting documentation. 	TEMPORARY Destroy 5 years after action completed.
08.00.00	RIGHT TO INFORMATION ACT GUIDELINES AND ADVICE The function of establishing guidelines and provision of advice, and publishing of decisions and a Manual under Part 5 of the <i>Right to Information Act 2009</i> . These guidelines and advices are published for use by public authorities in applying the Right to Information Act.	
08.01.00	Decisions The activity of publishing decisions made by the Ombudsman in relation to reviews of decisions under Part 4 of the <i>Right to Information Act 2009</i> . <u>See 07.03.01</u> for records of decisions.	
08.01.01	Records of published decisions. These are published for public interest purposes.	TEMPORARY Destroy 5 years after action completed.
08.02.00	Guidelines and advice The activities associated with issuing and maintaining guidelines relating to the process of disclosing information, factors to be considered when determining to refuse an application or on other matters.	
08.02.01	Final versions of guidelines and advices published.	TEMPORARY Destroy 5 years after superseded.
08.03.00	Manual The activity of developing, publishing and maintaining a manual related to the operation of the <i>Right to Information Act 2009</i> . This manual is published for use by public authorities in applying the Right to Information Act. It contains information on general principles, processing of applications, application of the Public Interest Test, exemptions and reporting.	
08.03.01	Final versions of published manuals.	PERMANENT
09.00.00	VISITS The function of visiting an approved facility under s 160 of the <i>Mental Health Act 2013</i> for the purpose of monitoring or investigating a complaint.	

<p>09.01.00</p>	<p>Reports The activities associated with reporting on monthly monitoring visits or other visits to approved facilities. See 02.00.00 for records of complaints or referrals to the Ombudsman or Health Complaints Commissioner of suspected breaches identified as a result of a visit.</p>	
<p>09.01.01</p>	<p>Records of reports produced by Official Visitors after each visit.</p>	<p>TEMPORARY Destroy 2 years after action completed.</p>