

Information Management Advice 29

Advice for Agencies on Managing Legacy Records

The amalgamation process has raised a number of challenges for Councils including the management of state records. Similar challenges are faced by Agencies experiencing administrative change. This Advice provides guidance to Agency Information Managers on managing legacy records, including sentencing, disposal and transfer of permanent records to the Tasmanian Archives and Heritage Office (TAHO).

What are legacy records?

Legacy records are accumulations of older records created by an Agency in the past, or sometimes inherited from another Agency through a transfer of functions. Many Agencies particularly Councils have inherited considerable collections of legacy records as a result of the reform or government change process, and these records require sentencing for disposal or further retention.

Although the legacy records may have been created by a former Agency, the Agencies inheriting these records are responsible for their ongoing management under the *Archives Act 1983*.

Where to begin

Agencies need to consider whether their legacy records project should be managed in-house or if necessary through the services of a consultant or contractor. A project plan should be prepared to determine the:

- scope of recordkeeping activities involved
- duration of the legacy records project; and
- resources required

A project plan checklist has been provided as an appendix to this Advice. TAHO recommends that the project is broken into small, manageable tasks that run at regular intervals until the back-log of legacy records is cleared. This staged approach enables planned outcomes to be achieved over time.

Any records held in regional offices or depots should be taken into account as they may also have an accumulation of legacy records in their possession. The Agency may choose to sentence the legacy records in their central office first and then in a regional office later, depending on their business needs and the level of inter-dependence between the central office and regional office files.

Project management templates including project plans for small project are available in the Tasmanian Project Management Guidelines available from the eGovernment website see www.egovernment.tas.gov.au

Resources

The Agency will need to consider the staffing arrangements for their legacy records project, and a suitable work area with appropriate resources should be made available for sentencing activities. The main considerations include:

- Adequate supply of archival boxes (Acid free Type I for permanent records) These boxes can be obtained from Archival Survival and Zetta Florence (see specialist suppliers under Resources on our website)
- Locality of work area and office environment (e.g. lighting, ventilation, etc)
- Suitable desk or shelf space to be used as a processing area
- Dedicated area for records pending destruction or transfer to TAHO; and
- Qualified staff with the ability to assess and understand Retention and Disposal Schedules, and a knowledge of the functions and activities of the organisation. Throughout the year TAHO run training courses in Disposal across the state, see our training program on our website.

Work plan

A work plan should be developed to gain approval for the project. This should:

- Identify the relevant stakeholders whose commitment to the project is required
- Explain the purpose and scope of the project
- Specify who will be responsible for specific tasks
- Outline the order in which the work will be carried out
- Agree on resources required to complete the project
- State which groups of legacy records will be sentenced, and if any key collections are out of scope
- Indicate a timetable for examining the records, consulting with action officers and preparing documentation
- Decide on project start and completion dates
- Seek internal approval for records archiving and disposal activities; and
- Consider outsourcing arrangements if necessary for completion for the project

Preparation

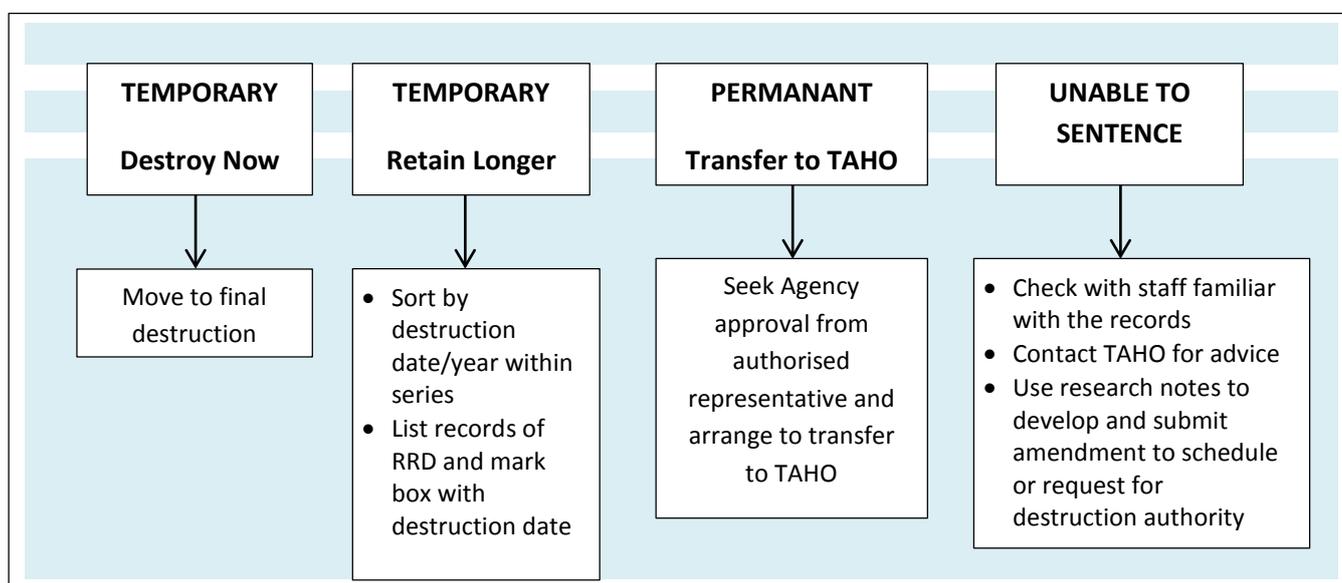
There are three key steps involved with preparing legacy records for sentencing:

1. Any Workplace Health and Safety risks should be assessed before sentencing begins. Contact the Agencies Workplace Health and Safety Officer if the records could pose a health risk (e.g. if they contain mould, etc)
2. The full extent of the records to be dealt with must be known. Locate the control records, such as registers and indexes, and then conduct a full file audit
3. Contact TAHO for further advice if:
 - The records were created prior to 1960
 - You are unsure of which agency created the records
 - The record are not covered by a current Retention and Disposal Schedule
 - The records are the responsibility of another Agency

Assigning retention periods

To assign the correct retention period to a paper legacy record, the following steps should be followed:

1. Many legacy files will be grouped and organised according to subject, such as Subject files and Property files. Examine the file to determine what function/s and activities the records document. (It is possible that some legacy files could cover several functions and activities)
2. Determine which Retention and Disposal Schedule applies to the record, such as the DA 2157, DA2158 or DA2159 or an agency-specific or sector Schedule for core-business records such as DA2200
3. Sort and group the records according to the relevant Retention and Disposal Schedule
4. Identify the corresponding disposal class or classes in the appropriate Retention and Disposal Schedule.
5. From the disposal action in the class, identify the trigger event and calculate a date when the records may be eligible for disposal. If the file contains records with differing retention periods, it must be retained for the **longest retention period for records on that file**.
6. If the trigger event has already occurred and the required retention period has passed, check that the records are not required for any further business, legal or historical purposes before implementing the disposal action (see section Reviewing).
7. If the trigger event has not occurred, but they are temporary records, then list the records in a Register of Records Destroyed (RRD), mark box with destruction date e.g. DESTROY 2035. That way future staff will know that these records have been reviewed, listed and scheduled for destruction. Then all staff need to do in the future is to review the records and check with stakeholders that they can be destroyed.
8. Once the sentence has been assigned, the paper records should then be sorted and boxed according to the following groups. The boxes should be labelled with information such as box number and the due date for destruction (if applicable) or marked for permanent retention – “Retain as State Archive Transfer to TAHO<date>”.



9. For records that can destroyed immediately information describing the record, date range and disposal class number should be recorded in a RRD recordkeeping system or in any control records before final disposal takes place. (For further information see section ‘Documentation of disposal actions’ pp5-6).

Reviewing

After records have been sentenced, and the initial retention period has expired or is nearing expiration, it is important that the files are assessed, collectively and individually, for any ongoing business or legal use.

The disposal actions set in an authorised Retention and Disposal Schedule describe the minimum retention periods for the records and the event (disposal trigger) which signals the end of the retention period. One common disposal trigger is 'last action' and therefore an important part of the sentencing process is determining if and when the 'last action' has occurred. The Information Manager may need to consult with the responsible business area to ensure all actions (such as approvals, appeals, follow-up inspections, audits, etc.) have been completed.

What is 'last action'?

'Last action' is the last action that occurred as part of the business transaction that is documented in the records on the file. It is not the last time the file was accessed or referred to.

Is 'last movement' the same as 'last action'?

- No – the calculation of the date of last action is not affected by date the file was last moved.
- However, if the minimum retention period based on last action has been reached and the file is still frequently being accessed, you may need to consult with the file borrowers (especially if they are from your legal or RTI areas) to determine if there is an ongoing business need to retain the file.

How to determine 'last action'

- Paper-based files: If your files are arranged chronologically then the date of the record on the top of the file will be the date of the last action.
- For electronic files within an eDRMS or business system, the date of last action will be the date of the most recently registered record on that file.

Things to consider

- Particular care should be taken with any state records which may be required for, or were the subject of, legal action; or which deal with the financial, legal or proprietary rights of the Agency or another party. This includes records that have been the subject of a Right to Information (RTI) enquiry (see section 'Records likely to be required in judicial proceedings').
- Check that the Retention and Disposal Schedule that was used to sentence the records is still current. If the Schedule has been superseded by a newer version or a completely new Schedule, or it has been revoked, the records may need to be re-sentenced. The current relevant Disposal Schedules for Agencies are listed below and available from the GISU website:
 - Retention and Disposal Schedule for General Administrative Records DA 2157
 - Retention and Disposal Schedule for Local Government in Tasmania DA2200
 - Disposal Schedule for short term value records DA2158
 - Disposal Schedule for source records DA2159
- Files will need to be examined to ascertain if any extra records have been added since the sentence was first assigned. This will always be the case if the files are sentenced on creation.
- The retention period will need to be reviewed before final disposal if certain circumstances have changed. For example, in the case of personnel files, the retention status changes if an employee is promoted to a Senior Executive position.

- Many eDRMS systems use a 'date of last action' disposal trigger where file movement is considered as a 'last action', thus extending the trigger every time the file is accessed. As mentioned above, 'last action' is not when the file was last accessed or borrowed. The Agencies should consult with their software vendor to ascertain if their eDRMS has other trigger options, such as 'date file closed', to ensure the correct disposal action is applied to their records.
- In addition to this, Right to Information requests or legal actions should not affect the 'last action' date of a record. However, RTI requests have a different retention period and records required in judicial proceedings must be retained until all appeals are completed (if this was not already factored into the original disposal decision).
- Lastly, state records must not be given to historical societies or museums. They must remain within the custody of the responsible Agency.

Tips for saving time

There are particular challenges associated with legacy records. For instance, the master control records for the collection, such as indexes, may be missing. This can make it difficult for the inheriting Agency to sentence some types of legacy records.

If this is the case, start with records that can be easily identified, particularly those that are permanent under the Retention and Disposal Schedule for Local Government in Tasmania DA2200 or the Disposal Schedule for short term value records DA2158. For instance, look for rate books, minute books, town plans and cemetery records. These are often the most recognisable types of local government records because of their large size (rate books and minute books usually look like ledgers or registers and may be bound in fabric or leather).

For State Government Agencies look for records that can be easily identified, particularly those that are permanent under Retention and Disposal Schedule for Common Administrative Records DA 2157. Once identified, organise to have these permanent records transferred to TAHO. Refer to *Advice 12 Preparing hard copy records for transfer to the Tasmanian Archive and Heritage Office*.

Next, identify any large collections of files or series of records that may have been grouped together in a particular way (e.g. chronologically or alphabetically). These files will need to be examined to determine the functions and/or activities they document.

It is possible that they will cover several functional areas as legacy records are often grouped according to subject (such as Property files or Subject files).

If the records cannot be identified

If the legacy records are still unable to be identified, if possible consult with staff from the former agency. They may have some knowledge of the records and why they were created. Additionally, look for policies and procedures from the former agency. These may assist with identifying legacy records and the business processes they document.

Documentation of disposal actions

Agencies are required to ensure that records destruction is authorised and documented. The destruction of the file or record should be documented in a Register of Records Destroyed (RRD), master control records or in the agency's authorised recordkeeping system, capturing the following information:

- The file title, or a description of the record type or series

- The disposal class reference number
- The date range for the records
- The date of destruction
- Who destroyed the records; and
- The authorising officer

A sample RRD has been included in Appendix A to this Advice. It should include the information above, some of which is best compiled during the sentencing process.

TIP: records about records disposal must be retained permanently. However, Agencies are not required to keep a record of destruction if the document is an ephemeral record that has not been registered in the agency's recordkeeping system. See TAHO web site for a copy of Disposal Schedule for Short Term value records (DA 2158). For source records see DA2159

Records likely to be required in judicial proceedings

Under section 129 of the Criminal Code, it is an offence for any person to destroy, or make illegible, a document that is or may be needed in evidence in a judicial proceeding, to prevent it from being used as evidence in the proceeding.

The State Archivist does **not** authorise the disposal of State records if:

- the record is or may be needed in evidence in a judicial proceeding, including any reasonably possible judicial proceeding
- the record may be obtained by a party to litigation under the relevant Rules of Court, whether or not the State is a party to that litigation
- the record must be retained pursuant to the Evidence Act 2001 (Tas)
- there is any other law or policy requiring that the record be retained.

Agencies should develop processes for monitoring and identifying judicial proceedings, either current or likely to occur in the future, and take action to prevent the destruction of any records that may relate to the identified proceedings. It is important that Information Management staff consult with their agencies' legal area prior to any disposal taking place. The State Archivist may also review or withdraw any authorisation to dispose of records if legislative and recordkeeping requirements change.

Agencies must suspend disposal of the required records until the judicial proceedings (including further appeals) are completed, or it is confirmed that they are not needed.

For records that have been previously used in judicial proceedings, the original sentence will need to be reviewed as the retention status may have changed. It may also be necessary to consider reviewing the Agencies Functional Retention and Disposal Schedule and adjusting the corresponding disposal class, especially if the class of records has been subject to judicial proceedings repeatedly in the past. Information management staff should consult with their legal area to ascertain the appropriate retention period and then consult with TAHO if necessary.

Destruction methods for Paper-based records

Paper records should be shredded or pulped, or if these options are not available, burnt in an industrial incinerator. Agencies should not bury records or place records in industrial bins, general collection rubbish bins or other unauthorised storage containers.

The method of destruction should be appropriate to the sensitivity of the record and the availability of destruction services in the local area. As a general rule, office shredders should only be utilised for the shredding of ephemeral records. For security classified records, it is best practice to use cross-cut shredders that reduce waste to a small particle size.

If the Agency chooses to carry out the destruction activity, a responsible officer or a delegate should supervise the destruction of the records to ensure the method chosen is appropriate to the sensitivity of the record.

It is also important to consider the frequency of disposal actions. Rather than destroying records as soon as they are eligible, Agencies can choose to destroy records at certain times (e.g. every quarter or annually). This will help make destruction routine and systematic, reducing the time and resources required to carry out the process.

See TAHO's web site for further information on appropriate destruction methods.

When to contact TAHO

Contact TAHO for further advice if you identify records that:

- were created before 1960
- are the responsibility of another agency

In order to assist TAHO in making an informed evaluation of legacy records, document the following information before contacting TAHO:

- Creator: agency that created the records
- Descriptor: title/description of the records (e.g. rate books)
- Age: date range
- Number: quantity (approximate)
- Quality: condition (e.g. mould, etc.); and
- Other: additional information (e.g. why the records were created)

Further Advice

For more detailed advice, please contact:

Government Information Strategy Unit
Tasmanian Archive and Heritage Office
91 Murray Street
HOBART TASMANIA 7000
Telephone: 03 6165 5581
Email gisu@education.tas.gov.au

Acknowledgements

- Queensland State Archives
- National Archives of Australia

Information security Classification

This document has been security classified using the Tasmanian Government Information Security classification standard as PUBLIC and will be managed according to the requirements of the Tasmanian Government Information Security Policy.

Document Development History

Build Status

| Version | Date | Author | Reason | Sections |
|---------|---------------|------------------|-----------------|----------|
| 1.0 | November 2012 | Allegra Huxtable | Initial Release | All |

Amendments in this Release

| Section Title | Section Number | Amendment Summary |
|---------------|----------------|---|
| | | This is the first release of this document. |

Issued: November 2012

Ross Latham
State Archivist

Checklist for Planning and Implementing a Legacy Records Project

| Stage | Actions |
|--|--|
| 1. Establish a Project Plan | <ul style="list-style-type: none"> • Gain senior management support • Scope the project • Identify staff resources • Identify stakeholders • Establish timeframes and overall duration of project |
| 2. Locate and identify legacy records | <ul style="list-style-type: none"> • Determine and document the location of all legacy records holdings • Assess any Workplace Health and Safety (WH&S) risks and contact WH&S Officer if the records pose a health risk (e.g. if they contain mould, etc.) • Locate any master control records, such as indexes or registers • Inspect the records to determine their contents and the business transactions they document • Consult with staff from former local governments to help identify legacy records (probably not doable now) |
| 3. Sentencing (refer to the Local Government Retention and Disposal Schedule DA 2200) | <ul style="list-style-type: none"> • refer to the Local Government Retention and Disposal Schedule DA 2200 • Sort the records into groups (e.g. according to relevant Retention and Disposal Schedule or record type/series, etc.). Make sure not to disturb the original order of the records • Identify the appropriate disposal class or classes in the Retention and Disposal Schedule and apply the retention period to the records • If the records cannot be identified, consult with other staff and examine policies and procedures from the previous Agency to help determine why the records were created |
| 4. Disposal or preparation for further retention | <ul style="list-style-type: none"> • If the retention period has passed, check that the records are no longer required for any further business or legal purposes. If they are not, implement final disposal • If the retention period has not passed, set a future review date. • Arrange for their safe storage (on or off-site) • For records of permanent retention value, seek appropriate internal approval and contact TAHO to arrange transfer. • Document all disposal actions in your Register of Records Destroyed |
| 5. Contact TAHO | <p>Contact TAHO for further advice if the records:</p> <ul style="list-style-type: none"> • were created prior to 1960 and not scheduled for permanent retention; • are not covered by a Retention and Disposal Schedule; or • are the responsibility of another agency. |

Sample Register of Records Destroyed

| SCHEDULE NO | REFERENCE NO | DESCRIPTION | INCLUSIVE DATES | DATE DESTROYED | CERTIFYING OFFICER | SIGNATURE |
|-------------|--------------|------------------------------------|-----------------|----------------|--------------------|-----------|
| 2157 | 01.04.01 | Invitations | 2009-2010 | 2012 | Deborah Jones | xxxx |
| 2157 | 01.18.03 | Media releases – non controversial | 2009-2010 | 2012 | Deborah Jones | xxxx |
| 2200 | 08.15.01 | Technical drainage files | 2000-2002 | 2012 | Deborah Jones | xxxx |
| 2200 | 21.11.03 | Leave rosters | 2000-2012 | 2012 | Deborah Jones | xxxx |