

Information Management Advice 36 Legislative Mapping for Information Managers

Introduction

It is recommended that agencies consider reviewing the legislation that applies to their agencies when implementing information security policy, developing a disposal schedule or undertaking information risk analysis. Agencies need to be aware of the legislation governing its own records practices.

Agencies that have a current, approved disposal schedule should have already undertaken this step and will only need to review the work they have already done to ensure it is up to date. For agencies without an approved disposal schedule it will be necessary to review the legislation that applies to your agency and you can do this by mapping your legislative requirements. This Advice provides guidance to agencies on how to identify legislative recordkeeping requirements.

Can you explain what 'legislative mapping' means?

Legislative mapping is a key step in researching and documenting the recordkeeping requirements of legislation that is relevant to your agency. This may include legislation that:

- enables your agency to carry out its business (the agencies enabling legislation that established the agency)
- your agency administers (specific legislation that your agency is responsible for administering)
- applies to core business operations of your agency.

Regulations issued under relevant legislation should also be mapped for recordkeeping requirements.

Why is legislative mapping useful?

Legislative mapping assists in identifying all explicit and implicit recordkeeping requirements that are prescribed in legislation and ensures that these requirements are covered in a Disposal Schedule. Legislative mapping is also useful to determine what functions and activities your agency is responsible for and what state records it should be creating. Providing a copy of the legislative mapping to the Tasmanian Archive and Heritage Office (TAHO) when submitting a draft Disposal Schedule for review will also reduce the time taken to review your schedule.

Do I have to map all of the legislation that my agency needs to comply with?

Agencies are only required to map legislation specific to their agency. These legislative requirements will apply only to the particular business of the agency. There is no need to map legislation that is common to all public authorities. The recordkeeping requirements of legislation applicable to all agencies such as the *Archives Act 1983* or the *Right to Information Act 2009* are covered by the *DA 2157 General Disposal Schedule for Administrative Records*.

What should I look for when doing a legislative mapping exercise?

Legislative mapping involves listing all the provisions of the relevant legislation and noting any recordkeeping implications such as the creation or retention of records that affect the business activities of your agency.

Look for provisions that:

- set out the role, function and powers of your agency
- contain requirements to create records either implicitly or explicitly
- set out processes that must be followed that imply that records should be created
- contain information on how long records must be kept
- contain information that help to determine retention periods, e.g. length of appeal period.

What are explicit and implicit recordkeeping requirements?

Legislation may contain explicit and implicit recordkeeping requirements. Explicit recordkeeping requirements are those where the legislation states that a record must be created and kept.

Examples of explicit recordkeeping requirements:

- licensing applications must be in writing, or
- the agency must keep a register of development applications.

Implicit recordkeeping requirements are those where there is an implication that the agency will either create or receive records relating to a specific process.

Examples of implicit recordkeeping requirements:

- applications must be assessed, or
- the agency may request further information from the applicant.

Are there any key phrases I should look out for?

Yes, when completing the legislative mapping exercise, look out for key phrases such as:

- keep a register
- give written notice
- must be in writing
- must provide further information
- kept in electronic form
- supporting documents
- approved form.

Also look out for sections that provide guidance on time periods. For example:

- appeals must be commenced within 30 days of the receipt of the decision
- an application for review must be made within the review period
- details of applicants contained within the register must be removed once the application has been decided.

Is there anything else I should be mapping?

Agencies may find it useful to do a mapping exercise of relevant industry standards or codes of practice when developing a Disposal Schedule.

Is there a template I can use for the legislative mapping exercise?

Yes, the template below can be used for the legislative mapping.

What are the steps in completing the legislative mapping template?

Step 1 Create a table from the template provided (Appendix 1) for each piece of legislation to be mapped. All Tasmanian legislation can be found at the www.thelaw.tas.gov.au

Step 2 Copy the table of contents from the relevant legislation into columns 1 & 2 of the table.

Step 3 Check each section of the legislation for recordkeeping requirements.

Step 4 If there are recordkeeping requirements – briefly describe the requirement in column 3.

Step 5 If the class of record is covered by the *DA 2157 General Disposal Schedule for Administrative Records* - record the class reference number in column.

Step 6 If no reference has been placed in column 4 this may relate to a record which will require coverage in your draft Disposal Schedule and the reference should be added at a later time when the draft schedule has been prepared.

Step 7 After the draft Disposal Schedule has been prepared and is nearing completion use column 4 as a checking tool to ensure all identified records have been recorded in the draft schedule.

For each identified recordkeeping requirement, ensure that the records are covered by either a class in the *DA2157 General Disposal Schedule for Administrative Records* or in your draft core business Disposal Schedule.

Remember, one class in a schedule may cover more than one recordkeeping requirement.

Are there any tips to consider?

Seek out and consult with appropriate staff in your agency to ensure you collect all relevant information on the legislative and regulatory framework for your agency.

Various staff of your agency are the 'experts' in their specific areas, and will be able to assist you in identifying the records:

- currently being created
- how long they are being kept
- risk to the agency if not kept
- other legislative requirements etc.

Further Advice

For more detailed advice, please contact:

Government Information Strategy Unit
Tasmanian Archive and Heritage Office
91 Murray Street
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Acknowledgements

- Queensland State Archives - Retention and Disposal Schedules –*Identifying & Mapping Legislative Recordkeeping Requirements*
- 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

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1.0	May 2013	Allegra Huxtable	Initial Release	All

Amendments in this Release

Section Title	Section Number	Amendment Summary
All	All	Document imported into new template

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Appendix I - Template

Legislation Section	Section Description	Recordkeeping Requirements	Covered by Record Class