

Operational Records Disposal Schedule

Office of the South Australian Ombudsman (Ombudsman SA)

RDS 2020/13 Version 1

Effective Dates: 13 July 2021 to 30 June 2031

This operational records disposal schedule (RDS) authorises disposal of official records (including destruction and transfer of records to State Records custody) as a determination in accordance with section 23(2) of the *State Records Act 1997*.

RDS No	RDS 2020/13 Version 1
Disposal Schedule Type	Operational Records Disposal Schedule
Agency	Office of the South Australian Ombudsman (Ombudsman SA)
Records Scope	Records documenting the functions of Complaints and Investigation Management, and Audits and Internal Reviews of the administrative actions of State and Local Government Agencies
Records Coverage Dates	1972 - ongoing
Effective Dates	13 July 2021 to 30 June 2031
Status	Determined by Director State Records and approved by State Records Council on 15 June 2021
Associated RDS	This RDS supersedes RDS 2012/12 v1
Associated Document	Use the RDS in conjunction with its RDS Context Statement

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Introduction

Scope

This RDS applies to official records in all formats including (but not limited to) those that were born digital in databases, email systems, office applications, digital cameras and video as well as physical records on film, tape and other analogue media. Any common records of Government Agencies are covered under General Disposal Schedule for State Government Agencies (GDS 30).

This RDS excludes:

- all pre-1901 records. These are permanent in accordance with a motion approved by the State Records Council on 19 February 2008
- records of permanent value already in State Records' custody
- destruction of physical records badly damaged by fire, flood, mould, etc, and neglect of physical, digital records which makes them unreadable and inaccessible
- records to be transferred as part of a privatisation or sale to a non-government organisation
- records not adequately covered within the scope of this RDS

If records fall into any of the above exclusions please contact State Records for advice.

Objectives

The purpose of this RDS is to authorise the disposal of records in accordance with the *State Records Act 1997* including:

- records of enduring evidential or informational value that cannot be destroyed and must be preserved for future reference (identified as permanent - retain as State archives) in accordance with State Records appraisal criteria
- authorising the destruction of records not of enduring evidential or information value (identified as temporary) after they have been retained a minimum period

Relationship to other disposal schedules

The General Disposal Schedule for State Government Agencies in South Australia (GDS 30, as amended) should be used by State Government agencies for common records documenting activities such as HR, financial management, policy and procedures.

Hardcopy source records dating from 1 January 2005 that are converted to digital format (digitised) as part of business processes can be disposed of under General Disposal Schedule 21 (GDS 21) where the conditions outlined in GDS 21 are met.

State Records issue general disposal schedules from time to time to implement disposal freezes, restricting disposal of records which might otherwise be authorised for destruction. To see the latest schedules implementing disposal freezes check State Records website <https://archives.sa.gov.au/managing-information/archiving-transfer-and-disposal/disposal/general-disposal-schedules-gds>

Interpretation

This RDS establishes minimum periods before temporary value digital and physical records can be legally destroyed and identifies records of permanent value to be transferred to State Records' custody.

Status/Disposal action definitions

- **Permanent – Retain as State archives**
The disposal action 'Retain as State archives' is used to identify those records of enduring evidential or informational value that cannot be destroyed and must be preserved for future reference. The permanent retention of these records as State archives has been identified in accordance with the State Records' appraisal criteria. These records are required to be transferred to State Records in accordance with State Records Transfer Standard (as amended).
- **Temporary – retain for [list specific period of time] then destroy.**
The disposal action 'temporary' is used to identify records not of enduring evidential or informational value. These records are not considered to have continuing value to the agency or the State but must be retained for a minimum period. They can be destroyed after reaching this minimum period, and once any other disposal considerations have been taken into account.

Retain a record of records destroyed under this RDS

Agencies must keep their own record of all records destroyed under this RDS, noting the relevant disposal schedule entry and the authorisation for destruction. Temporary records should only be destroyed with the approval of the CE or delegate in accordance with the *Destruction of Official Records Guideline* issued by State Records of South Australia.

Compliance with the Determination

Failure to comply with this determination, or any directions in it, falls under Section 17 of the *State Records Act 1997* and may be considered by ICAC as misconduct or maladministration.

For more information

Refer to State Records sentencing, transfer and destruction guidelines on our website at www.archives.sa.gov.au.

State Records Contact Details

Contact details

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No	Function/Activity	Description including Records Examples	Status	Disposal Action
1	ADMINISTRATIVE REVIEWS AND AUDITS	<p>The function of undertaking audits of South Australian government agencies pursuant to Section 57 of the <i>Criminal Law (Forensic Procedures) Act 2007</i>, Section 14A of the <i>Ombudsman Act 1972</i> and Section 187A of the <i>Local Government Act 1999</i>.</p> <p>Includes conducting reviews of the administrative practices and procedures of an agency to which the <i>Ombudsman Act 1972</i> applies where the Ombudsman considers it in the public interest to do so.</p> <p>For example, the implementation of the Information Sharing Guidelines for Promoting Safety and Wellbeing (ISG), Complaint Management Systems (CMS) by state government agencies and Forensic Procedures compliance.</p> <p>With the abolition of the Police Ombudsman in 2017, the responsibility for conducting audits under <i>Criminal Law (Forensic Procedures) Act 2007</i> was relocated to Ombudsman SA.</p>		
1.1	Reviews / Audits	The activity of conducting reviews / audits of the administrative practices and procedures of agencies under Section 14A of the <i>Ombudsman Act 1972</i> where the Ombudsman considers it in the public interest to do so, or any other legislation where the Ombudsman is responsible for the conducting of reviews or audits of agencies.		
1.1.1	Reviews / Audits	Records documenting reviews / audits including surveys, statistics, correspondence with agencies and consultants, examinations, findings and	TEMPORARY	Retain a minimum of 25 years after action completed, then destroy.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
		reports/ recommendations for remediation or improvements. Also includes follow-up of audits in relation to ascertaining the progress and implementation of recommendations and reporting to the relevant Minister on progress of implementation.		
2	COMPLAINTS AND INVESTIGATION MANAGEMENT	The function of receiving and investigating complaints about administrative actions of state and local government agencies which fall under the Ombudsman jurisdiction. Includes handling requests for reviews of decisions by the Chief Executive of the Department for Health and Wellbeing in accordance with Section 40 of the <i>Ageing and Adult Safeguarding Act 1995</i> , complaints about breaches of services standards under Schedule 5 of the <i>Return to Work Act 2014</i> , prescribed child protection complaints under the <i>Children and Young People (Oversight and Advocacy Bodies) Act 2016</i> , and complaints about breaches of the <i>Local Government Act 1999</i> by local councils and elected members.		
2.1	Complaints Process Enquiries	The activities associated with managing enquiries and requests for advice or information relating to Ombudsman SA complaints processes, Ombudsman decisions and functions. Includes requests which result in referral of a complainant to another complaint handling body or back to the agency. See 2.2 Cases (Complaints and Investigations) for advice concerning a specific case.		

No	Function/Activity	Description including Records Examples	Status	Disposal Action
2.1.1	Complaints Process Enquiries	Records relating to the management of enquiries about Ombudsman SA complaints processes and Ombudsman decisions and functions that result in a routine response by email, phone call or letter. Includes out of jurisdiction enquiries, enquiries referred to another agency for response and responses to requests by SACAT for documents relating to reviews of Ombudsman SA determinations under section 40 of the <i>Freedom of Information Act 1991</i> .	TEMPORARY	Retain a minimum of 8 years after action completed, then destroy.
2.2	Cases (Complaints and Investigations)	The activities associated with managing specific complaints received by the Ombudsman pursuant to the <i>Ombudsman Act 1972</i> . Includes complaint assessment and requests by the Ombudsman for information from an agency. Also includes responses to complaints and investigations in cases where investigations are warranted. See 2.3 Cases (ICAC) for investigations of potential issues of 'misconduct' and/or 'maladministration' in public administration by an agency upon referral from ICAC.		
2.2.1	Cases (Complaints and Investigations)	Case files relating to complaints received by the Ombudsman that do not progress to investigation because the Ombudsman has exercised a discretion to decline to investigate, the complainant has been referred back to an agency to deal with the matter or an informal resolution of the complaint has been reached with the agency. For example, complaints that are dealt with under Section 17(2) of the <i>Ombudsman Act 1972</i> .	TEMPORARY	Retain a minimum of 20 years after action completed, then destroy.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
		Records include complaints, complaint assessment, requests for information, responses to complaints, letters determining assessment, reports and conclusions.		
2.2.2	Cases (Complaints and Investigations)	<p>Case files where complaints made to the Ombudsman result in investigations of an agency and there is a finding of an error made by an agency that has state-wide implications, impacts agency policy or procedures and where subsequent recommendations are made by the Ombudsman to change policy, practice or legislation. Includes plans, investigation notes, reports, resolutions and recommendations. Also includes investigations where the Ombudsman's determination has been appealed to a Court and the Ombudsman receives notification of this. Includes investigations concerning children or an identified person of Aboriginal or Torres Strait Islander ancestry.</p> <p>See 2.2.3 Cases (Complaints and Investigations) for case files that result in the finding of an error made by an agency but <u>do not</u> have state-wide implications, or impact agency policy or procedures.</p> <p>See 2.2.5 Cases (Complaints and Investigations) for records relating to follow-up of implementation of recommendations.</p> <p>See 2.3.1 Cases (ICAC) for records relating to referrals to the Ombudsman where an investigation is conducted involving agencies or public officers</p>	PERMANENT	Retain as State archives.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
		<p>and an investigation has resulted in a conclusion of maladministration or misconduct with state-wide implications for government or the agency.</p> <p>See 2.3.5 Cases (ICAC) for records relating to referrals to the Ombudsman where an investigation is conducted and where the allegation of misconduct or maladministration has not been substantiated.</p> <p>See GDS30v2:11.2.1 Litigation for records relating to the Ombudsman receiving notification from the Court in relation to an appeal and instructing solicitors.</p>		
2.2.3	Cases (Complaints and Investigations)	<p>Case files that result in the finding of an error made by an agency and where the Ombudsman's recommendations are specific or confined to the case. For example, an apology by an agency to a complainant.</p> <p>See 2.2.2 Cases (Complaints and Investigations) for case files that result in the finding of an error made by an agency that has state-wide implications, or impact agency policy or procedures.</p>	TEMPORARY	Retain a minimum of 20 years after action completed, then destroy.
2.2.4	Cases (Complaints and Investigations)	Case files that result in the Ombudsman's findings being that no error has been made by an agency.	TEMPORARY	Retain a minimum of 10 years after action completed, then destroy.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
2.2.5	Cases (Complaints and Investigations)	<p>Records relating to follow-up of implementation of recommendations. Includes reporting to the relevant Minister on progress of implementation.</p> <p>See 2.2.2 Cases (Complaints and Investigations) for case files that result in the finding of an error made by an agency that has state-wide implications, or impact agency policy or procedures and where subsequent recommendations are made by the Ombudsman to change policy, practice or legislation.</p>	PERMANENT	Retain as State archives.
2.3	Cases (ICAC)	The activities associated with the referral and investigation of matters that raise potential issues of 'misconduct' and / or 'maladministration' in public administration by an agency upon referral from ICAC. Includes reports made by the Ombudsman to OPI.		
2.3.1	Cases (ICAC)	<p>Records relating to referrals to the Ombudsman pursuant to section 24(2)(a) of the <i>ICAC Act 2012</i> where an investigation is conducted involving agencies or public officers and an investigation has resulted in a conclusion of maladministration or misconduct with state-wide implications for government or the agency.</p> <p>For example, maladministration associated with the death of a cleaner at the Echunga Police Training Centre.</p> <p>See 2.3.6 Cases (ICAC) for records of investigations that do not have state-wide implications for the government or the agency.</p>	PERMANENT	Retain as State archives.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
		<p>See 2.3.2 Cases (ICAC) for records relating to follow up of implementation and recommendations.</p> <p>See 2.2.2 Cases (Complaints and Investigations) for records relating to complaints made to the Ombudsman where an investigation is conducted.</p>		
2.3.2	Cases (ICAC)	<p>Records relating to follow-up of implementation of recommendations. Includes reporting to the relevant Minister on progress of implementation.</p> <p>See 2.3.1 Cases (ICAC) for records relating to referrals where an investigation is conducted resulting in a conclusion of maladministration or misconduct and recommendations are made.</p>	PERMANENT	Retain as State archives.
2.3.3	Cases (ICAC)	<p>Records relating to reports made to OPI by the Ombudsman in accordance with Section 20 of the <i>ICAC Act 2012</i> whereby the Ombudsman is required to report to OPI any matter that the Ombudsman reasonably suspects involves corruption in public administration, serious or systemic misconduct or maladministration in public administration. Includes assessment records and reports. In some cases, also includes referral back to the Ombudsman to investigate.</p> <p>See 2.3.1 Cases (ICAC) when a report to OPI leads to a referral back to the Ombudsman.</p>	TEMPORARY	Retain a minimum of 20 years after action completed, then destroy.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
2.3.4	Cases (ICAC)	Records relating to ICAC consulting with the Ombudsman about a proposed referral of a matter assessed by ICAC as raising a potential issue of misconduct or maladministration under Section 37 of the <i>ICAC Act 2012</i> or a proposed exercise by the ICAC of the Ombudsman's powers to investigate a matter pursuant to section 36A of the <i>ICAC Act 2012</i> . Includes ICAC request for the Ombudsman's view on proposed referral or exercise of Ombudsman's powers with documentation relevant to allegations and the Ombudsman's assessment and response.	TEMPORARY	Retain a minimum of 20 years after action completed, then destroy.
2.3.5	Cases (ICAC)	Records relating to referrals to the Ombudsman pursuant to section 24(2)(a) of the <i>ICAC Act 2012</i> where an investigation is conducted and where the misconduct or maladministration is unsubstantiated or is substantiated but is minor or of local significance. See 2.3.1 Cases (ICAC) for records of investigations of state-wide significance. See 2.2.2 Cases (Complaints and Investigations) for records relating to complaints received by the Ombudsman that result in investigations resulting in the finding of error made by the agency that has state-wide implications, impacts agency policy or procedures.	TEMPORARY	Retain a minimum of 20 years after action completed, then destroy.
2.4	Notification Assessment	The activity involved in the assessment of public interest disclosure notifications where the information relates to an agency to which the <i>Ombudsman Act 1972</i> applies.		

No	Function/Activity	Description including Records Examples	Status	Disposal Action
2.4.1	Notification Assessment	Records of information relating to a public interest disclosure notification by an informant. Includes assessment and notification to the OPI and notification to the informant of action taken pursuant to section 7 of the <i>Public Interest Disclosure Act 2018</i> .	TEMPORARY	Retain a minimum of 20 years after action completed, then destroy.
3	FREEDOM OF INFORMATION (FOI) REVIEWS	The function of providing external reviews and investigating FOI determinations made by South Australian Government Agencies concerning access to documents, amendment of records and other FOI related issues. See GDS30v2:9.1 Case Management (FOI) for FOI requests in relation to Ombudsman SA.		
3.1	Cases (FOI Reviews)	The activities involved in reviewing Freedom of Information (FOI) determinations made by an agency including investigations, resolutions and recommendations.		
3.1.1	Cases (FOI Reviews)	Case files documenting FOI external reviews that generate significant public interest or controversy. This may include issues of public safety, health and security, social issues of state-wide significance and/or investigations into major or strategic government initiatives, and/or matters where a formal report has resulted. Examples include:	PERMANENT	Retain as State archives.

No	Function/Activity	Description including Records Examples	Status	Disposal Action
		<ul style="list-style-type: none"> • the Solicitor-General’s advice to the State Government in relation to Mr Henry Keogh’s clemency petition • reviews relative to an identified person of Aboriginal or Torres Strait Islander ancestry <p>Also includes reviews where the Ombudsman’s determination has been appealed to a Court.</p> <p>See 3.1.2 Cases (FOI Reviews) for case specific reviews i.e. a case relevant to an individual person rather than the general public.</p>		
3.1.2	Cases (FOI Reviews)	<p>Records relating to case files that are routine and/or non-controversial. For example, a case relevant to an individual person rather than the general public where personal medical records or private development applications made to a council may be accessed. Includes determinations made by the Ombudsman that have been appealed to SACAT and external review requests which are received but do not proceed as they are invalid, time barred or outside jurisdiction. Also includes external review requests which do not proceed as they are not eligible.</p> <p>See 3.1.1 Cases (FOI Reviews) for reviews that generate significant public interest or controversy and are not case specific.</p>	TEMPORARY	Retain a minimum of 10 years after action completed, then destroy.