

**State Archives and Records Authority of New
South Wales**

**Functional Retention and Disposal
Authority: FA404**

This authority covers records documenting the function of
provision and regulation of childcare services

This retention and disposal authority is approved under section 21(2)c of the *State Records Act 1998* following prior approval by the Board of the State Archives and Records Authority of New South Wales in accordance with section 21(3) of the Act.

**State Archives and Records Authority of New
South Wales**

Functional Retention and Disposal Authority

**Authority
no** FA404

SR file no 18/0452

Scope This retention and disposal authority covers records documenting the function of provision and regulation of childcare services.

**Public
office** All public offices providing and regulating early childhood education and care services.

**Approval
date** 30 May 2019

About the Functional Retention and Disposal Authority

Purpose of the authority

The purpose of this retention and disposal authority is to identify those records created and maintained by NSW public offices which are required as State archives and to provide approval for the destruction of certain other records created and maintained by NSW public offices, after minimum retention periods have been met.

The approval for disposal given by this authority is given under the provisions of the *State Records Act 1998* only and does not override any other obligations of an organisation to retain records.

The retention and disposal of State records

The records retention and disposal practices outlined in this authority are approved under section 21(2)(c) of the *State Records Act 1998 (NSW)*. Part 3 (Protection of State Records) of the Act provides that records are not to be disposed of without the consent of the State Archives and Records Authority of New South Wales (State Archives and Records NSW) with certain defined exceptions. These exceptions include an action of disposal which is positively required by law, or which takes place in accordance with a normal administrative practice (NAP) of which State Archives and Records NSW does not disapprove. Advice on the State Records Act can be obtained from State Archives and Records NSW.

The authority sets out how long the different classes of records generated by an organisation must be kept to meet its legal, operational and other requirements, and whether the records are to be kept as State archives. State Archives and Records NSW reviews and approves organisations' retention and disposal authorities under the *State Records Act*. It is the duty of a public office, in submitting a draft retention and disposal authority for approval, to disclose to State Archives and Records NSW any information which affects the retention of the records covered by the authority.

State Archives and Records NSW's decisions take into account both the administrative requirements of public offices in discharging their functional responsibilities and the potential research use of the records by the NSW Government and the public. One of State Archives and Records NSW's functions is to identify and preserve records as State archives. These are records which document the authority and functions of Government, its decision-making processes and the implementation and outcomes of those decisions, including the nature of their influence and effect on communities and individual lives. Criteria for the identification of State archives are listed in *Building the Archives: Policy on records appraisal and the identification of State archives*. The Policy also explains the roles and responsibilities of State Archives and Records NSW and of public offices in undertaking appraisal processes and disposal activities.

Implementing the authority

This retention and disposal authority covers records controlled by the public office and applies only to the records or classes of records described in the authority. The authority should be implemented as part of the records management program of the organisation. Two primary objectives of this program are to ensure that records are kept for as long as they are of value to the organisation and its stakeholders and to enable the destruction or other disposal of records once they are no longer required for business or operational purposes.

The implementation process entails use of the authority to sentence records. Sentencing is the examination of records in order to identify the disposal class in the authority to which they belong. This process enables the organisation to determine the appropriate retention period and disposal action for the records. For further advice see *Implementing a retention and disposal authority*.

Where the format of records has changed (for example, from paper-based to electronic) this does not prevent the disposal decisions in the authority from being applied to records which perform the same function. The information contained in non paper-based or technology dependant records must be accessible for the periods prescribed in the classes. Where a record is copied, either onto microform or digitally imaged, the original should not be disposed of without authorisation (see the *General Retention and Disposal Authority – Original or source records that have been copied*). Public offices will need to ensure that any software, hardware or documentation required to gain continuing access to technology dependent records is available for the periods prescribed.

Disposal action

Records required as State archives

Records which are to be retained as State archives are identified with the disposal action 'Required as State archives'. Records that are identified as being required as State archives should be stored in controlled environmental conditions and control of these records should be transferred to State Archives and Records NSW when they are no longer in use for official purposes.

The transfer of control of records as State archives may, or may not, involve a change in custodial arrangements. Records can continue to be managed by the public office under a distributed management agreement. Public offices are encouraged to make arrangements with State Archives and Records NSW regarding the management of State archives.

Transferring records identified as State archives and no longer in use for official purposes to State Archives and Records NSW should be a routine and systematic part of a public office's records management program. If the records are more than 25 years old and are still in use for official purposes, then a 'still in use determination' should be made.

Records approved for destruction

Records that have been identified as being approved for destruction may only be destroyed once a public office has ensured that all other requirements for retaining the records are met. Retention periods set down in this authority are *minimum* periods only and a public office should keep records for a longer period if necessary. Reasons for longer retention can include legal requirements, administrative need, government directives and changing social or community expectations. A public office **must not** dispose of any records where the public office is aware of possible legal action (including legal discovery, court cases, formal applications for access) where the records may be required as evidence.

Once all requirements for retention have been met, destruction of records should be carried out in a secure and environmentally sound way. Relevant details of the destruction should be recorded. See *Destruction of records: a practical guide*.

Organisations should review functional retention and disposal authorities regularly to ensure that they remain relevant as the organisation's functions and activities, operating environment and requirements for records change. Retention requirements may change over time. This can occur when:

- business needs or practices change
- new laws, regulations or standards are introduced
- new technology is implemented
- government administration is restructured and functions are moved between entities, or
- unforeseen or new community expectations become apparent.

State Archives and Records NSW recommends that organisations check any functional retention and disposal authorities more than 5 years old to ensure that the retention periods and disposal actions remain relevant.

Regardless of whether a record has been approved for destruction or is required as a State archive, a public office or an officer of a public office **must not** permanently transfer possession or ownership of a State record to any person or organisation without the explicit approval of State Archives and Records NSW.

Administrative change

This retention and disposal authority has been designed to link records to the functions they document rather than to organisational structure. This provides for a stable retention and disposal authority that is less affected by administrative change. The movement of specified functions between branches or units within the public office does not require the authority to be resubmitted to State Archives and Records NSW for approval. However, when functions move from one public office to another the public office that inherits the new function should contact State Archives and Records NSW to discuss use of any existing retention and disposal authority approved for use by a predecessor organisation.

Amendment and review of this authority

State Archives and Records NSW must approve any amendment to this authority. Public offices that use the authority should advise State Archives and Records NSW of any proposed changes or amendments to the authority.

State Archives and Records NSW recommends a review of this authority after five years to establish whether its provisions are still appropriate. Either the public office or State Archives and Records NSW may propose a review of the authority at any other time, particularly in the case of change of administrative arrangements, procedures or to operating environments which are likely to affect the value of the records covered by this authority.

In all cases the process of review will involve consultation between State Archives Records NSW and the public office. If the process of review reveals that this authority requires amendment, the necessary amendments should be made and approved.

Contact Information

State Archives and Records NSW
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Kingswood NSW 2747
Telephone: (02) 9673 1788
E-mail: govrec@records.nsw.gov.au

Functional Retention and Disposal Authority

Provision and regulation of childcare services

Authority number: FA404

Dates of coverage: Open

No.	Description of records	Disposal action
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1.0.0 EARLY CHILDHOOD EDUCATION AND CARE

The provision and regulation of early childhood education and care, and outside of school hours care. Includes long day care, family day care, preschool/kindergarten, and outside school hours care services.

1.1.0 Provision of childcare services

The activities associated with the provision of early childhood education and care and outside school hours care services by or on behalf of the organisation.

Note: the entries under this activity relate to the provision of childcare services only. For records created and managed by the NSW regulator see entries 1.2.0.

See **CHILDCARE PROVISION AND REGULATION - Regulation of childcare services** for records relating to the regulation of childcare services.

See General Retention and Disposal Authority *Administrative records* **CONTRACTING-OUT** for records relating to engaging service providers/operators to deliver childcare services on behalf of the organisation

See General Retention and Disposal Authority *Administrative records* **FINANCIAL MANAGEMENT - Accounting** for records relating to financial transactions.

See General Retention and Disposal Authority *Administrative records* **PERSONNEL - Employee service history** for records relating to the appointment and service of staff, volunteers, short term placements etc.

See General Retention and Disposal Authority *Administrative records* **PERSONNEL - Misconduct** for records relating to complaints involving members of staff, including volunteers, student placements etc.

See General Retention and Disposal Authority *Administrative records* **PERSONNEL - Reporting** for records relating to the statutory reporting of incidents or referral of other matters to external bodies such as the Police, the Ombudsman or child protection agencies

See General Retention and Disposal Authority *Administrative records* **STRATEGIC MANAGEMENT - Planning** for records relating to planning for the provision of childcare services

See General Retention and Disposal Authority *Administrative records* **COMMUNITY RELATIONS - Public reaction** for records relating to complaints about the provision of services that are not related to abuse of a child.

1.1.1	<p>Records relating to the receipt by childcare providers of allegations of child abuse.</p> <p>Note: see the <i>General retention and disposal authority: administrative records</i> - PERSONNEL - Misconduct for allegations against employees, volunteers, students etc</p>	<p>Retain minimum of 45 years after action completed, then destroy</p>
1.1.2	<p>Records documenting:</p> <ul style="list-style-type: none"> • a child's enrolment, attendance, assessment, learning and development plans, programs, medication and health records, contacts and 	<p>Retain in accordance with the relevant legislative requirements and/or national</p>

Provision and regulation of childcare services

Authority number: FA404

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EARLY CHILDHOOD EDUCATION AND CARE- Provision of childcare services

	<p>authorisations</p> <ul style="list-style-type: none"> • an incident, illness, injury or trauma suffered by a child (see entry above for allegations of child abuse) • attendance of staff, educators, volunteers, students and visitors • planning for and approval to conduct excursions, incursions, etc. <p>Note: see the <i>General retention and disposal authority: administrative records - PERSONNEL - Employee service history</i> for records of the recruitment and employment of employees, volunteers, students etc</p>	standards and guidelines, then destroy
1.1.3	Records relating to applications to the regulator to provide or operate a child-care service by or on behalf of the organisation. Records include applications, supporting documentation, reports of inspections and associated correspondence. Includes unsuccessful applications.	Retain in accordance with the relevant legislative requirements and/or national standards and guidelines, then destroy
1.1.4	Policies and procedures relating to the health, safety, and protection of children whilst in the care of the service, including emergency plans and procedures.	Retain minimum of 45 years after policy or procedure is superseded, then destroy
1.1.5	Records relating to routine operational management of a child-care service e.g. waiting lists, applications and acceptances where the child does not attend, general daily or weekly routines and programs etc.	Retain until administrative or reference use ceases, then destroy

1.2.0 Regulation of childcare services

The activities associated with the granting of permission, approval, consent or accreditation to undertake early childhood education and care services. Also includes monitoring compliance with prescribed specifications, requirements, terms, conditions, regulations and standards for the operation of providers and formal investigations into breaches following an accident, incident, complaint, or observation.

Note: these entries only apply to the State regulator of child-care services. Public offices that provide child-care services should use the entries under 1.1.0 in this authority.

See General Retention and Disposal Authority *Administrative records* **GOVERNMENT RELATIONS - Inquiries** for records of inquiries and departmental submissions to Royal Commissions.

1.2.1	Records relating to the development, review and	Required as State
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Provision and regulation of childcare services

Authority number: FA404

Dates of coverage: Open

No.	Description of records	Disposal action
<i>EARLY CHILDHOOD EDUCATION AND CARE- Regulation of childcare services</i>		
	establishment of strategic plans, policies and procedures relating to the regulation and provision of childcare services. Records include policy proposals, research papers, results of consultations, supporting reports, major drafts, final policy documents.	archives
1.2.2	Records relating to the investigation of a licensee, licensed centre or authorised supervisor for serious incidents or breaches that result in sanctions and/or prosecutions. Serious incidents include death or serious injury, physical or sexual assault. Records include complaints, notifications, investigation reports, correspondence, briefings, reports and recommendations, and records of remedial action.	Required as State archives
1.2.3	Records relating to the receipt and investigation by the regulator of allegations of child abuse that do not result in sanctions and/or prosecutions.	Retain minimum of 99 years after action completed, then destroy
1.2.4	Records relating to approved applications for a licence to conduct a children's service, or to become a licensee or authorised supervisor of a children's service. Records include: <ul style="list-style-type: none"> • applications and supporting documentation • applications for variations and notifications of changes • approvals and revocations • investigations of allegations that are not related to child abuse and do not result in sanctions or prosecutions. • advice on matters related to accreditation, compliance etc. 	Retain minimum of 45 years after revocation, suspension, surrender or expiry of licence or authority, then destroy
1.2.5	Records relating to unsuccessful applications for a licence to conduct a children's service, or to become a licensee or authorised supervisor. Records include: <ul style="list-style-type: none"> • application form and supporting documentation • details of the reason for the licence refusal • appeals and outcomes. 	Retain minimum of 10 years after action completed, then destroy
1.2.6	Records relating to monitoring compliance with requirements and routine liaison with centres over terms and conditions. Records include: <ul style="list-style-type: none"> • compliance reports and statements • inspection checklists • inspection assessment reports/responses 	Retain minimum of 10 years after action completed, then destroy

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EARLY CHILDHOOD EDUCATION AND CARE- Regulation of childcare services

	<ul style="list-style-type: none">• records of site visits.	
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