

Notice of Records Disposal Freeze for Records Relating to the Royal Commission into the Child Protection and Youth Detention Systems of the Northern Territory

The purpose of this document is to notify public sector organisations, which may be in possession of records relevant to the scope of the Royal Commission into the Child Protection and Youth Detention Systems of the NT (Royal Commission), that a disposal freeze has been placed on records created on or after 1 August 2006 which may be required for the inquiries of the Royal Commission or related legal actions or investigations.

Background

On 28 July 2016, the Prime Minister Malcolm Turnbull announced the establishment of a joint Commonwealth/Northern Territory Royal Commission into Child Protection and Youth Detention Systems of the Northern Territory. Letters Patent were issued on 1 August 2016 appointing the Royal Commission. The final report of the Royal Commission was tabled on 17 November 2017.

The aim of the disposal freeze is to avoid the risk of losing crucial evidence for the Royal Commission or related legal actions.

Authority

Library & Archives NT (the Archives Service) and DCIS, Digital Policy (the Records Service) issue this disposal freeze in accordance with Section 136B of the *Information Act*. Destruction of records covered by a disposal freeze is considered illegal disposal under Section 145 of the *Information Act*.

The disposal of records not covered by a disposal schedule is an offence under Section 145 of the *Information Act*.

In addition, compliance with the [NT public sector organisations records and information management standards](#) requires that

6.5.3.2 PSOs must implement procedures to ensure that records subject to a disposal freeze, discovery order or legal hold are identified and marked to ensure they are not destroyed.

- i. Destruction of records in accordance with approved records disposal schedules may be suspended as a result of a legal hold or disposal freeze for records which may be, or are likely to become, the subject of investigation or litigation.

Agencies Affected

The disposal freeze **applies to all public sector organisations** which may hold (as defined in s 6 of the Information Act) records relevant to the scope of the Royal Commission, in particular:

- Department of the Attorney-General and Justice;
- Northern Territory Police, Fire and Emergency Services
- Territory Families

- Department of Health
- Department of Corporate and Information Services
- Department of the Chief Minister
- Department of Education
- Department of Infrastructure, Planning and Logistics
- Department of Treasury and Finance
- Office of the Commissioner for Public Employment
- Office of the Ombudsman of the Northern Territory
- Department of Local Government, Housing and Community Development

Records Affected

In broad terms, this freeze covers:

- Records relating to child protection including case files relating to allegations or incidents
- Records relating to the treatment of children for injuries received whilst in the care, however it may be described, of the Northern Territory of Australia
- Records relating to investigations into incidents relating to children in the care, however it may be described, of the Northern Territory of Australia
- Records relating to the management and staffing of youth detention centres or facilities administered by the Northern Territory of Australia
- Records relating to children in the custody of the Northern Territory of Australia
- Records relating to juvenile justice systems
- Records relating to policies and procedures concerning the management of processes in NT public sector organisations which relate to the custody of children and child protection

The disposal freeze applies to records that could otherwise be destroyed under Northern Territory Government Records Disposal Schedules.

The disposal schedules likely to be affected are listed in Schedule B

The disposal freeze also covers control records which may identify relevant records such as registers of files, card and electronic indexes of files and records, metadata identifying specific records in databases and other digital business systems.

The disposal freeze covers records in all formats, including paper files and documents, microfilm and magnetic tapes, audio and visual recordings, photographs and records created and stored digitally (including information in relevant current and legacy databases and digital business systems).

All records in digital formats, including information in databases and other digital business systems, must be maintained with all the metadata necessary to support retrieval and access to authentic and reliable information.

In practice, the freeze should only affect those records due to be destroyed within the period of the freeze, not the total quantity of records that fit the description of records. However, it is incumbent on public sector organisations to evaluate all records due for destruction and assess their likely relevance to the Royal Commission investigations.

Schedule A details the categories of records subject to the records disposal freeze

The content of the freeze relates to records during the period since the commencement of the [Youth Justice Act 2005](#) on 1 August 2006.

Records of the predecessors of the relevant agencies such as the Department of Justice (2001-2012) and Department of Health and Families (2008-2011) will also be included within this scope.

Duration

This disposal freeze is in force from 1 August 2016. The initial disposal freeze was issued for the period 1 August 2016-30 June 2017. The disposal freeze was extended until 30 June 2018 pending the conclusion of the Royal Commission. The final report of the Royal Commission was tabled on 17 November 2017. A review of the requirement for the continuation of the disposal freeze was undertaken prior to 30 June 2018 and due to ongoing legal action the disposal freeze was extended for a further 24 months until 30 June 2020. The disposal freeze has been extended until 31 December 2022 due to continuing legal action.

Action Required

Public sector organisations must:

1. Notify all staff and other relevant parties (including third party service providers) responsible for the disposal of public records that a disposal freeze has been issued.
2. Withhold from destruction any records within the scope of the records disposal freeze.
3. Retain the records identified in the disposal freeze for the duration of the freeze or until further notice.

The preparation for sentencing of records affected by the disposal freeze can continue. However, the records must be set aside and retained for the period of the disposal freeze. The records should be retained by the organisation; they will not be accepted for transfer to the NT Archives Service. Organisations have the option either to identify and set aside the particular records covered by the freeze, or to implement a broader freeze on all records likely to contain relevant material.

Agencies should be mindful that current records disposal schedules should not be applied to records created prior to 1 July 1978 in accordance with [Archives Management Standard – Disposal of Pre-1978 Records](#).

Impact

The costs relating to the management and storage of an agency's temporary records covered by a records disposal freeze is the responsibility of the public sector organisation.

Further Information

For further information please refer to:

[Royal Commission | NT](#)

[Records Disposal Freeze Policy for NT Public Sector Organisations](#)

[Records Disposal Freeze Implementation Advice for NT Public Sector Organisations](#)

Enquiries

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8 July 2020

[signed]

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16 July 2020

Schedule A: Categories of records subject to the records disposal freeze

The following categories of records have been identified by the NT Archives Service and NT Records Service as those most likely to contain relevant records subject to this disposal freeze. The examples provided are for guidance only and other categories of records not listed below may contain information relevant to the inquiry:

1. Policy and administrative records relating to the management and staffing of Juvenile Detention facilities (including the Don Dale Detection Centre and Alice Springs Youth Detention Centre) from 1 August 2006

- Development and implementation of policies and procedures relating to juvenile justice and detention
- Development and implementation of standards relating to juvenile detention
- Strategic management, risk management records
- Internal reviews or reforms relating to youth detention
- Program evaluation records
- Employment policy and staff selection criteria
- Organisation structure
- Staff training policy and procedures
- Oversight programs and safeguards
- Facility security and surveillance records
- Construction, modification and maintenance records of facilities

2. Records relating to the management of youth offenders in Government care, such as:

- Case management files
- Assessment reports
- Offender management plans

3. Personnel employment records, such as

- Employment history records
- Recruitment records, including working with children screening
- Employment contract records

4. Personnel attendance records for juvenile detention centres, such as

- duty rosters, attendance books, flex time sheets and overtime timesheets

5. Staff development and training records, such as

- content of staff training programs
- Attendance at staff training including applications for attend training
- Assessment and examination results for training, including Certificate III in Correctional Practice (Youth Custodial)
- Records of training provided as a Registered Training Organisation (RTO)

- Records of accreditation as RTO and compliance with accreditation requirements
- 6. Work health and safety records relating to work health and safety issues in juvenile detention centres, such as**
- Research into work health and safety issues specific to the workplace
 - Records documenting a person's authorisation to carry out high risk or regulated work, including first aid certificates
 - Compensation claims
- 7. Complaint records relating to the treatment of children and juvenile in custody, such as**
- Internal investigations
 - Mediation process
 - Referral for external investigation
- 8. Medical care records for children and juveniles in custody, such as**
- Medical care programs, resources and staffing
 - Medical treatment records
 - Mental health treatment records
 - First aid and incident reporting records
 - Drug and alcohol treatment program records
- 9. Diversionary programs for young offenders away from the criminal justice system, such as**
- Policies and procedures relating to diversionary programs
 - diversionary reports, assessments and agreements
 - service provider reports, post conference surveys, weekly reports and exit interviews
- 10. Policing records relating to the apprehension of children and young offenders, such as**
- Policy and procedures relating to the apprehension and custody of young offenders
 - Records relating to the apprehension of young offenders following escape from the custody of youth detention facilities
- 11. Past reviews of the treatment of children and juveniles in youth detention centres in the Northern Territory, such as**
- Records of the review of services at Don Dale Detention Centre and Alice Springs Youth Detention Centre, including outcomes and responses
 - Records of the review of the youth detention system in the Northern Territory, including outcomes and responses
 - Records of the review of the youth justice system in the Northern Territory, including outcomes and responses

Schedule B: List of Records Disposal Schedules affected

This disposal freeze applies to records that are due to be destroyed under a Northern Territory of Australia Records Disposal Schedule. In practice, the freeze should only affect those records due to be destroyed within the period of the freeze, not the total quantity of records that fit the description of records.

The records disposal schedules listed below have been identified as those likely to contain relevant classes of records and are provided here for guidance only. However, it is probable that records disposal schedules not listed below may also contain relevant classes of records.

Agency	Records Disposal Schedule
All agencies	<u>Records Disposal Schedule for Administrative Functions of the Northern Territory Government, 2013/5</u>
Department of the Attorney-General and Justice	<u>Records Disposal Schedule for Children's Services Monitoring, 2016/6</u> <u>Records Disposal Schedule for Health and Community Services Complaints Management, 2016/9</u> <u>Records Disposal Schedule for Local Courts Administration, 2015/11</u> <u>Records Disposal Schedule for Parole Board Management, 2016/12</u> <u>Records Disposal Schedule for Public Prosecutions, 2015/14</u> <u>Records Disposal Schedule for Correctional Professional Standards, 2019/6</u>
NT Police Fire and Emergency Services	<u>Records Disposal Schedule for Policing and Crime Detection, 2011/1</u> <u>Records Disposal Schedule Working with Children Screening, 2009/8</u>
Department of Health	<u>Records Disposal Schedule for Mental Health Services, 2015/8</u> <u>Records Disposal Schedule for Patient Records, 2002/1</u>
Office of the Ombudsman of the Northern Territory	<u>Records Disposal Schedule for Complaint Management, 2014/4</u>
Department of the Chief Minister	<u>Records Disposal Schedule for Risk Review Services, 2006/4</u>
Department of Infrastructure, Planning and Logistics	<u>Records Disposal Schedule for Construction Management, 2010/4</u>

Agency	Records Disposal Schedule
Office of the Commissioner for Public Employment	<p><u>Records Disposal Schedule for Redeployment Management, Redundancy Management, 2000/5</u></p> <p><u>Records Disposal Schedule for Organisational Capability Assessment, 2001/11</u></p> <p><u>Records Disposal Schedule for Public Sector Appeals Management, 2013/1</u></p> <p><u>Records Disposal Schedule for Public Sector Grievance Review Services, 2013/2</u></p> <p><u>Records Disposal Schedule for Public Sector Workforce Planning and Development, 2013/8</u></p>
Department of Local Government, Housing and Community Development	<p><u>Records Disposal Schedule for Indigenous Community Support, 2006/10</u></p> <p><u>Records Disposal Schedule for Aboriginal Interpreter Services, 2006/11</u></p>
Territory Families	<p><u>Records Disposal Schedule for Care and Protection of Children, 2017/10</u></p> <p><u>Records Disposal Schedule: Youth Justice Service, 2020/6</u></p>