



Australian Government

National Archives of Australia

Records Authority

Federal Court of Australia

**Federal Circuit and Family Court of
Australia**

2022/00114873 - Court Case Management

2022/00119857 - Court Service Delivery and Support

2022/00119922 - Court Ceremonies Management

2022



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Introduction

The Federal Court of Australia, the Federal Circuit and Family Court of Australia (Division 1) and the Federal Circuit and Family Court of Australia (Division 2) (the Courts) and the National Archives of Australia (the Archives) have developed this records authority to set out the requirements for keeping or destroying records for the core business areas of the Courts Case Management, Courts Service Delivery and Support, and Courts Ceremonies Management. It represents a significant commitment on behalf of the Courts to understand, create and manage the records of its activities.

This records authority is based on the identification and analysis of the business of the Courts. It takes into account the Courts' legal and organisational information management requirements, and the interests of stakeholders, the Courts and the National Archives.

This records authority sets out those records that need to be retained as national archives and specifies the minimum length of time that temporary records need to be kept. It provides endorsement to the Courts under the *Archives Act 1983*, for the destruction of the temporary records described after the minimum retention period has expired. Retention periods for these temporary records are based on: an assessment of business needs; broader organisational accountability requirements; and community expectations, and are approved by the National Archives of Australia on the basis of information provided by the Courts.

As changes in circumstances may affect future information management requirements, the periodic review of this records authority is recommended. All amendments must be approved by the National Archives.

Application of this Authority

1. This records authority supersedes records authorities 2008/00614707 (2008), 2009/00085939 (2009), 2010/00315821 (2011) and 2014/00670521 (2015). The superseded records authorities cannot be used by the Courts to sentence records after the date of issue of this records authority.
2. This authority is to be used to determine how long records must be kept. Records are matched to the relevant core business and records class in the authority.
 - a. Records that are identified as 'retain as national archives' are to be preserved in the custody of the Courts.
 - b. Where the minimum retention period has expired and the records are not needed for the Courts' business they should be destroyed as authorised in this authority.
 - c. Records that have not reached the minimum retention period must be kept until they do.
3. This authority should be used in conjunction with general records authorities such as:
 - a. Administrative Functions Disposal Authority (AFDA) Express Version 2 issued by the National Archives to cover business processes and records common to Australian Government agencies; and
 - b. General Records Authority (GRA) (31) - Destruction of source or original records after digitisation, conversion or migration (2015). GRA 31 may be used for digitising RNA records dating from the establishment of the Courts regardless of date limitations imposed by the GRA.
4. The normal administrative practice (NAP) provision of the *Archives Act 1983* gives agencies permission to destroy certain records without formal authorisation. This usually occurs where records are duplicated, facilitative or for short-term use only. NAP does not replace arrangements agreed to in this authority but can be used as a tool to assist in identifying records for destruction together with an agency's records authority or authorities, and with AFDA Express Version 2.
5. Records that are reasonably likely to be needed as evidence in a current or future judicial proceeding or are subject to a request for access under the *Archives Act 1983*, the *Freedom*

of *Information Act 1982* or any other relevant act must not be destroyed until the action has been completed.

6. Records subject to a disposal freeze must not be destroyed until the freeze has been lifted. Further information about disposal freezes and whether they affect the application of this authority is available from the National Archives website at www.naa.gov.au.
7. Where the method of recording information changes (for example from an analogue system to a digital system, or when information is migrated from one system to a new system) this authority can still be applied, providing the records document the same core business. The information must be accessible for the period of time prescribed in this authority. The Courts will need to maintain continuing access to the information, including digital information, for the periods prescribed in this authority or until the information is transferred into the custody of the National Archives.
8. In general, retention requirements indicate a minimum period for retention. The Courts may extend minimum retention periods if it considers that there is an administrative need to do so, without further reference to the National Archives. Where the Courts believe that its accountability will be substantially compromised because a retention period or periods are not adequate, it should contact the National Archives for review of the retention period.
9. Records coming within 'retain as national archives' class(es) in this authority have been determined to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*.
10. The Courts are not subject to the records transfer provisions of the *Archives Act 1983*. In the interests of accountable and consistent decision making and preservation of the archival resources of the Commonwealth, these records may be transferred to the custody of the National Archives of Australia, by mutual agreement between the Courts and the National Archives.
11. Records in the care of the Courts should be appropriately stored, managed and preserved. The Courts need to meet this obligation to ensure that the records remain authentic and accessible over time.
12. Advice on how to use this authority is available from the Courts' Information Management section. If there are problems with the application of the authority that cannot be resolved, please contact the National Archives.

Contact Information

For assistance with this authority or for advice on other information management matters, please contact National Archives [Agency Service Centre](#).

Agreement and Endorsement

Records Authorities 2022/00114873, 2022/00119857, 2022/00119922

Notice of endorsement

Person to whom notice of endorsement is given:

Sia Lagos
Chief Executive Officer and Principal Registrar
Law Courts Building
184 Phillip St
Queens Square
Sydney NSW 2000

Purpose

Determines records classed as 'retain as national archives' in this authority to be part of the archival resources of the Commonwealth under section 3C of the *Archives Act 1983*.

Endorses arrangements for the disposal of the Courts' records.

In relation to a decision by a Chief Justice or Chief Judge to retain records identified as 'retain as national archives' in the custody of the Courts, the Courts will:

- determine public access requests and ensure appropriate access in accordance with the relevant rules of the Courts that apply to all Court files; and
- provide the National Archives of Australia with a list of Court cases to be uploaded to RecordSearch, detailing closed cases that may be made available on request for public access on an annual basis.

Application

All core business records relating to Court Case Management, Court Service Delivery and Support, and Court Ceremonies Management.

Endorsement

This authority gives permission for the destruction or retention of the records described. It will apply only with the consent of the Courts currently responsible for the business documented in the records described.

This document has been endorsed through a digital workflow (R1206102022).

Authorising Officer	Date of issue
Yaso Arumugam Assistant Director-General, Data and Digital National Archives of Australia	22 November 2022

COURT CASE MANAGEMENT

The core business of hearing and deciding disputes according to law in original and appellant jurisdictions and managing cases (the Court file) from initiation to finalisation and judgment delivery. Includes case management in court jurisdiction both inherent and conferred by statute, including (but not limited to): administrative and constitutional law, admiralty and maritime, bankruptcy, commercial and corporations law, family law, federal crime, human rights, child support, employment and industrial law, intellectual property, migration, native title, and taxation.

The **core activities** include:

- receiving, assessing and processing documents that initiate court proceedings or to be filed in existing court proceedings;
- allocating resources to cases, including constituting the bench;
- conducting case management meetings, conferences and/or hearings;
- processing documents, exhibits or other items received from parties throughout proceedings;
- selecting and empanelling juries and managing jurors;
- issuing formal orders, directions, notices or referrals (as necessary) throughout the case;
- arranging, conducting or referring parties to alternative dispute resolution activities, including mediation, conciliation and arbitration;
- liaising with parties and/or their representatives throughout the case, including responding to enquiries, complaints, and providing general advice and assistance;
- liaising with external agencies and service providers to facilitate information sharing and the provision of support in respect of individual cases. This may include for example, legal aid commissions, prescribed state welfare agencies, police, dispute resolution providers, state courts or other key stakeholders;
- responding to requests for the inspection, copying or uplift of court documents;
- managing the detention and discharge of property under arrest;
- arranging and providing Court Children's Services in family law matters;
- finalising matters (by any means) and making and recording final orders and judgments;
- determining and managing court fees, including deferrals and waivers;
- handling appeals against decisions made by the Court or by other courts;
- receiving and responding to safety or security concerns during court events and referral of matters pertaining to the Marshal, and;
- managing registers or similar control records.

The performance of the core business is supported by **general administrative activities** such as:

- internal arrangements to hold case management events, conferences, hearings or similar forums;
- arrangements for individual case support services, such as childcare, legal, interpreter or other allied services, and;
- administration of subpoenaed material, exhibits or items provided or surrendered to the Courts.

Cross references to other areas of this Records Authority

For establishing and managing the framework for managing cases (i.e. through planning, policy, practice and procedure) and administrative support services to facilitate the effective and efficient processing and management of cases, including monitoring and managing caseloads, use COURT SERVICE DELIVERY AND SUPPORT

For general advice and information in relation to the Court's activities and services (i.e. factsheets, frequently asked questions, information guides, newsletters, etc.), use COURT SERVICE DELIVERY AND SUPPORT.

For selecting, nominating and maintaining lists of external providers (mediators, pro bono lawyers, Court Child Experts and Family Consultants, child care workers etc.), use COURT SERVICE DELIVERY AND SUPPORT

Classes

Class no	Description of records	Disposal action
62944	<p>Records documenting:</p> <ul style="list-style-type: none"> Registers and indexes that provide a summarised listing of all cases filed and managed by the Courts. All Native Title cases commenced under the <i>Native Title Act 1993 (Cth)</i> (including those decided, dismissed or discontinued). This includes all case records from initiation to finalisation, except for administrative records covered in classes 62948 to 62955. <p>Records documenting:</p> <p>Federal and Family law case records, with the exclusion of Native Title matters, that make up the official Court Record limited specifically to those principal case records that:</p> <ul style="list-style-type: none"> document the originating or initiating processes, interim or interlocutory processes, and identify the parties (e.g. applications, writs, petitions, notices of appeal etc.); define and summarise the issues before the Court (e.g. statements of claim, defence responses, etc.); record the final orders of the Court, or any orders or directions of the Court which create substantive rights and/or obligations. This includes reports of listing, drafts of final orders or short minutes of orders where no judgment is delivered or final orders entered; record judgments of the Court when they are in a written format; and document appeals against the Court's decisions, including copies of orders or directions received from higher bodies. <p>Also includes copies of marriage or birth certificates not issued in Australia and certificates of divorce/decree nisi of dissolution of marriage.</p> <p><i>For all other case records, use classes 62948 to 62955.</i></p>	Retain as national archives
62946	<p>Family Reports or Memorandums commissioned by the Court, or contemporaneous notes taken by Court Child Experts and Family Consultants, where records identify that the sexual abuse of children has occurred or is alleged to have occurred.</p> <p><i>For expert reports received in evidence that have not been commissioned by the Court, use class 62948.</i></p>	Destroy 45 years after action completed

Class no	Description of records	Disposal action
62947	<p>Family Reports or Memorandums commissioned by the Court that do not identify that the sexual abuse of children has occurred or is alleged to have occurred.</p> <p><i>For expert reports received in evidence that have not been commissioned by the Court, use class 62948.</i></p> <p><i>For contemporaneous notes taken by Court Child Experts and Family Consultants where notes do not identify that the sexual abuse of children has occurred or is alleged to have occurred, use class 62950.</i></p>	Destroy 20 years after action completed
62948	<p>Native Title case records, limited to:</p> <ul style="list-style-type: none"> • internal operational advice, liaison and working drafts of case records (applications, notifications, reports etc.) circulated for internal review where records are considered administrative/procedural in nature; • copies of case documentation received from the National Native Title Tribunal, such as copies of mediation reports, notifications, claim information, maps, registration test decisions and reasons etc.; • liaison with or enquiries from parties, their representatives where communications are of a low-level nature e.g. liaison and enquiries where the Court's response is standard and/or as set out in available procedures, guides etc. <p>All other supporting Court records and case file administration records not covered by 62944, including:</p> <ul style="list-style-type: none"> • final Chief Justice determinations regarding the constitution of the bench; • summary records identifying jurors in a case; • supporting documents received by the Courts in relation to an individual case which are not returned to parties and required to be retained on the case file. This might include (for example) witness statements, notices of risk, submissions regarding legal argument or interpretation of evidence, financial statements, asset valuations, expert reports, solicitor/client cost dispute records, undertakings, or (for family law matters specifically) copies of marriage or birth certificates issued in Australia, parenting plans, family questionnaires, undertakings etc.; • lists of exhibits to a case; • case management meetings and conferences; • orders, directions, notifications and referrals made by the Courts which are of an administrative/procedural nature. Includes reports of listing, and drafts or short minutes of orders where a judgment is delivered or final orders entered; • alternative dispute resolution activities, including reports on outcomes of mediation, arbitration or conciliation activities; 	Destroy 10 years after action completed

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • liaison between parties or their representatives, including responding to enquiries and providing general advice and assistance; • liaison with internal or external bodies as required to discuss and manage individual cases (e.g. the Court’s Marshal, enforcement, welfare, customs and border control agencies, or other courts. this includes the receipt of notifications or alerts from agencies; • executing arrests and managing the safe custody and release or sale of property under arrest, including correspondence to and from plaintiffs, agents, brokers, or other stakeholders, arrest and inspection logs, photographs and checklists recording the condition of property, records of expenses incurred, auction records etc.; • recordings and/or transcripts of hearing; and • determining and managing court fees, including deferrals and waivers <p><i>Excludes Family Reports and Memorandums commissioned by the Court in Family Law cases covered in classes 62946 and 62947.</i></p> <p><i>Note: Where supporting documents are considered significant in defining and summarising issues before the Court, they should be retained as per principal case records identified in class 62944.</i></p> <p><i>For standing arrangements with external bodies not in relation to an individual case, use COURT SERVICE DELIVERY AND SUPPORT.</i></p>	
62949	<p>Records documenting:</p> <ul style="list-style-type: none"> • the allocation of cases to judges, including the preparation of matter summaries, allocation recommendations, correspondence with relevant judges and registrars, judicial calendars, and docket composition reports; <p><i>Excludes final Chief Justice determinations constituting the bench as covered in class 62948.</i></p> <ul style="list-style-type: none"> • applications to the Courts which are rejected on the basis that they are frivolous, vexatious, do not comply with Court Rules, or otherwise out of the Court’s jurisdiction; • administrative arrangements for the provision of Court Children's Services, including allocating Court Child Experts and Family Consultants, correspondence with parties regarding appointments and ensuring and arranging supervised contact; <p><i>For arranging child care while parties are on the Courts’ premises, use class 62951.</i></p>	Destroy 5 years after action completed

Class no	Description of records	Disposal action
	<ul style="list-style-type: none"> • internal administration of subpoenaed material, exhibits or items surrendered to the Courts, such as registers or spreadsheets for the control of items received and receipts and letters returning items; • internal listings, notes or summaries of cases generated for internal reference; • processing of requests to inspect or copy case records, including requests to inspect subpoenaed material, requests for copies of transcripts, orders or judgments, and; • potential safety or security concerns before or during court events and measures taken to protect parties or others on the Court premises. Includes records of concerns raised or threats made, notifications to enforcement or other agencies (as necessary), safety plans and security incident reports. <p><i>For home security arrangements for judges or other statutory appointees, see JUDICIAL APPOINTMENTS.</i></p>	
62950	<p>Contemporaneous notes taken by Court Child Experts and Family Consultants during the conduct of family assessments, other than those described in class 62946.</p> <p><i>For Court Child Experts and Family Consultant Reports and Memorandums, use classes 62946 and 62947.</i></p>	<p>Destroy 1 year after case is finalised (including any appeal)</p>
62951	<p>Records documenting:</p> <ul style="list-style-type: none"> • organising and booking support services (child care, legal or interpreter services etc.). Includes liaising with support services, managing bookings, appointments, documenting attendance etc.; • court diaries, court lists, calendars and schedules for proceedings or matters before the Courts, and; • internal arrangements to organise meetings, conferences or hearings, such as room, facility, phone or video conferencing bookings. 	<p>Destroy 1 year after action completed or case finalised</p>
62952	<p>Records documenting the selection, empanelment and management of jurors. Includes:</p> <ul style="list-style-type: none"> • preparing and distributing questionnaires, and requests for exemption, • panel selection and other lists and worksheets, • jury administration including: <ul style="list-style-type: none"> ○ summonses and summons lists ○ criminal history checks ○ attendance records, and ○ arrangements to ensure the ongoing management of jurors (e.g. catering and security arrangements within the Court) <p><i>For summary records of the selected jury members on the case, use class 62948;</i></p>	<p>Destroy 3 months after case finalised</p>

Class no	Description of records	Disposal action
62953	Judges' coram/benchbooks/benchsheets recording notes made by judicial officers during the hearing of a case.	Destroy at the discretion of the Judge
62954	Books or bundles (appeal books, green books or court books) received from lower courts or tribunals, or from the Minister (in migration proceedings) containing documents from the original hearing and relevant to an appeal case before the Court.	Destroy once the appeal period has lapsed
62955	Records documenting: <ul style="list-style-type: none">• routine operational administrative tasks supporting the core business, and• other court case management activities, other than those covered in classes 62944 and 62946 to 62954.	Destroy 7 years after action completed

COURT SERVICE AND DELIVERY AND SUPPORT

The core business of providing services to support and facilitate the effective and efficient processing and management of court cases and services. This includes establishing and managing the framework for court case management (i.e. through planning, policy, procedure and process), managing and administering relationships with external stakeholder groups, and ongoing oversight and support for the delivery of case management services.

The **core activities** include:

- developing and reviewing plans, policies, practice directions and procedures;
- establishing and managing agreements;
- establishing, managing, participating in and arranging committees, meetings, working groups or similar forums;
- conducting or commissioning research;
- receiving or preparing and providing advice, briefings and reports;
- developing and disseminating information products such as factsheets, newsletters, guides etc. to facilitate understanding of court processes or services;
- fostering international relationships and collaborating with and providing technical expertise to, overseas jurisdictions;
- establishing and managing programs, projects and initiatives to improve the efficiency and effectiveness of court services, or client outcomes and experiences;
- organising conferences, seminars, workshops or similar events, and;
- monitoring caseloads, including ensuring the appropriate allocation of resources to cases.

The performance of the core business is supported by general activities such as:

- project administration;
- managing delegations of authority, and;
- arrangements for committees, meetings, conferences, seminars, workshops or similar forums.

Cross references to other areas of this Records Authority

For research, investigations, support and assistance, enquiries, or any other activity carried out expressly in support of an individual case, use COURT CASE MANAGEMENT.

For applications by parties to inspect court case files, use COURT CASE MANAGEMENT.

Cross references to AFDA Express version 2

For the administration of appointments of judges and all other officers appointed by the Court, including Chief Executive Officers/Principal Registrars, Judicial Registrars, Native Title Registrars, Assessors, other Registrars, Registry Managers, Marshals, Sheriffs, Family Consultants, use AFDA EXPRESS – PERSONNEL MANAGEMENT (62629).

Classes

Class no	Description of records	Disposal action
62967	<p>Records documenting:</p> <ul style="list-style-type: none"> • final version of high-level policies, practice directions, best practice principles or manuals that govern the conduct of matters before the Courts, provide the overarching framework for the management of the Courts' activities and operations, or are otherwise considered valuable in understanding how complex matters were managed over time. <p>Includes final version of administrative notices supplementing practice directions, issued by and relevant to individual district registries;</p> <ul style="list-style-type: none"> • final version of high-level plans and strategies which are subject to government level or media scrutiny, have far-reaching implications for the management of court cases and/or services, or reflect a major commitment to addressing complex and difficult issues facing the Courts; • high level agreements with domestic or international bodies, such as those relating to the establishment of significant partnerships or joint ventures, or which have substantial implications for the processing and management of court cases and/or delivery of support services; • high-level internal or external committees or similar groups responsible for making major decisions in relation to court policy, rules and practices and where the Court provides the chair, secretariat, or is the Commonwealth's main representative. Includes documents establishing or winding up the group and agenda, minutes and papers of meetings; • development, review and amendments to court rules, regulations and by-laws • national judges' meetings (either annual or bi-annual) held to discuss and deal with matters in relation to court policy, rules and practices. Includes minutes, agenda and background papers; • final versions of research papers or reports prepared or commissioned by the Court; • high-level advice, briefings and reports to internal or external stakeholders; • final reports of significant international collaborative programs, projects and initiatives; <p><i>For arranging and managing visits by delegates or to overseas courts, use AFDA EXPRESS - EXTERNAL RELATIONS.</i></p> <ul style="list-style-type: none"> • final reports, recommendations or other outcomes of significant programs, projects or initiatives aimed at improving the efficiency and effectiveness of court services, or client outcomes and experiences. 	Retain as national archives

Class no	Description of records	Disposal action
62968	<p>Instruments of authority enabling officers or staff of the Courts, or other courts, agencies or organisations, to exercise (either wholly or in part) judicial powers or functions. Includes appointments, standing arrangements, delegations and authorisations.</p> <p><i>For instruments that give authority to exercise administrative powers or functions, use class 62971.</i></p>	Retain as national archives
62969	<p>Records documenting:</p> <ul style="list-style-type: none"> • arrangements for conferences, seminars, workshops, committees, meetings, or similar events (e.g. bookings, catering, invitations and notices etc); • development of operational plans, policies, procedures, guides and manuals, and information resources, including circulated drafts, feedback and approvals, and; • notices served on the Court or other correspondence received which is dismissed, rejected or otherwise unacted on the basis that the communications do not relate to any cases/matters being processed by the Court (e.g. notices from liquidators, administrators or trustees). 	Destroy 1 year after action completed
62994	<p>Records documenting:</p> <ul style="list-style-type: none"> • Judicial committees relating to the business of the Courts, other than those covered in class 62967. Includes terms of reference, agendas, minutes and background papers. 	Destroy 10 years after action completed
62970	<p>Records documenting:</p> <ul style="list-style-type: none"> • internal advice, briefings and reports of an informal or ad hoc nature, such as internal operational advice, periodic reports and statistical updates (e.g. on number of cases, status of matters, monthly registry reports on activities etc.); and • final version of information resources (factsheets, guides, booklets, frequently asked questions etc.) developed by the Court which provide a plain English interpretation of legislative requirements or facilitate general understanding of court activities and processes. 	Destroy 5 years after action completed
62971	<p>Records documenting:</p> <ul style="list-style-type: none"> • routine operational administrative tasks supporting the core business; and • service delivery and support activities, other than those covered in classes 62967 to 62970. 	Destroy 7 years after action completed

COURT CEREMONIES MANAGEMENT

The core business of managing ceremonial occasions of significance to the Courts. This includes managing and documenting the functions and ceremonies that mark important occasions in the life and work of the Courts, such as the opening of Court buildings, swearing in new judges, the retirement of judges, and visits by dignitaries outside the jurisdiction of the Courts.

The core business includes the following tasks:

- arranging ceremonies and visits to the Courts; and
- arranging, attending and/or delivering speeches and presentations at ceremonies or similar Court events.

Cross references to AFDA Express version 2

For the administration of appointments of judges and all other officers appointed by the Court, including Chief Executive Officers/Principal Registrars, Judicial Registrars, Native Title Registrars, Assessors, other Registrars, Registry Managers, Marshals, Sheriffs, Family Consultants, use PERSONNEL MANAGEMENT.

For attendance at other conferences and the preparation and delivery of speeches and presentations, use EXTERNAL RELATIONS.

Class No	Description of records	Disposal action
62964	Records documenting: <ul style="list-style-type: none">• ceremonies and occasions significant to the Courts such as swearing in new judges and the retirement of judges. Includes transcripts and photographic, audio-visual and artistic records; and• visits to the Courts by heads of national jurisdictions, heads of international organisations, dignitaries and overseas delegations, including supporting documentation such as invitations, itineraries, programs and menus.	Retain as national archives
62965	Records documenting: <ul style="list-style-type: none">• routine administrative tasks supporting the core business; and• Court Ceremonial activities other than those covered in class 62964.	Destroy 7 years after action completed