



Telephone: (02) 9230 8567
DX 613 SYDNEY

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

Your Ref:
Our Ref:

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

29 August 2019

Mr Darron Thomas
Unit 108/2-4 Murray Street
BRUNSWICK WEST VIC 3055

By email: darron.thomas@gmail.com

Dear Mr Thomas,

Request under Freedom of Information Act

I refer to your email of 30 July 2019 to the Federal Court of Australia (**the Court**) in which you have sought access to a range of documents under the *Freedom of Information Act 1982* (Cth) (**FOI Act**). I also refer to my letter of 12 August 2019 acknowledging receipt of your request.

In your email of 30 July 2019, you make the following request (**FOI request**):

I hereby make a formal request for all documents identified as "Request for Additional Information – Implied by Your Correspondence" or as 'Request for access to additional documents in Annexure D' on page 12 of the decision letter of 23 July 2019 which is attached to correspondence from Scott Tredwell and/or John Mathieson of the same date. For obvious reasons and, if not so obvious, the misconduct of Scott Tredwell and/or John Mathieson, in that they have engaged in dishonest shams, per my emails between 3 and 4 pm on 30 July 2019, I hereby request that both Tredwell and Mathieson be recused from handling this request.

The reference in your FOI request to the decision letter of 23 July 2019 is to the internal review decision of Deputy Principal Registrar Mathieson in response to your request for internal review of 25 June 2019. Deputy Principal Registrar Mathieson summarised your request for additional documents, as he understood the request, as follows:

- documents referred to by Registrar Tredwell in his letter of 27 May 2019 in regard to the Court's standard practices for the management of information associated with CCTV footage captured in the Melbourne CLC;
- documents which shed light on a number of questions and/or statements posted by you in parts 7, 8, 9 and 10 of Annexure D;
- return of a copy of an affidavit lodged by you on 22 February 2019;
- other documents which are subject to specific Records Authorities, AFDA and other Disposal Authorities mentioned in part 11 of Annexure D;
- all documents relevant to the Court's compliance with AFDA, Archives Act and the Records Authorities mentioned in part 11 of Annexure D; and
- documents regarding the information registrars, or other officers of the Court, must cause to be entered on a file of a proceeding in the Court when a registrar rejects a documents lodged by an applicant or his, her or its legal representative.

The attachment to your email of 25 June 2019 which includes the details of your current FOI request is attached as Annexure A.

Authorised decision-maker

I am authorised under section 23(2) of the FOI Act to make decisions on behalf of the Court in relation to your request.

As relevant, subsection 23(2) of the FOI Act provides that a decision in respect of a request made to a court may be made on behalf of that court by the principal officer of that court or, subject to regulations, by an officer of that court acting within the scope of authority exercisable by him or her in accordance with the arrangements approved by the principal officer of that court.

You requested that both Deputy Principal Registrar Mathieson and I be recused from handling this request. You did so on the basis that both Deputy Principal Registrar Mathieson and I had purportedly engaged in dishonest shams. The alleged 'dishonest shams' referred to are referenced in two of your four emails to the Court between 3pm and 4pm on 30 July 2019, and relate to the internal review decision made by Deputy Principal Registrar Mathieson on 23 July 2019 and my FOI decision on 27 May 2019.

The FOI Guidelines issued by the Office of the Australian Information Commissioner (**the FOI Guidelines**) requires that a decision maker is required to follow a fair decision-making process, complying with the 'bias rule' and the 'hearing rule'.¹ The bias rule requires a decision maker to be impartial and have no personal stake in the decision to be made.² A decision maker must also be free of both actual and apparent bias, that is, of conduct that might appear to a fair-minded observer to affect their impartiality in reaching a decision.³

The FOI Guidelines further provide in respect of the bias rule, that generally, a decision maker is not prevented from making a decision by reason only of former contact with an FOI applicant, or by reason of having dealt previously with a similar issue or applicant, or having expressed a view about FOI Act principles or requirements.⁴

I am lawfully able to make a decision in respect of your request. I have had no other dealings with you, save for my FOI decisions dated 24 April 2019, 27 May 2019, 18 July 2019 and a response to a follow up query provided to you on 30 July 2019. There is no evidence to suggest that I have an actual bias. In addition, there is nothing to suggest that a fair-minded lay observer might reasonably apprehend that I might not bring an impartial mind to the making of a decision in response to your FOI request.⁵ Your request for my recusal is therefore refused.

¹ FOI Guidelines paragraph 3.15

² FOI Guidelines paragraph 3.16

³ FOI Guidelines paragraph 3.16

⁴ FOI Guidelines paragraph 3.18

⁵ see *Burgess v Minister for Immigration and Border Protection* [2018] FCA 69 at [34]; *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at [6]

Decision on your FOI Request

I have decided to grant access sought pursuant to your FOI request to the following document in full:

- Refuse to File Register and Rejected Documents Policy Recommendation.

I have decided to grant access sought pursuant to your FOI request to the following documents in part, with information exempt under section 47F, being the names, email addresses and telephone numbers of Court staff, redacted:

- Federal Court Records and Document Management Manual; and
- Federal Court Guide to Sentencing Physical Records;

I have decided to refuse access, for the reasons set out below, to the following documents sought pursuant to your FOI request:

- policy or standard procedures for the destruction of CCTV imagery: as no document containing the requested information exists, access is refused under section 24A(1)(b)(ii) of the FOI Act;
- documents relevant to how the Court might be fulfilling a purported role under Part VIID of the *Crimes Act 1914* (Cth): as no document containing the requested information exists, access is refused under section 24A(1)(b)(ii) of the FOI Act;
- affidavit lodged 22 February 2019 in the matter of Darron Thomas v University of Melbourne & Ors, VID1407/2018: as the FOI Act does not apply due to the operation of section 5(1) of the FOI Act; and
- documents specifically relevant to the Court's compliance with AFDA, the Archives Act and any other Records Authorities, in respect of the Court's erasure of CCTV imagery: as no document containing the requested information exist, access is refused under section 24A(1)(b)(ii) of the FOI Act.

In making my decision on your FOI request I have had regard to:

- a. the terms of your request;
- b. the content of the documents within the scope of your request;
- c. the relevant provisions of the FOI Act and case law considering those provisions; and
- d. the FOI Guidelines issued by the Office of the Australian Information Commissioner.

Reasons for Decision

Searches undertaken

Searches undertaken

The searches undertaken by the Court to identify documents within the scope of your FOI request have been extensive and exhaustive. Extensive consultation was undertaken with the officers and staff within the Court's various registries and the Corporate Services Group who are responsible for the management of the Court's information governance as well as records

and document management. A search of the relevant electronic and hard copy files of the Federal Court was also undertaken.

Consultation was also undertaken with security officers employed by MSS Security within the Owen Dixon Commonwealth Law Courts Building and other Commonwealth Law Courts Buildings.

I am satisfied that by conducting these searches the Court has taken all reasonable steps to identify the documents requested.

Limited application of the FOI Act to the Court

The FOI Act has a very limited application to the Court.⁶ It does not apply to Judicial Officers⁷ or to any documents relating to the handling of complaints about Judicial Officers⁸. Although the Court is a “prescribed authority” for the purposes of the FOI Act⁹ the only request that can validly be made to it under the FOI Act is to access a document that relates to matters of an administrative nature¹⁰.

The High Court of Australia considered the operation of section 5 of the FOI Act and the meaning of the phrase “matters of an administrative nature” in *Kline v Official Secretary to the Governor General of Australia & Anor* (2013) 249 CLR 645; [2013] HCA 52. In the joint judgment dismissing the appeal the Chief Justice and Justices Crennan, Kiefel and Bell acknowledged that:

The FOI Act does not apply to any request for access to a document of either a court or a specified tribunal, authority or body “unless the document relates to matters of an administrative nature”.¹¹

Further, the High Court held:

...the exception of a class of document which relates to “matters of an administrative nature” connotes documents which concern the management and administration of office resources, examples of which were given above. This is a common enough connotation of the epithet “administrative”.¹²

The examples referred to by the Court were a second category of assistance and support provided to the Governor-General by the Office of the Official Secretary. That category of support was the management and administration of office resources, such as financial and human resources and information technology.¹³ The first category, which was thereby excluded from the management and administration of office resources, included assisting and supporting the Governor-General’s discharge of substantive powers and functions.

⁶ paragraphs 2.6 – 2.8 of the FOI Guidelines

⁷ paragraph 5(1)(b) of the FOI Act

⁸ subsections 5(1A) to (1C) of the FOI Act

⁹ paragraph 5(1)(a)

¹⁰ section 5 of the FOI Act

¹¹ at [19]

¹² at [41]

¹³ at [13]

As relevant, the High Court then held that:

*Accordingly, the only documents which courts and specified tribunals, authorities and bodies are obliged to open to increased public scrutiny are those documents relating to the management and administration of registry and office resources.*¹⁴

The High Court, in considering the decision of *Bienstein v Family Court of Australia*¹⁵, held that decision to be erroneous in suggesting that even documents held by a court which related to individual cases might be characterised as documents relating to matters of an administrative nature, or that since some powers and functions of a judicial officer were administrative in nature, those administrative powers and functions which were not closely related to judicial independence would not need protection from the operation of the FOI Act.¹⁶

The High Court held that the reasoning in *Bienstein* accorded no weight to the circumstance that a judicial officer is not subject to the operation of the FOI Act, only a registry or office of a court or specified tribunal is subject to the operation of the FOI Act, and then only in respect of documents relating to administrative matters.¹⁷

In a separate judgment, Justice Gageler also dismissed the appeal. His Honour held that:

The distinction sought to be drawn by the appellant between documents which “relate to administrative tasks ... to support or assist the exercise of ... powers or the [performance] of functions”, on the one hand, and documents which answer that description but which would “disclose the decision-making process involved in the exercise of those powers or performance of those functions in a particular matter or context”, on the other, is too fine to be sustained. The true distinction is more robust and more practical.

*Matters which do not relate to the provision of logistical support do not become “administrative” merely because they are in some way preparatory to an exercise of a substantive power or to the performance of a substantive function.*¹⁸

Conditional Exemption under s 47F FOI Act

As relevant, section 47F of the FOI Act provides as follows:

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
 - (a) *the extent to which the information is well known;*
 - (b) *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
 - (c) *the availability of the information from publicly accessible sources;*
 - (d) *any other matters that the agency or Minister considers relevant.*

¹⁴ at [47]

¹⁵ (2008) 170 FCR 382

¹⁶ at [51]

¹⁷ at [51]

¹⁸ at [75] and [76]

In considering what is unreasonable, the AAT in *Re Chandra and Minister for Immigration and Ethnic Affairs* [1984] AATA 437 at 259 stated that:

...whether a disclosure is 'unreasonable' requires ... a consideration of all the circumstances, including the nature of the information that would be disclosed, the circumstances in which the information was obtained, the likelihood of the information being information that the person concerned would not wish to have disclosed without consent, and whether the information has any current relevance ... it is also necessary in my view to take into consideration the public interest recognised by the Act in the disclosure of information ... and to weigh that interest in the balance against the public interest in protecting the personal privacy of a third party ...

The term "personal information" is defined in section 4 of the FOI Act to have the same meaning as in the *Privacy Act 1988* (Cth), that is:

...information or an opinion about an identified individual, or an individual who is reasonably identifiable:
(a) whether the information or opinion is true or not; and
(b) whether the information or opinion is recorded in material form or not.

Documents that do not exist - paragraph 24A(1)(b)(ii)

Section 11 of the FOI Act provides:

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister belief as to what are his or her reasons for access.

The FOI Act therefore provides a legally enforceable right to obtain access to various documents. Subsection 24A(1) of the FOI Act relevantly provides:

- (1) An agency or Minister may refuse a request for access to a document if:
 - (a) all reasonable steps have been taken to find the document; and
 - (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency's or Minister's possession but cannot be found; or
 - (ii) does not exist.

Policy or Standard Procedure for Destruction of CCTV Imagery

The specific detail of this aspect of your request may be found within Annexure A on page 4 and 5, and numbered request 7, 7(a) - (g) and 8.

In my FOI decision of 27 May 2019, I stated the following:

It was found that no CCTV footage dating from either 10 October 2018 or 20 February 2019 had been retained. All footage relating to these dates has been erased consistent with the Court's standard practices for the management of information associated with CCTV footage captured in the Owen Dixon Commonwealth Law Courts Building and other Commonwealth Law Court Buildings around the country.¹⁹

¹⁹ FOI Decision, 27 May 2019, page 5

You now request the policy/standard procedure referenced in my correspondence.²⁰

The Court's standard practice for the management of information associated with CCTV imagery is not articulated in a formal policy document. Consistent with that fact, despite the consultation and searches undertaken and documented at the commencement of this decision, no documentation, formal or otherwise, relating specifically to the Court's standard practice for the management of information associated with CCTV imagery, and in particular its regular erasure, was identified.

I am satisfied that all reasonable steps were taken to try to identify a document or documents falling within the scope of your request. I am satisfied that no documentation, formal or otherwise, relating specifically to the Court's standard practice for the management of information associated with CCTV imagery, and in particular its regular erasure, exists.

Your FOI request is refused pursuant to section 24A(1)(b)(ii) of the FOI Act to the extent that it seeks access to documentation which does not exist.

General Document or Information Destruction Procedures

The specific detail of this aspect of your request may be found within Annexure A on pages 4 and 5, and numbered request 7(a) – (g) and 8.

In the event that your requests numbered 7(a) – (g) and 8 were intended to include policies and procedures beyond those relating specifically to CCTV imagery for which no documentation exists, the Court sought to identify general document or information management and destruction procedures or policies that might fall within the scope of your request.

Two documents were identified as being within the scope of this request, namely the:

- Federal Court Records and Document Management Manual; and
- Federal Court Guide to Sentencing Physical Records.

The Federal Court Records and Document Management Manual is a collection of policies and other materials held by the Court on the Federal Court intranet and available to all staff of the Court.

Personal Information

Both the Federal Court Records and Document Management Manual and the Federal Court Guide to Sentencing Physical Records contain the names, email addresses and direct telephone numbers of Court staff. I am satisfied that this is personal information pursuant to section 4 of the FOI Act.

As provided by section 47F of the FOI Act, a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information. In considering the unreasonableness of the disclosure of identified names, email addresses and telephone numbers of the staff of the Court, regard must be had to the matters listed in

²⁰ see Annexure A, page 4

subsection 47F(2) and the decision of the AAT in *Re Chandra and Minister for Immigration and Ethnic Affairs*.

The majority of the names, email addresses and telephone numbers will not be well known. It is also likely that the individuals identified in the documents are not known to be associated with those matters.

The names of some individuals employed by the Courts, such as Registrars, are available from publicly accessible sources, each being accessible on the Court's website. However, that website does not include direct email addresses or telephone numbers.

In considering any other matters that might be relevant pursuant to paragraph 47F(2)(d) and a consideration of all the circumstances as guided by *Re Chandra and Minister for Immigration and Ethnic Affairs*, I note firstly that the personal information included within the documents is included in the document because of the usual duties and responsibilities of the individuals concerned. It has been found that it is not unreasonable to disclose an individual's name in those circumstances unless special circumstances exist; *Maurice Blackburn Lawyers and Department of Immigration and Border Protection*.²¹

In *Re Bartucciottto and Commonwealth Ombudsman* it was held that in circumstances where an applicant had a particular propensity to pursue his concerns obsessively, it was proper to refuse disclosure to him of the means of direct contact with individual Commonwealth officers.²²

It is apparent that your dealings with the Court have disclosed such a propensity, and that the principles of *Re Bartucciottto and Commonwealth Ombudsman* are directly applicable. The inappropriateness of your conduct toward the Courts and its officers has been reported most recently in *Thomas v University of Melbourne* (No 3) [2019] FCA 92 and in respect to Tribunals in *Thomas v University of Melbourne (Review and Regulation)* [2019] VACT 1043. In addition, you have been escorted by the police from the Victoria Registry of the Court on a number of occasions.

These behaviours lead me to conclude that the disclosure of the names, email addresses and the phone numbers of the individuals identified would be an unreasonable disclosure of personal information.

Before considering the public interest test required by subsection 11A(5), I note there is a public interest recognised by the Act in the disclosure of information. However, in the circumstances identified above and where its disclosure would be inconsistent with the Court's obligations under the Privacy Act, I have concluded that the information requested contains information that is conditionally exempt under subsection 47F(1) of the FOI Act.

²¹ [2015] AICmr 85 at [3]

²² [2005] AATA 1109

Public Interest Test

Subsection 11A(5) of the FOI Act provides:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

In considering that “public interest test”, a number of factors set out in subsection 11B(3) of the FOI Act must be taken into account. These are that disclosure would:

- promote the objects of the FOI Act;
- inform debate on a matter of public importance;
- promote effective oversight of public expenditure; and
- allow a person to access his or her personal information.

Disclosure would broadly promote the objects of the FOI Act by providing you and the Australian community access to information held by the Government, and enhancing the scrutiny of Government decision-making. Significant weight is given to the fact that disclosure would promote the objects of the FOI Act.

Little weight is given to the ability of this information, should it be released, to inform debate on a matter of public importance. The information concerned does not allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or reveal or substantiate that an agency or official had engaged in misconduct or negligent, improper or unlawful conduct.

Disclosure would not promote effective oversight of public expenditure so little weight is given to this factor.

As this is not an instance where you are seeking access to your own personal information, this is not a relevant factor to be considered.

Another factor favouring disclosure would be that disclosure may advance the fair treatment of individuals in accordance with the law in their dealings with agencies and provide transparency in respect of those dealings. Significant weight is given to this factor.

The public interest factors weighing against a finding that it would be in the public interest to disclose the information within the scope of the request for access are a development of those issues identified previously. These factors stem from an unreasonable disclosure of personal information in circumstances where you have demonstrated a particular propensity to pursue your concerns obsessively and the manner in which those concerns are pursued. There is some potential impact upon Court staff from the release of information with the scope of the request. This potential impact is within the public interest. Significant weight is given to this factor.

Some staff of the Court exercise judge delegated functions. The release of personal information of the staff who exercise these functions would, or could reasonably be expected, to increase security risks associated with the performance of those functions and potentially make it more difficult to exercise those functions in an independent and impartial manner, and without fear of personal retribution. Some weight is given to this factor.

After considering each of these factors and the weight given to each, and where disclosure would otherwise be inconsistent with the Federal Court's obligations under the Privacy Act, I am not satisfied that disclosure of that information found to be conditionally exempt under section 47F of the FOI Act would be in the public interest.

Redaction appropriate

Where access to the requested documents is refused, section 22 of the FOI Act provides that an edited copy of the documents may be provided if it is possible to redact exempt information. Under that section, irrelevant information may also be redacted.

Notwithstanding my findings, detailed above, to refuse access to a number of documents on the basis that they would be an unreasonable disclosure of personal information and exempt under section 47F of the FOI Act, I am required by section 22 of the FOI Act to consider whether access may be granted to a document or documents following the redaction of exempt information.

There is a significant public interest in the promotion of the FOI Act by providing access to information held by the Government, and enhancing the scrutiny of Government decision-making. Access should therefore be given where it is possible to do so without disclosing exempt information.

The exempt information in documents currently under consideration is discrete in that it consists of readily identifiable information being the names, email addresses and telephone numbers of various individuals. The personal nature of this information could be protected by redaction. In addition, if this information were redacted, the relevant documents would retain meaning.

As it is possible to promote the purpose of the FOI Act by providing access to meaningful information, whilst protecting exempt information, I have decided that it would be appropriate to release the relevant documents provided the names, email addresses and telephone numbers of the relevant individuals are redacted.

The Federal Court Records Management Policy and the Federal Court Guide to Sentencing Physical Records are provided with the names, email addresses and direct telephone numbers of Court staff redacted. They are attached and marked respectively as Annexure B and Annexure C.

Crime Legislation Amendment (Powers, Offences and Other Measures) Act 2018

The specific detail of this aspect of your request may be found within Annexure A on page 5, and numbered request 9.

You have requested that the Court provide all documentation relevant to how the Court is fulfilling its role under the *Crime Legislation Amendment (Powers, Offences and Other Measures) Act 2018*, given the purported misconduct you reported on 22 May 2019.

The *Crime Legislation Amendment (Powers, Offences and Other Measures) Act* amended the *Crimes Act 1914 (Cth)* by inserting Part VIID which authorised the collection, use and disclosure of personal information for preventing, detecting, investigating or dealing with:

- (a) serious misconduct by persons working for Commonwealth bodies; or
- (b) fraud affecting Commonwealth bodies; or
- (c) offences against Chapter 7 of the Criminal Code (which is about the proper administration of Government).

Consultations and searches were undertaken consistent with those documented at the commencement of this decision. No documentation was identified relevant to how the Court might be fulfilling any purported role under PVIID of the *Crimes Act*, either in general terms or relating specifically to your correspondence of 22 May 2019.

I am satisfied that all reasonable steps were taken to try to identify a document or documents falling within the scope of your request. I am satisfied that no documentation, formal or otherwise, relevant to how the Court might be fulfilling any purported role under Part VIID of the *Crimes Act*, either in general terms or relating specifically to your correspondence of 22 May 2019, exists.

Your FOI request is refused pursuant to section 24A(1)(b)(ii) of the FOI Act in that it seeks access to documentation which does not exist.

Documentation Concerning the Administrative Functions Disposal Authority

The specific detail of this request may be found within Annexure A on page 5, and numbered request 9.

You have requested all documentation relevant to how the Court fulfils its functions concerning the Administrative Functions Disposal Authority (AFDA) and section 24 of the *Archives Act 1983 (Cth)*.

Two documents were identified as being within the scope of this request, namely the:

- Federal Court Records Management Policy; and
- Federal Court Guide to Sentencing Physical Records.

The Federal Court Records Management Policy and the Federal Court Guide to Sentencing Physical Records are provided with the names, email addresses and direct telephone numbers of Court staff redacted, for reasons previously explained. They are attached and marked respectively as Annexure B and Annexure C.

Return of Affidavit lodged 22 February 2019

The specific detail of this aspect of your request may be found in Annexure A at page 5, and numbered request 11.

On 22 February 2019, you lodged with the Victoria Registry of the Court an affidavit in the matter of *Darron Thomas v University of Melbourne & Ors*, VID1407/2018. You now request that a copy of this affidavit be returned.

Pursuant to section 5(1) of the FOI Act and following the decision of the High Court in *Kline v Official Secretary to the Governor General of Australia & Anor*, I am satisfied that the affidavit which you lodged is not a document relating to the management and administration of registry and office resources. The affidavit remains a document specifically related to those proceedings within the Court.

I am satisfied that the affidavit is not a document related to matters of an administrative nature pursuant to section 5(1) of the Act. Affidavits lodged or filed in a proceeding of the Court are not accessible under the FOI Act and your FOI request, to the extent that it seeks the affidavit, is therefore refused.

Your request for the return of the affidavit lodged 22 February 2019 has however been forwarded to the Victoria Registry for their consideration.

Documents relevant to the Federal Court's compliance with AFDA, Archives Act and Records Authorities that relate to the documents for which access has been denied.

The specific detail of this aspect of your FOI request may be found in Annexure A at page 6, and numbered 11.

You have requested all documents relevant to the Court's compliance with the AFDA, *Archives Act 1983*, Records Authority 2010/00315821 and/or other Records Authority mentioned (presumably Records Authority 2011/00681744 which you mention specifically) as it relates to the documents for which access has been denied.

In my FOI decision of 27 May 2019, access was denied to CCTV imagery from 10 October 2018 and 20 February 2019 pursuant to section 24A(1)(b)(ii) of the FOI Act. The CCTV imagery had been erased consistent with the Court's standard practices for the management of information associated with CCTV imagery. Access to all other documents sought in your FOI request were denied pursuant to the FOI Act in that they did not exist and never existed. It is therefore assumed that your current request relates only to the relevant CCTV imagery.

Consultations and searches were undertaken consistent with those documented at the commencement of this decision. There were no documents specifically relevant to the Court's compliance with AFDA, the Archives Act and any other Records Authorities, in respect of the Court's erasure of CCTV imagery.

In more general terms, the Federal Court Management Policy falls within the scope of your request.

The Federal Court Records Management Policy and the Federal Court Guide to Sentencing Physical Records are provided with the names, email addresses and direct telephone numbers of Court staff redacted. They are attached and marked respectively as Annexure B and Annexure C.

Documents regarding the information entered on a file when a document is refused for filing

The specific detail of this aspect of your request may be found in Annexure A at page 6 and numbered request 12.

You have requested any documentation or policy regarding what information Registrars or other officers of the Court must cause to be entered on the file of a matter when a Registrar refuses to accept a document for filing.

Consultation was undertaken with Court staff within the various Registries, as well as officers and staff within the Court's Corporate Services Group. In addition, searches were made of the Court's electronic and hard copy files to determine if such documentation existed.

The outcome of those consultations and searches was the identification of the Refuse to File Register and Rejected Documents Policy recommendation of the Court Records Policy Committee.

I am satisfied that all reasonable steps were taken to try to identify a document or documents falling within the scope of your request. I am satisfied that no additional documentation or policy exists, regarding what information Registrars or other officers of the Court must cause to be entered on the file of a matter when a Registrar refuses to accept a document for filing.

The Refuse to File Register and Rejected Documents Policy recommendation of the Court Records Policy Committee is provided in full and attached at Annexure D.

Charges

You have not been charged for the processing of your request.

Your Review Rights

If you are dissatisfied with my decision, you may apply for internal review or to the Information Commissioner for review of those decisions. I encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Federal Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information

Commissioner must be made in writing within 60 days of the date of this letter and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>

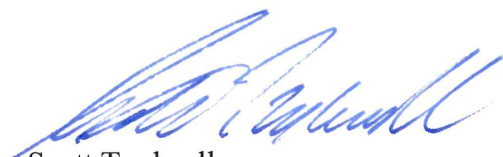
email: enquiries@oaic.gov.au

post: GPO Box 2999, Canberra ACT 2601

in person: Level 3, 175 Pitt Street, Sydney NSW

More information about the Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Yours sincerely



Scott Tredwell

Registrar, Principal Registry

Dear FOI Officer of the Federal Court of Australia,

I hereby make a formal request for access to the following documents under the Freedom of Information Act (Cth) 1982:

1. The CCTV footage of the Level 7 Registry of the Victoria District Registry of the Federal Court of Australia (FCA) on 10 October 2018, in so far as said CCTV footage captures Darron Thomas. Please be reminded of the FCA's/your duties under the Administrative Functions Disposal Authority (AFDA).
2. The CCTV footage of any part of the FCA building at 305 William Street, Melbourne Vic, 3000 on 10 October 2018, in so far as said CCTV footage captures Darron Thomas. Please be reminded of the FCA's/your duties under the AFDA.
3. The CCTV footage of the Level 7 Registry of the Victoria District Registry of the Federal Court of Australia (FCA) on 20 February 2019 between 10:20 AM and 10:50 AM, in so far as said CCTV footage captures Darron Thomas. Please be reminded of the FCA's/your duties under the AFDA.
4. As it relates to 10 October 2018 3:30 PM and 5 PM, 20 February 2019 between 10:20 AM and 10:50 AM; 22 February 2019 between 4 PM and 5 PM, the following statistics regarding FCA files on which documents were entered or other activity undertaken as a result of a party or their representative making a physical appearance, or by any process not involving a physical appearance, at the specified times, at the Level 7 Registry of the FCA -- the Victoria District Registry of the FCA:
 - (a) on the day and time in question, the title of each file -- for example, Walker (a Minor) v State of Victoria --; and the associated file number of each file -- for example, VID1304/2018;
 - (b) on the day and time in question, the total number of files captured in the reference group and the type of documents lodged, for example affidavit sworn in person at the time;
 - (c) on the day and time in question, the number of parties who appeared filed documents at the Victoria District Registry in person, or by any process not involving a physical appearance, along with the associated file title and file number
 - (d) on the day and time in question, along with the associated file title and file number, the number of parties on whose behalf a representative who is not a legal practitioner appeared at the Victoria District Registry, or by any process not involving a physical appearance lodged documents or completed any other process regarding or relating to a matter, potential matter, administrative issue or other purpose;
 - (e) on the day and time in question, along with the associated file title and file number, the number of parties on whose behalf a representative who is a legal practitioner appeared at the Victoria District Registry, or by any process not involving a physical appearance lodged documents or completed any other process regarding or relating to a matter, potential matter, administrative issue or other purpose.

5-5. [Please note that computers and statistical software program, including Microsoft Excel, can read and search text. As such, for this request, please get your statistician, or other responsible (collating) officer, to use a computer to find the text

appearing after the final comma, except “indicating” and/or the text in parentheses, in each subparagraph. For example, text such as, in the case of 5(a), “the applicant will need to request leave to amend” or variants of this text, including the individual words or other key phrase, should be searched in the FCA’s computer/electronic records. Thereafter, your “collation officer” should be able to compile the relevant statistics]. For each of the last two years, for each item listed at (a) through (h), I am

requesting statistics on (i) the total number of originating applications submitted using Form 81 for which amendments to the originating application were requested; (ii) the proportion of the Court’s files described at “(i)” in which leave to amend is requested, that leave is deemed “processed and accepted”, thereafter a draft document consistent with Federal Court Rules (FCR) 8.21 - 8.24 is submitted, and any of the following happens:

(a) Where the applicant is self-represented, a Registrar writes back to the applicant, indicating (or making any statement to a similar effect) that the applicant will need to request leave to amend;

(b) Where the applicant is represented by one or more legal practitioners, a Registrar writes back to the applicant, or their legal representative, indicating (or making any statement to a similar effect) that the applicant will need to request leave to amend;

(c) Where the applicant is represented by one or more persons who are not legal practitioners, a Registrar writes back to the applicant, or their representative, indicating (or making any statement to a similar effect) that the applicant will need to request leave to amend;

(d) Where the applicant is self-represented, a Registrar writes back to the applicant, indicating (or making any statement to a similar effect) that the applicant will need to submit a draft document consistent with FCR 8.21-8.24;

(e) Where the applicant is represented by one or more legal practitioners, a Registrar writes back to the applicant, or their legal representative, indicating (or making any statement to a similar effect) that the applicant will need to submit a draft document consistent with FCR 8.21-8.24;

(f) Where the applicant is represented by one or more persons who are not legal practitioners, a Registrar writes back to the applicant, or their representative, indicating (or making any statement to a similar effect) that the applicant will need to submit a draft document consistent with FCR 8.21-8.24;

(g) Where the applicant is self-represented, a Registrar, or a person carrying out the functions of a Registrar, writes back to the applicant indicating (or making any statement to a similar effect) that the documents have been accepted, but this cannot be reflected on the system, instead the system will reflect that the documents have been rejected;

(h) Where the applicant is represented by one or more persons who are either legal practitioners or other kind of representative, a Registrar, or a person carrying out the functions of a Registrar, writes back to the applicant or their representative

indicating (or making any statement to a similar effect) that the documents have been accepted, but this cannot be reflected on the system, instead the system will reflect that the documents have been rejected.

6. [Please note that computers and statistical software program, including Microsoft Excel, can read and search text. As such, for this request, please get your statistician, or other responsible (collating) officer, to use a computer to find the text appearing after the final comma, except "indicating" and/or the text in parentheses, in each subparagraph. For example, text such as, in the case of 6(a), "that the applicant has not requested leave to amend, or leave to add parties" or variants of this text, including the individual words or other key phrase, should be searched in the FCA's computer/electronic records. Thereafter, your "collation officer" should be able to compile the relevant statistics. Otherwise, feel free to provide me with the complete information and I will do the collation myself]. For each of the last two years, for each item listed at (a) through (f), I am requesting statistics on (i) the total number of originating applications or requests for leave to appeal submitted using Form 81, 116, 15, 118 or 122 for which leave to amendment an originating application, including adding parties, or urgency is requested by way of an accompanying letter; (ii) the proportion of applicants falling in the category at sub-item "(i)", who are not designated vexatious litigants, who have all their submissions made in any three (3) month period either rejected or listed as pending because information is needed from within the court; (iii) the proportion of applicants falling in the category at sub-item "(i)", who are not designated vexatious litigants, who have multiple submissions made in any three (3) month period listed as pending because information is needed from within the court, and that pending status persists for two (2) or more months without any further activity; (iv) the proportion of applicants, who are not designated vexatious litigants, who have multiple submissions made submitted via eLodgment, but does not receive any correspondence from the court regarding said submission after five (5) or more business days have elapsed; (v) the proportion of applicants who have lodged documents, including Forms 118 and/or 122, or originating applications, and have selected the urgent option on eLodgment, or have submitted a letter requesting urgency, and the originating application is not heard within 30 days, or the leave to appeal is not heard within three months; and any of the following is the case:

(a) Where the applicant is self-represented, a Registrar writes back to the applicant indicating (or making any statement to a similar effect) that the applicant has not requested leave to amend, or leave to add parties;

(b) Where the applicant is represented by one or more legal practitioners, a Registrar writes back to the applicant, or their legal representative, indicating (or making any statement to a similar effect) that the ~~the~~ Registrars or other officers of the court have powers conferred by statute, but refuses to identify the specific statute as well as the relevant sections or subsections of the relevant statute;

(c) Where the applicant is represented by one or more persons who are not legal practitioners, a Registrar writes back to the applicant, or their representative, indicating (or making any statement to a similar effect) that the ~~the~~ Registrars or other officers of the court have powers conferred by statute, but refuses to identify

the specific statute as well as the relevant sections or subsections of the relevant statute;

(d) Where the applicant is self-represented and submits documents prior to the judge making orders to vacate a hearing, a Registrar, or a person carrying out the functions of a Registrar, writes back to the applicant indicating (or making any statement to a similar effect) that the judge has made orders vacating the hearing and, as such, the submissions are an abuse of process;

(e) Where the applicant is represented by one or more legal practitioners and submits documents prior to the judge making orders to vacate a hearing, a Registrar, or a person carrying out the functions of a Registrar, writes back to the applicant or their legal representative indicating (or making any statement to a similar effect) that the judge has made orders vacating the hearing and, as such, the submissions are an abuse of process;

(f) Where the applicant is represented by one or more persons who are not legal practitioners and submits documents prior to the judge making orders to vacate a hearing, a Registrar, or a person carrying out the functions of a Registrar, writes back to the applicant, or their representative, indicating (or making any statement to a similar effect) that the judge has made orders vacating the hearing and, as such, the submissions are an abuse of process.

Where the FOI officer finds that the documents requested at items 1-4 can be processed within 1-3 weeks or less, but that the requests outlined at items 5 and 6 would take longer, I am amenable to the items at 1 through 4 being provided in the shortest possible time. In other words, if obtaining items 5 and 6 would cause items 1-4 to take more than 1-3 weeks to be processed, please process items 1-4 before addressing items 5 and 6.

Request for Additional Information – Implied in Your Correspondence

7. In your correspondence circa 27 May 2019, you alluded to documents being 'erased consistent with standard practice', I take this to mean the standard personal information/document destruction procedure of the Federal Court of Australia (FCA). Largely based on this information from your correspondence, I also now request the actual policy/standard procedure referenced in your correspondence and any documents relating to the following:

Any document which sheds light on the questions and/or statements:

- a) Are your staff informed of document destruction procedures?
- b) Is destruction of personal information done in-house or outsourced?
 - i. If outsourced, what steps have you taken to ensure appropriate handling of the personal information?
- c) Has personal information contained in hard copy or electronic records that are disposed of through garbage or recycling collection been destroyed through a process such as pulping, burning, pulverising, disintegrating or shredding?

- d) Is hardware containing personal information in electronic form properly 'sanitised' to completely remove the stored personal information?
- e) Have steps been taken to verify the irretrievable destruction of personal information stored by a third party on a third party's hardware, such as cloud storage? Where the third party has been instructed by the organisation to irretrievably destroy the personal information, have steps been taken to verify that this has occurred?
- f) Are back-ups of personal information also destroyed? Are backups arranged in such a way that destruction of backups is possible? If not:
 - i. have steps been taken to rectify this issue in the future?
 - ii. has the backed-up personal information been put beyond use?
- g) How is compliance with data destruction procedures monitored and enforced?

8. Destroying personal information held in electronic form — putting beyond use

Where it is not possible for an entity to irretrievably destroy personal information held in electronic format, reasonable steps to destroy it would include putting the personal information 'beyond use'. For example, this could include where technical reasons may make it impossible to irretrievably destroy the personal information without also irretrievably destroying other information held with that personal information. As a matter of standard practice, or otherwise, are there any documents consistent with this statement?

9. Do note that any exemptions claimed under the FOI Cth are vacated by the **CRIMES LEGISLATION AMENDMENT (POWERS, OFFENCES AND OTHER MEASURES) ACT 2018 (NO. 75, 2018) - SCHEDULE 7** at ss 1, 1(a), 1(b), 1(c), 1(d); 3 with reference to 86B, 86C, 86D, 86E; 3(1); 3(2); 3(3); and 4. Given the misconduct which was reported to the FOI section of the FCA via email on 22 May 2019, please provide all documentation relevant to how the FCA is fulfilling it's role under the legislation referenced in this item.

10. The Administrative Functions Disposal Authority (AFDA) identifies minimum retention periods for Commonwealth records and authorises the destruction of Commonwealth records as required by Section 24 of the Archives Act 1983 and is issued for use across the Commonwealth. Please provide all documentation relevant to how the FCA fulfils its functions concerning the details referenced in this item.

11. The Records Authority 2010/00315821 Federal Court of Australia, AFDA/AFDA Express, Records Authority 2011/00681744 Tribunals (at 58900 and other class no.s) requires the FCA to keep records for case management purposes and for general administrative purposes for at least one year, please return the copy of the affidavit submitted on 22 February 2019, which is claimed to be unsigned. Please also furnish any other document the subject of my request which is also subject to Records Authority 2010/00315821 Federal Court of Australia, AFDA/AFDA Express, and/or Records Authority 2011/00681744 Tribunals. Or are you willing to admit that the FCA impermissibly and/or illegally destroyed records? Please provide all documents relevant to the FCA's compliance with the AFDA, Archives Act 1983 and/or other Records Authority mentioned in this item as it relates to the documents for which access has been denied.

12. Please also provide documentation or the policy regarding what information Registrars or other officer(s) of the FCA must cause to be entered on the file of a matter when a Registrar rejects a document filed by an applicant or the applicant's representative. In processing this request, you must have regard to the following non-exhaustive list:

- a) Whether the applicant is represented;
- b) Whether the applicant is requesting an amendment;
- c) Whether the applicant has requested leave to amend and whether the leave requesting leave has been accepted, or leave has been granted;
- d) Whether the applicant has submitted a document consistent with FCR 8.21-8.24.
- e) Whether all the applicant's documents over any period exceeding five (5) business days or more have either been rejected or listed as pending;

Yours Sincerely,

Darron Thomas

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Records and Document Management

Introduction

Welcome to the Records and Document Management webpage. This webpage has practical advice on records/documents and archives. It explains how to create, organise, access, store and dispose of records and documents in multiple formats. Feedback is welcome by emailing



Court Record

- [Defining the Court Record \(CJ Memo February 2010\)](#)
- [Court Record: paper presented at AIJA Librarians' Conference 21 August 2015](#)

Digital Information Management eLearning Modules

The Court introduced an electronic court file to manage court files in 2014. The Court is now moving to a digital file for administrative records as set out in the [Registrar's memo](#) on 1 July 2015.

By the end of 2015 the Federal Court is expected to have in place digital information management capability to ensure that records and information born digital remain digital. In other words if a document is received digitally it should remain digital and not be printed to paper. [Read more about eLearning Modules.](#)

[New video - Managing email](#)

Contact


Records and Archives Project Manager

Phone: 

Fax: 

Related Links

- [Information Management](#)

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Records and Document Management

ABOUT ARCHIVES

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Policy

What is an archive?

Archives are documents made or received and accumulated by the court in the course of business and kept because of their continuing evidentiary, administrative or historical value. The word "Archives" can also refer to a building, organisation, artwork or part of an organisation responsible for preserving archives.

Archival documents can include personal material such as correspondence and photographs, or administrative records such as legal, financial, personnel records or minutes of meetings. They can be electronic or paper based and can include films and videotapes, audio cassettes, CD's and DVD's, computer records, maps, plans or photographs.

Some characteristics of archives are:

- They are unique; being original or primary information sources and are not generally available in duplicate form.
- They are arranged according to provenance - the organisation or person that accumulated them.
- They often derive their value from their context in relation to other documents or archives.

Archives collection

The Court archives contain historical material dating back to the Court's foundation. It includes photographs, video recordings, orders of proceedings for ceremonial sittings, and photographs of Court social and official occasions. It also includes Court officer uniforms and gowns worn by previous Judges. It holds papers of the first Chief Justice, The Hon. Sir Nigel Bowen, AC, KBE, first swearing-in of Federal Judges in 1977 and the Coram books of Judges who have retired or resigned. More recently the archives collection has including records in electronic format, such as videos of judgment summaries, digital photographs of remote hearings and DVD's of welcome and farewell ceremonies.

Accessing court archives

Electronic archives

Many of the Courts archives can be viewed in electronic format via the [Image Gallery](#). Archives available electronically include Judge's welcome and farewell ceremonies, a list of past and present judges including photos and other information, court realia, historical documents and articles, information about Federal Court buildings, court artworks and official crests.

See also: [Photographic requirements for new and retiring Judges](#) [doc]

Paper archives

The collection has an expansive number of papers and memorabilia representing the court's history since it was established in 1976. This collection is presently kept at the National Archives NSW Office under a Memorandum of Understanding between the Chief Justice and the Director General of National Archives. This arrangement is a temporary one while the Law Courts Building in Sydney is being refurbished. A database of archival records is held on RecFind the Courts Records Management System. Access to these records is available by contacting the [Court Archivist](#).

Archives Database

The Court's archives are recorded on RecFind (Court's document management system). Access is available to Registry Librarians and staff in the Chief Justice's chambers. Searching requests and borrowings are available depending on access requirements.

Judges leaving Court

The Court Archivist will contact chambers prior to a Judge leaving to inquire if the Judge is interested in leaving items for the Court archives. Items can include memorabilia, photos, personal papers, coram books and diaries.

[Checklist](#) [doc]

Preservation

Valuable paper items should be stored at temperatures between 18° and 20° Celsius and at relative humidity between 45 and 50%. High temperature and humidity levels can be damaging and should be avoided.

Ideally, exhibition spaces should be air-conditioned 24 Hrs a day.

Suggested conditions for storing archives **temperature 20° C and humidity 50%** (source [NAA website](#)).

Policy

[Archives Management Policy](#) (Oct 2001)

eServices Principal Registry**Archives management policy**

September 1997

Updated November 2011

For further information about this policy please contact the Court Archivist,

on

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Part 5 Definitions**Appendix A - Archives Donation Form** [Word]

Part 1 Introductory statement

1.1 Scope

The Federal Court Archives Management Policy has been prepared as part of the records management program of the Federal Court. The Federal Court is a court of record and its records are therefore retained permanently. This Policy operates in conjunction with the following documents:

- The Federal Court Records Authority (issued 19 October 2011)
- Australian and International Standard ISO 15489 on Information and Records Management
- Archives Act 1983

1.2 Access

Access to records of a court or registry of a court (other than administrative records) is determined by the Registrar or delegate and disposal of court records is undertaken in accordance with the Federal Court Records Authority.

1.3 Aim

- To provide guidelines and principles for the management of the Court's case files and corporate memory according to best practice and accepted standards
- To provide for the collection of items of historical interest and to ensure these records are made available to future researchers

1.4 Records

All Federal Court records are covered by this policy

- case files and associated records (judgments and transcript)
- administrative records (policy and correspondence)
- items documenting the history of the Court that are not administrative or case file records (memorabilia and ephemera)

1.5 Administrative setting

The management of case file records and administrative records is handled at district registry level or by the Records Manager (for Principal Registry administrative files). The master set of judgments is maintained by the Judgments Officer, Principal Registry in both paper and electronic format. Items documenting the history of the court will be administered by the Court archivist. Ultimate direction lies with the Judges Library Committee.

1.6 Endorsement

This policy carries the endorsement of the Committee.

Part 2 Court records

2.1 Registry procedures

Each district registry is responsible for the annual sentencing of Court records in accordance with the Court's Records Authority. The Native Title Files are transferred to National Archives Australia for permanent retention and all other court case files are either retained permanently by each registry (Part A or 'court record' section of the file) or disposed of according to the Records Authority (Pt B or correspondence part of the Court file).

2.2 Judgments

A master set of judgments is maintained in the Principal Registry Judgments Section in hard copy and in electronic format from 1977.

2.3 Transcript

Audio recordings of court transcripts (excluding native Title matters) are kept for a period of 10 years after the date recorded subject to the orders of the Court. Transcripts are to be retained and stored with the court's transcript provider for the period of the retention.

Part 3 Items of historical interest

3.1 Acquisition and appraisal

Acquisition and appraisal is the process of deciding what sort of material is appropriate for the archives, and deciding how long the material will be retained for. The archives will accept material by donation or transfer. Records may be transferred from other institutions or donated by judges or registries.

3.2 Donations

The archivist when accepting donations will ensure that ownership and copyright is acquired by the Court. The archivist reserves the right to not accept donations where overly restrictive conditions are made on the use of the material.

3.3 Preferred items for donation

Records will be accepted into the historical collection if they:

- document the history or culture of the Court; and/or
- were created or used by a Judge in any capacity, which s/he may choose to donate,

subject to the following restrictions:

- where possible, records/items should be original or unique;
- the archives will generally not accept donations with excessive access restrictions.

3.4 Acquisition focus

The following list is an indicative list only of the types of records that the archives aims to acquire:

- judges' papers (originals where possible)
- photographs of significant events
- photographs of Court premises, inside and out
- any material relating to the swearing-in and retirement ceremonies of judges, in any format eg. correspondence, photographs, VHF videos
- material relating to the swearing in of Senior Counsel
- correspondence, attendance lists etc. relating to formal occasions of the Court
- correspondence, gifts etc. relating to visits by local or overseas dignitaries
- artefacts, personal or public
- any item that reflects or may reflect the history or culture of the Court

3.5 Acquisition priorities

The collection of materials from former chief Justices are of national importance and will be transferred to the National Archives under the Personal Archives Service of the National Archives of Australia.

3.6 Making a Donation

To ensure continuity of collection, management under the appropriate conditions and care by skilled staff the archives will be retained in Principal Registry. To meet this requirement material should be transferred to Principal Registry, where possible.

If you have material which you may wish to donate, please contact:
Records Manager/Archivist Principal Registry [REDACTED]

3.7 Access provisions

Access to the archives will be granted in the following circumstances:

- requests from Judges or registry staff;
- to any individual granted access through application to the Registrar.

Access by non-Court individuals will be assessed according to their research needs. Access will be restricted to office hours and will be by prior arrangement with the archivist. Research will be supervised. Access will not be granted until records have undergone an arrangement and description process.

A Judge or Registrar may limit access to personal records by indicating so on the Donation Form.

3.8 Finding Aids

Finding Aids will be made available to researchers granted access to the archives. Finding Aids will be reports generated from the archives database. An example of a Finding Aid is a list of holdings by the donating individual or registry, or a list of holdings arranged by series eg. judges' speeches.

Part 4 Preservation strategy and storage

4.1 Court files and administrative records

Court files and administrative files should be maintained in a stable clean environment in accordance with Records Management Australian Standard AS 43589. The Australian Archives administers the preservation program for all records in its custody.

4.2 Items of historical interest

Preservation

The archivist will ensure that all material is accommodated in acid-free containers and stored in a temperature and humidity controlled environment. An area of the basement of the Law Courts Building, Sydney has been modified to ensure such an environment.

The physical condition of all acquisitions will be documented upon receipt to alert the archivist to any conservation work required.

Storage

Items such as the original oaths of office are stored in a secure area within Principals Registry by the Deputy Registrar's staff

4.3 Electronic records

A document management system (DMS) is presently being implemented. Stage one of the project is the development of an electronic court file to be implemented in 2013.

Part 5 Definitions

- from *Keeping Archives*(KA) ^[1], ISO 15489 ^[2]

access- authorised use of records held in the archives for research or other approved activities.

archive- Records of an organisation selected for indefinite retention on the basis of their continuing value for historical research purposes.

disposal- the final decision concerning the fate of records including the retention, deletion or destruction of records in or from recordkeeping systems.

ephemera- items of a transient nature and low value that are expected to have a brief value.

memorabilia- material having sentimental or historical value to the creator, the creator's family or to collectors metadata-data describing context, content and structure of records and their management through time.

records- recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity.

sentencing- process of identifying the disposal class a record belongs to and applying the disposal action specified in the relevant disposal authority. AH

[¹] Ellis, J (ed) Keeping Archives 3rd ed. Jackie Bettingham and the Australian Society of Archivists, Canberra, 2008

[²] Australian and International Standard ISO 15489 on Information and Records Management

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Records and Document Management

ARTWORKS

[Artworks Register](#)
[Acquisition of Artworks](#)
[Artworks Valuations](#)

The Court maintains a large art collection which is displayed in the various registries. A national register of artworks is maintained by the Records Manager which contains the name of the artist, title of the artwork, dimensions, supplier, purchasing price, display location and valuation details.

Artworks Register

All new artworks are recorded in the National Artworks Registry. When a new artwork is acquired by a Registry, it is the responsibility of the Director of Court Services to send details of the artwork and a digital image to the Records Manager. A register number is assigned to the artwork and the digital image is placed on the [Image Gallery](#).

Acquisition of Artworks

An audit of artworks is completed each year to ensure all new artworks are added to the artworks register. Artworks include paintings, prints, tapestries, sculptures and other items that the Court has paid for. It is not necessary to include works on loan from Artbank.

Artworks Valuations

The Director of Court Services should arrange for artworks to be valued soon after they are purchased. A copy of the valuation certificate is to be sent to the Records Manager for recording onto the National Artworks database.

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CHAMBERS STAFF

These are the sections within the Records & Document Management manual specifically relevant to Chambers staff.

[Judges Leaving Court - checklist](#)

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Records and Document Management

CHAMBERS STAFF

These are the sections within the Records & Document Management manual specifically relevant to Chambers staff.

[Judges Leaving Court - checklist](#)

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Federal Courts copyright agreement 2017-2018

 [Download agreement, PDF - 158 KB](#)

The Court's Copyright Agreement with the Copyright Agency Ltd covers the following Federal Court entities: Federal Court, Family Court, Federal Circuit Court, National Native Title Tribunal (NNTT), Australian Competition Tribunal, Copyright Tribunal of Australia and the Defence Force Discipline Appeal Tribunal.

Copyright protected documents and images required by Judges, Registrars, Court and Corporate Services personal, are covered under this agreement. Coverage includes published work, journal articles, newspapers, newspaper clippings services and sound recordings.

The agreement with the Copyright Agency Ltd is via the agreement negotiated by the Commonwealth Department of Communications and the Arts.

The agreement covers the current financial year and is based on the Courts equivalent full time staff (EFT).

The Copyright contact is [REDACTED], Records and Archives Project Manager
[REDACTED]

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Federal Court Registry Files

- [Memorandum to the Judges: the Court Record, 16 Feb 2010 \[pdf\]](#)
- [Summary listing of Federal Court Administrative and Court files as at Nov 2010 \[doc\] \(held at National Archives of Australia\)](#)

[PRIN](#) | [ACT](#) | [NSW](#) | [NT](#) | [QLD](#) | [SA](#) | [TAS](#) | [VIC](#) | [WA](#)

Principal Registry

- Administrative records: [list 1 \[xls\]](#) | [list 2 \[pdf\]](#) (held at National Archives of Australia)
- [Administrative records \[pdf\]](#) (held at Attorney General's Department)
- [Native Title tapes \[xls\]](#) (held at National Archives of Australia)
- [Native Title transcript \[xls\]](#) (held at National Archives of Australia)

ACT Registry

- [Defence Force Discipline Appeals Tribunal files 1985-2006](#) (held at ACT Registry)
- [IRCA files \[xls\]](#) (held at ACT Registry)

NSW Registry

- [Administrative records \[xls\]](#) (held at National Archives of Australia)
- [Guidelines on the indexing of documents on the physical Court file](#)
- Court files (held at National Archives of Australia) [pdf] (*read background information*)
 - [General files: 1977-1984](#)
1977 (1-112); 1978 (1-160); 1979 (1-83); 1980 (1-136); 1981 (1-201); 1982 (1-272); 1983 (1-429); 1984 (1-186)
 - [General files: 1984-1986](#)
1984 (187-463); 1985 (1-396); 1986 1-625)
 - [General files: 1987](#)
1987 (2261-3417)
 - [General files: 1987](#) 1987 (1-2260)
 - [General files: 1988](#)
 - [Industrial division files: 1976-1990](#)
 - [List of W files: 1972-1976 \[pdf\]](#) W 1972: no 1-598; W 1973: no 1-436; W 1974: no 1-489; 1974 annexures A-D: A W88-107, B W203-222, C W223-233, D W336-373; W 1975: no 1-551; W 1976: no 1-203
 - [List of W files: 1976-1978](#)
W 1976: no 204-648; W 1977: no 1-894; W 1978: no 1-710
 - [List of W files: 1977 and 1979](#)
W1977: no 780 W1979: no 1060 and 1061;
 - [List of W files: 1977-1978](#)
W1975: no 094 and 508; W1976: no 113, 339, 504 and 529; W1978: no 190, 293 and 583
 - [List of W files: 1978-1979](#)
W 1978 no 711-1001; W 1979 1-1139
- [Court files \[xls\]](#) include the following series: B, BG, BN, MG, MP, N, NG, NN, NP, NX, P, PNG, PO, PP, S, SB and W (1985-1998) (held at Recall Storage)
- IRCA Files (held at National Archives of Australia) [pdf]
 - [C4729.1 Boxes 1-54](#)
 - [C4729.1 Boxes 55-90](#)
 - [C4729.1 Boxes 91-117](#)
 - [C4729.2 Boxes 1-15](#)
 - [C4729.2 Boxes 16-26](#)

- [C4729.3 Boxes 1-26](#)
- [C4729.3 Boxes 27-41](#)
- [C4729.4 Boxes 1-30](#)
- [C4729.4 Boxes 31-44](#)
- [C4729.4 Boxes 45-57](#)
- [C4996.1](#)
- [IRCA files \[pdf\]](#) (held at NSW Registry level 1 mini basement)
- [Native Title files \[xls\]](#) (held at National Archives - Sydney office)
- [Summary of NSW files held in offsite storage \(as at 8 Nov 2013\)](#)

NT Registry

- [IRCA 1985-1997 \[xls\]](#) (held at National Archives - Darwin office)

QLD Registry

- [IRCA files](#) (held at QLD Registry and Iron Mountain)

SA Registry

- [Bankruptcy files 1995-2002 and Bankruptcy Notices 1994-96 \[x/s\]](#) (held at Iron Mountain Storage)
- [Corporations Law files 1994-2003 \[x/s\]](#) (held at Iron Mountain Storage)
- [Court files - FCA general files SG 1990-1999 , SAD 2000-2002 and SAD 1994/28 \[x/s\]](#) (held at Iron Mountain Storage)
- [Court files FCC files 2000-2004 \[x/s\]](#) (held at Iron Mountain Storage)
- [Court files – FCC SAD 28/1994 Perre v Apand Pty Ltd 154 Parts \[x/s\]](#) (held at Iron Mountain Storage)
- [Court Files – FCA SAD 2000-2004 and General Files SG 1990-1999 \[x/s\]](#) (held at Iron Mountain Storage)
- [Court files - FCC files 2002-2002 \[x/s\]](#) (held at Iron Mountain Storage)
- [IRCA 1994-1997 \[x/s\]](#) (held at Mountain Storage)

TAS Registry

VIC Registry

- **Insolvency Registers** held at National Archives (NAA Melbourne Office) 1842 - 1961 (no list available)
- **Bankruptcy Files** held at National Archives (NAA Melbourne Office) 1928 - 1969 (no list available - consignment no: B160/0)
[1976](#) | [1977](#) | [1978](#) | [1979](#) | [1980](#) | [1981](#) | [1982](#) | [1983](#) | [1984](#) | [1985](#) | [1986](#) | [1987](#) | [1988](#) | [1989](#) | [1990](#)
[1991: VID 1 - VID 1133](#) | [VID 1134 - VID 2407](#) | [VID 2408 - VID 3341](#) | [VID 3342 - VID 3937](#)
[1992: VID 1 - 866](#) | [VID 866 - VID 2129](#) | [VID 2130 - VID 2994](#) | [VID 2994 - VID 3759](#)
- **IRCA files**
 - [Summary listing of all IRCA files](#) (held at National Archives - Melbourne Office and Recall Storage)

- [1994 IRCA files, sheets 1-89 covering files VI 94/0101 – VI 94/2905 \[pdf\]](#) (held at National Archives - Melbourne Office)
- [1994 IRCA files, a mixed sequence of 1994 files and VI 94/5000 - VI 94/5039 and a mixed sequence of 1995 files covering VI 95/1213 - VI 95/6447 \[pdf\]](#) (held at National Archives - Melbourne Office)
- [1995 IRCA files, sheets 90-232 covering files VI 95/1001- VI 95/5826](#) (held at National Archives - Melbourne Office)
- [1995 and 1996 IRCA files, sheets 233- 260 covering files VI 95/5827-VI 95/6448 and a mixed sequence of 1996 files beginning VI 96/1000 –VI 1837 \[pdf\]](#) (held at National Archives - Melbourne Office)
- [1996 IRCA files, a mixed sequence of 1996 files covering VI 96/1008- VI 96/1837 and VI 96/1838 – VI 96/2786 \[pdf\]](#) (held at National Archives - Melbourne Office)

WA Registry

- **IRCA files** held at National Archives - Perth office
[1994](#) | [1995](#) | [1996](#) | [1997](#)
-

Tribunal Files

- [Defence Force Discipline Appeals Tribunal files 1985-2006](#) (held at Federal Court of Australia - ACT Registry)

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Records and Document Management

COURT FILE COVERS

The Records Manager is responsible for ordering Court file covers. A supplier is engaged in September, Registry file numbers for the coming year requested in October/November and covers delivered in mid-December.

The file cover spine changes colour each year to reflect the year of filing. Suggestions for file cover changes can be emailed to the [Records Manager](#).

Court Records Policy Committee

Background

The Court Records Policy Committee was convened in June 2015 to develop policies to complement the Court's Records Authority and provide a platform for registry practitioners to raise issues concerning record practices.

The Committee's aim is to establish common records management policies and practices across the Court.

The Committee meets every six weeks and has representation from all Federal Court Registries including representatives from the Family Court/Federal Circuit Court.

Work of the Committee

The Committee's work covers areas such as:

- Retention variations for court documents.
- Storage and retrieval of files.
- Digital file management and practices.
- And any other issues that need resolution concerning court case file records.

Membership:

- Committee Chair: [REDACTED]
- Co-ordinator: [REDACTED] (Records and Archives Project Manager).

Court representatives:

- ACT: [REDACTED] and [REDACTED]
- NSW: [REDACTED] and [REDACTED]
- NT: [REDACTED]
- QLD: [REDACTED]
- SA: [REDACTED]
- TAS: [REDACTED]
- VIC: [REDACTED] and [REDACTED]
- WA: [REDACTED] and [REDACTED]
- WA: [REDACTED], NNTT/National Records Manager

Recommendation approval process

Recommendations from the Committee were approved by District Registrars from 2015-2017 and from 2018 by the Directors of Court Services.

The following Committee recommendations were approved for implementation

- Appeal/Court books (docx, 28kb) approved February 2017 (FCA) approved 26 April 2018 (FCC).
Once the appeal period has ceased Appeal/Court Books can be destroyed.
- Archived paper files (docx, 20kb) approved January 2016.
Archived paper/physical files are to be retained as a whole file and not divided into parts for retention as stated in the Federal Court Records Authority.
- Files transferred for hearing (docx, 36kb) approved August 2017.
Files transferred to another registry for hearing will be stored and archived at the registry where the matter was first filed.
- RecFind (docx, 30kb) approved 18 April 2018.
RecFind (Court Records Management System) will be the legacy database for all physical/paper court files.
- Refuse to file register and rejected documents policy (docx, 38kb) approved August 2016.
Procedures to follow when documents are refused or rejected for filing.
- Retention of exhibits to affidavits policy (docx, 31kb) approved 18 April 2018.
Procedure for recording exhibits to affidavits. Note this does not cover exhibits tendered in Court.
- Self-Representative Litigants (docx, 29kb) approved August 2017 (FCA) approved 26 April 2018 (FCC).
Documents filed by Self Representative Litigants can be immediately destroyed once scanned to the electronic court file (ECF).
- Subpoenas - ID requirements (docx, 54kb) approved November 2016.
Identification to be presented when collecting subpoenas.
- USB sticks and passwords for storing documents – non ECF (docx, 29kb) approved 18 April 2018 and amended 19 February 2019.
Procedure for storing devices that contain large documents.

Forms approved by the Committee:

- Checklist – for processing Casetrack/ECF new lodgements (docx, 23kb) approved January 2016.
- Checklist - for approving Court Records Policy Committee recommendations (docx, 31kb) approved October 2016.
- Party Form application for accessing files (docx, 50kb)
- **Subpoena forms required (approved November 2016):**
 - Receipt for uplift of material by legal practitioner (docx, 40kb)
 - Cover sheet for subpoenaed documents - portrait (docx, 187kb)
 - Cover sheet for subpoenaed documents - landscape (docx, 89kb)

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Records and Document Management

CREATING AND NAMING RECORDS/DOCUMENTS

[When to make a record/document](#)
[Naming records/documents](#)
[Adding a file path to a record/document](#)
[Classification systems for naming records/documents](#)
[Adding Metadata](#)

When to make a record/document

It is important to create a record/document when you need to note the following:

What happened

What was decided or recommended

What advice or instruction was given

When it happened

Who was involved and what decisions were made.

FAQ: requesting a file to be created

Naming a record/document

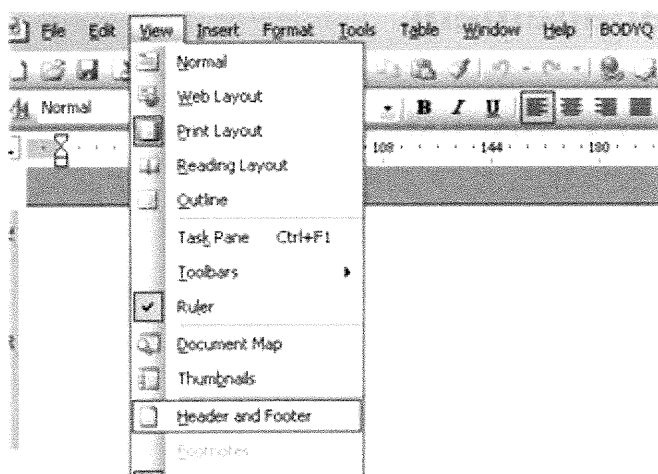
One of the most important functions of any record/document management system is to ensure that the records it contains can be located at a later time. A title that provides a concise statement of the content of the record will ensure that the right record will be found efficiently and that its content and context will be understood.

If the title does not reflect the content of the file, or the individual document, it will be difficult for others to find the record they need. A key benchmark for both creating a title and monitoring titles in a system is that titles should distinguish the record/document from all others.

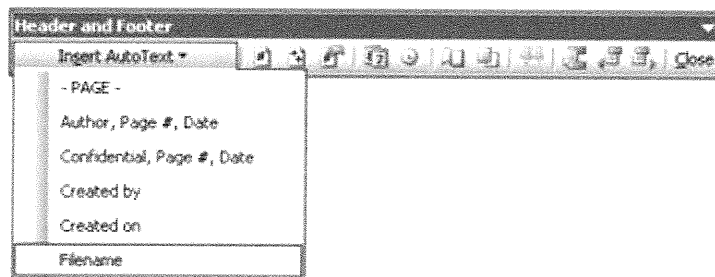
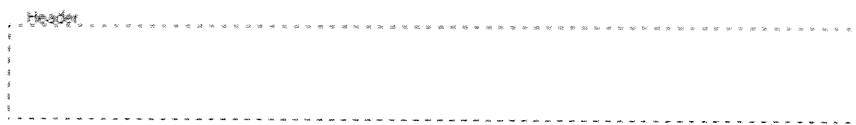
Adding a file path to a record/document

If a record/document is created and placed electronically on a shared drive it is important to include the file path. This can be done in word by going to the **View menu** and selecting **Header and Footer**, under the Header and Footer menu select **Insert Auto Text** then go to the drop down menu and select **Filename and path**.

This is done in Word by:



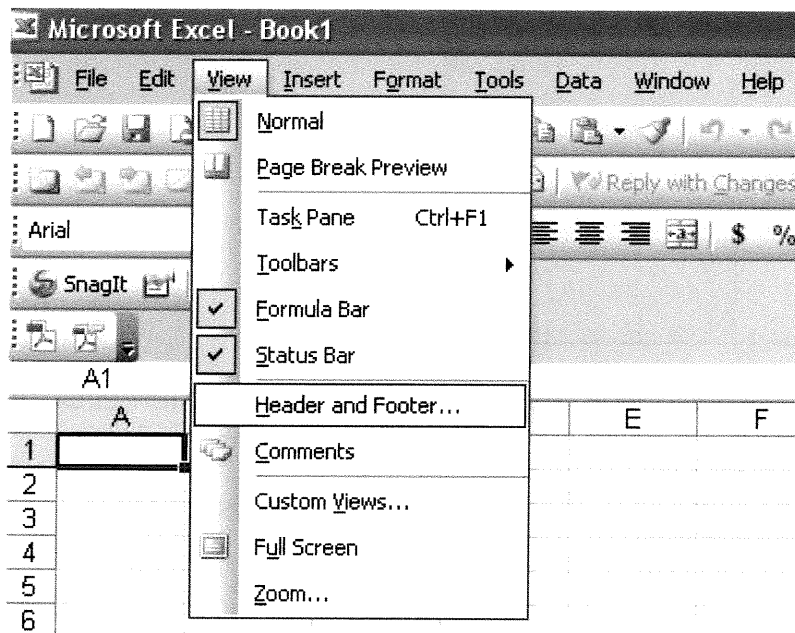
going to *View*, then click on *Header and Footer*.



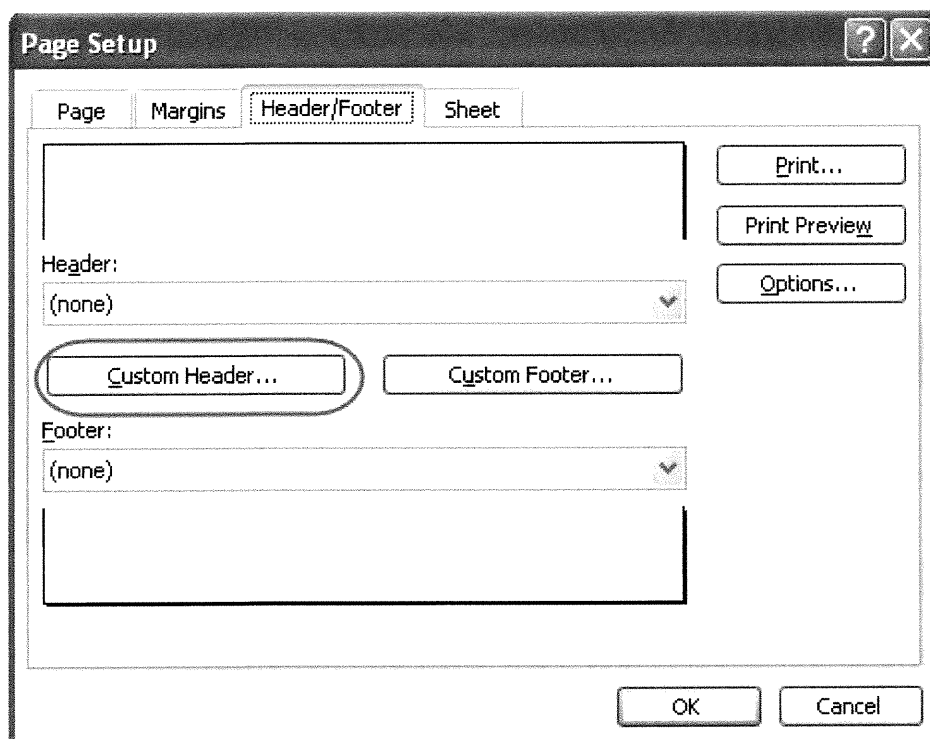
In the drop-down menu under *Insert Auto Text* click on *Filename*.

This will automatically add the file path to the document.

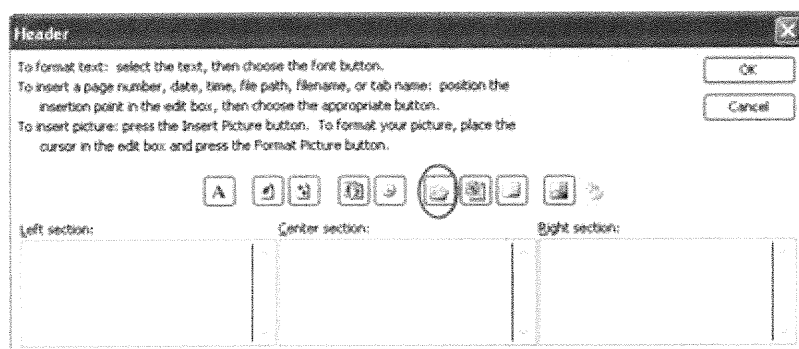
In Excel:



Under *View*, select *Header and Footer*



Click on *Custom Header*.



Position the cursor where you would like the information placed then click on the icon showing the yellow file.

Note: if you wish to print a document without the file path, it is necessary to go back into the document and delete the file path.

Classification systems for naming records and documents

The following classification tools provide a framework for court records/ documents to be managed systematically. Classification schemes provide a framework for an organisation to organise, describe and link records/ documents so there is a consistent method of classifying information. This in turn provides improved access and retrieval of information.

The Federal Court of Australia (FCA) Thesaurus

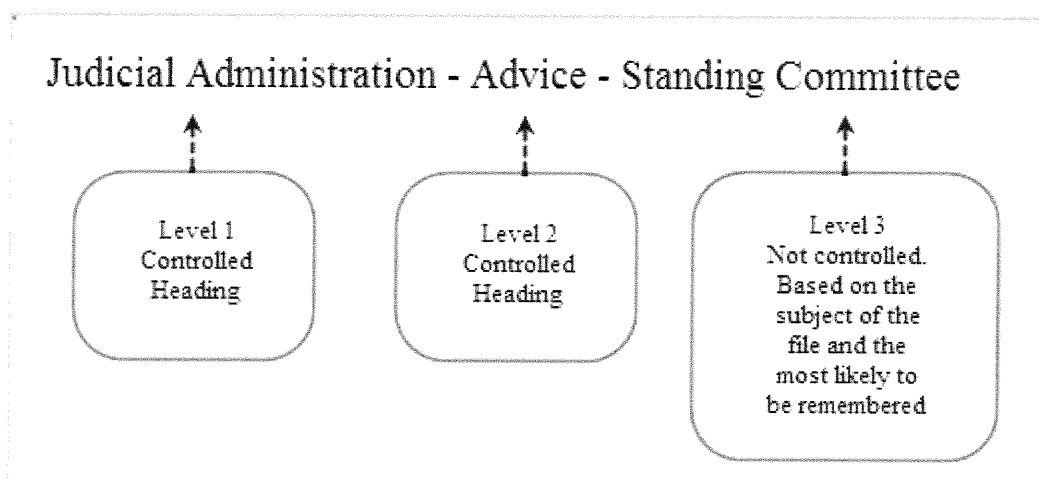
The FCA Thesaurus is based upon an analysis of the Court's business functions activities and transactions.

The FCA Thesaurus is supported by a set of controlled terms to name files, records and documents.

The structure of the classification scheme is hierarchical where:

- The first level represents the business function
- The second level is based on the activities constituting that function
- The third and subsequent levels are based on the subjects of the business activities

For example:



There are other classifying systems such as Keyword AAA but it is preferable the FCA Thesaurus is used for consistency of titling throughout the Court.

Keyword AAA

Keyword AAA is a thesaurus of general terms designed for use in classifying, titling and indexing most types of records in most technological environments. It covers terminology common to business functions and activities in most organisations. To provide a comprehensive controlled vocabulary, Keyword AAA should be used in conjunction with a thesaurus of functional terms relating to the organisation's specific or core business functions.

The Keyword AAA function and activity terms are used in the Administrative Functions Disposal Authority (AFDA). Together these two tools can be used to title and sentence (deciding how long a record/document should be kept) records.

Adding Metadata

What is metadata?

Describing records means recording information about their content, context and the processes that manage and maintain them. This descriptive information is called metadata (or structured data about other data). Metadata ensures that records can be found, read and understood both in the immediate and long term. Examples of records management metadata include:

- the record's title
- who has seen it, and when
- the level of security around the record
- how long it should be kept or when it should be destroyed.

Traditional metadata exists in files and document registers, indexes, file movement cards and on the file cover. Nowadays, information systems need to be designed to administer metadata creation, capture and management.

When should metadata be added?

Metadata should be added when the record is created. Other metadata, like who has seen the record, will be applied throughout the record's use. Metadata can be collected manually, such as an officer naming the document or file, or it can be collected automatically, such as when a information system time-stamps a document that has been captured.

Metadata for emails

Emails are an accepted form of official business communications. They provide evidence of the conduct of Government Business. Standardising the metadata for transmission with emails will facilitate corporate control and efficient processing for business purposes. Assigning metadata to business emails at point of creation will facilitate the capture of emails into agency systems.

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Records and Document Management

Disposing or transferring records/documents

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[Records Authority \(issued 19 October 2011\)](#)
[Court case files](#)
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[Storing Court case files](#)
[Electronic Court case Files](#)
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NAP (Normal Administrative Practice)

AFDA (Administrative Functions Disposal Authority)

Deciding to keep, transfer or dispose a record/document

The retention and destruction of records is governed by legislation. A policy on what constitutes the '[Record of the Court](#)' and what parts of the court file need to be retained was issued on 16 February 2010. When making a decision to keep, transfer or destroy a record (also referred to as sentencing) the Court's Records Authority ([link](#)) must be consulted. General disposal for administrative files is regulated by Section 24 of the *Archives Act 1983*.

Australian Government agencies may carry out a disposal action using:

- [Records Authority \(RA\)](#)
- [Normal Administrative Practice \(NAP\)](#)
- [General Disposal authorities \(AFDA\)](#) (pdf)
- [AFDA Express](#) (pdf)

RA (Records Authority)

A [records authority](#) is issued by the National Archives of Australia to agencies to cover agency-specific core business. The Federal Court now has a Records Authority to cover the case management core business of the Court (which includes court files). Developing a Records Authority is the process agencies use to improve their records management and information practices, including the design and implementation of a new records management system.

A [Records Authority](#) is presently being developed for the other core business functions of the court:

1. Court Administration
2. Judicial Appointment
3. Admiralty Marshall
4. Sheriff

Court case files

Court case files are part of the core business of the court and must be retained. The Court's Record Authority contains information on what parts of the file must be kept permanently (Pt A) and what parts (Pt B) can be disposed of after a certain period.

Native Title Court files

Under the Court's Record Authority the complete Native Title Court File must be retained permanently (Pt A and Pt B). Native Title court files will be transferred to National Archives once they are inactive.

Storing Court case files

Background

Prior to 2000 all case files were permanently stored at National Archives . Since that date and under our current Records Authority (which is retrospective to 2000) the Court is responsible for storing all court files. Due to space issues many registries have outsourced the storing of their court files to storage providers.

Current position – what must be kept

Under our current Records Authority there is a clear distinction on what parts of the court file make up the 'Court Record' (Pt A of the Court file). Part A of the file is to be kept indefinitely. Pt B of the file (usually the correspondence part of the file) is to be kept for a certain period (usually 10 yrs) and can then be disposed of.

Electronic Court case files

It is anticipated that the court will have a digital file from the beginning of 2013. The storing of digital files will decrease the problem of physical storage. The tagging of data to include the retention schedules to the various parts of the court file will be automatically included in the Court's Document Management System presently being implemented.

Administrative files

National Archives allow the disposal of administrative documents as they are considered a routine part of the court's administration. Please consult the [NAP](#) (Normal Administrative Practice) and [AFDA](#) (Administrative Functions Disposal Authority) when disposing of Administrative records.

NAP (Normal Administrative Practice)

[NAP](#) allows staff to routinely destroy records that are not needed as evidence of the Court's business or part of its corporate records.

Destroying records as a normal administrative practice is sensible administration. Some records are not needed to document business decisions nor are they significant records of our core business.

Records that can be considered for destruction using [NAP](#) fall into five broad categories:

- facilitative, transitory or short-term items including appointment diaries, calendars, 'with compliments' slips, personal emails, listserv messages and emails in personal or shared drives, emails that have been captured into a corporate records management system
- rough working papers and/or calculations

- drafts not intended for further use or reference – whether in paper or electronic form – including reports, correspondence, addresses, speeches and planning documents that have minor edits for grammar and spelling and do not contain significant or substantial changes or annotations
- copies of material retained for reference purposes only
- published material not included as part of an agency's records

AFDA (Administrative Functions Disposal Authority)

The Administrative Functions Disposal Authority, also known as AFDA, authorises the disposal of records of administrative functions commonly performed by most Australian Government agencies.

AFDA Express is a new streamlined version of the Administrative Functions Disposal Authority (AFDA) which sets the requirements for keeping or destroying records of administrative business performed by most Australian Government agencies. AFDA Express includes all of the records in AFDA and is consistent with the approach now used for agency records authorities. AFDA Express is easier, quicker and cheaper for agencies to use.

When to use AFDA

To understand when to use the AFDA to sentence a record, ask the question, 'Is this activity something that only the Federal Court does, or is it something that most agencies do?' If the record documents a function that is core or unique to the Court eg judicial appointment, court case files, then you should consult the Records Manager. If the record documents an administrative activity that many agencies do, then the AFDA is likely to be an appropriate tool for sentencing your records.

If you have any record retention or disposal concerns contact the Records Manager.

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Digital Information Management eLearning Modules

The Court introduced an electronic court file to manage court files in 2014. The Court is now moving to a digital file for administrative records.

By the end of 2015 the Federal Court is expected to have in place digital information management capability to ensure that records and information born digital remain digital. In other words if a document is received digitally it should remain digital and not be printed to paper.

To assist in understanding what are digital records and what are the legal requirements to keep or delete them the following eLearning modules

(developed by the National Archives) have been purchased to assist staff transition to digital record keeping.

Each module is approximately 30 mins long and can be completed at your own pace. The modules are interactive, provide recaps, include a quiz and present a certificate on completion.

On opening the module select the FLASH version (not HTML) as it will play better.

Module 1: Introduction to digital records

provides an introduction to digital information and records management concepts and is relevance for everyone who uses a computer as part of their work.

Topics include:

- characteristics important to digital records
- concepts of structured and unstructured information
- concepts of digital transition and digital continuity
- key legislation, standards and guidelines relating to digital records

Module 2: Keep or delete it

is for everyone who works for the Australian Government. It provides advice about the different types of business information staff can or can't destroy as part of their daily work.

Topics include:

- normal administrative practice
- information you must keep
- information and risk
- destroying Australian Government information legally and accountably

Module 3: Legal requirements

outlines some of the key legislation, policies and standards that influence how information and records are managed in the Australian Government today – especially the Archives Act, the FOI and Privacy Acts.

Topics include:

- the Archives Act 1983
- the FOI and Privacy Acts
- the Electronic Transactions Act 1999
- Australian Government digital transition, technology and security policies

Benefits of the eLearning modules:

- they offer records management training in a user-friendly and interactive format

- staff can do the training at their own pace and when it is convenient
- allow staff to explore topics like 'what is a record?'
- a cost effective training option; and
- assist transition to the Digital Transition Policy which expects, by the end of 2015, that records born digital remain digital.

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Records and Document Management

ELECTRONIC RECORDS

[About electronic records](#)
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About electronic records

Records/documents are increasingly created and managed electronically. Electronic records are usually stored on shared drives, hard drives and email folders. Common types of electronic records include word documents, spreadsheets, multi-media presentations, email, websites and on-line transactions.

Electronic or digital records held by Australian Government Agencies are subject to the [Freedom of Information Act 1982](#) and the [Privacy Act 1988](#). To meet these obligations Government Agencies are also required to identify and retain appropriate [metadata](#) for their electronic/digital records.

The Court does not presently have a national electronic document management system (EDMS) that captures electronic records. The courts present records management system RecFind will be piloting the capture of electronic records when Recfind 6 is implemented mid 2009. Until a national document system is implemented it is important that electronic records are captured, maintained and stored appropriately so they can be retrieved when required.

Shared drives

A shared electronic drive is a common drive for the storage of corporate records. The Court's corporate data is stored on the "I" drive which allows data to be shared within working sections or Chambers. Documents on the "I" drive should be filed in a logical way so that information can be easily retrieved at a later date. It is advised that [hierarchical headings](#) be used.

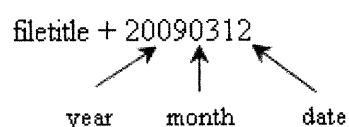
NSW Registry electronic documents

[Electronic document business rules](#) [Word]

Protocols for sharing information on shared drives

Name: the folder and file name should be titled so the information can be easily found by other members of the team.

Date: To help in identifying the currency of the file it is good practice to place the date at the end of the filename, eg.



File path: It is also good practice to add the file path to documents to help locate a file. See [Adding a file path to a record/document](#)

Policy

16 Feb 2010: [Memo to Judges - The Court record](#) [pdf]

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Records and Document Management

Emails

[New video - Managing email](#)
[Tips for managing email](#)
[Sending email](#)
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Most emails received are communications dealing with business transactions conducted in the normal course of court administrative work and therefore could be commonwealth records which must be retained.

When performing email housekeeping it is important to remember that emails that are business transactions/records of the Court **must be kept** and stored according to document management policies.

Examples of business transactions would be emails containing official approvals, policy issues or exchanges with agencies and businesses in the management and running of the Court. These emails should be stored in the Courts electronic Document Management System (EDRMS).

Information exchange emails such as notification of meetings, general notices to staff, references and copies of emails and personal emails can be deleted.

New video – Managing email

This short [video](#) will help you to:

- understand the value of emails to the Court's business
- decide which email you need to keep
- decide which email can be deleted
- correctly save and title email
- why emails are evidence of decisions and approvals.

Tips for managing Email

- Keep copies only for ongoing business reasons and delete other material on a regular basis
- Do not use the paper filing system as a dumping ground for electronic communications; only file on paper the documents that you determine are records, in accordance with the above guidelines
- Avoid printing out documents sent for information
- Avoid making hard copies of reference material such as articles or long documents that have been published elsewhere and can be cited.

Sending Email

- Keep messages brief
- Avoid including more in the message than necessary eg. quotes
- Avoid large attachments
- Consider alternate means such as shared files on file servers
- Avoid sending large attachments to multiple people - consider placing them on the Intranet and sending out a link instead
- Consider putting references on the web
- Avoid sending mail to more people than is necessary
- On many occasions it is can be more effective to ring people.

Receiving email

- Delete unimportant mail as soon as you have read it
- File mail according to some functional method similar to those developed for your shared drives
- Delete messages that are no longer required
- Don't keep messages that are duplicated elsewhere.

Policies

Dec 2009: [Registrar's memorandum: adopting good email management practice](#)

Aug 2009: [Online Email Storage](#)

Feb 2001: [Policy on the use of electronic mail](#)

Mailbox management

[Mailbox management - reducing mailbox size in Outlook \[PDF\]](#)

Further information:

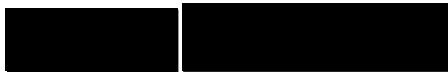


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- [Crimes Act](#)
- [Evidence Act](#)
- [Electronic Transactions Act](#)
- [Financial Management and Accountability Act](#)
- [Freedom of Information Act](#)

- [Public Sector Act](#)
- [Privacy Act](#)

Standards

- [Electronic/digital standards](#)
- [Email metadata standard](#)
- [Information management standard](#)
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Legislation

Archives Act

The [Archives Act 1983](#) empowers the Archives to preserve the archival resources of the Commonwealth – those records designated 'national archives'. Under the Act it is illegal to destroy Commonwealth records without the permission of the Archives, unless destruction is specified in another piece of legislation. The Act also establishes the right of public access to Commonwealth records that are more than 30 years old. Court files cannot be accessed without the permission of the Court.

Crimes Act

The [Crimes Act 1914](#) outlines crimes against the Commonwealth. Several parts of the Act relate to records. For example, section 70 prohibits public servants (or anyone working for the Australian Government including contractors and consultants) publishing or communicating facts, documents, or information which they gain access to through their work, unless they have permission to do so. This includes taking or selling records which should be destroyed.

Electronic Transactions Act

The [Electronic Transactions Act 1999](#) provides a regulatory framework to ensure that transactions conducted electronically or on paper are treated equally by the law. The Act defines minimum requirements for conducting transactions.

Evidence Act

The [Evidence Act](#) defines what records can be used as evidence in a Commonwealth court.

All agencies need to take account of evidence legislation. A court may need to examine records as evidence of an organisation's

decisions and actions. General advice on the impact of the *Evidence Act 1995* is given in Records in Evidence: The Impact of the Evidence Act on Commonwealth Recordkeeping.

Financial Management and Accountability Act

The *Financial Management and Accountability Act 1997* states that an APS employee who misapplies, improperly disposes of, or improperly uses Commonwealth records may be in breach of the Financial Management and Accountability Act (s. 41). Regulation 12 of the Act requires that the terms of approval for a proposal to spend money be recorded in writing as soon as practicable.

Commonwealth records fall within the meaning of 'public property' as defined in the *Financial Management and Accountability Act*.

Freedom of Information Act

The *Freedom of Information Act 1982* provides for public access to documents kept by Australian Government Departments which are less than 30 years old. The Archives Act regulates access to records older than 30 years.

In their annual reports, departments must state the types of information and records they keep. When a member of the public requests information, the department must identify and preserve all relevant sources, including records, until a final decision on the request is made. The *Freedom of Information Act* also sets out how the department may correct, annotate or update records if a member of the public shows that the information in them is false.

The availability of some Court documents under the *Freedom of Information Act* is affected by provisions which state that the Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature.

Privacy Act

The *Privacy Act 1988* aims to prevent the misuse of personal information. It specifies that agencies can use information about individuals only for lawful purposes that relate directly to the role of the agency. Agencies must ensure that the information they keep is secure, accurate, relevant, complete, and not misleading. The Act also gives people a right to see records about themselves.

Records over 30 years old are exempt from the Privacy Act. Access to these records is controlled through the Archives Act.

Public Service Act

The [Public Service Act 1999](#) provides information on the values that underpin APS employment such as the Code of Conduct, PS values and whistle blowing provisions, recruitment, selections and staff movements, discipline, misconduct arrangements, appeals and review processes and categories of employment.

Standards

The following standards establish the principles for making and keeping records in all business environments, and apply to recordkeeping and practices for all Commonwealth government Agencies.

Electronic/Digital Standards

[Digital recordkeeping guidelines](#) for creating, managing and preserving digital records. National Archives of Australia Publication

[EDRMS Functional Specifications](#) - State Records of South Australia

Principals & functional requirements for records in electronic office environments - International Council of Archives Publication

[Victorian Electronic Records Strategy \(VERS\)](#) - Public Records Office Victoria (PROV)

Record Management

International Standard for Records Management (AS ISO 15489)

The Australian and international standard for records management, AS ISO 15489 provides guidance on creating records policies, procedures, systems and processes to support the management of records in all formats. This standard provides the basis for all Archives' records management standards, policies and guidelines.

Work Process Analysis for Recordkeeping (AS 5090)

Work Process Analysis for Recordkeeping (AS 5090) is a complimentary standard to AS ISO 15489: Records Management. It assists organisations in understanding their work processes so that they can identify their recordkeeping requirements.

Metadata

AGSL Metadata Standard (AS 5044)

The AGSL metadata standard, AS 5044, is the national standard for online resource discovery, mandated for use on all Australian Government websites. There is an [Australian Government Implementation Manual](#) available for this standard.

The [Recordkeeping metadata standard for Commonwealth agencies](#) describes the information Australian Government agencies should incorporate to establish physical and intellectual control over their records. Compliance with the standard will help Registries meet business, accountability and archival requirements in a systematic and consistent way by maintaining reliable, meaningful and accessible records.

Email Metadata Standard

[Australian Government Email Metadata Standard](#) – National Archives of Australia publication. This standard describes the metadata that should be used by Australian Government agencies for email communications.

Security of Records

It is important that Registry records are safe and secure. For information on the Commonwealth security needs for records, see the [Protective Security Manual](#) issued by the Attorney-General's Department.

Storing Records

The [storage standard](#) is a comprehensive guide to the storage of all government records, whether stored on premises, leased facilities, or with alternative storage providers. The standard is a code of best practice for the storage of government records. The standard is supported by an [implementation guidelines](#) issued by the National Archives.

Further information

Further information Website <http://www.naa.gov.au/records-management/IM-framework/requirements/Standards/index.aspx>

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Records and Document Management

POLICY GUIDELINES

- [Archives management policy \(Oct 2001\)](#)
- [Federal Court Email Policy \(Feb 2001\)](#)

eServices Principal Registry**Archives management policy**

September 1997

Updated November 2011

For further information about this policy please contact the Court Archivist,

██████████ on ██████████

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Part 3 Items of historical interest

- [3.1 Acquisition and appraisal](#)
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Part 4 Preservation strategy and storage

- [4.1 Court files and administrative records](#)
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- [4.3 Electronic records](#)

Part 5 Definitions**Appendix A - Archives Donation Form** [Word]

Part 1 Introductory statement

1.1 Scope

The Federal Court Archives Management Policy has been prepared as part of the records management program of the Federal Court. The Federal Court is a court of record and its records are therefore retained permanently. This Policy operates in conjunction with the following documents:

- The Federal Court Records Authority (issued 19 October 2011)
- Australian and International Standard ISO 15489 on Information and Records Management
- Archives Act 1983

1.2 Access

Access to records of a court or registry of a court (other than administrative records) is determined by the Registrar or delegate and disposal of court records is undertaken in accordance with the Federal Court Records Authority.

1.3 Aim

- To provide guidelines and principles for the management of the Court's case files and corporate memory according to best practice and accepted standards
- To provide for the collection of items of historical interest and to ensure these records are made available to future researchers

1.4 Records

All Federal Court records are covered by this policy

- case files and associated records (judgments and transcript)
- administrative records (policy and correspondence)
- items documenting the history of the Court that are not administrative or case file records (memorabilia and ephemera)

1.5 Administrative setting

The management of case file records and administrative records is handled at district registry level or by the Records Manager (for Principal Registry administrative files). The master set of judgments is maintained by the Judgments Officer, Principal Registry in both paper and electronic format. Items documenting the history of the court will be administered by the Court archivist. Ultimate direction lies with the Judges Library Committee.

1.6 Endorsement

This policy carries the endorsement of the Committee.

Part 2 Court records

2.1 Registry procedures

Each district registry is responsible for the annual sentencing of Court records in accordance with the Court's Records Authority. The Native Title Files are transferred to National Archives Australia for permanent retention and all other court case files are either retained permanently by each registry (Part A or 'court record' section of the file) or disposed of according to the Records Authority (Pt B or correspondence part of the Court file).

2.2 Judgments

A master set of judgments is maintained in the Principal Registry Judgments Section in hard copy and in electronic format from 1977.

2.3 Transcript

Audio recordings of court transcripts (excluding native Title matters) are kept for a period of 10 years after the date recorded subject to the orders of the Court. Transcripts are to be retained and stored with the court's transcript provider for the period of the retention.

Part 3 Items of historical interest

3.1 Acquisition and appraisal

Acquisition and appraisal is the process of deciding what sort of material is appropriate for the archives, and deciding how long the material will be retained for. The archives will accept material by donation or transfer. Records may be transferred from other institutions or donated by judges or registries.

3.2 Donations

The archivist when accepting donations will ensure that ownership and copyright is acquired by the Court. The archivist reserves the right to not accept donations where overly restrictive conditions are made on the use of the material.

3.3 Preferred items for donation

Records will be accepted into the historical collection if they:

- document the history or culture of the Court; and/or
- were created or used by a Judge in any capacity, which s/he may choose to donate,

subject to the following restrictions:

- where possible, records/items should be original or unique;
- the archives will generally not accept donations with excessive access restrictions.

3.4 Acquisition focus

The following list is an indicative list only of the types of records that the archives aims to acquire:

- judges' papers (originals where possible)
- photographs of significant events
- photographs of Court premises, inside and out
- any material relating to the swearing-in and retirement ceremonies of judges, in any format eg. correspondence, photographs, VHF videos
- material relating to the swearing in of Senior Counsel
- correspondence, attendance lists etc. relating to formal occasions of the Court
- correspondence, gifts etc. relating to visits by local or overseas dignitaries
- artefacts, personal or public
- any item that reflects or may reflect the history or culture of the Court

3.5 Acquisition priorities

The collection of materials from former chief Justices are of national importance and will be transferred to the National Archives under the Personal Archives Service of the National Archives of Australia.

3.6 Making a Donation

To ensure continuity of collection, management under the appropriate conditions and care by skilled staff the archives will be retained in Principal Registry. To meet this requirement material should be transferred to Principal Registry, where possible.

If you have material which you may wish to donate, please contact:
Records Manager/Archivist Principal Registry [REDACTED]

3.7 Access provisions

Access to the archives will be granted in the following circumstances:

- requests from Judges or registry staff;
- to any individual granted access through application to the Registrar.

Access by non-Court individuals will be assessed according to their research needs. Access will be restricted to office hours and will be by prior arrangement with the archivist. Research will be supervised. Access will not be granted until records have undergone an arrangement and description process.

A Judge or Registrar may limit access to personal records by indicating so on the Donation Form.

3.8 Finding Aids

Finding Aids will be made available to researchers granted access to the archives. Finding Aids will be reports generated from the archives database. An example of a Finding Aid is a list of holdings by the donating individual or registry, or a list of holdings arranged by series eg. judges' speeches.

Part 4 Preservation strategy and storage

4.1 Court files and administrative records

Court files and administrative files should be maintained in a stable clean environment in accordance with Records Management Australian Standard AS 43589. The Australian Archives administers the preservation program for all records in its custody.

4.2 Items of historical interest

Preservation

The archivist will ensure that all material is accommodated in acid-free containers and stored in a temperature and humidity controlled environment. An area of the basement of the Law Courts Building, Sydney has been modified to ensure such an environment.

The physical condition of all acquisitions will be documented upon receipt to alert the archivist to any conservation work required.

Storage

Items such as the original oaths of office are stored in a secure area within Principals Registry by the Deputy Registrar's staff

4.3 Electronic records

A document management system (DMS) is presently being implemented. Stage one of the project is the development of an electronic court file to be implemented in 2013.

Part 5 Definitions

- from *Keeping Archives*(KA) ^[1], ISO 15489 ^[2]

access- authorised use of records held in the archives for research or other approved activities.

archive- Records of an organisation selected for indefinite retention on the basis of their continuing value for historical research purposes.

disposal- the final decision concerning the fate of records including the retention, deletion or destruction of records in or from recordkeeping systems.

ephemera- items of a transient nature and low value that are expected to have a brief value.

memorabilia- material having sentimental or historical value to the creator, the creator's family or to collectors metadata-data describing context, content and structure of records and their management through time.

records- recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity.

sentencing- process of identifying the disposal class a record belongs to and applying the disposal action specified in the relevant disposal authority. AH

[1] Ellis, J (ed) Keeping Archives 3rd ed. Jackie Bettingham and the Australian Society of Archivists, Canberra, 2008

[2] Australian and International Standard ISO 15489 on Information and Records Management

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Records and Document Management

ABOUT RECORDS/DOCUMENTS

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[Why keep records/document](#)
[Types of court records/documents](#)
[Where are records/documents kept](#)
[Finding a record/document](#)
[File Security](#)
[Storing a record/document](#)

What is a record/document

A record or document is evidence of a business activity, regardless of format. Records/documents can be in paper or electronic format and include all forms of recording information such as reports, minutes, emails and spreadsheets. A record can also be recorded actions and decision made in informal settings such as meetings or on the telephone. Federal Court records/documents can be either administrative or court case files.

Why keep records/documents

Legal Requirement

As Commonwealth employees we have an obligation for transparent and accountable government. Under the [Public Service Act 1999](#) and the [APS Values](#) and [Code of Conduct](#) it is made very clear that we must be able to account for our actions.

Records/documents are our corporate memory; they are important, unique sources of evidence and information about the Federal Court. Keeping records makes it easier to find information on a subject and explain what has been said and done previously and is less reliant on memory. They enable the Federal Court to explain or justify what has been done, the extent of responsibility for decisions taken and the order of events.

Consult the [Administrative Records Retention Schedule](#) for how long records/documents should be kept.

Types of court records/documents

Administrative

Administrative records/documents, usually paperbased, record the corporate administrative function of the court for example matters dealing with finance, recruitment and property.

Court case files

A Court case file is a paperbased summary of documents relating to a proceeding.

Electronic

Electronic records/documents record the correspondence of the court in a variety of electronic formats such as email, web pages and text messages. These records/documents need to be stored and recorded so they are accessible for as long as they are required.

Where are record/documents kept

Records/documents are important assets that belong to the court and they should be stored in a Registry's recordkeeping system, which may be paper, electronic or both. By making a record you are contributing to accountable government and protecting the interests of the Court. Electronic documents are kept in Outlook, Casetrack and shared drives. Paper-based documents such as administrative court files are recorded in RecFind (NSW, VIC, QLD and TAS) and other systems in other states, eg. Filemaker Pro. Photographic and other formats such as prints, negatives, DVDs, videos, CDs are recorded on our archives database and housed with the Court's archives collection.

Finding a record/document

The movement of physical files and documents should be recorded accurately in the Court recordkeeping system and kept up to date to ensure documents can be located at all times.

File movements must be recorded whenever files:

- Are moved within a registry
- Are transferred between teams
- Are transferred to another Registry
- Are transferred to off-site locations or storage

File Security

The physical security of any file is the responsibility of staff holding the file. Team leaders are responsible for controlling the movement of files within teams and between teams.

All file movements involving security protected documents must be authorised and recorded by registry staff.

Files should not be taken out of the Court's premises unless absolutely necessary.

Storing a record/document

Paper and electronic documents/records about Court business must be stored within approved electronic storage areas or paper based files. This ensures that valuable Court documents are secured.

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Records Authorities

Federal Court

- [Federal Court \(including Federal Circuit Court General Federal Law\) - case management \(pdf - 502 kb\)](#)
- [Federal Circuit Court \(General Federal Law case management\) - NAA endorsement](#)
- [Federal Court- records authority working guide \(pdf - 477 kb\)](#)

Family Court

- [Family Court of Australia and Federal Circuit Court of Australia \(Family Court Services\) \(pdf - 225 kb\)](#)
- [Family Court \(Source documents that have been reproduced\) \(pdf - 185 kb\)](#)

Western Australia Family Law Jurisdiction

- [DotAG R & D Schedule RD2006040 \(pdf - 6.9 mb\)](#), section G only relates to the FCWA
- [DotAG Recordkeeping Plan \(rtf - 7.5 mb\)](#), Part 5 provides additional information about the disposal and retention of their records and should also be considered
- [Digitization Specification \(pdf - 362 kb\)](#), provided to State organizations by the State Records Office

Tribunals

* Denotes the authorities that apply to the Federal Court entity

- [Administrative Appeals Tribunal \(pdf - 117 kb\)](#)
- * [Australian Competition Tribunal \(pdf - 115 kb\) | \(Word - 82 kb\)](#)
- * [Copyright Tribunal \(pdf - 109 kb\) | \(Word - 305 kb\)](#)
- * [Federal Police Disciplinary Tribunal \(ceased\) \(pdf - 114 kb\) | \(Word - 82 kb\)](#)
- [Migration Review and Refugee Review Tribunals \(pdf - 306 kb\)](#)
- * [National Native Title Tribunal \(pdf - 195 kb\)](#)
- * [Tribunals - General Authority \(pdf - 83.9 kb\)](#)

Administrative/Corporate Records Authority

- [Administrative Functions Disposal Authority \(revised 2010\) \(pdf - 1.9 mb\)](#)

See also:

- [Records Authority: paper presented at AIJA Librarians' conference 21 August 2015](#)

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About RecFind

RecFind is an information storage, retrieval and inquiry system designed to manage and analysis information. RecFind is the records management system employed by the Federal Court to manage electronic information and documents/records. RecFind is used in the following Federal Court registries: Principal, NSW, Queensland, Victoria and Tasmania.

Using RecFind

 [RecFind 6 User Manual \(pdf - 10.7 mb\)](#)

RecFind Tip Sheets

Using the RecFind Button

[RecFind tip sheet 1 - Search for email \(pdf - 382 kb\) \(Word - 257kb\)](#)

[RecFind tip sheet 2 - Search by text \(pdf - 106 kb\) \(Word - 261 kb\)](#)

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 [Keyboard vs mouse \(pdf - 9kb\)](#)

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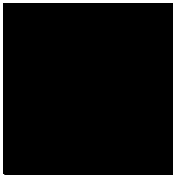

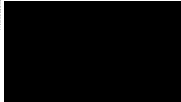
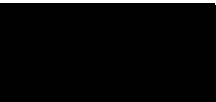
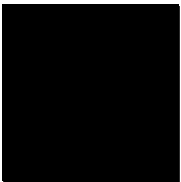
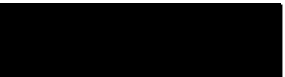
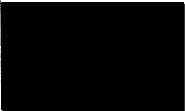

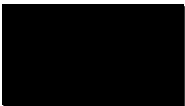
[Using the Memor](#)[Using the Memor Stage 2 \(audit date and deleting data\)](#)

Tip sheets for administrators

[Adding new users to RecFind](#)[Configuring RecFind screen](#)[Problems with RecFind access and security levels](#)[Access levels for security groups](#)

Training

All staff using RecFind are trained on how to use the system to ensure awareness of their recordkeeping responsibilities. Principal Registry staff will be trained by the Records Manager and other registries by the designated RecFind Administrator.

Registry Administrators		
NSW		
Principal		
Qld		
TAS		
Vic		

RecFind version 6

A new version of RecFind was released in January 2010.

FAQs

...➤ How do you delete information from titles 3 & 4 when adding or modifying a file and then leave the fields blank?

Modify the record and delete the information and then hit the space bar - this will leave the title fields blank.

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ROLES AND RESPONSIBILITIES

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Records Manager

The Records Manager is responsible for maintaining the Court's corporate records and archives, advising on the management of records and archives and the disposal, storage and retrieval of records. The Records Manager also provides training on the court's Record Management System, RecFind.

Management

Management and supervisory staff in the Court have the responsibility to ensure that their staff create records (both electronic and paper) that capture the functions, processes, activities and transactions of the Court . They must also ensure that these records/documents are not destroyed without reference to either an approved Records Authority, Normal Administrative Practice (NAP) and AFDA (Administrative Functions Disposal Authority).

All staff

All Court staff as Commonwealth employees have a responsibility to create records that document (in paper or electronic form) the business of the Court including:

Written and verbal communications including telephone discussions
Written and verbal decisions and commitments
Meetings and other Court events

Court Registry staff

The Court's Registry staff are responsible for:

- Creating and registering Court case files and administrative files and file parts
- Registering, storing, maintaining and tracking all physical correspondence and property submitted to the Court.
- Arranging the preparation of physical files and the transfer to and retrieval from courts and other external parties.
- Disposal processing of all physical records under the Federal Court's National Archives Records Authority (presently in progress).

IT Services

The Court's Technology Services Section and Systems Administrators are responsible for ensuring that the Court's systems used for capturing and storing records are reliable, inviolate and fully operational at all times.

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Records and Document Management

TRAINING PACKAGES

Everyone working for the Australian Government is required to make and keep records of their work. This includes non-ongoing contractors and consultants.

Keep the Knowledge - Make a Record! addresses key issues such as when to make and keep a record and includes practical information and tips. The management of email and other types of digital records have been emphasised.

Click on image to go to the *Keep the Knowledge - Make a Record!* eLearning package:

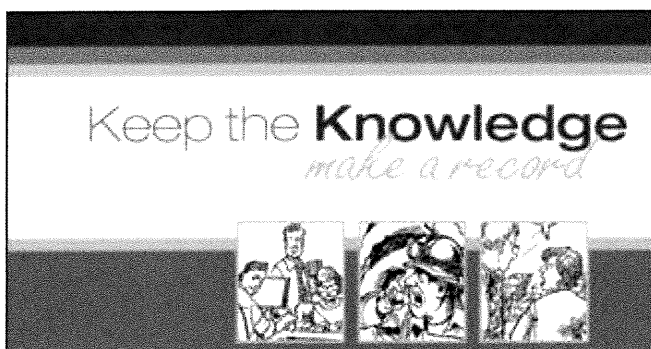


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Records and Document Management

GLOSSARY OF TERMS

ACCESS	Means of finding, using, or retrieving information.
ACCOUNTABILITY	individuals, organisations, and the community are responsible for their actions and may be required to explain them to others.

ACTIVE RECORDS	Records that are referred to frequently or which contain information necessary for the day to day function of the organisation.
ACTIVITY	Activities are the major tasks performed by the organisation to accomplish each of its functions. Each function of an agency may be broken down into a number of 'activities', a term used in the sense of a class of actions that are taken in accomplishing a specific function. The activities in turn may be broken down into a number of transactions. Depending on the nature of the transactions involved, an activity may be performed in relation to one function or many.
ADMINISTRATIVE FUNCTIONS DISPOSAL AUTHORITY (AFDA)	The functional structure of the Administrative Functions Disposal Authority is based on the business classification scheme of Keyword AAA: A Thesaurus of General Terms. It has been modified to suit Commonwealth requirements.
APPRAISAL	Appraisal (of records) is the process of evaluating business activities to determine which records need to be captured and how long these records need to be kept to meet business needs, the requirements of organisational accountability and community expectations.
ARCHIVAL AUTHORITY	Agency or program responsible for selecting,

	acquiring and preserving archives, making them available, and approving destruction of other records. (Australian Standard <i>ISO 15489</i>)
ARCHIVES	Records that are appraised as having continuing value and are retained for legal, historical or research purposes.
AUDITING	<p>within records management, auditing may include any of the following:</p> <ol style="list-style-type: none"> 1. Auditing practices against external corporate requirements, including legislation, standards, policies and business rules 2. Auditing the documentation records management policies, procedures and practices 3. Evaluating the performance of the records management program against corporate objectives 4. Measuring data integrity in recordkeeping systems through, for example, movement and location audits and checking the quality of classification and titling.
BUSINESS ACTIVITY	An umbrella term covering all the functions, processes, activities and transactions of an organisation and its employees.
BUSINESS CLASSIFICATION SCHEME	A description of the functions and activities of the organisation derived from an analysis of business

	<p>activity. The business classification scheme contains terms and scope notes that represent and describe functions, activities, transactions or other elements and shows their relationships.</p> <p>The number of levels within the scheme can vary depending on the level of refinement required and how the scheme will be used. The scheme is hierarchical, moving from the general to the specific, e.g. each function shows the activities that are identified in relation to it, and each activity (linked to the function) would show the categories of transactions that are encountered.</p>
CAPTURE	<p>A deliberate action which results in the registration of a record into a recordkeeping system. For certain business activities, this action may be designed into electronic systems so that the capture of records is concurrent with the creation of records.</p>
CLASSIFICATION	<p>The process of devising and applying schemes based on the business activities which generate records, whereby they are categorised in systematic and consistent ways to facilitate their capture, retrieval, maintenance and disposal. Classification includes determining document or file naming conventions, user permissions and</p>

	security restrictions on records.
CLOSED PART	A part of a file that has been separated from the active file because the file has become too large for easy handling. When a closed part is created, a 'closed part' sheet is attached to the file as the last folio so that no further documents are added to the file.
COMPOUND DOCUMENT	An electronic document comprising information in more than one format such as an e-mail including a word processing document and a spreadsheet.
CONSERVATION	See PRESERVATION
CONTRACT UNDER SEAL	Also called a 'deed' or a 'speciality', this document is signed by a party (or parties) in the presence of a witness (or witnesses) and binds the party or parties.
CONTROL	<p>Control systems and processes associated with records management include:</p> <ul style="list-style-type: none"> - registration which provides evidence of the existence of records in a recordkeeping system; - classification which allows for appropriate grouping, naming, security protection, user permissions and retrieval; - indexing which allocates attributes or codes to particular records to assist in their retrieval; and

	- tracking which provides evidence of where a record is located, what action is outstanding on a record, who has seen a record, when such access took place and the recordkeeping transactions that have been undertaken on the record
CONVERSION	Process of changing records from one medium to another or from one format to another
CULLING	Removing selected documents from a file or a series because they lack archival value. Also referred to as stripping or weeding.
CURRENT RECORDS	See ACTIVE RECORDS
DESTRUCTION	Processing of eliminating or deleting records, beyond any possible reconstruction.
DISPOSAL	A range of processes associated with implementing appraisal decisions. These include the retention, deletion or destruction of records in or from recordkeeping systems. They may also include the migration or transmission of records between recordkeeping systems, and the transfer of custody or ownership of records.
DISPOSAL ACTION	The disposal action noted on a disposal authority indicating the minimum retention period a record must be kept for and the event from which the disposal date should be allocated.
	see RECORDS AUTHORITY

DISPOSAL AUTHORITY	
DISPOSAL CLASSES	Classes of records performing or recording similar activities and therefore having the same retention period and disposal action.
DISPOSAL FREEZE	A ban on disposal action which applies to certain groups of records from time to time.
DISPOSAL SCHEDULE	<p>An authority for implementing decisions on the value of records specified in a schedule. A disposal schedule lists:</p> <ul style="list-style-type: none"> • the records created by the agency • the retention period for each series or class of records • the disposal sentence for each series or class of records, specifying whether the records are to be retained as archives or destroyed • the custody arrangements for each series or class of records, specifying when the records are to be transferred to intermediate storage and/or to archives.
DISPOSAL TRIGGER	The point from which the disposal action is calculated. This can be a date on which action is completed or a date on which an event occurs.
DISPOSITION	Range of processes associated with implementing records retention, destruction or

	transfer decisions which are documented in disposition authorities or other instruments.
DOCUMENT	Structured units of recorded information, published or unpublished, in hard copy or electronic form, and managed as discrete units of information systems.
ELECTRONIC DOCUMENT MANAGEMENT SYSTEMS (EDMS)	<p>A generic term covering a range of technologies, including document management, imaging, workflow, document input, electronic publishing and records management.</p> <p>In general EDMS technologies are all concerned with capturing managing, routing, storing and sharing electronic documents.</p>
ELECTRONIC RECORDS	Records communicated and maintained by means of electronic equipment.
EPHEMERAL RECORDS	Records of transitory or limited value.
FILE	The action of placing documents in a predetermined location according to an overall scheme of control.
FOLIO	A single leaf of paper or page of a register, usually numbered only on one side.
FUNCTION	The largest unit of business activity in an organisation or jurisdiction.
FUNCTIONAL THESAURUS	A thesaurus that reflects the unique functions of an organization.

GENERAL DISPOSAL AUTHORITY (GDA)	See <u>GENERAL RECORDS DISPOSAL SCHEDULE</u>
GENERAL RECORDS DISPOSAL SCHEDULE	General disposal schedules cover functions common to a number of agencies, typically used by government archival authorities to cover functional areas such as Personnel, Finance and Stores
IMAGING	The conversion of non-digital documents and pictures to digital format.
INACTIVE RECORD	Records that are no seldom referred to but that must be retained for legal or archival purposes.
INDEXING	Process of establishing access points to facilitate retrieval of records and/or information.
INFORMATION MANAGEMENT	Information Management is the measures required for the effective collection, storage, access, use and disposal of information to support agency business processes.
INFORMATION OBJECTS	A paper or electronic document, a video or sound recording, a photograph or any other piece of information that needs to be managed.
KEYWORD	Generally refers to the top level term is a keyword thesaurus.
KEYWORD AAA	A keyword thesaurus of general terminology, designed for use in classifying, titling and indexing administrative records in most technological environments.

KEYWORD AAA (COMMONWEALTH)	A version of Keyword AAA modified for Australian Commonwealth Agencies.
METADATA	Data describing context, content and structure of records and their management through time.
MIGRATION	Act of moving records from one system to another, while maintaining the records authenticity, integrity, reliability and usability.
NON-CURRENT RECORDS	Those records that are required so infrequently in the conduct of current business that they can be transferred from offices to separate storage areas.
NORMAL ADMINISTRATIVE PRACTICE (NAP)	Defines types of records that agencies may routinely destroy in the normal course of business. NAP allows for the destruction of non-essential information without reference to a Records Authority. Agencies do not need to contact National Archives for permission to dispose of records that fit within the scope of normal administrative practice.
PREFERRED TERM	Name given to terms in a thesaurus that can be selected to classify a record or document.
PRESERVATION	Processes and operations involved in ensuring the technical and intellectual survival of authentic records through time.
RECORDKEEPING	The creation and maintenance of full and accurate, complete and reliable records as evidence of business transactions.

RECORDS	Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business.
RECORDS AUTHORITY or RA	An Agency's Authority to dispose of records in accordance with the approval of National Archives Australia.
RECORDS MANAGEMENT	Field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records.
RECORDS SYSTEMS	Information system which captures, manages and provides access to records through time.
REGISTRATION	Act of giving a record a unique identifier on its entry into a system.
REPOSITORY	Physical or virtual areas for storage of information objects.
RETENTION PERIODS	Periods of time for which records must be held before final disposition ie archiving or destruction.
SCANNING	See IMAGING
SCOPE NOTES	Notes within a thesaurus that provide guidance and clarification on the meaning of a term.
SENTENCING	The process of identifying and classifying records, and applying the appropriate

	disposal action specified in a valid disposal authority. This process can be undertaken at any point in the record's existence (at the point of creation, when current business is finished, or at a specified review date).
STORAGE	The function of storing records for future use.
THESAURUS	A thesaurus is a complex alphabetical listing of all terms derived from a classification scheme. Such tools act as a guide in the allocation of classification terms to individual records.
TRACKING	Creating, capturing and maintaining information about the movement and use of records
TRANSACTION	The smallest unit of business activity.
TRANSFER – CUSTODY	Change of custody, ownership and/or responsibility for records
TRANSFER – MOVEMENT	Moving records from one location to another.
VERSION CONTROL	A subsequent interpretation of an original document.
VITAL RECORDS	Records that are essential to the continued operation of an organisation.
WORKFLOW	The coordination of tasks, data, and people to make a business process more efficient, effective, and adaptable to change.
WORKING PAPERS	Working papers are papers, background notes and reference materials that are used in the preparation and completion of other documents.

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FAQs

[See Also RecFind FAQs](#)

→ **How do I create a file or ensure my electronic/digital documents are safely recorded in a records management system?**

Contact the following:

Corporate Directorate and Prin Registry - [REDACTED]
[REDACTED]

ACT - [REDACTED]

Vic - [REDACTED]

Qld - [REDACTED]

NSW - [REDACTED]

NT - [REDACTED]

SA - [REDACTED]

TAS - [REDACTED]

WA - [REDACTED]

If you are working in the Federal Court, Family or Federal Circuit Court your Records Management System is RecFind. Recfind is the Court's Electronic Document Records Management System (EDRMS). Previously the Family/Federal Circuit Court used a system called 'Objective' but as Objective is not being updated Court staff are encouraged to use RecFind. The National Native Title Tribunal use 'eDOCS' as their records management system.

→ How do I access RecFind?

The majority of Federal Court staff are added to Recfind when they commence working in the Court. However it's best to contact the [Records Manager](#) if you are unsure you have been added or wish to be added.

RecFind is currently accessed via the Citrix program but will be moving to a web client service very soon.

→ If I am unsure of what records to keep what should I do?

If the file deals with Administrative matters consult the [AFDA manual](#). If the correspondence is a routine matter of no lasting historical significance consult the [NAP](#). Court case files or other matters discuss with the [Records Manager](#).

→ Do I need to keep the paper copy once I have made a scanned copy?

No, only keep the digital copy. Once a document is scanned the paper copy can be destroyed. Electronic records still need to be managed consistently with the Courts recordkeeping policies and procedures.

→ Do all records need to be preserved for future access?

No in fact most records can be disposed of, See section: [Disposing and transferring a record/document](#)

...➤ Do I need to retain all drafts of a document ?

No, most drafts do not need to be retained. There should however be a record trail of significant changes, consultations and decisions.

...➤ Should I retain all my work related emails?

Only keep emails that record actions taken and decision made.

...➤ How do I add electronic documents to Records Management System

Electronic documents can be added to the Records Management System via an application add-in that is applied to the suite of Microsoft products. Contact the [Records manager](#) to have this application added to your PC.

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 [Adding electronic attachments](#)

 [Location - what files are held by action officer, location or chambers](#)

 [Movement history by file number, action officer and holding location](#)

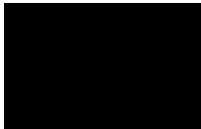
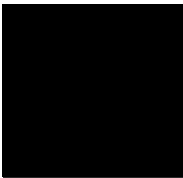

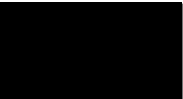
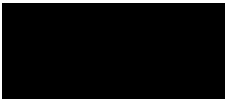

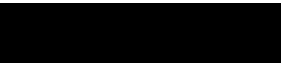
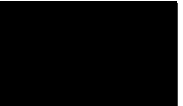


[Using the Memor](#)[Using the Memor Stage 2 \(audit date and deleting data\)](#)

Tip sheets for administrators

[Adding new users to RecFind](#)[Configuring RecFind screen](#)[Problems with RecFind access and security levels](#)[Access levels for security groups](#)

Training

All staff using RecFind are trained on how to use the system to ensure awareness of their recordkeeping responsibilities. Principal Registry staff will be trained by the Records Manager and other registries by the designated RecFind Administrator.

Registry Administrators		
NSW		
Principal		
Qld		
TAS		
Vic		

RecFind version 6

A new version of RecFind was released in January 2010.

FAQs

...➤ **How do you delete information from titles 3 & 4 when adding or modifying a file and then leave the fields blank?**

Modify the record and delete the information and then hit the space bar - this will leave the title fields blank.

Court Records Policy Committee

Appeal/Court Books: policy recommendation to District Registrars from the Court Records Policy Committee

Background:

Present practices:

- A paper copy of an appeal book is provided for a Judge by the client.
- All registries destroy the judge's paper copy at the end of the proceedings.
- The original paper appeal book is filed with the paper court file (exception in Vic where they store them separately).
- Appeal/court books are kept for 10 years (classified as a Pt B document) both in the paper and electronic world.
- All FCC appeal/court books are uploaded to the ECF but very few FCA books are uploaded.

Recommendations:

Appeal/Court books recommendations: **Note in February 2017 the retention period changed – Appeal Books can now be destroyed once the appeal period has ceased.**

1. Appeal / Court books be kept for 5 years instead of the present 10 years

Justification:

- Five years is considered more than adequate to allow any appeal to the High Court or any other consequential process to be concluded.
- Appeal /Court books generally contain documents that have been previously filed, there is usually no new material or very little provided.
- There is no history of appeal/court books being requested when a file is inspected, the Committee were unable to recall any occasion when an appeal/court book had been requested.

2. Amend the present information so all appeal/court books are encouraged to be elodged and implement the following practices for lodging appeals

Small appeal/court books (e.g. appeals from FCC):

- All small appeal/court books be elodged by the client.
- A paper copy of an appeal/court book be provided to a Judge by the client.
- Judges' copies of appeal/court books be destroyed at the end of an appeal.

Large appeal/court books (e.g. class actions):

- The Court provides guidance on what documents should be included in an appeal/court book.
- Parties and their legal representatives be encouraged to resolve as many of the disputed issues as possible prior to the preparation of the appeal/court books to reduce the extent of the material which must be included.
- Clients be encouraged to set scanners at the lowest resolution to reduce the file size.
- Appeal/court books not able to be elodged because of size are scanned by the parties and saved to a USB stick.
- Registry Staff are responsible for elodging appeals/court books held on USB sticks.
- If registry staff are unable to elodge internally, they will upload the appeal/court book to the ECF internal library and only elodge the index.
- If the index only is elodged, a comment to be made in Casetrack against the appeal/court book indicating the entire appeal/court book is held in the ECF.

Court Records Policy Committee

Archiving paper court files: *policy recommendation to District Registrars from the Court Records Policy Committee*

Background: The Court's Records Authority applies to the archiving of paper court files from 19 October 2011. All files destroyed, retained or transferred (wholly or in part) under the Authority from that date should be divided into Part A (the official Court Record documents to be retained permanently) and Part B (documents for disposal after 10, 15 or 25 years) when the file is closed and ready for storage.

The Committee agreed that registries would find it impractical to archive their paper court files according to the Records Authority because of the time involved and the need to assign experienced staff to the task. This would place an unreasonable burden on current registry resources.

Recommendation:

Archiving paper court files -

Paper court files be archived in their entirety and not be divided into part A or Part B as set out in the Court's Record Authority. The Authority archiving will apply to the electronic court file (ECF) only as this process is automated within the ECF's document management system.

Note: The Court is exempt from the provisions of the Archives Act of 1983. The Records Authority endorses the destruction, retention or transfer to the National Archives in accordance with section 24(2)(b) of the Archives Act. It sets out those records that need to be retained as national archives and the minimum length of time that temporary records need to be kept.

Court Records Policy Committee

File transfer: *policy recommendation to CEO and District Registrars from the Court Records Policy Committee*

Background: The introduction of the ECF has meant that the electronic file to any proceedings is available to all court users regardless of location. The Court, however, will continue to manage paper files for some time yet and currently there are inconsistent approaches across registries in how these are managed if transferred, whether this is to the Federal Court from another Court (including the Federal Circuit Court) or between District Registries of the Federal Court. Separately it is likely that files transferred to the Federal Court from State/Territory courts will continue to be received in paper and there are also inconsistent approaches across Registries about the creation of an electronic file from these and the management of the State/Territory courts paper files afterwards.

Recommendation:

- For paper files – Once file has been transferred interstate (not just being heard by a Judge in a different state) Casetrack and Recfind should both be updated to have the new home location as the new state. Once the file is finalised the file should be closed and ‘archived’. Upon archiving of the file, Recfind will need to be updated to ensure that the file can be traced to the correct location.

Note: The Committee was unable to agree on whether the ‘archiving’ (i.e. permanent storage) of a closed transferred file should be at the District Registry to which it had been transferred or in the District Registry in which it was originally filed. There is a cost of returning a file to its “home” registry and the risk of its loss during transit. Returning a file means that it will be archived as part of the ‘run’ of sequential file numbering and where, intuitively, users would expect to find it (i.e. if the file ID is QUD123/2011 it will, after finalisation, be stored in Queensland). The CEO and District Registrars to decide whether a transferred file is, after finalisation, to be retained in the transferred District Registry or returned to its “home” registry.

- For ECF Files – Once a transfer order has been made transferring a matter between the Federal Court and the Federal Circuit Court, the order should be uploaded to Casetrack as the initiating document and a new file created. An email should be sent to the staff in the Business Applications Team (currently [REDACTED] and [REDACTED]) to link both files in the ECF. This allows both courts to access the existing files without having to re-upload the documents to the new file (as an example see related files VID390/15 and BRG1130/15).
- If a paper file is transferred to the Court from another court, a copy of the transfer order is uploaded to the ECF and the matter allocated as per normal procedure. All documents received should be scanned and uploaded to the Internal Documents folder on the ECF. How this is done will be determined on the size of the file and Chambers preference. Upon conclusion of the matter the hard copy file will be returned to the originating court.

Note: The Committee was unable to agree on whether each document from the transferred file should be internally eLodged as a separate document or all documents from the

transferred files be internally eLodged as a single document. Frequently there are numerous documents on such a transferred file and uploading separately can be very time consuming. Uploading as a single document can, however, mean that it is difficult to locate any particular document. The CEO and District Registrars to decide whether documents should be uploaded separately or as a single document.

- When an ECF file is transferred to an external court, all material should be uploaded to a USB stick and letter detailing the material on the USB stick should be sent to the external court. The ECF is then closed and a General Note made on the file altering to the transfer order.

Court Records Policy Committee

Recfind the legacy database for all paper Court Files: *policy recommendation to District Registrars from the Court Records Policy Committee*

Background: Recfind, the Court Records Management System, is used by the larger Federal Court registries (NSW, Victoria and Queensland) to track and record the location of paper court files. With the introduction of the electronic court file in 2014 it is beneficial to have a legacy database where all the Court paper file records are recorded in one place. It is recommended that Recfind be that legacy data base. If in the future Recfind is replaced the records will be migrated to the replacement system.

Recommendation:

- RecFind to be the legacy database for all the physical court files of the Court from the first court files in 1977 to the cessation of the paper court file in 2004 and
- commencing from the date of the recommendations approval, paper files moved to a location outside of the registry, be recorded in Recfind.

Court Records Policy Committee

Refusal to file documents: *policy recommendation to District Registrars from the Court Records Policy Committee*

Background: There are inconsistencies across registries as to where Refusal to accept documents for filing (abuse of process, frivolous or vexatious documents) or documents not accepted in a registry (rejected by the Court or a registrar) are filed in the ECF. It is important that consistent practices be established so refusal to file documents are located in one central area within the ECF.

Recommendation:

The following recommendations apply to both the Federal Court and Federal Circuit Court

Refuse to file register (2.3.1.)

The Refuse to file register to be completed for any applications where the Court or a Registrar has refused to accept the documents for filing pursuant to Rules 2.26 and 2.27 of the *Federal Court Rules 2011* and Rule 2.06 of the *Federal Circuit Court Rules 2001*.

Federal Court Rules (2011) (Cth), rr 2.26 and 2.27(d)-(f).

Pursuant to the above rules a Registrar, or the Court (a Judge), may refuse to accept a document for filing.

Processes and Action:

1. A Registrar, or a Judge, refuses to accept the document for filing. Ordinarily, this will be done by letter.
2. The relevant Registry officer adds a new entry in the FCA or FCC 'Refuse to File register' contained in the Registers tab on the All Current Files homepage of the ECF.
3. A copy of any correspondence sent, orders made and the document/s refused for filing should be uploaded to that entry in the register as one bundle with the letter/order as the first document. This is best achieved by merging multiple PDFs into one document (IT can assist with this task).
 - a. As best practice, users should attach the set of documents identified below to the applicable entry in the FCA or FCC Refuse to file register.
 - i. Letter from Registrar
 - ii. Memo prepared for the Judge and/or from the Judge
 - iii. Originating Application
 - iv. Affidavit – minus annexures or attachments unless instructed by the Registrar or Judge
 - v. Statement of Claim (if received)

4. If the document refused for filing is not an originating document (i.e. it relates to a proceeding already on foot) the letter sent by the registrar should be uploaded to the Refuse to File Register and the documents sought to be filed to the Rejected Documents section of the particular ECF. A note should be placed in the 'Reason for Decision' section of the Refuse to File Register to the effect 'Copies of the documents sought to be filed can be located in the ECF: <include hyperlink to ECF'.

Rejected Documents

See *Federal Court Rules 2011* (Cth), r 2.27(a)-(c).

Documents rejected due to elementary non-compliance with the Rules are usually rejected by a Client Service Officer. For instance, an affidavit that is unsworn, an originating process that hasn't been signed, or a document that is clearly missing pages. eLodgment stores these documents and the reason for rejection in the *Rejected* tab of eLodgment. These documents can be accessed at a later date if required.

If, for a particular reason, the Client Services Officer believes the documents should be placed on the file they should be saved locally and uploaded to the Rejected documents section of the particular ECF. If you are unsure as to whether or not to do this, seek direction from a Registrar.

Court Records Policy Committee

Retention of Exhibits to Affidavits: *policy recommendation to District Registrars from the Court Records Policy Committee*

Background:

Present practices:

Registries are using a number of different practices to record exhibits to affidavits. In relation to ECFs, the recommendation needs to be consistent with the National ECF Guide. This recommendation relates only to exhibits to affidavits and not exhibits tendered in Court. To ensure practices are consistent across the Court the following is recommended.

Recommendations:

Retention of Exhibits to Affidavits

- **For non-ECFs:** The exhibits are to be retained with the affidavit and folioed as one document on the file. If the exhibits are too large to retain with the file or they are physical items they are to be stored in the exhibit/safe room, correctly marked for identification and the storage indicated on the file cover. Paper exhibits or physical items should be returned to the filing party on direction or order of the Judge or Registrar, where required.
- Where an affidavit contains exhibits that are physical items the party should be requested to include a photo of the item as the exhibit. This can be eLodged in the usual manner. The actual physical item should be stored in the exhibit/safe room clearly identified. Paper exhibits or physical items should be returned to the filing party on direction or order of the Judge or Registrar, where required.

Court Records Policy Committee

SRL (Self Representative Litigants) documents: *policy recommendation to District Registrars*

Background: The paper documents filed by Self representative Litigants (SRL's) are presently copied by registry staff and elodged. The original documents are then filed and stored within registries.

Present Practice: Copies of SRL documents are kept, filed and stored within registries in case there is a query by an SRL about their documents. This procedure is time consuming and storing the documents occupies valuable space. Presently there is no retention period on how long these documents are to be kept.

Members of the Committee were asked to canvas the opinion of their registries as to whether these documents were requested.

Registry feedback

The majority of registries said they had little or no call on these documents and were of the opinion that they did not need to keep them for a long period of time (NSW, Qld, WA, and SA). Victoria registry staff had received a few requests so were in two minds about keeping them and NT recommended SRL's sign a form acknowledging the Court had uploaded their documents and they were responsible for their original copies.

Recommendation:

SRL documents

Copies of SRL documents are retained for a period of six months only.

Court Records Policy Committee

Subpoenas: *policy recommendation to CEO and District Registrars from the Court Records Policy Committee*

Background: Registries are using a number of different forms and processes to record the documents that are produced under subpoena, the inspection of those documents and the uplifting of the documents. There are also varying practices within registries associated with the return or destroying of subpoenaed documents.

Committee members agreed that a uniform approach and forms be adopted in all court registries for recording and returning subpoenas.

A Practice Note in relation to subpoenas and notices to produce is under development within the office of the National Operations Registrar. Consultation will be required with relevant staff in that office about the interaction of the recommendations below and changes to practice and procedure that may flow from any Practice Note which is issued. This may impact on the timing of implementation of these recommendations.

The NSW District Registry currently adopts a requirement that a letter of authority or photo identification be provided on uplift of documents. No similar requirement is imposed elsewhere.

Recommendations:

Subpoenas recommendations (for FCA only pending FCC agreement to extend them to its cases/records):

1. For Non ECF files – Enter the details on Casetrack to generate the “S” number. Then issue the receipt / coversheet (see attached) to the party who produced the documents and use the same sheet as a label when packaging the documents. The envelope / box is stored in a separate location from the file. Note: The receipt / coversheet has 2 versions – 1 in portrait and 1 in landscape - for use as appropriate. The information is the same on both forms.
2. For ECF Files – Enter the details on Casetrack to generate the “S” number. Then issue the receipt / coversheet (see attached) to the party who produced the documents and use the same sheet as a label when packaging the documents. Now upload the receipt / coversheet to the ECF Subpoena library. The envelope / box is stored in the subpoena room / safe. Documents are not to be scanned into the ECF due to the issue of packets becoming privileged at a later date.

Note: The only difference between the non ECF files and ECF files is that the receipt is uploaded into the Subpoena library.

3. With Uplifting of subpoenaed documents –
FCA: Party must fill out the Uplift form (see attached). Attach the orders and ID/letter of authority (if required) to the Uplift form, leave the form at the counter and release the documents. When documents are returned to the Registry, find the uplift form and fill out the bottom portion of the form. Put this form in the hardcopy file / upload to the Subpoena library of the ECF.

Note: The CEO and District Registrars to decide if, nationally, photo identification or a letter of authority should or should not be provided for uplift of documents or alternatively if this can be decided by each District Registry individually.

FCC (subject to FCC agreement including in relation to photo identification or letter of authority as above): Inspection access is allowed unless a notice of objection has been filed. If uplift is required, consult the registrar / chambers for approval. The notice of request to inspect form has to be elodged as it is a filable document. The Access form with all the ID/letter of authority (if required) attachments is put into the file / Subpoena library of the ECF.

4. Return of subpoenaed documents – At the conclusion of the matter and the appeal period, the documents need to be destroyed / returned. The first preference is that they be destroyed after getting the producing party's approval (either through the Form 44 Notice of Addressee or contacting the party and getting something in writing from them). The second preference is that they pick up the documents from the Registry or DX it to them. The third and least preferred option is that we send the documents to them via post. Then make a note on Casetrack against that subpoena as to the status of that packet and save any correspondence to the ECF.

Note: The Committee suggested consideration be given to amending the subpoena form either to include a portion where the producing parties indicate their preference regarding method of return OR change the form to indicate that all documents will be destroyed at the end of the period unless the producing party specifically requests the documents be returned. This form is harmonised through the Council of Chief Justices' Rules Harmonisation Committee and any change must first be considered by it. The CEO and District Registrars view on the desirability of such changes is sought so the Deputy Principal Registrar can raise the suggestion with Perram J in his capacity as Convener of the Rules Harmonisation Committee.

Appendix 1: Uplift form

Appendix 2: Receipt Cover sheet (portrait)

Appendix 3: Receipt Cover sheet (landscape)

Appendix 1: Uplift form

FEDERAL COURT OF AUSTRALIA/ FEDERAL CIRCUIT COURT

**RECEIPT FOR UPLIFT OF SUBPOENAED MATERIAL
BY LEGAL PRACTITIONER**

File Number:

File Title:

.....

.....

I _____ hereby acknowledge receipt of the subpoenaed documents/exhibits tendered in the above matter as listed below, and undertake that they will be kept in the safe custody of the legal practitioner:

- [S number – description]
- [S number – description]

I also undertake to return the documents or things to the Registry:

- (a) in the same order, condition and packaging as at uplift;
 - (b) by no later than 4.00pm on _____ (date);
- or as otherwise ordered.

Party represented by you:

Firm/Company/Department:

.....

(Block letters)

Contact Legal Practitioner/Officer:

(Block letters)

Signature: Date:

Name: (Print) Telephone:

Registry Use Only:

Registry Officer who released documents:Date:.....

(Signature)

Date Documents Returned to the Registry: _____

Signature of person returning documents: _____

Appendix 2: Receipt cover sheet (Portrait Version)



RECEIPT / COVER SHEET FOR SUBPOENAED DOCUMENTS

File No

Matter

V

Date Subpoena Issued:

25/08/2015

Documents produced by:

Domenic Vincent Martino & Australasian Resources

Date material received in
Registry:

Description

1 envelope containing 1 USB drive

Contact Details:

Name of person producing
documents:

Email address:

Contact No:

At conclusion of matter:

☐ Securely destroy the documents

☐ Pick up from the Registry

Court S Number (Packet no):

S_

Officers Name / Initial:

Appendix 3: Receipt cover sheet (landscape)

File No: _____

Matter : _____

V

Date the Subpoena issued: _____
the Registry: 2015

Date material received in

Documents produced by: _____

Description of documents: _____

Contact Details:

Name of person producing documents: _____

Email address: _____

Contact No: _____

At conclusion of the matter: ☐ **Securely destroy the documents**

☐ **Pick up from the registry**

Officer's Name / Initial: _____

Court S number (Packet No): S__

Court Records Policy Committee

USB Sticks, Passwords and Disposal: *policy recommendation to District Registrars from the Court Records Policy Committee (updated 19 February 2019)*

Background: it is a very common practice for documents, especially large documents, to be provided on USB sticks. Once the USB documents are uploaded to the Electronic Court File (ECF) there are differing practices as to the USB storage procedure and if the USB password is stored with the USB or stored separately.

The Committee agreed that one common practice across registries would be beneficial.

Recommendation:

USB sticks and passwords:

- the USB password will be stored with the USB stick
- the USB stick will be placed in an envelope with the file name and file number clearly marked along with who provided the USB stick and what it was in response to
- the letter received with the password enclosed will be stored in the same envelop, and
- If an order for privileges or confidential is requested this is to be noted on the front of the envelope.

Disposal of USB sticks

Once the information on the USB is uploaded to the Court's Electronic Court File (ECF), the USB should be returned to the client. If unable to return to the client, the USB is to be disposed of in a secure manner.

Disposing Securely

- The contents of the USB should be first wiped of any information, then
- Deposited in a registry secure bin provided for the disposal of secure devices.

Note: The contents of the security bin will be disposed of by the Court's security contractor in accordance with security standards.

CASETRACK **ECF CHECK LIST**

File No:

Checker:

Date Checked:

Date filed:

	Yes	No	N/A
Check initiating documents (completeness & compliance)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
File title correctly entered (in accordance with file naming convention)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Party details:

Docket recorded	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Party sequence number recorded	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Self- represented litigant indicator added ("Y") if applicable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Contact details for phone and fax included	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Party representation, law firm and solicitor details recorded	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Display title entered for pseudonyms and entry is complete in the register	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Interpreter booked, noted in Casetrack and general note on ECF	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If party is in detention or custody, noted on Casetrack and general note on ECF	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Fees:

Fee collected/Waiver/Exempt (indicate which) (uploaded to ECF)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If exempt – record expiry date of reduction card in Casetrack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Listings:

First court date has been listed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
----------------------------------	--------------------------	--------------------------	--------------------------

Appeal Details:

Appeal information correct	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Email Appeals Team	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Letter to Tribunal requesting documents (eg AAT docs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Email FCC Registrar ()	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other:

For AAT/other tribunal appeals, migration appeals, HREOC, DIBP etc: application notification email to relevant department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Set up necessary alerts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Special Requirements:

New file spreadsheet updated (NSW)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Email chambers & LCM with responsibility (QLD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Letter – Notice of Court contact sent – upload to ECF (QLD)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Send listings email (NOR/FCC) email to ECF. Add listings to diaries (SA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Identifier recorded in the party names (SA)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Court Records Committee - communication and implementation approach

Purpose

To formalise the communication and implementation approach between the Committee and the business with respect to changes in business practices, including the Business Applications Team for recommendations that have a system impact requiring prioritisation and planning in scheduled releases.

Phase and responsibility schedule

Phase/Activity	Responsibility	Completed
Discuss impact (if any) of recommendations on existing business systems	Court Records Committee	<input type="checkbox"/>
Committee chair – obtain business sign off on committee recommendations from District Registrars as appropriate	Court Records Committee(chair)	<input type="checkbox"/>
Committee chair via email –Communicate recommended system changes to the Business Applications team for prioritisation and release planning.	Court Records Committee (chair)	<input type="checkbox"/>
Committee chair via email –communicate recommendations to the DCS team, website team and National Content owner (NCO) of National ECF guide giving advance notice of changes in practices	Court Records Committee (chair)	<input type="checkbox"/>
Communicate the prioritisation and release timeline for committee recommendations	Business Applications Team/JT	<input type="checkbox"/>
Inform the committee of any delays in release schedules that impact the timeline of delivery of committee recommendations	Business Applications Team/JT	<input type="checkbox"/>
Communicate Go Live and implementation of committee recommendations	Business Applications Team/JT	<input type="checkbox"/>
Communicate implementation of committee system change recommendations with the DCS team and NCO	Court Records Committee (chair)	<input type="checkbox"/>

Considerations

1. Do any recommendations propose a system change?
2. If yes; consider the detail to accompany recommendations. For example if a new template is required in the ECF. Which library should the template be stored? What order should the template be displayed in? Is pre population of the template required?
3. Consider how far in advance advice of changes in practice needs to be communicated with DCS team and NCO.
4. Do the recommendations impact on current website or intranet content?



PARTY ACCESS TO FILES

Federal Court Rules 2011 – Rule 2.32
Federal Court (Corporations) Rules 2000 - Rule 11.3 (7)
Federal Court (Bankruptcy) 2005 – Rule 6.13(7)
Federal Circuit Court Rules – Rule 2.08(4)

1. Details of the person making the request

(a) Name:

(b) Address:

(c) Telephone number:

(d) Email address:

(e) I represent the:

2. Details of the proceeding

(a) Title of proceeding:

(b) Proceeding number:

(c) Judge

3. Details of the documents required

I wish to inspect and photocopy the following documents on the court file:

If there is insufficient space, please attach a separate page identifying the documents sought.

Decision in relation to request for access to documents

- ♦ I approve the request to inspect and photocopy the documents mentioned in section 3.

Signed:

Date:

Authorised Registry Officer

4. What ID are you producing [FOR NSW REGISTRY ONLY]:

As a party, I produce: ☐ driver's licence: ☐ other identification

As solicitor*/counsel, I produce: ☐ business card ☐ letter on firm's letterhead

** If an agent is attending, a letter from the principal law firm should be provided authorising the agent to access material.*

DECLARATION

I declare that, as a party (or the party's lawyer), I am entitled to view all documents contained on the file and there are no orders prohibiting me (or my client) from viewing any documents on the file.

Signature:

Date:

5. You can return this form via email to:

NSW NSWInspections@fedcourt.gov.au

WA perth.registry@fedcourt.gov.au

ACT ACTman@fedcourt.gov.au

TAS tasreg@fedcourt.gov.au

VIC vicreg@fedcourt.gov.au

QLD gldreg@fedcourt.gov.au

NT NTReg@fedcourt.gov.au

SA sareg@fedcourt.gov.au

6. Once approved - You can pay by Visa, Amex (FCA only) or MasterCard via the Court's website using Payment Express at:

<https://secure.fedcourt.gov.au/forms-and-fees/court-fees/payment/cc-payment>

OR

At the Court by cheque, cash, money order, account or Visa, Amex (FCA only) or Mastercard.

OFFICE USE ONLY

Date/Time of Inspection:.....

Name of Registry Staff officer:.....

Signature:

Federal Court Rules 2011 - Rule 2.32 (Inspection of Documents)

2.32 Inspection of documents

- (1) A party may inspect any document in the proceeding except:
- (a) a document for which a claim of privilege has been made:
 - (i) but not decided by the Court; or
 - (ii) that the Court has decided is privileged; or
 - (b) a document that the Court has ordered be confidential.
- (2) A person who is not a party may inspect the following documents in a proceeding in the proper Registry:
- (a) an originating application or cross-claim;
 - (b) a notice of address for service;
 - (c) a pleading or particulars of a pleading or similar document;
 - (d) a statement of agreed facts or an agreed statement of facts;
 - (e) an interlocutory application;
 - (f) a judgment or an order of the Court;
 - (g) a notice of appeal or cross-appeal;
 - (h) a notice of discontinuance;
 - (i) a notice of change of lawyer;
 - (j) a notice of ceasing to act;
 - (k) in a proceeding to which Division 34.7 applies:
 - (i) an affidavit accompanying an application, or an amended application, under section 61 of the *Native Title Act 1993*; or
 - (ii) an extract from the Register of Native Title Claims received by the Court from the Native Title Registrar;
 - (l) reasons for judgment.

Note **Native Title Registrar** and **Register of Native Title Claims** are defined in the Dictionary.

- (3) However, a person who is not a party is not entitled to inspect a document that the Court has ordered:
- (a) be confidential; or
 - (b) is forbidden from, or restricted from publication to, the person or a class of persons of which the person is a member.

Note For the prohibition of publication of evidence or of the name of a party or witness, see sections 37AF and 37AI of the Act.

- (4) A person may apply to the Court for leave to inspect a document that the person is not otherwise entitled to inspect.
- (5) A person may be given a copy of a document, except a copy of the transcript in the proceeding, if the person:
- (a) is entitled to inspect the document; and
 - (b) has paid the prescribed fee.

Note 1 For the prescribed fee, see the *Federal Court and Federal Circuit Court Regulation 2012* (item 123 FCA & 219 FCC)

Note 2 If there is no order that a transcript is confidential, a person may, on payment of the applicable charge, obtain a copy of the transcript of a proceeding from the Court's transcript provider.

Note 3 For proceedings under the Trans-Tasman Proceedings Act, see also rule 34.70.

Federal Court (Corporations) Rules 2000

- 11.3(7)** Unless the Court otherwise orders, an affidavit in support of an application for examination summons is not available for inspection by any person.

Federal Court (Bankruptcy) Rules 2005

- 6.13(7)** If the supporting affidavit for an application under section 81(1) of the Bankruptcy Act 1966 is filed in a sealed envelope or marked confidential according to subrules 6.13(5) and (6), the Registrar must not make it available for public inspection.

Federal Circuit Court Rules

- 2.08(4)** Rule 2.32 of the Federal Court Rules 2011 applies to the searching of records in a proceeding that is not a family law or child support proceeding.

FEDERAL COURT OF AUSTRALIA/ FEDERAL CIRCUIT COURT

RECEIPT FOR UPLIFT OF MATERIAL BY LEGAL PRACTITIONER

File Number:

File Title: :.....

- V -

:.....

I _____ hereby acknowledge receipt of the subpoenaed documents/exhibits tendered in the above matter as listed in the schedule below, and undertake that they will be kept in the safe custody of the legal practitioner.

I also undertake to return the documents or things to the Registry:

- (a) in the same order, condition and packaging as at uplift;
- (b) by no later than 4.00pm on; (date)

Party represented by you:

Firm/Company/Department:
(Block letters)

Contact Legal Practitioner/Officer:
(Block letters)

Signature: Date:

Name: (Print) Telephone:

Registry Use Only:

Registry Officer who released documents: Date:
(Signature)

SCHEDULE:

Date Documents Returned to the Registry: _____

Signature of officer receiving the returned documents: _____



RECEIPT / COVER SHEET FOR SUBPOENAED DOCUMENTS

File No

Matter

V

Date Subpoena Issued:

25/08/2015

Documents produced by:

Domenic Vincent Martino & Australasian Resources

Date material received in
Registry:

Description

1 envelope containing 1 USB drive

Contact Details:

Name of person producing
documents:

Email address:

Contact No:

At conclusion of matter:

☐ Securely destroy the documents

☐ Pick up from the Registry

Court S Number (Packet no):

S_

Officers Name / Initial:

RECEIPT / COVER SHEET FOR SUBPOENAED DOCUMENTS



File No: _____

Matter : _____

V

Date the Subpoena issued: _____

Date material received in the Registry: 2015

Documents produced by: _____

Description of documents: _____

Contact Details:

Name of person producing documents: _____

Email address: _____

Contact No: _____

At conclusion of the matter: ☐ **Securely destroy the documents**

☐ **Pick up from the registry**

Officer's Name / Initial: _____

Court S number (Packet No): S__

Normal Administrative Practice (NAP) Policy

Background and Purpose

Information is created or received routinely in the course of carrying out business within the courts and tribunals. The vast majority of this information is important for the courts and tribunals to retain as evidence of decisions, approvals or actions, and can only be destroyed with permission of the National Archives of Australia (NAA) in accordance with approved Records Authorities.

Some information is not valuable and does not need to be kept. Under s.24 of the *Archives Act 1983*, such information can be destroyed without the permission of the NAA where the destruction of such low-value and short-term information is considered part of an agency's normal administrative practice (i.e. in the normal course of business).

As normal administrative practices (NAP) may vary from agency to agency, the purpose of this policy is to provide direction on the types of low-value information that can be destroyed in accordance with the normal administrative practices of courts and tribunals within the Federal Court entity.

Scope

This policy applies to all individuals working for the courts and tribunals within the Federal Court entity, including statutory appointees, employees, contractors, consultants or service providers.

The policy relates to information irrespective of its format. This includes both physical (hardcopy) information and digital (electronic) information held in systems, including emails or documents on personal or network drives.

Acceptable Practice

Accepted NAP within the courts and tribunals provides for the following broad categories of information to be destroyed when no longer required for reference or business use:

- Information that is facilitative, transitory or of short term value only;
- Rough working papers, calculations, notes etc.
- Drafts of documents not intended for further use or reference;
- Copies of material retained for reference only; and
- Published material which does not form an integral part of the Court or Tribunal's records.

Specific examples (non-exhaustive) of types of information that would typically fall into the above categories are outlined in Appendix 1.

Individuals are responsible for deciding which low-value information can be routinely destroyed in accordance with the above categories, ensuring that careful consideration is given to any potential risks associated with the destruction of that information.

If you are unsure about whether information can be destroyed in accordance with this policy, contact Records Management Services.

Unacceptable Practice

NAP within the courts and tribunals **does not** authorise the destruction of information that is required to:

- understand existing information, or policies, practices and processes;
- evidence court or tribunal decisions, approvals, actions or outcomes;
- support the efficient administration of business operations and activities;
- meet legislative or regulatory obligations or any other accountability requirements;
- document the rights, interests and obligations of government, clients, organisations or other stakeholders; or
- which is considered to be in the public interest, or to have known ongoing or historical value to the courts and tribunals.

Such information should only be disposed of in accordance with a current approved records authority issued by the NAA.

Responsibilities

Principal Registrar/Chief Executive Officer

The Principal Registrar/Chief Executive Officer has overarching responsibility to the Government and the public to ensure that all court and tribunal records are created, used, managed, maintained, and disposed of in accordance with appropriate legislation, guidelines, practices and standards. This applies to processes followed in relation to NAP.

Senior Manager, Records Management Services

The Senior Manager, Records Management Services strategically plans and co-ordinates the Court and Tribunal's needs as they relate to recordkeeping functions and will:

- provide the necessary support to meet best practice and compliant NAP practices;
- manage the NAP Policy and ensure that NAP practices within the courts and tribunals are consistent with the standards described in the policy.

All officers, employees, consultants, contractors and organisations

All officers, staff and individuals and organisations working for the courts and tribunals will:

- comply with all elements of this policy;
- provide / seek advice on NAP processes that are unclear or require revision.

Compliance and Enforcement

Compliance with this policy will be monitored as part of the Court's overarching recordkeeping monitoring. Any identified breaches will be dealt with in accordance with the Court's Code of Conduct (or equivalent).

If an individual or business area experiences any difficulty in complying with this Policy, contact Senior Manager, Records Management Services.

Review and Evaluation

The policy will be reviewed annually. The Management Board will be advised on the outcome of the review and recommendations for amendment, changes or resubmission of a new policy if required.

Related Documents

- NAA Administrative Function Disposal Authority (AFDA) Express
- {insert reference and link to any related procedures}

Appendix 1: NAP Examples

1. Facilitative, ephemeral, transitory or other short-term items

Included:

- Subpoenaed material received by the Court or Tribunal that does not need to be returned to the owner, or is unable to be returned to the owner after reasonable efforts have been made.*
- Exhibits received in the course of handling a case before the Court or Tribunal which do not form part of the Court file, do not need to be returned to the owner, or which are unable to be returned to the owner after reasonable efforts have been made.*

** **IMPORTANT:** Exhibits and subpoenaed material must be retained until the case is finished, or where tendered into evidence, after the time limit for any appeal and/or any appeal from the original case is concluded. Prior to destruction (where not otherwise returned to the owner) each court and tribunal should refer to any specific timeframes as may be outlined in the Court or Tribunal's own legislation, rules or practice directions.*

- Mediators or arbitrator's own notes taken during mediation or arbitration which are considered confidential.
- Staff appointment diaries and calendars.
- With compliment slips or telephone message slips.
- Emails received for reference or information only.
- Personal or social emails unrelated to Court or Tribunal business.
- Meeting or event invitations and reminders.
- General notices to staff.
- Discussion lists and RSS feeds.

Excluded:

- Subpoenaed material or exhibits where the Judge, President or Member has made a specific order for the material to remain on the Court file.
- Invitations, bookings and arrangements made on behalf of parties to a case (i.e. bookings and arrangements for conferences, child care, security, interpreter services etc.)
- Diaries, lists, calendars and schedules for proceedings or matters before the courts or tribunals.
- Informal communications with applicants, parties or external bodies regarding a matter before the Court or Tribunal, including receipts of material received, acknowledgement letters, requests for information, conference or hearing invitations, and routine enquiries from (including progress enquiries) and liaison with applicants or external bodies.

2. Rough working papers, notes and/or calculations

Included:

- Rough notes taken prior to or during conferences, hearings, meetings, telephone discussions, etc. that are not intended for further use by or circulation to others (i.e. for reference or 'memory joggers') and/or where key decisions and outcomes are captured as part of audio recordings or other more official records.
- Working papers, background notes and reference materials used to prepare or complete other documents but have no further value once the other documents are produced.
- Spreadsheets used for calculations that form part of a subsequent document where the decisions behind the calculation methodology are recorded elsewhere.
- Printouts from court or tribunal systems used for the purposes of verifying data or information.

Excluded:

*[The following **must** be retained in accordance with the Federal Court's Records Authority]*

- Contemporaneous notes taken by family consultants during the conduct of family assessments.
- Notes that may need to be used to support or as proof of a business activity. For example: case progress notes; note books for Judges to write notes in while hearing a case (i.e. bench books or coram books);.
- Working documents and data containing significant decisions, reasons and actions not captured elsewhere.

3. Drafts not intended for further use or reference

Included:

- Internal iterative drafts that support the development of subsequent draft documents
- Drafts that do not proceed to becoming official records of the Court or Tribunal
- Drafts that do not document substantial changes to content (i.e. minor edits for grammar, spelling, formatting etc.).

Excluded:

- Drafts which evidence proper processes (i.e. consultation requirements) or which evidence Court or Tribunal decisions made within final documents. For example:
 - ⇒ drafts agreements which form part of contractual negotiations
 - ⇒ drafts released for external consultation
 - ⇒ drafts containing substantial advice, direction or comments from senior management or external stakeholders.

4. Copies of material retained for reference purposes only

Included:

- Copies of electoral roll information received periodically from the Australian Electoral Commission to facilitate the empanelling of juries.
- Copies of instruments of appointment where the original is held by the Attorney-General's Department. *Note: A single copy of the instrument should be retained for the term of the relevant statutory appointment.*
- Duplicate copies of court or tribunal files held by Judge's or Member's for reference (i.e. Judge's or Member's working files).
- Extracts of data from systems to facilitate the development of other documents. For example, this includes extracts of geospatial data taken for the purposes of developing required geospatial products.
- Circulation copies of Court or Tribunal instructions, newsletters, updates.
- Documents held in personal or shared drives or email folders that have already been saved into the Court or Tribunal's official recordkeeping or business systems.
- Duplicate copies of Court or Tribunal reports, procedures, plans, policies, factsheets held for local reference.
- Copies of meeting minutes/proceedings held by meeting participants for reference.
- Copies of invoices, receipts, leave applications or other administrative records where the original has been sent for central processing.
- Copies of unused internal forms.
- Computer back-up tapes which take a copy of Court or Tribunal records as part of a routine IT data recovery process.
- Material produced and published by an external party (e.g. copies of legislation, reports, books etc.).

Excluded:

- Original (master copy) of material created by the Court or Tribunal.
- Copies of information received from lower courts or tribunals or from the Minister containing documents from original hearings and relevant to an appeal case before the Court (i.e. appeal books, green books or court books).
- Copies of case documentation received by the Federal Court from the National Native Title Tribunal (e.g. copies of mediation reports, notifications, claim information, maps, registration test decisions etc.).
- Surplus, obsolete or damaged accountable forms, such as chequebooks and forms, receipt books, cab charge vouchers etc.
- Copies of any Court or Tribunal record where substantial or significant annotations have been documented.
- Copies of information received from external agencies (e.g. welfare, customs and border control, police, dispute resolution providers, state courts or other key stakeholders) relating to a case before the Court or Tribunal.
- Copies of information received by parties to a case which relate to a case before the Court or Tribunal. *Refer to subpoenaed material and exhibits noted above (Item 1: Facilitative, ephemeral, transitory or other short-term items).*

5. Promotional material which does not form part of the Court or Tribunal's records

Included:

- Junk email (SPAM).
- Unsolicited brochures, business cards, letters or emails offering goods or services.

Excluded:

- Promotional material developed by the Courts or Tribunals.
- External promotional material such as business profiles and brochures if these are required to support and/or validate the Court or Tribunal's purchasing decisions.

ELECTRONIC DOCUMENT

BUSINESS RULES

(As at 8 February 2010)

Note: The below Business Rules are subject to change and the Docket Team Leaders should be consulted if any questions or concerns arise.

FILE CREATION

A new electronic folder is to be created for all new matters commenced. All folders are to be saved in I:\NSW Electronic Documents\FCA or FMC for Federal Magistrate Court documents.

To create a file please follow the below file protocol sequence:

NSD<insert file number> of <insert year> example = NSD10 of 2010

SAVING AN ELECTRONIC DOCUMENT

All documents filed should be scanned and saved in the corresponding electronic folder for each individual matter. Please note that this protocols document should be read together with the Registry and Chambers consolidated profile documents both in the FCA and FMC.

Saving/Naming Documents

When saving and naming electronic documents in their corresponding folders please follow the below protocol for saving and naming documents.

Saving/Naming Affidavits

- <insert year>**dot**<insert month>**dot**<insert date> **hyphen** <abbreviation of document type> **hyphen** <surname of deponent or witness>**hyphen**<party filing document> below is an example

2010.01.28-AFF-Rogers-R1

- The year, month and date is contained first in the file string to ensure all documents remain in ascending date order.

Saving/Naming ALL other documents

- <insert year>**dot**<insert month>**dot**<insert date> **hyphen** <insert document type> **hyphen**<party filing document> below is an example

2010.01.28-Defence-A1

- Abbreviations should be used in **document titles** for generally recognised documents only e.g. APP for Application, AFF for Affidavit, and NOM for Notice of Motion. See Appendix 1 for a list of document abbreviations.
- All other document titles are to be included in FULL in the document title when saving the electronic document.

FILE CLOSURE

- Please see the Federal Court's record management policy. When a file has been finalised ALL electronic folders are to remain on the system and **NOT** to be deleted.

Appendix 1 –Abbreviation INDEX of Document types

Below is a list of abbreviations for document types. The list is not an exhaustive list. Any additions to the list should be communicated to the Team Leaders for discussion.

Document Abbreviation	Document Type
AFF	Affidavit
APP	Application
APP(Amended)	Amended Application
XCLAIM	Cross Claim
AUTH	List of Authorities
NOA	Notice of Appeal
SUBS	Outline of Submissions
SOC	Statement of Claim

Author: [REDACTED]
2 February 2010



OFFICE OF THE REGISTRAR
FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

Phone:
Fax:
Email:



Our Ref:
Your Ref:

MEMORANDUM

To: [REDACTED]
Cc: [REDACTED]
FROM : Warwick Soden
SUBJECT: The Court record
DATE: 16 February 2010

As judges may be aware, the Court has, at various points of time over the last ten years, considered what documents comprise the “court record” of a “court of record”. Most recently, the necessity to define the court record has arisen from various concerns including:

1. A requirement from the National Archives of Australia (NAA) to finalise a records authority if the Court wants the NAA to store some of our case files. A records authority is an administrative tool used for the retention and disposal of records under the *Archives Act 1983*.
2. Lack of space within court buildings and the increased cost of off-site storage of court files.
3. Increased use of electronic material. While physical storage is already a problem and will become more so over time, the storage of large volumes of electronic data will also become an issue.

The Policy and Planning Committee considered this issue through 2009 and, at its meeting of 25 November 2009, the Committee agreed with the Chief Justice’s proposal to implement the following definition.

The documents that make up a Court file have been classified in two parts:

Part A the official ‘court record’ for the Court which will consist of:

- Court documents that define the issues that were before the Court for decision;
- Court documents that identify the parties;
- Court documents that record the final orders made by the Court and any other orders of the Court creating substantive rights or obligations; and
- If published, the reasons for the decision.

The documents that comprise Part A will be identified at the conclusion of a proceeding. To ensure the necessary 'court record' documents are captured, the Committee has suggested they be identified by the Judge's Associate, referring to the Judge for advice in case of doubt. Registrars will identify the documents to be included in Part A in matters they finalise.

Part A will be retained permanently by the Court. As more documents are filed electronically the Court will move to an electronic court of record.

Part B will consist of all other documents on the file (whether hard copy or electronic). The minimum retention period for part B documents will be 10 years with further options of 15 years or the maximum 25 years at the discretion of the judge. Where a judge does not wish to indicate a retention period the default will be 15 years.

Significant files

Defining the Court record will progress the implementation of a Court Record Authority in conjunction with the National Archives of Australia. As part of the Record Authority it is proposed that the NAA will take a sample of significant cases (that is, the complete file) for permanent retention as a national archive.

The selection of significant cases will be managed by a Committee of Judges with files being selected annually. Significant files would include both typical and high profile cases and could include those mentioned in our annual report. I would ask that your staff contact the Manager of Policy and Planning, [REDACTED] by email or phone [REDACTED] if you are interested in becoming a member of this Committee.

If judges have any questions about this new policy, please contact [REDACTED]. It is expected that this policy will be implemented later this year, in conjunction with the introduction of an electronic Document Management System. Until the new policy is implemented the Court's current practices in relation to the retention and storage of court files will continue.

(signed and sent by email)

Warwick Soden
Registrar/Chief Executive

The Federal Court and Record keeping



The Key Message

The Federal Court of Australia
is committed to creating
evidence of it's business
activities in the form of
organisational records



What is a record?

► Records:

- provide evidence of business activity
- document what we do as Federal Court employees
- can be in any format

► Records support what you do!



Why recordkeeping?

- ▶ **Recordkeeping provides evidence of the Court's activities and decisions.**
- ▶ **It supports efficiency and accountability**
- ▶ **Good recordkeeping provides full and accurate knowledge of what has occurred and what has been decided in the past.**



Your recordkeeping responsibilities

► You must not:

- destroy, delete or alter corporate records without authority
- remove corporate records without permission
- lose records that are in your care
- provide inappropriate access to restricted records

When should you make a record?

► Make a record if you need to show:

- what happened
- what was decided or recommended
- what advice or instruction was given
- when it happened
- who was involved
- the order of events and/or decisions

Ask yourself these questions

- ▶ Does it relate to my work?
- ▶ Did I write or send it in the course of my work?
- ▶ Am I required to act on it?
- ▶ Is it external correspondence I have received?
- ▶ Is it something I have used to do my work or to reach a decision?
- ▶ If yes – make a record!

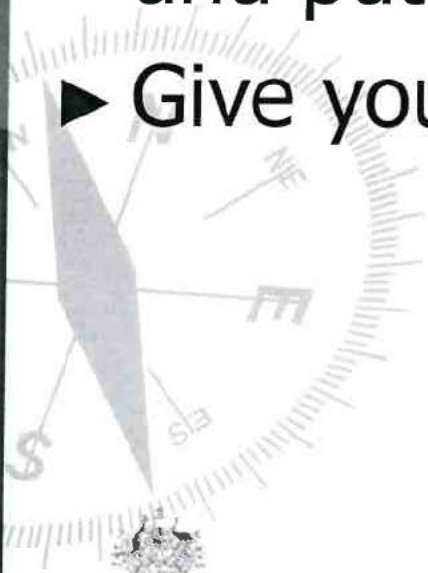
The 2nd Key Message

At present, FCA records, in any format, must be printed out and attached to a paper file



Rules for recordkeeping – recap

- ▶ Recordkeeping is your responsibility.
- ▶ Make a record of any significant activities you undertake. If in doubt, make a record and put it in the recordkeeping system.
- ▶ Give your records a meaningful title.



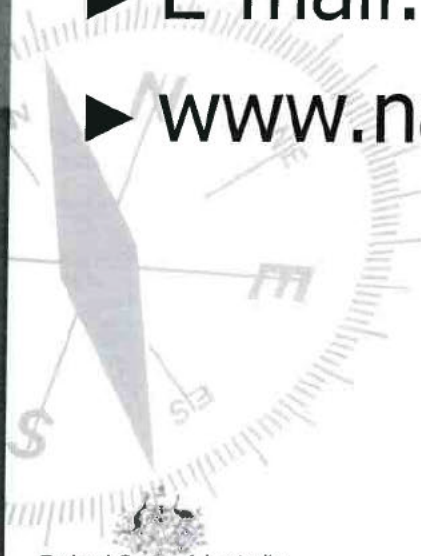
Rules for recordkeeping – recap

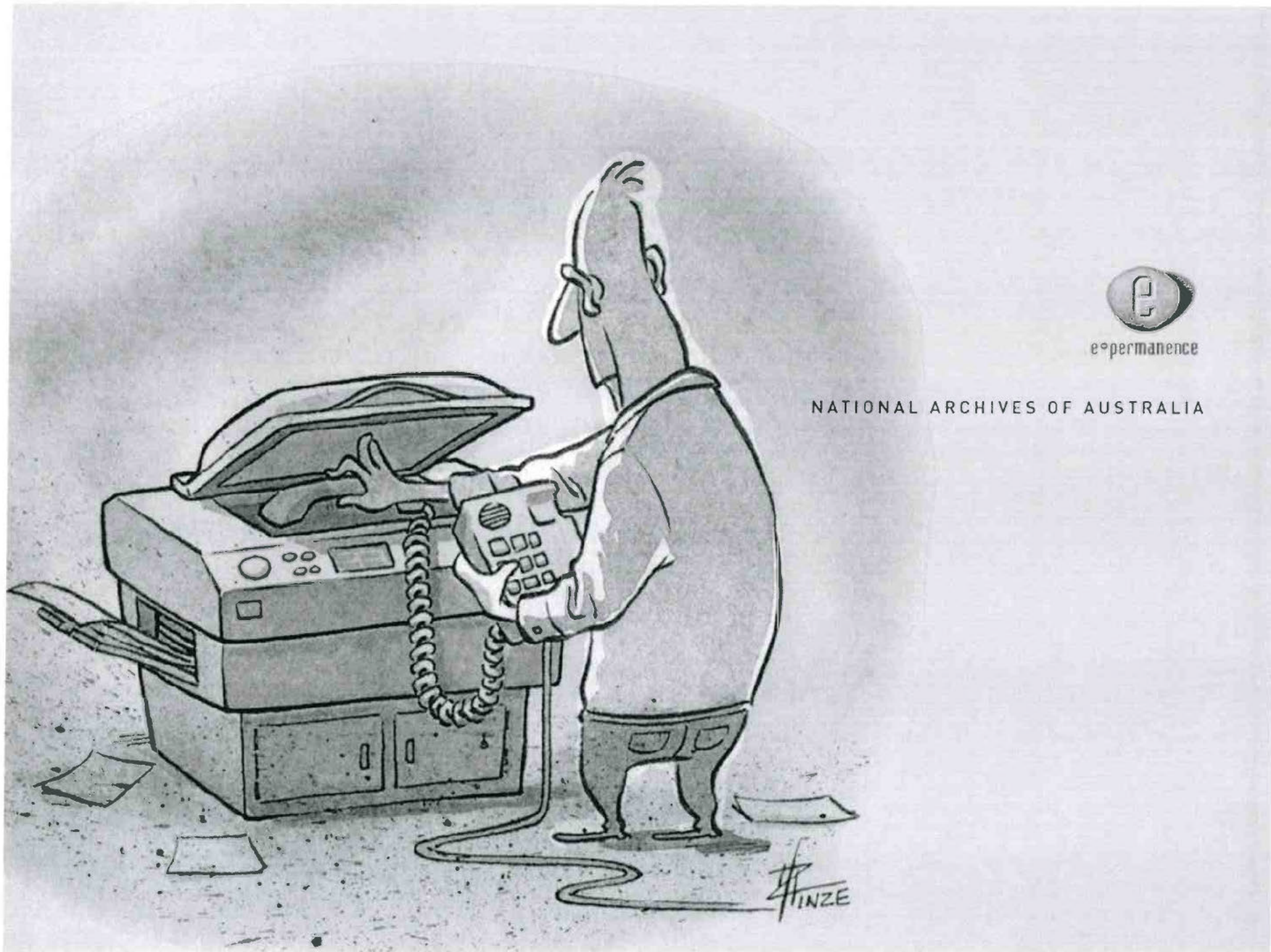
- ▶ Records are assets belonging to your agency. Do not hoard them. Put records in the recordkeeping system.
- ▶ Do not destroy, alter or delete records unless authorised to do so.
- ▶ Be aware of who can access which records.



Where to go for help

- ▶ [REDACTED]
- ▶ Court Recordkeeper
- ▶ Ph: [REDACTED]
- ▶ E-mail: [REDACTED]
- ▶ www.naa.gov.au/recordkeeping/





e-permanence

NATIONAL ARCHIVES OF AUSTRALIA

Federal Court Records Authority - guide to sentencing physical court files (31.1.13)**Background**

The Electronic Court File (ECF) will automatically assign retention codes and sentence court documents according to the [Court's Records Authority](#) (RA) at the time they are received electronically into the Court. However until the ECF is implemented the Court is required to manually sentence court files.

Files exempt from sentencing

Native Title Court files and files that are considered **significant** will be kept in their entirety i.e. part A and part B and sent to the National Archives for permanent storage. Chambers will be asked to nominate if a file is significant at the time a file is finalised based on certain criteria.

Sentencing Court Files

The Records Authority divides the documents on the Court file into Pt A and Pt B documents. Part A documents are defined as the 'Court Record' to be kept indefinitely and Part B documents are to be kept for a minimum of 10 years after finalisation but could extend to 25 years depending on the discretion of the Judge hearing the matter. Unless the Judge has indicated an extended time the default will be 10 years.

Identifying Part A and Part B documents

The attached guide covers the most common documents on the file but it is not a complete list and some documents may not be included. If a document **is not** on the list, you should seek guidance from a Registrar in your registry. If still unresolved, contact the Records Manager /Principal Registry who will consult the Deputy Registrar for a decision.

Indexing the file cover - Part B documents -

Documents can be marked as 'Part B' documents at the time they are indexed on the file to assist the sentencing process. Category 'Part B' documents are to be marked on the file cover using **a pencil only** as in some cases the documents can change categories as the matter progresses. The final decision on the document category will be made by Chambers when the matter is finalised.

Correspondence part of the court file

To simplify the disposal process the correspondence part of the court file (correspondence kept in the manila folder) can be disposed of at the same time as 'Part B' documents – which in most cases will be 10 years after the file is finalised.

Administrative documents

Administrative documents concerning the case management of the court file (not part of the court file) can be destroyed **seven years** after the file is finalised.

Reviewing earlier finalised files

If you intend sentencing earlier finalised files please firstly consult the Records Manager.

[REDACTED]

Records Manager

[REDACTED]

Court Records Policy Committee

Refusal to file documents: *policy recommendation to District Registrars from the Court Records Policy Committee*

Background: There are inconsistencies across registries as to where Refusal to accept documents for filing (abuse of process, frivolous or vexatious documents) or documents not accepted in a registry (rejected by the Court or a registrar) are filed in the ECF. It is important that consistent practices be established so refusal to file documents are located in one central area within the ECF.

Recommendation:

The following recommendations apply to both the Federal Court and Federal Circuit Court

Refuse to file register (2.3.1.)

The Refuse to file register to be completed for any applications where the Court or a Registrar has refused to accept the documents for filing pursuant to Rules 2.26 and 2.27 of the *Federal Court Rules 2011* and Rule 2.06 of the *Federal Circuit Court Rules 2001*.

Federal Court Rules (2011) (Cth), rr 2.26 and 2.27(d)-(f).

Pursuant to the above rules a Registrar, or the Court (a Judge), may refuse to accept a document for filing.

Processes and Action:

1. A Registrar, or a Judge, refuses to accept the document for filing. Ordinarily, this will be done by letter.
2. The relevant Registry officer adds a new entry in the FCA or FCC 'Refuse to File register' contained in the Registers tab on the All Current Files homepage of the ECF.
3. A copy of any correspondence sent, orders made and the document/s refused for filing should be uploaded to that entry in the register as one bundle with the letter/order as the first document. This is best achieved by merging multiple PDFs into one document (IT can assist with this task).
 - a. As best practice, users should attach the set of documents identified below to the applicable entry in the FCA or FCC Refuse to file register.
 - i. Letter from Registrar
 - ii. Memo prepared for the Judge and/or from the Judge
 - iii. Originating Application
 - iv. Affidavit – minus annexures or attachments unless instructed by the Registrar or Judge
 - v. Statement of Claim (if received)

4. If the document refused for filing is not an originating document (i.e. it relates to a proceeding already on foot) the letter sent by the registrar should be uploaded to the Refuse to File Register and the documents sought to be filed to the Rejected Documents section of the particular ECF. A note should be placed in the 'Reason for Decision' section of the Refuse to File Register to the effect 'Copies of the documents sought to be filed can be located in the ECF: <include hyperlink to ECF'.

Rejected Documents

See *Federal Court Rules 2011* (Cth), r 2.27(a)-(c).

Documents rejected due to elementary non-compliance with the Rules are usually rejected by a Client Service Officer. For instance, an affidavit that is unsworn, an originating process that hasn't been signed, or a document that is clearly missing pages. eLodgment stores these documents and the reason for rejection in the *Rejected* tab of eLodgment. These documents can be accessed at a later date if required.

If, for a particular reason, the Client Services Officer believes the documents should be placed on the file they should be saved locally and uploaded to the Rejected documents section of the particular ECF. If you are unsure as to whether or not to do this, seek direction from a Registrar.