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State Records  
of South Australia

## State Records Act 1997

### Operational Records Disposal Schedule

For **Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)**

RDS **2011/004** Version **1**

Approved Date: 2011-04-12

Effective Date: 2011-04-12 to **2021-06-30**

Approved by SRC

State Records Version



Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

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# Operational Records Disposal Schedule

Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

## Preamble

### Purpose of the Schedule

This operational Records Disposal Schedule (RDS) authorises arrangements for the retention or destruction of records in accordance with Section 23(2) of the *State Records Act 1997*.

### Application of the Schedule

Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

Effective Date: 2011-04-12 to **2021-06-30**

### Authorisation by State Records

This authorisation applies only to the disposal of the records described in the Schedule.

### State Records' Contact Information

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Chair, State Records Council

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Director, State Records



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

### Disposal of Official Records

#### Legislation

Section 23(1) of the *State Records Act 1997* states that an agency must not dispose of official records except in accordance with a determination made by the Manager [Director] of State Records with the approval of the State Records Council.

Section 23(2) states:

‘If an agency requests the Manager to make a determination as to the disposal of official records, the Manager must, as soon as practicable:

- (a) with the approval of the [State Records] Council, make a determination requiring or authorising disposal of the records in a specified manner; or
- (b) make a determination requiring delivery of the records into the custody of State Records or retention of the records and later delivery into the custody of State Records.’

The contents of an RDS, once the approval process is complete, constitute a determination within the meaning of the *State Records Act 1997*.

#### Functions of the Schedule

An RDS plans the life of these records from the time of their creation to their disposal. It describes the records created by the agency, the disposal sentence specifying whether they are to be retained as archives or destroyed, and when this should occur.

This Operational Records Disposal Schedule has been prepared in conjunction with the agency staff to determine the records which need to be kept because of their long term value and to enable the disposal of records once they are no longer needed for administrative purposes. The assessment of the records takes into account their administrative, legal, evidential, financial, informational and historical values. The appraisal of the records is in accordance with the State Records’ policy as documented in *Appraisal of Official Records – Policy and Objectives*.

The Schedule complements the General Disposal Schedules (GDS) that are issued by State Records to cover housekeeping and other administrative records common to most State Government agencies.



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### Using the Schedule

The Schedule applies only to the records described within it.

### Layout

The Schedule is laid out as follows:

- Item Number:** Numbering in the Schedule is multi level:
- Functions have single numbers (*e.g.* 1.)
  - Activities and/or processes have two-level numbers (*e.g.* 1.1)
  - Disposal classes have three-level numbers (*e.g.* 1.1.1)

**Function:** The general functions are shown in bold upper case at the start of each section. ( *e.g.* **JUSTICE OF THE PEACE (JP) MANAGEMENT**).

**Activity/Process:** The activities and processes relating to each function are shown in bold lower case (*e.g.* **Appointments (statutory / official)**).



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**Description:** Descriptions are in three levels ranging from broad functions to specific disposal classes:

- definitions of functions are shown at the start of each section in bold (e.g. **The function of managing the requisites, legislation, policy, practices and record-keeping relating to the appointment of persons to the “Office of Justice of the Peace (JP)” and related matters...** )
- definitions of activities are located adjacent to the activity title in italics e.g. *The activities associated with the making of statutory or official appointments to the office of JP, and revocation/termination/suspension, etc of statutory or official appointments.*)
- descriptions of each disposal class are arranged in sequence under the activity definitions.

**Disposal Action:** Disposal actions relate to the disposal classes arranged under the activity descriptions. The status of the class is either PERMANENT or TEMPORARY with a disposal trigger and retention period given for all temporary records.

### Retention Period of the Record

The Schedule is used to sentence records. Sentencing involves applying the record retention periods within the RDS to the records in the agency. Decisions are made using the Schedule about whether records are to be retained and, if so, for how long, or when they are to be destroyed.

Retention periods set down in the Schedule are minimum ones and the agency may extend the retention period of the record if it considers there is an administrative need to do so. Where an agency wishes to retain records for substantially longer periods it should request that the Schedule be amended to reflect this requirement.

### Custody and Transfer of the Record

Section 19 of the *State Records Act 1997* includes provisions for the transfer of custody of an official record:





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- (a) when the agency ceases to require access to the record for current administrative purposes or
  - (b) during the year occurring 15 years after the record came into existence
- whichever first occurs.

Official records that have been sentenced as permanent, in accordance with an approved disposal schedule, are required to be transferred to State Records.

The custody of official records that have been sentenced as temporary is the responsibility of agencies. A policy and standards framework for the management and storage of temporary value official records has been established by State Records as documented in *Records of Temporary Value – Management and Storage: Standard and Guidelines (May 2002)*. Agencies need to comply with these policy documents available from the State Records' website (<http://www.archives.sa.gov.au>).

The custody of official records on networks or hard drives is also the responsibility of agencies. Agencies need to ensure that records in electronic format remain accessible to authorised users for the duration of the designated retention period. State Records is, however, currently examining options for the transfer of permanent value electronic records in digital form to its custody.

### Notification of Proposed Destruction of Records

Prior to destruction, *GDS 16 Impact of Native Title Claims on Disposal of Records* needs to be consulted to ensure records are identified and preserved which are relevant to native title claims in South Australia.

When official records in an agency's custody or housed in secondary storage are due to be destroyed in accordance with the provisions of this or other disposal determinations, State Records is required to be notified via an *Intention to Destroy Records Report* (refer to *Records of Temporary Value – Management and Storage Guidelines*, available on the State Records' website (<http://www.archives.sa.gov.au>)).

### Review

State Records' disposal schedules apply for a period of ten years. Either the agency or State Records may propose a review of the Schedule at an earlier time, in the event of changes to functions or procedures that affect the value of the records covered by the disposal authority.



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Reviews are especially necessary if there is vast administrative change that affects the currency and use of the records and/or the records are dispersed to other agencies.

The State Records Council needs to approve all amendments to the Schedule. Officers using the Schedule should advise State Records of any necessary changes.

### Copyright

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## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

### Context Statement

#### Agency History and Background

##### Role and Function – Attorney-General's Department<sup>1</sup>

An Advocate-General for South Australia was provided for under a British Order-in-Council of 23 February 1836. This authorised a Council for the proposed province of South Australia consisting of: Governor, Judge, Colonial Secretary, Advocate-General and Resident Commissioner<sup>2</sup>.

The first holder of the office of 'Advocate-General and Crown Solicitor', Charles Mann, was appointed in England on 13 July 1836<sup>3</sup>. After differences of opinion with Governor Hindmarsh he resigned on 13 November 1837. He was succeeded on 12 December 1837 by George Milner Stephen, who was in turn followed on 18 July 1838 by Robert Bernard, and on 1 April 1840 by William Smillie.

From 1836 to 1842 the department was known officially as the Department of the Advocate-General. From March 1839 the Advocate-General and Crown Solicitor were assisted by a Clerk of the Peace, Arthur Hardy, whose duties were to manage the smaller cases in the Resident Magistrate's Court, to prepare the necessary indictments against persons submitted for trial in the Supreme Court, and to prepare briefs in all cases for trial<sup>4</sup>. The Office of Clerk of Peace was abolished on 31 March 1841<sup>5</sup>, being replaced by that of Assistant Crown Solicitor. Hardy resigned<sup>6</sup>. The first Assistant Crown Solicitor, William Bernard (brother of the former Advocate-General), was appointed on 1 April 1841.

Smillie recommended that the Assistant Crown Solicitor's duties should be wider than those of the Clerk of the Peace, 'so as to include Civil cases and the business of the Department

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<sup>1</sup> Source: AGD intranet

<sup>2</sup> 'History of Law in SA', Hague (Typescript, Archives Department, Accession 1051). Volume 1, ch.1, p. 21.

<sup>3</sup> 'SA Gazette and Col. Reg.', 3 June 1837, 1a.

<sup>4</sup> GRG 24/1, 1840, no. 542B.

<sup>5</sup> Year books containing statistical and other information prepared for the Colonial Office (Archives Department, Accession 54), 1841, p. 114 footnote.

<sup>5</sup> Hague, 'Op. cit.', Vol. 8, ch. 9, p. 9. Hague states that Hardy resigned in April.

<sup>6</sup> GRG 24/1, 1841, no. 641.



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generally as well as Criminal business...<sup>7</sup>. William Bernard was succeeded in the post by JH Richman on 30 August 1843.

About 1842-43 the Department of the Advocate-General became known officially as the Law Officer's Department.

When the new Constitution was proclaimed on 24 October 1856 the title 'Attorney-General' was introduced in place of 'Advocate-General'. The Advocate-General of the time, RD Hanson, was gazetted as Attorney-General<sup>8</sup>. The term 'Law Officer's Department' was still used in 1857, but was replaced in 1858 by 'Attorney-General's Department'.

In 1876, the name of the Department changed to 'Attorney-General and Law Officer's Department'.

In 1902 the Attorney General's Department [II] came into existence following discontinuation of the title 'Attorney-General and Law Officer's Department'. A further title change occurred in 1916 when the title became 'Attorney-General and Crown Solicitor's Department'.

By 1918, this agency was divided to form Attorney General's Department [III] and Crown Solicitor's Department [I].

Between 1975 and 1976 the Attorney-General's Department [III] underwent substantial administrative changes. In August 1975 the reporting functions of the Government Reporting Department, the Supreme Court Department, the Local and District Criminal Courts Department, the Labour and Industry Department, Industrial Commission Branch and the Premier's Department Planning Appeal Board Division were amalgamated with the Attorney-General's Department.

In October 1975 the office of the Parliamentary Counsel was transferred from the Attorney-General's Department to the Premier's Department and in the following March the office of the Inspector of Places of Public Entertainment, the Trade Measurements Branch, the Credit Tribunal, the Companies Branch, the Licensing Branch and the Prices and Consumer Affairs Branch of the Department were transferred to the newly created Department of Public and Consumer Affairs.

<sup>7</sup> Year books...(see note 4). 1843, p. 104.

<sup>8</sup> S.A. Government Gazette 25 Oct. 1856, p. 970.



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In July 1976 the remainder of the Attorney-General's Department was amalgamated with the Crown Law Department and the Local and District Criminal Courts Department to form the Department of Legal Services<sup>9</sup>.

In August 1976, the Stipendiary Magistracy component of the Department's activities was transferred to the Premier's Department<sup>10</sup>. The Government Investigation Section of the Crown Law Office was amalgamated with the Companies Branch of the Department of Public and Consumer Affairs in November 1977 to form the Department for Corporate Affairs<sup>11</sup>.

The Law Department came into existence on 12 January 1978, following discontinuation of the title Department of Legal Services<sup>12</sup>.

On 23 February 1978, the 'State Government Interpreting and Translation Service' was transferred to the Premier's Department<sup>13</sup>. A further administrative change occurred in July 1981 when the Parliamentary Counsel's Office was transferred from the Department of Premier and Cabinet to the Law Department<sup>14</sup>. Simultaneously, the Court Reporting, Courts Administration, Sheriff's Office and Administration and Finance Divisions were transferred from the Law Department to the newly created Courts Department<sup>15</sup>.

The fourth department to be known by the title 'Attorney General's Department' came into existence following discontinuation of the title 'Law Department' on 1 July 1981<sup>16</sup>.

The Attorney-General's Department [IV] was responsible for 'administering various legal and associated functions and providing legal services to Ministers, Departments and some statutory bodies'<sup>17</sup>.

As of 1 July 1981 its main functions were:

- Office of Minister – provision of an administrative, financial, legal and research service to the Attorney-General and Minister of Corporate Affairs, including advice on legislative and policy matters. The Office was responsible for the administration of a number of Boards and Committees which included Criminal Law Reform Committee;

<sup>9</sup> South Australian Government Gazette, Adelaide, the Government Printer, 29 July 1976, p. 255.

<sup>10</sup> P.S.B. file no 450 of 1975.

<sup>11</sup> South Australian Government Gazette, Adelaide, the Government Printer, 24 November 1977, p. 1566.

<sup>12</sup> South Australian Government Gazette, Adelaide, the Government Printer, 12 January 1978, p. 50

<sup>13</sup> P.S.B. file no. 90 of 1978

<sup>14</sup> Pr. D. file no 1000 of 1980.

<sup>15</sup> L.D. file no. 2292 of 1980.

<sup>16</sup> *ibid.*

<sup>17</sup> Report of the Auditor-General etc. South Australian Parliamentary Papers, No. 4, 1982, p.43.



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Law Reform Committee of South Australia; Land Acquisition Act Rehousing Committee; and Aboriginal Customary Law Committee

- Coroner's Office – responsible for inquires into the deaths of persons who may have died by violence or accident. Inquiries may also cover the disappearance of people, fires and accidents that may have caused injury to person or property
- Crown Law Office – provision of legal advice, legal representation and investigation services to Government departments and authorities in civil and criminal matters. It conducted criminal prosecutions for indictable offences, acted for Government in the purchase and sale of land, prepared subordinate legislation, and provided staff for the revision and reprinting of the consolidation of the State's Statutes
- Parliamentary Reporting Division - responsible for reporting the proceedings of Parliament, Parliamentary Committees and the Production of 'Hansard'
- Office of Parliamentary Counsel - drafted bills for presentation to Parliament and gave advice on legislative proposals to Ministers, Members of Parliament and Government Departments<sup>18</sup>. The Office also dealt with subordinate matters such as regulations and proclamations.

In May 1982 the Coroner's Office was transferred to the Courts Department<sup>19</sup>.

On 22 November 1993 the Attorney-General's Department, Department of Correctional Services and the Department of Public and Consumer Affairs were abolished and all positions transferred to the Department of Justice [I]<sup>20</sup>.

The Department of Justice [I]<sup>21</sup> had been established on 6 May 1993<sup>22</sup>.

The Department of Justice [I] changed its name to the Attorney-General's Department on 16 December 1993 (making it the fifth time that a Department was known by this title)<sup>23</sup>.

On 23 October 1997, the Government announced the restructuring of the public service and the creation of 10 'super portfolios' and 'super agencies', which included the Justice Portfolio<sup>24</sup>. In relation to the Justice Portfolio no changes were made to any of the structures

<sup>18</sup> *ibid.*

<sup>19</sup> C.D. File No. 115 of 1982.

<sup>20</sup> Government Gazette, 27 October 1993, p1890.

<sup>21</sup> *Ibid.*

<sup>22</sup> Government Gazette, 6 May 1993, p1578.

<sup>23</sup> Government Gazette, 16 December 1993, p2986.

<sup>24</sup> Annual Report of the Attorney-General's Department 1997-98, p.5.



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in any of the existing administrative units, such as the Correctional Services Department, the Police Department and the Attorney-General's Department [V]<sup>25</sup>.

While the Attorney-General's Department [V] continued, a new separate Department of Justice [II] was established, also as an administrative unit of the new Justice Portfolio<sup>26</sup>.

Both the Attorney-General's Department [V] and the Department of Justice [II], as administrative units, reported to the Chief Executive, Attorney-General's Department and Department of Justice<sup>27</sup>.

The Justice Portfolio today includes South Australia Police, Department for Correctional Services, South Australia Fire and Emergency Services Commission, South Australia Metropolitan Fire Service, South Australia Country Fire Service, State Emergency Service, Courts Administration Authority, Legal Services Commission, Police Complaints Authority, State Electoral Commissioner, Electoral Commission of South Australia, the Attorney-General's Department [V] and the Department of Justice [II]<sup>28</sup>.

Currently, the Department of Justice [II] coordinates strategic activities of multiple agencies which have a justice agenda, as well as provide services to the Minister for Justice. The Department has one employee – the Chief Executive of the Attorney-General's Department and Department of Justice – to execute this coordination function<sup>29</sup>. The Department of Justice [II] is still an administrative unit established under the *Public Sector Management Act 1995*.

With regards to the Attorney-General's Department [V], in 2009 the Chief Executive launched the *Make a Difference* change initiative to transform Attorney-General's Department [V] into an organisation that achieves the best outcomes possible for South Australians. In a paper titled *Make a Difference: Organisation Redesign ~Final Consultation Paper* (version 1.2, 16 September 2010), the Chief Executive set out the reform agenda for the Attorney-General's Department [V]. The paper is attached as Annexure A.

The Attorney-General's Department [V] today is still an administrative unit established under the *Public Sector Management Act*<sup>30</sup>. It provides a comprehensive range of legal and civil

<sup>25</sup> *ibid.*

<sup>26</sup> Government Gazette, 23 October 1997, p1066.

<sup>27</sup> Attorney-General's Annual Report, Incorporating the Department of Justice Annual Report, 2009-2010

<sup>28</sup> *ibid.*, p.26.

<sup>29</sup> *ibid.*

<sup>30</sup> *ibid.*



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justice services for Government, coordinates services to the Justice Portfolio and has a broad role in community advocacy and participation.

The aim of the current Attorney-General's Department [V] is to help create a safe and secure environment in which the public of South Australia can live and work and where rights of individuals are protected; and to advise government agencies and statutory authorities in minimisation of the Government's exposure to legal and business risk.

The Attorney-General's Department's [V] core business areas are broadly summarised as:

- legal policy and legal administrative, civil and prosecutorial services
- advocacy services for victims and special interest groups
- crime prevention and investigation services
- revenue and regulatory services
- complaints investigation and dispute resolution
- protection of vulnerable persons
- youth and community participation.

The Attorney-General's Department [V] supports seven Ministers across ten portfolios including: Attorney-General, Industrial Relations, Status for Women, Recreation, Sport and Racing, Consumer Affairs, Gambling, Veterans' Affairs, Multicultural Affairs, Youth and Volunteers.

There are five divisions within the Attorney-General's Department [V]: Finance and Business Services; Justice Business Services; Policy, Planning and Legislation; People Capital; and Building Communities. There are also 12 statutory officers/authorities that either sit within or outside of the Attorney-General's Department [V].

The statutory officers/authorities that are independently appointed by the Governor but are still supported by the Department are:

- The Director of Public Prosecutions
- Commissioner for Victims' Rights
- The Solicitor-General
- The Public Advocate
- The Guardianship Board
- The Ombudsman
- Commissioner for Equal Opportunity





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- South Australian Multicultural and Ethnic Affairs Commission.

The statutory officers/authorities that are within the Department are:

- Commissioner for Consumer Affairs
- Liquor and Gambling Commissioner
- Public Trustee and
- Crown Solicitor<sup>31</sup>.

### Role and Function – Justices of the Peace Services<sup>32</sup>

Following the settlement of the colony in late 1836, some Justices of the Peace were appointed. Unlike England, JPs in South Australia were not appointed to a particular ‘district’ or city, but had instead colony-wide (now State) jurisdiction. In 1837, the *Courts of General and Petty Sessions Act* established Courts of General or Quarter Sessions. Section 4 of that Act provided that: “all magistrates or Justices of the Peace for the said Province shall be and are hereby constituted and appointed members of and Judges in the said Courts of General or Quarter Sessions”. The same Act established Courts of Petty Sessions<sup>33</sup>.

Broadly speaking, the role of the Special Justice is comparable to the old “Justice of the Quorum”, or a bench of two or more Justices of the Peace sitting to form a Magistrates Court - which happened until recently in various Australian Jurisdictions and continues in the United Kingdom (indeed, in the UK, the Magistrates Court is composed largely of Justices of the Peace and the term “Magistrate” refers to a sitting JP).

The position of Special Justice, like that of a Justice of the Peace, is entirely voluntary. A key difference between the two roles is that a Special Justice sits alone and generally without a Clerk of the Court. Justices of the Quorum ceased sitting in South Australia in 1997. In that year, 38 Justices of the Peace sat nearly a thousand times making a wonderful voluntary contribution to the South Australian community. The position of “Special Justice” was

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<sup>31</sup> *ibid.*

<sup>32</sup> Sources: RAJSA website, discussions with JPS staff, Report *Review of Justices of the Peace*, Justice Strategy Unit, May 2001.

<sup>33</sup> Source: Extract from *The Australian Magistracy: from Justices of the Peace to Judges and Beyond* <http://www.jca.asn.au/attachments/LowndesPaper.pdf>.



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considerably expanded and reinvigorated with new training and appointments following the passing of the Justices of the Peace Act 2005 and the Justices of the Peace Regulations 2006.

Special Justices are appointed to the Magistrates Court and the Youth Court. In addition, they may be appointed to form a Visiting Tribunal for judicial review of cases within the prison disciplinary system.

Following a long period of training and familiarisation, the first rostered sitting of a Special Justice in the Magistrates Court took place in November 2006. On that day, Mr John Ames SJ began sitting at Elizabeth Magistrates Court hearing summary traffic and motor vehicle offences that would otherwise have been heard by a Magistrate, allowing the Stipendiary Magistrates to be redirected to more serious matters.

Special Justices are currently rostered in Magistrates Courts at Elizabeth, Port Adelaide, Adelaide, Christies Beach, Holden Hill, Mount Gambier, Mount Barker, Murray Bridge, Port Lincoln and Port Pirie in addition to the Adelaide Youth Court. Special Justices can also sit at other country Magistrates Courts as required.

Special Justices have certain limitations on their powers. They can only deal with guilty pleas, and cannot impose a sentence of imprisonment. In addition, there is an upper limit of \$1250 per offence when sentencing. Whilst limited to Road Traffic Act and certain other matters in the Petty Sessions Division of the Magistrates Court, in some circumstances Special Justices may sit in the Criminal Division and thus hear summary matters under other Acts such as the Motor Vehicles Act or the Summary Offences Act. Other duties might include Form 51 applications (for review of enforcement orders), Form 48 applications (review of cancellation of relief orders) or culling of outstanding warrants.

Special Justices undergo a screening process before they are selected followed by a period of training at Adelaide TAFE prior to appointment, with further training, mentoring and evaluation at a working level alongside other judicial officers (SM or other SJ) prior to sitting. The Special Justices Group within the Royal Association of Justices (SA) provides support to gazetted Special Justices including ongoing professional development, peer support, sharing of information, and the provision of specialist resources and manuals including the SJ Handbook.

### Description of Agency Structure

The current *organisational* structure of AGD is set out at Annexure A (p23). The proposed structure based on the emerging functional model is set out Annexure A (pp 6-15).



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

Under the proposed structure JP Services will form part of the Regulation & Licensing function within the Consumer and Business Services Division (see Annexure A, Figure 4, p13).

### Predecessor Agencies

The administrative history of the Attorney-General's Department and its predecessor agencies is set out at Annexure C. The recent administrative history of JP Services and its predecessor units is as follows:

#### 2009 – ct:

Since 1 January 2009 JP Services has formed part of the Finance and Business Services Division with AGD.

#### 2006 - 2008

In late 2006 the then JP Section was re-established as the Justice of the Peace Services (JPS / JP Services) unit within the Attorney-General's Department; and in early 2007 responsibility for JP Services was assigned to the General Manager, Office for Volunteers.

#### c1980 – 2006

The appointment of Justices of the Peace was carried out by the JP Section, within the Attorney-General's Office (Minister).

#### Pre c1980

Prior to the 1980s the appointment of Justices of the Peace was carried out within the Courts Department.

A chronological summary of the history of JPs in South Australia is set out below:

Year	Event
1836	Establishment of the Colony of South Australia.
1837	Creation of [the Office of] Justice of the Peace with Colony (now State)-wide jurisdiction.
1903 – 1904	The first edition of the Honorary Magistrate was published and the first interstate conference of justices was convened in Melbourne.



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1914 – 1915	Appointment of the first women Justices of the Peace. Mrs T Price, the first lady justice to occupy a seat on the bench.
1960 – 1963	Justices were appointed to visit Yatala and Adelaide Gaols, also the Women’s Prison.
1964 - 1994	<b>Justice of the Quorum</b> A JP who has successfully undertaken the Justice of the Quorum correspondence course, which operated between 1966 and 1994. Now a Special Justice (2005 Act)
1965 – 1967	Mr J Marshall, SM compiled the <i>Justices Handbook</i> . The Attorney-General introduced a correspondence course.
1970 – 1971	About 2100 Justices presided over various metropolitan courts. Courses for these Justices were available through TAFE. A Justice was rostered to sit in the Adelaide Magistrates Court ‘Day Room’ to witness documents; other courts later set up this service.
1987	Justices assisted Police Department with training of Police Graduates in their court work.
1991	<i>Justices of the Peace Act</i> 1991 proclaimed <ul style="list-style-type: none"> <li>• JP Roll established pursuant to s7</li> <li>• established the Office of Special Justice.</li> </ul>
1996	Country Justices of the Peace were appointed to receive minor complaints on behalf of the Ombudsman’s office.
2001 (May)	Review of Justices of the Peace Prepared by Michael O’Connell for the Attorney-General & Minister for Justice.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

2002 (Sep)	Implementation Report (Review of Justices of the Peace)
2005	<p><i>Justices of the Peace Act 2005</i> proclaimed</p> <ul style="list-style-type: none"> <li>• Tenure of JPs limited to 10 years</li> <li>• JP files created</li> <li>• 'data cleansing' of JP Roll commenced.</li> </ul>

### Successor Agencies

There are no successor agencies.

### Legislation

#### Justice of the Peace Services

##### Current Legislation

- *Justices of the Peace Act 2005*

##### Defunct Legislation

- *Justices of the Peace Act 1991*
- *Justices Act 1921*
- *Courts of General and Petty Sessions Act 1837*<sup>34</sup>.

### Context of the Records Covered by the Schedule

#### Coverage of the RDS

This schedule covers the operational records of the Attorney-General's Department - Justice of the Peace Services unit.

This RDS does not cover records in the custody of State Records as part of GRG 1. These records have been deemed permanent in accordance with a disposal determination made for

<sup>34</sup> UK enacted legislation.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

all GRGs by the Manager [Director] State Records and approved by the State Records Council on 9 November 1999.

### Related Series Affected by the RDS

There are no related series affected by this RDS.

### Complementary RDS

There are no complementary Disposal Schedules to use with this RDS. However the AGD portfolio overall does have a number of current and lapsed RDSs. A comprehensive listing is at Annexure E.

### Existing Disposal Schedules Superseded by the RDS

RDS 2011/04 does not supersede any other current RDS. There was an RDS (approved by the Libraries Board 21 September 1993 for the Operational and General Administration Files) that provided partial coverage for Justice of the Peace records. However this expired in 2003.

### Records Structure Within the Agency

Within the AGD various records management systems (including RecFind) are used to manage corporate files using separate databases. The files are maintained locally until closure and subsequent disposal. Prior to RecFind the files were managed using index cards.

This RDS covers the following major databases for JP Services: RecFind for corporate files and the JP Roll database for JP case files.

Currently the JP Roll contains about 10 500 entries of whom c8 500 are deemed 'active'. With the commencement of the *Justices of the Peace Act 2005*, JPs are now appointed for a period of ten (10) years. Records of JPs appointed prior to the new Act are now being 'audited' via a transition process so as to update and data cleanse<sup>35</sup> the JP Roll.

### Broad Description and Purpose of the Records

The records of the agency comprise the following formats:

- paper based files

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<sup>35</sup> In this context 'data cleanse' means to embellish, correct spelling, use consistent terms for addresses, etc. It does not involve any deletion of data/metadata.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

- index cards and registers
- line-of-Business databases
- electronic and digital records.

The records comprise both corporate files and working files, and are in the main part of a complex record series. The JP files however are a simple series.

The broad purpose of the records acquired, created and maintained by the operational areas covered by this RDS is to document:

- appointment and registration of Justices of the Peace
- creation and maintenance of the Register of JPs (JP Roll).

### Functions and Activities Documented by the Records

The RDS covers the Justice of the Peace (JP) Management function.

Related activities of the JP Management function for the appointment and registration of JPs are:

- Appointments (statutory / official)
- Enquiries
- Meetings
- Policy
- Procedures
- Program Management
- Registration
- Reporting.

### Arrangement of the Records

#### Justice of the Peace Services

Corporate files are managed using a dedicated JP Services only RecFind database. System of arrangement is annual single number order with 'JPS' prefix.

JP case files, commenced in 2005, are managed (controlled) using a specifically designed JP Roll database. System of arrangement is single (JP Roll sequence number) not being the JP registration number. Between 1999 and 2005 local databases were used to manage the various classes of records pertaining to the JP appointment process.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

Both the corporate subject files (ex RecFind) and the JP case files will require serialisation within the GRS system prior to transfers of permanent consignments taking place.

Prior to the JP case files being introduced, unstructured records (comprising various registers, bound volumes and loose records) were arranged in chronological or alphabetical order using local spread sheets for control purposes. Loose records documenting the appointment of JPs were filed in lever arch folders in record class order (ie applications, appointments, etc) within each year. From 2005 disparate records relating to active JPs were disaggregated and refiled within each JP case file.

### Agency Creating the Records

Attorney-General's Department - Justice of the Peace Services (and predecessor agencies) created the records and also administers them.

### Agency Controlling/Owning the Records

Attorney-General's Department - Justice of the Peace Services (and predecessor agencies) controls and owns the records.

### Date Range of the Records

Records Date Range: c1901 to **Ongoing**

### Legislation Affecting Recordkeeping Requirements

- *Justices of the Peace Act 2005.*

### Volume of the Records

Total AGD holdings (based on 2008 record holdings survey):

- total volume of records within AGD is estimated in excess of 2 500 linear metres (includes permanent holdings at State Records)
- in excess of 14 000 linear metres held off-site with approved storage providers.

Growth estimate is c7.5% per annum.

The volume of records relating to this RDS only is estimated as follows:

### Justice of the Peace Services

- In house, c100 linear metres (annual growth c5%)





## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

- Secondary storage, c10 linear metres
- State Records, c3 metres (GRG 1/48 Oaths Books)
- A component of records (volume unknown) within permanent holdings of GRS 1335 at State Records.

### Special Custody Requirements

There are no special custody requirements.

### Special Storage Requirements

There are no special storage requirements.

### Issues Not Mentioned Previously

There are no issues that have not already been mentioned.

## Comments Regarding Disposal Recommendations

### Permanent Records Rationale

Records nominated for permanent retention in this schedule document high-level advice. They meet the criteria for ongoing value as set out in the *Appraisal of Official Records: Policy and Objectives Guideline*, in that they document:

- research value relating to the statutory / official appointment of Justices of the Peace within South Australia.

Records of enduring (permanent) value comprise the following disposal classes: Appointments (statutory / official) (1.1.1, 1.1.2, 1.1.3); Meetings (see GDS 15); Policy (1.4.1, 1.4.2); Procedures (1.5.1); Registration (1.7.1, 1.7.2); Reporting (1.8.1).

### Temporary Records Rationale

Records nominated for temporary status in this schedule document routine processes and/or transactions that support the activities of the Attorney-General's Department – Justice of the Peace Services. Retention periods have been determined by the legal, administrative/operational, evidential and financial accountability requirements.

Temporary records are those that are considered not to have continuing value to AGD or the State. They include long term and short term and comprise the following disposal classes:



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

Appointments (statutory / official) (1.1.4), Enquiries (1.2.1), Policy (1.4.3), Procedures (1.5.2), Program Management (1.6.1).

### Other Disposal Considerations

There are no other considerations for or against the retention or destruction of records affected by this RDS.

### Disposal Recommendation Effect on Related Records

There are no related records affected by the disposal recommendations in this RDS.

### Alternative Record Formats

The JP Services has two major databases to manage its information (RecFind and JP Roll). See previous section "Records structure within agency".

### Other Information

There is no other information relevant to RDS 2010/03 Version 1.

### Impact on Native Title Claims

There is no discernible relevance to Native Title Claims.

### Indigenous Considerations

The Schedule meets all cultural, historical, legal and administrative requirements.

The determinations within the Schedule are consistent with Recommendation 21 of the *National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. The principles outlined in *GDS 16*, relating to Native Title claims, have also been considered in the development of this Schedule.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

### Scope Note

#### Records Covered by this Schedule

This RDS focuses on the records of Justice of the Peace Services.

#### How to Apply this Schedule

##### Use in conjunction with GDS

This Schedule should be used in conjunction with **GDS 15**, as amended, or its successor. Cross-references to the **GDS 15** are included in this Schedule where appropriate.

To identify records that may be potentially relevant to native title claims, please refer to guideline *Identifying documents which may be relevant to Native Title* attached to **GDS 16**. Where records sentenced for temporary retention are identified as having potential relevance to a native title claim, they need to be retained until 31 December 2024.

##### Use in conjunction with, or complementary to, other RDS

##### Records Disposal Schedules within the AGD portfolio

As a portfolio agency, AGD has under its broad 'umbrella' many operational Records Disposal Schedules (RDS) – summaries at Annexure E.

##### Other RDS superseded by this RDS

This Records Disposal Schedule does not supersede any existing schedules.

##### Re-sentencing of records where schedules are superseded, or particular entries within a schedule are superseded

In this instance the Attorney-General's Department –Justice of the Peace Services (and successor agencies) will not need to review and re-sentence its records.

##### Records excluded from this RDS

There are no records excluded from cover by this RDS.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

### Application to records in all formats

RDS 2011/004 applies to records in all formats, including databases and other electronic records. The agency is required to ensure that records remain accessible for the duration of designated retention periods.

### Interpretation of the Schedule

#### Minimum retention periods

Retention periods for temporary records shown in the Schedule are minimum retention periods for which records need to be retained. It is at the agency's discretion as to whether records are kept for longer than the minimum period.

#### Acronyms

AGD	Attorney-General's Department
JP	Justice of the Peace. For the purposes of this RDS the acronym JP shall be deemed to include a Special Justice (SJ).
JPS / JP Services	Justice of the Peace Services. The administrative unit within AGD responsible for managing the appointment and registration of JPs including maintenance of the JP Roll and its attendant policies and processes.
SAPOL	South Australia Police

#### Definitions of terms specific to the RDS

JP Roll	The Attorney-General is required to keep a Roll of Justices (s13 of the <i>Justices of the Peace Act 2005</i> ). The Roll of Justices, which contains the personal and contact information on all South Australia's JPs, consists of information on a database and also a card file system.
JP System	The functions, requisites, legislation, policy, practices and record-keeping relating to the Office of JP.
Justice of the Peace (JP)	The <i>Justices of the Peace Act 2005</i> only defines a justice to mean Justice of the Peace for South Australia (however appointed), and includes a Special Justice. JP Services define a JP for South Australia as a person appointed in accordance with legislation to act as an independent and impartial witness to documents people make for legal and official purposes. Includes JPs that are so designated by virtue of office or community / departmentally recommended for the Office.



## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

Justice of the Quorum	A JP who has successfully undertaken the Justice of the Quorum correspondence course, which operated between 1966 and 1994. Now a Special Justice under the <i>Justices of the Peace Act 2005</i> .
Special Justice	A Special Justice can be appointed under the <i>Justices of the Peace Act 2005</i> . Subject to the conditions of his or her appointment as a special justice, a special justice has (in addition to the powers conferred on a justice) any powers of a judicial or quasi-judicial nature, or authority to make an inquiry or receive evidence, conferred on a special justice by or under an Act.
The Office	The public office of 'Justice of the Peace '.
Volunteer programs for JPs'	Managed by JP Services, the Volunteers program enables a JP service to be provided to the general public within the JP Services offices during normal business hours.

### Legal Deposit

Legal deposit refers to statutory provisions that oblige publishers to deposit copies of their publications in libraries in the country in which they are published. Under the *Commonwealth Copyright Act 1968* and various Australian state acts, a copy of any work published in Australia needs to be deposited with (a) the National Library of Australia and (b) the appropriate State Library. Legal deposit extends not only to commercial publishers but also to private individuals, clubs, churches, societies and organisations.

In South Australia, one copy of publications produced for external use should be deposited with the State Library and the Parliamentary Library (*s.35, Libraries Act 1982*). Publications include books, newspapers, magazines, journals, pamphlets, maps, plans, charts, printed music, records, cassettes, films, video or audio tapes, computer software, CD-ROMs, compact discs and other items made available to the public.

### Records and Litigation

Where an agency is aware that records may be required for use in litigation, for use in a government enquiry or the consideration of the Ombudsman, the records should not be destroyed. In such circumstances the records are to be retained until two years after all cases and enquiries are complete, including appeals and then have the original retention period applied to the records.



Government  
of South Australia

## Operational Records Disposal Schedule

Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

### Records Dated Prior to 1901

All records dated prior to 1901 are **RETAINED PERMANENTLY**. In this instance this RDS does not cover pre 1901 records.

Approved by SRC



Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

List of Functions and Activities

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Approved by SRC

State Records Version



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

FUNCTION	Description	Disposal Action
Activity / Process		
<b>1 JUSTICE OF THE PEACE (JP) MANAGEMENT</b>	<p>The function of managing the requisites, legislation, policy, practices and recordkeeping relating to the appointment of persons to the “<i>Office of Justice of the Peace (JP)</i>” and related matters. Includes:</p> <ul style="list-style-type: none"> <li>• recording and managing transactions relating to the appointment process, including application, evaluation, selection, appointment, conduct and suspension/ removal/ re-instatement of JPs</li> <li>• maintaining the JP Roll (in various formats)</li> <li>• facilitating public access to specific ‘filtered’ data of the JP Roll as prescribed by legislation</li> <li>• managing the JP Volunteers Program.</li> </ul> <p><b>Note:</b> For the purposes of this function the term Justice of the Peace (JP) includes, where applicable, a Special Justice (SJ).</p>	





**Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)**

<b>FUNCTION</b>	<b>Description</b>	<b>Disposal Action</b>
<b>Activity / Process</b>		
1.1 <b>Appointments (statutory / official)</b>	<p><i>The activities associated with the making of statutory or official appointments to the office of JP, and revocation/termination/suspension, etc of statutory or official appointments. Includes records documenting request for information by JPs regarding the role/ function/ powers of JPs together with associated legal and procedural advice.</i></p> <p><i>See also 1.7 Registration.</i></p> <p><b>See GDS 15 v7: 7.99 GOVERNMENT RELATIONS – Submission for Cabinet Submissions documenting the appointment and management of JPs.</b></p>	
1.1.1 Appointments (statutory / official)	Legislative instruments ie by Cabinet Submission, made by the Minister to appoint, suspend or revoke an appointment of a person as a JP.	<b>PERMANENT</b>



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

<b>FUNCTION</b>	<b>Description</b>	<b>Disposal Action</b>
<b>Activity / Process</b>		
1.1.2 Appointments (statutory / official)	<p>Records documenting the appointment of persons holding office as a JP, including applications and supporting documentation, reviewing appointments and ongoing contact information.</p> <p>Includes applications, renewals, certification and letters of verification, complaints, discipline, termination, suspension, removal, resignation, re-instatement, history of volunteer service: including volunteer applications, agreements, performance reports, incidents, and also records documenting withdrawn, unsuccessful / lapsed applications. Also includes records documenting advice (including file copy of specific advice) provided to JPs, authorisation, and notifications from JPs pursuant to legislative and Code of Conduct reporting requirements.</p>	<b>PERMANENT</b>
1.1.3 Appointments (statutory / official)	<p>Records documenting the appointment of Members of Parliament and Principal Members of Local Government Councils who are deemed JPs by virtue of office for the duration of their tenure in that office. Includes records documenting the authorisation of police officers and other 'prescribed (by legislation) persons' to take declarations and attest the execution of instruments.</p>	<b>PERMANENT</b>



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

FUNCTION	Description	Disposal Action
Activity / Process		
1.1.4 Appointments (statutory / official)	Records documenting unsuccessful, lapsed or withdrawn applications.	<b>TEMPORARY</b> Destroy 20 years after action completed
<b>1.2 Enquiries</b>	<i>The activities associated with the handling of requests for information about the organisation and its services by the general public or another organisation. (KWAAA)</i>	
1.2.1 Enquiries	Records documenting responses to enquiries regarding the appointment of JPs. Includes responses that result in the enquirer being directed to the JP Roll website.	<b>TEMPORARY</b> Destroy 8 years after action completed
<b>1.3 Meetings</b>	<i>The activities associated with gatherings held to formulate discuss, update, or resolve issues and matters pertaining to the management of the section, department or agency as a whole. Includes arrangements, agenda, taking of minutes, etc. (KWAAA)</i>	
	See <b>GDS 15v7:</b> <b>1.70 COMMUNITY RELATIONS - Meetings</b> <b>7.70 GOVERNMENT RELATIONS – Meetings</b> <b>16.70 STRATEGIC MANAGEMENT – Meetings.</b>	



**Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)**

<b>FUNCTION</b>	<b>Description</b>	<b>Disposal Action</b>
<b>Activity / Process</b>		
<b>1.4 Policy</b>	<p><i>The activities and processes associated with developing and establishing decisions, directions and precedents, which act as a reference for future decision-making, as the basis from which the organisation's operating procedures are determined. (KWAAA)</i></p> <p>See also <b>GDS15 v7: 16.78 STRATEGIC MANAGEMENT – Policy.</b></p>	
1.4.1 Policy	Final versions of policies. Includes guidelines made relating to the appointment and registration of JPs. Also includes policy with respect to the use of initials 'JP', Code of Conduct, discipline criteria and process, handling of complaints, etc.	<b>PERMANENT</b>
1.4.2 Policy	Summary records used to support development of policy relating to JPs, including demographic details eg post code, local government coverage, language skills, indigenous and migrant summaries, and similar matters. Includes research and survey material and resulting analysis and evaluation, advice and comment.	<b>PERMANENT</b>
1.4.3 Policy	Records relating to background material relating to development of policies. Includes policy proposals, research papers, results of consultations, supporting reports and major drafts.	<b>TEMPORARY</b> Destroy 10 years after promulgation of new policy.



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

FUNCTION Activity / Process	Description	Disposal Action
<b>1.5 Procedures</b>	<i>Standard methods of operating laid down by an organisation according to formulated policy. (KWAAA)</i>	
1.5.1 Procedures	Master copy of operational procedures, guidelines and manuals of practice. Includes circulars, handbooks and instructions, and specifically <i>Codes of Practice, JPS Operations Manual, and JP Handbook.</i>	<b>PERMANENT</b>
1.5.2 Procedures	Records relating to the development, implementation and review of operational procedures, guidelines and manuals of practice.	<b>TEMPORARY</b> Destroy 10 years after procedures superseded
<b>1.6 Program Management</b>	<i>The activities involved in the management of an ongoing series of actions including planning, developing, implementing, monitoring and assessing a program. Includes program details, notifications of terms and conditions and disclaimers, and liaison with contractors, volunteers and other agencies.</i>	



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

FUNCTION Activity / Process	Description	Disposal Action
1.6.1 Program Management	<p>Records documenting the development of the volunteer program for JPs to provide an 'over the counter' JP service to members of the public within Justice of the Peace Services' premises.</p> <p>Includes development of rostering criteria and training requirements.</p> <p>See <b>GDS 15 v7</b> various for the disposal of GDS-related (common/administrative) records relating to the management of JPs rostered as volunteers.</p>	<b>TEMPORARY</b> Destroy 10 years after action completed
1.7 Registration	<p><i>The activities and processes required to record, catalogue, inventory, or list. Includes the establishment and maintenance of registers containing information required by legislation. Includes processing (data entry) of applications, appointment, renewal, tenure, suspension and reinstatement, and removal of JPs from the JP Roll database and other supporting/related databases. Also includes 'filtered version of the JP database' available on the internet.</i></p> <p><i>See also 1.1 Appointment.</i></p> <p><i>See 1.2 Enquiries for pre-application enquiries.</i></p>	



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

FUNCTION	Description	Disposal Action
Activity / Process		
1.7.1 Registration	Master versions of Registers of Justices of the Peace (JP Roll) for the State of South Australia. Includes legacy records comprising index cards created prior to the establishment of JP files and the computerised JP Roll, (ie prior to 2005). Also includes other registers/volumes (eg Justices of the Quorum, Oaths, etc).	<b>PERMANENT</b>
1.7.2 Registration	<p>JP Roll database (including associated systems comprising various local databases, spreadsheets, JP Roll filtered via postcode, suburb and 'by other than English' language skills) made available via the internet and hard copy.</p> <p>Includes editing of master JP Roll registration (metadata) in relation to entries documenting changes to routine information (eg emanating from changed JP circumstance - contact details, prolonged periods outside the State, withdrawn, unsuccessful or lapsed applications, etc).</p> <p>See <b>GDS 15 v7: 14 PUBLICATIONS</b> for filtered versions of the JP Roll used to maintain the website.</p>	<b>PERMANENT</b> Actively manage and migrate to ensure ongoing accessibility for evidentiary and/or historical purposes.



# Operational Records Disposal Schedule

RDS 2011/004 Version 1

Effective Date: 2011-04-12 to **2021-06-30**

Records Date Range: 1901 to **Ongoing**

## Attorney-General's Department - Justice of the Peace Services (and predecessor agencies)

FUNCTION	Description	Disposal Action
Activity / Process		Action
1.8 Reporting	<i>The processes associated with initiating or providing a formal response to a situation or request (either internal, external) or as a requirement of corporate policies), and to provide formal statements or findings of the results of the examination or investigation. Includes: agenda, briefing, business, discussion papers, proposals, reports, reviews and returns. (KWAAA)</i>	
1.8.1 Reporting	Final versions of formal reports transmitted to the Minister, the Government or other external agencies/organisations and stakeholders (including the general public) relating to the JP Management function.  See <b>GDS 15 v7: 14 PUBLICATION</b> for published reports, including posting to the internet.	<b>PERMANENT</b>