



Murdoch
UNIVERSITY



Your responsibilities: State Records Act 2000

Records Management & Archives

Contents

Introduction.....	1
What is a “record”?	2
Responsibility to create records	3
Failure to create records	3
Ownership of records	4
Records that must be kept.....	4
Records that do not need to be kept	5
Drafts, copies and working papers.....	6
Confidentiality issues.....	7
Guidelines for managing confidential records	7
Access to records	8
Public access to records	9
How long must records be kept?	10
What disposal authority should I use?.....	11
Authorising the disposal of records	11
When records must not be destroyed	12
Records that can be destroyed at any time.....	12
Preservation of records.....	13
Records with archival value.....	13
Outsourcing arrangements and records	14
Offences.....	15
Summary of record keeping responsibilities	15
Benefits of best practice record keeping.....	16
Contact information	17

Introduction

This booklet has been prepared by the University's Records Management & Archives Office to assist staff in understanding their relevant responsibilities under the *State Records Act 2000*.

The *State Records Act 2000* is the principal statute that governs the keeping of records in Western Australia. All "State organisations" are covered by the Act including public sector agencies, universities, TAFE institutes, parliamentary departments and local government.

The primary intention of the Act is to strengthen organisational accountability and transparency through effective record keeping practices. It emphasises the responsibility of all staff to ensure the systematic creation of proper records of the University's functions and their inclusion in its recordkeeping system/s.

These records must be kept available to meet administrative needs and to provide evidence of the University's activities, and they must be retained for a specified period of time and disposed only in accordance with officially approved retention and disposal authorities.

The effective management of the University's records supports administrative processes and efficiencies by facilitating the accessibility of records and by preventing the premature disposal of records that are still relevant to administrative needs.

It also ensures records are available for litigation purposes and allows the University to satisfy the scrutiny of the Auditor General, and to meet requests for records when they are required for official reviews and investigations, and under Freedom of Information legislation. The proper management of records consequently is essential in upholding the University's reputation as a transparent and accountable public institution.

The operation of, and compliance with, the Act is monitored by the State Records Office and the State Records Commission, the latter having authority to enquire into any breaches or possible breaches of the Act.

What is a “record”?

A record may be thought of as recorded information in any form, including data in computer systems, created or received by the University and kept as evidence of, and support for, the University’s business activities and the good conduct of its affairs.

Records include documents in hardcopy and electronic format, information held in databases and spreadsheets, email transmissions, content appearing on the University’s web sites, architectural drawings and assets registers.

Some examples of records are shown below:

- ☑ negotiations and commitments on behalf of the University;
- ☑ written submissions provided to external agencies;
- ☑ working papers relating to the development or amendment of policies and procedures;
- ☑ email correspondence with external agencies concerning funding of research projects;
- ☑ requests and authorisations to purchase office equipment;
- ☑ any legal agreement, contract or memorandum of understanding;
- ☑ tender documents relating to building projects;
- ☑ minutes and agendas of committees and working parties;
- ☑ notes of decisions taken at meetings;
- ☑ documentation relating to any formal complaint, review or investigation;
- ☑ formal correspondence with enrolled students, employees and external organisations.

Responsibility to create records

All employees of the University, and contractors and consultants providing services to or on behalf of the University, have a legal responsibility to create records that sufficiently record the performance of the University's functions.

A significant volume of the University's records are created as a direct result of normal business processes and staff performing their day-to-day functions. The legal and administrative reasons underlying the requirements to create records for the accounts payable, student records, and payroll functions, for example, are easily understood, and university processes are designed to incorporate the creating and keeping of these records as an integral part of the work activity.

A record is also created when email and written correspondence is sent, when committee minutes are written, when a database is updated, when policies are developed, and when agreements and contracts are prepared etc. Sometimes, however, a conscious decision must be made to create official university records.

This may include making a file note about a decision reached over the telephone, and making a record of the deliberations of meetings particularly when decisions are reached, a course of action agreed upon, and commitments, instructions and authorisations are given. Official records are essential for providing evidence of what was said, done or approved and by whom.

Failure to create records

Without the ready availability of complete records to support operational needs the quality of the University's decision-making will very likely be impaired. It can also impact on the University's ability to sufficiently protect its rights and those of its students and staff, and of organisations and people affected by its actions and decisions.

A failure to create and maintain proper records is therefore a risk management and corporate governance issue which can lead to increased exposure of the University to liability and penalties.

Furthermore, an inability to provide records that substantiate the University's activities may be seen as a major failure in organisational accountability. The University is required to meet stringent governance standards expected by the Auditor General and Parliament and be able to respond effectively to Freedom of Information requests and any internal or external investigative inquiry such as by the Ombudsman or Corruption and Crime Commission.

A failure to create records is a breach of the *State Records Act 2000*, and a formal investigation by the State Records Commission can attract unwanted adverse publicity to the University.

Ownership of records

All records received or created by an employee of Murdoch University in the course of their work are official records that belong to the University and not the employee. These records are to be kept available and accessible for authorised use.

Records that must be kept

A corporate record contains information that is relevant to the University's functions and activities and has continuing value to the University. Corporate records are those that typically relate to the substantive business of the University, its Offices, Faculties and Schools. Most records created and received by staff during the performance of their duties are corporate records and these records must always be captured into a recordkeeping system.

Examples include:

- Authorisations for any expenditure;
- Instructions and authorisations to undertake a specific action or course of action;

- Negotiations, commitments and arrangements on behalf of the University;
- Development or amendment of policies and procedures;
- Records that add value or support to an existing record;
- Documentation and reports prepared for external agencies;
- Correspondence with enrolled students, staff, and other organisations;
- Documentation generated by the University's decision-making bodies including committees, working parties and meetings. Includes agendas, minutes, reports, tabled items and meeting notes;
- Legal documents including contracts, agreements, memoranda of understandings, leases, licences etc;
- Reviews including organisational, administrative, academic, and 5-yearly School reviews etc;
- Documentation relating to academic planning, course delivery and teaching;
- Research data;
- Personal staff files, payroll records, leave applications etc;
- Student records including applications for admission, accreditation, student files, results etc;
- Campus planning, building developments, and project management.

Records that do not need to be kept

The following are examples of records that do not need to be included in a recordkeeping system:

- Personal records that relate to the private affairs of an individual such as lunch arrangements;
- Records with very short-term value such as staff announcements, advice of meeting arrangements;
- Copies of documents received only for reference purposes and where no action is required. This includes copies of committee minutes, reports, and Office/School newsletters;

- Annual reports, research reports, committee minutes and newsletters received from other universities and government agencies;
- Unsolicited email messages;
- Notes of meetings that discuss matters of very minor importance;
- Magazines received from a professional body;
- Promotional material received from other organisations;
- Stationery and office equipment catalogues.

Drafts, copies and working papers

Supporting documentation such as drafts, copies and working papers should be managed according to the following guidelines:

- When a document has been finalised any previous versions, working papers, rough calculations and background notes can be destroyed once their reference value has ended. These records serve a facilitative purpose and consequently have a temporary usefulness which typically ends once a document has been finalised;
- Drafts and working papers that contain significant information not found in the final version of a document should be retained as official records;
- Exact copies of records can be destroyed at any time;
- Copies of documents that contain significant additional information not shown on the original, such as authorisations and handwritten annotations that elaborate on a matter of some significance, should be retained as official records;
- Copies of documents, such as committee minutes, distributed for information purposes only can be destroyed once their reference value has ceased;
- Working papers relating to the development of University policies and standards should be kept where they provide useful background information;
- Working papers and previous versions of legal agreements, contracts, policies and other significant documentation may be retained where there is a requirement to demonstrate the evolution of a matter and how key decisions were reached.

Confidentiality issues

The University routinely receives, creates and manages confidential information about students, staff, private organisations, and government agencies. All employees have a duty to respect the confidential nature of these records.

The release of confidential records must not be withheld where the University is legally required to disclose the records under a court order, or to provide them to the Auditor General or in response to a Freedom of Information request etc.

Examples of confidential records managed by staff include:

- Commercial-in-confidence documentation;
- Marketing, strategic and academic planning documentation;
- Legal contracts & agreements;
- Personal information managed by Office of Human Resources, Division of Academic Affairs, and Faculty Student Administration;
- Official reviews, audits, investigations and complaints;
- Confidential research data.

The unauthorised disclosure, loss or misuse of confidential information can have serious consequences including legal action taken against the University, harm to the University's reputation, embarrassment to organisations and individuals, disclosure of cutting-edge scientific research data to competitors, and the integrity of inquiries or official investigations put at risk.

Guidelines for managing confidential records

Confidential information must not be used in any way other than for the purpose for which it was provided. The following safeguards should be observed to protect and restrict the use of confidential information:

- Confidential records should be kept in secure storage where access can be monitored and limited to authorised staff. This includes use of lockable cabinets for confidential files and loose documents, and computing

systems that meet appropriate network security and access control standards;

- Custodians of confidential information have a duty to ensure the proper storage, security, access and release of confidential information;
- Staff with authorised access to confidential information must maintain that confidentiality and not disclose or allow to be disclosed to any unauthorised person any confidential information;
- There must be no unauthorised access, printing, copying and disclosure of confidential information;
- Staff associated with a confidential research project should sign a relevant confidentiality agreement where applicable;
- Confidential records must never be placed in recycling bins when disposal action is undertaken. They must only be disposed by confidential shredding.

Access to records

Timely access to information is essential in order for the University to function effectively and efficiently. The guiding premise is that all records received or created by staff in the course of their work are official university records and these records must be available and accessible to authorised staff.

Staff are authorised to access records according to the delegated authority of their position and the relevance of the information to the performance of their duties. In some cases higher authorisation may be required before access can be granted.

All records must remain accessible during the period of their retention requirements in order to meet administrative needs and external accountability requirements.

The indiscriminate disclosure of information can impact seriously on individuals and/or the University. Staff therefore need to be aware that access restrictions should apply where confidentiality and privacy considerations are relevant. This includes, for example, access to student

records, personal files, records that contain commercially sensitive information and records that are subject to client-lawyer privilege.

The following access guidelines should be observed by all staff:

- A staff member's right to access records is determined by the relevance of the records to their duties. That is, on a need-to-know basis;
- Access to records must be restricted where confidentiality and privacy considerations are relevant;
- Unhindered access to records must be provided to authorised agencies such as the Office of the Auditor General, Freedom of Information Commissioner, Commonwealth Ombudsman, Human Rights & Equal Opportunity Commission, and the Corruption and Crime Commission;
- The University is required to comply with legal processes such as discovery and subpoena that provide a right of access to its records by the legal system;
- Staff must not breach provisions in confidentiality agreements concerning the access and disclosure of information;
- Access to archival records is not permitted where access restrictions have been approved by the State Records Commission;
- The design of systems must incorporate appropriate security provisions that protect information from unauthorised access.

Public access to records

The Freedom of Information Act provides members of the public with a general right of access to information held by public agencies. The general premise of FOI legislation is that information should be made available unless there is a reason given in the legislation to refuse access.

Access procedures covered by the FOI Act do not apply to documents that are already available in the public domain. This includes documents that are available for inspection, purchase, and free distribution. Examples are the Annual Report, University Handbook, student prospectus, academic transcripts, agendas and minutes of most committees, examination scripts, internal manuals and publications of the University.

The main reasons for not making information available are the potential for litigation, administrative costs of providing information, and the right to privacy of third parties. It should be noted, however, that failure to disclose all documents may be construed as a deliberate attempt to hide some documents from public scrutiny and hence constitute a breach of the University's obligations under the Act.

Exemption categories include personal information about individuals, research information, commercially-sensitive information such as trade secrets, confidential communications obtained in confidence, and records that would be privileged from production in legal proceedings on the grounds of legal professional privilege.

Staff should note that it is illegal to conceal, destroy or dispose of a document in order to deny access to it, regardless of whether or not an application for access under FOI has been made.

How long must records be kept?

Staff should refer to authorised retention and disposal authorities to determine how long records must be retained before disposal action can be taken.

Retention and disposal authorities are documents that authorise the lawful disposal of records. They are arranged as systematic and comprehensive listings of categories of records created and kept by organisations, and which stipulate the period of time those records must be retained before disposal action can be taken.

Retention periods incorporate various legal, administrative, fiscal, and archival requirements which ensure that records are retained and kept available for administrative use and evidentiary purposes for the appropriate period of time.

Retention periods are typically measured in years following the last action date or the occurrence of a specified event such as the end of a financial year, the end of a specified appeal period, or the completion of an audit by the

Auditor-General. The retention periods specified are the minimum periods of time that must be observed but records may be retained for longer if reference to the records continues.

It is good practice for Offices and Schools to conduct periodic reviews of their records in order to prevent the accumulation of records and the inappropriate reference to records that are no longer relevant or needed. It will also facilitate the retrieval of documents and ensure that limited storage space is efficiently managed.

What disposal authority should I use?

General Disposal Authorities published by the State Records Office cover the majority of generic administrative records, financial and accounting records, and human resource management records common to government organisations. These are available at:

<http://www.sro.wa.gov.au/government/disposal.asp#general>

The Murdoch University Functional Records Disposal Authority contains a listing of records series that relate to the University's core functions and that are not adequately covered by the General Disposal Authorities. The authority can be accessed at:

<http://www.murdoch.edu.au/vco/secretariat/records/retention.html>

Authorising the disposal of records

The University must follow an accountable and documented process for the disposal of its records. Staff are required to complete a records disposal form (*refer Records Management & Archives homepage*) that lists records identified for disposal. This form should be submitted to the Manager, Records Management and Archives for review and authorisation before any disposal action can be taken.

Formal disposal procedures support organisational accountability and transparency by demonstrating that the University's records have been disposed of in accordance with authorised disposal authorities and government regulations.

When records must not be destroyed

University policy prohibits the destruction of any records, even if their retention period has passed, where they are subject to legal processes such as court discovery and subpoena or if they are required for any internal or external review or investigation by, for example, the Ombudsman, Human Rights & Equal Opportunity Commission, Corruption and Crime Commission, Auditor General or if they are relevant to an application made under the *Freedom of Information Act 1992*.

Records that can be destroyed at any time

Records with no value to the University can be destroyed at any time without reference to the disposal authorities. These include advice of social events, leaflets, flyers, personal communications, catalogues, brochures, email messages received by courtesy copy and where no action is required, unsolicited emails that have no relevance to the University, and copies of publications received from other organisations such as annual reports and newsletters.

Copies of records may be destroyed at any time without reference to the disposal authorities once their administrative reference value to an Office or School has ceased and where the official version of the record is verified as being already included in a recordkeeping system of the University.

Records with very short-term value to the University only need to be retained for a limited period of time (a few hours or days) after which they can be destroyed and do not need to be captured into a recordkeeping system. They include copies and drafts of documents sent only for reference, broadcast emails such as General/Staff/Student Announcements, advice of meeting arrangements, stationery requests, advice of staff movements, and emails received from listservs.

Preservation of records

The University is responsible for implementing preservation strategies that ensure its records are protected and preserved for the duration of their retention requirements.

Although most records have relatively modest retention requirements, usually between 1-7 years, some records such as staff personal files must be kept for more than 50 years, and records that are State archives must be retained indefinitely which means they must still be accessible and useable into the next century!

Unlike paper-based records whose preservation environment is largely static, records created and maintained by electronic media face a dynamic preservation environment. Electronic records are inherently disposed to the effects of technology obsolescence and their ongoing retention and preservation must be managed within an environment of periodic upgrading of hardware and software applications and storage media.

It would likely be considered a breach of the *State Records Act 2000* if electronic records were allowed to become inaccessible and/or unreadable (due to technological obsolescence) so a systematic approach to migrating (transferring) records through successive upgrades of hardware and software, at periodic intervals, to ensure they remain accessible and readable is essential.

Records with archival value

Records that have ongoing, historical significance to the University and/ or to political scientists, scholars, historians and the general community are called "State archives". They include records that document the establishment of the University, the drafting of Murdoch University-specific legislation, major organisational planning and decision making, significant projects, policies and procedures, and records of obvious historical significance.

The Act is concerned about preserving and making accessible this important part of the State's cultural heritage. State archives provide documentary

evidence of key decisions and events in the development of public institutions in Western Australia. In accord with the requirements of the Act the General Disposal Authorities and the University's Functional Records Disposal Authority identify any records designated as State archives.

Employees often make the erroneous assumption that old files and records that are no longer in use are called "archives" but in most cases these records are merely "inactive records" that very likely have an eventual destruction date.

Outsourcing arrangements and records

The University is required to ensure that contracts or arrangements entered into with outside parties, for purposes of performing a function or activity for or on behalf of the University, are compliant with the requirements of the *State Records Act 2000*.

The University is accountable for ensuring that any contractors or consultants it engages clearly understand the University's own accountability requirements under the Act. The University's Office of Legal Services has issued a standard clause for use in contracts for outsourced services. This covers a range of requirements including custody and ownership of records, access arrangements, disposal of records, and contract completion.

By way of example, outsourcing arrangements include student exchange agreements, agreements with international student recruitment agents, course material IP licences, agreements covering offshore courses, cleaning contracts, the employee assistance program, and architectural, engineering and building services provided to the University.

Offences

University staff can incur heavy penalties for non-compliance with the provisions of the *State Records Act 2000*. The following offences stipulated by Section 78 of the Act carry a \$10,000 penalty:

- failure to create and keep proper and adequate records, and failing to ensure records are sufficiently protected and preserved;
- unlawful transfer of a record to a person not entitled to possession of the record;
- destroying records other than in accordance with approved disposal authorities, and destruction of records when possession of those records is unauthorised.

The State Records Commission is authorised to investigate breaches of the Act and, in accordance with Section 64(2) submit a written report to Parliament about the contravention. In the event of such a breach this would, of course, attract adverse publicity to the University.

Summary of record keeping responsibilities

As a member of the University's staff you are required to comply with the requirements of the *State Records Act 2000* to create, manage, protect and make accessible records that properly and adequately document the performance of the University's functions. These responsibilities pertain to records in all formats including hardcopy and electronic records. Specific responsibilities of staff are:

- create records that properly and adequately document the performance of the functions for which you are responsible;
- ensure that records are full and accurate to the extent that a proper scrutiny of business activity is possible;
- maintain records in an appropriate record keeping system to ensure they remain accessible for the duration of their retention requirements;
- dispose of records in accordance with authorised retention and disposal authorities;
- protect records from unauthorised access and do not release records to unauthorised persons or agencies;

- respect the confidentiality of the University's records and the privacy of personal information;
- do not destroy any records that are subject to legal processes such as discovery and subpoena or required for internal or external review or investigation or relevant to an application made under the *Freedom of Information Act 1992*.

Benefits of best practice record keeping

A principal aim of the *State Records Act 2000* is to encourage the implementation of best practice record keeping. Accordingly, the following benefits are gained by the University's compliance with the Act:

- underpins organisational accountability by ensuring that processes can stand up to public scrutiny;
- provides evidence of responsibility for management's decision-making;
- promotes administrative efficiencies by ensuring that staff have timely access to relevant and complete records;
- promotes informed decision-making;
- prevents the premature destruction of records, thereby protecting the University's corporate memory and ensuring it is kept available for future reference;
- ensures that records are available and easily located when needed to protect and support the University when defending or taking legal action;
- facilitates finding records requested through legal processes such as discovery orders, FOI applications and subpoenas, or required by the Auditor General and other external agencies;
- protects the interests of the University's stakeholders including its students, staff, government agencies, research-funding organisations, the courts, contractors, clients, and the public;
- better protects vital records that establish and protect the legal and financial rights and interests of the University, and of its employees and clients;

- ensures that State archives are identified and protected as an important contribution to the State's cultural heritage;
- facilitates compliance with other legislation;
- expedites continuity whenever staff movements occur.

Contact information

Records Management & Archives

Email: Records@murdoch.edu.au

Telephone: 08-9360 2162