Guidelines on Decision Making

Ombudsman Western Australia
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Ombudsman Western Australia

GUIDELINES

Exercise of discretion in administrative decision-making

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What is the exercise of discretion?

Administrative decisions often include the exercise of discretion. Discretion exists when the decision-maker has the power to make a choice about whether to act or not act, to approve or not approve, or to approve with conditions. The role of the decision-maker is to make a judgement taking into account all relevant information.

Powers to act and to exercise discretion

For public sector decision-making, legislation generally provides the lawful authority for action to be taken and for decisions to be made. Public sector decision-making may be undertaken:

- As part of fulfilling responsibilities to ensure the efficient and effective management and performance of a public authority, eg, under the general public sector legislation; or
- As part of taking action or making decisions under agency or department specific legislation relating to the services delivered by the public authority.

The exercise of discretion requires the exercise of good judgement.

Legislation often compels a decision-maker to act in a particular way. Where the words 'shall' or 'must' are used in legislation, there is usually no discretion available to the decision-maker. For example, if the legislation states that an application must be received by a specific date, the decision-maker must refuse the application if it is not received by that date. However, where the legislation uses the word 'may', the decision-maker is given a discretionary power to deal with a matter and has a choice to make. This choice will often involve an element of judgment about the decision.

Can the power to exercise discretion be delegated?

The legislation sets out who is given the power to make certain decisions, for example, a Chief Executive Officer (CEO). These powers, including powers to exercise discretion, may be delegated to others under a power of delegation in the legislation. Usually, the power of delegation cannot be delegated.

Delegations are generally recorded in writing in a register, instrument or notice and may need to be set out in a Government Gazette.

Before taking action or making a decision, the decision-maker should check to ensure they have the power to take the action or make the decision and the limits of any discretion that can be exercised.

Those who delegate powers to others should consider the following factors:

- Which actions and decisions should be delegated and which should not;
- That accountability and transparency are not compromised in decision-making; and
- That efficiency and quality in decision-making is maintained.

Policies and guidelines to guide the exercise of discretion

Agencies should develop policies and guidelines to assist and provide guidance to decision-makers to exercise discretion. Unlike legislation, policies and guidelines do not have the force and effect of law and they should not be inconsistent with the legislation. If they are, the legislation takes precedence

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Not every situation needs a policy or guideline and they may not cover all circumstances. However, they are an important means of providing guidance to decision-makers who are required to exercise discretion when delivering a government service and in making decisions and to those with an interest in the decisions. Policies and guidelines assist to ensure decisions are made consistently and fairly.

Before preparing a policy or guideline, it is important to weigh up the costs and benefits of what outcomes might be achieved as a result. If better service delivery and decision-making is likely to be achieved, there is likely to be an overall net benefit outcome.

Policies and guidelines assist to ensure decisions are made consistently and fairly.

To ensure policies and guidelines are most effective they should:

- Contain a clear purpose of what the policy or guideline is intended to achieve;
- Be flexible to cover a range of circumstances under which discretion is to be exercised;
- Set out the relevant considerations to be taken into account by the decision-maker;
- Be expressed clearly to allow easy application and interpretation;
- Be transparent;
- State how they relate to relevant legislation;
- Be communicated to relevant staff; and
- Be made available to members of the public.

How should decision-makers exercise discretionary powers?

Decision-makers must use discretionary powers in good faith and for a proper, intended and authorised purpose. Decision-makers must not act outside of their powers. No decision-maker has an unfettered discretionary decision-making power.

It is not sufficient to exercise discretion and approve an application simply because it seems the right thing to do. When exercising discretion, decision-makers need to act reasonably and impartially. They must not handle matters in which they have an actual or reasonably perceived conflict of interest.

It is important to apply the values that the legislation promotes, professional values and the values of the agency, not personal values.

In exercising discretionary powers, decision-makers should have regard to any specific requirements as well as satisfy general administrative law requirements. Some of the general principles relevant to the exercise of discretion are:

- Acting in good faith and for a proper purpose;
- Complying with legislative procedures;
- Considering only relevant considerations and ignoring irrelevant ones;
- Acting reasonably and on reasonable grounds;
- Making decisions based on supporting evidence;
- Giving adequate weight to a matter of great importance but not giving excessive weight to a matter of no great importance;
- Giving proper consideration to the merits of the case;
- Providing the person affected by the decision with procedural fairness; and
- Exercising the discretion independently and not under the dictation of a third person or body.

A failure to act within the power provided or to comply with general administrative law principles can result in a review and overturning of a decision.

Factors to consider when exercising discretion

The act of exercising discretion can add a level of complexity into the decision-making process as the decision to be made may not be clear cut. It may be necessary for the decision-maker to consider and weigh up a number of factors and evidence.

The legislation may state that certain matters must be taken into account in the decision-making process. When stated, these matters must be considered. The use of the word 'includes' or a list which ends with a catch-all expression such as 'any other matters that in the opinion of the decision-maker are relevant' indicates that guidance from other sources will be necessary to determine what other factors might be relevant.

If the legislation does not specify the matters to be taken into account, it is important to consider the underlying purpose of the decision-making power and what factors might be relevant to achieving that purpose.

Guidance can also be obtained from:

- Agency policies;
- Previous decisions;
- Court or tribunal decisions; and
- The overall objectives of the legislation under which the decision is made.

It is important to consider each case on its merits.

Although the decision-maker may take guidance from these sources, it is important to consider each case on its merits.

It is important that adequate weight is given to a matter of great importance and that excessive weight is not given to a relevant factor of no great importance. When exercising discretion, there may be one critical or turning key factor in the decision. That is, if one factor was different, the decision would be different. It is vital that this factor is identified in the decision-making process.

Keeping people informed and advising on the outcome

It is important to keep people informed in the decision-making process. Decision-makers also have a responsibility to inform the relevant parties of the outcome. There may also be a requirement to provide reasons for the decision reached.

Ten key steps to be considered when exercising discretion

A ten step guide has been developed to assist decision-makers in exercising discretion. The aim of the ten steps is to simplify the process of exercising discretion. As the decision-maker will ultimately need to make a judgement about the matter under consideration, the ten steps provide guidance to reach that point to ensure accountability and transparency in the decision-making process, and to provide quality outcomes. Details are contained at page four of these guidelines.

Acknowledgement: Ombudsman Western Australia wishes to thank the NSW Ombudsman for allowing us to draw upon their publication *Public Sector Agencies Fact Sheet No. 4. Discretionary Powers* in the development of these Guidelines.

Ten key steps to be considered when exercising discretion	
Determine that the decision-maker has the power	Check the relevant legislation and agency policies and guidelines to ensure that the person has the power to act or to make the decision.
Follow statutory and administrative procedures	It is important that the person who is responsible for exercising discretion follows statutory and administrative procedures. For example, there may be pre-conditions to the exercise of discretion such as requiring consultation with a range of people or to advertise a proposal and to receive and consider submissions before a decision is made.
Gather information and establish the facts	Before exercising discretion, it is necessary to gather information and establish the facts. Some facts might be submitted with an application made to the decision-maker. Others might be obtained through inquiries or investigation. This may require the decision-maker to: • Review documents; • Undertake a site inspection; or • Seek specialist advice.
Evaluate the evidence	It is important to evaluate and weigh up the evidence, to determine the relevant considerations and key facts. A key fact is something whereby the existence or non-existence of the fact can affect the decision. The evidence must be relevant to the questions before the decision-maker and accurate so that any material facts can be established. When evaluating the evidence, the decision-maker must ignore irrelevant considerations.
Consider the standard of proof to be applied	In administrative matters, the standard of proof to be applied is generally 'on the balance of probabilities'. It is must be more probable than not that the matter or allegations are proven. In general, the more serious the matter and the consequences arising, the higher the standard of proof that is necessary. This standard of proof is that found in the often-cited case of Briginshaw v Briginshaw (1938) 60 CLR 336. The Briginshaw standard possesses a measure of flexibility, so that the more serious the allegation the higher the degree of probability required.
Act reasonably **Act fairly and without bias**	The person taking action or making a decision must act reasonably. The decision-maker needs to act impartially. They must not handle matters in which they have an actual or reasonably perceived conflict of interest.
Observe the rules of procedural fairness	Before taking certain action or making some decisions, the decision-maker may be required to provide procedural fairness to anyone who is likely to be adversely affected by the outcome.
Consider the merits of the case and make a judgement	Although policies, previous decisions, and court and tribunal decisions may exist to guide the decision-maker, it is still important to consider the matter or application on its merits and to make a judgement about the matter under consideration.
Keep parties informed, advise of the outcome and provide reasons for the decision	The decision-maker should keep relevant parties informed during the decision-making process; they should inform the relevant parties of the outcome; and provide reasons for the decision reached.
Create and maintain records	It is vital that records are created and maintained about the issues that were taken into account in the process and why, the weight given to the evidence and the reasons for the decisions made.

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GUIDELINES

Giving reasons for decisions

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Benefits of giving reasons for decisions

Giving reasons for administrative decisions provides the following benefits:

- More public confidence in the decision;
- More consistency in decision-making; and
- Fairness and transparency in decision-making.

Why should reasons for decisions be given?

When a decision is made, there is at least one alternative decision that could have been made. Giving reasons should enable the people affected by the decision to understand why a particular decision was made.

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Giving reasons is important:

- To inform a person why a decision was made and to explain the decision;
- To meet any requirements under the legislation under which the decision was made;
- To help the person affected by the decision make a choice about exercising their right of review or appeal; and
- To comply with public authority customer service charters.

Giving reasons also demonstrates transparency, accountability and quality of decision-making as follows:

Transparency	A person affected by a decision is better able to see: • The facts and reasoning that were the basis for the decision; • That the decision was not made arbitrarily or based on speculation, suspicion or on irrelevant information; • To what extent any arguments put forward have been understood, accepted or formed a basis for the decision; • Whether they have been dealt with fairly; and • The issues they will need to address if they decide to request a review of the decision or to lodge an appeal on the decision.
Accountability	• When required to give reasons, there is a greater incentive for decision-makers to base their decisions on acknowledged facts; • Supervisors and managers are better able to see if legal requirements, agency/government policies and standard practices have been complied with; and • People or bodies with an external review role are in a better position to assess the decision, for example, whether it was reached lawfully, based on relevant considerations, and based on the merits of the case.
Quality	• When required to give reasons, there is a greater incentive for decision-makers to rigorously and carefully identify and assess relevant issues and to justify recommendations and decisions; • Other decision-makers are able to apply decisions to future cases by using the reasons as guidance for the assessment or determination of similar issues.

Should reasons be given in all cases?

There is no general duty at common law, or general rule of procedural fairness, that requires decision-makers to give reasons for their decisions, although such a duty may arise in special or exceptional circumstances[1]. Special circumstances might include decisions relating to unfair dismissal or where giving reasons would assist someone when exercising a right of appeal. The courts hold the view that, generally, the question about whether reasons should be given is better determined by legislation.

Sometimes the requirement to give reasons is derived from the legislation which provides for the right of review of the decision, which may not be the same legislation which provided for the actual decision to be made.

Circumstances when reasons are particularly important

There are circumstances when giving reasons is particularly important. These include when:

- The decision is not in accordance with a relevant established policy or guideline;
- The decision is likely to detrimentally affect the rights or interests of an individual or organisations to any material extent; or
- To explain the conditions imposed on an approval, consent, permit, or licence.

Where a decision-maker makes a decision which is not in accordance with a relevant established policy or guideline, the reasons for the decision and the reasons for not following the policy should be recorded, either in the minutes of the meeting where the decision was made, in a report on the proposal in which the decision was recommended, or in a file note or memorandum attached to the relevant file.

How and when should reasons be communicated?

The legislation under which the decision is being made may provide details about the form in which the reasons are required to be provided. For example, a prescribed form may exist in Regulations that must be used to communicate the decision. Generally, reasons are communicated in a document which is referred to as a statement of reasons. This might form part of a document in which the decision is communicated rather than forming a separate statement.

Reasons should be drafted with the potential audience in mind:

- The statement should be written in a style that can be easily understood by the person receiving it so that they understand the reasons for the decision and why the decision was made;
- Sentences should be short and plain English should be used;
- The language should be clear and unambiguous; and
- Technical terms and abbreviations should be avoided if they are not likely to be understood by the person receiving the statement of reasons.

Reasons should be drafted with the audience in mind.

Providing a statement of reasons is always desirable. In some cases a statement of reasons may not be required under legislation when the decision is made. For example, for some decisions that are reviewed by administrative appeal tribunals, the decision-maker is not required to provide the reasons for a decision until requested by the tribunal after an appeal or request for a review of the decision is received. However, in such cases, providing a statement of reasons at the time the decision is made is good administrative practice.

What should a statement of reasons contain?

The information contained in the statement of reasons may to some extent be proportional to the type of decision made and what requirements might be imposed by the legislation.

A statement of reasons should deal with the substantial and key issues upon which the decision turns.

[1] *Public Service Board of NSW v Osmond* (1986) 9 ALN N85

Where the decision-making process has:

- Been lengthy and complex;
- Involved seeking the views of people likely to be affected by the decision, as well as seeking expert advice;
- Involved weighing up of a number of key facts,

the information set out in the reasons for the decision is likely to be significantly greater than for a decision that was simple and quick to make.

A statement of reasons should deal with the substantial and key issues upon which the decision turns. It is not necessary for a statement of reasons to address each and every issue raised by the applicant or party to the proceedings[2].

Consideration should be given to including the following types of information in the document containing the reasons for the decision made.

Information to be included in the document containing a statement of reasons	
The decision	The decision should be accurately described.
Date of decision	The date of the decision should be included. This is particularly important if there is a time limit for appeals on the decision to be made. If the date that the decision takes effect is different to the date of the decision, this should be included.
The decision-maker	The name of the decision-maker should be identified. This may be a person, committee or an organisation.
Relevant legislation	If the decision was made under legislation, this should be referred to. If the legislation specifies that certain actions be taken before a decision is made, for example, consultation with people that may be affected by the decision, reference to this may be required.
Key steps taken in making the decision	For more complex decisions, a list of the key steps taken in the decision-making process should be included together with the documents and information considered, including any legislation or policies. Details of any essential procedural steps taken or pre-conditions that may have been necessary should also be included. This may be very brief for less complex decisions.
Details of the evidence considered	The evidence considered and the key facts that arise from the evidence should be included, along with the conclusions drawn from the facts. Key facts are those on which the decision turns. Details of whether the evidence in relation to key facts was accepted or rejected should be recorded. The person affected by the decision should be able to see how the facts link to the decision made.
Details of rights of appeal or review	Information should be included about rights of appeal or review including which body is responsible for handling appeals or reviews and any timeframes which apply.

Acknowledgement

Ombudsman Western Australia wishes to thank the NSW Ombudsman for allowing us to draw upon their publication *Public Sector Agencies Fact Sheet No. 18. Reasons for Decisions* in the development of these Guidelines.

[2] *Mentink v Albeitz* (1999) QSC 9; *Total Marine Services Pty Ltd v Kiley* (1985) 51 ALD 635 at 640; *KO and KP v Commissioner of Police, NSW Police* (GD) (2005) NSW ADTAP 56.

GUIDELINES

Procedural fairness (natural justice)

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What is procedural fairness?

Procedural fairness is concerned with the procedures used by a decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision. The Ombudsman considers it highly likely that a decision-maker who follows a fair procedure will reach a fair and correct decision.

Is there a difference between natural justice and procedural fairness?

The term procedural fairness is thought to be preferable when talking about administrative decision-making because the term natural justice is associated with procedures used by courts of law. However, the terms have similar meaning and are commonly used interchangeably. For consistency, the term procedural fairness is used in this fact sheet.

Does procedural fairness apply to every government decision?

No. The rules of procedural fairness do not need to be followed in all government decision-making. They mainly apply to decisions that negatively affect an existing interest of a person or corporation. For instance, procedural fairness would apply to a decision to cancel a licence or benefit; to discipline an employee; to impose a penalty; or to publish a report that damages a person's reputation.

Procedural fairness also applies where a person has a legitimate expectation (for example, continuing to receive a benefit such as a travel concession). Procedural fairness protects legitimate expectations as well as legal rights. It is less likely to apply to routine administration and policy-making, or to decisions that initially give a benefit (for example, issuing a licence in the first instance).

In some rare circumstances, the requirement to provide procedural fairness is specifically excluded by Acts of Parliament (for example, section 115 of the *Sentence Administration Act 2003*).

The rules of procedural fairness require:

- a hearing appropriate to the circumstances;
- lack of bias;
- evidence to support a decision; and
- inquiry into matters in dispute.

What is "the hearing rule"?

A critical part of procedural fairness is 'the hearing rule'. Fairness demands that a person be told the case to be met and given the chance to reply before a government agency makes a decision that negatively affects a right, an existing interest or a legitimate expectation which they hold. Put simply, hearing the other side of the story is critical to good decision-making.

In line with procedural fairness, the person concerned has a right:

- to an opportunity to reply in a way that is appropriate for the circumstances;
- for their reply to be received and considered before the decision is made;
- to receive all relevant information before preparing their reply. The case to be met must include a description of the possible decision, the criteria for making that decision and information on which any such decision would be based. It is most important that any negative information the agency has about the person is disclosed to that person. A summary of the information is sufficient; original documents and the identity of confidential sources do not have to be provided;

- to a reasonable chance to consider their position and reply. However, what is reasonable can vary according to the complexity of the issue, whether an urgent decision is essential or any other relevant matter; and
- to genuine consideration of any submission. The decision-maker needs to be fully aware of everything written or said by the person, and give proper and genuine consideration to that person's case.

How does procedural fairness apply to an individual who may be negatively affected by a government decision?

If you are going to be negatively affected by a government decision, you are entitled to expect that the decision-maker will follow the rules of procedural fairness before reaching a conclusion. In particular, you are entitled to:

Be told the case to be met (for example, that an agency is considering withdrawing an existing entitlement or benefit such as a rebate or an allowance), including reasons for this proposal and any negative or prejudicial information relating to you that is to be used in the decision-making process.

The case to be met could be a letter or a draft report, or it could be a summary of the issues being considered by the decision-maker. It is not necessary for you to receive copies of all original documents or the identity of confidential sources be revealed.

A real chance to reply to the case to be met, whether that be in writing or orally. The type of hearing should be proportional to the nature of the decision. For instance, if the consequences of the proposed decision are highly significant, a formal hearing process may be warranted. In contrast, if the matter is relatively straightforward, a simple exchange of letters may be all that is needed. Generally, in any oral (or face-to-face) hearing, it is reasonable to bring a friend or lawyer as an observer, so you may wish to consider this.

In your reply, you may, amongst other things, wish to:

- deny the allegations;
- provide evidence you believe disproves the allegations;
- explain the allegations or present an innocent explanation; and
- provide details of any special circumstances you believe should be taken into account.

You must have the chance to give your response before the decision is made, but after all important information has been gathered. This is so you can be given all the information you are entitled to and be aware of the issues being considered by the decision-maker.

The decision-maker should have an open mind (be free from bias) when reading or listening to what you have to say.

How does procedural fairness apply to an investigator?

If you are investigating a matter or preparing a report for a decision-maker, it is good practice to consider the requirements of procedural fairness at every stage of your investigation.

Procedural fairness is an essential part of a professional investigation and benefits both parties. As an investigator, acting according to procedural fairness can help you by providing:

- an important means of checking facts and identifying major issues
- comments made by the subject of the complaint that can expose weaknesses in the investigation
- advance warning of areas where the investigation report may be challenged.

Depending on the circumstances, procedural fairness requires you to:

- inform those involved in the complaint of the main points of any allegations or grounds for negative comment against them. How and when this is done is up to you, depending on the circumstances
- provide people with a reasonable opportunity to put their case, whether in writing, at a hearing or otherwise. It is important to weigh all relevant circumstances for each individual case before deciding how the person should be allowed to respond to the allegations or negative comment.

- In most cases it is enough to give the person opportunity to put their case in writing. In others, however, procedural fairness requires the person to make oral representations. Your ultimate decision will often need to balance a range of considerations, including the consequences of the decision
- hear all parties to a matter and consider submissions
- make reasonable inquiries or investigations before making a decision. A decision that will negatively affect a person should not be based merely on suspicion, gossip or rumour. There must be facts or information to support all negative findings. The best way of testing the reliability or credibility of information is to disclose it to a person in advance of a decision, as required by the hearing rule
- only take into account relevant factors
- act fairly and without bias. If, in the course of a hearing, a person raises a new issue that questions or casts doubt on an issue that is central to a proper decision, it should not be ignored. Proper examination of all credible, relevant and disputed issues is important
- conduct the investigation without unnecessary delay
- ensure that a full record of the investigation has been made.

Of course, wherever there is a requirement to apply particular procedures in addition to those that ensure procedural fairness, the terms of that statutory obligation must also be followed.

The Ombudsman recommends that whenever it is proposed to make adverse comment about a person, procedural fairness should be provided to that person before the report is presented to the final decision-maker. This should be done as a matter of best practice.

There is no requirement that all the information in your possession needs to be disclosed to the person. However in rare cases, such as a serious risk to personal safety or to substantial amounts of public funds, procedural fairness requirements may need to be circumvented due to overriding public interest. If you believe this exists, make sure you seek expert advice and document it.

How does procedural fairness apply to the decision-maker?

Except in rare circumstances where procedural fairness is excluded by statute, if you are making a decision which will affect the rights, interests or legitimate expectations of a person, you must comply with the rules of procedural fairness. In other words, you must ensure:

- you allow the individual a fair hearing (or verify that the individual has been granted a fair hearing) that is neither too early or too late in the decision-making process; and
- you are unbiased. This includes ensuring that from an onlooker's perspective there is no reasonable perception of bias. For example, personal, financial or family relationships, evidence of a closed mind or participation in another role in the decision-making process (such as accuser or judge) can all give rise to a reasonable perception of bias. If this is the case, it is best to remove yourself from the process and ensure an independent person assumes the role of decision-maker.

If you are relying on a briefing paper that summarises both sides of the case and makes a proposal, it is often a good idea to disclose a draft of the briefing paper to the person, even though a hearing has earlier been held.

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GUIDELINES

Good record keeping

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Why are records important?

Records tell us what, where and when something was done and why a decision was made. They also tell us who was involved and under what authority. They provide evidence of government and individual activity and promote accountability and transparency.

What are the benefits of good record keeping?

Records:

- help you work more efficiently
- enable you to meet legal obligations applicable to your work
- protect the interests of the government and of your agency
- protect your rights as an employee and citizen
- demonstrate the cost and impact of your business
- enable review of processes and decisions
- retain the corporate memory of your agency and its narrative history
- help research and development activities
- enable consistency and continuity in your business.

Who is responsible?

Making and keeping your agency's records depends on the cooperation of everyone in your agency. Whilst your agency's chief executive and its corporate records section (if appropriate to your agency) are responsible for meeting the requirements of the *State Records Act 2000*, effective record keeping ultimately depends on you.

Creating and looking after records is central to your responsibilities as a public official. As an individual government employee, it is possible to be charged with an offence under the *State Records Act 2000* if you fail to keep a record in accordance with your agency's Record Keeping Plan.

What do we have to do?

Create records routinely as part of your work

Records may naturally arise in the course of your work, such as sending an email. In other cases, where the activity does not automatically result in the creation of a record, you need to create one. Examples of this include meetings, telephone conversations, informal discussions and the receipt of funds. It is important that the record accurately reflects the transaction or activity that has taken place.

File records into official records systems

Your agency has official systems for managing its records, whether they are created and received in paper or electronically. Failure to capture records into official records systems makes them difficult or impossible to locate when needed. They may even end up lost or destroyed.

Do not be tempted to hoard records in your own private store, separate from your agency's official records system. This also applies to emails: those you send or receive in the course of your employment are official records. If an email needs to be kept to document a transaction or decision, then it should be captured into your agency's official records system.

Handle records with care

For paper records to survive and be available for as long as they are needed, they must be properly cared for. Avoid storing records near known hazards and try not to damage them.

Records are a corporate asset of your agency and do not belong to you. Do not remove them from official records systems for extended periods of time or take them out of your agency. It is important they remain available to other staff.

Do not destroy records without authority

Your agency's records, whether paper or electronic, generally cannot be destroyed without proper authority from your agency's records staff. Some kinds of records have only temporary value and can be destroyed when no longer needed. Make sure you know which records are required long term and which are not. This information is part of your agency's Retention and Disposal Schedule, and records staff can provide information about this.

Failing to maintain records for the length of time they are needed puts you and your agency at risk of being unable to account for what has happened or been decided. This can result in problems for your agency's clients, monetary losses from penalties or litigation, embarrassment for your agency or the Government, or, in extreme cases, disciplinary action for you or your colleagues.

Protect sensitive records from unauthorised access

Records can contain personal and confidential information which must not be disclosed to unauthorised persons. Ensure that records storage areas are secure, protect passwords and do not leave sensitive records lying around.

Know your agency's policies and procedures for managing records

Every WA public sector body is required to establish policies and procedures for the management of their records in all forms. It is every public official's responsibility to create and keep records according to their agency's Record Keeping Plan. You can help support good record keeping in your agency by being familiar with these policies and procedures and applying them so you can better create and manage records in your daily work.

What happens to records once the business need ceases?

Most of your agency's records, whether paper or electronic, can be destroyed with proper authority from your records staff. However, some records have permanent value to the State and to the people of Western Australia as evidence of your agency's activities and the role of government in our society.

These records will become State archives to be retained permanently and transferred to the State Records Office once they are 25 years old. Subject to certain restrictions, they will be made available to the public on request and to future generations of researchers who might use these records many years from now.

Make sure you know which records you deal with have continuing value. Good record keeping includes taking proper care of records which have archival value and will be retained permanently.

Record keeping tips

Meetings

Delegate someone to make a record of the meeting, either minutes or a simple summary of decisions. Ensure decisions and dissent are clearly recorded. Circulate the minutes of the meeting to other participants and sign or confirm the accuracy of the record.

Conversations

Make a record of significant business you conduct via the telephone or face-to-face, such as:

- providing advice, instructions or recommendations
- giving permissions and consent
- making decisions, commitments or agreements.

Transcribe voicemail messages or capture the message directly into your agency's official records system.

Decisions and recommendations

Document reasons for decisions or recommendations that you make.

Correspondence

File or attach emails, letters, faxes and internal memos (sent or received) that relate to your work onto files within your agency's official records system.

Further information

Australian Standard AS15489 Records Management

State Records Act 2000

State Records Commission Principles and Standards 2002

State Records Office of Western Australia

Record Keeping in Western Australia: Who is Responsible

Your agency's Record Keeping Plan and Retention and Disposal Schedule

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Ombudsman WA Publications

The following guidelines, information sheets and forms are available in the Publications section of our website at **www.ombudsman.wa.gov.au**. If you require any assistance with our publications, please contact the Publications Manager on (08) 9220 7555.

About the Ombudsman

- Ombudsman WA Brochure
- How We Assess Complaints
- Ombudsman WA Summary A4 Poster
- Ombudsman WA Summary Flyer
- It's OK to complain – Poster for Young People (two versions)
- It's OK to complain – Postcard for Young People (two versions)
- It's OK to complain – Flow Chart for Young People (two versions)
- It's OK to complain – Information Sheet for Young People

Making a complaint

- How to complain to the Ombudsman
  (Also available in Arabic, Amharic, Croatian, Chinese Simplified, Chinese Traditional, Cocos-Malay, Dari, Indonesian, Italian, Japanese, Persian, Serbian , Somali, Spanish and Vietnamese)
- Making a complaint to the Ombudsman - Summary Information Sheet
- Making a Complaint to a State Government Agency
- Complaints from overseas students
  (Also available in Chinese Simplified, Chinese Traditional, Hindi, Indonesian and Malay)

How complaints are handled

- Ombudsman's complaint resolution process - Information for Complainants
- How We Assess Complaints
- Assessment of Complaints Checklist
- Being Interviewed by the office of the Ombudsman
- Requesting a review of a decision about a complaint to the Ombudsman

Guidelines and Information for Public Authorities

- Ombudsman's complaint resolution process - Information for public authorities
- Information for Boards and Tribunals
- Good Record Keeping

Decision Making:

- Exercise of discretion in administrative decision making
- Dealing with Unreasonable Complainant Conduct
- Remedies and Redress

Complaint Handling:

- Effective handling of complaints made to your organisation - An Overview
- Complaint Handling Systems Checklist
- Making your complaint handling system accessible
- Guidance for Complaint Handling Officers
- The principles of effective complaints handling
- Dealing with unreasonable complainant conduct

Conducting Investigations:

- Conducting administrative investigations
- Investigation of Complaints
- Procedural Fairness (Natural Justice)
- Giving reasons for decisions

Management of Personal Information:

- Management of Personal Information
- Management of Personal Information Checklist
- Good Practice Principles for the Management of Personal Information

Forms

- Ombudsman WA Complaint Form
- Ombudsman WA Authority to Act Form
- Ombudsman WA Authority to Release Information
- Complaint Form for overseas students

Ombudsman Western Australia
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