

Appraisal Report
for
Parliamentary Counsel Office
Retention and Disposal Schedule

Draft v3.2
February 2017

File/Document ID	2013/3405, A819058
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Date	2 May 2017

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1 Introduction

1.1 Schedule overview

The retention and disposal schedule (RDS) accompanying this report applies to records pertaining to the functions of the Parliamentary Counsel Office (PCO), whether current, non-current or yet to be created. It covers both hard-copy and electronic records from PCO. The schedule consists of five PCO specific classes of records, namely:

1. Legislative and drafting process records
2. Crown Client Management
3. Governance
4. Major Projects to Improve Access to or Drafting of Legislation
5. Legislative Drafting Records

It is expected that PCO will utilise the Archives New Zealand General Disposal Authorities (GDAs)¹ for records covered by those authorities.

Approval of the RDS is an important step in assisting the Office to meet good practice in the management of current and non-current electronic and hard-copy records. It is expected that following the approval of the RDS, a sentencing project will be undertaken to implement the disposal actions on non-current records.

The disposal of PCO records must be authorised by the Chief Archivist as per the requirements of the Public Records Act 2005. This is typically documented through the development of a retention and disposal schedule that identifies the different types of records PCO creates and receives and the time period for keeping records prior to their destruction or transfer to Archives New Zealand. There is therefore a legal requirement to ensure there is an up-to-date disposal authority for PCO records. At the same time, there is a business requirement to ensure that the accompanying RDS can be implemented easily and practically across the organisation and applied to records in all formats.

As part of the improvement of information and records management at PCO a new and up-to-date RDS is required to ensure there is appropriate and approved disposal of records occurs.

1.2 Scope of the retention and disposal schedule

This schedule applies to all records in any format pertaining to the functions of the PCO, whether current, non-current or yet to be created that are not already covered by the GDAs.

The GDAs cover records in common across all public offices such as human resources, finance, internal audit, communications, information systems etc. and provides ongoing disposal authority for those records. The PCO retention schedule therefore only covers records not included in the GDAs – namely records that are specific to the Office and its functions.

¹ <http://records.archives.govt.nz/assets/Guidance-new-standard/16-F16-General-Disposal-Authorities-Pdf.pdf>

The PCO specific RDS covers the following:

- 
- Hard copy records (both current and non-current)
 - Electronic records
 - Line of business systems and databases

2 Public office (Agency) information

Name of public office:	Parliamentary Counsel Office
Public office's physical location:	Wellington
Year established:	1920
Year disestablished:	Current

2.1 Functions of the Parliamentary Counsel Office (PCO)

The Parliamentary Counsel Office (PCO) is New Zealand's law drafting office.

The PCO is constituted as a separate statutory office by the Legislation Act 2012. The PCO is under the Attorney-General's control or, if there is no Attorney-General, the Prime Minister.

Under the Legislation Act 2012, the functions of the PCO are to:

- draft government Bills and Legislative Instruments
- publish Bills, Acts, Legislative Instruments, and reprints of legislation in electronic and printed forms
- prepare reprints of Acts and Legislative Instruments
- prepare Bills to revise Acts in accordance with the current revision programme
- advise departments and agencies on the drafting of disallowable instruments that are not drafted by the PCO
- examine local, private, and Members' Bills that the Attorney-General directs to be examined
- advise on and assist with the drafting of all local, private, and draft Members' Bills on the Attorney-General's direction.

From time to time, the PCO may also draft certain other instruments at the direction of the Attorney-General or the Chief Parliamentary Counsel.

The Inland Revenue Department is authorised to draft certain Inland Revenue Bills (see the Inland Revenue Department (Drafting) Order 1995).

The PCO is responsible for supplying printed copies of Bills and Supplementary Order Papers (SOPs) to the House.

Legislation administered by the PCO:

- Legislation Act 2012 (administered jointly with the Ministry of Justice)
- Legislation (Official Versions) Regulations 2015
- Legislation (Recognition of Overseas Lawyers) Order 2014
- Legislation (Publication) Order 2013
- Legislation (Official Versions) Regulations 2013
- Inland Revenue Department (Drafting) Order 1995
- Reprint of Statutes Act 1931

2.2 Organisation structure

The PCO is led by Chief Parliamentary Counsel. The Chief Parliamentary Counsel is supported by a senior leadership team that leads a staff of approximately 80 FTE and has three business groups. They are:



2.3 Recordkeeping environment

2.3.1 Context

Records services for the Office are provided through a central records role, the Records Adviser. The Records Adviser directly reports to the Director Corporate Services, and is responsible for providing centralised records services for both paper and electronic records within the Parliamentary Counsel Office.

2.3.2 Current hard copy files

There are two sequences of hard copy files maintained in the Office:

- Legislative files
- Administrative files

Legislative records are subject to legal professional privilege. These records contain drafting instructions, multiple versions of drafting documents, printed copies of emails, introduction copies, submission papers, etc. The physical records are filed in chronological order with the earliest dated papers at the bottom and the most recent on the top of the file. The completed files (Assented to or Withdrawn) are sent to offsite storage.

The Administrative file sequence includes all documentation pertaining to the business of PCO that is not related to drafting of legislation. There is a structure in accordance to subject matter and files are arranged by series and sub-series. The physical files are mostly kept in the Records area, with some kept with the business unit until they are completed and forwarded to Records for safekeeping.

2.3.3 Non-current hard copy files

These files are listed separately on a legislative or administrative spreadsheet. The records are boxed, security coded, and sent to TIMG. Approximately 840 linear metres of records are held off-site.

2.3.4 Current electronic documents

Electronic records of the drafting of legislation are stored in a separate Documentum database which forms part of the Legislative Enactments of New Zealand [LENZ] system, first introduced in 2007. The LENZ system is used both to draft and publish legislation. The electronic record for the drafting process is less complete than the paper record equivalent as not all drafting records are currently stored in LENZ. For example, email correspondence about drafts of legislation are typically printed and filed in the paper equivalent file. However, it is planned in the medium term that the significant emails will be managed in Documentum (or in any successor EDRMS).

Current electronic 'administrative documents' (i.e. all those electronic documents created and managed by PCO that are not part of the drafting process) are also managed in Documentum. Each folder is created in accordance with Administrative File Structure with different permissions sets for security and control. The RDS spreadsheet contains cross references to the relevant folder/classification in Documentum to support implementation of the RDS. The electronic record for the 'administrative' records are considered to be the most complete set of records.

When electronic records are retained as public archives the metadata associated with those records must also be retained. Where electronic records are to be destroyed, the metadata associated with those records should also be disposed except for those items of metadata required to be retained beyond the destruction in the Records and Information Management Standard².

² <http://records.archives.govt.nz/home/the-information-and-records-management-standard/>

PCO has the following business systems to carry out its functions:

Database name	Short description
Legislative Enactments of New Zealand (LENZ) and Arbortext Editor	LENZ system is the database used for drafting legislation. Arbortext is the authoring tool that is being used to create and edit official legislation to the New Zealand Legislation website
Confluence	Confluence is a wiki that holds PCO's manuals, drafting directives, and collaborative material
LegTracking	The LegTracking database records the status of, and information about, Bills and Legislative Instruments that the PCO is currently working on or has completed. The Bill Book, Legislative Instrument numbers, and PubTracking are also part of the LegTracking system.
Proofreading Database	Contains the proofreading history of legislation drafted by the PCO going back to 2003 (or slightly earlier). Recorded information includes timing, version, the kind of proofread, and the names of the proofreaders.
Queries Database	Queries Database is a holding area for any legislation queries that need to be addressed by PCO

Note – this list does not include standard corporate type systems such as financial, purchasing or human resources systems as they are covered by the GDAs.

3 Methodology

3.1 Background to draft disposal schedule

The development of this retention and disposal schedule has undergone several phases. In 2013 a draft was first produced which combined the previous two retention schedules of the Office. However, at the time this development process was not completed primarily due to staffing changes in the Office. In 2015 the project was resurrected and a copy of the draft to date sent to Archives New Zealand for comment. Again, staffing changes stalled the project.

The 2016 project therefore has been to validate and update the previous drafts to better meet the changes required following changes in Archives New Zealand processes/appraisal criteria, plus address the comments made by their initial examination of the draft.

The result is a draft that has a significantly different look and feel, where any records that are covered by the GDAs have been removed, and all other disposal actions re-examined and revalidated with PCO.

3.2 Internal consultation

When the first draft was produced in 2013 a number of staff were consulted. With the 2016 version the draft schedule was provided to representative staff and discussed in a workshop covering all functional areas of the Office. Appendix One has a list of all PCO staff who were consulted during the development of the retention and disposal schedule in 2016.

3.3 External consultation

A number of organisations were identified as the key external stakeholders for the PCO RDS because of their potential interest in the disposal actions of the Office. They are listed in Appendix Two.

In a formal external consultation process, they were invited to provide feedback on the RDS. Several agencies responded, and as a result some clarifications were made to the report and further examples added to the schedule. In addition, the disposal action for one sub-class (sub-class 5.3) was changed to a destroy action as feedback was that the draft disposal action of archive was not adequately justified and that the records were more operational in nature and therefore did not have long term value.

3.4 Preceding disposal authorities of relevance

PCO has had three retention and disposal schedules approved by Archives New Zealand previously. These have been applied along with the various GDAs issued by Archives New Zealand. As of 2013 all previous schedules had expired, meaning that PCO is currently without disposal coverage for its core and unique records i.e. it only has disposal coverage for records covered by the GDAs.

PCO's last RDS (DA158) was approved in 2004 and expired in 2013. Previous schedules were:

- DA77 covering Legislative drafting files, both legacy and current records for PCO
- DA93 covering the administrative records of PCO's paper file classification system

- DA 158 covering two types of sound recordings created for transcription purposes of legislative drafts and administrative drafts

Disposal decisions from the preceding disposal authorities have been considered with this new disposal schedule. Development of this new disposal authority has allowed for assessment of archival value and a more considered and justifiable set of disposal actions to be recommended.

3.5 Appraisal criteria

The following appraisal criteria have been used in assessing the value of the records covered by this retention and disposal schedule. These criteria have been taken from the *Archives New Zealand Appraisal Statement May 2014* which has been developed to provide the rationale for long-term retention of public records as archives. The decision to use the Archives New Zealand criteria was made to ensure that PCO disposal evaluations were measured with the same yard stick as those of other public sector agencies.

VALUE	DESCRIPTION
Business Value	<i>Records that are fundamental to the ability of a public office or local authority to carry out its business and enable continuity of services to the New Zealand public.</i>
<p>Records identified will be considered essential for the particular business processes or services of an agency or public office, or for the fulfilment of other requirements whether legislative, regulatory or commercial. These records will need to be retained for a period of time as opposed to records of a transitory nature. Indicators of value may include:</p> <ul style="list-style-type: none"> • Requirements for business continuity – vital records • Evidence of decision-making • Use for business intelligence for the development of new services • Risk management • Use in other business processes by other agencies 	
Accountability	<i>Records that are fundamental to providing citizens with trust in government; providing evidence of the well-being of the community and the impact of government activities on them, in compliance with relevant legislation and regulations.</i>
<p>Records identified will be considered essential for the protection and well-being of current and future generations and enhance public confidence in the actions of public offices and local authorities. This includes records documenting the impact of government activities on the community or individuals and the intervention of the government in people's lives. Indicators may include evidence of:</p> <ul style="list-style-type: none"> • The impact of Public Office or Local Authority's actions, on people's lives • Agreements between governments • Audit or monitoring of government interventions in response to inequalities 	
Rights and	<i>Records providing evidence of the legal status and fundamental rights and</i>

Entitlements	<i>entitlements of individuals and groups</i>
<p>Records that are essential for the establishment and protection of fundamental rights and entitlements of individuals, legal or natural, and groups within the community and the nation, and the on-going administration of the government of New Zealand. This includes records documenting the existence of individuals or groups, their rights to participate in the affairs of the nation and make claim to entitlements and protection provided by the government. Indicators may include evidence of:</p> <ul style="list-style-type: none"> • Impact on individuals/groups, people who are disadvantaged, effect on wellbeing, and the right to participate • The effect in individual identity • Proof of rights/qualification for on-going rights 	
Legitimacy of Authority	<i>Records that identify and document the source of authority and foundation of the machinery of government and its public sector bodies.</i>
<p>Records that document the establishment and allocation of functions to government agencies and local authorities that will define the nature and extent of their jurisdiction, obligations and powers. They will originate from legislation and central agencies of the public service. Indicators may include evidence of:</p> <ul style="list-style-type: none"> • Validation of authority e.g. high level public service appointments • Formal instruments or authorities establishing or disestablishing functions, jurisdictions, mandates, powers and operations • Judgements or rulings determining the extent of jurisdiction or powers 	
Te Tiriti o Waitangi/Treaty of Waitangi	<i>Records that provide evidence of recognition and respect for, fulfilment of or aspirations to Te Tiriti o Waitangi/Treaty of Waitangi principles and the Crown's obligations, or in the absence of this, evidence of failure to fulfil obligations and principles.</i>
<p>Records provide evidence of government decisions that have been documented in relationship to consultation, negotiations, debates and discussions including those that document failure to fulfil obligation. They will also provide evidence of post Treaty settlement relationships and partnerships with Iwi Māori. These records will be taonga available for all New Zealanders, iwi and the Crown. Indicators may include evidence of:</p> <ul style="list-style-type: none"> • Treaty negotiations and settlements • The principles of Te Tiriti o Waitangi/Treaty of Waitangi being acknowledged and embedded • Strategies to identify opportunities for partnership with tangata whenua • The Crown sustaining and protecting mātauranga Māori 	
Knowledge	<i>Records that will substantially contribute to knowledge and understanding of New Zealand, its history, geography, society, culture and achievements and New Zealanders' sense of their national identity.</i>
<p>All records carry knowledge through time. On-going retention is only justified for records or information identified as having the capacity and potential to substantially contribute to the body of</p>	

knowledge or understanding that will materially improve the life of New Zealanders now and in the future.

Societal - Indicators may include evidence of:

- Cohesion and conflict between social groups and the government
- Development and management of infrastructure
- Social well being

A 'New Zealand' Identity - Indicators may include evidence of:

- New Zealand's place in the world, international relations, involvement in, or opposition to global developments
- Involvement with, relevance to global events, movements
- Uniquely New Zealand enterprises, systems, services
- Contributions of notable individuals to New Zealand's character
- Treaty settlements

Whakapapa/genealogical - Indicators may include evidence of:

- Family relationships – links between the past and the present

Cultural - Indicators may include evidence of:

- Iwi, hapū, ethnic community/group identity, issues and initiatives
- Government responses to, or services for specific ethnicities
- Management/registration/preservation of areas of cultural or heritage importance/meaning
- Initiatives to preserve and/or promote a resurgence of languages

Scientific/technical/engineering - Indicators may include evidence of:

- Innovation, development or improvement to services/processes/infrastructure
- Degree of transformation of a service, delivery or process
- Major discoveries of importance for communities/New Zealanders

Stewardship/Kaitiakitanga - Indicators may include evidence of:

- Environmental monitoring, data-collections and analysis of environmental data
- Changes to land use e.g. National Parks, marine reserves
- Contaminant usage, hazardous substances

3.6 Format of the schedule

The retention and disposal schedule spreadsheet (attached as Appendix Three) has the following primary fields:

Field name	Description
Class No.	The reference number of the disposal class
Class/sub-class title	The broad class of records and sub-class.
Description and examples of records	A description of the record type and examples of the records covered (or excluded)
Trigger (the point at which the records becomes non-current)	When the record becomes non-current and thus can have retention periods and disposal actions applied
Minimum retention	The minimum period of time for which the record must be kept before final disposal
Disposal action	The final disposal action for the record: D – Destroy A - Retain as public archive
Authority (for internal approval to dispose)	The PCO role that has sign-off prior to the disposal of any records from each class
Cross reference to classification structure	A cross reference to the current classification structure to aid in implementation of the RDS. It is understood that as the classification structure may change the cross references will need to be updated.
Notes	For any further information that may be relevant to that class of records or disposal action, including reference to previous disposal authorities where relevant

4 Description and evaluation of classes

The sections below outline each class and provide details of records covered by that class, an evaluation and recommended disposal action.

4.1 Class no. 1 – Legislative and Drafting Process records

4.1.1 Description

This class covers records relating to the processes for drafting legislation, including the monitoring and tracking of drafting and managing the legislative programme. Sub-classes of records covered are:

- Policy and projects
- Core drafting Process - significant decisions and advice
- Operational records - Drafting and legislation programme
- Records relating to groups concerned with drafting issues
- Legislation programme - received information or operational records
- Drafting assistance to Pacific Nations - advice and guidance
- Drafting assistance to Pacific Nations - administration
- Compliance with, and dealings under the Treaty of Waitangi, relationships with Maori
- Non-Governmental legislative enquiries
- Interaction with overseas legislative drafting offices
- Government Printing Office Sale records

Sub-class 1.1 Policy and Projects records are about establishing policy or projects regarding the way in which legislation is drafted, published or printed such as:

- Legislation Programme Policy
- Changes to language used in legislation (e.g. gender neutral language)
- Clear drafting approach
- Changes in printing approach
- MOUs with Office of the Clerk and IRD about printing of legislation
- Policy and authorisations about the "Officialisation" process - the change from paper to electronic as the official version of legislation
- Policy regarding the use of forms and graphics in legislation
- Project to publish High Court Rules which became a model for the publishing of forms in legislation.
- Legislation Revision Programme planning and consultation
- Excludes routine operational records and information received for informational purposes as part of the drafting process.

Sub-class 1.2 Core drafting process – decisions and advice records are those that document significant advice about or changes to the way legislation is drafted, designed or tracked. Also includes manuals held in Confluence. Examples of records include:

- IRD - Taxation Drafting Procedures
- Law Commission Drafting Procedures
- Office of the Clerk Drafting Procedures
- Drafting Techniques
- International compliance
- Exercise of Discretion under the Legislation Act 2012
- PCO Drafting Manual
- PCO Style Manual

Sub-class 1.3 Operational records – drafting and legislation programme are those of a lower more operational level that relate to how the programme is managed. This includes:

- Drafting Team administration files
- Drafts and working papers of drafting/editing manuals
- Counsels' Assistants Administration and Procedures
- Summer Clerk administration
- Legislative file creation
- Drafting services surveys
- Drafting resource management
- Received information from Cabinet Office/Office of the Clerk
- Weekly reports on progress of Bills being drafted
- Administrative records relating to printing and publishing of both hard copy and electronic versions of legislation

Sub-class 1.4 Records relating to groups/committees concerned with drafting issues covers records created to support interaction with selected government groups/committees whose role may involve some perspective on/interest in drafting issues. Example groups are:

- Regulations Review Committee
- Rules Committee
- Government Administration Committee
- Standing Orders Committee

For example correspondence, minutes of meetings, reports etc where PCO is involved. It is expected that if the record will be retained by the other group and that PCO need only retain the record for reference purposes.

Sub-class 1.5 Legislation programme - received information or operational records covers records that support the operations of the legislative programme. This includes:

- Bids to the Attorney-General to include specific Bills in annual legislative programme
- Annual status reports
- Correspondence relating to the legislative programme
- Reports on latent legislation
- Select Committee Process information
- Regulations - Information from Departments

Sub-classes 1.6 and 1.7 cover the records documenting assistance with legislative drafting and advice provided from PCO to Pacific nations on behalf of the New Zealand government. There are two classes; 1.6 covers the drafting of legislation and advice about drafting, and sub-class 1.7 covers the administrative material that is created to support the interaction with Pacific nations. All records of drafting and advice provided to Pacific nations will be stored as part of the LENZ record. The administrative records (including records relating to the establishment of the Pacific Help Desk with the Ministry of Foreign Affairs and Trade) relating to this activity are not part of LENZ.

Sub-class 1.8 Compliance with, and dealings under the Treaty of Waitangi, relationships with Maori includes records such as: bilingual legislation investigation and reports; the status of the Treaty of Waitangi in legislation; setting the definitions of Maori words in legislation.

Sub-class 1.9 Non-Governmental legislative enquiries is primarily records of correspondence with law firms who are drafting private Bills or local Bills. PCO provide advice on and may assist the law firms in drafting such Bills. The records of this advice is not captured on the PCO drafting files as PCO are not the primary drafting body, however they do provide a record of the drafting process of Bills that may ultimately become law.

Sub-class 1.10 Interaction with overseas legislative drafting offices covers records such as correspondence with other legislative organisations, and received information on drafting process and how it is applied in other countries e.g. Commonwealth Association of Legislative Counsel Newsletter which is edited by the PCO. Excludes visits or drafting assistance to Pacific Islands or secondments or exchanges.

Sub-class 1.11 Government Printing Office Sale records covers the records created by PCO in relation to the sale of the Printing Office, which resulted in significant change for PCO. This class is a legacy class in that there will be no further additions to the records. A number of different agencies are likely to have collected/created records around the sale of the printing office, for example, The Treasury. The records document PCO's involvement in the process and how the sale of the printing office resulted to an expanded role for the PCO in relation to the printing of legislation.

4.1.2 Evaluation

Records that reflect changes in legislative drafting policy, processes and approach are recommended for retention as public archives. These records are covered by subclasses 1.1, 1.2 in the schedule. These records are of long term value both to the business and to New Zealanders. They show the way drafting of legislation has changed over time, including the way language used has changed, making legislation easier to understand. This enables everyday New Zealanders to have input to Bills at Select Committee stage, and to access completed legislation in a form they can more readily interpret which in turn is fundamental to the notion of accountability, rights and entitlements for our wider community.

Records that provide insight to and evidence of how the New Zealand Parliament interacts and supports other Parliaments and maintains relationships with other Parliaments are recommended for retention as public archives. This includes sub-class 1.6. The records in this sub-class add to our knowledge and understanding of how our Parliament interacts internationally and the support,

involvement and influence we may have internationally – particularly in the Pacific region. These documents have been produced in conjunction with those responsible for the development of legislation in Niue and the Cook Islands. The templates and advice provided enable the drafting of consistent and legally sound legislation for those island nations. Records for the establishment of the programme will be transferred by the Ministry of Foreign Affairs and Trade (MFAT) who administer the New Zealand State Sector Development Partnerships Fund (SSDPF), but the records of advice provided under the scheme are kept only by PCO. Any actual drafting of legislation is stored in LENZ, and will be considered with the other PCO drafting records.

Cook Islanders and Niueans are New Zealand citizens – having well drafted legislation will enhance their trust in their governments, and improve the efficiency with which their countries are administered. This will improve the lives of those citizens. All records of drafting and advice provided to Pacific nations will be stored as part of the LENZ record which is also recommended for retention as public archives in sub-class 5.1.

Records that evidence of the Treaty of Waitangi (sub-class 1.8) are recommended for retention as public archives. Such records demonstrate the way in which Treaty of Waitangi obligations have been addressed, and are considered during the drafting of legislation.

Records that document the advice that PCO provides to those drafting private, local, or Members' Bills are recommended for retention as public archives. This includes sub-classes 1.9. The records in this class become the default drafting record as no other record relating to the drafting of such Bills may exist in the public sector. They are therefore recommended for retention for reasons of government accountability, and legitimacy of authority. They are used for reference each time a law is updated/changed and provide a record of considerations/issues at the time of drafting of the Bill.

A number of sub-classes cover records that are considered to be of a routine operational nature. These records are subclasses 1.3, 1.5, 1.7, 1.10, on the schedule. All are recommended for destruction as soon as business use has ceased.

Records in sub-class 1.4 are recommended for destruction as it is expected that any records covered by this class of an archival nature will be retained by the group or committee, or the government agency that provides secretariat services to that group/committee. For example, the Regulations Review Committee is supported by the Office of the Clerk and therefore the disposal authority for the Office of the Clerk covers the retention of the records of that committee.

Records covered by sub-class 1.11 are recommended for destruction as they are of a routine nature and are duplicates of records already held by Archives New Zealand. Treasury is the government agency that managed the sale and are the primary record creators of sale information. The Treasury set of records pertaining to the sale has already been transferred to Archives New Zealand (in 2011) with a 25 year restriction in place. PCO have retained "their" set of sale records only because of the restriction placed on the Treasury set. By retaining them until the Treasury restriction has ended, PCO can easily access any sale records as needed. However at the end of that 25-year period the records in this sub-class should be destroyed.

4.1.3 Disposal recommendations for Class no. 1 Legislative and Drafting Process Records

Records recommended for retention as public archives:

Sub-class	Title
1.1	Policy and projects
1.2	Core Drafting Process - significant decisions and advice
1.6	Drafting assistance to Pacific Nations - advice and guidance
1.8	Compliance with, and dealings under the Treaty of Waitangi (ToW); Relationships with Maori
1.9	Non-Governmental Legislative Enquiries

Records recommended for destruction:

Sub-class	Title
1.3	Operational Records - Drafting & Legislation programme
1.4	Records relating to groups/committees concerned with drafting issues
1.5	Legislation Programme - received information or operational records
1.7	Drafting assistance to Pacific Nations - administration
1.10	Interaction with overseas Legislative Drafting offices
1.11	Government Printing Office Sale records

Class no. 2 – Crown Client Management

4.1.4 Description

This class covers records that document the relationship between Crown Agency Clients and PCO.

Sub-classes of records covered are:

- Significant correspondence and reports
- Routine correspondence and received information

Sub-class 2.1 Significant correspondence and reports covers records of a significant nature relating to amendments to Bills, Legal Opinions and other issues not covered by or captured in LENZ as it is outside of the current legislative drafting programme. This includes PCO opinion and reports on departmental questions on specific legislation, e.g. response to RBNZ regarding Banking and Insolvency Bills, correspondence with control agencies – State Services Commission, Treasury, Audit

New Zealand, Archives New Zealand about the legislation they administer. Note, actual drafting instructions are filed in LENZ.

Sub-class 2.2 Routine correspondence and received information covers correspondence of a routine nature from Crown agencies where PCO is not required to take an action.

- Correspondence for information purposes only
- Published materials

4.1.5 Evaluation

Records of significant correspondence and reports (sub-class 2.1) are recommended for retention as public archives. They provide evidence of how PCO interacted with Crown agencies about legislation, drafting processes, legislative queries etc outside of formal drafting processes. Such records have archival value as they demonstrate how Crown agencies at a practical level dealt with queries over legislation, or queried legislation and amendments that may have been included in revisions of legislation. This is all part of the transparency with which the New Zealand government operates which impacts on accountability and legitimacy of authority and may have impact on individual's rights and entitlements. Records in this sub-class may also have reference value to inform future drafting/updating of legislation.

Records in sub-class 2.2 are recommended for destruction as they are of a routine administrative nature only. They should therefore be destroyed as soon as business use has ceased.

4.1.6 Disposal recommendations for Class no. 2 Crown Client Management

Records recommended for retention as public archives:

Sub-class	Title
2.1	Significant correspondence and reports

Records recommended for destruction:

Sub-class	Title
2.2	Routine correspondence and received information

4.2 Class no. 3 – Governance

4.2.1 Description

This class covers records that document governance and high level management of PCO that are not covered by the GDAs. Sub-classes covered include:

- Reviews of PCO

- Internal Governance Group records

Sub-class 3.1 Reviews of PCO includes major reviews of the PCO including its mandate, structure and functions – e.g. Law Commission review of PCO that led to the Legislation Act 2012 which confirmed PCO as a separate office under the control of the Attorney General.

Sub-class 3.2 Internal Governance Group includes all formal records of PCO internal decision-making bodies such as the Senior Management Team (SMT) meetings, Audit and Risk Committee meetings. Includes:

- agendas
- minutes
- papers presented
- presentations/briefings

4.2.2 Evaluation

Both sub-classes of records in class 3 are recommended for retention as public archives.

They both contain records that provide evidence of accountability about how the agency operated, made decisions and was governed at a high level.

Records in sub-class 3.1 which covers major reviews of PCO also provide evidence about how the government function of legislative drafting has been managed over time and how the PCO fulfilled its legislated functions, or how changes in its functions have been managed following reviews.

Records in sub-class 3.2 also provide a summarised view of the governance of PCO which while providing accountability also provide insight into core machinery of government activities around legislative drafting.

4.2.3 Disposal recommendations for Class no. 3 Governance

Records recommended for retention as public archives:

Sub-class	Title
3.1	Reviews of PCO
3.2	Internal Governance Groups

No records in this class are recommended for destruction.

4.3 Class no. 4 – Major Projects that Improve Access to or Drafting of Legislation

4.3.1 Description

This class covers records that document major projects that improve access to or drafting of legislation that are not covered by the GDAs. Sub-classes covered include:

- Project Establishment
- Project Management
- External Communications
- Operational Project Records

This class was established to capture records created as part of major projects that improve access to or drafting of legislation. For example, the Public Access to Legislation (PAL) Project to develop and implement the LENZ system which significantly changed the way that the wider New Zealand community accesses legislation. Because this project (and any other projects that are likely to fall into this class in the future) have had a major technology component, there are a number of records created in the projects that are also covered by Class 8 of the GDAs which covers Business Information Systems. Those records have not been included in this class to avoid confusion, and the possibility of contradictory disposal advice.

See class 5 for more information about LENZ.

A further example of a major project covered by this class is the Access to Subordinate Instruments Project (ASIP).

Sub-class 4.1 Project Establishment covers records the final versions of key project establishment records such as:

- Discussion papers and strategy papers
- Terms of reference/scope of project
- Cabinet papers and approvals
- Stakeholder engagement plans
- Communications strategy
- Business case
- Expressions of interest final documentation

Sub-class 4.2 Project Management covers records including all agreed project plans, project governance meeting records, formal reports produced during the project about the project. Includes:

- Governance group meeting records
- Agreed project plans
- Reports to project stakeholders (Ministers, Treasury, SSC, Office of the Clerk and IRD), PCO Senior Management team
- Quality Assurance Reports and Spotlight Review reports
- Technical Review Reports
- Decision register

- Risk register
- Change control register

Sub-class 4.3 External Communications covers project communications - media releases and articles, communications planning and change management, external queries, website static content, change readiness surveys and cultural change management, significant internal project communications.

Sub-class 4.4 Operational Project Records covers the lower level records relating to projects. Records that document operational aspects of the project such as:

- Drafts of key project documents
- Drafts of project establishment documents
- Internal project communications
- Drafts of project reports
- Routine correspondence about the projects
- Change requests
- Project budget
- Project administration

4.3.2 Evaluation

Records about project establishment, project management and external communications (sub-classes 4.1, 4.2 and 4.3) are recommended for retention as public archives. Such records provide a high level view and demonstrate accountability of significant projects that have had an impact on the way the New Zealand community can access our legislation, or that may provide insight into project that have a direct impact on the New Zealand public. The PAL project, for example, was one of the early e-government initiatives which at times was controversial, with significant budget overruns. The project establishment and management records provide evidence of accountability for the project at a summarised level as well as having possible future research interest about access to legislation. The records recommended for retention are also evidence of the media and public interest in the project and the information the public were receiving about it. The change management records indicate the enormous cultural change experienced by the organisation with the introduction of PAL, but also the changes required by regular users of legislation.

Records of a routine operational nature (sub-class 4.4) are recommended for destruction as they are of medium term business value only. They should therefore be destroyed once business use has ceased.

4.3.3 Disposal recommendations for Class no. 4 Major Projects to Improve Access to or Drafting of Legislation

Records recommended for retention as public archives:

Sub-class	Title
4.1	Project Establishment
4.2	Project Management
4.3	External Communications

Records recommended for destruction:

Sub-class	Title
4.4	Operational Project Records

4.4 Class no. 5 – Legislative Drafting Records

4.4.1 Description

This class covers the records of the drafting of legislation and the tracking of legislation being drafted. Sub-classes covered include:

- Significant Legislative drafting records
- Non-significant legislative drafting records
- LegTracking Records

Electronic records of the drafting of legislation are stored in a database which forms part of the Legislative Enactments of New Zealand [LENZ] system, first introduced in 2007. The LENZ system is used both to draft and publish legislation, with records created in XML format. These can be readily rendered in other formats. All versions of draft and published documents are stored in the system, but much of the contextual information explaining changes in the legislation is captured in email which is stored separately in the MSOutlook email system. The contribution of the Legislation Services team to the drafting process is also missing from the LENZ system. This is because the proof readers work on paper printouts of the legislation drafts, noting changes that they recommend, then pass the work back to the drafter. It is up to the drafter to decide which suggestions to accept and which to reject. The drafter makes those changes to the electronic draft. However, the record of the publishing and reprint/compilation processes is captured in LENZ.

Note that because LENZ is the system for drafting and publishing **all** New Zealand Legislation, the IRD drafters of Bills administered by IRD, and the Office of the Clerk of the House of Representatives drafters who draft Members' Bills also have electronic records stored in LENZ.

There are also electronic records of PCO legislative drafting prior to 2007, but these are stored in a separate document management database, not in LENZ. The arrangement of these records does not

match that for the paper records and it is quite difficult to gather all records relating to a particular piece of legislation together for that pre 2007 period. The tool used for drafting at that time was WordPerfect. Email from pre 2007 is stored electronically in the email system, but has been printed for the paper file, along with the drafts of legislation.

To provide a complete record of the drafting of a piece of legislation, drafters concatenate the significant legislative drafts, including the proofread drafts and any peer reviewed drafts, with email correspondence and other supporting documents in the paper file that is kept for that piece of legislation. This physical file therefore forms the most complete record of the drafting and passage of that particular legislation. The file number (PCO number) assigned to the paper file matches the PCO number assigned to documents in LENZ and the number assigned by LegTracking.

Sub-class 5.1 Significant Legislative drafting records covers all physical files documenting the drafting of Legislation and all documents stored in the LENZ system including:

- Drafts of legislation
- Published versions of legislation,
- Reprinted versions of legislation
- Supporting documents which add context to the drafting of that legislation.

Includes: Government, Private and Local Bills, all Legislative Instruments (including the Pacific Island Desk drafting legislation). The significant records included in the physical file are drafts of the legislation sent for review or proofreading, or which show significant changes in intent or direction, annotated drafts and final proof versions. Also included are supporting documents such as drafting instructions, correspondence with the instructing or reviewing agencies (including email), submissions to select committee which have influenced the drafting, cabinet papers relating to the legislation, and evidence that the legislation was enacted or made.

Sub-class 5.2 Non-significant drafting records, is for those records that do not add significantly to the drafting process. Examples include:

- Unannotated copies of legislative drafts,
- Duplicates of drafts already on the file,
- Working documents with no significant context, or which have been incorporated into a formal record
- Select Committee submissions determined by the legislative drafter to have had no significant impact on the drafting of legislation

Sub-class 5.3 Legislative Tracking Records covers those records created during the process of tracking legislative development.

The progress of legislation is tracked electronically by a separate database known as **LegTracking**. This system assigns a number to legislation when it is initiated. This includes legislation drafted by OOC and IRD. The number assigned by LegTracking becomes the PCO Number for the LENZ system and the Record Number for the physical drafting files. Drafters are able to enter comments on the progress (or lack of progress) for legislation they are working on. Deemed Regulations (known as “other instruments” from 2014) are also registered in LegTracking so a PCO number can be

generated for the work that is done to publish them on the NZ legislation website, but no actual drafting work is done, and no physical file exists.

4.4.2 Evaluation

The significant legislative drafting records (sub-class 5.1) are recommended for retention as public archives. Legislative drafting records provide evidence of government accountability, changes in the machinery of government and the rights and entitlements of individuals. The records provide a useful research resource for the community, and public sector agencies in relation to changes in legislation over time, as well as the drafting process and understanding why any given piece of legislation was drafted in the way that it was. The retention of records in this sub-class also provides continuity for the Archives New Zealand collection as there has to date been a strong tradition to retain all drafting records as public archives.

Note: as at September 2016 it is understood that the physical file continues to contain the most complete legislative drafting record. It is therefore recommended that the physical file is transferred to Archives New Zealand, and the electronic file is maintained by PCO. If there is any change to the status of the physical file (i.e. the drafters stop printing out all significant records) then the decision to transfer the physical file and not the electronic will need to be re-examined.

The non-significant drafting records (sub-class 5.2) and legislative tracking records (sub-class 5.3) are recommended for destruction as they do not add any value to the drafting records over and above a short term operational value. The record should therefore be destroyed once business use has ceased.

4.4.3 Disposal recommendations for Class no. 5 Legislative Drafting Records

Records recommended for retention as public archives:

Sub-class	Title
5.1	Significant Legislative Drafting Records

Records recommended for destruction:

Sub-class	Title
5.2	Non-significant Legislative Drafting Records
5.3	Legislative Tracking Records

5 Access restrictions

[Details removed]

Appendix One - Internal consultation

Listed below are the staff who were consulted on the development of the retention and disposal schedule. Internal consultation in developing the schedule was with team leaders or advisers throughout PCO.

Name	Role
[Name removed]	[Details removed]

Appendix Two – External consultation

Listed below are all organisations invited to provide input on the development of the retention and disposal schedule.

- Crown Law Office
- Department of Prime Minister and Cabinet
- Faculty of Law, Victoria University
- Inland Revenue Department
- Law Commission
- Ministry of Justice
- New Zealand Law Society
- Office of the Clerk

Appendix Three – Retention and disposal schedule spreadsheet

See attached separate spread sheet containing retention and disposal classes and recommended actions.