



Public Record Office Standard

PROS 08/11

Authority

Retention & Disposal Authority for Records of the Legal Services Commissioner

Version 2008

08/11

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Under section 12 of the Public Records Act 1973, the Keeper of Public Records is responsible for the establishment of standards for the efficient management of public records and for assisting public offices to apply those standards to records under their control. Officers in charge of public offices are responsible under section 13 of the Act for carrying out, with the advice and assistance of the Keeper, a program of records management in accordance with the standards established under section 12 of the Act.

1 Introduction

1.1 Purpose of this Authority

The purpose of this Authority is to provide a mechanism for the disposal of public records in accordance with the *Public Records Act 1973*.

The Authority:

- identifies records which are worth preserving permanently as part of Victoria's archival heritage
- prevents the premature destruction of records which need to be retained for a specified period to satisfy legal, financial and other requirements of public administration, and
- authorises the destruction of those records not required permanently.

1.2 Context of this Authority

1.2.1 Public Record Office Victoria Standards

This Authority should be used in conjunction with the Standards issued by the Keeper of Public Records under Section 12 of the *Public Records Act 1973*. Copies of all relevant PROV standards, specifications and regulatory advice can be downloaded from www.prov.vic.gov.au. These documents set out the procedures that must be followed by Victorian public offices.

1.2.2 Transfer of records to Public Record Office Victoria

Contact Public Record Office Victoria for further information on procedures for transferring permanent records to archival custody.

1.2.3 Destruction of records identified in the Authority

In accordance with Public Record Office Standard PROS 97/003 *Destruction of Public Records* public offices must notify PROV of the destruction of records made under a valid Authority. To notify PROV, complete and forward the form *PRO 29 Notification of Destruction of Public Records*, available at: www.prov.vic.gov.au.

1.2.4 The Crimes (Document Destruction) Act 2006

It is an offence under *The Crimes (Document Destruction) Act 2006* for individuals or organisations to destroy documents that they know are reasonably likely to be required in a future legal proceeding, with the intention of keeping the documents out of evidence. Destroying records however in accordance with a valid Authority is lawful as long as the requirements under *The Crimes (Document Destruction) Act 2006* are met.

PROV strongly advises that all agencies familiarise themselves with the requirements under the *Crimes (Document Destruction) Act 2006* and *Evidence (Document Unavailability) Act 2006*, and PROV's *Advice to Agencies 18: Document Destruction and Litigation Evidence*.

1.2.5 Normal Administrative Practice

The destruction of some public records is permitted without final authorisation under normal administrative practice (NAP). NAP covers the destruction of ephemeral material of a facilitative nature created, acquired or collected by public officers during the course of their duties.

The following material may be destroyed under NAP:

- working papers consisting of rough notes and calculations used solely to assist in the preparation of other records such as correspondence, reports and statistical tabulations
- drafts not intended for retention as part of the office's records, the content of which has been reproduced and incorporated in the public office's record keeping system
- extra copies of documents and published material preserved solely for reference.

1.3 Use of Other Authorities

In applying the disposal sentences set out in this Authority, reference should be made to other current Authorities where applicable. Where there is a conflict between two Authorities (for instance this Authority and the General Retention and Disposal Authority for Records of Common Administrative Functions), consult the Public Record Office Victoria for advice.

1.4 Explanation of Authority Headings

CLASS NUMBER

The class number or entry reference number provides citation and ease of reference.

DESCRIPTION

The description of each record class is specified in this entry. A record class is a group of records that relate to the same activity, function or subject and require the same disposal action.

STATUS

This entry provides the archival status of each class - either permanent or temporary.

CUSTODY

This entry specifies whether the records are to be retained by the public office or transferred to the Public Record Office Victoria.

Permanent electronic records are to be transferred in VERS Encapsulated Object (VEO) format according to PROS 99/007 - Management of Electronic Records (Version 2).

The agency may transfer records **not identified as permanent in this or any other Authority** to an Approved Public Record Office Victoria Storage Supplier (APROSS) pending final records action.

2 Concurrence of Public Office

This Authority has the concurrence of:

Signature: [Signed]

Name: Victoria Martes

Date: 23/12/2008

Position: Legal Services Commissioner

3 Establishment of Standard

Pursuant to Section 12 of the *Public Records Act 1973*, I hereby establish these provisions as a Standard (also known as a Retention and Disposal Authority) applying to the records of the Legal Services Commissioner.

This standard as varied or amended from time to time, shall have effect for a period of ten (10) years from the date of issue unless revoked prior to that date.

Justine Heazlewood

Director & Keeper of Public Records

Date of Issue: 06/01/2009

4 Acknowledgments

PROV would like to thank the following people for providing their knowledge and expertise and helping to create this Authority:

Caroline Morgan (Legal Services Commissioner)


Carl Gabel (Legal Services Commissioner)

Margaret Betts (Legal Services Commissioner)

5 Further Information

You can obtain relevant publications, supplies of relevant forms, and answers to any enquiries you may have by first contacting your agency's records manager or the Public Record Office Victoria:

Public Record Office Victoria

 (03) 9348 5600

e-mail: prov.agency.queries@prov.vic.gov.au

web: www.prov.vic.gov.au

6. Retention & Disposal Authority

Retention & Disposal Authority			
CLASS NO.	DESCRIPTION	DISPOSAL ACTION	
		STATUS	CUSTODY
1.0.0	<p>ENQUIRIES AND COMPLAINTS MANAGEMENT</p> <p>The management of enquiries and complaints made under the <i>Legal Profession Act 2004</i> or under the now repealed <i>Legal Practice Act 1996</i> which includes the management of complaints against legal practitioners and disputes between law practices or legal practitioners and clients.</p>		
1.1.0	<p>Enquiries and Complaints Registration Summary Management</p> <p>Summary record of all enquiries and complaints received by the Legal Services Commissioner (LSC).</p> <p>Summary information for formal complaints registered includes the type of complaint, file number, name of complainant, name of respondent; summary of assessment and dispute resolution and disciplinary outcomes, and summary of the case.</p> <p>Summary information for enquiries includes the type of enquiry, file number and summary of the enquiry and if provided names of complainant and / or respondent.</p>	<p>Permanent</p> <p>Retain as State Archives</p>	<p>Transfer hard copy or electronic copy to PROV when administrative use has concluded.</p> <p>Electronic records are to be transferred in VEO format.</p>
1.2.0	<p>Enquiries</p> <p>Records documenting the receipt and response to enquiries that seek general information to determine whether grounds for a complaint can be made.</p>	<p>Temporary</p> <p>Destroy 7 years after last action.</p>	<p>Hold in agency or APROSS pending destruction.</p> <p>Electronic records should be maintained in readable format pending destruction.</p>

Retention & Disposal Authority			
CLASS NO.	DESCRIPTION	DISPOSAL ACTION	
		STATUS	CUSTODY
1.3.0	<p>Complaints</p> <p>The assessment and investigation of disciplinary complaints and resolution of civil complaints (civil disputes). Includes complaints that contain both disciplinary allegations and disputes (mixed complaints). Also includes investigations that have been initiated on the LSC's own motion.</p> <p>Includes records of the lodgement, assessment, investigation or resolution of complaint or dispute, referrals to delegates and/or prescribed investigative bodies and outcomes of the assessment and/or conciliation process.</p> <p>[For a disciplinary complaint that results in a disciplinary application use 2.0.0.]</p>	<p>Temporary</p> <p>Destroy 7 years after last action.</p>	<p>Hold in agency or APROSS pending destruction.</p> <p>Electronic records should be maintained in readable format pending destruction.</p>

<h2>Retention & Disposal Authority</h2>			
CLASS NO.	DESCRIPTION	DISPOSAL ACTION	
		STATUS	CUSTODY
2.0.0	<p>DISCIPLINARY APPLICATIONS</p> <p>The function of managing disciplinary applications against legal practitioner under the <i>Legal Profession Act 2004</i>. Under the <i>Legal Profession Act 2004</i>, the LSC may apply to the Victorian Civil and Administrative Tribunal (the Tribunal) for an order against a practitioner.</p>		
2.1.0	<p>Disciplinary Applications Summary Management</p> <p>Summary record of all applications made to the Tribunal by the LSC.</p> <p>Includes summary of the application, Tribunal orders, legal advices and the outcome.</p>	<p>Permanent</p> <p>Retain as State Archives</p>	<p>Transfer hard copy or electronic copy to PROV when administrative use has concluded.</p> <p>Electronic records are to be transferred in VEO format.</p>
2.2.0	<p>Disciplinary Applications</p> <p>Disciplinary applications made by the LSC to the Tribunal against a legal practitioner.</p> <p>Disciplinary application case records include the application, Tribunal orders, legal advices and the outcome.</p>	<p>Temporary</p> <p>Destroy 7 years after last action.</p>	<p>Hold in agency or APROSS pending destruction.</p> <p>Electronic records should be maintained in readable format pending destruction.</p>

Retention & Disposal Authority			
CLASS NO.	DESCRIPTION	DISPOSAL ACTION	
		STATUS	CUSTODY
3.0.0	<p>EDUCATION</p> <p>The function of educating and informing the</p> <ul style="list-style-type: none"> • legal profession about issues of concern to the profession and to consumers of legal services; and • community about legal issues and the rights and obligations of client-practitioner relationships. <p>[For community relations activities, see General Retention & Disposal Authority for Records of Common Administrative Functions]</p>		
3.1.0	<p>Development and Delivery of Education</p> <p>Records on the development and delivery of education and information to legal practitioners and community through for example workshops and lectures.</p>	<p>Temporary</p> <p>Destroy 7 years after action completed.</p>	<p>Hold in agency or APROSS pending destruction.</p> <p>Electronic records should be maintained in readable format pending destruction.</p>

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