

**Retention and Disposal Authority for Records of Alternative Dispute Resolution Services**

Authority number: PROS 15/04



PROS 15/04

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Alternative Dispute Resolution Services**

Issued Date: 24/04/2015

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## Retention and Disposal Authority for Records of Alternative Dispute Resolution Services

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## Retention and Disposal Authority for Records of Alternative Dispute Resolution Services

<b>Retention and Disposal Authority No</b>	PROS 15/04
<b>Scope</b>	This RDA authorises the disposal of records created and held by the Accident Compensation and Conciliation Service
<b>Status</b>	Issued by Keeper
<b>Issue Date</b>	24/04/2015

# Retention and Disposal Authority for Records of Alternative Dispute Resolution Services

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# Retention and Disposal Authority for Records of Alternative Dispute Resolution Services

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## Introduction

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### 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.

### Context of this Authority

#### 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](http://www.prov.vic.gov.au). These documents set out the procedures that must be followed by Victorian public offices.

#### Disposal of records identified in the Authority

Disposal of public records identified in this Authority must be undertaken in accordance with the requirements of Public Record Office Standard PROS 10/13 *Disposal*.

It is a criminal offence to unlawfully destroy a public record under s 19(1) of the *Public Records Act 1973*.

The destruction of a public record is not unlawful if done in accordance with a Standard established under s 12 of the *Public Records Act 1973*.

This Standard (also known as an Authority) authorises the disposal of public records as described within its provisions. However, disposal is **not** authorised under this Standard if it is reasonably likely that the public record will be required in evidence in a current or future legal proceeding.

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For the purposes of this Retention and Disposal Authority, a 'legal proceeding' has the same meaning as the *Evidence (Miscellaneous Provisions) Act 1958*, and includes any civil, criminal or mixed proceeding and any inquiry in which evidence is or may be given before any court or person acting judicially, including a Royal Commission or Board of Inquiry under the *Inquiries Act 2014*.

If the public office identifies that public records must be retained under other applicable legislation for a period that exceeds the retention period specified under the Standards, then the longer retention period must apply.

### 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.

### 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.

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## **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.

## **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 storage of public records identified in this Authority must also be in accordance with the requirements of Public Record Office Standard PROS 11/01 *Storage*

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### 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 Accident Compensation Conciliation Service. This standard as varied or amended from time to time, shall have effect from the date of issue unless revoked prior to that date.

[Signed]

**Justine Heazlewood**, Keeper of Public Records

Date of Issue: 24/04/2015



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## INTRODUCTION

### Context

### Glossary Terms

**Conciliation:** Conciliation is a process in which the parties to a dispute, with the assistance of a neutral third party (the conciliator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role to the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms and may actively encourage the participants to reach an agreement.

**Mediation:** Mediation is the process in which the parties to a dispute, with the assistance of a neutral third party (the mediator) identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

**Neutral Evaluation:** Neutral Evaluation is a process of assessing a dispute in which the evaluator seeks to identify and limit the issues of fact and law that are in dispute and, by that process, assist the parties to resolve the dispute.

**Arbitration:** Arbitration is a process in which the parties to a dispute present arguments and evidence to a neutral party (the arbitrator) who makes a determination.

**Facilitative processes:** The dispute resolution practitioner assists the parties to a dispute to identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement about some issues of the whole of the dispute. Facilitative processes include negotiation, facilitation, conferencing and mediation.

**Advisory processes:** The dispute resolution practitioner consider and appraises the dispute and provides advice as to the facts of the dispute, the law and, in some cases, possible or desirable outcomes, and how these may be achieved.

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## **Overview**

This is a general authority, intended to be used by those agencies identified in the scope that perform alternative dispute resolution services. It is not intended to cover complaints that are resolved through an investigation by an agency or through a tribunal or court system. The disposal coverage for these activities is to be covered by their relevant Retention and Disposal Authorities.

Alternative Dispute Resolution (ADR), as defined by the Institute of Arbitrators and Mediators Australia (IAMA) is an umbrella for processes, other than judicial determination, in which an impartial person (an ADR practitioner) assists those in a dispute to resolve the issues between them. ADR is commonly used as an abbreviation for alternative dispute resolution, but can also mean assisted or appropriate dispute resolution.

The different types of ADR processes include mediation, conciliation, neutral evaluation, arbitration and expert determination. ADR processes may be facilitative, advisory, determinative or, in some cases, a combination of these. Determinative forms of ADR are legally binding on the parties. Non-determinative forms of ADR seek to reach an outcome which is acceptable to all parties. The scope of this RDA is limited to ADR processes that are facilitative or advisory only such as mediation, conciliation and neutral evaluation. Arbitration is excluded from the scope of this RDA.

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No	Function/Activity	Description	Status	Disposal Action
1	<b>ALTERNATIVE DISPUTE RESOLUTION MANAGEMENT</b>	The management of Alternative Dispute Resolution (ADR) processes undertaken by agencies excluding arbitration. ADR is an umbrella term for processes in which an impartial person (an ADR practitioner) assists people involved in a dispute to resolve their issues. It is an alternative to going to a court or tribunal and having the outcome decided by a judge or magistrate. ADR is commonly used as an abbreviation for alternative dispute resolution, but can also mean assisted or appropriate dispute resolution. The types of ADR processes that this Authority encompasses are those that are facilitative or advisory only such as mediation, conciliation, and neutral evaluation		
1.1		Records documenting requests for ADR processes not accepted for action by the agency. Includes any response provided to the party about the request, such as the reasons for non-acceptance, and records relating to any appeal process.	Temporary	Destroy 2 years after decision made.
1.2		Records documenting the ADR process. Includes initial request for ADR, information collected from the parties regarding the dispute, correspondence addressed to and received from parties, copies of supporting documentation provided by either party, minutes and transcripts of the sessions, records documenting the outcome of the ADR process such as final agreements, notifications to the courts if further action is required, and any other record that facilitated the ADR session.	Temporary	Destroy 5 years after last action.

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No	Function/Activity	Description	Status	Disposal Action
<i>ALTERNATIVE DISPUTE RESOLUTION MANAGEMENT</i>				
1.3		Confidential notes taken by ADR practitioner not taking a determinative role in the dispute, such as Mediators or Conciliators during an ADR session.	Temporary	Destroy after administrative use has concluded.