

# Standard

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## PROS 10/13 Disposal

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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 applying to the records of all government agencies, courts or persons acting judicially in Victoria. This Standard, as varied or amended from time to time, shall have effect for a period of five (5) years from the date of issue or reissue unless revoked prior to that date.

  
Justine Heazlewood  
Keeper of Public Records

Date of Issue: 1 September 2017

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## Acknowledgements

Public Record Office Victoria would like to acknowledge the valuable contribution of members of the Disposal Advisory Group during the development of the original version of this Standard.

# 1 Introduction

## 1.1 Public Record Office Victoria Standards

Under section 12 of the *Public Records Act 1973* (the Act), the Keeper of Public Records ('the Keeper') is responsible for the establishment of Standards for the efficient management of public records and for assisting Victorian government agencies to apply those Standards to records under their control.

Recordkeeping Standards issued by Public Record Office Victoria (PROV) reflect best practice methodology. This includes international Standards issued by the International Organisation for Standardisation (ISO) and Australian Standards (AS) issued by Standards Australia in addition to PROV research into current and future trends.

Heads of government agencies are responsible under section 13b of the Act for carrying out, with the advice and assistance of the Keeper, a program of efficient management of public records that is in accordance with all Standards issued by the Keeper.

In Victoria, a program of records management is identified as consisting of the following components:

- a recordkeeping framework;
- recordkeeping procedures, processes and practices;
- records management systems and structures;
- people and organisational structures; and
- resources, including sufficient budget and facilities.

A program of records management needs to cover all records created by the agency, in all formats, media and systems, including business systems.

## 1.2 Purpose

This Standard provides a set of mandatory principles for Victorian government agencies regarding the disposal of public records.

Disposal is defined as a range of processes associated with implementing appraisal decisions which are documented in disposal authorities or other instruments. These include the retention, destruction or deletion of records in or from recordkeeping systems. They may also include the migration or transmission of records between recordkeeping systems, the transfer of ownership or the transfer of custody of records (for example, to PROV).<sup>1</sup> The lawful disposal of records is an essential and critical component of any records management program.

Public records may be disposed of by the agency in two ways:

- by authorised destruction:
  - Destruction can be authorised through Normal Administrative Practice (NAP), Retention & Disposal Authorities (RDAs), or Single Instance Disposal Authorities (SIDAs).
- through an authorised custody transfer where custody is authorised by the Keeper and transferred to:

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<sup>1</sup> Public Record Office Victoria, Master Glossary, PROV North Melbourne 2015: <https://www.prov.vic.gov.au/recordkeeping-government/a-z-topics/glossary>

- PROV (for State Archives);
- an approved Place of Deposit (PoD);
- other government agencies due to machinery of government changes (refer to section 2.6 Transfer of Custodianship of *PROS 10/17 Operations Management Standard*); or
- by sale to private organisations (refer to section 2.6 Transfer of Custodianship of *PROS 10/17 Operations Management Standard*).

The implementation of this Standard will benefit agencies by enabling the disposal of records to be carried out lawfully yet efficiently, and ensures the retention of those records of importance to the State in perpetuity.

## 1.3 Scope

This Standard<sup>2</sup> applies to all public records defined by section 2 of the Act; that is, those records created or received by a public sector employee in the course of their duties or by a court or person acting judicially in Victoria<sup>3</sup>. It applies to all government agencies as defined in section 2 of the Act.

The principles detailed in this Standard provide the foundation for the measurable compliance requirements described in the associated Specifications. In addition, Guidelines associated with this Standard and its Specifications will assist agencies to comply with the requirements of the appropriate Specifications.

The transfer of record custody between government agencies (such as through machinery of government changes) is addressed in the *Operations Management Standard* (PROS 10/17).<sup>4</sup> The transfer of records to Approved Public Record Office Storage Suppliers (APROSS) for inactive storage is addressed in the *Storage Standard* (PROS 11/01).<sup>5</sup>

## 1.4 Benefits and Risks

Benefits of complying with the principles in the Disposal Standard include the following:

- increased efficiency and cost effectiveness through routine incorporation of disposal into regular recordkeeping practices;
- increased accountability through being able to identify and report on what disposal actions were taken, when, and why;
- reduced risk of privacy or security breaches by ensuring that records no longer required are disposed of appropriately and securely;
- demonstrable compliance through being able to provide evidence that all disposal actions undertaken were lawful and authorised; and
- improved retrieval rates and facilitation of FOI and legal discovery requests as a result of being able to locate records more efficiently.

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<sup>2</sup> This Standard replaced Destruction of Public Records Standard (PROS 97/003) and parts of Transfer and Storage of Public Records Standard (PROS 97/004) upon issue in 2010.

<sup>3</sup> For expedience, all references to Public Sector Employee within this document include courts and people acting judicially in Victoria.

<sup>4</sup> Available from the PROV website: <https://www.prov.vic.gov.au/recordkeeping-government/standards-policies-rdas>.

<sup>5</sup> Available from the PROV website: <https://www.prov.vic.gov.au/recordkeeping-government/standards-policies-rdas>.

Risks of not complying with the principles in the Disposal Standard include the following:

- litigation proceedings resulting in loss of employment of responsible parties or reputation of the agency;
- prosecution due to a breach of legislative or regulatory compliance (such as the Crimes Act);
- costs such as the cost of recovery, correction, identification of relevant records, determining location of relevant records, maintenance of legacy systems and storage of records that are no longer required;
- loss of essential records (for example, due to poor preservation strategies);
- personal distress of an individual directly related to the record as a result of the record being unlawfully disposed of or confidential information contained within it being released as a result of poor management; and
- loss of reputation or public embarrassment as a result of being unable to provide evidence due to unlawful disposal practices.

## 1.5 Definitions

For a full list of records management and PROV terminology, see the *Master Glossary*.<sup>6</sup>

## 1.6 Document Relationship Diagram

An interactive diagram showing the relationship between this Standard and the other documents associated with the Disposal Standard is located on our website: <https://www.prov.vic.gov.au/recordkeeping-government/about-standards-framework-policies/disposal-standard>.

Other PROV Standards and Specifications, including Retention & Disposal Authorities (RDAs), will also affect how this Standard is implemented in particular agencies.

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<sup>6</sup> Available from the PROV website: <https://www.prov.vic.gov.au/recordkeeping-government/standards-policies-rdas>.

# 2 Detail of Standard

## 2.1 Legality

**Principle: Disposal of public records must be conducted in a lawful manner.**

The intent of this principle is to ensure that agencies are aware that it is unlawful to remove, sell, damage or destroy public records without the authority of the Keeper (s. 19(1) of the Act). This applies to all records in all formats, including databases and records housed within a Cloud whether they are managed by the agency directly or by a third party on behalf of the agency. Penalties can be applied if public records are unlawfully disposed of.

The disposal of public records undertaken in accordance with Standards established under s. 12 of the Act is lawful (see 2.2: Authorisation), although disposal of public records must not take place where other legal obligations prohibit the agency from doing so.

Examples of this include it being an offence under the *Crimes Act 1958* (s. 254) for individuals or organisations to destroy records that they know are reasonably likely to be used in a future or current legal proceeding; that records subject to a request for access under the *Freedom of Information Act 1982* must not be disposed of until such time as the request has been finalised and any appeal period has lapsed; and where a court rule specifies that records must be retained that the records are not be disposed of until the court rule permits.

If the agency 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.<sup>7</sup>

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

## 2.2 Authorisation

**Principle: Disposal of public records must be authorised by the Keeper of Public Records.**

The intent of this principle is to ensure that all disposal of public records is authorised by the Keeper. Public records cannot be destroyed, removed from the custody of the Victorian government or otherwise disposed of unless authorised by the Keeper through the issue of Standards established under s. 12 of the Act.

The agency requires disposal authorisation for all of its public records, regardless of the format or systems in which they are maintained. This includes records relating to:

- current functions undertaken by the agency, including functions of predecessor agencies;
- functions and activities formerly carried out by the agency, or predecessor agencies (for example records inherited by the agency from its functional predecessor, such as a result of machinery of government change or administrative changes) where these records are still in existence; and
- outsourced activities.

Authorisation is provided by:

- Retention and Disposal Authorities (RDAs);

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<sup>7</sup> For situations where there is a need to dispose of records prior to the retention period please contact PROV for advice.

- Single Instance Disposal Authorities (SIDAs); or
- Normal Administrative Practice (NAP) as described within this Standard.

### 2.2.1 Retention & Disposal Authorities

Retention & Disposal Authorities (RDAs) are issued as Standards under s. 12 of the Act which authorise the disposal of public records. RDAs specify the records which must be retained permanently as State Archives, set mandatory minimum retention periods for records, and authorise destruction of records once minimum retention periods have been met.

Disposal Specification 1: Developing Disposal Authorities provides requirements for the development of RDAs.

### 2.2.2 Single Instance Disposal Authorities

Single Instance Disposal Authorities (SIDAs) may be issued by the Keeper as Standards under s. 12 of the Act to authorise the disposal of records. SIDAs authorise disposal of the specific records that are described within its scope. Unlike RDAs, they do not provide continuing disposal authorisation.

Disposal Specification 1: Developing Disposal Authorities provides requirements for the development of SIDAs.

### 2.2.3 Normal Administrative Practice

Disposal in accordance with normal administrative practice (NAP) should be specified by agency specific policy that is risk based and includes criteria that covers all functional responsibilities of the agency.

Records that can be considered for destruction using NAP fall into five broad categories:

- transitory messages of minor importance, the sole purpose of which was to provide information of temporary, short term value or information already recorded and available in an acceptable medium elsewhere in the agency (for example, calendars, 'with compliments' slips, or personal (non-corporate) emails);
- rough working papers and/or calculations;
- drafts not intended for further use or reference, whether in paper or electronic form, including reports, correspondence, addresses, speeches and planning documents that have minor edits for grammar and spelling and do not contain significant or substantial changes or annotations. The agency NAP policy should define clearly which drafts may be disposed of under NAP and should refer to applicable RDAs which may require certain drafts to be retained for specified periods.
- copies of material retained for reference purposes only; and
- published material not included as part of an agency's records.

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

## 2.3 Accountability

**Principle: The head of the agency is accountable for the disposal of public records for which they are responsible and must ensure that any disposal is conducted in accordance with the *Public Records Act 1973*.**

The intent of this principle is to ensure that agencies are aware that the head of the agency, under s. 13 of the Act, is responsible and accountable for:

- carrying out a program of records management in accordance with Standards established under s. 12 of the Act (s13 (b));
- ensuring that the records management program's disposal component is carried out in accordance with this Standard; and
- taking all action necessary for the recovery of any public records unlawfully removed from the agency (s. 13 (c)).

The head of the agency therefore has ultimate and overall responsibility for the records disposal actions that occur within their agency, including the recovery of records that have been unlawfully removed.

The head of the agency may delegate management of records on their behalf but ultimate responsibility for records management remains with the head of the agency.<sup>8</sup>

All decisions relating to the implementation of authorised disposal actions upon records must be approved and overseen by public sector employees with the appropriate delegations.<sup>9</sup>

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

Requirements for the strategic management of records are located in the *Strategic Management Standard* (PROS 10/10).

## 2.4 Informed Decision Making

### **Principle: Disposal actions must be based on an informed decision making process.**

The intent of this principle is to ensure that authorised disposal actions are determined through appraisal, which is an informed decision making process. Appraisal is the process of evaluating business activities to determine which records need to be captured and how long the records need to be kept, to meet business needs, the requirements of organisational accountability and community expectations.

Monitoring of the implementation of disposal authorities and carrying out records disposal must occur to ensure it has been accurately undertaken by agencies based on an informed decision making process. If inaccuracy or irregularities are detected, measures must be put in place to ensure compliance with the Act.

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

## 2.5 Justification

### **Principle: Disposal actions and retention periods for public records must be justified.**

The intent of this principle is to ensure that appraisal recommendations are documented and submitted to PROV for consideration before a disposal action and retention period is authorised by the Keeper. It is essential that the rationale for disposal actions and retention periods are well informed and expressed clearly and concisely so that they are able to withstand any scrutiny.

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<sup>8</sup> Please refer to the PROS 10/10 Strategic Management Standard and associated Specification for requirements regarding the delegation of responsibilities for records management: <https://www.prov.vic.gov.au/recordkeeping-government/about-standards-framework-policies/strategic-management-standard>

<sup>9</sup> Recordkeeping responsibilities and the relevant level of delegation are outlined in section 2.1 of *PROS 10/10 S1 Strategic Management Specification*: <https://www.prov.vic.gov.au/recordkeeping-government/standards-policies-rdas>

The agency needs to be able to provide evidence that implementation of disposal decisions was authorised and lawful. Documenting when and why any records destruction, deletion or other forms of disposal actions have occurred demonstrates compliance with disposal authorisations and transparency in records disposal activities undertaken by agencies.

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

## 2.6 Planning

**Principle: Disposal of public records must be planned, regular and integrated into the agency's business processes and programs.**

The intent of this principle is to ensure that records disposal programs are an integrated part of the agency's overall records management program to enable the disposal of public records to be carried out in a planned and systematic way. Disposal must be an ongoing, routine records management activity of the agency.

Disposal activities must be incorporated into the agency's business planning to enable the effective and efficient use of resources such as record storage facilities, equipment and staff.

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

*PROS 10/13 S2 Disposal Specification 2: Implementing Disposal Authorities* provides requirements for planning a records disposal program.

## 2.7 Timeliness

**Principle: Public records must be disposed of in a timely manner.**

The intent of this principle is to ensure that the disposal of public records is carried out in a timely manner whereby records:

- are sentenced for disposal as soon as it is possible and practical, ensuring that records are appropriately managed and retained for as long as they are required;
- that are identified by a disposal authority as Permanent, to be retained as State Archives, are transferred to PROV's custody once the agency's administrative use for the record ceases; and
- that are identified as temporary by a disposal authority are destroyed once they are time expired in accordance with the requirements of the disposal authority.

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

## 2.8 Security

**Principle: Disposal of public records must be undertaken using a secure method so that the content is protected and is not inadvertently released or lost.**

The intent of this principle is to ensure that the authorised destruction of public records is undertaken using secure methods so that records are destroyed beyond any possible reconstruction. Agencies must ensure that the authorised transfer of public records to the custody of PROV or another agency is undertaken using secure methods to ensure that

records are not damaged, destroyed, lost or stolen, or accessed unlawfully<sup>10</sup>. This applies to all public records, irrespective of format.

The minimum requirements to comply with this disposal principle are detailed in the Specifications issued under this Standard.

*PROS 10/13 S3 Disposal Specification 3: Transfer of State Archives to PROV* provides requirements for the secure transfer of public records to the Public Record Office.

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<sup>10</sup> Please note that access to public records is covered by PROS 11/10 Access Standard and associated documentation:  
<https://www.prov.vic.gov.au/recordkeeping-government/about-standards-framework-policies/access-standard>

# 3 References

## Legislation

*Public Records Act 1973* (Vic)

*Crimes Act 1958* (Vic)

*Freedom of Information Act 1982* (Vic)

All current Victorian legislation is available at <http://www.legislation.vic.gov.au>

## Standards

Standards Australia 2002, *AS ISO 15489.1 Australian standard on records management, part 1*, Standards Australia, Sydney.

Standards Australia 2002, *AS ISO 15489.2 Australian standard on records management, part 2*, Standards Australia, Sydney.

## Other Resources

Bettington, J, Eberhard, K, Loo, R & Smith, C eds 2008, *Keeping archives*, 3rd edn, Australian Society of Archivists, Canberra.

National Archives of Australia 2016, *Normal Administrative Practice* (web page), National Archives of Australia accessed October 2016 at <http://www.naa.gov.au/records-management/agency/keep-destroy-transfer/nap/index.aspx>.

National Archives of Australia 2016, *Destroying Records as Normal Administrative Practice* (web page), National Archives of Australia accessed October 2016 at <http://www.naa.gov.au/records-management/agency/keep-destroy-transfer/nap/NAP-detail.aspx>.

State Records Authority of New South Wales 2014, *Standard on Records Management*, State Government of NSW, Sydney.

State Records Authority of New South Wales first published 2000, revised 2016, *Disposal Authorisation Procedures*, State Government of NSW, Sydney.

State Records Authority of New South Wales first published 1996 (hardcopy) and 2008 (digital), revised 2015, *Destruction of records*, State Government of NSW, Sydney.

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.

For more information about disposal, please contact:

Government Services  
Public Record Office Victoria  
Ph: (03) 9348 5600  
Fax: (03) 9348 5656  
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