

Retention and Disposal Authority for Records of Legal Aid Function

Authority number: PROS 03/01 VAR 4



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**Retention and Disposal Authority for Records of
Legal Aid Function**

Issued Date: 06/12/2019

Expiry Date: 31/12/2022

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Variation 1

Public Records Act 1973 (Section 12)

Retention & Disposal Authority for Records of Legal Aid Function (PROS 03/01)

Variation 1:

In accordance with section 12 of the Public Records Act 1973 (as amended), I hereby vary the Standard applying to the Retention and Disposal Authority for Records of Legal Aid Function, issued as Public Record Office Standard (PROS) 03/01 on 11/04/2003, as follows:

Extension of the application of this Standard until 31/05/2013

This Variation shall have effect from its date of issue.

[signed

]Graeme Hairsine

Acting Director and Keeper of Public Records

Date of issue: 29/10/2010

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Variation 2

Public Records Act 1973 (Section 12)

Retention & Disposal Authority for Records of Legal Aid Function (PROS 03/01)

Variation 2:

In accordance with section 12 of the Public Records Act 1973 (as amended), I hereby vary the Standard applying to the Retention and Disposal Authority for Records of Legal Aid Function, issued as Public Record Office Standard (PROS) 03/01 on 11/04/2003, as follows:

Extension of the application of this Standard until 31/12/2016

This Variation shall have effect from 31/05/2013.

[signed]

Justine Heazlewood

Director and Keeper of Public Records

Date of issue: 23/12/2013

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Variation 3

Public Records Act 1973(Section 12)

Retention and Disposal Authority for Records of the Legal Aid Function

Public Record Office Standard (PROS) 03/01

Variation 3:

In accordance with section 12 of the *Public Records Act*1973 (as amended), I hereby vary the Standard applying to the Retention and Disposal Authority for Records of the Legal Aid Function, issued as Public Record Office Standard (PROS) 03/01 on 11/04/2003, as follows:

Extension of the application of this Standard until 31/12/2019.

This Variation shall have effect from its date of issue.

[signed]

Justine Heazlewood

Director and Keeper of Public Records

Date of issue: 03/02/2017

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Authority number: PROS 03/01 VAR 4

Variation 4

Public Records Act 1973 (Section 12)

Retention and Disposal Authority for Records of Legal Aid Function

Public Record Office Standard (PROS) 03/01

Variation 4:

In accordance with section 12 of the Public Records Act 1973 (as amended), I hereby vary the Standard applying to the records of the Legal Aid Function, issued as Public Record Office Standard (PROS) 03/01 on 11/04/2003, as follows:

Extension of the application of this Authority until 31 December 2022.

This Variation shall have effect from its date of issue.

[signed]

Justine Heazlewood

Director and Keeper of Public Records

Date: 06 December 2019

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Retention and Disposal Authority for Records of Legal Aid Function

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Retention and Disposal Authority for Records of Legal Aid Function

Retention and Disposal Authority No	PROS 03/01 VAR 4
Scope	This RDA authorises the disposal of records of the Legal Aid Function.
Status	Issued by Keeper
Issue Date	06 December 2019

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Introduction

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. 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.

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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.

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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Concurrence of Public Office

This Authority has the concurrence of:

Signature: [signed]

Name: Ian Campbell

Position: Acting Division Manager, Grants (Operations)

Date: 26/03/2003

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 Victoria Legal Aid. This standard as varied or amended from time to time, shall have effect from the date of issue unless revoked.

[signed]

Justine Heazlewood, Keeper of Public Records

Date of Issue: 11/04/2003

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No	Function/Activity	Description	Status	Disposal Action
1	CASE MANAGEMENT			
1.1	ACCEPTED CASES	<p>Cases in which legal assistance is provided by a Victoria Legal Aid solicitor or by a solicitor in private practice acting on behalf of Victoria Legal Aid.</p> <p>Case files are divided into administrative categories: grants files and litigation files. A grant file documents the granting of legal aid and the assignment of the case to either an in-house or external practitioner. The litigation file documents the in-house practitioner's conduct of the case. Case files are categorised by court jurisdiction, including the Children's, Magistrates, Family, Federal and High Courts, and Other Tribunals. Where applicable, a case file is financially incomplete until the withdrawal of any caveat order over the personal security of the legal aid client.</p> <p>For disposal action on specific classes of files for accepted cases see 1.1.1 and 1.1.2 below.</p>		
1.1.1		<p>Significant Cases may be significant because they:</p> <ul style="list-style-type: none"> • come before the Supreme Court, Full Federal Court or High Court, or • have general public notoriety, or • establish precedent, or • become cases of public interest or otherwise raise systemic issues, or • become reported in the Victorian Law Report 	Permanent	Retain as State archives

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No	Function/Activity	Description	Status	Disposal Action
<i>CASE MANAGEMENT - ACCEPTED CASES</i>				
		<p style="text-align: center;">or Australian Criminal Law Report.</p> <p>A precedent involves a novel point of law or is a helpful example of the application of existing law or is information or a decision which may be useful as a guide for future administration or the conduct of similar cases. Retain both Grants files and the Litigation files for this class. Grants files assigned to private practitioners which establish precedent and become policy for future decisions about aid are included in this class.</p>		
1.1.2		Routine Cases Accepted cases not covered by Class 1.1.1.	Temporary	Destroy 7 years after action completed or 7 years after caveat withdrawn, whichever is the later.
1.2	REJECTED (REFUSED) CASES	Grants files in which legal assistance (in criminal, civil and family law matters) has been refused. Litigation files may contain legal advice documents. Sentence the litigation file according to class 1.4.0.	Temporary	Destroy 5 years after action completed.
1.3	TREATED AS WITHDRAWN (TAW) CASES	Grants files in which legal assistance (for criminal, civil and family law matters) has been withdrawn. Litigation files may contain legal advice documents. Sentence the litigation file according to class 1.4.0	Temporary	Destroy 2 years after action completed.
1.4	LEGAL ADVICE	<p>Legal advice provided to clients. Legal advice can progress to Minor Work, in which case a Minor Work file is created.</p> <p>Includes advice Sheets documenting advice provided</p>	Temporary	Destroy 7 years after action completed.

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<i>CASE MANAGEMENT</i>				
		by VLA solicitors that has not been placed on file, Minor Work files. Litigation files (1.2.0).		
1.5	DUTY LAWYER REPORTS	Reports made when a VLA solicitor has appeared in court for a client. A file is created when there has been more than one appearance (i.e. when there is more than one duty lawyer report) for a client.	Temporary	Destroy 7 years after action completed.
1.6	SOLICITORS' APPOINTMENT RECORDS	Appointment books documenting clients' appointments with Victoria Legal Aid solicitors.	Temporary	Destroy 7 years after action completed.
2	COMMUNITY EDUCATION AND INFORMATION	Development of educational material including pamphlets, books and brochures for community education and research.		
2.1	MASTER COPY	Master copy of educational material and information. Includes pamphlets, books, brochures.	Permanent	Retain as State archives
2.2	DUPLICATE AND REFERENCE COPIES	Duplicate and reference copies of educational material and information	Temporary	Destroy after in accordance with Normal Administrative Practice as defined in PROV standards.
3	COMPUTER AND STATISTICAL REPORTS			
3.1		Reports, regardless of format, available from Victoria Legal Aids LAO, similar and subsequent computer	Temporary	Keep in agency

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No	Function/Activity	Description	Status	Disposal Action
<i>ELECTRONIC DATA</i>				
		systems		
4	ELECTRONIC DATA			
4.1		Data in Victoria Legal Aid's LAO, similar and subsequent computer systems.		