

**Retention and Disposal Authority for Records of the Legal Services
Commissioner**

Authority number: PROS 08/11 VAR 2



PROS 08/11 VAR 2

**Retention and Disposal
Authority for Records of the
Legal Services Commissioner**

Issued Date: 13/12/2021

Retention and Disposal Authority for Records of the Legal Services Commissioner

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Variation 1

Public Records Act 1973 (Section 12)

**Retention and Disposal Authority for Records of the Legal Services
Commissioner**

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 Services Commissioner, issued as Public Record Office Standard (PROS) 08/11 on 06/01/2009, as follows:

Extend the application of this Standard until 31/12/2021

This Variation shall have effect from its date of issue.

[signed]

Justine Heazlewood

Director and Keeper of Public Records

Date: 19/11/2018

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

Variation 2

Public Records Act 1973 (Section 12)

**Retention and Disposal Authority for Records of the Legal Services
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[approved]

Justine Heazlewood

Director and Keeper of Public Records

Date: 13/12/2021

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

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**Retention and Disposal Authority for Records of the Legal Services
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**Retention and Disposal Authority for Records of the Legal Services
Commissioner**

Retention and Disposal Authority No	PROS 08/11 VAR 2
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Scope	
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Status	Issued by Keeper
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Issue Date	13/12/2021
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Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

List of Functions and Activities covered

Reference	Function	Activity	Page
1	ENQUIRIES AND COMPLAINTS MANAGEMENT		11
2	DISCIPLINARY APPLICATIONS		12
3	EDUCATION		13

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

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.

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

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.

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 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.

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). The storage of public records identified in this Authority must also be in accordance with the requirements of Public Record Office Standard PROS 20/02 Storage.

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

Concurrence of Public Office

This Authority has the concurrence of:

Signature: [signed]

Name: Victoria Martes

Position: Legal Services Commissioner

Date: 23/12/2008

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 Legal Services Commissioner. 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: 06/01/2009

Retention and Disposal Authority for Records of the Legal Services Commissioner

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No	Function/Description	Status	Disposal Action
1.0	<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	<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>	Permanent	Retain as State archives
1.2	<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>	Temporary	Destroy 7 years after last action.
1.3	<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 LSCs 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>	Temporary	Destroy 7 years after last action.

Retention and Disposal Authority for Records of the Legal Services Commissioner

Authority number: PROS 08/11 VAR 2

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DISCIPLINARY APPLICATIONS

2.0	<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	<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>	Permanent	Retain as State archives
2.2	<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>	Temporary	Destroy 7 years after last action.

Retention and Disposal Authority for Records of the Legal Services Commissioner

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No	Function/Description	Status	Disposal Action
<i>EDUCATION</i>			
3.0	<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	<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>	Temporary	Destroy 7 years after action completed.