

Public Record Office Victoria

DISPOSAL STANDARD PROS 22/04

Version number: 1.1
Issue Date: 31 May 2022
Expiry Date: 31 May 2032

This Standard sets out the principles and requirements that Victorian public offices must comply with in order to lawfully dispose of public records. Public records may be disposed of by authorised destruction or custody transfer.

Records created in all formats and held in all systems and storage environments must be disposed of in accordance with this Standard.

The Disposal Standard is comprised of the following areas:

- Authorisation
- Implementation
- Transfer obligation

Introduction

Authority of Standards

Under section 12 of the *Public Records Act 1973*, 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 public offices to apply those Standards to records under their control.

Heads of public offices are responsible under section 13b of the *Public Records Act 1973* for carrying out a program of efficient management of public records. The program of records management needs to cover all records created by the public office, in all formats, media and systems across the organisation.

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.

Obligation

It is mandatory for all Victorian public offices to follow the principles and comply with the requirements of the Standards issued by the Keeper.

Scope of Disposal

For the purposes of this Standard, disposal includes:

- transferring permanent value records to Public Record Office Victoria (PROV) custody
- destroying records by eliminating or deleting them beyond any possible reconstruction
- relinquishing custody of records (i.e. to another public office as part of a Machinery of Government (MoG) change or to a commercial organisation as part of privatising government functions).

The migration or movement of records from one system or storage environment to another is not covered by this Standard.

Records created in all formats and held in all systems and storage environments must be disposed of in accordance with this Standard.

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Principles & Requirements

1. AUTHORISATION

PRINCIPLE: The disposal of public records is lawful and authorised

REQUIREMENTS

1. Public offices must dispose of public records lawfully and with the appropriate authorisation. This must be for records held in all formats, systems and storage environments, including back-up, disaster recovery and outsourced storage environments. The Officer in Charge of the public office is responsible for ensuring this occurs, in compliance with this Standard.

The authorisation required by the public office depends on the disposal action being undertaken.

Disposal actions which require authorisation from the Keeper are:

- transferring permanent value public records to PROV as State Archives
- destroying public records
- transferring **original** public records to a government body outside the Victorian public sector – copies can be provided without Keeper authorisation (see *PROS 19/03 Strategic Management Standard*)
- transferring **original** public records to a Class A or Class B Place of Deposit¹ – copies can be provided without Keeper authorisation (see *PROS 20/02 Storage Standard*).

Disposal actions which **DO NOT** require authorisation from the Keeper and should be approved by the appropriate person within the public office are:

- transferring original public records to another Victorian public office (MoG change)

Actions which are not considered disposal and **DO NOT** require authorisation from the Keeper are:

- providing copies of public records to a non-government body of a government body outside the Victorian public sector
- moving public records to a different storage environment or provider or migrating to a different system.

2. Public offices must ensure that they have appropriate disposal authorisation instruments to:

- identify permanent value records
- specify minimum retention periods for temporary value records; and
- authorise the destruction of temporary value records once time-expired.

The usual disposal authorisation instruments are Retention and Disposal Authorities (RDAs). If the appropriate RDA does not exist, public offices should consult with PROV to determine an effective approach.

Outcomes could be:

- the public office developing a new RDA
- agreement between PROV and the public office that records are of permanent value and can be transferred to PROV without an RDA in place
- the public office seeking single instance authorisation from the Keeper for the destruction of records
- agreement from PROV that the public office can use an existing disposal authorisation instrument issued for a similar function.

¹ Class A and Class B Places of Deposit have been assessed by PROV and appointed by the Minister responsible for PROV to store specified categories of public records.

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3. Destruction of public records must be authorised by the Keeper through the application of an authorised disposal instrument.

Public records cannot lawfully be destroyed under an authorised disposal instrument until their minimum required retention period has expired.

Facilitative records described below are pre-authorised by the Keeper for destruction under Normal Administrative Practice (NAP) principles:

- working documents, such as notes or calculations, used to assist in the preparation of other records
- minor drafts and transitory documents, where the content is reproduced elsewhere and the information will not be needed to show how the work has progressed or actions approved
- minor updates of content, such as those in databases, which will not be needed to show actions, decisions or approvals
- communications for the purpose of making minor arrangements
- duplicate copies
- periodic backups of records, information, data, software and settings for recovery in case of technical failure and/or catastrophe and are duplicate copies of official business records/data that is held elsewhere on a managed system.

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4. Authorisation to destroy public records is **WITHDRAWN** and **NOT GIVEN** (even if specified in an RDA or other authorised disposal instrument) if:

- it is reasonably likely that they will be needed in a current or future legal proceeding. This includes any civil or criminal proceeding or an inquiry where evidence may be given before a court or person acting judicially such as a Royal Commission or Board of Inquiry
- they are required for meeting any Freedom of Information (FOI) applications which are not finalised
- they are required for audits or investigations which are not yet finalised; and/or
- they are subject to disposal freezes applied by government or by the organisation.

2. IMPLEMENTATION

PRINCIPLE: The officer in charge of a public office is responsible for ensuring the disposal of public records is properly planned, managed, resourced and conducted correctly

REQUIREMENTS

1. Public offices must determine disposal requirements for the records they are responsible for and ensure they have appropriate and adequate disposal authorisation instruments they can apply. This includes records held in all formats, systems and storage environments, including back-up, disaster recovery and outsourced storage environments.

2. Development of disposal authorisation instruments must be underpinned by a robust and sound appraisal of business functions to ascertain how long the records generated by the function need to be kept to meet business needs, organisational accountability and community expectations. This includes considering the impacts and risks if the records are not retained.

Legislative and regulatory requirements and the current and future needs of stakeholders must be taken into account when determining record retention requirements.

Public office functions and the records generated by those functions must be appraised in accordance with the [Appraisal Statement for Public Records Required as State Archives](#) to identify the permanent value records which must be transferred to PROV.

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3. Systems must be selected, designed and configured so that disposal requirements can be met. To achieve this, the public office must understand upfront what records the system will create and hold and how long they will need to be retained.

When implementing new systems or redeveloping existing systems, disposal requirements must be identified and included in architecture and configuration decisions. This may be through:

- ensuring retention and disposal requirements can be met in that system (managing in place); or
- ensuring that the system will enable the extraction of records and required metadata into another system which will then manage the retention/disposal.

End of life planning for systems must ensure that records, with required metadata, are retained, accessible for authorised use and properly managed until they are able to be lawfully destroyed or disposed of. For example, through transfer of permanent records to PROV, or migration into another system.

If it is decided to continue to hold temporary value records which are not time expired², in a system which is not in active use, arrangements must be made which will ensure that the records are protected and can be accessed and utilised for authorised purposes for their minimum required retention period.

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4. Record disposal activities must be adequately resourced and undertaken in an efficient and timely manner. Disposal actions must be undertaken in such a way that any personal, confidential or sensitive information is protected and cannot be accessed inappropriately during the process³. The rigour of these arrangements will depend on the confidentiality and sensitivity of the records.

Staff or contractors who will be undertaking disposal actions must receive adequate instructions to ensure this is done correctly.

Public offices must document the disposal actions they undertake at a record series or collection level. For example, high level descriptions of record collections transferred to another agency as part of a MoG change. Upon request, public offices must report to PROV on their disposal planning, arrangements and practices.

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5. Adequate controls must be in place to ensure that record destruction is undertaken appropriately and correctly. Examples of controls include obtaining business unit approval before destruction occurs.

Destruction methods must ensure that records are completely eliminated so that they cannot be reconstructed or their content extracted or read.

For digital records, the records should be “hard deleted” and not held elsewhere on servers, preservation libraries, storage devices or in other storage or disaster recovery environments. However, it is recognised that destroying records stored in a back-up environment at the same time as the records held in the live environment may not be feasible operationally. Instead, destruction may occur when the entire back-up is destroyed or overwritten. If this approach is taken, a proactive and managed program to regularly and completely destroy time-expired back-up records must be in place. The public office must also ensure that the records stored in the back-up environment cannot be inappropriately accessed or used.

In cases where hard deletion is not feasible, other measures should be applied to ensure the records cannot be inappropriately accessed or used. For example, where digital records are held in immutable, WORM or time-locked storage environments, access should be restricted to authorised storage administrators only.

For physical records, the records should be shredded, pulped or similar.

² Time expired means records have reached the age where they may be lawfully destroyed.

³ Meeting this requirement will assist those public offices subject to the *Privacy and Data Protection Act (Vic) 2014* comply with the Victorian Protective Data Security Standards issued by the Office of the Victorian Information Commissioner as it aligns with requirements to manage disposal (archiving / destruction) in accordance with the security value of information. It also aligns with the Victorian Government Risk Management Framework which requires taking a risk-based approach to implementing controls to manage the confidentiality, integrity and availability of public sector information.

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6. When contracting a provider to deliver services, programs or products on behalf of the public office, disposal requirements must be identified and included in contracts and arrangements⁴. Adequate resourcing must be assigned for this.

Contractual provisions must ensure that:

- public records are only destroyed through the application of the appropriate authorised disposal instrument
- authorised destruction methods ensure that records cannot be reconstructed or their content read or extracted
- permanent value records are identified and transferred to PROV with the appropriate metadata and in accordance with PROV requirements
- any requirements in relation to the export or movement of records are specified (i.e. that the public office must be notified or give their authorisation before records are moved between systems or to a different provider or location)
- the public office is able to obtain the records or access to the records when needed (including to meet FOI and other obligations)
- proper arrangements are made for records when the contract concludes. For example, authorised destruction or return of records to the custody of the public office, with the appropriate metadata and in suitable formats for import into their systems
- the provider does not keep a copy of the records unless the contract specifies that this is allowed.

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7. Public offices must take reasonable steps to ensure no public records are unlawfully removed from government custody. Where this has occurred, the public office must take reasonable steps to recover them.
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3. TRANSFER OBLIGATION

PRINCIPLE: Permanent value records are transferred to PROV when no longer required to support current business

REQUIREMENTS

1. Public offices must make arrangements with PROV for the transfer of permanent value records once they are no longer required to support current business.

On request, public offices may be required to provide justification for their continued retention of permanent records. If not satisfied with the justification, the Keeper may issue a direction to transfer permanent records to which the public office must comply.

Once transferred to PROV, records are in the custody and under the control of the Keeper. The Keeper is responsible for ensuring their preservation and providing access to records which are open to the public. The public office which transferred or has inherited responsibility for them is considered to be the responsible agency.

The responsible agency is able to access records which are “closed” to other agencies and the public for a period of time due to their sensitivity/confidentiality. This is so the responsible agency can use the records for their own business and legal purposes. This includes supplying records for FOI requests, audits, Royal Commissions, parliamentary inquiries, redress schemes or the like.

⁴ This aligns with s88 (2) of the *Privacy and Data Protection Act 2014* which states: “A public sector body Head for an agency ... must ensure that a contracted service provider of the agency or body does not do an act or engage in a practice that contravenes a protective data security standard in respect of public sector data collected, held, used, managed, disclosed or transferred by the contracted service provider for the agency or body.”

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2. Public offices must comply with PROV requirements and instructions for preparing, documenting and transmitting/transporting permanent value records to PROV.
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