

**Retention and Disposal Authority for Records of the Historical
Homosexual Conviction Expungement Scheme**

Authority number: PROS 18/02



PROS 18/02

**Retention and Disposal
Authority for Records of the
Historical Homosexual
Conviction Expungement
Scheme**

Issued Date: 21/05/2018

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

INTRODUCTION

Context

Historical Homosexual Conviction Expungement Scheme

This Retention and Disposal Authority is for records relating to the expungement of convictions or findings of guilt relating to "historical homosexual offences" as defined in the Historical Homosexual Conviction Expungement Scheme, created under Part 8 of the *Sentencing Act 1991*.

Agencies covered under the scope of this Retention and Disposal Authority are:

- The Department of Justice and Regulation
- The Victorian Civil and Administrative Tribunal
- The Office of Public Prosecutions
- The Supreme Court
- The County Court
- The Magistrates' Court
- The Children's Court
- Victoria Police

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

Copyright Statement

© State of Victoria 2018



Except for any logos, emblems, and trade marks, this work (PROS 18/02 the Historical Homosexual Conviction Expungement Scheme) is licensed under a Creative Commons Attribution 4.0 International license, to the extent that it is protected by copyright. Authorship of this work must be attributed to the Public Record Office Victoria. To view a copy of this license, visit <http://creativecommons.org/licenses/by/4.0/>

Disclaimer

The State of Victoria gives no warranty that the information in this version is correct or complete, error free or contains no omissions. The State of Victoria shall not be liable for any loss howsoever caused whether due to negligence or otherwise arising from the use of this Standard.

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Retention and Disposal Authority No	PROS 18/02
--	------------

Scope	Records of the assessment of application for the expungement of historical homosexual offences, applies to: <ul style="list-style-type: none">• the Department of Justice and Regulation• the Victorian Civil and Administrative Tribunal• the Office of Public Prosecutions• the Supreme Court• the County Court• the Magistrates' Court• the Children's Court• Victoria Police.
--------------	--

Status	Issued by Keeper
---------------	------------------

Issue Date	21/05/2018
-------------------	------------

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

List of Functions and Activities covered
--

Reference	Function	Activity	Page
1	Applications and Assessment of Applications		10

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

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 Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

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 Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

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*

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

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 Department of Justice and Regulation; Office of Public Prosecutions; Victorian Civil and Administrative Tribunal; County Court of Victoria; Victoria Police (including Office of the Chief Commissioner of Police); Supreme Court of Victoria; Children's Court of Victoria; Magistrates' Court of Victoria. 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: 21/05/2018

Retention and Disposal Authority for Records of the Historical Homosexual Conviction Expungement Scheme

Authority number: PROS 18/02

No	Function/Description	Status	Disposal Action
1.0	<p>Applications and Assessment of Applications</p> <p>The activities involved in handling and assessing applications for the expungement of historical convictions related to homosexual offences under the Historical Homosexual Conviction Expungement Scheme, created under Part 8 of the <i>Sentencing Act</i> 1991. Includes appeals and assessment of appeals.</p> <p>See <i>PROS 07/01 Retention and Disposal Authority for Records of Common Administrative Functions 7.7.2 Government Relations - Legislation</i> for records of the establishment of the Scheme.</p> <p>See <i>PROS 07/01 Retention and Disposal Authority for Records of Common Administrative Functions various classes</i> for records of the administration of the Scheme.</p>		
1.1	<p>Applications - Not Appealed</p> <p>Records of successful and unsuccessful applications for which an appeal is not lodged with the Victorian Civil and Administrative Tribunal (VCAT) or the relevant appeal court within the appeal period.</p> <p>Includes:</p> <ul style="list-style-type: none"> • application forms • police history checks and other historical records relating to the conviction • correspondence and secretarial briefs • notices of decision • requests to expunge. 	Temporary	Destroy 6 months after the appeal period has expired.
1.2	<p>Applications - Appealed</p> <p>Records of successful and unsuccessful applications for which an appeal is lodged with VCAT or a relevant appeal court, either by the applicant or a data controller.</p> <p>Includes:</p> <ul style="list-style-type: none"> • application forms • documentation of appeals • police history checks and other historical records relating to the conviction • correspondence and secretarial briefs • notices of decision • requests to expunge. 	Temporary	Destroy 6 months after the date of decision by VCAT or relevant appeal court.