

**Retention and Disposal Authority for Records of Office of the Public Advocate**

Authority number: PROS 03/02 VAR 3



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**Retention and Disposal Authority for Records of  
Office of the Public Advocate**

Issued Date: 13/06/2018

# Retention and Disposal Authority for Records of Office of the Public Advocate

Authority number: PROS 03/02 VAR 3

## Public Records Act 1973

### (Section 12)

# Retention & Disposal Authority for the Office of the Public Advocate (PROS 03/02)

#### Variation 1:

In accordance with section 12 of the *Public Records Act 1973* (as amended), I hereby vary the Standard applying to Records of the Office of the Public Advocate, issued as Public Record Office Standard (PROS 03/02) on 11/07/2003, as follows:

#### Extension of the application of the Authority until varied or revoked

Class No	Description
1.1.0	Amendment to class description for clarity, retention extended from 2 to 5 years after investigation has concluded
1.2.4	New class to authorise disposal of Section 42K notifications
1.2.5	New class to authorise disposal of Section 42M statements
1.2.6	New class to authorise disposal of Section 42T certifications
1.3.2	Class description amended and subclasses removed. Activity no longer undertaken by OPA so class is limited to records created prior to 2013. Previous class 1.3.2 (i) removed from RDA, records not created by OPA. Previous class 1.3.2 (ii) now included in 1.3.2
1.4.0	Class description amended to be format agnostic

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3.0.0	Scope broadened to cover all volunteer programs, numbering altered to support additional subclasses
3.1.1	Previously class 3.1.0
3.1.2	Previously class 3.2.0
3.2.0	New classes (3.2.1 - 3.2.2) to authorise disposal of Independent Third Persons Program records
3.3.0	New classes (3.3.1 - 3.3.2) to authorise disposal of Corrections Independent Support Officer (CISO) Program records

This Variation shall have effect from its date of issue.

[signed]

Justine Heazlewood

**Director and Keeper of Public Records**

Date of issue: 19/2/2014

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Authority number: PROS 03/02 VAR 3

## Public Records Act 1973

### (Section 12)

# Retention & Disposal Authority for the Office of the Public Advocate (PROS 03/02)

#### Variation 2:

In accordance with section 12 of the *Public Records Act 1973* (as amended), I hereby vary the Standard applying to Records of the Office of the Public Advocate, issued as Public Record Office Standard (PROS 03/02) on 11/07/2003, as follows:

#### Extension of the application of the Authority until varied or revoked

Class No	Description
1.2.2	Class description amended to describe conditions where cases of note include formal advocacy
1.2.4	Amendment to the disposal trigger wording

This Variation shall have effect from its date of issue.

[signed]

Justine Heazlewood

**Director and Keeper of Public Records**

Date of issue: 15/11/2016

# Retention and Disposal Authority for Records of Office of the Public Advocate

Authority number: PROS 03/02 VAR 3

## Public Records Act 1973

### (Section 12)

# Retention & Disposal Authority for the Office of the Public Advocate (PROS 03/02)

### Variation 3:

In accordance with section 12 of the *Public Records Act 1973* (as amended), I hereby vary the Standard applying to Records of the Office of the Public Advocate, issued as Public Record Office Standard (PROS 03/02) on 11/07/2003, as follows:

### Extension of the application of the Authority until varied or revoked

Class No	Description
1.5.1	New class added for various sections of the <i>Medical Treatment Planning and Decisions Act 2016</i> pertaining to medical treatment decisions
1.5.2	New class added for Investigations of Medical Treatment, as reflected in the <i>Medical Treatment Planning and Decisions Act 2016</i>

This Variation shall have effect from its date of issue.

[signed]

Justine Heazlewood

**Director and Keeper of Public Records**

Date of issue: 13/06/2018

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## Retention and Disposal Authority for Records of Office of the Public Advocate

Authority number: PROS 03/02 VAR 3

## Retention and Disposal Authority for Records of Office of the Public Advocate

<b>Retention and Disposal Authority No</b>	PROS 03/02 VAR 3
<b>Scope</b>	This RDA authorises the disposal of records created by the Office of the Public Advocate. Activity 3.1 also applies to equivalent records of the Independent Prison Visitors Scheme administered by the Department of Justice and Community Safety.
<b>Status</b>	Issued by Keeper
<b>Issue Date</b>	13/06/2018

## Retention and Disposal Authority for Records of Office of the Public Advocate

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# Retention and Disposal Authority for Records of Office of the Public Advocate

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## Introduction

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### 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](http://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 Office of the Public Advocate**

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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:

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Signature: [signed]

Name: J Gardner

Position: Public Advocate

Date: 08/07/2003

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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 (also known as a Retention and Disposal Authority) applying to Office of the Public Advocate. 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: 11/07/2003

## Retention and Disposal Authority for Records of Office of the Public Advocate

**Authority number: PROS 03/02 VAR 3**

No	Function/Activity	Description	Status	Disposal Action
1	<b>OFFICE OF PUBLIC ADVOCATE CASE MANAGEMENT</b>	Records of Office of Public Advocates (OPA) guardianship of clients and advocacy on behalf of clients either before the Victorian Civil and Administrative Tribunal (VCAT) or elsewhere.		
1.1	<b>Investigations</b>	Records of investigations referred to OPA by VCAT. Includes recommendations to VCAT on the need for urgent hearings.  The records in this class are only for those cases where there is <u>no other subsequent action taken</u> by OPA. Includes OPA notes about the case, supporting material and OPAs recommendation to VCAT.	Temporary	Destroy 5 years after investigation has concluded.
1.2	<b>Advocacy</b>	Records where the OPA acts on the behalf of a client in a situation that does not require an order.		
1.2.1	<b>Short Term Advocacy</b>	Records of situations in which OPA intervention is minimal and the issue is resolved without a meeting. This class does not apply to records that are on files containing more formal advocacy (see below) or applications to VCAT.	Temporary	Destroy 5 years after the case is closed.
1.2.2	<b>Formal Advocacy - Cases of Note</b>	Records resulting from formal advocacy processes involving OPA and other parties that establish precedent, raise systemic issues, or involve contentious issues of medical consent. The cases may be either referred to OPA from VCAT or arise from other sources.  Cases of note refers to formal advocacy:	Permanent	Retain as State Archives, Transfer to PROV

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No	Function/Activity	Description	Status	Disposal Action
<i>OFFICE OF PUBLIC ADVOCATE CASE MANAGEMENT - Advocacy</i>				
		<ul style="list-style-type: none"> <li>• that involves restrictive interventions under Part 7 of the <i>Disability Act 2006</i>;</li> <li>• that involves compulsory treatment under Part 8 of the <i>Disability Act 2006</i>;</li> <li>• matters referred to a higher court which have a significant or sensitive bearing on the interpretation of legislation; and</li> <li>• where OPA is appointed as litigation guardian.</li> </ul>		
1.2.3	<b>Formal Advocacy Routine Issues</b>	Records resulting from advocacy processes involving OPA and other parties that are routine in nature and are not Cases of Note (see class 1.2.2 above). The cases may be either referred to OPA from VCAT or arise from other sources.	Temporary	Destroy 10 years after the case is closed.
1.2.4	<b>Section 42K Notice - Medical or dental treatment - no guardian or person responsible.</b>	Notifications received from dentists or medical practitioners advising the Public Advocate of proposed medical treatment for a person unable to consent to treatment and where there is no person responsible or guardian appointed under <i>Guardianship and Administration Act 1986</i> to consent to the treatment on his or her behalf.	Temporary	Destroy 5 years after notification registered.
1.2.5	<b>Statement 42M - Medical or Dental Treatment - without consent of person</b>	Statements lodged with the Public Advocate by registered practitioners advising the Public Advocate that the registered practitioner believes on reasonable grounds that treatment proposed is in the best interests of a person, however the person	Temporary	Destroy 5 years after the statement is lodged with OPA.

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No	Function/Activity	Description	Status	Disposal Action
<i>OFFICE OF PUBLIC ADVOCATE CASE MANAGEMENT - Advocacy</i>				
	<b>responsible</b>	responsible or guardian appointed under the <i>Guardianship and Administration Act 1986</i> has not consented to the treatment.		
1.2.6	<b>Section 42T - Procedural Authorisation</b>	Certification received from registered practitioners advising the Public Advocate of a medical procedure carried out for the purposes of medical research for a person unable to consent to treatment and where there is no person responsible or guardian appointed under <i>Guardianship and Administration Act 1986</i> to consent to the treatment on his or her behalf.	Temporary	Destroy 5 years after the certificate is lodged with OPA.
1.3	<b>Guardianship</b>	Client records where OPA is appointed as Guardian by VCAT and an order is issued.		
1.3.1	<b>Case files - Public Advocate Appointed as Guardian</b>	Case records created for applications for orders that result in the Public Advocate as the appointed guardian. Includes records resulting from the continuing guardianship of the client by the Public Advocate.	Permanent	Retain as State Archives, Transfer to PROV
1.3.2	<b>Private Guardian Support - Program records</b>	Records created up to 2013 resulting from the private guardian support program in cases where a private guardian has been appointed by VCAT and OPAs involvement in the case is limited.	Temporary	Destroy 5 years after the case is closed.
1.4	<b>Registration and control of cases</b>	Registration and management of cases throughout OPA including client advocacy, guardianship and investigations.  Includes client name, file number (if applicable), OPA	Permanent	Retain as State Archives, Transfer to PROV

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No	Function/Activity	Description	Status	Disposal Action
<i>OFFICE OF PUBLIC ADVOCATE CASE MANAGEMENT - Medical Treatment Decision Making</i>				
		officer, summary of the case, region.		
1.5	<b>Medical Treatment Decision Making</b>	Records relating to OPA's medical consent function, which allows people to complete an advance care directive, appoint a medical treatment decision maker and appoint a support person. The medical consent function also sets out the process for health practitioners when a patient does not have decision-making capacity to consent to medical treatment.		
1.5.1	<b>Records documenting:</b>	<ul style="list-style-type: none"> <li>• Medical treatment decisions made by OPA in response to requests received from medical practitioners where the patient lacks decision making capacity and there is no advance care directive nor decision maker</li> <li>• Notifications received from health practitioners where the health practitioner believes the refusal of treatment by a medical treatment decision maker was made without knowing the patient's preferences;</li> <li>• Applications made to VCAT concerning cases identified by OPA considered to demonstrate unreasonable refusal of treatment decisions by the medical treatment decision maker;</li> <li>• Notifications received from health practitioners advising medical treatment for the purposes of medical research for a person unable to consent to the treatment, there is no advance</li> </ul>	Temporary	Destroy 15 years after last request was closed provided the patient concerned has reached 30 years of age.



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No	Function/Activity	Description	Status	Disposal Action
<i>OFFICE OF PUBLIC ADVOCATE CASE MANAGEMENT - Medical Treatment Decision Making</i>				
		care directive nor a medical treatment decision maker		
1.5.2	<b>Investigations - Medical Treatment</b>	Records of investigations referred to OPA by VCAT, with regards to medical treatment or medical treatment decision makers. Includes recommendations to VCAT on the need for urgent hearings, and supporting documentation, such as medical reports.	Temporary	Destroy 5 years after the investigation has concluded.
2	<b>POLICY DEVELOPMENT</b>			
2.1	<b>"Systemic Files"</b>	Files containing policy and other information of a systemic nature affecting OPA's operating environment. Records include investigations of system wide issues for example: <ul style="list-style-type: none"> <li>• Interagency Guideline for Addressing Violence, Neglect and Abuse (IGUANA)</li> <li>• Restrictive Interventions in Victoria's Disability Sector</li> <li>• Supported decision making</li> <li>• Inquiry into the involuntary or coerced sterilisation of people with disabilities in Australia</li> </ul>	Permanent	Retain as State Archives, Transfer to PROV
3	<b>VOLUNTEER</b>			

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No	Function/Activity	Description	Status	Disposal Action
<i>VOLUNTEER PROGRAMS - Community Visitors Program</i>				
	<b>PROGRAMS</b>			
3.1	<b>Community Visitors Program</b>	Community Visitors are appointed under three Acts, the <i>Supported Residential Services (Private Proprietors) Act 2010</i> , the <i>Disability Act 2006</i> and the <i>Mental Health Act 1986</i> ) to visit residential institutions and report on conditions.		
3.1.1	<b>Community Visitors' Reports</b>	Except for those copies held on case files dealing with major or persistent issues (see class 3.1.2 below), this class applies to all copies of Visitors Reports whether held by the Visitor, the institution visited or by the OPA.	Temporary	Destroy 7 years after issues resolved.
3.1.2	<b>Community Visitors Regional Program Records</b>	Records resulting from the administration of the Community Visitors Program. Records may include <ul style="list-style-type: none"> <li>• correspondence with Department of Human Services, service providers</li> <li>• minutes of meetings with Community</li> <li>• Visitors</li> <li>• investigations and reports of issues that are persistent or major, being of a nature that cannot be resolved locally, a copy of a Visitor's report is placed on the regional program separate to the routine reports. This class excludes investigations and reports of issues that are systemic in nature (see class</li> </ul>	Temporary	Destroy 10 years after action complete.

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No	Function/Activity	Description	Status	Disposal Action
<i>VOLUNTEER PROGRAMS - Independent Third Persons Program</i>				
		2.1.0 above).		
3.2	<b>Independent Third Persons Program</b>	Independent Third Persons (ITPs) are volunteers who assist people (as a witness, offender or victim) with a cognitive disability or mental illness during interviews, or when giving formal statements to Victoria Police. The program uses experienced volunteers to support offenders, witnesses and victims throughout the interview process. The volunteer will assess the persons understanding of the process and their understanding of their rights.		
3.2.1	<b>Independent Third Person Program records</b>	Records resulting from the administration of the Independent Third Persons Program. Records may include <ul style="list-style-type: none"> <li>• correspondence with Victoria Police</li> <li>• minutes of meetings with Independent Third Persons</li> </ul>	Temporary	Destroy 7 years after action complete.
3.2.2	<b>Independent Third Person Interview Records</b>	Records resulting from an Independent Third Persons supporting persons with a cognitive disability or mental illness during an interview with police.	Temporary	Destroy 7 years after action complete.
3.3	<b>Corrections Independent Support Officer (CISO) Program</b>	This program works with prisoners with an intellectual disability under sentence or remand who are charged with breaches of internal prison regulations, pursuant to the <i>Corrections Regulations</i> 2009 and facing a General Manager's Disciplinary Hearing (GMDH). The program uses experienced		

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No	Function/Activity	Description	Status	Disposal Action
<i>VOLUNTEER PROGRAMS - Corrections Independent Support Officer (CISO) Program</i>				
		volunteers and OPA staff to assist the prisoner by assessing the persons understanding of the charges, facilitating their communication with the hearings officer and ensuring they understand their rights.		
3.3.1	<b>Corrections Independent Support Officer (CISO) Program Records</b>	Records resulting from the administration of the Corrections Independent Support Program. Records may include correspondence with Corrections Victoria and prisons.	Temporary	Destroy 7 years after action complete.
3.3.2	<b>Corrections Independent Support Officer (CISO) Interview records</b>	Records resulting from a CISO supporting a prisoner during a General Manager's Discipline Hearing. Third Persons support persons with a cognitive disability or mental illness during an interview.	Temporary	Destroy 7 years after action complete.