

Retention and Disposal Authority for Records of Expert Panels

Authority number: PROS 18/03



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Issued Date: 21/05/2018

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INTRODUCTION

Administrative Context

Expert Panels Context Description

Expert Panels

This Retention and Disposal Authority has been developed in consultation with the Convenor of Medical Panels. It is to provide coverage for records created by Expert Panels, where a group of specialised practitioners are appointed to a panel to discuss, deliberate, and make recommendations on a particular case or topic. This will include panels such as those administered by the Convenor of Medical Panels and may also be applied to other agencies.

The scope for records covered by the RDA includes records relating to the establishment and administration of Expert Panels, activities related to case management, and the handling of complaints relating to the conduct of panel members.

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

- Convenor of Medical Panels
- Police Registration and Services Board
- Other agencies by application to PROV

Agencies excluded from the scope of this Retention and Disposal Authority are:

- Appeal Costs Board

Convenor of Medical Panels

Medical Panels in this document refers to the Convenor of Medical Panels and individually constituted Medical Panels, together with administrative employees where the context requires.

The Convenor of Medical Panels' function is to provide expert opinions on medical issues subject to dispute under the *Workplace Injury, Rehabilitation and Compensation Act 2013* (WIRC Act) and the *Wrongs Act 1958*. Its function is unique in government and has existed within the workers' compensation system since the early 1990s and since 2003 for Wrongs Act matters

In 1989 the Treasurer of Victoria introduced a number of proposed amendments to the *Accident Compensation Act 1985*. Prior to the changes, all disputes regarding liability or entitlement under the compensation scheme had been heard by the Accident Compensation Tribunal. Hence it was decided to create a new independent body, the WorkCare Appeals Board to hear matters informally. In the event of a dispute, either party could then appeal to the Accident Compensation Tribunal for a hearing before a judge. In addition, the proposed Bill made provision for 'expert medical panels' which, at the discretion of the board or the tribunal, can be called upon to resolve medical questions relevant to the injured workers claim. This was the early inception of Medical Panels.

Each separate Medical Panel is convened by the Convenor or a Deputy Convenor, is independent and has the status of an expert independent medical tribunal. (According to a High Court judgement of 30 October 2013 (*Wingfoot Australia Partners Pty Ltd and Anor v Kocak & Ors* 2013).)

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A dispute is referred to Medical Panels from a Conciliation Officer with the Accident Compensation Conciliation Service, a court, VCAT, a self-insurer under the WIRC Act or WorkSafe Victoria, usually via a WorkSafe Agent for WIRC Act matters, and from law firms representing respondents in *Wrongs Act* matters.

Disputes may arise where there is disagreement or uncertainty about aspects of an injury or medical condition. A Medical Panel is convened to consider each medical question validly referred to it and to provide an opinion and reasons within a specific timeframe (depending on the Act) to the referring party.

An Opinion or Determination of a Medical Panel on a medical question is final and conclusive. An Opinion or Determination can only be reviewed by the Supreme Court on the basis of jurisdictional error, error of law, denial of natural justice or procedural fairness. (Less than 1% of Opinions and Determinations released are subject to judicial review.)

Medical Panels comprises a Convenor (equivalent to a chief executive) and may have one or more Deputy Convenors appointed by the responsible Minister, a list of appointed Panel Members and employees provided by WorkSafe Victoria to support the administration and operations of Medical Panels. Panel Members are medical practitioners covering a range of specialist fields, appointed by the Governor General in Council. Consultants to Medical Panels are medical practitioners or allied health practitioners who are engaged by the Convenor to advise a Medical Panel on specific health matters.

During the 2015/16 financial year 4388 referrals were received at Medical Panels, compared to 5053 received during the 2014/15 financial year.

Core Functions of Medical Panels

Medical Panels' core functions are:

- Making recommendations on appointment of Panel Members to the Minister
- Development and issue of procedures (Convenor's Directions)
- Receiving referrals from referring entities (see below)
- Determining panel composition and scheduling of panels
- Managing referral process
- Issuing Opinions and Determinations
- Managing complaints (e.g. about Panel member conduct).

Functions outside the scope of this RDA are common administrative functions: covered by *PROS 07/01 General Retention and Disposal Authority for Records of Common Administrative Functions*.

WorkSafe provides the funding, staff and administrative support services for the proper functioning of Medical Panels.

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Referrers

Referrers of cases to Medical Panels are:

- Magistrates Court (e.g. Magistrates)
- County Court (Judges)
- Conciliation Officers with Accident Compensation Conciliation Service
- Self-insurers
- WorkSafe Victoria, usually via WorkSafe Agents
- VCAT
- Respondents (Wrongs Act).

Governing Legislation

Legislation

Workplace Injury Rehabilitation and Compensation Act 2013

Wrongs Act 1958

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Scope	<p>This Retention and Disposal Authority provides coverage for records created by Expert Panels, where a group of specialised practitioners are appointed to a panel to discuss, deliberate, and make recommendations on a particular case or topic. The scope includes records relating to the establishment and administration of Expert Panels, activities related to case management, and the handling of complaints relating to the conduct of panel members.</p> <p>Agencies covered under the scope of this Retention and Disposal Authority are:</p> <ul style="list-style-type: none">• Medical Panels Victoria (MPV)• Police Registration and Services Board (PRSB)• Other organisations by application to PROV <p>Agencies excluded from the scope of this Retention and Disposal Authority are:</p> <ul style="list-style-type: none">• Appeal Costs Board
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Status	Issued by Keeper
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Issue Date	21/05/2018
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List of Functions and Activities covered

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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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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 Convenor of Medical Panels. 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

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No	Function/Description	Status	Disposal Action
1.0	<p>PANEL ESTABLISHMENT AND ADMINISTRATION</p> <p>Activities to support Panel proceedings and practice.</p> <p>Includes the establishment of rules and directions governing a Panel in its determination of issues subject to dispute under the relevant legislation and the recruitment and appointment of specialist practitioners eligible to be appointed to the list of Panel Members.</p>		
1.1	<p>Records of continuing value documenting:</p> <ul style="list-style-type: none"> • the formal directions issued by the Convenor under the relevant legislation issued to members and staff on procedures to be followed • master records of nomination and appointment by the Governor-in-Council of Convenor, Deputy Convenor and specialist medical practitioners to the Panel list. Includes resignation and terminations. 	Permanent	Retain as State Archives, Transfer to PROV
1.2	<p>Records documenting:</p> <ul style="list-style-type: none"> • the appointment of the Convenor and Deputy Convenor/s. • records of the application, review of, selection and appointment of panel members • annual declarations of private interests • the ad-hoc appointment of consultants for specific cases. <p>NB: This class refers only to records held by the panel that duplicate, or are inputs to, the master records of appointment of by the Governor-in-Council, see class 1.1</p>	Temporary	Destroy 3 years after appointment or re-appointment ceases.

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No	Function/Description	Status	Disposal Action
<i>CASE MANAGEMENT</i>			
2.0	<p>CASE MANAGEMENT</p> <p>The management of applications and referrals within the jurisdiction of the Panel, from registration to assessment and final outcome.</p> <p>Includes establishment of the Panel to assess the case, registration of referrals, results of Panel examinations and assessments, and final decisions.</p>		
2.1	<p>Records of continuing value documenting:</p> <p>Summary or register of cases referred for assessment and decision which includes</p> <ul style="list-style-type: none"> • Details of each referral, • Parties, • Materials lodged, • Composition of the Panel assigned to the case, • Status of the case, • Dates of final decisions and release dates. 	Permanent	Retain as State Archives, Transfer to PROV
2.2	<p>Records of long term value documenting:</p> <ul style="list-style-type: none"> • The final judgement or decision of the Panel for each case. • Case records for referrals that proceed - as required by the governing legislation, regulations or rules - including referral documentation, validation, draft decision, decision reviews prior to final release. 	Temporary	Destroy 25 years after Panel or Court decision issued.
2.3	<p>Records documenting:</p> <ul style="list-style-type: none"> • The selection, assignment and scheduling of a Panel to a case • Case records for referrals that do not proceed - withdrawn and abandoned cases - includes referral, receipt and validation records • The deliberations and outcomes from a Supreme Court judicial review of a Panel decision - includes copies of documents from original case file, correspondence between the Court and the Panel's legal representative and a copy of the Court's decision, including for quashed cases. • Notes created and kept by Panel Members relating to all cases. 	Temporary	Destroy 5 years after date of withdrawal or abandonment or Panel or Court decision issued.

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No	Function/Description	Status	Disposal Action
<i>COMPLAINTS</i>			
3.0	<p>COMPLAINTS</p> <p>The registration and management of complaints relating to the conduct of Panel Members.</p> <p>See <i>PROS 07/01 Retention and Disposal Authority for Records of Common Administrative Functions 2.3 Complaints</i> for records of complaints not relating to the conduct of panel members.</p>		
3.1	<p>Records documenting:</p> <ul style="list-style-type: none"> • Complaints and resolution of issues relating to the conduct of panel members, including the register of complaints, letters of complaint and any additional information, and correspondence relating to the investigation and resolution of the complaint. 	Temporary	Destroy 10 years after action completed.