

Retention and Disposal Authority for Records of the Victorian Civil and Administrative Tribunal

Authority number: PROS 16/03



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**Retention and Disposal Authority for Records of
the Victorian Civil and Administrative Tribunal**

Issued Date: 21/03/2016

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Retention and Disposal Authority for Records of the Victorian Civil and Administrative Tribunal

Retention and Disposal Authority No	PROS 16/03
Scope	Records of the Victorian Civil and Administrative Tribunal. For records of dispute resolution through mediation use PROS 15/04 RDA for Records of Alternative Dispute Resolution Services.
Status	Issued by Keeper
Issue Date	21/03/2016

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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.

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.

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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:

[Signed]

Name: Justice Greg Garde AO RFD

Position: President, Victorian Civil and Administrative Tribunal

Date: 18/01/2016

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 Victorian Civil and Administrative Tribunal. 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: 21/03/2016

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INTRODUCTION

Context

Background

The **Victorian Civil and Administrative Tribunal (VCAT)** began operations on 1 July 1998, amalgamating 15 boards and tribunals to offer a one-stop shop dealing with a range of disputes. In accordance with the Act, a Supreme Court judge leads VCAT as president, and County Court judges serve as vice presidents. Applications are heard and determined by deputy presidents, senior members and ordinary members. Members have a broad range of specialised skills and qualifications that enable VCAT to hear and determine cases of varying complexity and subject matter. The Rules Committee, appointed under the Act, approves rules of practice and procedure, and practice notes.

VCAT's purpose is to deliver a modern, accessible, informal, efficient and cost-effective tribunal justice service to all Victorians, while making quality decisions. VCAT's decisions directly impact more than one million Victorians every year. In addition to the approximately 225,000 parties attending VCAT, at least four other people have a direct interest in such matters, including family members, business associates, company employees and local residents.

Governing Legislation

Legislation

Victorian Civil and Administrative Tribunal Act 1998

Guardianship and Administration Act 1986

Medical Treatment Act 1988

Instruments Act 1958

Disability Act 2006

Open Courts Act 2013

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No	Function/Activity	Description	Status	Disposal Action
1	PROCEEDINGS MANAGEMENT	The management of applications and proceedings within the jurisdiction of the Victorian Civil and Administrative Tribunal (VCAT), from registration through hearing and final outcome.		
1.1	Registration and Control	The registration and management of proceedings throughout VCAT.		
1.1.1	Register of Proceedings	Register of proceedings heard in VCAT and its predecessors, since their inception. The "Register of Proceedings", is defined at section 144 and in any associated Rules made under section 157 of the <i>Victorian Civil and Administrative Tribunal Act 1998</i> .	Permanent	Retain as State archives
1.1.2	Listing Diaries	Records documenting allocation of times and location of hearings.	Temporary	Destroy 1 year after hearing.
1.1.3	Daily Hearing Lists	Records of hearings conducted detailing hearing room, member presiding, case number	Temporary	Destroy 5 years after date of hearing.
1.1.4	Audio and Visual Recordings of Tribunal Proceedings	Audio and visual recordings of Tribunal proceedings made by Tribunal staff	Temporary	Destroy 5 years after date of hearing.
1.1.5	Requests for Transcript and/or Audio Recording of Hearing	Records of requests received by the Tribunal for the provision of transcripts and/or audio recordings of Tribunal proceedings.	Temporary	Destroy 2 years after presiding member approves release of requested material.

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No	Function/Activity	Description	Status	Disposal Action
<i>PROCEEDINGS MANAGEMENT - Registration and Control</i>				
		<p>Includes applications for recordings, orders to private contractors for the production of the transcript, notification to private contractors of approval to release the transcript.</p> <p><i>See General Retention and Disposal Authority for Records of Administrative Functions for records of financial transactions</i></p>		
1.1.6	Fee Waiver/Reduction Applications	<p>Records documenting applications for a waiver or reduction of any fee payable.</p> <p>Includes applications under S132 of the <i>Victorian Civil & Administrative Tribunal Act 1998</i></p>	Temporary	Destroy 12 months after date of decision on fee application.
1.2	Orders and Determination of Proceedings	Orders and determination of proceedings issued by the Tribunal that conclude the Tribunal's action.		
1.2.1	Orders and Determinations	<p>All orders and determinations of proceedings issued by the Tribunal that conclude the Tribunal's action.</p> <p>This class excludes orders relating to Guardianship, Guardianship Special Procedures, the <i>Disability Act 2006</i> and Suppression.</p>	Temporary	Destroy 15 years after final determination of proceedings.
1.2.2	Orders and Determinations Guardianship &	All orders and determinations of proceedings under the <i>Guardianship and Administration Act 1986</i> , <i>Instruments Act 1958</i> and <i>Disability Act 2006</i> that do	Temporary	Destroy 15 years after date of order rendering case inactive or VCAT

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No	Function/Activity	Description	Status	Disposal Action
<i>PROCEEDINGS MANAGEMENT - Orders and Determination of Proceedings</i>				
	Administration	not relate to Special Procedures. Includes orders and final determinations of proceedings on restrictive interventions or compulsory treatment under the <i>Disability Act 2006</i> . For Orders relating to Special Procedures, see class 1.2.3		receives notice of the death of the represented person whichever occurs first.
1.2.3	Orders and Determinations - Guardianship - Special Procedures	Orders and final determinations of proceedings on special procedures as defined under the <i>Guardianship and Administration Act 1986</i> .	Permanent	Retain as State archives
1.2.4	Orders and Determinations - Suppression Orders	Orders made under the <i>Open Courts Act 2013</i> for suppression of information lodged during a proceeding.	Permanent	Retain as State archives
1.3	Proceedings	Proceeding files as required by the Tribunal's governing legislation, regulations or rules. Includes proceeding files as required by section 146 of the <i>Victorian Civil and Administrative Tribunal Act 1998</i> ; applications, copies of notices of hearings, file notes, witness summonses, evidence and copies of determinations. Also includes withdrawn applications.		
1.3.1	Proceeding Files	Refers to all documents lodged in a proceeding.	Temporary	Destroy 5 years after final determination of

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No	Function/Activity	Description	Status	Disposal Action
<i>PROCEEDINGS MANAGEMENT - Proceedings</i>				
		<p>This class excludes proceedings files relating to <i>Guardianship and Administration Act 1986</i> and <i>Instrument Act 1958</i>. see classes 1.3.2 and 1.3.3.</p> <p>This class excludes applications for reduction or waiving of applicable fees; see class 1.1.6.</p>		proceedings or application withdrawn.
1.3.2	Proceedings Files - Guardianship and Administration	<p>Refers to all documents lodged in a proceeding under the <i>Guardianship and Administration Act 1986</i>, <i>Instruments Act 1958</i> and proceedings relating to restrictive interventions and compulsory treatment under the <i>Disability Act 2006</i>.</p> <p>Excludes proceeding files for successful applications for Special Procedures as defined under the <i>Guardianship and Administration Act 1986</i>, see 1.3.3.</p>	Temporary	Destroy 5 years after order rendering case inactive or VCAT receives notice of the death of the represented person whichever occurs first.
1.3.3	Proceeding Files - Guardianship - Special Procedures - Successful	<p>Refers to all documents lodged for successful applications for Special Procedures as defined under the <i>Guardianship and Administration Act 1986</i>.</p> <p>For unsuccessful applications see class 1.3.2.</p>	Permanent	Retain as State archives
1.4	Administrator Reporting	Reporting by appointed Administrators in compliance with an Administration Order.		
1.4.1	Reports provided by	Includes lodgement of Financial Statement and Plan (FS) and accounts for each financial year (Account by	Temporary	Destroy 5 years after

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<i>TRIBUNAL ADMINISTRATION</i>				
	Administrators	Administrator - ABAs).		lodgement.
2	TRIBUNAL ADMINISTRATION	Activities associated with support of Tribunal proceedings and practice. Includes activities carried out by persons acting judicially, the Principal Registrar, Tribunal staff, Tribunal researchers, external bodies and outsourced private contractors.		
2.1	Committees	The records of committees concerned with the interpretation, review and administration of the <i>Victorian Civil & Administrative Tribunal Act 1998</i> . Includes those committees formed to discuss the legal jurisdiction of the VCAT and those concerned with the operations of the Tribunal. <i>See Records of Common Administrative Functions 1.COMMITTEES for records of all other committees</i>		
2.1.1	Rules Committee	Master set of minutes and agenda of VCAT Rules Committee meetings.	Permanent	Retain as State Archives, Transfer to PROV
2.2	Directions	Formal general directives issued to Members, mediators and staff on procedures to be followed.		
2.2.1	Presidential and Vice Presidential Directions	A master set of Presidential and Vice Presidential Directions. These Directions are issued by the President or Vice President of the VCAT and supplement the procedures set out in the <i>Victorian</i>	Permanent	Retain as State Archives, Transfer to PROV

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No	Function/Activity	Description	Status	Disposal Action
<i>TRIBUNAL ADMINISTRATION - Directions</i>				
		<i>Civil and Administrative Tribunal Act 1998.</i>		
2.2.2	Principal Registrar Directions	A master set of Principal Registrars Directions. These Directions are issued by the Principal Registrar of the VCAT and supplement the procedures set out in the <i>Victorian Civil and Administrative Tribunal Act 1998</i> .	Permanent	Retain as State Archives, Transfer to PROV
2.2.3	Practice Notes	A master set of Practice Notes applicable to matters heard by the VCAT as defined by the <i>Victorian Civil and Administrative Tribunal Act</i>	Permanent	Retain as State Archives, Transfer to PROV
2.2.4	Delegations	Written delegation of authority to perform functions specified under the <i>Victorian Civil & Administrative Tribunal Act 1998</i> issued under S32A or S33 of the Act.	Permanent	Retain as State Archives, Transfer to PROV
2.3	Funds Held in Trust	Funds held by the VCAT pending the determination of a proceedings or action directed by the VCAT.		
2.3.1	Trust Accounts	These records relate to disputed funds, usually in civil, domestic building or residential tenancy cases, that are held in trust by the Tribunal. Following an order of the Tribunal, the funds are released to the relevant party in accordance with the terms of the order.	Temporary	Destroy 5 years after all monies related to the proceeding are paid out in accordance with a Tribunal Order
3	NOTIFICATIONS	The management of notifications lodged with the		

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NOTIFICATIONS LODGED WITH THE TRIBUNAL

	LODGED WITH THE TRIBUNAL	Tribunal in accordance with legislative requirements that do not result in further action by the Tribunal.		
3.1	Medical Treatment Notifications	Copies of Refusal of Treatment Certificates as defined under the <i>Medical Treatment Act</i> 1988 and lodged under S.5E of the Act.	Temporary	Destroy 15 years after lodgement.