

**Retention and Disposal Authority for Records of Office of the Public Interest Monitor**

Authority number: PROS 13/04 VAR 1



PROS 13/04 VAR 1

**Retention and Disposal Authority for Records of  
Office of the Public Interest Monitor**

Issued Date: 13/12/2022

## **Retention and Disposal Authority for Records of Office of the Public Interest Monitor**

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### **Variation 1**

**Public Records Act 1973 (Section 12)**

### **Retention and Disposal Authority for the Office of the Public Interest Monitor**

In accordance with section 12 of the *Public Records Act 1973* (as amended), I hereby vary the Standard applying to the Retention and Disposal Authority for Records of Office of the Public Interest Monitor, issued as Public Record Office Standard (PROS) 13/04 on 25/06/2013, as follows:

Extension of the application of this Authority **indefinitely**.

This Variation shall have effect from its date of issue.

[Approved]

Justine Heazlewood

Director & Keeper of Public Records

Date of issue: 13/12/2022

## Retention and Disposal Authority for Records of Office of the Public Interest Monitor

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## Retention and Disposal Authority for Records of Office of the Public Interest Monitor

Authority number: PROS 13/04 VAR 1

## Retention and Disposal Authority for Records of Office of the Public Interest Monitor

<b>Retention and Disposal Authority No</b>	PROS 13/04 VAR 1
<b>Scope</b>	This RDA authorises the disposal of records created by the public interest oversight function.
<b>Status</b>	Issued by Keeper
<b>Issue Date</b>	13/12/2022

## Retention and Disposal Authority for Records of Office of the Public Interest Monitor

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# Retention and Disposal Authority for Records of Office of the Public Interest Monitor

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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 - *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

*PROS 22/04 Disposal Standard* authorises the destruction of some public records under Normal Administrative Practice (NAP) principles. Low value facilitative records described below are authorised for destruction by *PROS 22/04* under 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.

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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 records must be managed and transferred in accordance with PROV Standards.



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### Concurrence of Public Office

This Authority has the concurrence of:

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[signed]

Name: Brendan Murphy QC

Position: Principal Public Interest Monitor

Date: 05/06/2013

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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 Interest Monitor. This standard as varied or amended from time to time, shall have effect from the date of issue unless revoked.

[signed]

**Justine Heazlewood**, Keeper of Public Records

Date of Issue: 25/06/2013

## Retention and Disposal Authority for Records of Office of the Public Interest Monitor

Authority number: PROS 13/04

No	Function/Activity	Description	Status	Disposal Action
1	<p><b>PUBLIC INTEREST OVERSIGHT OF APPLICATIONS TO COURTS AND TRIBUNALS</b></p>	<p>The scrutinising and testing of applications made to courts and tribunals to determine if they satisfy the public interest.</p> <p>The public interest is defined as:</p> <ul style="list-style-type: none"> <li>• Evidence to sustain a prosecution must be obtained in a manner that preserves the integrity of the criminal justice system and its actors;</li> <li>• Statutory rights of the suspect should not be breached except when the following criteria are met in full: the rights are qualified, breach is necessary and there is statutory authority to do so;</li> <li>• The rights and privacy of those citizens not suspected of criminal conduct must be protected: collateral harm as a consequence of investigations should be minimised through effective investigation management and the application of less intrusive tools, where appropriate;</li> <li>• The professional integrity of investigators must be demonstrated, or, if necessary, its absence exposed.</li> </ul> <p>It applies to applications made by law enforcement and integrity bodies for various powers including:</p>		

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No	Function/Activity	Description	Status	Disposal Action
<i>PUBLIC INTEREST OVERSIGHT OF APPLICATIONS TO COURTS AND TRIBUNALS - Receipt, Investigation and Testing of Applications</i>				
		<ul style="list-style-type: none"> <li>• surveillance device warrants;</li> <li>• telecommunication interception powers; and</li> <li>• covert and coercive investigative powers.</li> </ul> <p>[For the development of regulations, procedures and guidelines, see the <i>General Retention and Disposal Authority for Records of Common Administrative Functions</i>].</p>		
1.1	<b>Receipt, Investigation and Testing of Applications</b>	<p>The receipt, investigation and testing of applications for covert and special investigative warrants, orders and approvals made to courts and tribunals by integrity and law enforcement bodies, as to whether the applications satisfy the public interest.</p> <p>Includes applications made for:</p> <ul style="list-style-type: none"> <li>• a coercive powers order under the <i>Major Crime (Investigative Powers) Act 2004</i></li> <li>• a surveillance device warrant under the <i>Surveillance Devices Act 1999</i></li> <li>• a retrieval warrant under the <i>Surveillance Devices Act 1999</i></li> <li>• an assistance order under the <i>Surveillance Devices Act 1999</i> an approval of an</li> </ul>		

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<i>PUBLIC INTEREST OVERSIGHT OF APPLICATIONS TO COURTS AND TRIBUNALS - Receipt, Investigation and Testing of Applications</i>				
		<p>emergency authorisation under the <i>Surveillance Devices Act 1999</i></p> <ul style="list-style-type: none"> <li>• a telecommunications interception under the <i>Telecommunications (Interception) (State Provisions) Act 1988</i></li> <li>• a covert search warrant under the <i>Terrorism (Community Protection) Act 2003</i></li> <li>• a preventative detention order under the <i>Terrorism (Community Protection) Act 2003</i></li> <li>• a prohibited contact order under the <i>Terrorism (Community Protection) Act 2003</i></li> <li>• any other warrant, order or approval requiring statutory oversight by the Public Interest Monitor (PIM)</li> <li>• an extension, variation, renewal or revocation of an order, warrant or approval of the above applications.</li> </ul> <p>Includes the making of submissions and preparation for appearances at court and tribunal hearings where the application will be heard (in order to question persons giving information relating to the application).</p>		

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No	Function/Activity	Description	Status	Disposal Action
<i>PUBLIC INTEREST OVERSIGHT OF APPLICATIONS TO COURTS AND TRIBUNALS - Receipt, Investigation and Testing of Applications</i>				
1.1.1		Summary record of all applications for prescribed warrants, orders and approvals that are oversighted by any PIM.	Temporary	Destroy 7 years after application determined or withdrawn.
1.1.2		Copies of applications for prescribed warrants, orders and approvals. Also includes information submitted by an applicant in support of applications or following a request from any PIM.	Temporary	Transfer back to applicant when application determined or withdrawn.
1.1.3		<p>Records created by any PIM in the course of scrutinising and testing applications for prescribed warrants, orders and approvals.</p> <p>Includes:</p> <ul style="list-style-type: none"> <li>• records documenting deliberations,</li> <li>• file notes,</li> <li>• check lists used to determine whether the application meets necessary requirements,</li> <li>• records acknowledging the receipt of applications and the return of them back to the applicant,</li> <li>• court and tribunal submissions, and</li> <li>• records documenting application deliberations.</li> </ul>	Temporary	Destroy 2 years after application determined or withdrawn..

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*PUBLIC INTEREST OVERSIGHT OF APPLICATIONS TO COURTS AND TRIBUNALS - Receipt, Investigation and Testing of Applications*