

Recordkeeping and privacy

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Goals of presentation



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- Describe how PROV views the interaction between the Public Records Act 1973 and the Privacy and Data Protection Act 2014
- Destroying and disposing of public records under IPP4.2
- Disposal of unsolicited personal information

What is the Public Record Office Victoria?

- Victoria's State archival authority
- Administers the Public Records Act 1973
- A key function is to authorise disposal of government records



Key message

- PROV wholeheartedly supports IPP 4.2
- There is no conflict between IPP 4.2 and the Public Records Act 1973
- PROV strongly encourage agencies to dispose of records that have no further purpose
- But...



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PROV's mandate

Almost any information held by a Victorian agency is a Public Record and governed by standards set by PROV

- **public record** means— (a) any record made or received by a public officer in the course of his duties[...] (Public Record Act 1973 s2)
- **record** means any document within the meaning of the Evidence Act 2008. (Public Record Act 1973 s2)

IPP 4.2

“An organisation must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose”

- Privacy & Data Protection Act 2014, Schedule 1

Key to IPP 4.2 is ‘any purpose’

What purposes could records have?

- ***Continuing business use***
- Document Victorians’ rights and entitlements
- Have a significant impact on individuals
- Regulatory and policy reasons
- Governance and accountability
- Memory – both corporate and community
- More information - see PROV Appraisal Statement
<https://prov.vic.gov.au/recordkeeping-government/a-z-topics/appraisal>

PROV's role

PROV has the statutory role of deciding if information has any other purpose beyond day-to-day business needs

- with guidance from the agency concerned & other stakeholders
- statutory requirements are taken into account

Retention periods

To ensure records are retained for all legitimate purposes, PROV sets *mandatory* minimum retention periods for information held by public agencies

- *The Keeper of Public Records shall establish standards for the efficient management of public records and in particular with respect to— ... (d) the segregation and disposal of public records not worthy of preservation (Public Records Act 1973 s12)*

Retention periods & use

By definition, if a record has not exceeded its retention period it still has a purpose, and IPP 4.2 is not triggered

- Note - if there is a business need, records can be kept beyond the retention period
- Be careful - you may have to keep records beyond the retention period
 - required for legal action, or reasonably expected to be needed for legal action

Where are retention periods found?

Retention periods are given in Retention and Disposal Authorities (RDAs) issued by the Keeper of Public Records

- General RDAs apply to all agencies, or groups of agencies, and cover common types of information
- Specific RDAs cover information held only by that agency

Can be found on PROV's website

<https://prov.vic.gov.au/recordkeeping-government>

Who sets retention periods?

Collaborative effort between PROV, agencies, and stakeholders

- RDAs are usually drafted by agencies in consultation with PROV
- Stakeholder input through the Public Record Advisory Council
- Approved by the Keeper of Public Records

Disposal after retention period

PROV strongly encourages agencies to dispose of information once the retention period expires

- This is in accordance with IPP 4.2 (citizen expectations)
- Reduces risk to State
- Reduces cost to State of holding obsolete information
- Disposal may not mean destruction (transfer to PROV)

PROV has standards and specifications on disposal of Victorian government information

- <https://prov.vic.gov.au/recordkeeping-government/about-standards-framework-policies/disposal-standard>

De-identification

Records must be kept whole and intact

- Agencies cannot delete information from records (e.g. de-identify them) before retention period has expired
- Warning – Credit card information and tax file numbers have strict regulatory requirements on retention
- PROV recommends structuring your records so that this information can be destroyed as soon as possible while meeting the retention requirements of the RDA

Unsolicited Personal Information

An agency receives information it does not require and did not ask for...

Can it be disposed of?

- Still a public record
- YES - Can be disposed of under 'Normal Administrative Practice' of PROS 07/01 GDA for Common Administrative records
- Careful... NAP does not apply if the agency (or an individual)
 - Asks for the information (whether they should or not) or
 - Is used by the agency

For more information...

- Talk to your agency recordkeeping section
- Refer to the PROV web page

How Long Should records be kept?

- <https://prov.vic.gov.au/index.php/recordkeeping-government/how-long-should-records-be-kept>
- Lots of information about disposal, implementing disposal authorities, library of Disposal Authorities, etc

Summary

- All government records must be kept intact for the full period specified by the relevant PROV Retention and Disposal Schedule
- IPP 4.2 does not apply until the retention period has expired
- Once retention period has expired, and no further reason to keep the information, PROV strongly encourages agencies to dispose of records in accordance with IPP 4.2

Thank you...
...any questions?