

# Records Procedure - Disposal and Transfer

## Section 1 - Background and Purpose

### Preamble

(1) The University follows sound procedures for the retention and disposal of all information and records, including those in electronic format.

### General

(2) Records and Archives Services (RAS) are responsible for the effective management and implementation of the disposal program.

(3) Records and Archives Services (RAS) undertakes a coordinated approach to the sentencing and disposal of records and will coordinate the authorisation of all disposal actions prior to the destruction of records.

(4) University records, appraised as having satisfied the legal, financial or administrative imperative for their retention, are required to be destroyed in accordance with Public Record Office Victoria standards.

## Section 2 - Scope

(5) Refer to the [Records Management Policy](#).

## Section 3 - Policy Statement

(6) Refer to the [Records Management Policy](#).

## Section 4 - Procedures

### Transferring Records

(7) University records that are required for conducting business but not for frequent consultation can be transferred to the management and custody of Records and Archives Services (R&AS).

(8) Research data is not to be transferred to RAS for storage, but is to be stored and managed within the relevant School. See [Research Data Management Policy](#).

(9) Records transferred for storage at RAS remain under the control of the originating department until the retention period of the records expires.

(10) The transfer of records should not be confused with donating records to the University Archives, which is a different procedure and involves transferring ownership of the records to the University Archives. See [Records](#)

## Records Disposal Program

(11) Records disposal is an important part of efficient and effective records management. It is the range of processes associated with implementing the retention, deletion, destruction or transfer of records.

### Scope of Records Disposal Program

(12) A Disposal Program incorporates the following:

- a. All records irrespective of media or formats (e.g. hardcopy, digital documents, email and websites), and in all business systems
- b. All staff whether permanent or temporary, including contractors, consultants, councillors, students and the records of intermediaries.
- c. All business units (core and administrative).
- d. Any services that the University has outsourced.
- e. The overarching framework for all other corporate recordkeeping standards and retention & disposal schedules.

### Business Benefits

(13) A well-developed structured disposal programme can improve practices across the University by establishing records management best practice which:

- a. Makes more efficient use of resources, reducing storage and maintenance costs.
- b. Enhances access to existing records by only retaining required records.
- c. Assists with identification of records required for Freedom of Information (FOI) requests, subpoenas and discovery in general.
- d. Ensures records are kept for the correct period of time.
- e. Identifies permanent records, enabling appropriate management prior to transfer to [PROV](#).
- f. Improves relationships with stakeholders.
- g. Provides for the systematic management of University records and reduces risk; and
- h. Assists with legislative compliance.

### Legal Consequences for Illegal Destruction

(14) There are clear legal ramifications for the destruction of document that are required as evidence in current and likely legal proceedings. Such ramifications can include; financial cost, criminal charge, individual dismissal, reduction in image or stakeholder perception and/or further litigation.

(15) The [Crimes Act 1958](#) s.254 creates an offence when, knowing that a document is or is likely to be required in evidence in a legal proceeding, an individual or entity:

- a. destroys or conceals the document or renders it illegible, undecipherable or incapable of identification
- b. expressly, tacitly or impliedly authorises or permits another person to do so with the intention of preventing the document from being used in evidence in a legal proceeding.
- c. the Act applies to all documents, including emails, and other 'things' which can constitute evidence

(16) The [Evidence Act 2008](#) applies where documents are 'unavailable' and the court considers that the unavailability is likely to cause unfairness to a party to the proceeding, the court may, among other things, draw adverse inferences, declare that a fact in issue will be made out in the absence of evidence to the contrary or simply reverse the burden of

proof, order that certain evidence not be permitted, or strike out part of a statement of claim or defence.

## **Retention and Disposal Requirements**

(17) The University may only destroy or dispose of records in accordance with [PROV Standards](#). Disposal Authorities are issued by the Keeper of Public Records and are a legal instrument authorising the destruction or transfer of public records.

(18) PROV Disposal Authorities define the minimum retention time that different classes of records must be kept and how they are to be disposed of. They authorise the destruction of time-expired records. They also identify records that are to be permanently retained as University Archives.

## **Destruction Authorisation and Documentation**

(19) All University records must be authorised for destruction, whether they are hard copy or electronic records. The authorisation process is designed to ensure records are not destroyed before the required retention period, and other administrative, legal, financial and audit needs have been considered.

(20) If authorisation is not approved, the records must be retained with a new review date or trigger assigned to the records. Justification for retaining the records must be provided by the authorising officer.

(21) Destruction of all records must be recorded in the destruction register so that the agency is able to ascertain whether destruction has taken place.

(22) Proof of destruction may be required in litigation proceedings, in response to FOI requests or as requested from the PROV.

## **Destruction of Digitised Records**

(23) Destruction of digitised records is not to be performed without an endorsed Digitisation Plan (project plan for digitisation activity) which has been developed in consultation with Records and Archives Services.

(24) The action of digitisation, followed by the unapproved destruction of the source records without a digitisation plan will make the individual liable of having committed an offence under the [Crimes Act 1958](#) s.254.

## **Disposal Freeze**

(25) A disposal freeze is a temporary restriction on the disposal of a designated set of records due to a special need to maintain access to the records (e.g. Royal Commission, impending election, FOI application). A disposal freeze may be initiated from within the University or by an external authority. Although a disposal freeze may be infrequent, the disposal program and procedures must ensure that records subject to a disposal freeze are not destroyed until the freeze is lifted.

(26) A legal hold is the process that organisations use to preserve evidence when legal proceedings, investigations, enquiries or other related matters are underway. When material is subject to a legal hold, it may not be destroyed, made inaccessible or altered.

## **Secure Destruction**

(27) Confidentiality of some information may be compromised through the careless disposal of potentially sensitive material. Disposal of such material via non-secure destruction bins is not permitted as it significantly increases the risk of unauthorised access to information, breach of privacy and divulging commercial information.

## Quality Assurance

(28) Quality assurance check will be conducted regularly to identify and rectify any inconsistencies or errors with sentencing or the destruction of records.

## Training and Awareness

(29) Ongoing training on the records disposal program and procedures will be provided to staff. Increasing the awareness will help embed the process and requirements in the agency and reduce the risk of unauthorised disposal occurring.

# Section 5 - Definitions

(30) For the purpose of this Procedure:

- a. Access (AS ISO 15489.1-2002, s3.1): Right, opportunity, means of finding, using, or retrieving information.
- b. Appraisal (AS 4390-1996, Part 1, 4.3): The process of evaluating business activities to determine which records need to be captured and how long the records need to be kept, to meet business needs, the requirements of organisational accountability and community expectations.
- c. Destruction (AS ISO 15489.1-2002, s3.8): process of eliminating or deleting records, beyond any possible reconstruction.
- d. Disposal (PROV Master Glossary): A range of processes associated with implementing appraisal decisions which are documented in disposal authorities or other instruments. These include the retention, destruction or deletion of records in or from recordkeeping systems. They may also include the migration or transmission of records between recordkeeping systems, the transfer of ownership or the transfer of custody of records, e.g. to Public Record Office Victoria
- e. Normal Administrative Practice (NAP) (PROV Master Glossary): The destruction of some public records is permitted under normal administrative practice (NAP). NAP covers the destruction of ephemeral material of a facilitative or duplicate nature created, acquired or collected by public sector employees during the course of their duties.
- f. Records (AS ISO 15489.1-2002, s.3.15): Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations, or in the transaction of business.
- g. Retention & Disposal Authorities (RDAs) (PROV Master Glossary): Standards issued by the Keeper under section 12 of the Act that defines the minimum retention periods and consequent disposal action authorised for classes of records which are described in it. RDAs provide continuing authorisation for the disposal of these classes of records. RDAs may be specific to an agency or applicable to more than one agency.
- h. Retention Period (PROV Master Glossary): 'Period of time that records should be retained in their offices of origin or in records centres before they are transferred to an information and documentation organisation or otherwise disposed of'
- i. Sentencing (PROV Master Glossary): Sentencing is the process of identifying and classifying records according to a retention and disposal authority, recording/registering the appropriate disposal decision and action for the records, and applying the disposal actions specified in the retention and disposal authority.
- j. Transfer (AS ISO 15489.1-2002, s.3.20 - 3.21):
  - i. (custody) change of custody, ownership, and/or responsibility for records.
  - ii. (movement) moving records from one location to another.

## Status and Details

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<b>Responsible Policy Officer</b>	Natalie MacDonald Vice-President (Strategy and Development) +61 3 9479 1862
<b>Author</b>	Lauren Thompson Manager, Records and Archives +61 3 9479 2056
<b>Enquiries Contact</b>	Records and Archives Services +61 3 9479 1990