



# POLICY

## RECORD MANAGEMENT POLICY

The Victorian Bar (the Bar) recognises that the practice of record keeping is fundamental to good corporate governance. The establishment of this Record Management Policy (the Policy) reflects the Bar's commitment to best practice record keeping.

### PURPOSE

The purpose of the Policy is to:

- ensure that records of business activities and decisions are created, managed and retained or disposed of appropriately, in accordance with the relevant legislation; and
- set out the Bar's responsibilities for the management and supervision of records.

### SCOPE

This Policy applies to:

- Victorian Bar Council members;
- Victorian Bar staff; and
- Contractors.

### DEFINITIONS

For the purposes of this policy, the following terms are defined:

**Document**, as defined in the *Evidence Act 2008 (Vic)*, means any record of information, and includes: -

- (a) anything on which there is writing;
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (d) a map, plan, drawing or photograph.

**Financial records**, as defined in the *Corporations Act 2001 (Cth)*, includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain:
  - (i) the methods by which financial statements are made up; and
  - (ii) adjustments to be made in preparing financial statements.

**Obligations** means a legal obligation:

- that the Bar owes to another party such as (but not limited to) regulators, suppliers, tenants; and
- between the Bar and its employees and contractors.

### SUPERVISION AND RESPONSIBILITY

- The Executive Director is ultimately responsible for ensuring that the Bar is complying with the Policy.
- Senior management must ensure proper record management within their respective departments. This includes providing record management training, where required.
- All members of the Bar Council, Bar staff and contractors are responsible for creating and keeping accurate records that adequately record the business activities undertaken while performing their roles.

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## RECORD KEEPING

### RETENTION OF RECORDS

The Bar retains records to ensure it is:

- compliant with its obligations of record management; and
- prepared to enforce obligations it is owed as well as perform its own obligations (and defend any allegations of failure to do so).

The following table provides a non-exhaustive list of documents and the years of retention the Bar is required to adhere to. The table will be updated from time to time following any changes to legislation or rules.

Document description	Source	Retention Period
Superannuation records, including fund nomination forms.	S 79(4) of the <i>Superannuation Guarantee (Administration) Act 1992 (Cth)</i>	5 years.
Records of employees (in the form as prescribed in the <i>Fair Work Regulations 2009 (Cth)</i> ).	S 535(1) of the <i>Fair Work Act 2009 (Cth)</i>	7 years
Records of incidents of death, serious injury or dangerous incidents.	S 38(4) of the <i>Occupational Health and Safety Act 2004 (Vic)</i>	5 years.
Financial records.	S 286 of the <i>Corporations Act 2001 (Cth)</i> S 287 – 289 of the <i>Corporations Act 2001 (Cth)</i> also provides further information on language requirements, physical format and place where records are kept.	7 years after the transactions covered by the records are completed.
Legal files	R 14.2 of the <i>Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015</i> <sup>1</sup>	7 years – unless client instructions exist to the contrary.

Personal information will be dealt with in accordance with the Bar's Privacy Policy.

### ARCHIVING OF RECORDS

The location of records are updated when records are moved between staff and locations. This enables the Bar to account for the records as business assets.

The Bar engages an external services provider to provide off-site records storage to preserve and protect the Bar's important records in secure facilities that are compliant with government and industry regulations.

### DISPOSAL OF RECORDS

The Bar's disposal of records can occur when:

- legal requirements have been met;
- the record is no longer needed with regards to ensuring the Bar's obligations to

<sup>1</sup> In the absence of guidance for barristers contained in the *Legal Profession Uniform Conduct (Barristers) Rules 2015*, the Solicitors' Conduct Rules are referred to as a best practice guide.

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- other parties are met or performed appropriately; and
- the Bar is not otherwise compelled to retain the record.

### DESTRUCTION OF EVIDENCE

Under the *Crimes Act 1958* (Vic), it is an offence for a person to:

- destroy or conceal or render illegible, undecipherable, or incapable of identification; or
- expressly, tacitly or impliedly authorise or permit another person to destroy or conceal it or render illegible, undecipherable or incapable of identification, and that other person does so,

a document that is, or is reasonably likely to be, required in evidence in a legal proceeding, with the intention of preventing the document from being used in evidence in a legal proceeding.

The maximum penalty under the *Crimes Act 1958* (Vic) is 5 years' imprisonment.

If a legal proceeding has commenced or is likely to happen in the near future, and a document is expected to be required as evidence in that proceeding, any scheduled or routine destruction of documents relating to that proceeding must be ceased until further notice.

### REVIEW

This Policy will be reviewed annually.

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