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| Records management handbook |
| Guidance for Class B cemetery trusts |
| OFFICIAL |

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# Introduction

Cemetery trusts are required to keep records for the cemeteries they manage. Cemetery trusts are public bodies so the records they create are public records.

Cemetery trust records hold significant value for the cemetery sector, the community and the Victorian Government.

This handbook is designed to give practical advice to Class B cemetery trusts to help them meet their legislative obligations and protect and preserve cemetery trust records for future generations.

Cemetery trusts have record keeping obligations under the following legislation:

* *Cemeteries and Crematoria Act 2003* (Cemeteries Act)
* Cemeteries and Crematoria Regulations 2015 (Cemeteries Regulations)
* *Public Records Act 1973*
* *Privacy and Data Protection Act 2014*
* *Freedom of Information Act 1982*
* *Health Records Act 2001*

This handbook has been developed in consultation with the Office of the Victorian Information Commissioner (OVIC), Public Record Office Victoria (PROV) and Cemeteries and Crematoria Association of Victoria.

# Types of cemetery trust records

Cemetery trusts keep records of their operations and functions including records about:

* governance
* structures and inventory management
* disposal of remains
* land management
* memorialisation.

These categories are based on the [Retention and disposal authority for cemetery and crematoria records](https://prov.vic.gov.au/recordkeeping-government/document-library/pros-1501-cemetery-and-crematoria) issued by PROV <https://prov.vic.gov.au/recordkeeping-government/document-library/pros-1501-cemetery-and-crematoria>. Refer to [Retention and disposal authority](#_Retention_and_disposal) below for more information.

## Governance

Governance records kept by cemetery trusts include:

* trust meeting agendas, minutes and papers, membership and activities of committees
* policies, procedures, rules
* strategic planning
* engagement with the department, Minister for Health and other stakeholders
* advice from Class A cemetery trusts
* legal advice
* risk assessments, protective data security plans, information asset registers
* management and resolution of complaints, correspondence
* grant applications and acquittals
* financial assets, statements, budgets, abstracts of accounts, invoices, receipts, approvals.

## Structures and inventory management

Structures and inventory management records kept by cemetery trusts include:

* plans and specifications for crematoria, mausolea, niche walls, structures for ceremonies, crypts, grave foundations, lawn cemeteries
* contracts, agreements, designs, proposals, approvals
* decommissioning or removing structures, maintenance and repairs, safety audits
* research, business cases, project plans, fee reviews
* community consultation.

## Disposal of remains

Disposal of remains records kept by cemetery trusts include:

* applications, authorisations, bookings, schedules, disputes, statutory declarations
* right of interment permits and cancellation, transfer and surrender of rights of interment
* interments and cremations
* fee applications and approvals, receipt books, pre-payments
* exhumations, delivery and transport of remains
* collection of cremated remains.

## Land management

Land management records kept by cemetery trusts include:

* cemetery maps and plans including fixtures, grave locations, horticultural species, native vegetation
* acquisitions, re-zoning, cemetery closures and re-openings
* planning overlays, management plans, approvals, licences and leases, permits, reports
* maintenance standards, landscaping, roads, drainage, dams
* consultation and agreements to allocate cemetery areas to cultural/religious groups.

## Memorialisation

Memorialisation records kept by cemetery trusts include:

* approvals, plans, inscriptions, installation, alterations, inspections
* actions to manage memorials that are not in a safe and proper condition, approvals, removals, repairs, safety audits, correspondence with right of interment holders (right holders)
* preservation of memorials of public interest
* species registers of horticultural memorials (such as trees, roses, shrubs) and their locations
* management of expired limited tenure memorials for cremated remains
* investigations, reports, advertisements, correspondence
* insurance, engagement with memorial suppliers.

# Prescribed information

Part 2 of the Cemeteries Regulations prescribes information that must be recorded by cemetery trusts about interments, places of interment, cremations and rights of interment. Prescribed information is information that cemetery trusts must record.

It is important to understand what information collected and used by cemetery trusts is prescribed information and what information is not prescribed. This is because the Cemeteries Act provides for prescribed information to be made available to members of the public for historical or research purposes. Refer to [Public access to cemetery trust records](#_Public_access_to_1) below for more information.

Information that is collected and used by cemetery trusts that is not prescribed information is not open to the public. If a member of the public wants to access non-prescribed cemetery trust information, they must make a freedom of information request. Refer to [Freedom of information](#_Freedom_of_information) below for more information.

The Cemeteries Regulations prescribe forms that are mandatory for use in certain circumstances, for example the [Application for interment authorisation (Form 1)](https://www.health.vic.gov.au/publications/application-for-interment-authorisation-form-1)<https://www.health.vic.gov.au/publications/application-for-interment-authorisation-form-1>.

While prescribed forms are used to collect prescribed information, they also collect non-prescribed information necessary for cemetery trusts to carry out their legislative functions, for example information about applicants and funeral directors.

Accompanying documents that are submitted with prescribed forms as required under the Cemeteries Act does not constitute prescribed information.

Examples of information collected by cemetery trusts and whether the information is prescribed or not are provided in the following table.

|  |  |  |
| --- | --- | --- |
| Information collected | Example | Prescribed information? |
| Information explicitly prescribed under Part 2 of the Cemeteries Regulations | The date a right of interment was cancelled | Checkbox Checked outlineYes |
| Information contained in a prescribed form that is also explicitly prescribed under Part 2 of the Cemeteries Regulations | The number of interments that a place of interment has been excavated to accommodate, provided in an application for interment authorisation (Form 1) | Checkbox Checked outlineYes |
| Information contained in a prescribed form that is not explicitly prescribed under Part 2 of the Cemeteries Regulations | Information about the funeral director provided in an application for interment authorisation (Form 1) | Checkbox Crossed outline No |
| Information contained in accompanying documents that are submitted with prescribed forms as required under the Cemeteries Act | Information provided in a medical certificate of cause of death that is submitted with an application for interment authorisation (Form 1) | Checkbox Crossed outline No |

## Information prescribed under the Cemeteries Regulations

The following detailed list of prescribed information summarises Part 2 of the Cemeteries Regulations.

### Rights of interment

* Full name, address and contact number for all right holders
* Date the right was granted and details of conditions of the right (if any)
* Whether the right is allocated or unallocated
* Description of the type of place of interment, such as grave, vault or crypt
* If allocated, a description of the location of the place of interment
* If unallocated, the specific part of the cemetery to which the right of interment relates (if any)
* Fee or charge paid for the right of interment
* If the right is for the interment of cremated remains, the period of the right and, if renewed, the date and period of renewal
* If the right has been transferred
  + Date of transfer
  + Full name of person transferring the right
  + Full name of person to whom the right has been transferred
  + Method of transfer (gift, sale, other)
  + Amount paid (if any)
* If the right has been surrendered, date of surrender and full name of person surrendering right
* If the right has been cancelled, date of cancellation

### Interment of bodily remains

* Full name of the deceased person
* Last permanent address of the deceased person (if known)
* Date of birth and the date of death of the deceased person (if known)
* Date of the interment
* Description of the type of place of interment, such as grave, vault or crypt
* Description of the location of the place of interment, such as section, row and grave number or other unique identifier
* If applicable, the number of interments that the place of interment has been excavated to accommodate
* If bodily remains are exhumed from the place of interment, the date of the exhumation and details of the manner in which those remains were disposed of

### Interment of cremated remains

* Full name of the deceased person
* Last permanent address of the deceased person (if known)
* Date of birth and the date of death of the deceased person (if known)
* Whether the deceased person is an identified veteran
* Date of the interment
* Description of the type of place of interment, such as niche wall, garden niche, memorial rose or grave
* Description of the location of the place of interment, such as section, row and grave number or other unique identifier
* If cremated remains are removed from the place of interment, the date of the removal and details of the manner in which those remains were disposed of

### Interment of foetal remains

* Date of interment
* A description of the type of place of interment, such as grave, crypt, or ashes niche
* A description of the location of the place of interment, such as section, row, grave number
* The name of the person and of the organisation (if any) making the application

### Cremation of bodily remains

* Full name of the deceased person
* Last permanent address of the deceased person (if known)
* Date of birth and the date of death of the deceased person (if known)
* Date of cremation
* If the cremated remains are scattered within the cemetery, the date on which that occurred (if known)
* If the cremated remains are collected from the cemetery, the full name, address and contact number of the person who collected them and the date of collection

### Cremation of foetal remains

* Date of cremation
* Name of the person and organisation (if any) making the application

### Interment or disposal of cremated remains of unknown name or with an identifier

* The identifier (if any)
* Last permanent address of the source of the cremated remains (if known)
* Date of cremation
* Name and address of the person and organisation (if any) making the application
* Description of the type of place of interment, such as niche wall, garden niche, memorial rose or grave
* Description of the location of the place of interment (such as section, row and grave number or other unique identifier) or the place of disposal (such as garden bed or lawn where the remains were scattered)
* Date of interment or disposal
* If cremated remains are removed from the place of interment, the date of the removal and details of the manner in which those remains were disposed of

## Difference between the applicant and the right holder

It is important to differentiate between the applicant and the right holder in cemetery trust records because they will not necessarily be the same person, and this has implications for identifying prescribed information.

The **applicant** is the person who applies to the cemetery trust and provides their name and contact details to the trust as required for prescribed information and in prescribed forms.

In most cases, information about the applicant is not prescribed information. The only information about applicants that is prescribed is:

* the name of an applicant applying for the interment or cremation of foetal remains
* the name of an applicant applying for the interment or disposal of cremated remains of unknown name or with an identifier.

The **right holder** is the person recorded in the cemetery trust’s records as ‘the right of interment holder’ as determined at the time the right of interment was issued or when the records were most recently updated.

Information about the right holder is prescribed for all rights of interment that have been issued for places of interment for bodily and/or cremated remains by the cemetery trust. This is the case for all rights of interment regardless of whether it has been exercised or not. Examples are provided in the following table.

|  |  |  |
| --- | --- | --- |
| Example | Prescribed information? | Explanation |
| Information about the right holder contained in an application for right of interment (Form A) | Checkbox Checked outlineYes | This information is explicitly prescribed under Part 2 of the Cemeteries Regulations |
| Information about an applicant who has applied for interment or cremation of foetal remains | Checkbox Checked outlineYes | This information is explicitly prescribed under Part 2 of the Cemeteries Regulations |
| Information about the applicant contained in an application for right of interment (Form A) | Checkbox Crossed outline No | This information is not explicitly prescribed under Part 2 of the Cemeteries Regulations |
| Information about the applicant contained in an application for interment authorisation (Form 1) | Checkbox Crossed outline No | This information is not explicitly prescribed under Part 2 of the Cemeteries Regulations |
| Information about the consent of the right holder contained in an application for interment authorisation (Form 1) | Checkbox Crossed outline No | This information is not explicitly prescribed under Part 2 of the Cemeteries Regulations  The information is collected on the prescribed form to enable the cemetery trust to consider the application and cross reference the information provided with the interment register |

# Interment register

Cemetery trusts keep prescribed information about interments and rights of interment in interment registers. This information is crucial for the management of public cemeteries.

Interment registers can be kept in hard copy or digital format. It is up to each cemetery trust to decide whether to keep its records in hard copy, digitally or a combination of the two.

It is recommended that cemetery trusts keep a master interment register and at least one backup copy in a different location.

## Hard copy interment register

The department has developed a hard copy interment register to assist cemetery trusts in meeting their record keeping obligations under the Cemeteries Regulations.

The register has three sections that capture information about:

* rights of interment
* interments
* interments of foetal remains.

Cemetery trusts can request a hard copy interment register from the department by [emailing the Cemetery Sector Governance Support Unit](mailto:cemeteries@health.vic.gov.au) <cemeteries@health.vic.gov.au>.

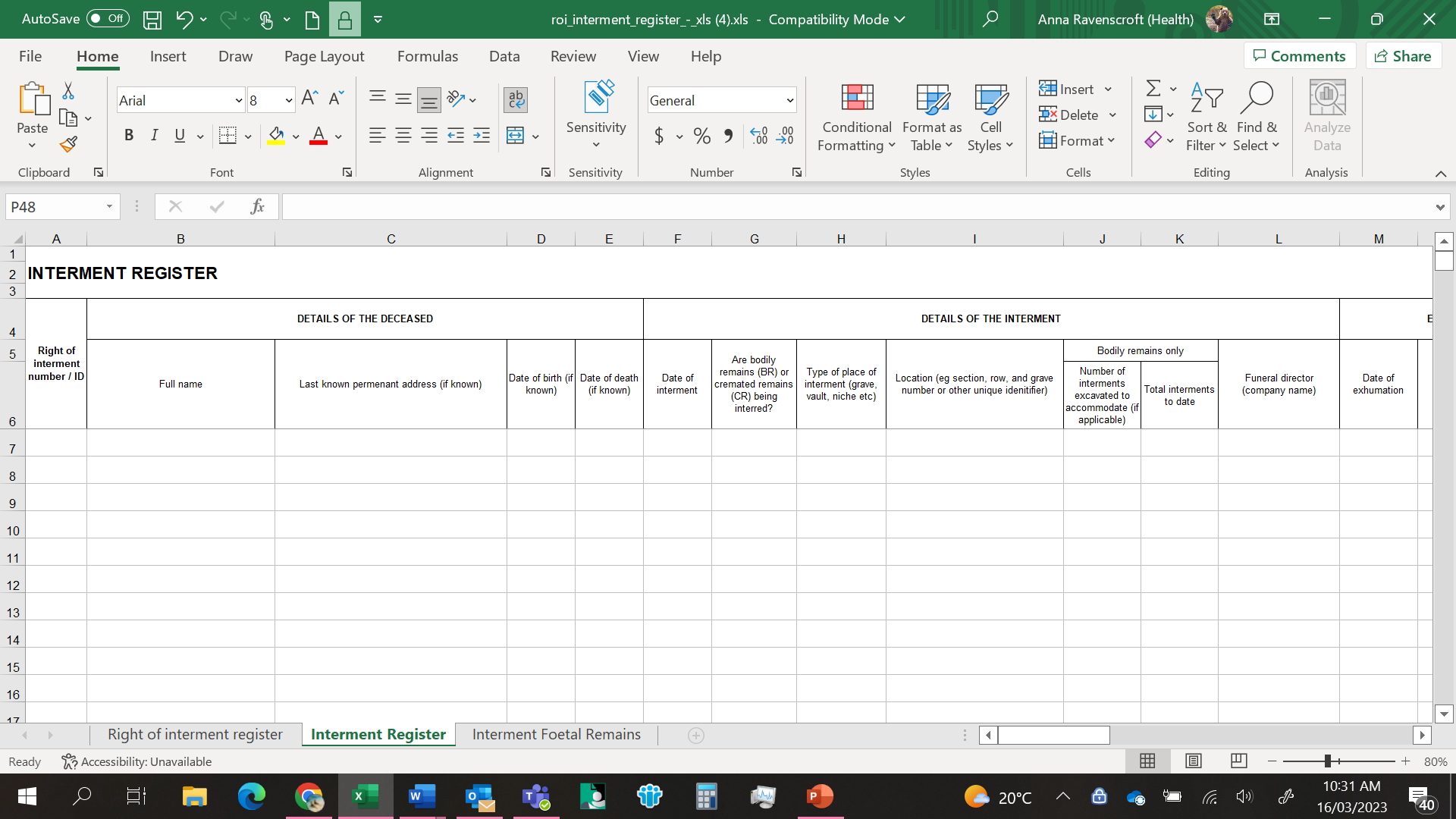
## Digital interment register

A digital interment register in Microsoft Excel format is available on the [department’s website](https://www.health.vic.gov.au/cemeteries-and-crematoria/interment-register) <https://www.health.vic.gov.au/cemeteries-and-crematoria/interment-register>.

There are three tabs at the bottom of the document that can be used to navigate between the different sections.

Cemetery trusts may wish to adapt the digital interment register by adding columns to capture additional information to assist them to perform their functions.

Figure 1: Screenshot of digital interment register template

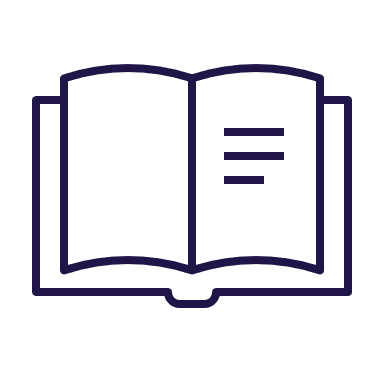


Refer to [Transitioning from hard copy to digital record keeping](#_Digital_record_keeping) below for more information.

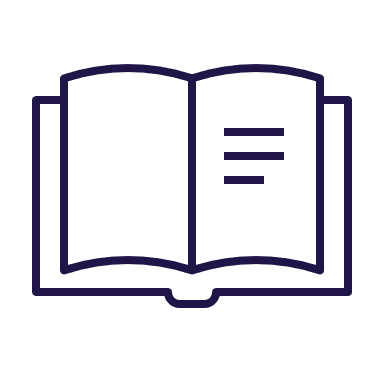
## Interment register case study

The following scenarios demonstrate how three cemetery trusts might keep interment records in different formats. In each scenario the cemetery trust does not have access to secure on-site storage at the cemetery it manages.

### Scenario 1 – Hard copy only

The cemetery trust has purchased a lockable fireproof cabinet to securely store its master interment register. The trust secretary has agreed to keep the cabinet in their garage and committed to returning the cabinet and records to the cemetery trust when their employment ends. The trust secretary holds the keys to the garage and cabinet. The trust chairperson and one other trust member have copies of the keys.

+

A backup register is stored at the trust chairperson’s house. The trust chairperson brings the backup register to every monthly trust meeting so that the trust secretary can update the backup register to match new entries in the master register. The cemetery trust is planning to purchase a second lockable fireproof cabinet to be kept at the trust chairperson’s house to ensure the backup register is secure.

### Scenario 2 – Hard copy and digital

In early 2020, the cemetery trust decided to start keeping digital interment records. The cemetery trust maintained the hard copy register up to 30 June 2020 and started recording interments digitally from 1 July 2020.

The trust secretary downloaded the department’s digital interment register and saved the file on the cemetery trust’s laptop. The laptop and the register are password protected and only the trust secretary, trust chairperson and one other trust member know the passwords. The laptop has up-to-date antivirus and security software.

The trust secretary has a backup copy of the register on an external hard drive. The backup copy is also secured by a password. Every time the trust secretary makes changes to the master register, they save a new backup copy on the external hard drive. The trust secretary keeps the laptop and external hard drive in a lockable cabinet in their home office.

The trust chairperson also has an external hard drive with a backup copy of the register that is password protected. At every monthly trust meeting the trust chairperson and trust secretary swap their external hard drives. The trust secretary then saves new backup copies on the second external hard drive every time changes are made to the master register. This ensures there are two backup copies stored in different locations.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Open book outline | + | Laptop outline | + | Usb Stick outline | + | Usb Stick outline |

### Cloud Computing outlineScenario 3 – Digital only

Between 2018 and 2020, the cemetery trust undertook a project to digitise its interment records.

The cemetery trust developed a plan for the project in 2017 and sought quotes from three companies that perform bulk scanning of documents into Portable Document Format (.pdf). The cemetery trust asked questions of the three companies based on [OVIC guidance](#_Important_information_security) to determine what information security protections the companies have in place.

The cemetery trust successfully applied for a grant from the department to fund the project based on the quote from the company with the most comprehensive information security protocols.

Each volume of the master interment register was digitised individually. The first volume was transported to the service provider by courier, digitised and returned to the cemetery trust, followed by the second volume and so on. Interment records for each year were saved as individual files and provided to the cemetery trust via a [cloud storage](#_Cloud_storage) service.

Hard copy interment records up to 30 June 2019 were digitised and from 1 July 2019 onwards the cemetery trust began recording interments digitally using the department’s digital interment register.

All of the cemetery trust’s interment records are stored in the cemetery trust’s secure cloud storage. The cemetery trust followed [OVIC guidance](#_Important_information_security) when choosing its cloud storage service provider to make sure it has sufficient information security protections in place.

The trust secretary, trust chairperson and one other trust member have access to the cloud storage. The cloud storage service provider has its own backup protocols where backup information is stored at another location and backed up weekly. The cemetery trust also receives a backup every three months that it downloads and stores on a password protected external hard drive.

The cemetery trust has contacted PROV to discuss transferring the hard copy interment registers to PROV.

# Retention timeframes

The length of time that cemetery trust records are kept depends on the type of record.

## Retention and disposal authority

The [Retention and disposal authority for cemetery and crematoria records](https://prov.vic.gov.au/recordkeeping-government/document-library/pros-1501-cemetery-and-crematoria) (Cemeteries RDA) issued by PROV specifies which records are temporary and which are permanent records that must be retained as State Archives <https://prov.vic.gov.au/recordkeeping-government/document-library/pros-1501-cemetery-and-crematoria>.

Some administrative records held by cemetery trusts (for example, bank statements) are not covered in the Cemeteries RDA. For guidance about disposal actions for administrative records not explicitly covered in the Cemeteries RDA, trusts should refer to the [Retention and disposal authority for records of common administrative functions](https://prov.vic.gov.au/recordkeeping-government/document-library/pros-0701-common-administrative-functions) <https://prov.vic.gov.au/recordkeeping-government/document-library/pros-0701-common-administrative-functions>.

## Temporary records

Cemetery trusts are required to keep temporary records, such as records of long-term administrative value or significance, for between seven and 50 years.

The Cemeteries RDA specifies how long different types of temporary cemetery trust records must be kept for. The following table includes examples of temporary records and their retention period.

|  |  |
| --- | --- |
| Temporary record | Retention period |
| Records relating to a complaint that prompted the cemetery trust to change its memorialisation policy | 50 years after last action |
| A contract with a builder for repairing a concrete niche wall | 50 years after last action |
| Ground penetrating radar reports prepared to identify unexercised rights of interment | 50 years after last action |
| Records of calculations, justifications, research and requests to increase cemetery trust fees | 15 years after last action |
| Insurance paperwork | 15 years after last action |
| Licence with farmer for use of cemetery land for agistment of livestock | 15 years after last action |
| Booking schedule for interments and funeral services | 7 years after last action |
| Information requests made by members of the public | 7 years after last action |
| Records of landscaping projects | 7 years after last action |

Cemetery trusts should refer to the applicable RDA in the first instance to determine the retention period for different types of temporary cemetery trust records.

At the end of the retention period, temporary records can be destroyed. There are principles for the destruction of time expired records, including ensuring destruction is carried out securely. More information is available on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/a-z-topics/destruction) <https://prov.vic.gov.au/recordkeeping-government/a-z-topics/destruction>.

### Ephemeral records

Some temporary records are classified as ephemeral records. This refers to records of short-term value that can be disposed of once there is no further need for or value in keeping the information.

Ephemeral records include:

* contact lists
* brochures from external service providers
* duplicate copies of original documents on record
* reference materials, for example articles, research papers
* manuals and guidance materials that have been superseded and are no longer current
* transitory messages of minor importance, for example written phone messages and reminders.

## Permanent records

Permanent cemetery trust records include:

* interment registers
* trust meeting minutes, agendas and papers
* policies and procedures
* cemetery plans
* design plans for cemetery structures
* land overlay registers and approvals
* memorialisation records.

More detailed information about permanent cemetery trust records is available in the Cemeteries RDA and on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/a-z-topics/cemeteries-class-b-trusts) <https://prov.vic.gov.au/recordkeeping-government/a-z-topics/cemeteries-class-b-trusts>.

Permanent cemetery trust records must **not** be destroyed.

Note: If a cemetery trust is keeping records in both hard copy and digital formats, it must determine which version will be the permanent record. Refer to [Transitioning from hard copy to digital record keeping](#_Digital_record_keeping) for more information.

# Storage

Cemetery trusts are responsible for managing and storing their records and backup copies securely. It is up to each cemetery trust to decide where to store its records.

Storage locations are often determined by what is convenient for those who need regular access to key records such as the interment register. Some cemetery trusts have onsite storage at the cemeteries they manage, however this may not necessarily be the most convenient or secure storage location.

|  |
| --- |
| Tips for securely storing cemetery trust records  * Store records and backup copies in separate locations. * Store records and backup copies in lockable fire-proof cabinets. * Ensure all trust members and employees understand that all cemetery trust records are owned by the cemetery trust, regardless of where they are stored. * Ensure all trust members and employees understand that all cemetery trust records must be returned to the cemetery trust when a trust member’s term of office ends, or an employee’s contract ends. * If records are stored at a private residence, protocols should be in place to enable another trust member or employee to access the records and prevent unauthorised people from accessing the information. * For digital records:   + records and backup copies should be password protected   + backup copies should be updated regularly and saved as ‘read only’ files   + editing rights should be restricted to individuals responsible for updating the records   + computers used to access records should have up-to-date anti-virus protection. |

## Storage support

Cemetery trusts are encouraged to apply to the department for funding through the [Cemetery grants program](https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program) <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program> for equipment for storing records. Examples of eligible grant requests include:

* Lockable cabinets and cupboards
* Fireproof cabinets and cupboards
* On-site storage such as a shed or shipping container
* Laptops
* External hard drives

## Storing digital records

Digital record keeping options – for example, external hard drives with password protection and secure cloud storage arrangements – reduce the need for physical storage space. Refer to [Transitioning from hard copy to digital record keeping](#_Transitioning_from_hard) for more information.

# Information security

Information security is a risk management process that protects public sector information, including cemetery trust records, from unauthorised access, disclosure and use.

Under the Privacy and Data Protection Act, cemetery trusts are responsible for protecting the information they generate, hold and manage and ensuring the right people have access to the right information at the right time. This includes securing systems that hold this information.

## Legislative information security obligations

Under Part 4 of the Privacy and Data Protection Act, cemetery trusts are required to:

* adhere to the Victorian Protective Data Security Standards
* undertake a Security Risk Profile Assessment
* develop, implement and maintain a Protective Data Security Plan
* provide OVIC free and full access to public sector information or information systems, when requested, including participating in any monitoring and assurance activities conducted by OVIC
* ensure that any third-party with access to cemetery trust information or systems, does not contravene the Victorian Protective Data Security Standards when collecting, holding, using, managing, disclosing or transferring cemetery trust information.

Further, the Victorian Protective Data Security Standards require cemetery trusts to:

* provide an annual attestation if requested by OVIC
* notify OVIC of information security incidents.

### Reporting timeframes and deliverables

|  |  |  |
| --- | --- | --- |
| Deliverable | Timeframe | Submit to OVIC? |
| Security Risk Profile Assessment | Annual (at least) | Checkbox Crossed outline No\* |
| Protective Data Security Plan including attestation signed by the trust chairperson | Biennial (every 2 years) | Checkbox Checked outlineYes |
| Attestation signed by the trust chairperson | OVIC will inform cemetery trusts directly if this is required | Checkbox Checked outlineYes |
| If there is a significant change to the cemetery trust, updated Protective Data Security Plan including attestation signed by the trust chairperson | Timeframe agreed in consultation with OVIC | Checkbox Checked outlineYes |
| Notify OVIC of information security incidents that compromise the confidentiality, integrity or availability of cemetery trust information | As required  Contact OVIC for further guidance | Checkbox Checked outlineYes |

\* Cemetery trusts must complete this deliverable, but OVIC does not require a copy.

All enquiries about information security reporting requirements should be directed to the OVIC Information Security Team by [email](mailto:security@ovic.vic.gov.au) <security@ovic.vic.gov.au> or telephone 1300 006 842.

## Protective Data Security Plan

Cemetery trusts are required to develop and maintain a Protective Data Security Plan (PDSP). A PDSP outlines the minimum data security measures a cemetery trust will implement to ensure its information and systems are managed in a risk-informed way.

OVIC has developed a PDSP template and ‘How-to’ guide specifically for Class B cemetery trusts. Both documents are available on the [OVIC website](https://ovic.vic.gov.au/information-security/agency-reporting-obligations-hub/class-b-cemetery-trust-stakeholders) <https://ovic.vic.gov.au/information-security/agency-reporting-obligations-hub/class-b-cemetery-trust-stakeholders/>.

The PDSP covers core requirements across physical, personnel, IT, communications, governance and information security areas. Cemetery trusts indicate progress against each requirement as either not commenced, planned, partial, implemented or not applicable. If a cemetery trust considers a requirement is not applicable it must provide a rationale in the PDSP.

### Information Asset Register

Cemetery trusts should develop and maintain an Information Asset Register (IAR) as part of their PDSP. An IAR is a comprehensive list of the types of information cemetery trusts generate, hold and manage (information assets). An IAR also documents:

* where information is located/stored
* who is responsible for different types of information
* the level of sensitivity and/or importance of information
* the suitability of information for public release.

OVIC has developed an IAR template for Class B cemetery trusts that includes detailed instructions. The department strongly recommends cemetery trusts use OVIC’s template to develop their IAR. The template is available on the [OVIC website](https://ovic.vic.gov.au/information-security/information-security-tips-for-class-b-cemetery-trusts/class-b-information-asset-register/) <https://ovic.vic.gov.au/information-security/information-security-tips-for-class-b-cemetery-trusts/class-b-information-asset-register/>.

Cemetery trusts are not required to provide a copy of their IAR to OVIC unless requested.

## Security Risk Profile Assessment

Cemetery trusts are required to undertake a Security Risk Profile Assessment (SRPA) to assess and document their information security risks and appropriate strategies to mitigate the risks to protect information and systems. This risk-based approach to information security helps cemetery trusts consider the likelihood and consequence of a compromise of the confidentiality, integrity or availability of information.

To undertake a SRPA, cemetery trusts should consider the following questions:

* What can go wrong?
* How likely is it to go wrong?
* What will be the consequences if it goes wrong?
* What will be done to prevent it happening?

The department has developed a [risk register template](https://www.health.vic.gov.au/publications/sample-risk-register) that cemetery trusts can use to develop their SRPA <https://www.health.vic.gov.au/publications/sample-risk-register>.

Cemetery trusts are not required to provide a copy of their SRPA to OVIC unless requested.

## Notification of information security incidents

If a cemetery trust becomes aware of an information security incident involving sensitive information (for example, information is lost or there is an unauthorised disclosure of cemetery trust information), the incident should be reported by email to the department’s Privacy and Legal Compliance Team and the OVIC Information Security Team at the earliest opportunity.

[Privacy and Legal Compliance Team](mailto:privacy@health.vic.gov.au) <privacy@health.vic.gov.au>

[OVIC Information Security Team](mailto:security@ovic.vic.gov.au) <security@ovic.vic.gov.au>

# Privacy

Cemetery trusts are required to manage personal information that they collect, use and disclose in accordance with the [Information Privacy Principles](https://ovic.vic.gov.au/privacy/information-privacy-principles-full-text) (IPPs) established under the Privacy and Data Protection Act <https://ovic.vic.gov.au/privacy/information-privacy-principles-full-text>. The IPPs set the minimum standard for how Victorian public sector organisations manage personal information.

## Personal information

‘Personal information’ means information or an opinion that is recorded in any form about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Personal information may include:

* name
* gender
* contact information (for example, email, residential address, postal address, phone number)
* signature
* financial details
* biometrics (for example, electronic copies of a person’s fingerprint, facial image, voice).

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Employee badge outline | Email outline | Mailbox outline | Telephone outline | Signature outline | Bank check outline | Fingerprint outline |

Cemetery trust records that contain personal information include:

* Interment registers
* Trust member records
* Employee records
* Trust meeting minutes
* Financial statements and receipts
* Forms and accompanying documents

The Privacy and Data Protection Act protects the privacy of living people and does not apply to personal information about deceased people. However, cemetery trusts need to be aware that it is reasonable to assume some personal information about a deceased person may also relate to a living person. For example, the deceased’s last known address provided in an application for interment authorisation (Form 1) for a recent burial may also be the address of a surviving relative. This information should be treated as personal information about a living person.

In some instances, personal information in cemetery trust records is also prescribed information. Prescribed personal information about living persons must be managed very carefully. Refer to [Managing requests for personal prescribed information](#_Managing_requests_for).

### Collection of personal information

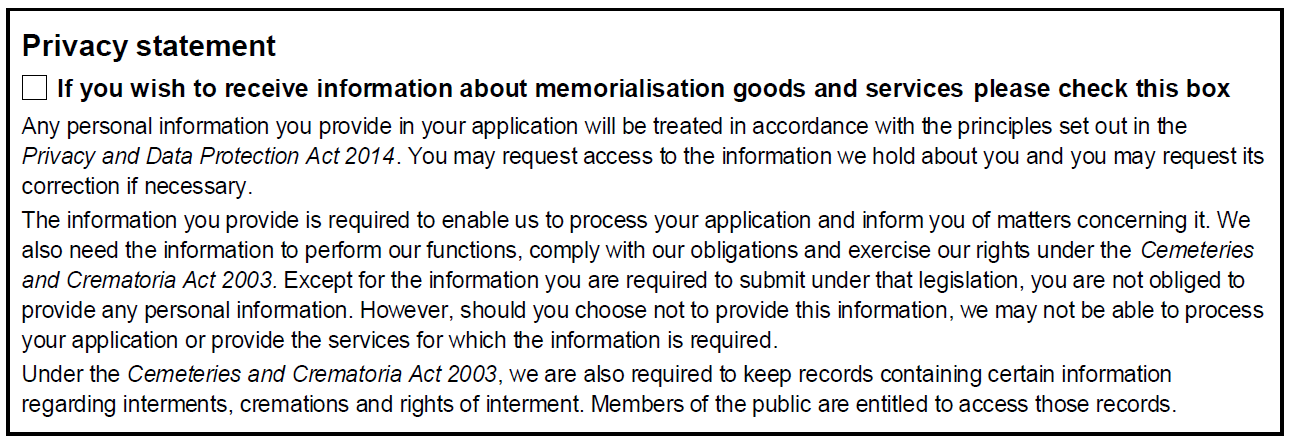
Cemetery trusts must not collect personal information unless that information is necessary for one or more of the trust’s functions or activities. This is known as the ‘primary purpose’ of collection. In most cases, the primary purpose for which cemetery trusts collect personal information is to fulfil their legislative functions and responsibilities.

When collecting personal information from an individual, cemetery trusts must inform the individual:

* they are able to gain access to the information
* the purposes for which the information is collected
* any law that requires the particular information to be collected
* the main consequences (if any) for the individual if all or part of the information is not provided.

This information is usually provided to the individual in the form of a privacy or collection statement. Prescribed forms include privacy statements at the end of each form.

Figure 2: Example privacy statement



### Use and disclosure of personal information

Cemetery trusts must not use or disclose personal information about an individual for a purpose other than the primary purpose for collection unless there is an appropriate exemption.

Exemptions may be relied upon where an individual gives consent for the information to be used for a secondary purpose or if the disclosure for a secondary purpose is authorised or required under law.

Examples of purposes that do not constitute a primary purpose for which cemetery trusts collect personal information:

* Contacting a right holder to tell them about memorialisation options they can purchase from the cemetery trust.
* Advising a member of the public about a planned funeral (however if this information is publicly available, the cemetery trust may direct the enquirer to the available information).
* Informing a researcher if a deceased person had a spouse or domestic partner at the time of the deceased’s death.
* Advising a member of the public how many pre-need rights of interment an individual has purchased.

|  |
| --- |
| Tips for managing personal information  * Develop and maintain an [Information Asset Register](#_Information_asset_register) to identify which information assets contain personal information. * Develop and maintain a [Security Risk Profile Assessment](#_Security_Risk_Profile) to identify privacy risks and mitigation strategies. * Consider who should have access to different types of personal information during a trust meeting and record the decision in the meeting minutes. Examples:   + Only the secretary, chairperson and one other trust member have access to the interment register.   + Only the chairperson and one other trust member have access to personal information about employees.   + Only the chairperson has access to information about trust member conduct. * Ensure conflicts of interest are taken into consideration when determining who should have access to different types of personal information. Refer to the department’s [Managing conflicts of interest factsheet](https://www.health.vic.gov.au/cemeteries-and-crematoria/class-b-cemetery-trust-governance#conflicts-of-interest) for more information <https://www.health.vic.gov.au/cemeteries-and-crematoria/class-b-cemetery-trust-governance#conflicts-of-interest>. * Ensure records containing personal information are stored securely. * Develop policies to support the cemetery trust’s management of personal information. The following policy templates are available from the [Institute of Community Directors Australia Policy Bank](https://communitydirectors.com.au/tools-resources/policy-bank) <https://communitydirectors.com.au/tools-resources/policy-bank>.   + Privacy policy   + Confidentiality policy   + Board confidentiality policy |

Further information about how to apply the IPPs is available in OVIC’s [Guidelines to the Information Privacy Principles](https://ovic.vic.gov.au/privacy/resources-for-organisations/guidelines-to-the-information-privacy-principles/) <https://ovic.vic.gov.au/privacy/resources-for-organisations/guidelines-to-the-information-privacy-principles/>.

## Health information

Cemetery trusts are required to manage health information in accordance with the Health Privacy Principles (HPPs) established under the Health Records Act. The HPPs, which broadly mirror the IPPs, govern the collection, use, and handling of identifying personal information defined as ‘health information’.

Cemetery trusts must not use or disclose health information about an individual for a purpose other than the primary purpose for collection unless an appropriate exemption under the HPPs applies.

Health information includes information or opinions about the physical or mental health, or disability, of a living or deceased individual. Unlike the Privacy and Data ProtectionAct, the Health Records Act applies to deceased individuals for 30 years following the individual’s death, after which time the legislation no longer applies.

Applications for interment and cremation authorisation often include information about the deceased’s cause of death which is a type of health information. Cause of death is not prescribed information under the Cemeteries Regulations and is not recorded in interment registers. However, cemetery trusts are privy to this information due to the supporting documentation that must be submitted with prescribed forms.

It is recommended that cemetery trusts keep prescribed forms on record but not the supporting documents due to the privacy risk and to reduce overcollection of information not necessary to perform their functions. It is sufficient for cemetery trusts to sight the required supporting documentation and note in its records the date the documents were sighted.

Note: Cemetery trusts may collect other health information about individuals, for example health information about trust members, that must also be managed in accordance with the HPPs.

More information about the Health Records Act and the HPPs is available on the [department’s website](https://www.health.vic.gov.au/legislation/health-records-act) <https://www.health.vic.gov.au/legislation/health-records-act>.

# Public access to cemetery trust records

Section 60 of the Cemeteries Act requires cemetery trusts to make prescribed information about interments, places of interment, cremations and rights of interment contained in the cemetery trust’s records available to the public for historical or research purposes. Refer to [Prescribed information](#_Prescribed_information) above for more details.

A cemetery trust may charge a reasonable fee for providing the information sought or for making copies or extracts of information from the records, provided the department has approved and gazetted this fee.

## Protecting privacy when considering information requests

To protect privacy and manage privacy risks, cemetery trusts should consider the following questions when they receive an information request.

### 1. Is the request within scope?

Refer to [Prescribed information](#_Prescribed_information) above to inform consideration of this question.

When a cemetery trust receives an information request it must first confirm that the request is within scope, meaning the request is for prescribed information. If a cemetery trust is unsure about whether information is prescribed or not it should contact the department for assistance.

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| If the answer is yes | If the request is in scope, the cemetery trust should inform the requestor of the cost of the information request (where applicable). Progress to question two. |
| If the answer is no | If the request is out of scope, the cemetery trust should advise the requestor they are unable to fulfil the request. |

### 2. Does the request include personal information about a living person?

Refer to [Privacy](#_Privacy) above to inform consideration of this question.

Once the cemetery trust has located the relevant information and documents in its records, it must carefully review the contents to determine if they contain personal information about a living person (including a person it is reasonable to assume is living).

Personal information is information or an opinion that makes a person’s identity clear or allows someone to reasonably work out who the information relates to. Personal information can include a range of identifiers, such as a person’s name, gender, email, residential address, postal address, phone number, signature and financial details.

Personal information about a deceased person that it is reasonable to assume also relates to a living person – for example, the deceased’s last known address provided in an application for interment authorisation (Form 1) for a recent interment – is to be treated as personal information about a living person if their identity is apparent or could be reasonably ascertained.

|  |  |
| --- | --- |
| If the answer is yes | If the requested information and/or documentation includes personal information about a living person, progress to question three. |
| If the answer is no | If the requested information and/or documentation does not include personal information about a living person, the cemetery trust may action the information request. |

### 3. Is the personal information also prescribed information?

In some cases, prescribed information is also personal information about a living person. Examples include:

* the name, address and phone number of a right holder
* the name of a person making an application for the interment of foetal remains
* if a right of interment has been transferred, the name of the person transferring the right, the name of the person to whom the right has been transferred and the amount paid (if any)
* if a right of interment has been surrendered, the name of the person surrendering the right.

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| If the answer is yes | If the personal information is prescribed information, the cemetery trust must consider the privacy risks before actioning the information request. Refer to [Managing requests for personal prescribed information](#_Managing_requests_for) below. |
| If the answer is no | If the personal information is not prescribed information, the cemetery trust must exclude and/or redact all personal information contained in the information and/or documents requested before actioning the information request. Refer to [Format of information provided to the requestor](#_Format_of_information) below. |

## Managing requests for personal prescribed information

The IPPs state that an organisation must not use or disclose personal information about an individual for a purpose other than the primary purpose of collection unless the use or disclosure is required or authorised by or under law (IPP2.1(f)).

This means that cemetery trusts can make personal information prescribed under the Cemeteries Regulations available to the public for historical or research purposes because it is provided for under s. 60 of the Cemeteries Act. That said, cemetery trusts must still carefully consider the risks associated with releasing personal prescribed information and steps that can be taken to mitigate those risks described below.

### Purpose of request

Cemetery trusts are required to make records available for inspection for historical or research purposes but not for other purposes.

If a cemetery trust is concerned that a request for prescribed personal information is being made for a different purpose and the cemetery trust has documented the reasons for its concerns, the cemetery trust may consider refusing the information request. The cemetery trust may also wish to contact the department for advice.

### Timeframe

Cemetery trusts are required to make records available for inspection at any reasonable time. If a cemetery trust has concerns about a request for prescribed personal information, it may consider that it is not a reasonable time to make the records available. In these circumstances, the cemetery trust should document the reasons for its decision, consider when would be a reasonable time to disclose the information and inform the requestor.

Example: The cemetery trust is aware that a family is involved in a lawsuit and has decided that while the legal process is underway it is not a reasonable time to release prescribed personal information about the parties involved.

### Minimum information required to satisfy the request

Cemetery trusts should consider the minimum information it can provide to comply with Section 60 of the Cemeteries Act to satisfy an information request that includes personal prescribed information. Examples:

* If a member of the public wants to identify the right holder for a place of interment, the cemetery trust may decide to release the name of the right holder but not disclose their personal contact details.
* If a member of the public has requested the address of a right holder, the cemetery trust may decide to only release the suburb rather than the full address.

### Disputes and risks to personal safety

If a cemetery trust is aware of a dispute that relates to the personal prescribed information that has been requested, the cemetery trust should seek legal advice on how to manage the request.

If a cemetery trust has concerns that releasing personal prescribed information may pose a risk to personal safety, it should raise its concerns with Victoria Police as soon as practicable. The cemetery trust may also wish to contact the department for advice.

## Format of information provided to the requestor

The department strongly recommends that information is transcribed from cemetery trust records and provided to the requestor in a letter or email.

If the cemetery trust decides to provide the requestor with a copy of an original document, the cemetery trust must redact all information contained in the document that is not prescribed information. For example, if a copy of an application for interment authorisation (Form 1) has been requested and the cemetery trust has agreed to action the request, the following sections of the form should be redacted:

* Did the deceased have a spouse or domestic partner at the time of the deceased’s death
* Coffin, receptacle or container dimensions and material
* Applicant for interment authorisation
* Consent of the right holder
* Other matters (funeral director information)
* Matters relating to interment (memorialisation service information)
* Signature of applicant

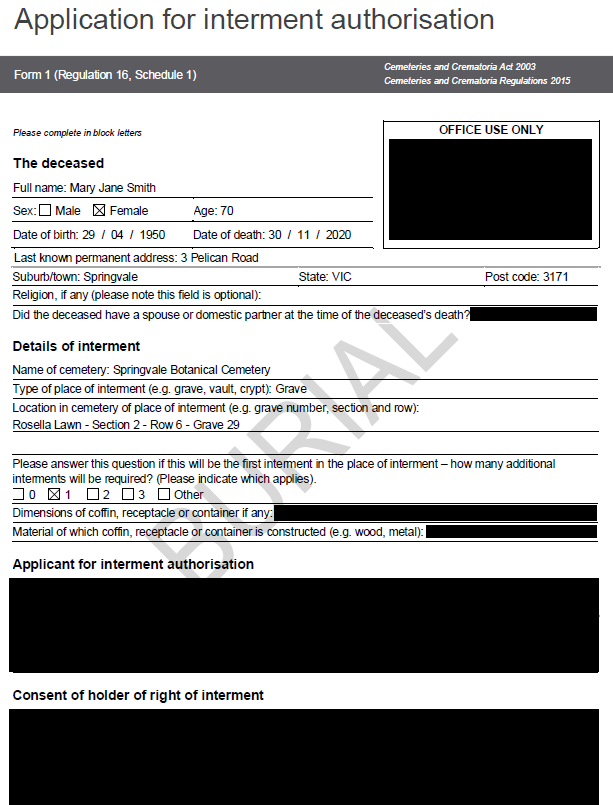
See Figure 3 below for an example of the first page of an application for interment authorisation (Form 1) with non-prescribed information redacted.

### Redacting information

Redacting information is a process of applying black boxes over the parts of a document to obscure information contained in the document that is not to be released.

Cemetery trusts can use software such as Adobe Acrobat Pro or Redax to redact information within a document. Information can also be redacted by applying black boxes to Microsoft Word documents and then printing the document or saving it in .pdf format so that the obscured information cannot be revealed. Similarly, a single-sided print out of a document can be redacted manually using felt-tip markers, correction fluid/tape or paper. It may be necessary to then photocopy the redacted copy to ensure the obscured information is not visible from either side of the page.

Figure 3: Example of a redacted document



# Freedom of information

Freedom of information, or FOI, is a process where the Victorian community can request documents from an agency. The purpose of FOI is to extend, as far as possible, the right of the community to access information in the possession of the Government of Victoria and other bodies constituted under the law of Victoria, including cemetery trusts.

The FOI Act obligates cemetery trusts to respond to valid FOI requests. The FOI Act also sets out rules and processes cemetery trusts should follow.

## Professional standards

The FOI Professional Standards (the Standards) were developed under the FOI Act in 2019 and apply to Victorian government agencies subject to the FOI Act. The Standards aim to improve communication between agencies and applicants, ensure FOI requests are processed in a timely manner, provide clarity to certain provisions in the FOI Act and ensure the FOI Act is given a modern interpretation, both in practice and process.

The Standards are available on the [OVIC website](https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/professional-standards/) <https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/professional-standards/>. Refer to [OVIC’s guidance on compliance with the Standards](https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-6w/) for more information <https://ovic.vic.gov.au/freedom-of-information/foi-guidelines/section-6w/>.

## Step 1 – Acknowledge the request

Acknowledging the request is not required under the FOI Act but it is strongly recommended as best practice. Cemetery trusts should acknowledge the request in writing, for example by email.

## Step 2 – Determine if the request is valid

There are three requirements that must be met for a request to be valid:

* The request must be in writing
* The applicant must have provided the application fee, or requested that the fee is waived
* The request must provide sufficient information to enable documents to be identified

The Standards require agencies to assist a person to make a valid request if they wish to make a request or have made a request that does not comply with the requirements.

### Written request

FOI requests cannot be accepted over the phone or face-to-face. It is a strict requirement of the FOI Act that requests must be made in writing.

In circumstances where an applicant cannot provide their FOI request in writing, for example because of a disability, the agency must assist the person to make their request in writing (for example by transcribing their request).

Applicants may use the [FOI request form template](https://ovic.vic.gov.au/freedom-of-information/make-a-freedom-of-information-request/) available on the OVIC website but using this form is not mandatory <https://ovic.vic.gov.au/freedom-of-information/make-a-freedom-of-information-request/>.

A request that is in writing, but not on the application form, for example in a letter or email, will still satisfy this requirement. The Standards require agencies to provide an applicant with an option to make a request by email.

### Application fee or waiver

The application fee is set at two fee units. The price of a fee unit is set by the *Monetary Units Act 2004* and the price of a fee unit goes up every 1 July. The fee unit for 2023-24 is $15.90, which makes the 2023-24 FOI application fee $31.80.

An applicant can request that the application fee is waived. Cemetery trusts may decide to waive the application fee, or reduce it, if it considers payment would cause hardship to the applicant.

If the applicant has not paid the application fee and the cemetery trust has not waived the fee, the request is not valid. If this happens, the cemetery trust should contact the applicant in writing within 21 days of receiving the FOI request and ask them to pay the fee. It is good practice to set out a clear timeframe for payment, for example 21 days.

If the cemetery trust does not receive a response after a reasonable amount of time and the applicant has not paid the fee within the requested time, the cemetery trust should write to the applicant and advise that the request is invalid because the fee has not been paid and the request has been closed.

### Discrete documents

FOI requests need to include enough information about the documents being requested to enable the cemetery trust to identify the documents. FOI requests cannot ask for something too broad or vague. For example, if an applicant made a request for ‘the report held by the trust’ the cemetery trust can advise the applicant that the scope of their request is unclear.

In this example, the cemetery trust would write to the applicant and ask them to provide more details about what they are requesting. The applicant should be given a minimum of 21 days to respond in accordance with the Standards.

Determining the scope of the request may take time as the request is refined by the applicant and reconsidered by the cemetery trust. Ideally the cemetery trust and applicant will reach an agreement resulting in a revised scope of requested documents.

If the cemetery trust does not receive a response after a reasonable amount of time, the cemetery trust should contact the applicant to assist them to make a valid request and advise that the request may be refused if the request does not comply. If the request remains invalid, the cemetery trust can advise the applicant that the request has been closed as it is invalid.

## Step 3 – Consider the timeframe for the request

When a cemetery trust receives a valid request, a 30 calendar day timeframe begins. This means the cemetery trust must undertake the following steps within 30 calendar days:

* Search for the relevant documents
* Assess those documents to determine whether they contain any exempt material
* Consider if it is practicable to consult any third parties whose personal information or business information is contained in the documents
* Estimate and calculate any applicable access charges
* Exempt (redact) the information from the documents that should not be released
* Finalise a decision letter that gives reasons for exempting certain information
* Seek approval of the trust chairperson, or if the chairperson is unavailable, the chairperson’s delegate
* Release a decision letter to the applicant and the final documents, unless any documents are subject to a third-party 60-day appeal period

Cemetery trusts will need to manage the process carefully to meet this timeframe. If the cemetery trust is unsure of how to progress the request, it should [email the department’s FOI Unit](mailto:foi@health.vic.gov.au) as soon as possible <foi@health.vic.gov.au>.

If the cemetery trust does not think the request can be completed within 30 days, it may seek an extension from the applicant.

Key points about extensions:

* Extensions must be requested in writing and state:
  + under which subsection of s. 21(4) of the FOI Act the time has been extended
  + the reasons for the extension
  + the number of additional days the request has been extended by.
* The cemetery trust may apply an extension of 15 days if third-party consultation is required.
* An extension request that is agreed by the applicant may be for up to 30 days.
* Cemetery trusts may request more than one extension, but the applicant must agree each time.
* Future extension requests must be made during the current request period (extension request cannot be made after the deadline has passed).
* If the applicant does not agree to an extension, the request will become overdue when the deadline passes.

If a request becomes overdue, the applicant should be advised of their legal right to:

* make a complaint to OVIC
* make an application to the Victorian Civil and Administrative Tribunal (VCAT) to seek review of the cemetery trust’s decision.

Refer to [Reviews and complaints about FOI decisions](#_Reviews_and_complaints) for more information.

## Search Inventory outlineStep 4 – Action the request

### Types of documents

The definition of ‘document’ in the FOI Act includes:

* a document in writing
* any book, map, plan, graph, or drawing
* a photograph
* a label
* any disc, tape, soundtrack or other device that contains sounds and not visual images
* any film negative, tape or other device that contains visual images
* anything whatsoever with any words, figures, letters or symbols which carry a definite meaning to persons conversant with them
* any copy, reproduction or duplicate of anything referred to above.

### Searching for documents

Places cemetery trusts should search include:

* records storage, filing cabinets and other locations of hard copy records
* email accounts
* electronic systems, for example external hard drives
* messaging services the cemetery trust might use, for example Microsoft Teams
* anywhere else that may contain documents that are in scope.

### Consider informal release outside the FOI Act

Informal release involves an agency receiving an FOI request and releasing the requested information or document, either in full or in part, outside the FOI Act. This is also known as ‘administrative release’.

The cemetery trust must consider whether a document in its possession that is requested under the FOI Act can properly be provided to an applicant outside the FOI Act in accordance with the Standards.

Where a document in the possession of a cemetery trust can properly be provided to an applicant outside the FOI Act, the Standards require the trust to either facilitate access to the document or advise the applicant how the document can be accessed.

### Exempt documents

While cemetery trusts have an obligation to release as much information as possible, trusts should also be aware that this obligation is limited by information that is exempt under the FOI Act.

Exemptions allow cemetery trusts to refuse to release certain information to an applicant to protect privacy, confidentiality, and some internal communications. There are 15 exemptions under the FOI Act and the most common exemptions that relate to cemetery trusts are outlined below.

#### Internal working documents

Under s. 30 of the FOI Act, cemetery trusts can exempt information if it would disclose internal working documents:

* that contain opinion, advice, or a recommendation prepared by an officer of the cemetery trust, or consultation or deliberation that has taken place between officers of the trust
* that are deliberative in nature (pre-decisional)
* where the disclosure would be contrary to the public interest.

Establishing which documents fall under the first two dot points above is a relatively straightforward task. For the third dot point, it can be more difficult to establish which internal working documents, if disclosed, would be contrary to the public interest.

There is no clear definition of public interest as it relates to FOI because to define something is to limit it. When considering whether releasing certain information would be contrary to the public interest, cemetery trusts need to consider:

* the object of the FOI Act
* the sensitivity of the issues involved
* the stage of a decision or policy development at the time of the communications
* whether disclosure would inhibit future communications
* whether disclosure would only provide a part explanation of a particular decision or outcome
* the public interest in the community being better informed about the cemetery trust’s processes
* the public interest in transparency and accountability
* the impact of disclosing draft documents
* whether there is controversy or impropriety around the decision or decision-making processes
* why the applicant might want the information (to understand its value to the applicant or the broader community)
* anything else that might be reasonable.

If the cemetery trust is unsure if releasing certain information would be contrary to the public interest it can [email the department’s FOI Unit](mailto:foi@health.vic.gov.au) to seek advice <foi@health.vic.gov.au>.

#### Personal privacy

Under s. 33 of the FOI Act, cemetery trusts can exempt information if it would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person). The definition of ‘personal affairs’ in the FOI Act includes:

* information that identifies any person or discloses their address or location
* information from which any person’s identity, address or location can be reasonably determined.

#### Information obtained in confidence

Under s. 35 of the FOI Act, cemetery trusts can exempt information obtained in confidence if the following applies:

* The information has been communicated *to* the cemetery trust (not information generated by the cemetery trust, for example internal working documents).
* If the information were to be released, it would impair the cemetery trust’s ability to obtain similar information in the future.

Note: Whether a person communicates in confidence is a matter of fact. The sender does not have to stamp it as confidential for it to be so. Cemetery trusts need to consider the information at hand, not the visual markings or stamps.

## Step 5 – Finalise the request

Once the cemetery trust has found all the relevant documents and applied the relevant exemptions (if any), the cemetery trust is required to write a decision letter.

The decision letter should include the following:

* A statement that the letter is a ‘Notice of Decision’ in response to the applicant’s request under the FOI Act
* A statement that the decision maker is an authorised officer in accordance with s. 26 of the FOI Act
* A copy of the terms of the request (scope)
* A statement confirming the applicant paid the fee or the fee was waived, or details of any access charges required to be paid before documents are released
* An outline of where the cemetery trust searched, and the type of documents identified
* If any exemptions were applied, which exemptions under the FOI Act were used and reasons why they were applied
* The relevant review rights and timeframe for the applicant to appeal the cemetery trust’s decision should they wish to
* The name, date and signature of the decision maker

Cemetery trusts may [email the department’s FOI Unit](mailto:foi@health.vic.gov.au) for a template to assist with drafting the decision letter if required <foi@health.vic.gov.au>.

To finalise the request the cemetery trust sends the decision letter and documents to the applicant.

## Reviews and complaints about FOI decisions

FOI is regulated by OVIC and VCAT. An applicant can make a complaint to OVIC regarding a cemetery trust’s handling of a request or seek a review of a cemetery trust’s decision on an FOI request. If OVIC receives a complaint or a request to review a cemetery trust’s FOI decision, OVIC will contact the trust directly about what it needs to do.

At the end of the review process OVIC will either support the cemetery trust’s decision or make a different decision in part or in full. The applicant will have 60 days to decide if they want to appeal the matter at VCAT. If OVIC makes a different decision to the cemetery trust’s decision, the trust may either:

* accept OVIC’s decision and comply with the decision
* appeal to VCAT within 14 days.

If the cemetery trust decides to appeal to VCAT, it should [email the department’s FOI Unit](mailto:foi@health.vic.gov.au) as soon as possible for guidance <foi@health.vic.gov.au>.

Note: OVIC publishes de-identified decisions on its [website](https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/decisions-and-case-notes/) <https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/decisions-and-case-notes/>.

## OVIC resources

OVIC’s website provides [detailed guidance and practice notes](https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/) to assist organisations with each step of the FOI process <https://ovic.vic.gov.au/freedom-of-information/resources-for-agencies/>.

If the cemetery trusts has not been able to find information it is looking for on the OVIC website, the trust should [email OVIC’s Agency FOI Information Service](mailto:AskFOI@ovic.vic.gov.au) <AskFOI@ovic.vic.gov.au>. OVIC will generally respond within **24 hours, however s**ome responses may take up to five business days, depending on the complexity of the enquiry.

## FOI annual report

Each year Victorian Government agencies, including cemetery trusts, are required to provide data for the FOI annual report. The annual report covers FOI activity in all Victorian Government agencies for the previous financial year and is tabled in Parliament.

Cemetery trusts will receive a letter or email from OVIC in July each year seeking input for the report. The letter will advise cemetery trusts what information is required.

Note: Requests for public access to cemetery trust records under s. 60 of the Cemeteries Act are not FOI requests and do not need to be reported. Refer to [Public access to cemetery trust records](#_Public_access_to_1) for more information.

# Transitioning from hard copy to digital record keeping

If a cemetery trust is interested in transitioning from hard copy to digital record keeping there are several considerations that will assist with the process.

## Will the digital record be the permanent record?

Cemetery trusts that are planning to create digital records must determine if the digital record will be the permanent record under the Cemeteries RDA. Refer to [Retention timeframes](#_Retention_timeframes) for more information about permanent records.

If the digital records to be created will be the cemetery trust’s permanent records, the trust is required by PROV to develop a digitisation plan. A digitisation plan template is available on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/document-library/pro-58-digitisation-plan-template) <https://prov.vic.gov.au/recordkeeping-government/document-library/pro-58-digitisation-plan-template>. Refer to [Planning a digitisation project](#_Planning_a_digitisation) for more information.

Alternatively, the cemetery trust may be planning to create digital records as backup or reference copies and continue to keep hard copy records as the trust’s permanent records. In this case the trust would not be required to develop a digitisation plan but must continue to manage and maintain it’s hard copy records properly.

## Storage method

Digital records are stored on local hard drives or in cloud storage. Deciding which storage method best suits a cemetery trust is usually based on the volume of records the cemetery trust collects and generates. Managing a moderate to high volume of cemetery trust records on local hard drives can be onerous. In such circumstances it is recommended that cemetery trusts use secure cloud storage.

### **Cloud outline**Cloud storage

Cloud storage is a type of information storage where digital data is stored in servers in off-site locations and is accessed remotely via the internet. The servers are owned and managed by a hosting company. Examples of cloud storage services include Microsoft OneDrive, Google Drive, iCloud and Dropbox.

Refer to [Online cloud-based cemetery software](#_Online_cloud-based_cemetery_2) for more details about cloud storage considerations.

## Equipment

Cemetery trusts will require specific equipment to transition to digital record keeping. At a minimum a cemetery trust will need the following:

* A laptop or desktop computer
* A quality scanner
* External hard drives

Refer to [Planning a digitisation project](#_Planning_a_digitisation) below for more information about technical specifications for digitisation projects.

Cemetery trusts that do not have sufficient funds to purchase required equipment are strongly encouraged to apply for funding through the department’s [cemetery grants program](https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program) <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program>.

A key advantage of digital record keeping is the ease of saving email correspondence as a digital record of cemetery trust advice, decisions and actions.

It is recommended that cemetery trusts ensure they have access to a reliable internet service before transitioning to digital record keeping. An internet connection is required for cloud storage.

## Protecting digital records

A cemetery trust considering transitioning to digital record keeping will need to determine what cyber security measures it will put in place to meet [information security](#_Information_security) requirements.

Basic cyber security measures include using anti-virus and anti-malware software on devices, using passwords to protect devices and records, and establishing backup protocols.

The [Australian Cyber Security Centre website](https://www.cyber.gov.au/learn-basics) is an excellent resource that provides easy-to-understand practical advice and interactive tools <https://www.cyber.gov.au/learn-basics>.

There are also training providers that deliver courses about cyber security. Cemetery trusts may wish to apply for funding for relevant training through the department’s [cemetery grants program](https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program) <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program>.

## Ongoing costs

Cemetery trusts must consider their ability to fund ongoing costs relating to digital record keeping because ongoing costs are not eligible for funding applications under the department’s cemetery grants program. Ongoing costs include:

* internet service provider costs
* anti-virus and anti-malware software subscriptions
* cloud storage costs.

Note: Smaller cemetery trusts may be eligible to receive a grant through the department’s [small cemetery operations grants program](https://www.health.vic.gov.au/cemeteries-and-crematoria/small-cemetery-operations-grants-program) <https://www.health.vic.gov.au/cemeteries-and-crematoria/small-cemetery-operations-grants-program>.

Small cemetery operations grants can be used for software licencing or subscription fees, however these grants may not be available every year and should notbe relied on to fund ongoing contracts.

# Digitising existing records

There are two options for digitising existing records for cemetery trusts to consider:

1. Transcribing records into a digital format
2. Making digital images of hard copy records

## Transcribing interment records into a digital format

Transcribing records involves making a new version of the information contained in hard copy records by typing the text into a spreadsheet or other digital format.

A key advantage of transcribed records is the ability to search for and locate information easily, for example by searching a name, date, or interment location.

It is recommended that cemetery trusts use the department’s digital template when transcribing interment registers. Refer to [Digital interment register](#_Digital_interment_register) for more information.

Cemetery trusts that require equipment or software to support digitisation projects are encouraged to apply for funding through the department’s [cemetery grants program](https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program) <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-grants-program>.

## Digital images of hard copy records

Digital images of hard copy records are made by taking digital photographs or scanning hard copy documents. This requires specialised equipment and is usually undertaken by an experienced professional.

Unlike transcribed records, searching for information in digital images will require scrolling through the images, much like reading through a hard copy interment register.

Note: When a cemetery trust transfers hard copy records to PROV to be archived, in some circumstances PROV may be able to create digital images of the records and provide a copy to the trust. Refer to [Archiving cemetery trust records](#_Archiving_cemetery_trust) for more information.

## Copyright

Cemetery trusts hold copyright of all cemetery trust records as the owner of the records. Issues may arise in relation to copyright when a new version of original records is created if the individual or other party who created the new version tries to claim ownership over the work undertaken.

Before a cemetery trust engages an individual or other party to create a new version or edit existing records, the cemetery trust should:

* discuss and define the nature of the arrangement with the individual or other party who is going to undertake the work, including the purpose, scope and costs
* formalise the arrangement in a legally binding document that states that:
  + the cemetery trust will retain all intellectual property rights (including copyright) for all cemetery trust records and materials
  + the cemetery trust will own the copyright over all new records created or existing records
  + the individual or other party gives consent, in writing, in relation to all rights that are necessary for the cemetery trust to have copyright over all versions of the trust’s records.

## Clipboard Checked outlineDigitisation projects

A step-by-step guide to digitisation projects is available on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/a-z-topics/digitisation) <https://prov.vic.gov.au/recordkeeping-government/a-z-topics/digitisation>.

### Planning a digitisation project

Cemetery trusts that are planning a digitisation project where the digital record will be the permanent record, are required to develop a digitisation plan. A digitisation plan template is available on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/document-library/pro-58-digitisation-plan-template) <https://prov.vic.gov.au/recordkeeping-government/document-library/pro-58-digitisation-plan-template>.

A digitisation plan will help cemetery trusts:

* establish an authorised framework for digitisation and business ownership over the project
* identify the types and condition of records to be digitised
* undertake a risk analysis for the digitisation
* establish the digitisation process and image technical requirements
* determine how the digitised records will be managed
* determine disposal actions for the original or source records.

The following considerations are a good starting point for planning a digitisation project.

#### Who will digitise the records?

The trust may consider engaging a third-party to undertake the project or assign the task to trust members or employees.

#### How long will it take?

Digitising records can be a very time consuming task. It is recommended that the cemetery trust break up the task into manageable portions. For example, the cemetery trust may wish to start with digitising records relating to a specific five-year period.

#### How much will it cost?

Digitising records can be a costly activity. If the cemetery trust is considering engaging a third-party, it should research what services are available and seek multiple quotes.

The cemetery trust should carefully consider if it has sufficient funds for the project and if the proposed expenditure is a reasonable use of existing cemetery trust funds.

#### What digital record format will be created?

There are [minimum technical requirements](https://prov.vic.gov.au/recordkeeping-government/document-library/pros-1905-s1-digitisation-specification) issued by PROV that cemetery trusts must meet if digitised records will become the trust’s permanent records <https://prov.vic.gov.au/recordkeeping-government/document-library/pros-1905-s1-digitisation-specification>.

Cemetery trusts must ensure that permanent digital records created by transcription or making digital images have the degree of authenticity, reliability, integrity and useability necessary to meet the purposes of the source record.

Cemetery trusts should [contact PROV](https://prov.vic.gov.au/contact-us) to discuss technical requirements as part of the planning process <https://prov.vic.gov.au/contact-us>.

# Online cloud-based cemetery software

Several companies provide online cloud-based cemetery software programs to cemetery trusts. This type of software is stored in the cloud and cemetery trusts access the software via the internet.

The programs can provide cemetery trusts with record keeping services including:

* digital mapping of cemetery land
* digitising existing interment registers and importing data into the program
* creating new records
* deceased search function.

Many programs also have additional functionalities for managing cemeteries such as bookings, issuing certificates, reporting and financial management.

## Warning outlineImportant information security considerations when engaging third-party providers

Cemetery trusts considering online cloud-based cemetery software programs are accountable for ensuring that the service provider securely manages cemetery trust records appropriately in line with legislative requirements.

Cemetery trusts are encouraged to ask questions and seek information from service providers to make informed decisions.

Information about security considerations when engaging third-party providers is available in OVIC’s [information sheet](https://ovic.vic.gov.au/information-security/information-security-tips-for-class-b-cemetery-trusts/information-sheet-for-class-b-cemetery-trusts-considering-third-party-providers) <https://ovic.vic.gov.au/information-security/information-security-tips-for-class-b-cemetery-trusts/information-sheet-for-class-b-cemetery-trusts-considering-third-party-providers>.

Cemetery trusts must carefully read any service agreements (contracts) proposed by the service provider and should not feel pressured into accepting any conditions they are unhappy with.

In addition to the considerations in OVIC’s information sheet about third-party providers, cemetery trusts should also consider the following matters to inform decision making.

### Accreditations and compliance

* Does the service provider hold any cyber security accreditations or meet any established standards (national or international) for cyber security?
* Does the service provider understand and comply with all legislated requirements for managing cemetery trust records under the Privacy and Data Protection Act?

### Backup protocols and retrieval of data

* What is the service provider’s backup schedule?
* Is backup data stored at a separate location?
* How often can the cemetery trust receive an export of its data and what will the format be?
* Can the service provider export data in a format that meets PROV requirements for digital archiving of permanent records?

### Storage location

* Will cemetery trust data, including backup copies, be stored within Australia?

It is important that cemetery trust records are stored within Australia to protect the sovereignty of the data. Data sovereignty refers to digital data being subject to the laws and regulations of the country in which it is stored. Ensuring cemetery trust records are stored within Australia means relevant state and federal laws can be enforced for that data.

### Copyright

* Will the cemetery trust retain copyright over its records and backup copies?

Cemetery trusts hold copyright of all original trust records as the owner of the records and must retain copyright of new versions of their records. Refer to [Copyright](#_Copyright) for more information.

### Costs

* Which costs are fixed, and which costs may increase over time?

Costs for using these programs typically include an initial one-off payment for digitising and importing existing cemetery trust records and an ongoing subscription cost. Ongoing subscription costs may vary based on the number of new interment records generated by the trust per year.

### Other contract terms

* How much notice does the cemetery trust have to provide to exit the contract?
* Are there limits to the technical support provided under the contract, for example the number or type of support requests?
* Does the service provider intend to share information with other parties?
* How does the service provider manage the return of records at the end of the contract?

# Archiving cemetery trust records

If permanent records are not actively required by a cemetery trust for the delivery of its functions, they must be transferred to PROV. Common examples include historical trust meeting records and original cemetery maps or plans that are no longer in use. These records are appropriate for transfer as they are no longer being added to or updated and are not accessed frequently. Refer to [Permanent records](#_Permanent_records_1) for more information.

If a cemetery trust is considering transferring permanent records that contain information that may need to be accessed by the cemetery trust from time-to-time, for example early volumes of interment registers, it is recommended that the cemetery trust makes copies of the records and then transfers the original documents to PROV. This ensures historical records are protected without limiting the cemetery trust’s delivery of its functions.

Records transferred to PROV are stored securely in a climate-controlled repository and digital archive to ensure records are preserved and accessible forever. PROV does not charge any direct fees to cemetery trusts for transfer projects and there are no ongoing storage costs.

Note: Cemetery trusts may be required to cover costs for packaging and delivery.

When transfer projects are completed, PROV will take custody, but not ownership, of the records.

If a cemetery trust has not undertaken a transfer project before, it should refer to guidance about the process on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/transferring-records) in the first instance <https://prov.vic.gov.au/recordkeeping-government/transferring-records>.

## Archiving hard copy cemetery trust records

A step-by-step guide to transferring hard copy records is available on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/transferring-records/physical-records-transfer-step-by-step) <https://prov.vic.gov.au/recordkeeping-government/transferring-records/physical-records-transfer-step-by-step>.

In some cases, PROV may be able to digitise hard copy records that have been transferred and then provide a digital copy of the records back to the cemetery trust. This can be a lengthy process and cemetery trusts should not transfer hard copy records to PROV with the expectation that the records will be digitised by PROV.

## Archiving digital cemetery trust records

A step-by-step guide to transferring digital records is available on the [PROV website](https://prov.vic.gov.au/recordkeeping-government/transferring-records/digital-records-transfer-step-by-step) <https://prov.vic.gov.au/recordkeeping-government/transferring-records/digital-records-transfer-step-by-step>.

This process requires digital records to be converted into a specific long-term format using PROV software. PROV will provide detailed advice and assistance to cemetery trusts at the time of transfer.

# Useful contacts

#### Department of Health

* [Cemetery Sector Governance Support Unit](mailto:cemeteries@health.vic.gov.au) <cemeteries@health.vic.gov.au>
* [Privacy and Legal Compliance Team](mailto:privacy@health.vic.gov.au) <privacy@health.vic.gov.au>
* [FOI Unit](mailto:foi@health.vic.gov.au) <foi@health.vic.gov.au>

#### OVIC

* [Information Security Team](mailto:OVIC%20Information%20Security%20Team) <security@ovic.vic.gov.au>
* [Privacy Team](mailto:privacy@ovic.vic.gov.au) <privacy@ovic.vic.gov.au>
* [Agency FOI Information Service](mailto:AskFOI@ovic.vic.gov.au) <AskFOI@ovic.vic.gov.au>

#### PROV

* [Government Services Team](https://prov.vic.gov.au/contact-us) <https://prov.vic.gov.au/contact-us>

#### Sector peak body

* [Cemeteries and Crematoria Association of Victoria](mailto:executiveofficer@ccav.org.au) <executiveofficer@ccav.org.au>

#### Class A cemetery trusts

* [Ballarat General Cemeteries Trust](mailto:enquiries@ballaratcemeteries.com.au) <enquiries@ballaratcemeteries.com.au>
* [Geelong Cemeteries Trust](mailto:enquiries@gct.net.au) <enquiries@gct.net.au>
* [Greater Metropolitan Cemeteries Trust](mailto:enquiries@gmct.com.au) <enquiries@gmct.com.au>
* [Remembrance Parks Central Victoria](mailto:enquiries@rpcv.org.au) <enquiries@rpcv.org.au>
* [Southern Metropolitan Cemeteries Trust](mailto:enquiries@smct.org.au) <enquiries@smct.org.au>