

# TAHO

Tasmanian Archive + Heritage Office

## State Records Guideline No 4

# Agency Determination of Access Restrictions

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### Information Security Classification

This document has been security classified using the Tasmanian Government Information Security classification standard as PUBLIC and will be managed according to the requirements of the Tasmanian Government Information Security Policy.

### Document Development History

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# I Introduction

The *Archives Act 1983* allows government agencies transferring records to the Tasmanian Archive and Heritage office to place restrictions on the degree of access to them for specified lengths of time and/or for specified categories of users.

## I.1 Purpose

This guideline is to provide information about, and stipulate the process for, consideration by 'relevant authorities' of possible access restrictions to be placed on records transferred to the Tasmanian Archive and Heritage Office.

## I.2 Authority

This guideline is issued under the provisions of Section 10A of the *Archives Act 1983*. Guidelines issued by the State Archivist under this Section set standards, policy, and procedures relating to the making and keeping of State records. This section also requires all relevant authorities to take all reasonable steps to comply with these guidelines, and put them into effect.

| Keyword                           | Interpretation   |
|-----------------------------------|--|
| <b>MUST</b>                       | The item is mandatory.   |
| <b>MUST NOT</b>                   | Non-use of the item is mandatory.  |
| <b>SHOULD</b>                     | Valid reasons to deviate from the item may exist in particular circumstances, but the full implications need to be considered before choosing this course. |
| <b>SHOULD NOT</b>                 | Valid reasons to implement the item may exist in particular circumstances, but the full implications need to be considered before choosing this course.    |
| <b>RECOMMENDS<br/>RECOMMENDED</b> | The item is encouraged or suggested.   |

'MUST' and 'MUST NOT' statements are highlighted in capitals throughout the Guideline. Agencies deviating from these MUST advise TAHO of the decision to waive particular requirements.

Agencies deviating from a 'SHOULD' or 'SHOULD NOT' statement MUST record:

- the reasons for the deviation,
- an assessment of the residual risk resulting from the deviation,
- the date at which the decision will be reviewed, and
- whether the deviation has management approval.

Agencies deviating from a 'RECOMMENDS' or 'RECOMMENDED' requirement are encouraged to document the reasons for doing so.

## 2 Statutory Requirements

The presumption in the Act in relation to records is that they are not restricted unless the relevant authority restricts them.

Any restrictions date from the making of the record. The date of making of the record is taken to be the date associated with the record and may be, for example, the date of a specific letter in a file, the date of the minutes of a specific meeting in a minute book, the date of a registration, or financial transaction, or any other date associated with the smallest identifiable unit of a series of records. It does not depend on the overall date range of the 'container' of the record, such as a box, file cover, or register, paper or digital.

Any access restrictions **MUST** be notified to the Tasmanian Archive and Heritage office before, or at the time of, the signing of the signing of the formal Transfer and Access Agreement.

Applications for access to restricted records that have been transferred to the Tasmanian Archive and Heritage Office are forwarded to the agency responsible for determining and administering the access restrictions. The potential requirements of this process **SHOULD** be kept in mind when considering possible access restrictions, as well as the matters listed below.

## 3 Determining Access Restrictions

The types of information or matters contained in records which may be considered when determining whether access **SHOULD** be restricted are specified in Section 15 of the *Archives Act 1983*.

The points listed below summarise the circumstances in which access conditions can be imposed.

- the information documents the deliberation or decisions of the State Cabinet, not officially published
- the information documents the deliberation or advice of the State Executive Council, not officially published
- the information documents opinion, advice, or recommendation given, obtained, prepared, or recorded by the Cabinet or Executive Council
- the information documents consultation or deliberation of Cabinet or the Executive Council
- information is communicated in confidence by another government or person
- disclosure of the information would prejudice relations with the Commonwealth, other States or Territories
- disclosure of the information would have a substantial adverse effect on the financial or property interests of this State
- disclosure of the information would be reasonably likely to have a substantial adverse effect on the interests of this State in or in relation to pending or likely legal proceedings
- disclosure of the information would prejudice the enforcement or proper administration of the law in a particular case
- disclosure of the information would prejudice the fair trial of a person or the impartial adjudication of a particular case
- disclosure of the information would be contrary to the public interest

- disclosure would enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law
- disclosure would unreasonably disclose information relating to the personal affairs of a person, including a deceased person
- disclosure of commercial or financial information which would be likely to disadvantage the material interests of an industrial or trading business or undertaking

## Further Advice

For more detailed advice, please contact:

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