

Notice of Variation

Access to Records in PROV Custody PROS 11/10 S2 Variation 1

(Section 12)

Access Specification Two: Access to Records in PROV Custody (PROS 11/10 S2)

Variation 1:

In accordance with section 12 of the Public Records Act 1973 (as amended), I hereby vary the *Access Standard: Specification Two - Access to Records in PROV Custody*, issued as Public Record Office Standard (PROS) 11/10 S2 on 25 November 2011, as follows:

Extension of the application of this Specification until 31 December 2018

This Variation shall have effect from its date of issue.


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Director and Keeper of Public Records

Date of issue: 20/6/2017



Public Record Office Victoria
PROS 11/10
Access

Specification 2

Access to Records in PROV Custody

Version Number: 1.2

Issue Date: 25/11/2011

Expiry Date: 31/12/2018

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Copyright Statement

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Acknowledgements

The Public Record Office Victoria would like to acknowledge the valuable contribution of members of the [Access Advisory Group](#) during the development of this Specification.

Version	Version Date	Details
1.0	25/11/2011	Released
1.1	17/07/2013	Copyright changed to Creative Commons license
1.2	22/06/2017	Extend the expiration date to 31/12/2018

1. Introduction

Access to records in PROV custody is considered open and available to the public unless the records are specifically closed under a section of the *Public Records Act 1973*. Closure of records to public access is established as part of the transfer process prior to the transfer of the records from agency custody into PROV custody.

Adopting a planned approach to establishing the access status of records will enable agencies to have confidence in the effective management of public records when they are no longer managed by the agency concerned. This is achieved by:

- Planning and negotiating with the PROV to determine access and use of records;
- Establishing a formal process to determine and justify closure of records; and
- Ensuring the integrity of records once they are held as part of the permanent archive.

1.1. Purpose

Public Record Office Victoria Standards contain mandatory principles for the management of public records within Victoria. Standards issued by the Keeper of Public Records are supported by Specifications that contain the measurable, mandatory requirements that agencies must comply with in order to meet the principles.

This Specification provides a detailed set of measurable and mandatory requirements that define the criteria for the implementation of the *Access Standard*. Agencies must meet all the requirements detailed in this Specification to ensure they comply with the principles articulated in the Standard.

The implementation of these requirements, in conjunction with *PROS 10/13 Disposal Specification 3: Transfer of State Archives to PROV*, will enable the agency to effectively negotiate and finalise the access arrangements for records at the point of transfer into the custody of the PROV.

This Specification covers:

- Establishing clarity about the access status of records, once transferred to PROV;
- Managing risk including minimising litigation and inappropriate release; and
- Ensuring the preservation of Victorian public records.

Each requirement within this Specification is individually numbered under the appropriate principle. Examples of evidence that may be used to demonstrate principles have been met are given alongside the appropriate requirement.

1.2. Scope

This Specification includes the principles outlined in the *Access Standard*. For more information on these principles, including an explanation of why they are needed, please refer to the *Access Standard*.

This Specification covers the activities associated with access of records, for transfer into the custody of the Public Record Office Victoria as part of the State Archive. This specification must be used in conjunction with *PROS 10/13 Disposal Specification 3: Transfer of State Archives to PROV*.

Requirements for the access of public records in agency custody are detailed in the *Access Specification 1 Access to Records in Agency Custody*.

The Access Standard and this Specification replaces *PROS 97/004 Specification 4 Access to Public Records*.

For definitions of terms used within this Specification, please refer to the *Access Standard*.

1.3. Related Documents

This Specification supports the *Access Standard* as shown in the following relationship diagram:

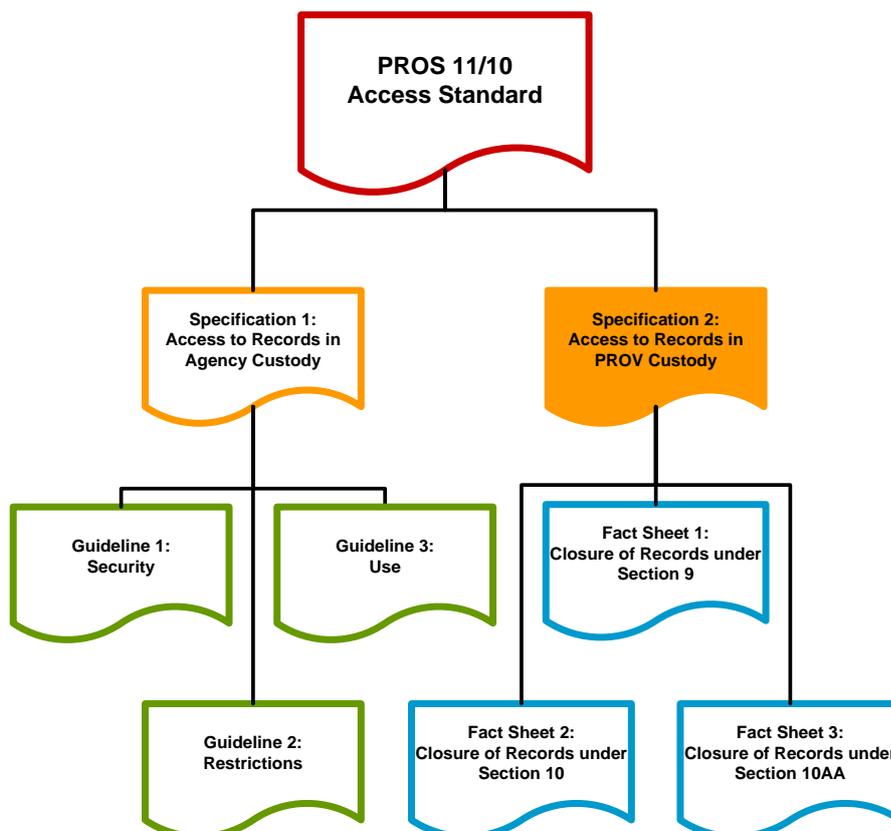


Figure 1: Relationship Diagram

2. Requirements

In this section, principles from the *Access Standard* are provided in *italics* for easy reference. The tables included below the principles list the mandatory requirements and examples of evidence for each of the requirements.

2.1. Openness

Principle: Access to records must be open, unless there is a justifiable reason to restrict or close the access.

Requirement	Examples of Evidence
<p>1. Stakeholder consultation regarding appropriate access arrangements has been undertaken prior to the transfer of the records to PROV.</p>	<p>Stakeholder engagement model and communication plan for identification of and engagement with relevant stakeholders.</p> <p>Documentation and notes about the consultation that occurred with stakeholders, including the discussions and decisions made.</p> <p>Access authority completed and signed by the responsible officer that acknowledges the records are open for public access.</p>
<p>2. Transfer plans developed in collaboration with PROV include arrangements for establishing the access status (either open or closed) of the records being transferred into PROV custody.</p>	<p>Minutes of meetings with PROV where transfer plans and access arrangements have been negotiated, agreed to and confirmed.</p> <p>Correspondence with PROV regarding the agency's intent to transfer records identified as being State Archives to PROV, which includes the access decisions and arrangements.</p> <p>Access authority completed and signed by a responsible officer that acknowledges the records are open for public access.</p>
<p>3. Unavailability of records due to licensing and copyright issues has been made clear at the time of transfer.</p>	<p>Correspondence between the agency and PROV regarding the agency's intent to transfer records to PROV, which includes the licensing and copyright access agreement for specific records.</p>
<p>4. Any record nominated for transfer into PROV custody that has a restriction in place (while in the custody of the agency) has had the restriction reviewed to determine whether:</p> <ul style="list-style-type: none"> - The restriction is time expired or remains valid; - A valid restriction aligns with a section of the Public Records Act and can be nominated for closure; or - The restriction should be removed before transfer. 	<p>Reports documenting the records nominated for transfer have undergone a review, to determine their status as open or closed, based on timeliness, to align restrictions with closures; or to remove restrictions no longer valid.</p> <p>Report or briefing explaining the reasoning for the decision about how the restricted records align with the section of the <i>Public Records Act 1973</i> that a record can be closed under.</p> <p>Documentation about the status of permanent records as open or nominated for closure at the time of transfer to PROV.</p> <p>A copy of the signed access authority forms.</p>

Requirement	Examples of Evidence
<p>5. Records with a restriction are complete, full and accurate, with no records or parts of records removed, altered, de-identified, redacted or destroyed prior to transfer to PROV.</p>	<p>A statement about the records, confirming full and accurate records are being transferred that has been signed by a senior officer as part of transfer documentation and associated forms.</p>

Further Information

For further information on stakeholder engagement please refer to *Strategic Management Guideline 7: Stakeholder Engagement*.

Further information on transfer of records to the PROV can be found in the following documents:

- *PROS 10/13 Disposal Specification 3: Transfer of State Archives to PROV*; and
- *Disposal Guideline 4: Transfer of State Archives: Physical*.

2.2. Justifiable Restrictions

Principle: Any restriction of access to records, or use of records, must meet the agency's documented and endorsed criteria to justify the restriction.

Please note there are no requirements in this specification for agencies to comply with because records in the custody of the PROV are either open or closed under the *Public Records Act 1973*.

As stated in Requirement 4 (above) records managed by a justifiable restriction within the agency must be reviewed and confirmed as either open, or nominated for closure; before they are transferred into PROV's custody.

2.3. Closure of Records in the Custody of PROV

Principle: Closure of records in the custody of the Keeper must be in accordance with the Public Records Act 1973(the Act).

Requirement	Examples of Evidence
6. Records to be closed under the appropriate sections of the Act have been identified and recommended for closure.	Reports that identify and recommend for closure under the Act the permanent records nominated for transfer to PROV as State Archives.
7. Evidence justifying the nominated closure of records under the Act has been collated and presented to the relevant party.	Briefings or reports detailing: <ul style="list-style-type: none"> - the content of records regarded as sensitive by the agency; - the frequency of sensitive occurrences in the records; - the quantity of records that are nominated for closure; - a clear, relevant argument for closure, such as compliance with Information Privacy legislation or Freedom of Information legislation; and - citing the section of the Act that fits the closure.
8. Consultation between the agency and PROV has occurred to assess records recommended for closure and obtain agreement for the closure of those records.	Minutes of meetings with PROV where closure arrangements have been discussed and confirmed. Documents describing the negotiation and agreement between the agency and PROV about the nominated records. Correspondence between the agency and PROV confirming the transfer of permanent records to PROV, including the closure decisions and arrangements. A copy of the Access Authority signed by the Minister. A copy of the signed brief presented to the Minister. A copy of the declaration published in the Government Gazette (where appropriate).
9. Records to be closed under the Act have not been de-identified and individual documents that form part of the record have not been destroyed or altered prior to their transfer into PROV custody.	Transfer documentation and forms include a statement about the completeness and accuracy of closed records that has been signed by a senior officer.

Further Information

Further information about the closure of public records under the provisions of the Act can be found in the following Access Standard documents:

- *Fact Sheet 1: Closure of Records under Section 9 of the Public Records Act 1973;*
- *Fact Sheet 2: Closure of Records under Section 10 of the Public Records Act 1973; and*
- *Fact Sheet 3: Closure of Records under Section 10AA of the Public Records Act 1973.*

Section 10(1) allows the Minister to declare the closure of public records by notice in the Government Gazette.

Section 11(2) of the Act permits the Keeper of Public Records to withhold any public record from inspection or copying, if the preservation of the record would be prejudiced. Therefore, there are no requirements for agencies to comply with in regard to section 11(2) of the Act.

Closure of records under sections 9, 10 or 10AA of the *Public Records Act 1973* does not preclude the public from gaining access under freedom of information (FOI) legislation. In accordance with section 15 (1) of the *Freedom of Information Act 1982* the transferring agency is responsible for access decisions regarding FOI requests for closed records in PROV custody.

2.4. Use of Records

Principle: Public records must only be used for authorised purposes; taking into account all relevant legislation, access, copyright or licensing conditions.

Please note that there are no requirements in this specification for agencies to comply with.

The sections of the *Public Records Act 1973* that outline the responsibilities of the Keeper are noted below.

Section 7 states the Responsibilities of the Keeper as follows:

The Keeper of Public Records shall be responsible for:

- (a) *The preservation and security of public records under his (her) control;*
- (b) *The logical and orderly classification of such records and the publication of lists indexes and other guides facilitating their use;*
- (c) *The duplication and reproduction of public records for official and other purposes ; and*
- (d) *The authentication of copies and extracts from public records required as evidence in legal proceedings or other purposes.*

Section 11(1) states:

Subject to this act, the Keeper of the Public Record shall cause reasonable facilities to be available to the public for inspection and obtaining copies of public records under his (her) control.

2.5. Security

Principle: The security of public records must be assured, preventing unauthorised access, alteration, destruction or release of records.

Requirement	Examples of Evidence
10. Processes are in place to ensure that records retrieved by the agency from PROV custody are managed in accordance with the agency's access provisions, including security arrangements and justified restrictions.	The agency's policy, training and communication about security including records retrieved from PROV custody. Procedures, flyers, how to sheets, or similar communications explaining how records should be managed while in the agency's custody.
11. Prior to returning records to PROV, a quality assurance (QA) using the completed Record Description Lists (RDL) (for physical records) and manifests (for digital records) is conducted.	Review of original RDLs and/or manifests to check that returns match original records. Records of QA kept in the agency's recordkeeping system.

Further Information

For further information on Record Description Lists please refer to the *Disposal Guideline 4: Transfer of State Archives: Physical*.

3. References

Archives Office of Tasmania (AOT) 2005, *Agency Determination of Access Restrictions. Guideline No.4*, AOT, Hobart, Tasmania, viewed 20 May 2011, <http://www.archives.tas.gov.au/legislative/staterecords/guidelines_list/guideline_04>.

Archives New Zealand (ANZ) 2005, *Making access decisions under the Public Records Act. Guidelines for all Public Offices*, ANZ, Wellington, New Zealand, viewed 20 May 2011, <http://archives.govt.nz/sites/default/files/a6_2.pdf>.

Australian Government 2011, *Protective Security Policy Framework – Securing Government Business*, Canberra, ACT, viewed 6 June 2011, <[http://www.ema.gov.au/www/agd/rwpattach.nsf/VAP/\(689F2CCBD6DC263C912FB74B15BE8285\)~PSPF+Feb+edit+PDF+++V1+2+++final+++web+version++January+2011.pdf/\\$file/PSPF+Feb+edit+PDF+++V1+2+++final+++web+version++January+2011.pdf](http://www.ema.gov.au/www/agd/rwpattach.nsf/VAP/(689F2CCBD6DC263C912FB74B15BE8285)~PSPF+Feb+edit+PDF+++V1+2+++final+++web+version++January+2011.pdf/$file/PSPF+Feb+edit+PDF+++V1+2+++final+++web+version++January+2011.pdf)>.

Department of Defence Intelligence and Security (DDIS) 2010, *Australian Government Information Security Manual*, DDIS, Kingston, ACT, viewed 30 March 2011, <<http://www.dsd.gov.au/infosec/ism/index.htm>>.

Economic Development and Infrastructure Committee (EDIC) 2009, *Inquiry into Improving Access to Victorian Public Sector Information and Data*, EDIC, Melbourne, Victoria, viewed 30 March 2011, <http://www.parliament.vic.gov.au/images/stories/committees/edic/access_to_PSI/EDIC_ACCESS_TO_PSI_REPORT_2009.pdf>.

G. Wilson 2011, *Draft Public Sector Information Release Framework (PSIRF) Principles*, Melbourne, Victoria.

Northern Territory Archives Service (NTAS) 2007, *Public Access to Government Archives in the Custody of the NT Archives Service*, NTAS, Darwin, NT, viewed 20 May 2011, <<http://www.nt.gov.au/nreta/ntas/records/archive/pdf/access.pdf>>.

Office of the Australian Information Commissioner (OAIC) 2011, *Information Policy Principles on Open Public Sector Information*, OAIC, Canberra, ACT, viewed 1 June 2011, <http://www.oaic.gov.au/publications/agency_resources/principles_on_psi_short.pdf>.

Public Record Office Victoria (PROV) 1998, *Access to Public Records – PROS97/004 Specification 4*, PROV, Melbourne, Victoria.

Queensland State Archives (QSA) 2009, *Information Access and Use*, QSA, Brisbane, Queensland, viewed 20 May 2011, <<http://www.qgcio.qld.gov.au/qgcio/architectureandstandards/informationstandards/current/Pages/InformationAccessandUse.aspx>>.

State Records Authority New South Wales (SRANSW) 2005, *Access Regulations*, SRANSW, Sydney, NSW, viewed 20 May 2011, <<http://www.records.nsw.gov.au/recordkeeping/topics/access-regulation/access-regulation>>.

State Records Authority New South Wales (SRANSW) 2004, *Procedures for Making Access Directions*, SRANSW, Sydney, NSW, viewed 20 May 2011, <<http://www.records.nsw.gov.au/recordkeeping/government-recordkeeping-manual/rules/procedures/making-access-directions/making-access-directions>>.

Legislation

Copyright Act 1968 (Vic)

Evidence Act 2008 (Vic)

Freedom of Information Act 1982 (Vic)

Health Records Act 2001 (Vic)

Information Privacy Act 2000 (Vic)

Public Records Act 1973 (Vic)

All current Victorian legislation is available at <http://www.legislation.vic.gov.au>

Standards

Archives New Zealand (ANZ) 2006, *Access Standard*, ANZ, Wellington, New Zealand, viewed 20 May 2011, <http://archives.govt.nz/sites/default/files/s4_0.pdf>.

Public Record Office Victoria (PROV) 1998, *Transfer and Storage of Public Records – PROS 97/004 Standard*, PROV, Melbourne, Victoria.

Standards Australia 2002, *AS ISO 15489 Australian standard on records management*, Standards Australia, Sydney.

State Records Commission Western Australia (SRCWA) 2002, *Restricted Access Archives – SRC Standard 4*, SRCWA, Perth, WA, viewed 20 May 2011, <<http://www.sro.wa.gov.au/pdfs/src-standard4.pdf>>.

Other Resources

For more information about the access to public records, please contact:

Government Services
Public Record Office Victoria
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