



Procedure No. 3

Procedures for making access directions

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Summary

These procedures set out how to make access directions for State records.

They are designed to assist individual officers who have responsibility for making access directions. They should be used in conjunction with the Attorney General's [*Guidelines on Making Access Directions under Part 6 of the State Records Act*](#).

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Browsable document

These procedures are also available as a [browsable document](#).

Procedures at a glance

The table below summarises the process for making access directions. It can be used by those who are already familiar with the more detailed information contained in this document.

Stage	Description
1	<p>Identify the records that need to be covered by access directions.</p> <p>Tip: Check the Register of Access Directions to see what records are already covered.</p>
2	<p>Collect information about the records including the known and likely content of the records by:</p> <ul style="list-style-type: none">• talking to staff• checking samples of the records if necessary• checking transfer documentation• checking State Records' finding aids
3	<p>Identify content that may need closing.</p> <p>Tip: Use the Attorney General's Guidelines to help identify content that may need protection for more than 30 years. Remember the presumption that records in the open access period should be open to public access.</p>
4	<p>Decide when the records should be open to public access.</p> <p>Decide if the records:</p> <ul style="list-style-type: none">• can be opened after 30 years• are innocuous and can be authorised for early access.• contain sensitive information that needs to be closed for a period of more than 30 years (such as client records or staff/personnel records). <p>Tips: Check existing access directions on the Register of Access Directions for examples of directions to similar records.</p>
5	<p>Document the decision.</p> <p>If the records are closed to be public access make sure you document the reasons for the decision as you must give a reason for closing records.</p>
6	<p>Make an access direction using a Notification of an Access Direction or Notification of an Early Access Authorisation form</p> <p>Make:</p> <ul style="list-style-type: none">• CPA directions: for each type or class of records that need closing

	<p>or for each set of records with the same closure period</p> <ul style="list-style-type: none"> • Early access directions: for records that can be authorised for public access in less than 30 years • one OPA direction: for all other records in the open access period <p>Tip: Remember you must give a reason for closing records.</p>
7	Have the access direction/s authorised by a senior officer
8	Notify State Records by sending the completed Notification of an Access Direction form/s

Access directions

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What is an access direction?

An access direction is a direction that a series, group or class of records is

- open to public access (OPA) after 30 years or
- closed to public access (CPA) for a period of more than 30 years.

For examples of access directions you can view the [Register of access directions](#).

What records need to be covered by an access direction?

All records in the open access period (over 30 years of age) need to be covered by an access direction regardless of:

- where they are held, or
- their disposal status.

Who is responsible for making access directions?

Each public office is responsible for making access directions to its own records.

This includes records created by:

- predecessor agencies where the function has been continued, and

- other public offices where the function the records document has been transferred.

Someone with an understanding of the known or likely contents of the records should make access directions. They may be records staff or action officers.

Note: the person who makes access directions should be familiar with the [Attorney General's Guidelines](#).

When do access directions need to be made?

The State Records Act requires that public offices ensure all their open access period records are covered by an access direction. There are also two additional triggers for the making of access directions if they have not already been made.

Transferring State archives to State Records

All records being transferred to State Records as State archives must be covered by a current access direction.

When someone applies to have a direction made

If records are not covered by an access direction, anyone can apply, including the State Records Authority, to have an access direction made for records in the open access period.

The application:

- is free
- needs to be in writing, and
- does not need to demonstrate a need or give a reason for the application.

A public office must:

- make an access direction within 14 days, and
- advise the applicant and State Records in writing of the access direction.

If no direction is made in 14 days the records applied for are considered to be subject to an OPA direction.

Note: although access directions are usually made for classes or groups of records, an application for an access direction for records not already covered by a direction can, if necessary, relate to a particular record.

Are there guidelines for making access directions?

The [Attorney General's Guidelines](#) provides guidance on factors to consider when making an access direction. Public offices must consult the guidelines when making an access direction.

The guidelines include:

- a general background including the underlying principles of accountability and access
- the responsibilities of public offices in making access directions
- a list of possible content categories for records that might require a CPA direction

- a set of examples of applying the guidelines, including to sensitive personal information, and
- an explanation of how an OPA direction allows for the disclosure of information otherwise prohibited under other legislation.

Who should authorise access directions?

Access directions should be authorised by a senior officer, such as the Chief Executive Officer, Director or Chief Information Officer.

How long do access directions last?

An OPA direction remains in force unless it is revoked.

A CPA direction remains in force for up to 5 years. A CPA direction must be renewed at least every 5 years. A CPA can also be renewed or revoked at any time. (See [Can an access direction be changed?](#) for more information.)

Note: The 5 year period a CPA direction is in force is not the same as the period of closure for the records to which it relates. For example, while a CPA direction remains in force for up to 5 years it can close records for 50 years. Renewing CPA directions at five year intervals allows for a revaluation of sensitive information.

Can an access direction be changed?

An access direction can be revoked by the public office responsible for the records at any time, except if the direction was made by a Minister in response to a review of an access direction.

Closed records may be opened, and open records may be closed.

Records previously covered by a single access direction can be made the subject of multiple access directions for specified records.

In addition State Records can request the Minister responsible for the public office that has made an access direction to review the direction. (See RIB 38 [Reviews of access directions](#) for more details.)

A public office should notify State Records in writing of any change made to an access direction. This should contain the same information as the advice sent to State Records concerning the original access direction.

Can access directions cover records less than 30 years old?

A public office can authorise records that are less than 30 years of age to be open to public access. This authorisation is known as Early Access.

Early access does not permit the breaching of any duty or obligation (such as confidentiality) or other Acts prohibiting disclosure for records.

Note: Only records in the open access period are exempt from the secrecy provisions of other Acts (see the [Attorney General's guidelines](#)).

Process for making access directions

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Stage 1: Identify the records that need access directions

Check the register of access directions

Check to see if the records are already covered by access directions on the [Register of Access Directions](#).

Identify the records needing an access direction

Identify all records in open access period, and records that are likely to be kept for more than 30 years, that are not covered by a direction.

Stage 2: Collect information about the records

What do the records document?

Find out what the records document. Example:

- Client management
- administrative services
- staff/personnel management
- investigations
- building
- establishment
- policy
- security
- publishing
- reporting

Are there specific formats?

Are there records of a specific or unique format. Examples:

- photographs
- maps
- drawings
- plans

- files
- film.

Who created the records?

In some cases records may have been created by several public offices as the function and the records have been transferred from office to office. Public offices may make access directions for records created by more than one public office.

Sources for information about the content of records

Staff involved in creating and using the records are a good source of information. If you need to check the records themselves, check samples or check file titles. State Records' finding aids (such as guides and item lists) may help you assess the content of records already transferred to State Records.

The physical condition of the records

Contact State Records if you are concerned about the safety of a record. Only State Records can make a direction to withhold from public access to a record to ensure its proper safety and preservation.

Stage 3: Assess the contents of records

To make an access direction you need to assess the known or likely contents of the records for possible information that may need to be closed for more than 30 years.

Presumption in favour of opening records

The State Records Act explicitly states there is a presumption in favour of public access to records that are at least 30 years old. Public offices must have regard to that presumption when assessing records and deciding whether to open or close records.

Assess at a group or series level

Assessing content at a group or series level is a workable 'risk managed' assessment process. Assessing records at an individual (record by record) basis is usually unworkable.

Guidelines for what type of information may need closing

The [Attorney General's Guidelines](#) provides guidance on factors to consider when making an access direction. Public offices must consult the guidelines when making an access direction.

Be familiar with the types of information identified in the Attorney General's Guidelines that may need closing for more than 30 years.

Stage 4: Decide when the records can be publicly available

When deciding when records can be made publicly available remember the presumption that most records over 30 years of age should be open to public access.

Check the register of access directions

To ensure a consistent framework of public access check the [Register of Access Directions](#) for records that may be common or similar across government, for example personnel records and compensation files or records that contain similarly sensitive information.

Note: Very few records need to be closed for more than 30 years and only very sensitive information, such as sensitive personal medical information or plans of ongoing security buildings, need to be closed for more than 75 years.

Stage 5: Document the decision

Document the decision and the records to which it relates.

The documentation should:

- identify whether the records are open or closed to public access
- identify the records subject to the direction by giving them a title
- give a brief description of the contents or the function or business the records document
- include the format of the records, if appropriate such as files, plans or photographs
- indicate which agency/s created the records
- if the direction closes records, indicate how long the records are to be closed (for example, closed for 50 years)
- indicate if the direction revokes a previous direction
- indicate the means used to assess the records, such as staff knowledge, or record titles and samples checked.

Note: If you are closing records it is essential to provide a reason for the CPA direction (such as those in the [Attorney General's Guidelines](#)).

If an OPA direction has been made after considerable deliberation a reason for the direction may also be included (such as those in the [Attorney General's Guidelines](#)).

This documentation may be also be needed if there is a Ministerial review of the direction. (See [Reviews of access directions](#) for more details)

Stage 6: Make an access direction using a notification of an access direction form

An effective way to make access directions is to use your identified groups of records from stages 2 and 3 and your documented assessment of the records to:

- identify all records that need closing for a time (such as staff/personnel records)

- identify records less than 30 years of age that can be authorised for early access (such as publications) Note: authorising early access requires completion of a notification authorising early access form
- make one access direction that opens all other records in the open access period.

Note: Making one OPA direction still enables you to make future CPA directions if you identify any sensitive records in the future.

Records that appear to be mainly non-sensitive but contain some records that require a CPA direction can be separated for the purposes of an access direction. The majority of records can be given an OPA direction and those records identified as requiring a CPA direction can be made a separate group or class.

If appropriate, records can also be grouped according to format such as photographs, maps and plans for the purposes of an access direction .

An access directions is made by completing a [Notification of an Access Direction](#) or [Notification of an Early Access Authorisation](#) form.

Stage 7: Have the access direction authorised

The access direction must be authorised by a senior officer in the public office, such as the Chief Executive Officer, Director, or the Chief Information Officer. When having an access direction authorised all of the information you have documented in Stage 5 should be made available to the authorising officer.

Stage 8: Notify State Records of the access direction

Send an original authorised [Notification of Access Direction](#) (MS Word) or [Notification of an early access authorisation](#) (MS Word) to State Records. Copies of the forms may also be obtained from State Records.

The information supplied will be added to the publicly available [Register of Access Directions](#). An access direction will be assigned to the records. The access direction number will be required when ever transferring records as State archives to State Records

Protection from liability

Under s. 62 of the Act, access providers are protected from liability when granting and giving access to records subject to an OPA direction under the State Records Act. They are protected from any subsequent defamation action resulting from how the records are later used, such as publication.

Protection from liability does not extend to the giving of access independently of the Act, such as the giving of access to closed period material.

Access directions and the Privacy and Personal Information Protection Act

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OPA directions are exempt from the Privacy and Personal Information Protection Act

The Privacy and Personal Information Act 1998 (PPIP Act) allows for the making of OPA directions to open access period records containing personal information. The exemption from the application of the Information Protection Principles relating to the use and disclosure of personal information means that opening records containing personal information to public access under the State Records Act is not in conflict with the PPIP Act.

The exemption from the PPIP Act when making access direction is based on the principle that sensitivity diminishes with time. In addition, under the PPIP Act personal information does not include information about someone who has been deceased for more than 30 years.

Access directions should protect sensitive personal information

Personal information, and in particular sensitive personal information, is an important issue to consider when assessing the content of records for making an access direction. The [Attorney General's Guidelines](#) identifies the sort of personal information that is considered sensitive and that may require a period of protection of more than 30 years.

Reviews of access directions

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Purpose of a review

The State Records Act provides an internal review mechanism for decisions made by public offices to close or open records to public access. The review mechanism ensures that public offices are accountable and answerable for decisions that affect the public's entitlement to access records in the open access period.

Who can request a review?

State Records can request a review of an access direction.

When will State Records request a review?

State Records may request a review of an access direction if after advice and negotiation with a public office a direction remains:

- inconsistent with the spirit of the access provisions of the State Records Act, including the presumption that most records should be opened after 30 years
- contrary to the Attorney Generals' guidelines on making access directions, or
- creates an inconsistent framework of public access to State records across government.

Who is responsible for reviewing an access direction?

The request is made to the Minister responsible for the public office that authorised the direction. The Minister must finalise the review in three months. The review may be carried out in consultation with State Records.

What are the possible outcomes of a review?

The Minister finalises a review by either:

- confirming the original access direction, or
- directing the public office to revoke the access direction and replace it with another specified access direction.

What must a public office do after a review?

The public office must comply with the Minister's direction within 14 days. The public office can comply by revoking and authorising an access direction in accordance with the Minister's review.

If the public office does not comply within 14 days the access direction is revoked. The revoked direction can not be given again without the permission of State Records.

Can the Minister's direction be revoked?

The direction specified by a Minister in a review of an access direction can not be revoked without the permission of the Minister or State Records.

Other forms of access

The making of access directions is the standard means of facilitating access to records in the open access period. Other provisions of the State Records Act can also facilitate public access to State records.

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Special access

The Premier can approve special access arrangements for records that are not open to public access under the State Records Act (s. 58). Special access arrangements limit access to particular records by a particular person, persons or class of persons.

Special access arrangements involve categorising applicants, setting criteria for making a special access decision and a range of possible conditions to apply in particular cases.

The Minister responsible for the records, or a person authorised by the Minister, may, in accordance with arrangements, authorise special access.

Freedom of Information Act

The fact that a record is not open to public access under the State Records Act does not affect any entitlement to access the record under the Freedom of Information Act.

Access outside the State Records Act

The State Records Act does not prevent public offices giving access to records independently of the Act including records less than 30 years of age or subject to a CPA if it is felt appropriate or required by law.

Note: The giving of access outside the State Records Act removes the protection from liability under s.62 of the Act.

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