

Fact Sheet

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Closure of Public Records under Section 9 of the *Public Records Act 1973*

What records does Section 9 cover?

Section 9 of the *Public Records Act 1973* (the Act) allows for the closure of “personal or private” records. This prevents the violation of personal privacy and covers such material as personnel records, medical records, police and prison records and case records concerning students, welfare recipients, children in government care or compensation claimants.

Although closure periods are not specified by Section 9 of the Act, records closed on grounds of personal privacy are generally closed for a period approximating a person’s lifetime. These periods ensure the records remain closed for the prospective lifetime of the primary subjects.

A broad guide to commonly proposed time periods for closure under Section 9 is as follows:

- Records primarily concerning **adults** may be closed for 75 years from the year in which the records were created.
- Records concerning **children** as the primary subject of the record may be closed for 99 years from the year in which the records were created.
- Records such as **staff records** where the individuals concerned may still be in the workforce may be closed for a lesser period such as 30, 40, or 50 years as appropriate.

Closure periods can also be influenced by the arrangement of the records. For example, records arranged alphabetically by surname can only be assessed for closure by the year of creation for the most recent record in the consignment.

Closure of records under Section 9 of the Act does not preclude the public from gaining access under Freedom of Information (FOI) legislation. The transferring agency is responsible for access decisions regarding FOI requests for closed records in PROV custody.

What is the process to close records under Section 9?

- Early in the transfer process the agency identifies records that should be nominated for closure under section 9 of the Act.
- The agency collects and documents evidence to justify the closure. The justification must take into account the record’s age, sensitivity of information contained in the records, arrangement and accessibility of records; and balance these against public benefit and the public’s right to know.
- The agency consults with PROV to assess records nominated for closure under Section 9, present the evidence (as outlined above) to justify the closure and obtain agreement with PROV that the closure of the nominated records is to be recommended to the Minister(s).
- PROV provides advice to the agency on the terminology required for a brief to be written to the Minister responsible for the records of the public office concerned.
- PROV provides the agency with an Access Authority PRO 7B form that should accompany the brief to the Minister.
- The agency presents the brief and the PRO 7B form to the Minister responsible for the records to advise and gain agreement for the closure.
- Once the Minister has agreed to close the records and has signed the access authority (form PRO 7B) the agency will return the form with a cover letter to PROV.
- PROV then advises the Minister responsible for PROV to gain their approval.
- The PROV Minister indicates their approval and authorises the closure by counter-signing the PRO 7B form.

Further Resources

Fact Sheets are designed to give a brief overview of a key concept. For more information on Access topics see www.prov.vic.gov.au

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