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1 Objective and Purpose

The objective of this Procedure is to:

- provide a standard approach for dealing with requests from members of the public to access restricted University of Tasmania (the “University”) archived records.
- ensure the preservation and security of University records where necessary or required by law.
- ensure that requests for access to University archival records are dealt with in a timely and efficient manner, comply with principles of procedural fairness, in accordance with any legal obligations held by the University in holding, obtaining, using and disclosing the requested information.

2 General

This Procedure provides a framework for the availability of, and conditions of access to all archived records (including those identified as Restricted Records) held by the University of Tasmania (“the University”).

This Procedure does not relate to processes for assessing requests for information under the Right to Information Act 2009 (Tas). If a request for information under this Procedure is considered as needing assessment under the Right to Information Act 2009 (Tas) it will be forwarded to Legal Services for further consideration.

All applications for access to archived records under this Procedure will be assessed in accordance with the University’s obligations under the Personal Information and Protection Act 2004 (Tas) and the University’s Privacy Policy.

3 Scope

This Procedure applies to all University employees that are responsible for managing requests for access to records and information from the public.

These procedures apply to all University archived records that that have been transferred to the Tasmanian Archive and Heritage Office as a State Record or are either held by the University of Tasmania on campus or stored with an approved offsite commercial document storage provider.

These procedures excludes University records that are open to the public.

4 Relevant Legislation

Right to Information Act 2009 (Tas)

Personal Information and Protection Act 2004 (Tas)

Archives Act 1983 (Tas)

5 Procedure

The Tasmanian Archive and Heritage Office cannot release any held University owned Restricted Records to the public without authorisation from the University of Tasmania.
Public Access to Restricted Archived University Records Procedure

The University's approach is to release information upon request, unless it has any legal, ethical or other business reasons for not releasing that information.

Permanent records are legally required to be transferred to the Tasmanian Archive and Heritage Office after 25 years to be retained as State records. Permanent records that are retained on University premises after 25 years require a request for exemption to be forwarded to the State Archivist for approval. A percentage of these transferred records have a restricted access applied to them and will not be released without authorisation. These include records that are less than 25 years old, personnel records and any other records specified in Section 15 of the Archives Act 1983.

Once approval has been authorised by the University for Restricted records to be released, State records located within the Tasmanian Archive and Heritage Office are available for viewing at the History Room, or by negotiation with TAHO archivists for electronic copies to be forwarded via email.

If Restricted records assessed as eligible for release are located within the University, they can be accessed by appointment through the responsible organisational unit. Access is to be supervised at all times to ensure that only the records requested are released and to ensure that records are not damaged or removed from the physical folders. Electronic copies may be released by the organisational unit in accordance with the information supplied in the Access to University Restricted Archived Record Confidentiality Undertaking Form. Physical folders are not to be sent through the mail systems.

5.1 Application for Authorisation

To request access to University restricted records, a person must apply in writing to the Manager of Records and Information:

A written application must include:

- what records are specifically required
- and for what purpose.

Upon receipt of a written application, the Manager, Records and Information is to forward enquiries to the relevant Organisational Unit that initially created the records for clearance if required.

The reason for access must be defined by the applicant and will be assessed by the University to determine if it is acceptable. Assessment of records to ascertain that they do not contain personal or sensitive information will be undertaken. The Organisational Unit may recall records to seek clarification of content. University employees should refer to the University's Privacy Policy and other associated policies and procedures for guidance.

If, upon receipt of a request for information under this policy the Manager, Records and Information, or the relevant Organisational Unit forms the opinion that the request may include:

- Information that should be assessed under the Right to Information Act 2009 (Tas); or
- Information that constitutes Personal Information pursuant to the Personal Information Protection Act 2004 (Tas); or
- Information that is controlled by the Federal Privacy Act;
The Manager, Records and Information, or the relevant Organisational Unit will forward that request to University Legal Services for further consideration and advice.

5.2 Assessment of application for access

In considering an application for access to Restricted Records, employees may consider (but are not limited to) the following factors:

(a) Whether or not the information contains personal information or sensitive information of a person (including a deceased person), other than the applicant;

(b) Whether or not the information is considered to be commercially sensitive information, including (but not limited to) contractual, business, trade secrets, or financial information that if disclosed, might disadvantage the business dealings of the University;

(c) Whether or not the information contains confidential information;

(d) Whether or not the information is subject to legal professional privilege;

(e) Whether or not the information contains opinion, advice or recommendations given, obtained, prepared or recorded by the University;

(f) Whether or not the disclosure of the information would have a substantial adverse effect on financial or property interests of the University;

(g) Whether or not the disclosure of the information would be reasonably likely to have a substantial adverse effect on the interests of the University in or in relation to pending or likely legal proceedings.

(h) Whether or not the information cannot be disclosed due to cultural reasons.

5.3 Decision Process

After conducting an assessment under clause 5.2, the relevant Organisation Unit is to make a determination as to whether the Restricted Record requested is to be released:

5.3.1 Approved

If the determination is that the application is to be approved, the Organisational Unit must:

a. Forward the client the Access to University Restricted Archival Records Confidentiality Undertaking form.

b. Once this form is signed and returned, forward a letter of approval to the Tasmanian Archive and Heritage Office and a copy to the client.

c. The client requires a copy of the approval and proof of identity to gain access to records from either the University or the Tasmanian Archive and Heritage Office.

5.3.2 Denied

If the determination is that the application is to be denied, the Organisational Unit must:
a. State reasons why access cannot be provided.

b. Provide the applicant with an option to undertake a request under Right to Information.

6 Definitions and Acronyms

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<tr>
<th>Term/Acronym</th>
<th>Definition</th>
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| Archive               | 1) Those records that are appraised as having continuing value.  
                          AS 4390 Part 1 Clause 4.5  
                          2) Records which are no longer required for current use that have been selected for permanent preservation. Also referred to as permanent records.  
                          3) The place (building/room/storage area) where archival material is kept.  
                          4) An organisation (or part of an organisation) responsible for appraising, acquiring, preserving and making available archival material.  
                          Ellis (ed), Keeping Archives, p. 463 |
Sensitive Information

- personal information or an opinion relating to personal information about an individual's –
  - racial or ethnic origin; or
  - political opinions; or
  - membership of a political association; or
  - religious beliefs or affiliations; or
  - philosophical beliefs; or
  - membership of a professional or trade association; or
  - membership of a trade union; or
  - sexual preferences or practices; or
  - criminal record; and
- health information about an individual

State Record

- Records of State government agencies/departments, State authorities, or local authorities. These public bodies are defined in Section 3 or the Archives Act 1983.

University Employee

- Any individual employed by the University of Tasmania, including permanent, fixed-term and casual staff members and any contractors or consultants hired to perform work on behalf of the University.

7 Supporting Documentation

- State Guideline No 2 – Retention and Disposal of State Records
- State Guideline No 4 – Agency Determination of Access Restrictions
- Recordkeeping Advice No 11 – Short-term retrieval of State Records
- Recordkeeping Advice No 23 – Government agencies using records in the History Room
- University of Tasmania Records Management Policy
- University of Tasmania Records Management Guidelines
- Privacy Policy
- Guidelines Governing Access of Students to their Examination Scripts

8 Versioning

| Current Version   | Version 3 – Public Access to Restricted Archived University Records Procedure; approved March 2018 |
Access to University Archival Records Confidentiality Undertaking

I

[Insert Name]

of

[Insert Address]

• have sought permission from the University’s, Manager, Records & Information, to access restricted University records that are retained by the Archives Office of Tasmania which are required for the purpose specified below (‘the Purpose’);
• have been granted such permission by the University, to access restricted University records subject to the terms and conditions specified in this Undertaking.

Purpose

[Insert details of purpose]

In consideration of the permission granted by the University, I hereby acknowledge and agree:

1. To treat any information or record provided by the University under this Agreement as Confidential Information (however communicated or disclosed) and to not disclose or communicate the same to any third party, unless otherwise agreed by the University in writing.
2. Where the information contains Personal Information and/or Sensitive Information to comply with the requirements of the Personal Information Protection Act 2004 (Tas) and the University’s privacy policy in relation to that information. For the avoidance of doubt, personal information and/or sensitive information is deemed to be Confidential Information, and must not be used or disclosed in any manner or to any third party, without the University’s consent in writing.
3. To not use the information for any purpose other than the stated Purpose.
4. To not publish any Confidential Information except with the written permission of the University.
5. To comply with any conditions or restrictions imposed by the University on the use of the Information, pursuant to the University’s Public Access to Restricted Records Policy.
6. Upon the University’s written request, to promptly:
   a) Deliver to the University or destroy (at University’s option) all documents, electronic files and items received from the University provided pursuant to this Agreement (including all copies of documents or items in which Confidential Information has been copied or reduced into another form); and
   b) Stop using, copying or disclosing (where permitted by the University) the Confidential Information.
7. I acknowledge that damages are not a sufficient remedy for breach of this Agreement and that the University is entitled to specific performance or injunctive relief as a remedy for any breach or threatened breach by me of the terms of this Agreement, in addition to any other remedies available to the University.
Definitions

For the purpose of this Agreement:

**Confidential Information** means any information provided by the University that is not in the public domain and that is by its nature confidential or that has been designated as confidential by the University, but not any information which:

- The recipient can prove is public knowledge, other than as a result of a breach of this Agreement;
- Is known by or is in the recipient’s lawful possession or control prior to its disclosure by the University, and was not acquired directly or indirectly from the University under an obligation of confidentiality; and
- Which the recipient is required by law to disclose.

**Personal Information** has the same meaning as that contained in the *Personal Information Protection Act 2004* (Tas)

**Sensitive Information** has the same meaning as that contained in the *Personal Information Protection Act 2004* (Tas).

Signature

This Undertaking commences on the earlier of:

1. the date of my signature below; or
2. the access to the information.

This Agreement is governed by the laws of the State of Tasmania.

Signed

[Applicant’s signature]  
[Applicant’s date]

Before

[Witness’ signature]  
[Witness’ name]