



# Records Advice

No 47

## Principal Officers and their responsibilities

### ***Who is the principal officer***

The term 'Principal Officer' in the *Territory Records Act 2002* refers to the person within a Territory agency who must ensure that the agency complies with the Act in relation to its records. In the majority of cases this will be the Chief Executive of the agency. The Act further states that:

- a) for the Executive—the chief executive of the administrative unit that provides secretariat support to the Executive; or
- b) for the Supreme Court—the Chief Justice; or
- c) for the Magistrates' Court or Coroner's Court—the Chief Magistrate; or
- d) for the ACT Civil and Administrative Tribunal—the registrar of the ACAT; or
- e) for the Legislative Assembly Secretariat—the clerk; or
- f) for an administrative unit—the chief executive of the administrative unit; or
- g) for a royal commission, board of inquiry or judicial commission—the chief executive of the administrative unit that provides secretariat support to the Executive; or
- h) for a Territory-owned corporation, or a subsidiary, under the *Territory-owned Corporations Act 1990*—the chief executive officer of the corporation or subsidiary; or
- i) for any other entity—the person declared under the regulations to be the principal officer for the entity.

The Director of Territory Records has prepared Regulations under the Act on behalf of some agencies to clarify the responsibilities for records management in agencies within a larger organisational structure.

### ***Compliance with the Territory Records Act 2002***

It is the responsibility of the Principal Officer to ensure that the *Territory Records Act 2002* is complied with in their agency. Compliance with the Act includes compliance with any Notifiable Instruments made under the Act.

## ***Agency records management program***

The Principal Officer of the agency has the responsibility for the development, approval and implementation of the agency Records Management Program.

- (1) The Principal Officer of an agency may, in writing, approve a records management program for the agency if satisfied that—
  - a. it complies with the approved standards and codes; and
  - b. the Director of Territory Records has approved a schedule for the disposal of records of the agency; and
  - c. it includes the arrangements mentioned in section 16 (2) of the Act which sets out the requirements for an agency Records Management Programs; and
  - d. for records of an agency containing information that may allow people to establish links with their Aboriginal or Torres Strait Islander heritage—the agency has consulted with the Territory Records Advisory Council: and
  - e. for records of the agency that are health records – it is not inconsistent with the Health Records (Privacy and Access) Act 1997.
- (2) However, the Principal Officer of an agency may approve an agency's Records Management Program even though the Program does not comply with an approved standard or code, only if the Director of Territory Records has certified in writing that the non compliance is necessary for the agency's operational needs.
- (3) If the Principal Officer of an agency approves an agency's records management program, the Principal Officer must give a copy of the program to the Director of Territory Records.
- (4) The principal officer of an agency must make the agency's records management program available for public inspection without charge during ordinary working hours at the office of the principal officer and any other place decided by the principal officer.
- (5) The principal officer of an agency is not required to include in the agency's records management program made available for public inspection, information about the existence or non-existence of a document if that information would make the program an exempt document under the FOI Act, section 34 (1) or 37.

**Note:** The FOI Act, s34 deals with documents affecting relations with the Commonwealth and States and s37 deals with documents affecting enforcement of the law and protection of public safety.