

Preparing ACT Government records for public access

This Records Advice assists ACT Government agencies to prepare their records for public access.

Records are made public under:

Territory Records Act 2002 Part 3 - Agency records—access

26 Access to records

- (1) A record of an agency is open to public access under this Act on the next Canberra Day after the end of 20 years after the record, or the original of which it is a copy, came into existence.
- (2) A person is entitled to access under this Act to a record of an agency that is open to public access.

Unlike FOI, all ACT Government records in any format are open to all people once the records meet the criteria for public access.

To fulfil their obligations to provide public access to records, agencies must:

- create and keep records of their activities
- identify which of their records must be retained as Territory archives
- contribute to systems that help the public identify Territory archives, such as by contributing to lists and registers of available records
- appropriately dispose of records that are not required as archives, according to an approved Records Disposal Schedule
- take care to preserve archival records
- determine whether access should be restricted for some records
- make records available as appropriate, and assist members of the public to have access to archives.

Make & keep records

The *Territory Records Standard for Records, Information and Data* requires ACT Government agencies to make, capture, appropriately store and describe records, and to have approved Records Disposal Schedules.

Identify records to be retained as Territory archives

The *Territory Records Guideline 3 – Assess* describes the appraisal process, while *Guideline 6 – Retain* outlines the sentencing process. Through these processes the ACT Government seeks to achieve a body of Territory archives that document:

- the significant policies and actions of the ACT Government

- the interaction of government with the people and their environment; or
- the social, political, cultural and economic development of the Territory as it is influenced by government activity.

Section 16 (2) (i) of the Act states that ACT Government agencies must have arrangements for preserving records containing information that may allow people to establish links with their Aboriginal or Torres Strait Islander heritage.

Locate & list

To assist members of the public, as well as records managers and reference archivists, agencies should keep registration and management information about every record, even after the records to which this information relates have been destroyed. Records need to be described so that they can be retrieved when needed. This description process must happen when records are made, and also helps in controlling and managing them. Metadata about when the record was made, who made it, accessed or carried out tasks on it helps to ensure the records' reliability and authenticity.

Dispose

To make it easier to locate and retrieve Territory archives, it is important to de-clutter by disposing of those records no longer required. Once the records have been made, located, listed, appraised and sentenced they may be disposed of according to the approved Records Disposal Schedules. Any disposal action taken must be noted on the relevant control record, such as the agency's electronic document and records management system (Content Manager/TRIM or Objective).

Preserve & conserve

Agency Records Management Programs must establish a regime for the proper care of records of the agency, particularly vital records and those of archival or enduring value. ACT Government agency procedures should therefore enable preservation, conservation, disaster prevention and recovery of records to be retained as Territory archives.

Preservation of electronic records requires strategies to migrate records to new systems in such a way that the records can be maintained as reliable, authentic evidence over time.

Determine if a section 28 declaration is required

Records more than 20 years old are available for public access under the *Territory Records Act 2002* as Territory Archives, except for information that falls into an exempted category and for which a section 28 declaration has been approved by the Director of Territory Records. Territory Archives are not subject to the *Information Privacy Act 2014* although personal information can still be exempted from public access under the *Territory Records Act 2002*.

When considering exemption of records from public access, agencies must bear in mind the principles of access set out in the *Territory Records Guideline Number 7 - Access*. ACT Government agencies should consider section 28 declarations in a proactive fashion, rather than in reaction to a request from the public for access to sensitive records. Records likely to

be sensitive for more than 20 years and therefore needing protection under section 28 can often be identified at the point of making or during the appraisal process. Agencies are encouraged to seek section 28 declarations, where appropriate, early in the record's existence.

ACT Government agencies must also note that records dating from before self-government, are also subject to the access provisions of the Act, and section 28 declarations must be sought for these records where appropriate. To assist records managers and archivists to provide the public with access to records they are entitled to, it is important that the section 28 register is maintained and the control records annotated accordingly.

For detailed explanations of applying section 28 see the separate Records Advices on section 28.

Make available

Section 27 of the Act says that ACT Government agencies must take "reasonable steps" to assist members of the public to apply for access under the Act. ACT Government agencies must also comply with the request in a "reasonable time".

What constitutes "reasonable steps" and "reasonable time" will vary from agency to agency, and will depend on factors such as the complexity of the agency's recordkeeping systems, the extent to which the applicant is able to identify the records sought and the storage location of the records. None of these, however, should be allowed to present insurmountable barriers to access by the public.

Failure to quickly locate the records requested by a researcher will often be a symptom of deficiencies in an agency's recordkeeping system. If ACT Government agencies are unable to fulfil the majority of requests within 30 days they must examine their systems and review their Records Management Programs to identify problem areas. Only extremely large or complex requests should take more than 90 days to fulfil. Applicants must be kept informed of the progress of their request.

Assist the public

Agencies should make decisions on how to make frequently used records available to the public and to alert the public on the existence of Territory Archives.

ArchivesACT works with agencies to develop products and services to assist the public in locating the records of interest. This may include producing finding aids and research tools such as electronic versions of card indexes, search engines to control records, explanatory books or brochures on classes of records, or topics of interest. These may be published on ACT Government webpages, or printed for distribution on demand. Other avenues for improving public access include making digitised records available online proactively or in response to individual requests.

Fees & Charges

Only the Minister responsible for the *Territory Records Act 2002* can set fees for services under the Act. The Act does not provide for fees to be set for the cost to ACT Government agencies of assisting researchers to apply for access. Fees may be set for costs associated with providing access to records, including for providing copies. Access to certain records may have fees or charges attached through other legislation, such as *Associations Incorporations Act 1991* section 11, Inspection or search, including a production or copy of a document held in the register (hard copy or electronic).