

## Roles in Public Access

### Introduction

This Records Advice has been prepared to provide ACT Government employees with guidelines for understanding the roles of agencies when providing public access to archival records, information and data.

The Territory Records Office's purpose is to inspire trust in government through transparent and accountable records that tell the story of Canberra. Section 26 of the [Territory Records Act 2002](#) (Act) provides for a general right of access to Territory records so that the community can understand the actions of the Government and their impact on our city. A record of an agency is open to public access under the Act if 20 years has elapsed since the record was created, with the exception of Cabinet records which can be made available for public release after ten years. The only records older than 20 years that are not available for access are those to which a section 28 declaration applies (see below). The annual release of ACT Government records occurs on Canberra Day.

### Role of ArchivesACT

ArchivesACT provides a point of contact for researchers who are seeking access to open period ACT Government records. ArchivesACT helps researchers identify records that are of interest to them, and provides access to the records, either through our public reading room at Mitchell or through online copies.

ArchivesACT provides an online request [form](#) through its ArchivesACT website. Requests may also be submitted via email to [archives@act.gov.au](mailto:archives@act.gov.au).

ArchivesACT reference staff receive enquiries from the public and conduct limited research to identify any relevant records. If the records are not in Territory Records Office custody, either at our Mitchell repository or in commercial storage managed by us, ArchivesACT staff will ask the relevant records manager to temporarily transfer the records to ArchivesACT so that the records can be made available to the researcher. Reference staff will monitor and keep clients informed on the progress of each enquiry.

Some records, or some information within a record, may be exempt from public access through a section 28 declaration (see below). Researchers will be advised of any records or parts of records that are exempt from public access as well as their rights of appeal.

For the information of members of the public, and as a reference for agency staff, ArchivesACT maintains the *Section 28 Access Exemption Register* on the Territory Records Office's [Publications](#) page. ArchivesACT also records decisions to grant public access to records within the relevant electronic document and records management system (EDRMS). The EDRMS is annotated when a decision is made to provide public access to a record. This supports equity of access by ensuring that records that have already been provided to one member of the public can be provided to subsequent applicants. This practice also reduces the need to re-examine records that have already been cleared

for public access. Similarly, ArchivesACT staff update the EDRMS with the appropriate section 28 declaration number should a record or part of a record be withheld from public access.

## Role of the agency

ArchivesACT will refer to agencies:

- when dealing with categories of records which agencies have advised must be referred to them
- when reviewing records which require subject-based expertise to assess
- if it is unclear whether an existing section 28 exemption applies to a record
- to determine whether an existing section 28 exemption which is due for review (10+ years old) should be re-made
- in the case that a new section 28 exemption may need to be made.

If the records are physically located at Mitchell, ArchivesACT will digitise the record/s to enable and expedite agency review. Alternatively, agency staff may visit the ArchivesACT reading room in Mitchell, or request the physical transfer of the file to them.

ArchivesACT expects agencies to respond to requests for access in a timely manner. Processes for providing public access should generally meet the same timeframes specified under the Freedom of Information Act 2016 (FOI).

### *Exempting Records from Public Access (section 28 declaration)*

All records over 20 years of age should be presumed to be available for public access unless a specific exemption has been applied. The *Territory Records Act 2002* requires that access to records must be administered equitably so that any record that is open, is open to all people.

Under section 28 of the Act, an agency can apply to the Director of Territory Records to have records exempted from public access. Detailed information on what needs to be considered when examining records is described in a separate [Records Advice](#).

Section 28 declarations can be appealed in the same way as decisions made under FOI. Members of the public can apply to the Ombudsman for a review of a decision to withhold a record from public access. Where an applicant is still not satisfied by the result of the review, they can then apply to the ACT Civil and Administrative Tribunal for further review.



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Version: 2.0