

Subsumed Reports

Report of the Director of Territory
Records

REPORT OF THE DIRECTOR OF TERRITORY RECORDS

Introduction

Good recordkeeping supports efficiency and accountability through the creation, management and retention of accurate, reliable and accessible evidence of government activities and decisions. Retention of the corporate memory of government, in the form of records, helps public servants perform their duties efficiently and ensures that audit trails necessary for democratic accountability and transparency are maintained.

During the first full year of effective operation of the *Territory Records Act 2002* (the Act), government agencies have made significant progress towards implementing the provisions of the Act to ensure that their current level of records management complies with their obligations under the Act.

Five Standards for Records Management under section 18 of the Act, which allows the Director to approve Standards or Codes for agency records management, have been approved. A whole-of-government thesaurus for titling the records of the common administrative functions of government (TVKAAA) and a Records Disposal Schedule (TARDiS) to accompany this thesaurus have also been approved.

In addition, ten Records Disposal Schedules for the disposal of Territory Records have been approved following the advice of the Territory Records Advisory Council. These Records Disposal Schedules are Notifiable Instruments under the legislation and are listed on the ACT Government's Legislation website.

These are significant achievements for the first year of operation of new legislation. In the year ahead, the focus will be on assisting agencies with the further development of their Records Management Programs. In parallel with that task, preparations must be made for the access provisions of Part 3 of the Act to come into force on 1 July 2007.

Background

The printed records of the ACT were managed as part of the Commonwealth's records management regime prior to ACT self-government in 1989. In 1994 the majority of ACT records were transferred from the then Australian Archives into the custody of the ACT Government.

The ACT Government has not created a central repository for records. Since self-government, responsibility for the records of the Territory has remained with the department or agency responsible for particular functions. Agencies are responsible for the creation and preservation of past and present material, and for making the material accessible.

The processes that have applied in the ACT in regard to managing records have generally reflected Commonwealth processes. This is understandable, not only because of the relatively long period under the control of the Federal Government, but also because the ACT Government utilises similar administrative structures in the management of its legal and administrative responsibilities. The close archival links between the Federal and ACT Governments will be maintained in relation to both processes and historical records of mutual interest.

The need for improved recordkeeping has been recognised for a number of years. The activity that led to the legislation now in force began in February 1998, when the ACT Government made an election commitment to undertake an inquiry and feasibility study into the establishment of an ACT Archives for the protection of historical documents and objects.

The resulting ACT Archives Project was based in the Department of Urban Services. With the passage of Territory records legislation in June 2002, the Territory Records Office (TRO) was established in Urban Services.

The 1998 ACT Government Response to the *Bringing Them Home—Report* also committed to implementing a number of access initiatives that had direct impact on ACT recordkeeping.

Recognition of the importance of good recordkeeping was reinforced by the realisation that in the ACT a number of significant incidents had occurred in the past for which

records were not available. Notably, the Auditor-General's Performance Audit of the Redevelopment of Bruce Stadium drew attention to many issues that called into question the adequacy of recordkeeping.

In addition, there was internal recognition of inefficiencies associated with agencies' different recordkeeping procedures. The Management Council of the Chief Executives gave a clear direction that records that were similar across agencies were to be treated in the same manner. As a result the Territory Records Office commenced development of a whole-of-government thesaurus for common administrative functions.

Records Legislation

Prior to 1 July 2003

Prior to self-government in 1989, the Commonwealth *Archives Act 1983* applied in the ACT and underpinned the Territory's recordkeeping procedures. The ACT did not have specific archives legislation in relation to the management and preservation of records.

The Commonwealth *Privacy Act 1998*, the ACT *Health Records (Privacy and Access) Act 1997* and the *Freedom of Information Act 1989* also applied to records in the ACT. The *Executive Documents Release Act 2001* altered the access provisions applying to certain documents produced by the Executive.

Prior to July 2003 several widespread trends affected the way in which records were being managed in other jurisdictions and would need to be considered in relation to records management in the ACT. These included:

- creation of an Australian Standard for Records Management, AS 4390;
- existence of archives and records management legislation in the Commonwealth and States;
- issues surrounding the management of electronic records;
- the need for transparency in disposing of records;
- the value of using a common thesaurus for record titling;
- a growing desire within the community for preservation of, and access to records, and

- the need to maintain the evidential value of records.

In 2001 a Territory Records Bill introduced into the ACT Legislative Assembly could not be debated owing to the dissolution of the Assembly ahead of the upcoming election. The *Territory Records Act 2002* was notified to the Territory Legislation Register on 13 June 2002. Sections 1 and 2 of this Act, that deal with its name and commencement, came into effect on that date.

1 July 2003 to 30 June 2004

With the exception of Part 3, the remainder of the *Territory Records Act 2002* commenced on 2 July 2003. Part 3 commences on 1 July 2007. The Act, which complemented existing legislation rather than replacing another Act, now had a legislative base for its recordkeeping, sending a very strong message that the ACT was intent on open and accountable government.

The Act requires that Territory records of enduring evidential, informational or historical value be preserved for future reference. It places an obligation on agencies to manage their records by means of a Records Management Program. The Chief Executive must approve the Program in accordance with Standards and Guidelines approved by the Director of Territory Records.

The Act also established the Territory Records Advisory Council to advise the Director of Territory Records on any aspect of Territory recordkeeping. The Council has representatives from professional and community organisations, government agencies and the indigenous community.

Finally, the Act entitles the public access to Territory records that have reached the age of 20 years and are open for public scrutiny.

Future Obligations

Part 3, the remaining portion of the *Territory Records Act 2002*, deals with access to records and commences on 1 July 2007. Records of ACT Government agencies continue to be available under the provisions of the *Freedom of Information Act 1989* (FOI Act). Under Part 3, access to records becomes an entitlement unless those records would be exempt under certain provisions of the FOI Act, namely documents affecting interstate relations,

law enforcement, personal privacy, legal professional privilege, or in contempt of a court.

Before July 2007, ACT agencies have many records to be reviewed to identify those that would be exempt under the provisions identified above. For these records, the Director issues a declaration under Section 28 of the *Territory Records Act 2002* after receiving an application from the agency. This work will come into sharper focus in the coming years.

Roles and Responsibilities

The Director of Territory Records

Section 33 of the *Territory Records Act 2002* lists the functions of the Director of Territory Records. The range of functions is very broad with responsibilities ranging from providing advice and assistance to monitoring and reporting.

The Director works closely with each agency's nominated Records Manager on the development of an agency's Records Management Program but does not approve the Program as this responsibility rests with the Chief Executive of the agency. The Chief Executive is also required to report on agency compliance with their Records Management Program in the agency Annual Report.

The Director liaises with counterparts in all other Australian jurisdictions, and is a full member of the Council of Australasian Archives and Records Authorities (CAARA) that meets biannually.

The Territory Records Office

The Territory Records Office (TRO) carries out the work program of the Director of Territory Records. The TRO creates government-wide policies and standards regarding all aspects of establishing Territory records. The TRO comprises the Director and an officer from Urban Services' Customer Services and Information Group.

The work program of the Director during 2003–04 focused on the following priorities:

- establishment of an ACT government-wide records regime;

- provision of advice to the Minister;
- provision of advice and encouragement to agencies;
- access to records;
- external liaison;
- development of strategic policy; and
- operational directions.

The TRO manages the whole-of-government contracts for Records Management Consultants and Records Management Trainers. This panel can be used by agencies that require assistance with implementing the requirements of the *Territory Records Act 2002*.

The Territory Records Advisory Council

The Council's role is to advise the Director of Territory Records on the development and review of standards and codes for records management, and on the disposal of government records. The Council also provides advice on the preservation of records about Aboriginal and Torres Strait Islander heritage within the ACT.

The members of the Council, listed in the table below, represent a broad spectrum of interests within the ACT community. The Council met on two occasions during 2002–03 and on a further four occasions during 2003–04. Attendances were as follows:

Member	2002–03	2003–04
Mr George Nichols (Chairman)	2	4
Mr David Wardle (Director of Territory Records)	2	4
Dr Sigrid McCausland (Australian Society of Archivists)	2	4
Ms Veronica Pumpa (Records Management Association of Australasia)	1	4
Ms Jill Downer (Canberra and District Historical Society)	2	2
Ms Judith Baskin (National Trust of Australia (ACT))	2	4
Ms Meredith Whitten (Government agencies)	2	3
Mr Lawrence Gilbert (Aboriginal and Torres Strait Islanders)	1	2

Minutes of meetings are available on the Territory Records Office website at www.territoryrecords.act.gov.au

The five Standards and associated five Guidelines were scrutinised by the Council during 2003–04. Following the Council's endorsement, the Director approved the Standards and Guidelines under Section 33(1)(a) of the Act.

The Council provided advice to the Director regarding a wide range of Records Disposal Schedules, including the Territory Records Administrative Records Disposal Schedule (TARDiS). The vast records management experience and commitment of members of the Council was invaluable in ensuring practical and useful schedules encompassing a wide variety of subject matter.

Whole-of-Government issues

Records Disposal

Considerable work remains for a number of agencies to finalise the Records Disposal Schedules for functions that are specific to their agency. Agencies are aware of this requirement and are actively addressing it.

All agencies have agreed to common titling conventions and common Records Disposal Schedules for functions that affect multiple agencies. Common functional Records Disposal Schedules will result in a better and more useful product, although it increases the initial effort required.

Electronic Records

Today's records are primarily paper based. However, electronic records will become the primary means of business and interaction with government in future. The *Territory Records Act 2002* is deliberately media-independent, meaning a record is a record regardless of whether it is paper or electronic. Managing the transition to having a greater proportion of their records as electronic records will be a challenge for agencies in coming years.

Access to Records

After 1 July 2007, Territory records will be open to the public when they reach 20 years of age. All records will open unless a Section 28 Declaration has been made under the Act. The effect of the Act is to turn off the *Freedom of Information Act 1989* in relation to those records, and the Section 28 Declaration has the effect of reactivating the FOI Act for a limited number of exempt categories, the most important being personal privacy.

Consequently the Act preserves the appeal provisions of the FOI Act and ensures that those people who would have had access under the FOI Act continue to have access. Before July 2007, ACT agencies will be reviewing their records to identify those that would be exempt under the Act to ensure that those records do not inadvertently become open.

In preparation for July 2007, when records created prior to 1987 will become open for public access, a pilot sentencing project was conducted on some of these records to find out what was there, what records could be disposed of, and which ones will remain as Territory archives. This pilot provided useful information for planning for the next few years to bring these records under full control of the Act, sentence those for which Records Disposal Schedules exist, and prepare finding aids for those records which are Territory archives.

Future Initiatives

Over the coming years consideration may be given to the provision of a central common reading room to allow better access to the records of all ACT agencies, and to a common storage facility for Territory records of archival value.

Further information may be obtained from:

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