

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.

Section 26 of the *Territory Records Act 2002* (Act) provides for a general right of access to Territory records 'to support accountability and democratic government and to enrich the community through a source of cultural and collective memory'. A record of an agency is open to public access under the Act if 20 years has elapsed since the record came into existence, 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 is the point of contact for researchers when requesting access to open period ACT government records. Archives ACT acts as an intermediary between the government and the public to source requested records. The ArchivesACT reading room is located at Fyshwick and provides the public with the opportunity to view original records in a secure and supervised facility. A copy service is also available.

The preferred method for submitting inquiries is the online request [form](#) that is available through the ArchivesACT website. Requests may also be submitted via email at archives@act.gov.au.

ArchivesACT reference staff receive enquiries from the public and conduct limited research to identify any relevant records. The Reference Archivist will determine which agency or agencies have custody of relevant records and then contact those agencies on behalf of the researcher. When a list of relevant records has been finalised, titles and citations are provided to the researcher to confirm that they are relevant to their research and that the researcher would like to access the identified records. This is not required if the citation information on particular records is included in the original inquiry. The records will be temporarily transferred to ArchivesACT to allow reference staff to arrange for the records to be made available to the researcher. The Reference Archivist will monitor and keep their clients informed on the progress of each inquiry and request updates from records managers if required.

If a record or any information contained on a record has been exempted from public access due to a section 28 declaration (see below), the researcher who has submitted the request for access to the record will be advised of the category of exemption that has been applied to the record, and of his or her rights of appeal.

Role of the agency

Processes for providing public access should generally meet the same timeframes specified under the Freedom of Information Act 2016 (FOI). It is therefore incumbent on each agency to respond to ArchivesACT in a timely manner.

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. When responding to ArchivesACT staff and when forwarding records to them for public requests, records managers must be mindful that any information contained on relevant records that are not subject to a section 28 declaration will be made publicly available.

Agency records management units should keep records of decisions to grant public access to records. Control systems such as an electronic document and records management system (EDRMS) should be annotated when a decision is made to provide public access to a record. Such annotations help to deliver 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.

Exempting Records from Public Access (section 28 declaration)

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 on a separate [Records Advice](#).

Agencies are responsible for deciding whether a section 28 exemption applies to documents that have been requested for public access.

Agencies should ensure that records to which a section 28 declaration applies are not inadvertently provided to a member of the public. This may require an annotation in the recordkeeping control system and a flag attached to the record. The agency must also keep a register of the records to which a section 28 declaration has been applied for tracking purposes and record the reason information has been exempted. 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, he or she can then apply to the ACT Civil and Administrative Tribunal for further review.