FREEDOM OF INFORMATION

FACT SHEET

FREEDOM OF INFORMATION (FOI)

The ACT Government is transitioning from one FOI Act to a new FOI Act.

- The *Freedom of Information Act 1989* is current until 31 December 2017.
- The new *Freedom of Information Act 2016* is effective as of 1 January 2018, and will repeal the FOI Act 1989.

What are my rights under the ACT Freedom of Information Acts?

The *FOI Act*:

- provides a right of access to government information unless access to the information would, on balance, be contrary to the public interest;
- recognises the importance of public access to government information for the proper working of representative democracy;
- enables the public to participate more effectively in government processes and to promote improved decision-making within government;
- makes the people and bodies that are responsible for governing the Territory more accountable to the public;
- ensures that, to the fullest extent possible, government information is freely and publicly available to everyone;
- facilitates and promotes, promptly and at the lowest reasonable cost, the disclosure of the maximum amount of government information; and
- ensures that personal information held by the Territory is accurate, complete, up-to-date and not misleading.

It is the intention of the Legislative Assembly that this Act be administered with a pro-disclosure bias and discretions given under it be exercised as far as possible in favour of disclosing government information.

The *FOI Act* also requires Directorates to make available:

- functional information (e.g. structure, functions, kinds of government information held)
- policy documents
- kinds of decisions they make
- arrangements they have for public involvement in their work
- documents they hold and how you can see them
- rules and practices which are used in making decisions which affect you.
For more information on how you can see this government information talk to the FOI officer in the Directorate you think might deal with your application or make an appointment to discuss your application.

What other documents can I see?
The FOI Act allows the public a general right of access to information held by Government. This access is governed by restrictions as set out in the legislation. The Directorate supports an individual’s right to access their personal information which may engage with the Information Privacy Act 2014, Health Records (Privacy and Access) Act 1997 and the Children and Young People Act 2008 where applicable.

The FOI Act also requires the implementation of an Open Access Information Scheme (OAIS). The OAIS comes into effect from 1 January 2018. The aim of the OAIS is to establish an open access system for the ACT Government that gives every person the ability to obtain access to some government information.

Prior to lodging an FOI application with the Community Services Directorate
Before making an application you could first approach your case worker, housing manager, support worker or the Directorate’s FOI coordinators to discuss your needs.

The right to access documents held by the ACT Government is subject to certain limitations which ensure that sensitive information, including personal information is properly protected. If you request a document or government information under the FOI Act, you may not be given access to the document or government information if it contains contrary to the public interest information. Some examples of this are material containing a third party’s private or business affairs, Cabinet information, material obtained in confidence, and information contained in Child Concern Reports.

How do I make an access application (also known as an FOI request)?
Identify the document(s) or government information you are seeking. The Directorate has FOI officers who can assist you in making your application.

You can write a letter or complete the Freedom of Information Application form located on the Community Services Directorate’s website http://www.communityservices.act.gov.au/home/freedom_of_information

- Provide as much information about the documents or government information you are seeking access to
  eg: the dates, description and details of the subject matter.
- Include a personal contact telephone number and mailing address (postal or email).
If you are seeking access to your personal information please include a copy of your personal identification. This can include for example, a driver’s licence, Department of Human Services Concession cards, Health Care Card or Medicare Card.

Please address your applications to the relevant area of the Community Services Directorate ACT:

<table>
<thead>
<tr>
<th>All other areas of the Community Services Directorate</th>
<th>Housing and Community Services (HACS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freedom of Information Officer</td>
<td>Freedom of Information Coordinator</td>
</tr>
<tr>
<td>Community Services Directorate</td>
<td>Housing and Community Services</td>
</tr>
<tr>
<td>GPO Box 158</td>
<td>Locked Bag 3000</td>
</tr>
<tr>
<td>Canberra ACT 2601</td>
<td>Belconnen ACT 2616</td>
</tr>
<tr>
<td>Email: <a href="mailto:CSD.FOI@act.gov.au">CSD.FOI@act.gov.au</a></td>
<td>Email: <a href="mailto:housing.customerservice@act.gov.au">housing.customerservice@act.gov.au</a></td>
</tr>
<tr>
<td>Telephone: 6207 6547 or 6205 0244</td>
<td>Telephone: 6207 4549</td>
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</tbody>
</table>

What must the Directorate do when it gets my application?
The Directorate must inform you (in writing) within 5 working days that it has received your application; progress action on a response as soon as possible; give you an estimate of the charges if any are applicable (see below); communicate to you about any difficulties or delays in processing your application; and provide you with a detailed decision on access to the information within 20 working days.

Where the Directorate has to consult with a third party, the time in which it is required to provide you a decision may be extended by an additional 15 working days. The Directorate will notify you if consultation is required.

How much will it cost?
There is no application fee for FOI applications that are seeking personal information held by the ACT Government.

Processing charges
There are no processing charges for applications for access to documents or government information containing only personal information about you. However, processing charges may apply for other applications. A processing charge will apply, noting that the first 50 photocopies/scans are free.
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Fees are set in accordance with the Freedom of Information (Fees) Determination that is published annually on the [ACT Legislation Register](#).

**Waiver of fees**
Processing charges may be waived on various grounds. Refer to section 30 of the FOI Act 1989 or section 107 of the FOI Act 2016 for more information.


**How will the documents or government information be given to me?**
Information is usually provided in hardcopy or electronically. Please contact the Directorate to discuss how we can meet your needs.

**Transferring your application**
We may transfer your application, or part of your application, to another ACT Government Directorate with their agreement, if:

- The requested document or government information is not in this Directorate’s possession but is in the possession of another Directorate; or
- The subject matter of your application is more closely connected with the functions of another Directorate.

The transfer provisions of the FOI Act facilitate access by avoiding the need for an applicant to make a new application to another Directorate and by providing a whole of government approach to making information accessible by the public. Transfer of an application also allows the decision to be made by the Directorate best placed to make an informed assessment about disclosure of relevant documents or government information.

The Directorate will notify you if your application is transferred and we will provide contact details of the Directorate to whom the application has been transferred.

**Can I access all official government information?**
No. The Act sets out certain types of information for which access may be restricted. Restrictions are generally used to protect confidential matters or the private or business affairs of others.
The FOI Act 2016 requires a public interest test to be applied to information. This means the Information Officer (decision-maker) must weigh up the factors favouring disclosure with factors favouring non-disclosure of the information. If, on balance, the factors favour disclosure, the information will be disclosed. If the factors favour non-disclosure, the information may not be disclosed.

If an application would unreasonably divert the Directorate’s resources from its normal functions, access may be refused.

If the Directorate decides not to give you access to the document or government information you asked for, it must give you written reasons for the decision and advise you of your rights of appeal.

Deletions

It is important to understand that the FOI Act provides for the granting of access to government information that contain deletions. If, for instance, government information contains any identifying information in relation to a person other than the applicant, this material may be deleted from the documentation, in respect of the privacy of that individual.

Can I have government information concerning me amended?

Yes, provided you have access to government information that contains personal information about you.

If, after seeing the government information, you believe the information to be incomplete, incorrect, out-of-date or misleading, you have a legal right to ask that it be amended, if one of these grounds is established.

You can ask for an amendment to be made by altering the record, adding an appropriate annotation, or both.

How do I ask for correction of government information concerning me?

Once you have obtained access to government information under the FOI Act:

- simply provide your application in writing. No application fee applies (see above for our contact details)
- include enough detail to allow the Directorate to identify the government information to be amended
- state how the government information is incomplete, incorrect, out-of-date or misleading
- state what the required amendments are
- include an email or postal address to which notices may be sent to you
What must the Directorate do when it gets my application for amendment of personal records?

The Directorate must deal with your application as soon as practicable and notify you within 20 working days of the decision.

If the Directorate decides not to make the changes you asked for, or decide to make different amendments, the Directorate must ensure you are advised of the reasons and notify you of your rights of appeal.

How can I appeal FOI decisions?

**FOI Act 2016**

You have the right to apply to the Ombudsman for review of a reviewable decision under section 73 of the FOI Act. An application for review must be within 20 working days from the day the decision is published or a longer period allowed by the Ombudsman.

If you wish to request a review of a decision you may write to the Ombudsman at:

   The ACT Ombudsman  
   GPO Box 442  
   CANBERRA ACT 2601  
   Via email: ombudsman@ombudsman.gov.au

**FOI Act 1989**

You have the right to seek a review of decisions made under the FOI Act by writing to the Directorate. You will need to seek a review under section 59 of the FOI Act within 28 days after the day the decision is notified to you, or a longer period allowed by the Directorate.

If you wish to request a review of the decision you may write to the Directorate at:

   The Deputy Director-General  
   GPO Box 158  
   CANBERRA ACT 2601  
   Via email: csd.foi@act.gov.au
If you are still dissatisfied with the decision given

You can appeal to the ACT Civil and Administrative Tribunal (ACAT) if you are still dissatisfied with the decision, the application must be made within 20 working days of the Ombudsman’s decision being published.

ACAT review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

ACAT is an independent body responsible for reviewing administrative decisions by agencies. It can decide whether the decision made on your freedom of information application was correct. The tribunal can agree with the decision made or change or reject the original decision and substitute its own decision. Applications to ACAT attract a fee.

Further information about the ACAT, including the current application fee, can be obtained from:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore Street
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740

What will it cost me to appeal?

No fees are payable for an ACT Ombudsman review.

You will have to pay for your legal representation (unless you represent yourself), witnesses expenses and other costs connected with your ACAT or Supreme Court case, unless you request and receive legal aid independently.

Legal Aid

The ACT Legal Aid Office can give you legal or financial assistance with your ACAT or Supreme Court cases if you meet certain guidelines. The Legal Aid Office can be contacted on 6243 3411.
Further Information

For more information, contact the Community Services Directorate on 133 427.

Accessibility

The ACT Government is committed to making its information, services, events and venues, accessible to as many people as possible.

If you have difficulty reading a standard printed document and would like to receive this publication in an alternative format – such as large print or audio – please telephone (02) 6205 0282.

If English is not your first language and you require the translating and interpreting services – please telephone 131 450.

If you are deaf or hearing impaired and require the National Relay Service, phone 133 677 then ask for 133 427.