

Freedom of Information (Accessibility of Government Information) Statement 2019 (No 1)*

Notifiable instrument NI2019—271

made under the

Freedom of Information Act 2016, s 95 (Annual Statements by Chief Minister)

1 Name of instrument

Freedom of Information (Accessibility of Government Information) Statement 2019 (No 1)

2 Commencement

This instrument commences on the day after notification.

3 Approval

I approve the Statement on Accessibility of Government Information

Andrew Barr
Chief Minister

3 May 2019

Chief Minister's Statement on accessibility of government information

The introduction of the *Freedom of Information Act 2016* is an important signal to the community of the government's continuing commitment to improving the public accessibility of government information. The ACT Government has had a stated commitment to Open Government policies since 2011, when the Chief Minister introduced a range of open government initiatives, including increased community consultation opportunities and instituting the practice of publishing summaries of Cabinet decisions.

The 2016 FOI Act is evidence of our commitment to continuous improvement in open government. In her 2011 statement, the Chief Minister said that, as a first principle, information available to the government should be made available for use by the community. The introduction of the open access information regime in the new FOI Act continues that commitment, requiring ACT Government agencies to routinely publish government policies unless there are very good reasons not to do so.

In the spirit of continuous improvement, the Act requires the Chief Minister to make an annual statement about improving the public accessibility of government information, including the government's:

- aims for increasing proactive disclosure of government information and reducing the need for members of the public to make access applications;
- expectations of agencies for the provision of government information; and
- response to address information access issues identified by the Ombudsman in the previous 12 months.

The Act also requires that the statement take account of the Ombudsman's most recent report under section 67 (Annual report on operation of Act), as well as the views of agency Information Officers appointed under the Act.

Increasing proactive disclosure

Since the Open Access Information Scheme began, more than 3,500 policy and other types of documents have been uploaded to the Open Access Information website. This is a very clear demonstration of the ACT Public Service's commitment to the Open Access scheme. This is in addition to the wide range of information that is already routinely published through a variety of ACT Government websites and other media. During 2018 the Open Access Information website received almost 15,000 visits, demonstrating the interest our community has in accessing government information. The Territory Records Office, which maintains the Open Access website, will continue to promote this resource so that community members are able to find and access the increasing amount of material available on that site.

Increasingly, ACT Government agencies are using Creative Commons licensing for their published material. Creative Commons licenses allow the community to more freely make use of ACT Government copyright material. Like our open government commitment, use by the ACT of Creative Commons licenses starts from an assumption that government information is community information and should be publicly available wherever that is possible and appropriate.

The aim of the Open Access Information scheme is to make the publication of government information, largely routine, and to reduce the need for community members to seek access to information through formal Freedom of Information channels. The government's initiative to extend the availability of electronic document and records management systems (EDRMS), announced in

the 2018-19 Budget, will support more efficient records management processes across the ACTPS. As part of that project the Territory Records Office is investigating improved workflow systems that would support routine publishing of policy and other documents, as well as mechanisms to automatically publish documents under the open access scheme.

The ACT established its open data policy in December 2015. There are currently 197 data sets available through the data.act.gov.au website, which can be downloaded and reused by the public. The open data portal was one of the first to be established in Australia when it was launched in 2012. New and updated data sets are uploaded regularly to the website, and cover a wide range of topics, from maps showing the impact of the 2003 bushfires to data about proactive versus reactive site visits by WorkSafe. Open data helps support the development of new business opportunities for start-ups, is a valuable source of information for academic research, and is used to foster community use of open government data via hackathons such as GovHack. The Office of the Chief Digital Officer maintains the Open Data website, and continues to promote its use, both by ACT Government agencies and the community. With the announcement of budget funding for the development of a whole of government data management and analytics capability within the OCDO, called the ACT Data Analytics Centre, opportunities to publish more datasets will be identified over the coming two years.

Following one year of operation of the new Act, the ACT Public Service will conduct a review of its implementation of new FOI processes. That review will look, in particular, at further opportunities to reduce the need for member of the public to make access applications, as well as other mechanisms to allow ACT Government agencies to release more material to the public.

Expectations

As articulated in the 2011 Chief Minister's statement on open government, the ACT Government, as a first principle, makes government information available for use by the community. In support of this principle and in compliance with the *Freedom of Information Act 2016*, ACT Government agencies are expected to:

- at least twice annually, review the Open Access Information website to ensure that the materials they have published there remain, as far as practicable, accurate, up-to-date and complete
- continue to proactively publish all appropriate government information through a variety of means, including through the Open Access Information website, www.data.act.gov.au, and other ACT Government websites
- progressively build public interest test assessments into policy development workflows, so that new policies are routinely assessed and released, where appropriate, for publication
- sustain and improve compliance with the FOI Act, including by addressing the issues identified by the Ombudsman (discussed further below).

Issues Identified by the Ombudsman

On 27 November 2018 the Speaker tabled a report by the ACT Ombudsman as required under section 67 of the Act. That report covers the first six months of the operation of the Act, from 1 January to 30 June 2018. The report makes a number of observations about the ACT's early implementation of the Act. In particular, the Ombudsman has noted that in some cases Information Officers have not sufficiently stated the reasons for their decisions in applying the public interest test to withhold access to information. The report also notes that in some cases Information Officers may

take inconsistent or unnecessarily narrow approaches to clarifying the scope of access applications under the Act.

The ACT Government is pleased to note the Ombudsman's intention to work cooperatively with agencies and other stakeholders to improve the application of the Act. Agencies particularly see the Ombudsman's establishment of an FOI practitioners' forum as a useful mechanism which will help to share and improve on agency FOI and Open Access practice. The ACT also maintains an internal FOI community of practice which provides an important means for agencies to share knowledge and improve on performance. ACT Government agencies will use these avenues to ensure that Information Officers understand and are able to apply the public interest test and processes for defining the scope of an access application. The forthcoming review of the ACT's implementation of the FOI Act will also provide recommendations for action to further improve the public accessibility of government information.

Views of Information Officers

ACT Government Information Officers, appointed under the FOI Act, have been consulted in the preparation of this statement. Information Officers noted in particular the value of information sharing forums to support continuous improvement. They acknowledged that, with the legislation still in its infancy, there have been some minor issues in its implementation. Overall, Information Offices, and the agencies they work within, have approached the new Act in a positive and constructive way, and look forward to opportunities to improve the Act's implementation and through it the community's access to government information.