

Open Access Information Strategy 2024

Purpose

This strategy sets out how the Office of the ACT Ombudsman (Office) will comply with the open access information requirements in the *Freedom of Information Act 2016 (ACT)* (FOI Act).¹ It covers:

- what is **open access information** and why it must be made publicly available
- how **open access information** will be made publicly available
- how **open access information** will be reviewed to ensure it remains accurate, complete and up-to date, and
- how the Office will identify **contrary to the public interest information** (which does not need to be made publicly available) and publish reasons for not making such information available.

Objective

The ACT Ombudsman will identify and publish open access information in a timely manner consistent with the principles outlined below.

1. Open access information will be made available to the ACT community, unless it has been assessed as contrary to the public interest to release the information. The Office's **default position** is to provide access to information.
2. Information will be assessed for release with a pro-disclosure bias, consistent with the FOI Act.
3. Open access information will be accurate, up to date, and complete.

¹ By arrangement between the Australian and ACT governments, the Commonwealth Ombudsman is also the ACT Ombudsman. The Territory and the Ombudsman recognise that the Office of the Commonwealth Ombudsman is a Commonwealth Government entity that is required to comply with Commonwealth legislation, including the Information Publication Scheme in Part II of the *Freedom of Information Act 1982 (Cth)*. This strategy is designed to cover the publication of documents related to the ACT Ombudsman's functions and to ensure consistency with open access obligations in the FOI Act (ACT).

4. Open access information will be easily accessible to all members of the ACT community, for example by complying with the web content accessibility guidelines, level AA (available at w3.org), or by being made available in hard copy without charge, on request. Open access requirements will be considered when documents are created by the Office.
6. Documents published to VOLT² will be considered for publication in line with open access obligations.

Roles and responsibilities

Role	Responsibilities
Senior Assistant Ombudsman (SAO)	<p>SAOs are responsible for ensuring the teams with ACT Ombudsman functions adhere to the open access requirements by identifying, assessing and publishing open access information.</p> <p>SAOs will be required to conduct a review annually to ensure all open access information has been identified, assessed and published (or alternatively a record made of decisions not to publish open access information has been completed and saved) for their teams.</p>
Teams with ACT Ombudsman functions	<p>Each team with ACT Ombudsman functions is required to identify, assess and publish open access information. Each team should identify an Open Access Coordinator, or utilise the VOLT representative, for assessment and publishing open access information.</p> <p>If a decision is made not to publish open access information, a record of the decision must be made in the Open Access template, saved in the General Open Access Objective folder, entered into the Open Access decision not to publish spreadsheet and a description and reasons published on our website.</p>
Legal team	<p>Along with functional open access information, the Legal team is responsible for ensuring the Office disclosure log is accurate and up to date.</p>
Communications, Engagement and Education team (CEE)	<p>CEE is responsible for publishing open access information on the ACT Ombudsman website.</p>
ACT FOI team	<p>The ACT FOI team is responsible for ensuring the ACT Ombudsman Open Access Strategy is reviewed and up to date. The FOI team will also provide support and general advice to teams across the Office in making Open Access decisions.</p> <p>The ACT FOI team is also responsible for monitoring ACT Government agencies' compliance with the requirement on an ongoing basis and handling complaints about the Office's open access.</p>

² VOLT – Valuable Online Library Tool – is an online tool used within the Office of the Commonwealth Ombudsman to provide staff with access to standard operating procedures and guidance documents.

What information will be published?

The ACT Ombudsman will proactively publish the following categories of information unless it is assessed as being *contrary to the public interest information*:

- Functional information about our Office, including:
 - our [organisation chart](#)
 - [who we are](#) and [what we do](#)
 - our values
 - information about our employment conditions, including the current [enterprise agreement](#)
 - [contact details](#) for the ACT Ombudsman
 - what information we hold and how you can access it, and
 - information about our service standards and our performance against these standards.
- Documents tabled in the ACT Legislative Assembly, including our annual reports.
- Other reports, including submissions (where release will not interfere with our investigations).
- [Policy](#) documents, including:
 - strategies that inform how we do our work (where release will not interfere with our investigations)
 - [guidelines](#) on Ombudsman reviews of FOI access decisions
 - complaints handling policies, and
 - the standard operating procedures followed by our Office, where they inform how we implement our legislative responsibilities and approach noncompliance with legislation for which we are responsible.
- The ACT Ombudsman [disclosure log](#).

What information will not be released?

Information will *not* be published by the ACT Ombudsman where it is *contrary to the public interest information*, as defined in s 16 of the FOI Act.

To determine whether the information is 'contrary to the public interest information', the Office will consider the list of factors at Schedule 1 of the FOI Act. If none of those factors apply, the Office will apply steps as set out in s 17 of the FOI Act and will weigh factors favouring disclosure at Schedule 2.1 against factors favouring nondisclosure at Schedule 2.2, noting the Act's pro-disclosure bias. An example where information may be 'contrary to the public interest information' would be policy documents comprising law enforcement information where, if disclosed, could prejudice a current investigation or law enforcement methodology or procedures.

If our Office is considering **not** publishing a document, the relevant business area, must assess whether the information is contrary to the public interest to disclose, taking into account the FOI Act and the best practice approaches outline in the ACT Ombudsman FOI guidelines.

If a single document includes both open access information and contrary to the public interest information, our Office will, as far as practicable, make the open access information publicly available, with the contrary to the public interest information redacted.

When a decision has been made by the ACT Ombudsman not to publish information, our Office will instead publish a description of the information, why the information is contrary to the public interest, and a statement outlining review rights. This will apply to documents not released in full, or only released in part.

Our Office has prepared templates for decisions to publish and not to publish information in Objective.³

In line with recent amendments to the FOI Act, where publication of a policy document would result in duplication of information that has **entirely** already been made publicly available by other means, it is not necessary to publish this document.⁴

How will information be assessed for release?

Our Office will proactively identify and assess information that can be published on the ACT Ombudsman website. This will be done by each team producing documents in a similar manner to self-assessment for publication to VOLT. A checklist has been prepared to assist teams with this process.⁵ If teams are unsure, the ACT FOI team can be contacted for clarification although ultimately it remains the responsibility of the relevant team to decide to publish or not publish.

When producing a document relevant to the work of the ACT Ombudsman, the team producing the document should create the document so that it is in a format and style appropriate for publication as open access information.

Staff awareness and senior executive commitment

This strategy and our approach to open access will be communicated to existing staff via induction, the Intranet and other appropriate internal communication channels.

The Ombudsman and senior executive are committed to open access and will communicate this commitment to staff.

Where and how will information be published?

Open access information will be published on the ACT Ombudsman website and will comply with the web content accessibility guidelines.

ACT community members will also be able to contact our Office to request hard copies of open access information. The FOI Act is silent on whether we are required to provide

³ Both templates can be found in Objective folder fA125590.

⁴ Changes made in the *Freedom of Information Amendment Bill 2022*.

⁵ <https://objective.ombudsman.gov.au/id:A2389221/document/versions/latest>

hard copies where the information is already publicly available online, so this should be decided on a case by case basis.

How will the information be kept up to date?

Open access information published on our website will be reviewed regularly to ensure it remains current, with updates made to functional information where required. Each team will also conduct an annual review of open access information.

Relevant policies, procedures and guidelines created and updated by the Office will also be published as they are updated, as will documents tabled in the ACT Legislative Assembly. The ACT Ombudsman disclosure log will also be updated as access applications are decided by the Office.

Monitoring

Each team will be required to complete a review of open access information and complete an annual compliance statement.

The ACT FOI team will file the annual compliance statements and maintain a register.

The Office may be included in open access monitoring activities of ACT Government agencies conducted by the ACT FOI team.

Background

Open access and the FOI Act

Part 4 of the FOI Act provides for an Open Access Information Scheme (OAIS) under which ACT agencies and Ministers have obligations to proactively release Government information. The OAIS is designed to increase government accountability, and to promote a culture of openness and transparency in government.

Section 23 of the FOI Act sets out the types of information that is considered to be open access information. Section 24 provides that an agency or Minister must make open access information publicly available unless it is assessed as being contrary to the public interest information under s 16 of the FOI Act.

The ACT Ombudsman has published a [guideline](#) which outlines best practice in terms of OAIS compliance.

The May 2023 amendments to the FOI Act have listed the decision to make open access information publicly available as a reviewable decision by persons whose interests are affected. The ACT Ombudsman FOI team will conduct any reviews requested under this change, so only advice can be provided by the team on questions, not substantive decisions on publication which must be made by the team creating the document in question.

Role of the ACT Ombudsman

In addition to its own obligations to pro-actively release information under the FOI Act, the ACT Ombudsman is required to monitor the operation of the FOI Act, including the publication of open access information by agencies and Ministers. More information is available at <https://www.ombudsman.act.gov.au>.