

## **OVERVIEW**

Legal Aid Commission Open Access Policy aims to demonstrate how the Commission meets its Open Access requirements under Part 4 of the FOI Act 2016. The Commission recognises the need to embody a transparent, accountable, and pro-disclosure environment where possible. The current Open Access requirements support this initiative. Ensuring the Open Access material is complete, accurate and up to date is crucial as failure to do so can lead to a breach of the FOI Act. Information that is deemed to be contrary to the public interest to disclose as defined in section 16 of the FOI Act 2016 will not be released.

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## **1. PURPOSE**

1.1 This policy explains how the Legal Aid Commission (the Commission) meets its Open Access obligations under the Freedom of Information Act 2016 (the FOI Act).

## **2. SCOPE**

2.1 This policy applies to the Commission employees that are responsible for the drafting, consideration, and publication of open access documents, their approving officers, and Information Officers

2.2 This policy should be read in conjunction with the:

- The Commission's Open Access Strategy [Link](#)
- [The Commission's Freedom of Information Policy](#)

## **3. POLICY STATEMENT**

3.1 The Commission is committed to the continuous improvement of public accessibility of government information. The introduction of Open Access requirements in the FOI Act strengthens this commitment by increasing the proactive disclosure of government information. Open Access supports the principle that government information should be available to the community wherever possible as a public asset.

3.2 The Commission recognises the importance of the proactive release of information to promote a government that is open, accountable, and effective. This policy provides guidance to employees on the proactive publication of Open Access information to support a pro disclosure culture.

## **4. ROLES AND RESPONSIBILITIES**

### **Information Officers**

Under section 18 of the FOI Act, the Commission Information Officers are appointed by the Chief Executive Officer. In this policy, Information Officers are responsible for:

- Approving the publication of Open Access information.
- Promoting a culture of open government within the Commission.

### **Head of Corporate**

The Head of Corporate is responsible for ensuring that appropriate procedures are adhered to within the Commission to identify and publish Open Access information.

The Head of Corporate is also responsible for ensuring the information contained in Ministerial Briefs is drafted with consideration of FOI and Open Access release

## **Open Access Coordinators**

The Commission is required to elect at least one Open Access Coordinator. The coordinator is responsible for reviewing Open Access documentation and publishing it to the Open Access Portal on behalf of the Commission.

Manager of Client Service assists by:

- Facilitating a full review of Open Access listings at least twice annually.
- Providing guidance on Open Access processes and requirements.
- Administering the Commission's Open Access documents.

## **5. WHAT IS OPEN ACCESS INFORMATION**

5.1 As defined in section 23 of the FOI Act, open access information means information held by the Commission that came into existence on or after 1 January 2018 and that is at least one of the following:

(a) functional information about the Commission including its structure, functions, kinds of government information held

(b) information about the Commission or its work tabled in the Legislative Assembly

(c) policy documents

(d) budget papers

(e) information about government grants made or administered

(f) the Commission disclosure log

(g) a statement of boards, councils, committees, panels and other bodies that have been established by the Commission for the purpose of advising the agency.

(h) any report or recommendation prepared by a body mentioned in the above point

(i) any of the following ministerial briefs prepared by the agency that are 5 or more years old:

(i) incoming ministerial briefs

(ii) parliamentary estimates briefs

(iii) annual reports briefs

(iv) question time briefs

## **6. IDENTIFYING OPEN ACCESS DOCUMENTS**

6.1 Responsibility for identifying Open Access information, other than ministerial briefs, lies within the Commission. In addition to ensuring that the information fulfils the criteria listed in section 23 of the Act, Open Access Coordinators must ensure that published Open Access information is complete, accurate, and up to date. Failure to do so is in breach of section 25 the Act.

6.2 Where possible, the Commission should aim to incorporate the identification of Open Access information into existing processes for efficiency and to demonstrate ongoing commitment to open government.

6.3 Further guidance on what constitutes Open Access information under the FOI Act can be found in the guidelines published by the ACT Ombudsman:  
[Ombudsman Guidelines Open Access Information.pdf](#)

## **7. MINISTERIAL BRIEFS**

7.1 Ministerial briefs subject to open access under section 23(1)(i) of the Act will be collated by the Commission's FOI. Releases will be made quarterly, with the briefs that became available for release over that quarter being published.

7.2 Once collated, the Commission's FOI will identify the Executive responsible for each brief.

7.3 Copies of the briefs will be provided to the Executive. Executives will then have four weeks to identify any concerns they might have with the potential release of information.

7.4 The timeline for each quarter is set out as follows:

- The Commission's FOI collation and consultation with the responsible Executive and third parties.
- First month of the quarter -January, April, July, October
- The Commission's FOI recommendation to the Information Officer.
- Second month of the quarter -February, May, August, November
- Provision of Information Officer brief and publication/notification.
- Third month of the quarter -March, June, September, December

7.5 The Information Officer will consider any concerns raised by the responsible Executive to inform the final decision on access.

## **8. THE COMMISSION DISCLOSURE LOG**

8.1 Under section 28 of the FOI Act, the Commission is required to keep a record of access applications (FOI requests) made to the Commission on the disclosure log. The disclosure log includes details of the request, the Information Officer's decision, a copy of the information provided to the applicant, as well as details of fees charged, and time spent dealing with the application. It does not include details of requests for personal information.

8.2 The Commission's FOI works with the Information and Technology team (ICT) to update the disclosure log, if applicable, following the completion of each FOI request.

[Disclosure Log | Legal Aid ACT](#)

## **9. PUBLIC INTEREST TEST**

9.1 Before publishing Open Access information, the responsible Open Access Coordinator must consider whether disclosure is in the public interest by weighing up factors favouring access and those favouring non-disclosure.

- 9.2 Factors in favour of access are set out in Schedule 2 of the Act. The factors align with the Act's aim to promote an open and transparent government.
- 9.3 Factors favouring non-disclosure as set out in Schedule 2 define information for which disclosure would be contrary to the public interest. These factors primarily address issues concerning personal privacy and public safety.
- 9.4 The Open Access Coordinator must balance these factors placing particular importance on the disclosure of government information. A decision not to release based on a factor favouring non-disclosure must evidently outweigh the benefit of disclosure.
- 9.5 Where publication of Open Access information is not otherwise already approved, the Open Access Coordinator should provide the relevant Information Officer with their public interest test assessment. This should ideally be included as part of the document clearance and approval process for efficiency and to ensure Open Access information is published in a timely manner.

## **10. PUBLICATION TO OPEN ACCESS**

### **10.1 Open Access Portal**

- 10.1.1 The Open Access Portal was created to support the pro-disclosure culture of the ACT Government by providing a central, searchable interface for the community to access government information. The portal provides a 'no wrong door' approach for the community to easily access information from all ACT Government agencies from a single source.
- 10.1.2 The site also provides links to other important sources of government information such as legislation, open data, and historical government archives.

### **10.2 Publishing to The Commission Website**

- 10.2.1 Before information can be searchable via the Open Access Portal, it must first be published to a public facing website. This maybe an ACT Government website that host information of the kind that is assessed as falling within Open Access (i.e. budget papers are published on the Treasury website).
- 10.2.2 The Commission must ensure that the reasons for any decision to withhold some, or all, information in an Open Access document is published, including details of how the decision can be appealed.
- 10.2.3 Requests to publish information to the Commissions website should be forwarded to the Commission's ICT team.

### **10.3 Publishing to The Open Access Website**

- 10.3.1 Once the Open Access information has been the Commissioned on a public facing webpage, the details of the information, including the information's URL, needs to be entered on the Open Access portal.

10.3.2 To gain access to upload or edit documents on the Open Access portal, please contact the Commission's ICT team

10.3.3 Please refer to the Open Access Portal Publishing Guide for details of how to publish to the portal.

#### **10.4 Information Title**

10.4.1 Consideration should be given to the title listed on the Open Access Portal. The title needs to reflect the content as accurately and concisely as possible. Keep the public in mind and expand abbreviations where they are not widely known.

#### **10.5 WCAG Compliance**

10.5.1 Under section 67 (1)(k) of the Disability Discrimination Act 1992, all published information must comply with Web Content Accessibility Guidelines (WCAG). Under section 47 (3)(a)(i) of the FOI Act, access to government information must be given in a way that complies with WCAG, level AA. Please refer to the ACT Government Web Accessibility Guidelines to ensure compliance of Open Access Documents.

10.5.2 Wherever possible, documents should be created and drafted in compliance with WCAG to avoid the need for remediation prior to publishing.

#### **10.6 Ongoing Review**

10.6.1 In accordance with section 25 of the Act, all published Open Access information must be kept accurate, up to date, and complete. The ACT Ombudsman is responsible for monitoring the Commission's compliance with this requirement on an ongoing basis.

10.6.2 The Manager of Client Service works with Open Access Coordinators to ensure open access listings are fully reviewed twice a year at a minimum.

### **11. ENQUIRIES**

Direct enquiries on this policy to: Head of Corporate CSU@legalaidact.org.au

#### **DOCUMENT MANAGEMENT AND CONTROL**

Owner: People and Culture

Content manager: People and Culture Manager

Date approved: January 2025

Review date: January 2026

#### **DOCUMENT/LEGISLATION REFERENCES: [Links to be added](#)**

Freedom of Information Act 2016

The Commission Freedom of Information Policy  
The Commission Open Access Strategy  
ACT Ombudsman Guidelines – Open Access Information  
The Commission Disclosure Log  
Open Access Portal  
Open Access Portal Publishing Guide  
ACT Government Web Accessibility Guidelines  
Territory Records Office intranet