JACS OPEN ACCESS

POLICY

JUSTICE AND COMMUNITY SAFETY DIRECTORATE

DOCUMENT INFORMATION

Date approved/effective:	26 November 2024
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Endorsed by:	Richard Glenn, Director-General
Policy Custodian:	Executive Branch Manager, Governance and Business Improvement
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OVERVIEW

The JACS Open Access Policy aims to demonstrate how the Directorate meets its Open Access requirements under Part 4 of the FOI Act 2016.

The ACT Government 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.

Much of the Open Access information of each directorate can be easily accessed via the Open Access Portal.

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1. PURPOSE

1.1 This policy explains how the Justice and Community Safety (JACS) Directorate meets its Open Access obligations under the *Freedom of Information Act 2016* (the FOI Act).

2. SCOPE

2.1 This policy applies to JACS employees that are responsible for the drafting, consideration and publication of open access documents, their approving officers, Information Officers and the Governance, Coordination and Reporting (GCR) unit.

2.2 This policy should be read in conjunction with the:

- JACS Open Access Strategy
- JACS Freedom of Information Policy

3. POLICY STATEMENT

3.1 The ACT Government 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 JACS 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

Role	Responsibilities
Information Officers	Under section 18 of the FOI Act, JACS Information Officers are appointed by the Director-General. In this policy, Information Officers are responsible for: • Approving the publication of Open Access information. • Promoting a culture of open government within the Directorate.
Business Unit Heads	Business Unit Heads are responsible for ensuring that appropriate procedures are adhered to within the business unit to identify and publish Open Access information.

Role	Responsibilities
	• Business Unit Heads are also responsible for ensuring information contained in Ministerial Briefs are drafted with consideration of FOI and Open Access release.
Open Access Coordinators	Each business unit is required to elect at least one Open Access Coordinator. The coordinator is responsible for reviewing Open Access documentation and publishing to the Open Access Portal on behalf of the business unit.
Governance Coordination and Reporting (GCR)	GCR assists by: • Facilitating a full review of Open Access listings at least twice annually. • Providing guidance on Open Access processes and requirements. • Administering whole of Directorate Open Access documents, including the quarterly release of ministerial briefs (identified in part 5.1(i)).

5. WHAT IS OPEN ACCESS INFORMATION

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

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

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

(c) policy documents

(d) budget papers

(e) information about government grants made or administered

(f) JACS disclosure log

(g) a statement of boards, councils, committees, panels and other bodies that have been established by JACS for the purpose of advising the agency or a Minister responsible for 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 with each business unit. 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, business units 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:

ACT Ombudsman Guidelines – Open Access Information

7. MINISTERIAL BRIEFS

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

7.2 Once collated, JACS FOI will identify the responsible business unit for each brief.

7.3 Copies of the briefs will be provided to the responsible business unit via Content Manager, with each business unit being provided a single container containing all briefs they are responsible for. Business units 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:

JACS FOI collation and consultation with BUs and third parties.	First month of the quarter - January, April, July, October
JACS FOI recommendation to 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 Any concerns raised by the business unit will be considered by the Information Officer to inform the final decision on access.

8. JACS DISCLOSURE LOG

8.1 Under section 28 of the FOI Act, JACS is required to keep a record of access applications (FOI requests) made to the Directorate 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 JACS FOI works with the Communications and Engagement team to update the disclosure log, if applicable, following the completion of each FOI request.

JACS Disclosure Log

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[1], 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.

[1] The ACT Ombudsman Guidelines on Open Access state that Open Access should complement existing arrangements to release information and not unduly formalise procedures where there is already a standing commitment to make certain information public. Open Access is not intended to replace existing processes or decision making regarding the publication of government information in an organisation's ordinary course of business.

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 A JACS 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 may be the directorate's website, a business unit website or any other ACT Government website that may already 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 business unit that holds the Open Access information is responsible for ensuring the information is published. The business unit must also 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 Justice website should be forwarded to JACS Communications and Engagement. Alternatively, business units should follow their local procedures to publish any identified Open Access material to their own website where this is more appropriate.

10.3 PUBLISHING TO THE OPEN ACCESS WEBSITE

10.3.1 Once the Open Access information has been placed 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 email JACSGCR@act.gov.au.

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 NOTIFICATION OF RELEASE OF MINISTERIAL BRIEFS

10.6.1 Each quarter, JACS FOI will notify the following stakeholders of the release of relevant ministerial briefs:

- Ministers who have responsibilities for matters covered by the briefs via Directorate Liaison Officers
- the Director-General, Deputy Director-Generals and Chief Operating Officer
- the Executive Branch Manager Communications and Engagement and the JACS Media team.

10.6.2 The notification will be made by email and include a summary of the published briefs and the link to the published documents.

10.7 CREATIVE COMMONS

10.7.1 The use of Creative Commons (CC) licences is encouraged when publishing Open Access material. CC licences allow the community to make free use of ACT Government copyright material. This strengthens the Directorate's commitment to open government by confirming that government information is a community asset that should be available to the public to use wherever that is possible.

10.7.2 The licence recommended for use by directorates wherever appropriate under the ACT Government Creative Commons Copyright Policy is CC BY 4.0. This allows users to reproduce or make derivates of the work on the condition that they attribute it to the ACT Government. Consideration should be given to whether there are any reasons that prevent the material from being licensed under CC (e.g. confidentiality). If appropriate, specific information within the document may also be explicitly excluded from the CC licence (the ACT Government logo for instance, should be excluded from the CC licence).

10.7.3 Please refer to the ACT Government Creative Commons Copyright Policy on the Territory Records Office intranet for further guidance.

10.8 ONGOING REVIEW

10.8.1 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 ACT Government agencies' compliance with this requirement on an ongoing basis.

10.8.2 GCR works with Open Access Coordinators and Business Unit Heads to ensure open access listings are fully reviewed twice a year at a minimum.

11. ENQUIRIES

Direct enquiries on this policy to:

JACSEnquiries@act.gov.au

DETAILS

Document Properties	Approval Details
Document Name:	JACS Open Access Policy
Document Number:	0112
Custodian:	Governance and Business Improvement
Advisor:	Executive Branch Manager
Responsible Branch:	Governance and Business Improvement
Stakeholders:	• JACS employees that are responsible for the consideration and publication of open access documents • Approving Officers • Information Officers • Governance, Coordination and Reporting
Document/Legislation References:	*Freedom of Information Act 2016* *JACS Freedom of Information Policy* *JACS Open Access Strategy* ACT Ombudsman Guidelines – Open Access Information JACS Disclosure Log Open Access Portal Open Access Portal Publishing Guide ACT Government Web Accessibility Guidelines Territory Records Office intranet

AMENDMENT HISTORY

Version	Issue Date	Amendment Details	Author	Approved by
1.0	August 2020	Initial policy.	GCR	Director-General
2.0	August 2020	Update to new policy format	GCR	Director-General
2.1	October 2022	Minor review and update.	GCR	Director-General
2.2	November 2024	Minor review and update.	GCR	EBM, GCR