

ACCESSIBLE EXECUTIVE DOCUMENT RELEASE



FACT SHEET 01/2020

What is an accessible executive document?

Under the *Territory Records Act 2002* (the Act) an executive document is a record that has been proposed by a Minister for consideration by the Executive and includes cabinet documents and associated material. This may include cabinet decisions, briefings, agency comments and submission attachments etc.

Cabinet documents become accessible to the public after 10 years under Part 3A of the Act. Under section 31C of the Act, the list of records that are available must be published electronically every Canberra Day. The list can be accessed [here](#).

How do I request access to an accessible executive document?

Requests for access to accessible executive documents should be directed in writing to the Cabinet Office at CabinetOffice@act.gov.au. The request should identify which accessible executive documents access is being sought to by including the Cabinet number and title of submission.

Review of accessible executive documents

In accordance with the Act, a review is required to be undertaken to determine if the exemptions applicable under the ACT apply to the accessible executive document.

This review considers the following exemptions and is undertaken at the time that a request for access to accessible executive documents is received:

1. if it is information that would, or could reasonably be expected to **endanger the life or physical safety** of a person; or
2. if it is information that would, or could reasonably be expected to be an **unreasonable limitation on a person's rights** under the *Human Rights Act 2004*; or
3. if it is information that would, or could reasonably be expected to **significantly prejudice an ongoing criminal investigation**; or
4. if it is **protected private information**. This is information that would, or could reasonably be expected to, disclose personal information about any person (including a deceased person) and is contrary to the public interest; or
5. if it is information which falls under **legal professional privilege** in accordance with section 171 of the *Legislation Act 2001*.

Where the Principal Officer determines that any part of the executive document could contain information identified in the above criteria a release restraint determination would be prepared.

Who is the decision maker?

The Head of Service, as Principal Officer under the Act, is the decision maker and must exercise their own discretion as to whether the information should be published or whether the above exemptions may apply. The Head of Service's view can be informed by the views of the agency, but they are not ultimately bound by those views if they are not personally satisfied of the reasoning in respect to the application of the exemptions applicable under the Act.

Timing of response to a request for access

The Act does not stipulate a timeframe for a response to be provided to an access request and the timing of each access request will require its own considerations. Generally, access requests could be expected to be finalised within 8–12 weeks of receipt of a request with the possibility that a release decision may take longer where additional information is required for the Principal Officer to make a decision.

Right of review

The decision to withhold information is reviewable by the ACT Civil and Administrative Tribunal (ACAT) under section 31M of the Act.

Further questions?

For further advice on executive document release, please contact the Cabinet Office at CabinetOffice@act.gov.au.