

# Public access to information and records

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## 1 Introduction

Under Part 3 of the *Public Records Act 2005* (the Act), public offices and local authorities have special obligations to ensure members of the public can access information and records.

## 2 Expectations for public access

Under section 47 of the Act, the public must be able to inspect all public records classified as “open access” (that is, no restrictions are placed on their use). Such inspection must occur when a member of the public requests it, or as soon as “reasonably” practicable, and must be free of charge.

## 3 Offering access to information and records in all formats

Public access includes information and records, including associated metadata, in all formats. For example, information and records that are classified as “open access” in databases must be available to the public when required.

## 4 Providing tools for access

Making information and records available to the public must include providing the tools required to access them. Such tools include hardware, software, space, and specialist technical equipment.

## 5 Open data

Open data is the practice of making human and machine-readable data freely available, easy to access, and, importantly, simple to reuse.

The New Zealand Government believes that it is important to provide New Zealanders with access to the data that government departments and agencies produce, collect and use. An organisation should consider open data as a proactive way to meet its public access requirements.

The New Zealand Data and Information Management Principles state that open data should be:

- open
- protected
- readily available
- trusted and authoritative
- well managed
- reasonably priced (preferably free)
- reusable.

## 6 Access to, and transfer of, restricted information and records

### 6.1 Access to restricted information and records

Organisations are responsible for offering suitable conditions for access to restricted information and records, and for managing requests to access these information and records. This responsibility also applies to Archives New Zealand or any other repository information and records of this type are transferred to.

### 6.2 Transfer of restricted information and records

If an organisation transfers restricted information and records to Archives New Zealand, it must provide a designated point of contact for access requests. The point of contact should be a designated position rather than a person. After transfer, Archives New Zealand administers the access conditions for the organisation.

## 7 Public access under other legislation

Two other Acts govern access to 'official' information and records held by public offices and local authorities: the *Official Information Act 1982 (OIA)* and the *Local Government Official Information and Meetings Act 1987 (LGOIMA)*. The guiding principle of both Acts is that information and records must be made available unless either Act has a good reason for not releasing the information and records.

Additionally the *Privacy Act 1993*<sup>1</sup> promotes and protects 'personal' (about an identifiable, living person only) information and records. Almost every person or organisation that holds 'personal' information is covered by this Act including public offices and local authorities as well as companies of all sizes, religious groups, schools and clubs. Organisations not covered include Members of Parliament, courts and tribunals, and the news media.

### 7.1 Official Information Act 1982

Any person, company, or body (corporate or unincorporated) can make a request under the *OIA* for information and records held by public offices and various organisations. These public offices and organisations are listed in the First Schedule of the *OIA* and in the *Ombudsmen Act 1975*.

### 7.2 Local Government Official Information and Meetings Act 1987

Under Section 15 1(a) of the *LGOIMA*, local authorities must give members of the public reasonable opportunity to inspect their information and records. This obligation must be balanced with the need to protect the information and records from various risks.

### 7.3 Privacy Act 1993

The *Privacy Act 1993* removes 'personal' information and records from inclusion under the *OIA* and the *LGOIMA*. It also places limits on how organisations collect, use, disclose, store and give access to these.

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<sup>1</sup>The *Health Information Privacy Code 1994* sets specific rules for health information about identifiable individuals and applies to organisations in the health sector, including health service providers as well as organisations such as the Accident Compensation Corporation, the Ministry of Health, the Health Research Council, health insurers and professional disciplinary bodies.