

# Public access to information and records

## 1. Introduction

Under Part 3 of the *Public Records Act 2005* (the Act), public offices and local authorities (public sector organisations) 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 information and records classified as “open access” (that is, no restrictions are placed on their availability and use). This inspection must occur when a member of the public requests it, or as soon as “reasonably” practicable, and must be free of charge.

## 3. Access to information and records in all formats

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

## 4. Providing tools for access

Making information and records available to the public includes providing the tools required to access them. Such tools may 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 public sector organisations produce, collect and use. If your organisation is a public sector organisation, you should consider open data as a proactive way to meet your public access requirements.

The [New Zealand Data and Information Management Principles](#) state that data and information held by government 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

Your organisation is responsible for determining suitable conditions for public access to restricted information and records, and for responding to requests to access these information and records.

## 6.2. Transfer of restricted information and records

If your organisation transfers restricted information and records to us, you must provide a point of contact for access requests. The point of contact should be a designated position rather than a person. After transfer, we administer any access conditions set by your organisation.

## 7. Public access under other legislation

Two other Acts govern access to 'official' information and records held by public sector organisations: 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 there is a good reason for not releasing the information and records.

Additionally, the *Privacy Act 2020* promotes and protects 'personal' information and records (that is, about an identifiable, living person only).<sup>1</sup> Almost every person or organisation that holds 'personal' information is covered by this Act including public sector organisations as well as companies of all sizes, religious groups, schools and clubs. Those 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 other organisations 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) of the LGOIMA, local authorities must make information and records available in the way preferred by the requestor, or explain why not. This obligation must be balanced with the need to protect or withhold the information and records if good reason exists.

### 7.3. Privacy Act 2020

The Privacy Act 2020 removes 'personal' information and records from inclusion under the OIA and the LGOIMA. It also places limits on how organisations can collect, use, disclose, store and give access to these.

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<sup>1</sup> The *Health Information Privacy Code 2020* sets specific rules for health information about identifiable individuals and applies to organisations in the health sector, including organisations such as the Accident Compensation Corporation, the Ministry of Health, the Health Research Council, health insurers and professional disciplinary bodies.