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Principles on Access to Archives

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INTERNATIONAL COUNCIL ON ARCHIVES

**COMMITTEE ON BEST PRACTICES AND STANDARDS
WORKING GROUP ON ACCESS**

Principles of Access to Archives

Adopted by the AGM on August 24, 2012

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PREFACE

Access is the availability of records for consultation as a result both of legal authorization and the existence of finding aids. Since 1994 the International Council on Archives (ICA) has published four standards on archival description: ISAD(G) in 1994, ISAAR(CPF) in 1996, ISDF in 2008, and ISDIAH in 2008. These standards cover finding aids, one of the two key elements of archival access; they have transformed the practice of description. This statement of *Principles of Access to Archives* (the *Principles*) focuses on the other element of access: the legal authority to consult archives.

The International Council on Archives has long been concerned with the question of access to archives. In the wake of the political changes in Europe at the beginning of the 1990s, European archivists developed an “Outline of a Standard European Policy on Access to Archives,” which was adopted as an ICA position at the Annual General Meeting in Edinburgh in 1997. The Outline, however, focuses almost entirely on access to official governmental archives, with only one statement on access to non-government records: “It is recommended that attempts should be made to bring arrangements for access to private archives in line with those for official archives, whenever that is possible.”

Two additional ICA documents underscore the importance of access as an element of archival practice: the *Code of Ethics* of 1996 and the *Universal Declaration on Archives* of 2010. The *Code of Ethics* states in principles 6 and 7:

Principle 6. Archivists should promote the widest possible access to archival materials and provide an impartial service to all users.

Principle 7. Archivists should respect both access and privacy, and act within the boundaries of relevant legislation.

The *Universal Declaration on Archives* notes

the vital necessity of archives for supporting business efficiency, accountability and transparency, for protecting citizens' rights, for establishing individual and collective memory, for understanding the past, and for documenting the present to guide future actions,

identifies one of the vital roles of archivists as

making these records available for use,

and pledges that archivists will work together in order that

archives are made accessible to everyone, while respecting the pertinent laws and the rights of individuals, creators, owners and users.

In the spring of 2010 the ICA Committee on Best Practices and Standards asked a small group of archivists to discuss whether it was possible to develop a standard of good practice for public access to all archives, governmental and non-governmental. The people of the Working Group represented a variety of archival traditions: Trudy Huskamp Peterson, United States, Section of Professional Associations, served as chair, with members Sarah Choy, Hong Kong Legislative Council Archives, East Asian Regional Branch; Victoras Domarkas, Lithuanian Archives, European Regional Branch (EURBICA); Chido Houbraken, The Netherlands, records management consultant, EURBICA; Silvia Ninita de Moura Esteveao, national archives of Brazil, Association of Latin American Archivists; Helene Servant, Service interministeriel des archives de France, EURBICA; Maggie Shapley, archives of Australian National University, Section on University Archives and Research Institutions (SUV).¹

Following an initial meeting in Paris in May 2010, the members of the Working Group drafted two principal documents: a statement of *Principles of Access to Archives* and a technical report providing advice on implementing the *Principles*. The Working Group then invited the chairs of ICA bodies whose members were not represented on the Working Group and whose work often encounters access issues to name a member to read the draft, comment on it, and attend a consultative meeting about the *Principles* in Paris in February 2011. The "Consultative Group" included Didier Bondue representing the Section for Business and Labour Archives, Fatoumatta Cisse of the West African Regional Branch, Kim Eberhard of the Section of Archives of Churches and Religious Denominations; Soufi Fouad of the Arab Regional Branch, Deborah Jenkins of the Section of Local, Municipal and Territorial Archives, Jan Lohman of the Section of International Organizations, Ivan Murambiwa of Eastern and Southern Africa Regional Branch, Gunther Schebeck of the Section for Archives of Parliaments and Political Parties, and David Sutton of the Section on Literary and Artistic Archives. The Consultative Group agreed that ICA should adopt a set of access principles and made numerous suggestions about the text of the two principal documents.

The Working Group redrafted the two documents, circulated them to the Consultative Group, and again edited the documents. The revised *Principles*, along with a plan and timeline for general debate on it, was considered by the ICA Executive Board at its meeting in March 2010. The Board adopted the plan and timeline for consultation; because access is a major concern of user groups, the plan sharing the draft with user groups and allied organizations and asking for their comments.

¹Please note that the members served on the Working Group in their individual expert capacities. The statement of professional practice does not necessarily reflect the official policy or views of the governmental bodies, institutions or organizations with which these members are employed or affiliated.

The Executive Board also commented on the *Principles*, which were revised taking into account the opinions expressed.

The *Principles* were released for public comment in August 2011; the comment period closed at the beginning of February 2012. In addition to posting the draft on the ICA website and an email reminder to members in January 2012 that the comment period was still open, invitations to comment were sent to nearly two dozen organizations in allied professions and associations with a research focus. Twenty-seven comments were received. Five came from national archives (Belgium, Canada, Italy, Paraguay, and the United Kingdom). Two sets of comments came from groups within the Society of American Archivists. Two comments came from allied professions (International Federation of Libraries and Society for History of American Foreign Relations), plus a statement from the Association of Historians of Modern Italy that was incorporated in comments from the Italian Directorate General of Archives. One came from an ICA Section (SUV). One came from a group of eleven historians of Africa. The remainder came from individual archivists from Argentina, Australia, France, Spain, Switzerland, United States, and Zimbabwe; they represented archivists working in government archives (at various levels) and universities; in several instances neither the country nor the institution of the commenter could be determined.

Following the close of the comment period, the Working Group read all the comments and revised the drafts. At this point the Working Group decided that having the *Technical Guidelines* attached to the *Principles* lead to confusion on the part of some readers, and the Working Group recommended issuing the *Technical Guidelines* as a separate supporting document after the *Principles* have been adopted. The revised *Principles* were sent to the Executive Board for its consideration at its spring 2012 meeting. Comments made by members of the Programme Commission and the Executive Board during the meeting were shared with the Working Group and further revisions were made.

The *Principles of Access to Archives* consists of 10 Principles with a commentary explaining each Principle; the *Principles* and the commentary taken together constitute the statement of professional practice. The *Principles* are accompanied by a brief glossary.

The members of the Working Group recognize that most governments and many institutions have a rich history of managing access. For those archival institutions, this statement of professional practice is a supplement to those existing processes, permitting the archivists to measure their institutional practices against an external baseline and to strengthen them where appropriate. In those institutions where access practices have been weak or contested, the statement of professional practice provides a guideline to reviewing and revising processes. The members of the Working Group believe the *Principles* are a robust statement of practice that will benefit the archival profession.

INTRODUCTION

Archives are preserved for use by present and future generations. An access service links archives to the public; it provides information for users about the institution and its holdings; it influences whether the public will trust the custodians of archives and the services they provide. Archivists support a culture of openness, but accept restrictions as required by laws and other authorities, ethics, or donor requirements. When restrictions are unavoidable, they must be clear and limited in scope and duration. Archivists encourage responsible parties to formulate clear mandates and consistent rules for access, but in the absence of unambiguous guidelines, archivists provide appropriate access by considering professional ethics, equity and fairness, and legal requirements. Archivists ensure that restrictions are fairly and reasonably applied, prevent unauthorized access to restricted archives, and provide the widest possible use of archives by monitoring restrictions and promptly removing those no longer warranted. Archivists adhere to the *Principles of Access to Archives* in formulating and implementing access policies.

Purpose of the *Principles of Access to Archives*

The *Principles of Access to Archives* provide archivists with an authoritative international baseline against which to measure their existing access policy and practices and a framework to use when developing new or modifying existing access rules.

Scope of the *Principles of Access to Archives*

The *Principles of Access to Archives* cover both the rights of access by the public and the responsibilities of archivists in providing access to archives and to information about them.

The *Principles* recognize that administering access may also involve restricting access based on the information contained in the archives.

The *Principles* further recognize that in some countries several laws codify access rules that are inconsistent with each other. This is true both of laws covering archives in government custody and laws pertaining to archives in private, non-governmental bodies. Archivists actively encourage governments, parliaments and courts to harmonize access laws.

The *Principles* apply to both government and non-government archives. Public and private archives may implement the *Principles* differently.

The *Principles* assume that archivists are proactively involved in ensuring the transfer of permanently valuable archives to archival custody where access is more readily available to the public than it is when the archives are in the custody of the originating office.

The *Principles* do not cover general reference service operations and standards of service delivery, nor do they cover questions of resources required to implement the *Principles*.

The *Principles* do not cover issues of copyright because access to copyrighted material is permitted, although copies can be made only in accordance with copyright law. The *Principles* also recognize that the need to protect original items from the wear resulting from use may require physical access to the item to be limited, but archivists nonetheless make the information in the items available.

Each *Principle* is accompanied by a commentary; the *Principles* and commentary taken together constitute the *Principles of Access to Archives*.

Responsibilities for implementing the *Principles of Access to Archives*

Institutions holding archives are encouraged to compare their existing access policy with the Principles and adopt the Principles as a professional guide for access to the archives in their custody. Primary responsibilities for implementing the *Principles* are shared by administrators, archivists, donors and the personnel of institutions transferring their records to the archival custody.

*A person within the archival institution or its parent body must have leadership responsibility and accountability for the access program. This official or group should have sufficient authority to ensure both the timely release and the secure protection of information. Executives of the parent body are responsible for supporting the access programs of the archival institution, providing adequate funding for it and ensuring that its staff members have the professional training and support needed to perform their duties competently in the best interests of users, archives, records creators and donors.

*Archivists are responsible for the design, implementation and maintenance of the access control systems. All staff members must understand the basic principles of access, the need for secure handling of restricted information, and the responsibility not to divulge information unless it has been made public through approved processes. Archivists who participate in the decision-making process on access should have a good understanding of pertinent legislation and access practices as well as of the needs of researchers. Archivists train new staff members in the operation of the access program to the extent that their jobs require it.

*Donors and institutional personnel transferring archives to the custody of an archival institution recognize that the archives are preserved for access. If certain information must be withheld from public use for a period of time, they are responsible for clearly stating what the information is, the reasons for restriction, and the period of the restriction. Institutional personnel and donors negotiate with the archivists in a spirit of cooperation and trust.

Support for the access program comes from lawyers, computer and security professionals, and declassification specialists. Lawyers must understand the basic principles of archival management and support the archival institution as it balances institutional and user needs within the applicable legal framework. Computer systems administrators are responsible for ensuring that all documentation is accurate and available to archivists and users when required and that restricted material is securely protected from unauthorized access. Security personnel are responsible for securing and monitoring access to archives storage areas, with special vigilance for locations where restricted materials are held. Declassification specialists, such as persons from offices that created the records to be reviewed for possible declassification, must provide knowledgeable and timely declassification review.

Note: In the Principles, the word “archives” refers to the archival holdings of an institution, rather than the institution itself.

PRINCIPLES OF ACCESS TO ARCHIVES

1. The public has the right of access to archives of public bodies. Both public and private entities should open their archives to the greatest extent possible.

Access to the archives of government is essential for an informed society. Democracy, accountability, good governance and civic engagement require a legal guarantee that individuals will have access to the archives of public bodies established by national, self-governing territories and local governments, intergovernmental institutions, and any organization and any legal or natural person performing public functions and operating with public funds. All archives of public bodies are open to the public unless they fall under an exception grounded in law.

Institutions, whether public or private, holding private archives do not have a legal obligation to open the private archives to external users unless specific legislation, legal requirement or regulation imposes this responsibility on them. However, many private archives hold institutional records and personal papers that have significant value for understanding social, economic, religious, community and personal history as well as for generating ideas and supporting development. Archivists working in private institutions and managing the institution's archives encourage their institution to provide public access to its archives, especially if the holdings will help protect rights or will benefit public interests. Archivists stress that opening institutional archives helps maintain institutional transparency and credibility, improves public understanding of the institution's unique history and its contributions to society, helps the institution fulfill its social responsibility to share information for the public good, and enhances the institution's image.

2. Institutions holding archives make known the existence of the archives, including the existence of closed materials, and disclose the existence of restrictions that affect access to the archives.

Users must be able to locate the archival institution that holds material of interest to them. Archivists provide without charge basic information about their institution and the archives it holds. They inform the public of the general rules for use of the holdings in accordance with the institution's legal mandates, policies and regulations. They ensure that descriptions of their archives are current, accurate and comply with international descriptive standards in order to facilitate access. Archivists share draft descriptions of archives with users if final versions are lacking, where this will not compromise the security of the archives or any necessary restrictions on access.

Institutions that give the public access to any part of their archives publish an access policy. Archivists begin with a presumption of openness; if access restrictions are required, they ensure that such restrictions are written clearly to enable the public to understand them and to enhance consistency in their application.

Users have the right to know whether or not a specific series, file, item or portion of an item exists, even though it is withheld from use, or if it has been destroyed. Archivists reveal the fact that closed archives exist through accurate description and insertion of withdrawal sheets or electronic markers. Archivists provide as much information as possible about restricted material, including the reason for the restriction and the date the materials will be reviewed or become available for access, so long as the description does not disclose the information that is the reason for the restriction or violate a binding law or regulation.

3. Institutions holding archives adopt a pro-active approach to access.

Archivists have a professional responsibility to promote access to archives. They communicate

information about archives through various means such as Internet and web-based publications, printed materials, public programs, commercial media and educational and outreach activities. They are continually alert to changing technologies of communication and use those that are available and practical to promote the knowledge of archives. Archivists cooperate with other archives and institutions in preparing location registers, guides, archival portals and gateways to assist users in locating archives. They proactively provide access to the parts of their holdings that are of wide interest to the public through print publication, digitization, postings on the institution's website, or by cooperation with external publication projects. Archivists consider user needs when determining how the archives are published.

4. Institutions holding archives ensure that restrictions on access are clear and of stated duration, are based on pertinent legislation, acknowledge the right of privacy and respect the rights of owners of private materials.

Archivists provide the widest possible access to archives, but they recognize and accept the need for some restrictions. Restrictions are imposed by legislation, by institutional policy, either of the archival institution or its parent body, or by a donor. Archivists ensure that the access policies and rules for their institution are published so that the restrictions and the reasons for them are clear to members of the public.

Archivists seek to limit the scope of restrictions to those imposed by law or to identified instances where a specific harm to a legitimate private or public interest temporarily outweighs the benefit of disclosure at the time. Restrictions are imposed for a limited period, either for a specified period of time or until a specified condition, such as the death of a person, has occurred.

General restrictions apply to all the archival holdings; as appropriate to the nature of the institution, they cover the protection of personal data and privacy, safety, investigatory or law enforcement information, commercial secrets, and national security. The scope and duration of the general restrictions must be clear.

Specific restrictions apply only to designated bodies of archives; they apply for a limited duration. A clear statement of the specific restriction is included in the public archival description of the designated materials.

Access to donated records and personal papers is limited by the conditions established in the instrument of transfer such as a deed of gift, a will, or an exchange of letters. Archivists negotiate and accept donor restrictions on access that are clear, of limited duration and can be administered on equitable terms.

5. Archives are made available on equal and fair terms.

Archivists provide users with just, fair and timely access to archives without discrimination. Many different categories of persons use archives, and access rules may differentiate between categories of users (for example, the general public, adoptees seeking information on birth parents, medical researchers seeking statistical information from hospital records, victims of human rights violations). The access rules apply equally to all persons within each category without discrimination. When a closed item is reviewed and access to it is granted to a member of the general public, the item is available to all other members of the public under the same terms and conditions.

Access determinations are made as rapidly as possible following receipt of the access request. Records of public bodies that have been disclosed to the public before transfer to the archival institution, except those made public through illegal or unauthorized means, remain accessible after they are transferred regardless of their content, form or age. If only part of the information in an item has been published or is readily available to the public, access to the released information remains open after transfer; the unreleased information is subject to the normal access policy and procedures.

Archivists encourage legislative and regulatory actions that open records responsibly and do not support attempts to close information previously made public, either by reclassifying or ordering destruction of materials.

Private institutions holding archives provide equal access to users; however, existing donor agreements, institutional security needs, and related constraints may require archivists to make distinctions between researchers. The criteria used by a private institutions for determining selective access are stated in its public access policy, and archivists encourage their institutions to reduce these exceptions to the greatest extent possible.

6. Institutions holding archives ensure that victims of serious crimes under international law have access to archives that provide evidence needed to assert their human rights and to document violations of them, even if those archives are closed to the general public.

The *Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (2005)* of the United Nations High Commission on Human Rights declares that victims of serious crimes under international law have a right to know the truth about the violations. The *Principles* emphasize the vital role that access to archives plays in learning the truth, holding persons accountable for human right violations, claiming compensation, and defending against charges of human rights violations. The *Principles* state that each person is entitled to know whether his or her name appears in State archives and, if it does, to challenge the validity of the information by submitting to the archival institution a statement that will be made available by the archivists whenever the file containing the name is requested for research use.

Archival institutions obtain and hold the evidence needed to protect human rights and to contest the violation of human rights where serious crimes under international law have been committed. Persons seeking access to archives for human rights purposes are given access to the relevant archives, even if those archives are closed to the general public. The right of access for human rights purposes applies to public archives and, to the extent possible, to private archives.

7. Users have the right to appeal a denial of access.

Each archival institution has a clear policy and procedure for appeal of initial denials of access. When a request for access to archives is denied, the reasons for the denial are stated clearly in writing and conveyed to the applicant as soon as possible. Users denied access are informed of their right to appeal, the procedure to submit an appeal and the time limits, if any.

For public archives, several levels of appeal may exist, such as a first internal review and a second appeal to an independent and impartial authority established by law. For non-public archives, the appeal process may be internal, but it should follow the same general approach.

Archivists who participate in the initial denial provide the reviewing authority with information relevant to the case but do not take part in the decision-making on the appeal.

8. Institutions holding archives ensure that operational constraints do not prevent access to archives.

The equal right to access archival records is not simply equal treatment but also includes the equal right to benefit from the archives.

Archivists understand the needs of both existing and potential researchers and use this understanding to develop policies and services that meet those needs and minimize operational constraints on access. In particular, they assist those who are disabled, illiterate or disadvantaged and would otherwise have significant difficulties in using archives.

Public archival institutions do not charge an admission fee to persons who want to do research in the archives. When private archival institutions charge admission fees, they should consider the applicant's ability to pay and the fee charged must not be a bar to use of the archives.

Users, whether visiting the archival institution or living at a distance from it, can obtain copies of archives in the variety of formats that are within the technical capacity of the archival institution. Institutions may make reasonable charges for copying service on demand.

Partial release of archives is a means to provide access when the entire file or item cannot be released. If an archival item contains sensitive information in a few sentences or a limited number of pages, that information is withheld and the remainder of the item released for public access. To the greatest extent practicable, archivists do not refuse to redact archives because of the labor required to make redactions; however, if redaction makes the requested item or file misleading or unintelligible, archivists do not redact and the material remains closed.

9. Archivists have access to all closed archives and perform necessary archival work on them.

Archivists have access to all closed archives in their custody in order to analyze, preserve, arrange and describe them in order that their existence and the reasons for their restriction are known. This archival work helps prevent the archives from being destroyed or forgotten advertently or inadvertently and helps assure the integrity of the archives. Preservation and description of closed archives promotes public confidence in the archival institution and in the archives profession, for it enables archivists to assist the public in tracing the existence and general nature of closed materials and learning when and how they will be available for access. If the closed archives have national security classifications or other restrictions that require special clearances, archivists comply with the requisite clearance procedures to gain access.

10. Archivists participate in the decision-making process on access.

Archivists help their institutions establish access policies and procedures and review archives for possible release under existing access laws, guidelines and best practices. Archivists work with lawyers and other partners in deciding on the basic framework and interpretation of restrictions, which the archivists then implement. Archivists know the archives, the access restrictions, the needs and requirements of the stakeholders and what information is already in the public domain on the subject to which the archives relate; archivists apply that knowledge when making access decisions. Archivists help the institution achieve informed decisions and consistent, reasonable outcomes.

Archivists monitor restrictions, reviewing archives and removing restrictions that are no longer applicable.

PRINCIPLES OF ACCESS TO ARCHIVES

GLOSSARY

All definitions are taken from the International Council on Archives Handbooks Series, Volume 7, *Dictionary of Archival Terminology, 2nd Edition*, Munich: K.G. Saur, 1988, unless otherwise indicated.

Access. The availability of records/archives for consultation as a result both of legal authorization and the existence of finding aids.

Confidentiality. The quality or property of privacy or secrecy attaching to certain information and/or records, thereby limiting access.

Data protection. The legal protection of the rights of individuals in respect of the collection, storage and automatic processing of personal data in machine-readable form and the disclosure of such data.

Declassification. The removal of all security classification restrictions on information or records.

Deed. A document under seal, in many countries made before a notary public, which, when delivered, gives effect to some legal disposition or agreement between parties.

Deposit. The placing of documents in the custody of archives without transfer of legal title.

Donor. The source from which a gift originates.

File. An organized unit (folder, volume, etc.) of documents grouped together either for current use by the creator or in the process of archival arrangement, because they relate to the same subject, activity, or transaction. A file is usually the basic unit within a record series. [Source: *General International Standard Archival Description, 2nd Edition*]

Finding aid. The broadest term to cover any description or means of reference made or received by an archives service in the course of establishing administrative or intellectual control over archival material. [Source: *General International Standard Archival Description, 2nd Edition*]

Fonds. The whole of the records, regardless of form or medium, organically created and/or accumulated and used by a particular person, family, or corporate body in the course of that creator's activities and functions. [Source: *General International Standard Archival Description, 2nd Edition*]

Freedom of information. The concept of a legal right of access to information contained in current, semi-current or non-current records as distinct from a legal right of access to archives.

Gift. An addition to holdings acquired without monetary consideration and becoming the sole property of the recipient, frequently effected by a deed or instrument of gift.

Item. The smallest intellectually indivisible archival unit, e.g., a letter, memorandum, report, photograph, sound recording. [Source: *General International Standard Archival Description, 2nd Edition*]

Privacy. The right to be secure from unauthorized disclosure of information contained in records/archives relating to personal and private matters.

Redaction. The process of masking or removing sensitive information in a document before releasing it for public use. [ARMA International, *Glossary of Records and Information Management Terms*, 3rd Edition]

Restricted access. A limitation on access to records/archives or to individual documents or to information of a specified type, imposed by general or specific regulations determining access date or general exclusions from access.

Screening. The examination of records/archives to determine the presence of documents or information subject to restricted access.

Security classification. The restriction on access to and use of records/archives or information therein imposed by a government in the interests of national security. The records/archives or information concerned are referred to as classified records or classified information.