Phase 2 of the review of access provisions BDMRRA 1995:

Proposals Paper submission analysis

- The Births, Deaths, Marriages, and Relationships Registration Act 1995 (BDMRR Act) contains provisions that regulate access to registered information about births, deaths, marriages, civil unions, and name changes (BDM information). When changes were made in 2009, Parliament asked the Minister of Internal Affairs to undertake a review after five years.

- Phase 1 of the planned multi-stage review saw the release of a Discussion Paper, which sought public feedback on the operation of the access provisions, and invited suggestions for improvement. Eighty submissions were received by the closing date of 25 February 2015. There was broad support for the basic principles underpinning access to BDM information, but the submissions also made it clear that users’ expectations about how they want to access BDM information have changed since the current rules were introduced—just as there have been substantial changes to how government interacts with citizens over the intervening years.

- On 21 March 2016, the Minister of Internal Affairs released a Proposals Paper responding to those complementary drivers while noting there was a balance to be struck between the public’s right to access information for legitimate purposes, and individual rights and protecting at risk individuals.

- Thirty-two submissions were received by the closing date of 29 April 2016. As anticipated, the section on the general access rules had the highest response rate. Overall, the response rate pattern was very similar to the corresponding sections in the Discussion Paper.

General access rules

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<th>Response rate: 81 per cent</th>
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<tr>
<td><strong>Summary of proposal</strong></td>
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<td>[These proposals establish minimum requirements for a legislative framework that will enable the public access to BDM information in new ways, including through digital and Internet-based channels, which the Department will develop over time.]</td>
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<td>- Add historical and non-historical BDM indexes, but not full non-historical records, to the BDM information that can be searched online (some information may behind a paywall);</td>
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<td>- Authorise unedited historical register images to be made available online (behind a paywall);</td>
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<td>- Provide online access to BDM information (beyond an initial high level search) would be subject to evidence of identity established via a RealMe ID, or through another future solution that would enable a verified identity to be asserted online; and</td>
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<tr>
<td>- Allow a user with a verified identity to order a certificate or printout for a non-historical record online.</td>
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- Twenty-five of the 26 submitters who responded to this section supported the proposals. However, it was apparent some submitters appeared to misunderstand the proposal to allow non-historical information to be searched online; it does not include the full record (this misunderstanding is the reason cited by the one submitter opposed to the proposals).

- The intention is to provide a search function based on a limited dataset to help someone identify the correct named person record, while mitigating the risk of misuse (eg, data mining and “triangulation”). Access to a full, non-historical record would require purchase of a certificate or printout, which would be mailed or emailed. This maintains the status quo, and is consistent with the ScotlandsPeople model, which has informed the proposals.
• Bearing in mind the caveat concerning the intended limit on online access to non-historical BDM information, submitters that supported the proposals were generally in favour of even greater relaxation of the access rules. Suggestions included:
  o dispensing with the need for a verified identity for online access (but the contrary view was also expressed);
  o providing unrestricted access to closed records (eg, adoption records) and historical images for “approved” bona-fide genealogists/researchers;
  o adding further types of BDM-related information (eg, wills); and
  o dispensing with the “named person” rule for access to individual BDM records.

• Several submitters noted they had used the ScotlandsPeople website, and welcomed the prospect of similar public access to New Zealand’s BDM information over time.

• As was the case with the Discussion Paper, several submitters identified the current limited search functionality as a barrier to access to (historical) BDM information.

• One submitter wanted tighter access rules, including limiting the right of access to the individual concerned or her or his immediate family, and increasing the age limit for online access to historical records.

• The Privacy Commissioner noted:
  “Making decisions about what information is available, and to whom, is more meaningful in ensuring long-term privacy protections than defining the actual channels used. Any decisions about which channels are used in future should be based on clear parameters for appropriate use, disclosure and access of BDM information.”

### Historical and non-historical information

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<th>Response rate: 78 per cent</th>
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**Summary of proposals**

*These proposals complement the proposals for general access rules, which will facilitate future end-to-end services, including through digital and online channels.*

- Reduce the time limit that defines historical marriage and civil union information from 80 years to 75 years; and
- Align rules for access to birth information (including information that could be made available through digital and online channels in future) based on when a death record becomes available.

- Most submitters were in favour of the proposals, but one submitter opposed the reduction in the time limit for access to historical marriage and civil union information.

- A minority of submitters who responded to this section (28%) indicated they disagreed with the proposals because the proposals do not go far enough. These submitters, and some of those indicating support for the proposals, favoured across the board lowering of the age at which records are defined as historical. Reductions suggested ranged from 10 years to 50 years (and one submitter thought all age restrictions should be removed to allow unrestricted access to all BDM information). One submitter thought “approved researchers” should be allowed to allowed greater access to non-historical records.

- Two submitters wanted death certificates to include information about deceased children as well as living children. [This issue is not related to the access provisions, but it will be considered alongside other technical and administrative amendments that may be included in a Bill to amend the BDMRR Act, if the Minister of Internal Affairs and the government support the Department’s proposals.]
## Source documents

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<th>Response rate: 69 per cent</th>
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### Summary of proposals

**[This proposal addresses an anomaly in operational practice for granting access to some records held by Archives NZ.]**

- Classify Intention to Marry (ItM) books as marriage registers, and authorise access in the same way, and subject to the same rules, as apply to solemnised marriage records.

- Most submitters supported the proposal, but made comments similar to those noted in relation to the general access rules. For example, bona-fide researchers should have unrestricted (and free) access historical source documents, and greater access should be provided to other source documents (eg, old court registers), which should be digitised to improve access.

- A small number of submitters disagreed with the proposal; in their view there was no need to change the rules, and all ItMs should accessible on request.

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<th>Remaining access provisions</th>
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<td>(Access register; non-disclosure directions; research purposes; disclosure of death information)</td>
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<td>Response rate: 41 per cent</td>
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### Summary of proposals

**[There were no specific proposals. The Department considers the current rules are appropriate and are working well; the individual privacy and security protections they provide will be integral in the context of the proposed new digital and online access channels.]**

- Most submitters agreed with the Department’s conclusions, but two disagreed. One submitter wanted potentially sensitive personal information (eg, indeterminate sex marker on a birth record) to be grounds for seeking a non-disclosure direction. The same submitter was opposed to any identifying information being made available for approved research purposes, including medical research. This submitter was also opposed to further data-sharing with external agencies, especially private sector operators.

- Many of the general comments echoed those made in submissions on the Discussion Paper, for example:
  - reduce cost to access BDM information (including free/extended access) for “approved”/bona-fide genealogists and researchers;
  - make it easier to access adoption records;
  - NZ cellphone requirement for access to RealMe is a barrier for overseas-based researchers;
  - a wider range of records digitised and made available online; and
  - transcription errors in historical BDM information are a barrier to access.