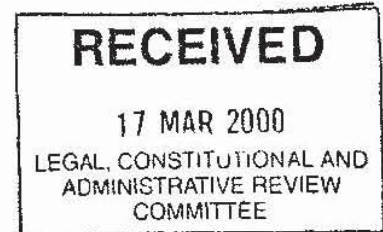




Gary Fenlon MLA
Mrs. J.C. Collie

15 March, 2000

Legislative Assembly of Queensland
Legal, Constitutional and Administrative Review Committee
Parliament House
George Street
BRISBANE QLD 4000



Submission No 114
Spec 14

Attention: Mr. Gary Fenlon MLA

Dear Sir,

Re: Review of the Freedom of Information Act 1992 (Qld)

At its meeting held on Wednesday 15 March 2000, Council moved to thank the Legal Constitutional and Administrative Review Committee for its valuable discussion paper. Further that Council notes that it has the following views on some of the discussion questions raised in the paper:

33. Should the Act confer a general right of access to "information" rather than documents?
34. Can the definition of document be improved?

Council believes that the current emphasis on documents and the wide definition of documents is essentially correct in the current Act. If the rights of applicants were increased to include a right to information in general and to allow raw data to be included in the definition of document, it allows the possibility that agencies would be legally obliged to create information from raw data, or from unrecorded information for FOI applicants. In a smaller agency like Gatton Shire Council, this would introduce the possibility of a deliberately created administrative nightmare, where Council is at the mercy of vexatious applicants applying for information for whatever requires the most time and effort by staff. There is currently no requirement in the current Act for an agency to supply anything other than existing documents and this should be retained.

36. How can agencies improve the efficiency and thoroughness of their records management procedures?

Council agrees with the paper's observation that adequacy of access to non paper documents could be improved by the FOI Act requiring that agencies observe the guidelines of the Queensland Archivist for storage of electronic records as envisaged by the Public Records Bill. Council also believes that access by FOI applicants to documents via the Internet and by email is acceptable.

48. Should the application fee for non-personal information be increased?

Yes, the minimum fee should be \$50 non-personal information with a charge of \$20 for purely personal affairs applications.

50. Should charges be introduced for processing and supervised access?

Yes, there should be a charge for retrieving of documents, decision making and/or consultation based on a per page dealt with or disclosed to the applicant. This charge should be set at \$0.20 per page.

52. Should the Act enable agencies to waive or reduce fees?

Yes, in some circumstances, this is justified.

54. Application fees for internal and/or external review?

Council supports the introduction of a \$25 internal review fee if an internal review is requested, which is refundable if the applicant is wholly or partially successful in the review. No fees should apply in the case of a deemed refusal.

55. Voluminous Applications

Council supports the amendment of section 28(2) of the FOI Act to delete the word "only" to widen the factors the agencies may have regard to when deciding whether to refuse deal with an application on the grounds that it would substantially divert the resources of the agency. Council has experience of a voluminous application which would have required third party consultation with more than 400 hundred people and an unreasonable amount of time needed to scrutinise documents from more than 20 years for exempt matter. In Council's experience, consultation with vexatious applicants usually does not achieve much result. See the response to question 57.

56. General Provision regarding Frivolous and Vexatious Applications

Council fully supports a provision in the Act allowing agencies to refuse applications that are frivolous, vexatious, misconceived and lacking in substance and that are clearly designed to cause as much wasted effort and inconvenience as possible to the agency. Council's experience over a considerable period is that certain members of the community have and will continue to abuse their legal rights to gain access to documents, without such a provision.

57. Serial and Repeat Applications

Council also fully supports the suggested words for a new provision that allows an agency to refuse to process an application that is a serial or repeat request. The words proposed by the Information Commissioner of Queensland are admirably drafted and will be of great assistance if adopted.

74. Should a person be responsible for monitoring compliance with the Act and providing advice about FOI?

Council supports the establishment of a person or office to monitor compliance with FOI legislation, provide advice and ensure a high level of awareness and training regarding FOI in agencies and by the public. The Department of Justice and Attorney General is the preferred entity to run this office. Council has found it necessary to use legal advice in the absence of such an office, which has been an additional cost burden.

Should you wish to discuss this submission further, please contact the undersigned on telephone (07) 5462 4000.

Yours faithfully



(E.D. Filmer)

Manager Corporate Services