



QUEENSLAND HEALTH

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Our Reference ADMINISTRATIVE REVIEW
Your Reference COMMITTEE

Shirley Godfrey Submission 115
14/3/2000

Spec 1-4

The Research Director,
Legal, Constitutional and Administrative Review Committee,
Parliament House,
George Street,
Brisbane, Qld. 4000

Re: Submission relating to Freedom Of Information in Qld.

Thank you for the opportunity to submit a response to the review of the Freedom of Information in Queensland. Please find below opinions and arguments relating to the identified discussion points.

Discussion Points:

- 8. There is merit in reversing the approach to place onus on agencies to routinely make public certain information.
(a) Administrative instruction would achieve this end.
(b) Information could consist of business plans, performance indicators and opportunity for community input.
9. It is not felt that FOIQ is adequately publicised. Assigning promotion to somebody would assist in achieving this but care would need to be taken that the promotion is consistent across the state.
11. It would be difficult to justify why practices and performances relating to access to government held information including FOI requests are not subject to performance appraisal of some degree as are other practices within Government agencies.
12. Changing the name from FOIQ to Access to Information Act would make the general community more aware of the intent of the Act.
17. There is merit in making the harm tests more stringent by requiring decision-makers to show that disclosure would result in substantial harm. However, this should be coupled with clear guidelines for the decision-makers to ensure consistency of interpretation.
21. Clear guidelines relating to public interest test would assist decision-makers similar to 17.
22. It is my opinion that the ability of ministers to sign conclusive certificates be revisited in keeping with the intent of the Act to enhance the openness and accountability of government.
25. By excluding GOCs and LGOCs as a matter of policy from the application of the FOIQ, their accountability to the general public is avoided. If these organisations are supported by taxpayer money then like government organisations they should be



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required to be open and accountable. Their concern relating to commercial trade secrets is already address by the Act.

26. As for 25, any outsourced contractors performing functions for the government should have a component of accountability to the general community and therefore FOIQ should be extended to include them.

32. As for 17 and 21, there is merit in having clear guidelines for decision-makers. Clear guidelines and consistency of decisions should result in fewer appeals.

33. Should FOIQ confer a general right of access to information instead of documents, there could rise the difficulty of accessing information that may be held by individuals within the organisation that is not in any document form. How would this be addressed? How would such information be decided on for accuracy or hearsay?

34 Clarification of what *document* includes would assist decision-makers and the general public of what is accessible.

36. There is concern relating to the release of documents electronically to FOI applicants in view that largely FOI requests to date have been requests for personal information. Precautions can be taken to provide the best possible assurances while mailing or delivering, therefore a system of precautions needs to be developed to utilise the electronic media as a method of providing access.

37. There is concern that any charging regime for agencies' identification and retrieval of documents potentially denies some community individuals the ability to access such information. Should an agency be funded by taxpayers money then the agency should offer the right of the public to access information relating to the agency. The agency should accept the cost of identification and retrieval as part of that responsibility. The method of storing and retrieval of such information remains their choice.

38. Internal Review plays an important role within FOIQ. There is room for adjustments including the option of bypassing this step if agreement of applicant, agency and/or third party if appropriate, is met.

42(a). As discussed 17, 21 and 32, guidelines for applicants and agencies to understand, interpret and administer the Act is seen to be beneficial. There is also the potential to reduce the number of requests for external review by possessing and applying clear guidelines.

(b). Publishing of all decisions has the potential to violate the very decision been made, eg, should a request be made seeking personal information of another, the very fact of publishing their name could constitute breach of confidentiality, under which the decision to refuse access had been governed.

45 (a) To enter and inspect documents should be afforded to IC.

(b) However, the implication that punishment for contempt can be enacted is onerous in the absence of clear guidelines.

48. I believe that the application fee remain at \$30.

50 I do not agree to charges for processing or supervised access as per 37. I do believe there should be a restriction on the number of documents requested under one application fee.

52. Should provision for waiver/reduction of fees or charges be considered there will be a need for clear guidelines under what circumstances.

53. I do not agree that fees should be introduced for internal and/or external review.

58. I acknowledge the problem of repeated requests and consider the provision enabling an agency to refuse to deal with repeated applications as warranted. The form suggested appears to be concise and direct.

63. There is concern that should the request be for personal information regarding another the *deemed access* as opposed to *deemed refuse* could have significant repercussions for that individual. Therefore, I would recommend it stay as it currently stands.

73. There is grave concern that a *special relationship* between an applicant and a third party can outweigh the right to confidentiality of the third party.

In general it is felt that there is a need for clear guidelines for all parties to understand, interpret and administer the Act.

Thank you for this opportunity.



Shirley Godfrey,
FOI Decision Maker
Tablelands District Health Service