



Records Management Association of Australia (RMAA) ACN 058 470050

ACT Branch 140-150 Phillip Street Canberra ACT 2600	New South Wales Council 22 York St Parramatta NSW 2124	South Australia Council GPO Box 968 Adelaide SA 5001	Northern Territory Council PO Box 43226 Casuarina NT 0811	Queensland Council PO Box 351 Elizabeth Road Richmond QLD 4013	Tasmanian Council GPO Box 75A Hobart TAS 7001	Victoria Council GPO Box 27731 Melbourne VIC 3001	Western Australian Council PO Box 12013 120 Stirling Street Perth WA 6000	Terrace Group of PO Box 97 Perth WA 6000
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**RECEIVED**  
- 6 APR 2000  
LEGAL, CONSTITUTIONAL AND  
ADMINISTRATIVE REVIEW  
COMMITTEE

Submission No 130

The Research Director  
Legal, Constitutional and Administrative  
Review Committee  
Parliament House  
George St  
Brisbane  
Queensland 4000

Re: Submission to Committee *Freedom of Information*

Dear Sir,

Please find attached a submission to the Committee regarding aspects of Freedom of Information legislation.

The Association would be pleased to provide additional information or expand upon the issues that are covered in the submission and I can be contacted on 07 3247 8694.

Michael Hangan MRMA  
President  
Records Management Association of Australia  
Queensland Branch

**Submission to the Queensland Parliamentary Legal, Constitutional and Administrative  
Review Committee**

**Freedom of Information in Queensland Discussion Paper**

The Records Management Association of Australia (Qld Branch) welcomes the opportunity to comment on the issues which the Parliamentary Committee have raised in relation to the operation of the Freedom of Information Act 1992.

The RMAA is an Australian wide professional body representing those associated with managing recorded information within the information industry.

The RMAA is a firm believer that through the proper management of records from the time of creation through to destruction of those records of no continuing value or transfer of records of continuing value to an appropriate archives benefits can be accrued in relation to:

- enhanced accountability
- proper use of information as a resource
- facilitate the performance of administrative activity
- consistency in decision making
- provide a firm basis for understanding the historical context of organisation
- protection of citizen rights

The report of the Parliamentary Committee covers many relevant areas and has provided an important tool for discussion and debate.

It is pleasing to see the Committee has identified the need to ensure that FOI legislation integrates with any public records legislation. This Association has advocated for many years the enhancement of public records legislation in Queensland and applauds the government's Public Records Bill 1999. We strongly believe that through the development of a practical legislative regime for the management of public records benefits will accrue in that public agencies will be required to plan and implement records management programs that in turn will improve the capacity of organisations to respond to FOI issues.

The Association supports initiatives that will improve the management of records in public agencies.

The specific issue we feel needs to be improved which will have a clear impact on FOI is the development of records management policies and standards for Public Authorities

In the experience of this Association too many public authorities disregard the benefits, which can occur through the formal adoption of records management standards and practices.

For example, in Australia AS 4390 has been available since 1996. Recently, work has commenced to turn the standard into an International Standard.

The adoption of AS4390 and the framework it proposes would in our opinion result in the following benefits:

- Improved recordkeeping standards
- agencies would improve their administrative systems for the capture of full and accurate records relating to their activities.
- Placing an obligation of Chief Executive Officers to ensure that records management practices were adopted in their agencies would provide improvements in accountability.
- Ensure consistency in practice, which would facilitate the movement of staff between organisations.
- Provide for the orderly and authorised destruction of non-current records of no continuing value and thus make better use of resources by freeing up space used for storage of records no longer required.
- Development of dedicated and skilled staff in records management

The necessity to improve recordkeeping standards amongst public agencies has been well accepted. Indeed, the Queensland Information Commissioner on more than one occasion has lamented at the failure of recordkeeping, which has been associated with a FOI application.

In an article by Peter Wilmschurts in FOI Review, he outlines the intrinsic and underlying link between FOI and public records legislation. He stated, "quite simply deficiencies in recordkeeping reduce the effectiveness of FOI legislation".

In turning to some specific examples of the FOI/Public Records legislation nexus the Association believes that through improving the records management standards of public agencies problems such as:

- Incidents of failures to initially locate documents, which are subsequently location after further searching, could be reduced.
- Statements such as the documents do not exist could be supported with authority.
- Documents cannot be located (due to destruction, loss or being misplaced) can be substantiated through reliance on records management systems which are constructed on sound recordkeeping principles.

In the above examples, the failure of an agency to respond to an application relies upon the effectiveness of the agency's recordkeeping system. Through inadequate recordkeeping systems the intent of FOI legislation is negated or curtailed. This should not be the case and would not be if sufficient attention were given to the development of appropriate recordkeeping regimes through a mix of policy and practice.

In the following section of our submission we discuss some of the specific issues raised in the report using the same numbering system.

### *12 Change of Name*

The present title of the legislation is somewhat ambiguous as in fact it only covers access to government information not freely available by other means. The Association believes that there is merit in renaming the legislation. Our suggestions would be:

**"Access to Government Information" or "Promotion of Access to Information"**.

This would signal to the public a clearer intention of the legislation and would help understand and promote wider use of the legislation.



### **3.3 Information vs documents**

The Association agrees that there should be uniformity in defining what is to be accessed under such legislation. Use of the term 'information' is unclear and open to wide interpretation.

We would favour the adoption of the terms documents and records. The difference between the two is set out in AS 4390. Documents can be a single documents held by someone but not formally incorporated into a recordkeeping system. Records, on the other hand are seen as documents, which have been formally registered by recording into a recordkeeping system. Both are relevant to FOI and should be used in place of information where appropriate.

### **34 Defining A Document**

The definition of documents should be clarified. Consideration should be given to incorporation of the term "relevant to a transaction". This moves away from thinking about documents as physical things and more about documents as being concerned with a business transaction.

### **35 Access to Electronic Documents**

The issue of access to documents and records in electronic form will continue to be an issue and is likely to become more a problem as agencies continue to move towards development of electronic systems for conducting business.

In relation to the issue of facilitating access, agencies should be training staff in how to undertake FOI searches. As far as we are aware there is no formal training provided for FOI staff, nor is the FOI Manual specifically incorporating this important aspect of the work.

### **36 Improve Efficiency**

Improving efficiency of searches is directly impacted by the willingness of the agency to formally adopt a recordkeeping regime that ensures records are created, captured, maintained, used and destroyed in accordance with recordkeeping practices. Until this is undertaken in a

consistent manner it is likely that not all FOI processes will be able to be dealt with adequately.

The promotion of organised recordkeeping regimes across agencies must be undertaken as a priority. This approach must emphasise the importance of developing procedures, which facilitate the adoption of quality recordkeeping regimes, which not only serve the organisation but also assist with administration of FOI legislation.