



Submission No 137

5 April 2000

Ms Kerry Newton
Research Director
Legal Constitutional and
Administrative Review Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Newton

Review of the *Freedom of Information Act 1992* (Qld)

Thank you for the letter of 7 February 2000, enclosing Discussion Paper No 1 on Freedom of Information in Queensland and inviting further submissions in response to the issues raised.

The University notes that the issues raised in our earlier submission have been thoroughly canvassed in the discussion paper and so there are only a few specific comments which we now wish to add.

Promoting a culture of openness

The University embraces the notion that agencies should routinely give individuals access to information about themselves and about University activities outside of the formal, resource-intensive FOI processes. To this end, QUT strongly encourages the use of administrative access arrangements where possible. This accounts for our low rate of formal FOI applications, and has the advantage of promoting an accountable, pro-disclosure culture at the University, since administrative access requests are handled by the relevant organisational area actioning (for instance) staff or student matters, rather than by a separate FOI decision-maker. More generally, the inevitable trend towards greater provision of information and performance of business activity via the Internet may also encourage a culture of openness amongst agencies.

Given these trends, we do not consider that amendment of section 14 is warranted. On the other hand, expanding the protection of section 102 to administrative access schemes will undoubtedly have a beneficial effect in encouraging a culture of openness. We would also foresee no difficulty with a requirement that information available for public inspection (for example, policy documents, statement of affairs) must additionally be available by electronic means.

**Division of Administrative Services
Queensland University of Technology**

GARDENS POINT CAMPUS 2 GEORGE STREET GPO BOX 2434 BRISBANE Q 4001 AUSTRALIA PHONE (07) 3864 2381 FAX (07) 3864 1187

Campuses: Gardens Point (city), Kelvin Grove, Carseldine World Wide Web: <http://www.qut.edu.au/>
QUT International: Victoria Park Road Kelvin Grove Q 4059 Australia Phone +61 7 3864 3142 Fax +61 7 3864 3529

Electronic records

Given the ever greater use of electronic means to undertake transactions and activities, the management of electronic records is a challenge for all agencies. QUT has recently approved an Electronic Records Policy and will issue guidelines designed to promote corporate control over the management and retention of such records in due course. This will have benefits not only in responding to FOI requests but for the wider records management responsibilities of the University, especially in the light of the provisions of the *Public Records Bill 1999*.

Our policy recognises that electronic records should be maintained as electronic records, since this makes best use of the available technologies. We therefore consider as appropriate an amendment to section 30 of the Act, to enable agencies to give electronic access to documents or records which are maintained electronically.

In the light of technological developments, the terminology used in the FOI Act and in other public accountability legislation must also be examined. The obligations imposed in the *Public Records Bill* relate to records whilst the FOI Act gives rights to access and amend documents (with document defined in the *Acts Interpretation Act 1954*). The definitions of document and record are however very similar. There is also debate about the scope of the definitions to cover raw and unprocessed data. The rise of electronic records as a significant information resource of public institutions suggests that some careful examination of terminology is required to ensure both adequacy and consistency into the future.

Section 28/Vexatious applications

QUT supports amendments which will enable the resource-intensive FOI processes to be used to best advance the objectives of the Act. Like most agencies, we have limited resources, and some check must be made on applicants who choose to use FOI processes in an unreasonable manner, whether by making voluminous requests or by making 'serial' or misconceived applications. We would support a general provision relating to vexatious applicants (of which, of course, serial applicants are a specific example). The Western Australian Information Commissioner's recommendation that such applications may be refused following consultation with and a ruling by the Information Commissioner's office is one which warrants serious consideration and avoids any potential for abuse.

On a related matter, given that QUT, like many agencies, has in place administrative access arrangements (which are quick, inexpensive and effective), a broadening of section 22 to cover such situations should be considered, since vexatious applicants often decline to use these arrangements. As stated above, we consider that administrative arrangements do much to encourage openness and accountability and so should be supported consistently in the overall scheme of the Act.

Internal review

The University believes that a modification to the review processes allowing applicants to proceed directly to external review warrants further examination. The University's delegated decision-makers have always endeavoured to reach the correct decision at first instance, and so there is often little to be gained by further review internally. The model proposed by the Western Australian Information Commissioner, with the Information Commissioner having the discretion to allow external review directly, strikes a sensible balance between the needs of applicants (for instance, when timeliness of access may be an important consideration), and the use of the resources of the external review authority.

To the extent that internal review remains available, we would also support some refinements to section 52, to confirm that consultation can take place at the internal review stage, and to require applicants to state reasons for seeking internal review.

Contracting out

The University believes that the issue of access to documents relevant to outsourced functions requires consideration, to clarify the obligations imposed on agencies and private sector providers.

Thank you for the opportunity to comment on the discussion paper. If you wish to discuss this submission further, please do not hesitate to contact the University's Corporate Information Coordinator and FOI Officer, Tania Meggitt, on 3864 1911.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K.E. Baumber', with a horizontal line underneath.

K.E. BAUMBER
Registrar