



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Vicki Dunne MLA (Chair), Mary Porter AM MLA, Meredith Hunter MLA

Terms of Reference

Inquiry into Freedom of Information Act 1989

- (1) The Committee shall have regard to the following:
 - (a) that access to information is an essential right of every person. Under the Territory's *Human Rights Act 2004*, freedom to seek, receive and impart information and ideas is part of the right of freedom of expression;
 - (b) that access to government information is fundamental to openness, transparency and accountability in government, but that disclosure of particular information may have a prejudicial effect on private or public interests;
 - (c) that the *Freedom of Information Act 1989* (the Act) seeks to achieve a balance between these competing interests. However, the FOI Act is now 20 years old and there have been significant changes in that time in the way Government creates, holds and stores information. It is timely to review the Act and its operation;
 - (d) that the Act is modelled on the Commonwealth *Freedom of Information Act 1982*, which is currently under review and reform by the Commonwealth Government. To consider the implications of changes in the Commonwealth on the Territory's FOI regime;
 - (e) that open and transparent government is the goal of freedom of information legislation. That it is timely to reassess this goal by seeking to improve accessibility to government documents and reduce the time and costs involved in accessing government information; and
 - (f) that considerable work has been undertaken by the Queensland FOI Independent Review Panel which is of potential applicability to ACT Legislation;".

- (2) The Committee shall examine the purposes and principles of freedom of information and the development of thinking on access to information since the introduction of the FOI Act:
 - (a) bearing in mind any privacy or confidentiality concerns, the extent to which decision documents and other documents released under FOI should be made widely publicly available, including in electronic form; and
 - (b) the extent to which the default status of all Government documents should be that they are publicly accessible, unless there are valid and compelling reasons why they should remain exempt from release or inspection.
- (3) The Committee shall examine whether the FOI Act satisfies those purposes and principles as well as current thinking, in particular having regard to the:
 - (a) objects of the FOI Act;
 - (b) appropriateness of provisions exempting classes of documents from the Act;
 - (c) exemption provisions in Part 4 of the FOI Act;
 - (d) effectiveness of processes under the FOI Act (including application and review processes) and ways in which those processes can be streamlined and made more efficient and user-friendly; and
 - (e) timeliness and costs of the provision of freedom of information in the ACT having regard to the need to achieve a balance between facilitating legitimate and timely access to government documents and ensuring proper and efficient government administration, in particular having regard to:
 - (i) the appropriateness of the existing fees regime
 - (ii) the appropriateness and efficacy of current time limit provisions contained in the Act; and
 - (iii) dealing with voluminous and/or vexatious requests.
- (4) In identifying ways to improve and modernise the ACT's Freedom of Information Act, the Committee shall consider:
 - (a) relevant existing and proposed Commonwealth, State and Territory laws and practices;

- (b) other recent reviews of freedom of information legislation, nationally and internationally;
 - (c) the operation of the freedom of information regime in an evolving technological environment;
 - (d) specific issues relating to access by individuals to personal information, including the interaction between freedom of information laws and the protection of privacy interests;
 - (e) the interaction of the FOI Act with other mechanisms for accessing information held by government;
 - (f) balancing the public interest in access to information with the requirement for confidentiality for deliberative processes for Ministers;
 - (g) balancing the public interest in access to information with any requirement for confidentiality for other decision makers;
 - (h) law and practice in other jurisdictions where government held information including cabinet documents are more readily available; and
 - (i) the benefits and terms of appointment of an independent Information Commissioner for the ACT, including whether such a commissioner should report directly to the Assembly.
- (5) Any other relevant matter.