

RESPONSE TO DISCUSSION PAPER FROM

Multicultural Affairs Queensland

Title: FOI Review: Enhancing Open and Accountable Government

Department: FOI Review Panel

Issues:

- Freedom of Information (FOI) legislation is part of the administrative justice system¹.
- The discussion paper has identified two competing interests that need to be balanced in the legislation. On the one hand, there is the right of people to access information held by the government. On the other, is the need to ensure that essential government functions are not compromised by FOI.
- Of relevance is the issue raised on page 9 of the discussion paper which notes:
 - *In considering the steps towards addressing administrative compliance shortfalls suggested by Snell and others (pp. 100-102) plus incentives and sanctions and any other general measures, how might Queensland drive a cultural change necessary to give effect to the legislative objects of the Freedom of Information Act 1992?*
- Many Australians find the legal system complex and intimidating, particularly among people of non-English speaking background who may have the added difficulty of language and cultural barriers. Therefore, relevant to the FOI review is the access and equity work in relation to administrative justice matters.
- Recommendations for improving access as part of the administrative justice and FOI law reforms agenda need to consider the following:
 - Developing community education campaigns on administrative justice including any FOI reforms that reach out to people of non-English speaking backgrounds.
 - That there is legislation and administrative procedures in the administrative justice system in place to engage professional interpreters where appropriate to cater for people who speak languages other than English.
 - Streamlining administrative justice processes to ensure that any process is simplified and more readily understood.

¹ General definition of Administrative Justice:

The reference to *administrative justice* in Queensland means rights conferred by Queensland's legislative scheme of administrative law. The broad purpose of administrative law is to safeguard the rights and interests of people and corporations in their dealings with government agencies. Administrative law balances the provision of justice for the individual citizen against the need for the government to implement the programs and policies for which it has been elected. Together with constitutional law, it makes up a body of law that regulates the relationship between government and citizen.

Administrative law reform in Queensland to date

In Queensland, administrative law reform followed recommendations of the 'Fitzgerald Inquiry' and then the Electoral and Administrative Review Commission (EARC) and its parliamentary committee. Legislation which put in place those recommendations reformed and created rights to:

- access government-held information where that information relates to an applicant's personal affairs, and to amend or correct that information where it is inaccurate, out-of-date or misleading (FOI Act);
- access information about a government decision and, where that decision affects a person's interests, reasons for that decision (Judicial Review Act, Part 4; FOI Act); and
- challenge a government decision to ensure the decision was made according to law (Judicial Review Act).

The reference to *administrative justice* is a reference to the above rights conferred by the FOI Act and the Judicial Review Act.

[Source: The Accessibility of Administrative Justice Discussion Paper – Dec, 2005, para's 3.1 and 3.2]