



Queensland University of Technology

QUT RESPONSE TO DISCUSSION PAPER ON ENHANCING OPEN AND ACCOUNTABLE GOVERNMENT

PURPOSE AND PRINCIPLES OF FOI

Is there a public “right” to information held by the government, information about the personal affairs of people and about the way government is conducted?

Public access to information held by the government and information about the way in which government is conducted is a cornerstone of government accountability. Such openness and transparency encourages good governance and enhances decision-making. It is one of the few ways in which the public is able to assure itself that the power it has given to government is being wielded in a proper manner. There is a public right to information held by government which relates to decision-making and governance.

However, while there may be some circumstances in which there is a public *interest* in accessing information about the personal affairs of people, there should be no public *right* to information which relate solely in the personal domain of an individual, even if that information is held by government.

The “default” setting when any document is created by agencies is that it be regarded as “confidential”. Is this still appropriate?

QUT would argue that this has never been an appropriate approach to recordkeeping, and its own approach has been that records are considered to be open access unless they qualify for restricted access for the purposes of privacy protection or protection of commercially valuable or sensitive information. This approach has been articulated in the University’s records management policy.

Should agencies be encouraged to consider providing more information to people under administrative access schemes or otherwise than through FOI?

The University would support moves in this direction. QUT has an administrative access scheme which allows students to access their student records and for staff to access their personnel records without going through the FOI processes. The University also has a system in place to provide for access to users of its clinics or health or counselling services to access their own personal records. Access to records may also be granted outside of the FOI process for bona fide research purposes.

Should FOI officers be given more delegated power and discretion to release information requested under FOI other than through the FOI process?

Providing an FOI officer with greater delegated power to release information requested under FOI other than through the FOI process would provide greater flexibility for an agency in deciding on how it will deal with requests for documents.

Statement of affairs

Should agencies be required to include more information in their statements of affairs, and if so what?

QUT has an extensive website which provides a great deal of information on its structure and activities. The University's policy and procedures manual is also publicly available. Information provided in the statement of affairs is mostly a duplication of information already provided on the QUT website, so its value in adding to transparency and accountability is questionable for the University.

Should they be required to keep these genuinely up-to-date (revised, if necessary, every week/month)?

The statement of affairs should be updated as required rather than on an annual basis, but as a document providing broad information on the structure and organisation of a department or agency, it should not require updating on a weekly or monthly basis.

Is the statement of affairs the best format for publication of this information?

From QUT's perspective, the statement of affairs is not the best format for publication of information. The University strong preference would be to be exempt from the requirement to maintain a statement of affairs, but instead to provide the requisite information through its website.

Document

Should the Act move towards the Swedish approach?

Greater consistency between the FOI Act and the Public Records Act would be useful. With respect to the Swedish model of FOI, this would be an admirable approach if each agency was confident that all of its records were being properly classified and registered. Items such as hand-written notes of incidents, timesheets, notes taken for research purposes would not necessarily be captured as official records under this system, but all have been requested and released under FOI at the University.

EXEMPTION PROVISIONS

If no harm would follow from the release of material that would fall within an exemption provision, should it be released?

The University supports the concept that if no harm would follow from the release of material that would fall within an exemption provision, then it should be released. However as the main exemption applied by QUT is section 44(1) in relation to personal affairs, there is not much scope for electing to do so.

Should the term "personal affairs" in s44 of the Act be replaced by "personal information"? Should the exemption reflect the provisions of Information Standard 42: Information Privacy, whether or not that becomes part of a new Privacy Act?

Greater consistency between the FOI Act and IS42 with respect to "personal affairs" and "personal information" would be useful, particularly as one staff member undertakes duties as both the University's FOI Officer and Privacy Contact Officer.

ADMINISTRATION OF FOI IN QUEENSLAND

Are records management protocols and standards accessible, widely known and understood, consistent, and reflective of the practical realities of government activity – particularly on questions of retention, storage and release of electronic (non-paper) information? What is done well? What can be done better?

Given the ever greater use of electronic means to undertake transactions and activities, the management of electronic records is a challenge for all agencies. 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.

QUT has recently purchased electronic redacting software and that, combined with the University's electronic record keeping system, is providing the opportunity for some FOI applications to be largely managed in an electronic environment.

Should Queensland consider adopting a scheme like that operating in New Zealand in which people seek personal information about themselves may do so mainly under a new Privacy Act, rather than through FOI? If there was to be a Qld Privacy Act covering access to personal information and the correction of errors, should the Act extend beyond those official and other agencies covered by FOI to the private sector, and if so, how far?

The University is supportive of greater consistency between the FOI Act and IS42 and supports the suggestion that applications for access to documents relating to a person's own personal information could become the province of privacy legislation rather than FOI. This would allow the FOI Act to become the vehicle for people who want access to information about the government and its operations, rather than information about themselves. This would enhance the FOI Act's objective to provide for transparency and accountability of government.

Internal review

Should internal review remain mandatory? Should applicants have the option of going directly to external 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.

QUT would also support further provision given in the FOI Act to allow departments and agencies the discretion in certain cases to refuse applications for internal review, instead directing the applicant to apply directly for external review.

COSTS AND TIME

Is the existing fees and charges regime in the FOI Act reasonable and balanced?

The operations of the FOI Act in relation to both cost and time make the FOI process onerous and time-consuming. Recovered costs do not come close to covering the actual cost of providing the service to applicants.

EFFECTIVENESS AND ADEQUACY OF DATA COLLECTION AND REPORTING

What data should be collected for the annual s108 reports? How can the collection of the data be improved?

It is not clear how the current data collection and reporting enhance government transparency and accountability. The value of the statistics required to be provided (for example, the number of documents released or the number of times an exemption was applied) seem questionable, and are time-consuming to produce.

Perhaps clearer objectives as to the purpose of the data collection and what it is used for (apart merely from reporting) might clarify its necessity.