

**RESPONSE TO DISCUSSION PAPER ON
 REVIEW OF THE FREEDOM OF INFORMATION ACT 1992**

Discussion		Response
1.	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?	A fundamental change to FOI to enshrine a “right” to access information would promote a more consistent approach to the administration of FOI legislation and would be beneficial to both applicants and decision-makers. The shift to “information” instead of “documents” would also be beneficial.
2.	Should disclosure of information be guided by the same (or a similar) test the High Court proposed in 1980, that is “by reference to the public interest. Unless disclosure is likely to injure the public interest, it will not be protected”?	Generally, our view is that it is in the public interest for all documents to be available unless they would disclose information that is, for example, subject to legal privilege of relate to personal affairs of other people, or meet other specific exemptions such as commercial in confidence, or where they form part of the deliberative process. Greater certainty about what defines the “public interest”, such as the High Court’s proposed definition/guidelines, would be beneficial and would result in quicker decisions and greater access.
3.	Does FOI contribute to a healthier democracy and enhance its practice?	FOI can play a role in promoting openness and ensuring accountability, so the answer is yes.
4.	Should the FOI Act contain a Preamble placing the Act in this context of its function of supporting the system of representative, democratic government?	This would be useful, yes.
5.	Should the Objects section of the Act be expanded to include better public administration and other benefits such as improved quality of government decision-making?	The Objects section of the Act plays an important role in “scene setting” for the rest of the Act and it is therefore important. Some concise statements covering openness, accountability, quality of decision-making and better public administration would be beneficial.
6.2.2 Openness		
6.	Should the Objects section acknowledge “openness” specifically as an aim of the Act and as a contribution towards	Openness is a worthy aim and should be incorporated. However, the issue of timing also needs to be addressed in a better way so that the business of running government is not derailed. A clear deliberative process exemption, with guidelines to

	more accountable government?	ensure that once the deliberative process is complete documents are available, would assist.
7.	The “default” setting when any document is created by agencies is that it be regarded as “confidential”. Is this still appropriate?	In this day and age, it is questionable that the “default position” is in fact that documents are created as confidential – in practice it is often the other way around and that is regarded as more appropriate.
8.	Does the existence of the 30-year rule militate against the culture of openness that the freedom of information law is meant to encourage within government and other relevant agencies?	This rule is not applicable to Local Government decisions and it is difficult to see why one rule should apply to State and another to Local Government. It is partly an application of the concept that the “deliberative process” needs to be able to be undertaken in confidence in one sphere of government but not the other, so it does not appear to be based in any sound principle.
9.	Should the period be reviewed in relation to Cabinet decisions and documents, and more generally for other public records?	Rather than being time based, why not apply the same principles of release - unless there is public harm etc as would be applied to other documents?
10.	If so, to what extent should it be reduced?	See above comments.
11.	Given that any change would have financial and administrative implications for Queensland Archives, should any change be phased in over a number of years?	No comment.
12.	Should agencies be encouraged to consider providing more information to people under administrative access schemes or otherwise than through FOI?	Yes, administrative access makes the process easier for the agency and for the public and should be facilitated/encouraged by any changes that are proposed.
13.	Should FOI officers be given more delegated power and discretion to release information requested under FOI other than through the FOI process?	No, the whole point of administrative access is that line areas are given the tools to provide access and this is considered to be the better approach.
14.	Is further legal protection required for information provided other than through FOI?	Where any apparent conflict with obligations under other legislation is possible (ie IPA or Privacy), then further legal protection would encourage greater use of administrative access mechanisms.

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15.	Should agencies be required to include more information in their statements of affairs, and if so what?	It seems that the purpose of having a "Statement of Affairs" is being missed. The intent of this document should be clearly stated in the legislation and should be along the lines "that members of the public can understand what the agency does and therefore generally what sort of information it deals with". From a practitioners perspective, the document is rarely if ever sought or accessed by the public, having largely been superseded by modern websites that provide this information in a more user friendly format anyway.
16.	Should they be required to keep these genuinely up-to-date (revised, if necessary, every week/month)?	As stated previously, these documents are very much overrated in their relevance and have been largely if not totally superseded by agency websites.
17.	Is the statement of affairs the best format for publication of this information?	No, the agency websites are much better and more up to date. Some standards for websites would be a much better approach.
18.	Should the Minister exercise, or should the Information Commissioner be given, the power to require the publication by agencies of additional information?	See above comments re websites.
19.	Would there be any advantage in the creation of an Information Standard to provide more specific guidance to agencies about what information they should publish? Or should this be done by regulation?	An information standard dealing with the information agencies provide on their websites would be the most sensible and integrated approach to this issue.
20.	Should the Objects clause include reference to factors that are used to balance against a right to access information?	The NZ approach which sets out a provision that official information should be protected consistent with the public interest and preservation of personal privacy seems well balanced and is supported.
21.	Would this be better achieved with a formula such as that adopted in the New Zealand Official Information Act, s. 4 (c)?	Yes, see above.
22.	Should this section be redrafted to emphasise the object in subsection (1)?	No comment.

Discussion		Response
23.	Would there be any advantage in changing the Act to provide that a person may seek access to public records, rather than documents, or even to official information?	We have found some confusion and debate surrounding FOI requests that “ask questions” rather than “seek documents” under the current Act. Also, there is sometimes uncertainty about the application of FOI to requests where the information sought would require the interrogation of data sources and calculation of results from that data that have not been previously done. Generally where the work involved to provide the answers is not great we will provide it but where it requires significant diversion of staff from other tasks we believe that such requests, particularly where they serve little public interest, should be done on a full “user pays” basis.
24.	Should the Act specifically exclude “ephemeral” material?	Yes, excluding drafts or other documents that are not officially filed or registered would assist in processing applications. The Swedish definition appears to have merits in this regard.
25.	Should it move towards the Swedish approach?	The Swedish model appears to have potential advantages.
26.	Should the private sector remain outside the reach of the FOI Act?	Yes.
27.	Should there be special provisions in the Act (and, if necessary, in other legislation) to ensure that when government services are contracted out to corporations, partnerships or individuals, that the contractor should be required to provide information that would have been required under FOI if the services were being provided by an agency?	No comment.
28.	Should Government Owned Corporations (however constituted) be exempt from provisions of the Act covering agencies and, if so, to what extent?	Cannot comment.
29.	If world’s best practice in FOI law is that FOI should extend to “any body that is exercising government functions” should any attempt be made to define what are “government functions” at a time when the responsibility for many such functions is being devolved to the private sector or GOCs? ¹⁶¹ .	Yes, defining government functions would be necessary. Private contractors and consultants are engaged to carry out many tasks for government, however unless they are actually making decisions on behalf of Government they should be excluded.
30.	Should people be able to access their personal information held by organisations like GOCs that are ultimately controlled	This is probably better handled via some form of privacy legislation rather than FOI. People should be able to access their own personal information but only to the extent

	by government and, if so, to what extent?	that it does not impinge on other people's personal affairs.
Discussion		Response
31.	What principles should apply in determining whether bodies are covered by the Freedom of Information Act?	Making decisions or taking actions on behalf of Government.
32.	What principles should apply when consideration is given to excluding a body from coverage by the Act?	If they are not publicly funded, they should be exempt. If partially publicly funded, only the aspects of their operations that are publicly funded should be subject to FOI.
33.	If no harm would follow from the release of material that would fall within an exemption provision, should it be released?	Yes, it is sensible that the overriding criteria should be that if no harm would result then the document should be released.
34.	Should exemption provisions be rewritten to ensure that FOI officers apply such public interest tests as they contain?	Yes, this would assist in dealing more quickly with applications.
35.	Should there be an over-riding public interest test covering all exemptions?	Yes.
36.	Is there a need to write additional legal protections to cover the release of material under FOI?	Not aware of any need.
37.	How can FOI officers be made more aware of the fact that they can release information that falls within an exempt category? What test should they apply if they consider exercising this discretion?	A clearly worded clause at the beginning of the exemptions section of the Act would assist.
38.	What role should the "public interest" play in the determination of whether access should be granted to documents that would otherwise be exempt documents?	If no harm would reasonably be expected to occur, release should be required.
39.	Should there be a public interest override covering all exemptions? Or, all but a few specified exemptions?	All, on the balances.
40.	How should the public interest test be expressed?	Cannot comment on this.
41.	To what extent should the notion of detriment or harm be involved in determining the balance of public interest?	It is probably the clearest way of defining the public interest.
42.	Should there be guidelines on the matters that need to be	Yes! Availability of these to the public and decision makers would be very beneficial.

	considered in determining the public interest?	
Discussion		Response
43.	Should these be provided by the Information Commissioner? Or should they be included in the Act as factors (some of which are not specified) that should be taken into account in determining what the public interest is in the particular case?	Referenced in the Act and supported by the IC.
44.	Should the timeliness of the release of the document be a factor in determining public interest?	Yes, a frequent issue for local governments is the premature release of documents that are still being developed and which will, in the normal course of events, be released for public comment and discussion at a later time. This is a critical issue that impacts on us being able to go about our business in an orderly way. The deliberative process exemption should be re-worked to allow it to be effectively used, as it is one of the current provisions that people would like to us but has had little use due to its weakened provisions.
45.	Cabinet matter: Should the exemption be reworded to ensure that those considering applications for access remain conscious of the fact that even if matter falls within the exemption, there remains a discretion for it to be released?	N/A to local Government.
46.	Should a class exemption for Cabinet matter be maintained?	N/A to local Government.
47.	Should a public interest test be introduced?	N/A to local Government.
48.	Should the exemption include a purposive element?	N/A to local Government.
49.	Should there be a factual/statistical material exception?	N/A to local Government.
50.	Should a Minister/Cabinet/Governor in Council be able to issue a conclusive certificate?	N/A to local Government.
51.	Should there be a time limit on how long Cabinet matter can be exempt from FOI?	N/A to local Government.
52.	Should the exemption be based on a consequential approach, as in New Zealand?	N/A to local Government.

53.	Executive Council matter: Should a class exemption for Executive Council matter be maintained?	N/A to local Government.
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Discussion		Response
54.	Should there be a time limit on how long Executive Council matter can be exempt from FOI?	N/A to local Government.
55.	Should there be provision for a conclusive certificate?	N/A to local Government.
56.	Should the exemption be narrowed, for example, by limiting it to deliberative material associated with policy formulation?	No. As stated above, Local Government is required in many instances to put proposed policies and other documents such as planning schemes out for public consultation. Opportunistic individuals or groups have sought access to draft documents or documents prepared for consultation with other levels of Government before the public consultation stage is reached, and this serves no purpose other than to potentially give the applicants advanced notice of potential policy positions and enable them to gain a competitive advantage over other parties. If anything, the deliberative process provisions need to be beefed up to ensure that this sort of application can clearly be rejected, with the documents being available for release once the final decision has been made.
57.	Should there be a time limit on the exemption for pre-decisional documents, linked to the implementation of any decision?	Yes, this would be useful, although specifying how to calculate the time limit will be challenging.
58.	Should the term "personal affairs" in s. 44 of the Act be replaced by "personal information"?	Yes, it would be clearer to people.
59.	Should the exemption reflect the provisions of Information Standard 42: information Privacy, whether or not that becomes part of a new Privacy Act?	Yes. Consistency would help.
60.	To what extent should workplace information about government employees be protected by s. 44?	The disclosure of personal information of public servants should only extend as far as it relates to the performance of their official duties. Public servants should have access to their own personal records except where an investigation is current and has not been finalised, subject to principles of natural justice being applied.
61.	Does acceptance of government-funded equipment affect a claim of privacy by the user of the equipment?	Were the equipment is allowed to be used for non-official activities by the employee, the use is their personal affairs and should not be subject to FOI.

Discussion		Response
62.	Should the exemptions in s.45(1) (a) and (b) also be made subject to a public interest test?	No. This has the potential to drive businesses away from dealing with Government because their trade secrets, business strategies or methods will become public.
63.	Should confidentiality be available only if it can be shown disclosure would cause demonstrable harm to the competition process?	No. The current requirement for a “reasonable expectation” of damage is sufficient. Perhaps words to that effect could be included in the legislation.
64.	Should the exemption contain a specific reference to a time limitation on how long an exemption may continue?	Yes, although it may be difficult to establish a standard time limit given the widely varying matters that fall into the commercial in confidence arena.
65.	Is each of these exemptions necessary?	They all appear to be well founded and reasonable. The most commonly used is legal proceedings.
66.	Is the public interest test appropriate?	Yes.
67.	Would a “harm” test be more appropriate?	Most if not all already seem to be based on the premise that some harm will occur, whether that is to prejudice an active investigation, safety, breaches of confidence, impact on the economy etc. If a “harm test” were to be included it would most likely need to codify these sorts of harms anyway, although ultimately that may be a preferable approach.
68.	Should some or all conclusive certificates in the Freedom of Information Act 1992 be abolished?	Not applicable to local government.
69.	If any are retained, should a time limit be applied to any certificate that is issued?	Not applicable to local government.
70.	Should the use of conclusive certificates be monitored by the Information Commissioner?	Not applicable to local government.
71.	Should any use of a conclusive certificate be reported to Parliament, and if so, when?	Not applicable to local government.

Discussion		Response
72.	To what extent does FOI in Queensland recalibrate the basic informational settings between open/closed, secrecy/openness, privacy/disclosure, and spin/deliberative dialogue?	The culture of openness in government is a moving feast that depends on the history of each and every agency and its current leaders. FOI will no doubt influence and contribute to shaping that culture.
73.	How can a State, characterised by a strong executive, honour the original intent of FOI and address its anxiety about the capacity to govern effectively in a hungry and geared information age?	No comment offered.
74.	In accepting that the administration of FOI operates beyond an application of primary legal obligations, how can bureaucratic and political interests be kept in balance?	No comment offered.
75.	Which of the administrative compliance behaviours described in Table 8.1 are practised in Queensland? – typically?, infrequently?	No comment offered.
76.	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?	No comment offered.
77.	Can the outcomes desired for FOI, and those of information policy, benefit from the inclusion of FOI considerations (with advancing ICT impacts and corporate governance notions in records management), in development of a whole of government information policy framework that sets strategic directions and a new model of ICT governance?	Yes, an integrated approach would benefit from including FOI in a whole of government ICT policy framework. How this could be applied in local government should also be considered.
78.	Should parliamentary oversight of FOI be elevated to a “dedicated focus on information as a dimension of all government activity”?	No comment offered.

Discussion		Response
79.	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?	Unable to answer this question.
80.	To what extent can ex ante decision-making assist in the administration of FOI?	Unable to answer this question.
81.	How can the volume and status of drafts and emails be better managed with the advent of ICT, in both better meeting expectations and achieving reasonable outcomes for all under FOI?	RSC already has systems in place to record e-mails and an EDMS that stores final documents and can track drafts where they have been significant.
82.	Are access rights “stuck in a time warp” in terms of ICT? What improvements can be made?	In RSC, access is typically quick and comprehensive with technology being used extensively to assist the process.
83.	How can requirements in handling raw data and metadata under FOI be improved in balancing the public interest? Should applicants be able to obtain raw data in the possession of an agency? Should there be any obligation on an agency to process data to provide the particular information that an applicant is seeking?	It must be recognised that agencies can have massive amounts of raw data on any particular matter, with systems designed to store, record and process that data to meet agency needs. Data should be available, however agencies should not have to meet FOI requests for data that is structured or processed in a way that is outside the agency's normal requirements and that would require more than a very basic level of additional work by the agency.
84.	What can Queensland learn and do in response to international models such as the UK's information asset registers and single internet entry point – when seeking in this Review to “improve access to government documents and reduce the time and costs involved in accessing government documents”?	For councils, this would very much depend on whether they have a well established EDMS which records all interactions, and whether or not an interface could be established to allow searching (but not retrieval) of these databases by the public.
85.	What can be done sector-wide to achieve e-FOI where ICT enables electronic lodgement, payment and access methods yielding time and cost savings?	Changes would need to be made to identification protocols, and then agencies would need to invest in technology such as Readax that allows documents to be electronically edited and securely saved.

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86.	Should FOI move towards a “push model” of proactive disclosure before individual FOI requests? If so, how and to what extent, can ICT open up “routine disclosure” and “active dissemination” pre-FOI?	One key would be the capability of EDMS to record the “confidentiality” status of documents so that any records that are not suitable for general release are appropriately secured, whilst all others are automatically available via the website through an information portal or reading room type facility.
87.	What role can FOI play in the Smart State in today’s and tomorrow’s information economy?	No comment offered.
88.	How can re-use rights for information contained in “documents” released under FOI be clarified, and where appropriate, extended?	No comment offered.
89.	Is there still (if ever there was) a need for documents released under FOI to be watermarked “FOI Release” and non-editable formats preferred by government?	Good question. I think that the use of watermarking and non-editable formats is based on the premise that someone may try to change the document post-release and present it as a genuine Government document when it is not. However I’m not sure that this argument can really hold any water anyway because the original can quickly be produced.
90.	What principles could guide the balance between the rights of the public to access information as a “public resource” and the revenue raising initiatives of government from “corporate resources”?	No comment offered.
91.	Should the differences that exist between “personal information” and information that relates to definitional “personal affairs” be reconciled?	Yes, this would assist.
92.	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 were to be a Queensland 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 difficulty with this concept in the local government context is that an individuals personal affairs are often caught up in their property related and complaints affairs and frequently involve third parties whose privacy also need to be considered. So a Privacy Act would need to take that into account. No comment re Privacy Act extension to the private sector

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93.	In the event that new privacy legislation was enacted, what mechanisms should be developed to ensure consistency of administration and decision-making as between privacy and FOI legislation?	No comment other than this would be an issue that would need to be addressed carefully.
94.	Is there any need for FOI legislation to take account of other mechanisms for accessing information held by government, other than through s. 22 of the Freedom of Information Act 1992?	No comment.
95.	Should there be any changes to government secrecy laws or codes of conduct to take account of the operation of FOI?	FOI Decision-makers in local governments are sometimes faced with a application seeking access to documents that a Council has considered in a closed meeting and which have been declared confidential under the Local Government or Integrated Planning Act. Councils Code of Conduct require staff to adhere to confidentiality requirements. It should be explicit in the Act that officers making decisions under FI Act do not commit a breach of their organisation's Code of conduct.
96.	How can the application process be streamlined, made more efficient and user-friendly?	On-line applications could be made available and we are currently investigating this option. Encourage FOI officers to make personal contact with all applicants to discuss and explain issues and to assist them to decide whether an FOI application is the best course of action to meet their needs. We find that this works well and that expectations are better met thru this approach. Clarifying what personal affairs/information includes would be a big help as this is one of the main causes of debate and dissatisfaction from applicants who often can't see the difference between their personal information and their business information.
97.	Should agencies adopt guidelines giving effect to the advice given to federal agencies by the Commonwealth Ombudsman in his 2006 report?	In smaller agencies and this would include all but the largest group of Councils, FOI is typically handled by a small team so consistency would best be enhanced if the Commissioner or Department responsible for FOPI (eg JAG) were to issue such guidelines.

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98.	Should applicants be able to use the FOI Act to request amendment of personal information irrespective of how they became aware of the document containing the information?	Yes.
99.	Should the requirements of the FOI Act and any privacy legislation be harmonised to ensure the same conditions apply in relation to the amendment of personal information in official documents under both schemes?	Would be sensible to be consistent.
100.	Should internal review remain mandatory?	Yes. It is appropriate that, like any other decision of an agency, an FOI decision be able to be reviewed within the agency first before proceeding to external review.
101.	Should applicants have the option of going directly to external review?	No, no change to current arrangements has been demonstrated to be necessary.
102.	Should formal internal review be abolished?	No.
103.	Should the charging regime be adjusted to favour any particular outcome?	No.
104.	Should external review be conducted by the Ombudsman, the Information Commissioner or by an Administrative Tribunal? What are the advantages/disadvantages of each method of providing external review?	No comment offered, other than the need to keep the process as informal, quick and genuinely independent as possible. Maybe a panel of accredited people (lawyers?) could be arranged to supplement the resources of the relevant body so that applications are dealt with and finalised within say 60 days of lodgement.
105.	Should there be an external body to perform the kind of supervisory/advisory functions identified by the ALRC/ARC, the S.A. Legislative Review Council and LCARC that might be performed by an FOI monitor?	Yes, this would be useful. A real review of the current reporting requirements would be welcomed because they do not seem to be directed at promoting performance, rather, they just seem to be about reporting fairly useless statistics.

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106.	If external review is to be the function of the Ombudsman or the Information Commissioner, could or should that office also perform the role of FOI monitor?	No real concerns either way, along as they get done!
107.	Are appointment and other procedures appropriate for maintaining the independence of the Information Commissioner?	No comment.
108.	Should, and if so how can, there be scope for cross-agency resourcing support and delegation of decision-making authorities under the Freedom of Information Act 1992?	This issue is not really relevant to local government.
109.	Should there be a power to receive and investigate complaints about the administration of FOI in Queensland? Should that power include "own 138 motion" investigation, and be given to the Ombudsman or a FOI monitor styled body?	No comment.
110.	Are there any improvements possible to streamline notice requirements under the Freedom of Information Act 1992?	No comment.
111.	Is the existing fees and charges regime in the Freedom of Information Act 1992 reasonable and balanced?	<p>No. As indicated in the discussion paper, only about 5% of the actual cost of administering FOI is recovered by way of fees and charges.</p> <p>If the suggestion in the discussion paper proceeds (ie that that all information is, by default going to be available unless it would cause harm or meet one of the revised exemption provisions), then the whole charging regime needs to be reconsidered as the paradigm will have shifted.</p> <p>If the regime stays much the same as now, then applying the NZ approach to funding services by reference to the split between the public/private benefit that arises would be a good approach. In relation to FOI, our estimate is that the majority of the benefit is to the community because of the open and accountability aspects, however, a proportion greater than the current 5% is a direct personal benefit to the individuals concerned. Our estimate is between 10 and 15% relates to private benefits – such as when it is used to settle personal gripes, to try to win political points, or as indiscriminate "fishing expeditions" that serve little or no public benefit. Any information that is sought under FOI that provides the applicant with a private benefit should therefore be provided at actual cost.</p> <p>The suggestion that the current level of fees and charges has somehow</p>

		<p>contributed to a reduction of the use of FOI is questionable. This seems to suggest that the likes of newspapers and companies are put off by a few hundred dollars in fees, which is patently not the case. These fees are simply factored into their operations as petty cash.</p> <p>The other aspect is where organisations or groups use the “financial hardship” provisions to avoid processing charges. We have had several large applications where the applicant, who holds a concession card and therefore pays no fees, is clearly acting on behalf of other parties and has sought large numbers of documents. We do not believe that the intention of providing free processing to individuals or groups suffering financial hardship was intended to be used in this way – surely it was about allowing financially disadvantaged people/groups to still access documents that they needed for a reasonable cost. At the least, a limit to the processing time required to be spent on applications lodged by financially disadvantaged people or groups needs to be in place, with discretion able to be applied by the agency where they are satisfied that the applicant’s need is genuine.</p>
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112.	What are the comparative merits of a flat fee scaled by volume and the current time-based charging model?	Flat fees fail to recognise the differences in complexity of the FOI considerations between 1 document and another. The current time based regime is a fairer process for all sides.
113.	What alternatives exist to ensure consistency in the application of any fees and charges regime?	<p>Better guidelines would help, although how this could account for large complex applications better than the current process is debateable.</p> <p>Another issue re fees and charges is cases where an application is refused. There is little if any incentive for the applicant to pay the fee even though they have accepted a PAN, yet they can still go ahead with an internal and external review. In my view, unless they have paid the agreed fee they should be precluded from proceeding to either internal or external review. Bear in mind that the fees would be payable if the decision was overturned on appeal so they lose nothing.</p>
114.	Are the existing time limits reasonable and consistent with the objectives of the Freedom of Information Act 1992?	<p>Yes, in the vast majority of cases we can easily comply with the timeframes and in fact most FOI’s are finalised within 1 week of receipt. Larger more complex applications can take longer. It is however suggested that, as under the Integrated Planning Act, there should be the capacity for applicants to agree to an extended timeframe that is mutually agreed by the applicant and agency.</p> <p>There MUST be time limits placed on external reviews as well. The current situation where they are open ended timeframes has lead to decisions up to 12</p>

		months after the review was lodged, which does not assist anyone.
115.	Beyond amendments to the existing time limits, what initiatives exist which could improve early disclosure under the Act?	An awards scheme run by the Commissioner or "FOI monitor" that recognises excellence would be a good way to encourage better performance, not just in early disclosure but in other aspects as well. This approach worked well in relation to annual reports.
116.	Should the Act contain a power to declare an applicant for information vexatious?	Yes.
117.	Should that power be exercisable at first instance by an agency or by the Information Commissioner?	The agency. But only by the CEO.

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118.	On what grounds should an applicant be declared vexatious?	Repeated applications for the same or substantially the same material, or for harassing or intimidating the agency or another person, or who request large volumes of material that require a disproportionate effort from the agency and will not cooperate to narrow the focus.
119.	Alternatively, should there be a provision entitling an agency to declare a request to be vexatious?	Yes, as above, the agency CEO should be able to declare a person vexatious.
120.	On what grounds should an application be declared vexatious?	As per the applicant.
121.	Should it be possible to declare an application vexatious because it is voluminous?	Yes, if the applicant will not cooperate to help narrow the focus.
122.	Should voluminous applications be able to be refused under a provision such as section 29 of the Queensland Act?	Yes.
123.	Should a more definitive test be applied when determining whether a voluminous application might be refused, such as the number of pages it would produce, the number of days it would require to process or the cost of processing it?	Yes. This is essential. But it also needs to consider the agency's context. A large agency will typically have a dedicated FOI team and will be better placed to handle larger sized applications, whereas in smaller agencies, such as some statutory authorities, mid and small Councils, FOI is often one part of a role and a large FOI application can consume the units total resources at the expense of other work. A difficult issue to resolve but needs thought.
124.	Should journalists and/or MPs be exempt from provisions concerning vexatious requests?	No.
125.	Should journalists and/or MPs be exempt from provisions concerning voluminous requests?	No.
126.	What data should be collected for the annual s. 108 reports?	A realistic set of data needs to be collected to show basic volumes and to allow trends to be determined. An agreed set of performance measures (KPI's) need to be established in consultation with users and FOI practitioners and reported on in agency annual reports and to the central agency for analysis.

Discussion		Response
127.	How can the collection of the data be improved?	A simple easy to use system needs to be designed, maintained, supported and regularly upgraded. We currently use TRAMS (from Treasury) although considerable work had to be done to make it work in our IT environment. A more generic version needs to be built in a suitable database (not Access).
128.	How can the integrity of the data be improved?	Designing the recording/reporting system so that it will only accept and save complete and correct data in the first place.
129.	Should the Information Commissioner (or some other agency) be given responsibility for analysing the data and publishing information about the way FOI operates in Queensland, based on an analysis of that data?	Yes.
130.	Should the Information Commissioner (or some other agency) be made responsible for ensuring that the data required to be provided under s. 108 is appropriate?	Yes.
131.	Should the data be used to benchmark the performance of individual agencies? If so, who should perform this role?	Yes, the Information commissioner or agency responsible should do this.
132.	Should a new Act be called something other than the Freedom of Information Act? If so, what would be the best title?	FOI is fine.