

10 February 2017

RTI and Privacy Review
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001
By email: FeedbackRTIandprivacy@justice.qld.gov.au

Dear Minister,

The parties to this submission – AAP, ABC, APN News & Media, Australian Subscription Television and Radio Association, Bauer Media Group, Commercial Radio Australia, Community Broadcasting Association of Australia, Fairfax Media, Free TV, MEAA, News Corp Australia, NewsMediaWorks, SBS and The West Australian (collectively, the Joint Media Organisations) – appreciate the opportunity to make a submission to the Queensland Department of Justice and Attorney General in relation review of the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

We also appreciate the acknowledgement by the Attorney-General that *‘the Palaszczuk Government is committed to ensuring accountability, honesty and transparency in the public sector’* and trust that any new provisions implemented as part of emerging technology are consistent with that which has already been advocated by the Office of the Information Commissioner (QLD) in its decisions and preliminary views.

The *Right to Information Act 2009* (the Act) is vital to ensure the integrity of Queensland Government operations by promoting openness, accountability and honesty.

Free speech, free press and access to information are fundamental to a democratic society that prides itself on the public’s right to know about decisions in which it is impacted. This includes government expenditure, processes and the potential of alleged, corrupt conduct and conflicts of interest involving our governing bodies.

The Act is crucial to upholding these values and to ensuring good and fair governance in the interests of the public, rather than the personal interest of those making the decisions.

We support regular review of the Act, particularly given the changes in technology and information dissemination. As such, following are recommendations for consideration based on questions raised in the discussion paper:

- All agencies should be obligated to take payment by credit card. There are still some that will only take cheque or money order which – particularly in the current environment when most people are transacting electronically, is a significant inhibitor to access to the information being sought. The RTI process is meant to be user-friendly and accessible for all. A move to speedily ensure that all agencies be required to take payment by electronic means, including credit card, is essential; and
- The Act needs to be updated to include provisions that acknowledge that video footage is also a type of documentation accessible under RTI legislation and a definition of what constitutes personal information in video. This would likely be something individual which allows a person to be identified without a doubt, such as face or a distinctive tattoo, but not clothes, build, and/or height. This is consistent with material that has to date been released under the Act which in many cases has already been scrutinised by the Information Commissioner; and
- Agencies which hold video footage should also be required to have the technology to edit out/pixilate personal information to release under the Act. While the Information Commissioner has already made a point of getting agencies to do this, this should be a requirement in the Act; and

- Unlike other jurisdictions, the Act requires that applications be lodged in an ‘approved form’ which has resulted in an extra layer of red tape in some cases, for example, some local governments require a specific form be submitted. In contrast, other jurisdictions require that an application is in writing, cites the relevant Act and is accompanied by the application fee. The requirement for an ‘approved form’ is an unnecessary impediment to accessing the information being sought and should not be removed; and
- Another area in which Queensland is an outlier is that when making an application on behalf of another person, it requires proof of identity (either certified copy of a passport/driver’s licence of both the applicant and the person making the application on their behalf) and signatures witnessed by a Justice of the Peace, whereas other states require a signed affidavit which was witnessed by a police officer. The Queensland requirements as they stand are unnecessarily cumbersome and another unnecessary impediment to accessing the information. Queensland should remove this requirement and replace it with that listed above as it is in other jurisdictions; and
- The laws as applied to GOCs/statutory bodies should be extended not reduced. For example, Queensland Rail is subject to the Act, but QR National isn’t. So when applying for a safety audit on the state’s rail under the Act it wasn’t accessible because QR National holds it, even though this is undoubtedly in the public interest and should be available in the interest of public accountability. Also given the recent issues relating to train cancellations, train driver shortage, there’s never been a better argument for the need for public scrutiny; and
- Internal reviews should remain optional; and
- Exemptions should not be extended any further and schedules of documents should be maintained.

These recommendations will better serve the Queensland public by making information held by government agencies accessible without compromising personal privacy or other considerations which are already taken into account when making decisions under the Act.

If anything, decision-makers are more cautious and conservative when applying the Act, there is no need to require further amendments which will facilitate unnecessary secrecy to the detriment of society.

