

3 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 Colleagues

Review of the *Right to Information Act 2009 (Qld)* and *Information Privacy Act 2009 (Qld)*

Thank you for inviting our Centre to respond to the review of the *Right to Information Act 2009 (Qld)* (the RTIA) and the *Information Privacy Act 2009 (Qld)* (IPA). We hold the view that public and stakeholder consultation is critically important in such review processes and, accordingly, we appreciate this opportunity to participate.

Unfortunately, as our resources are limited and we are currently responding to a number of government reviews pertaining to our clients' needs, we are not in a position to provide a lengthy response to this review at this time. Nevertheless, we do wish to provide a short response. Our key concerns, in particular, relate to the matters raised in questions 4 and 6 of the Review Document. These questions are as follows:

4. Should the RTI Act and Chapter 3 of the IP Act apply to the documents of contracted service providers where they are performing functions on behalf of government?

6. Does the IP Act deal adequately with obligations for contracted service providers? Should privacy obligations in the IP Act be extended to sub-contractors?¹

Application of the Acts

As is acknowledged by the government itself, the above-named Acts are "an important part of the Queensland Government's integrity framework (...and they) aim to make

¹ The State of Queensland (Department of Justice and Attorney-General), **2016 Consultation on the Review of the *Right to Information Act 2009* and *Information Privacy Act 2009*, page 9, retrieved on 30.1.17 from <http://www.justice.qld.gov.au/corporate/community-consultation/community-consultation-activities/past-activities/review-of-right-to-information-and-privacy-laws>**

more Queensland Government information available and ensure protection of an individual's privacy in the public sector environment".²

Our service is a community-based, free legal service with charitable status; it is not a government agency or department and we do not operate as a commercial profit-driven business. Although we do receive some funding via service contracts with the State Government via the Department of Communities, we continue to operate very much within the framework that defines the not-for-profit community-based sector. It is important for us to be able to respond to our clients' needs using a flexible model of service delivery. It is also important for us to be able to minimise 'red tape' compliance burdens, which ultimately detract from our ability to deliver our services to our clients.

The Consultation Paper asks whether there should be changes to the way in which the RTIA and IPA apply to government-contracted organisations. As a Community Legal Centre (CLC) managed by volunteers, with many of our core services provided by volunteer lawyers, social workers and students, we are always concerned about unnecessary and burdensome reporting and compliance obligations. This is because these ultimately divert our resources away from our core activities of providing legal advice and social work services to our clients who typically are the most marginalised members of our community.

We strongly oppose any further changes to the laws that might increase the compliance burden affecting our service and services like ours, especially other CLCs.

We submit that if the government does extend the RTIA and Chapter 3 of the IPA to apply to the documents of all contracted service providers where they are performing functions on behalf of government, a specific exemption should be included exempting community legal centres/services from these laws.

Our service already engages in very detailed reporting to all our funders at both State and Commonwealth levels. We also comply with the National Privacy Principles, as well as the important legal and professional obligations we owe as providers of legal advice. We regularly report to the Office of Fair Trading and the Australian Charities and Not-for-profits Commission.

If we also had to respond to additional RTIA and IPA applications under Queensland's laws, we consider that this would be an unnecessary diversion and waste of our limited resources. There is always a cost incurred in dealing with applications under these Acts and, ultimately, if we were obliged to respond to additional RTI/IPA applications, we would need to seek additional funding to support this activity. This would become an added burden on the public purse. Alternatively, we would have to divert existing resources to this task, thereby diminishing our direct client services.

We also note that we regularly deal with very challenging clients and clients who suffer from various forms of mental illness and/or cognitive impairment. We are concerned

² The State of Queensland (Department of Justice and Attorney-General), website information pertaining to the **2016 Consultation on the Review of the Right to Information Act 2009 and Information Privacy Act 2009** <http://www.justice.qld.gov.au/corporate/community-consultation/community-consultation-activities/past-activities/review-of-right-to-information-and-privacy-laws>

that some clients might commence unfounded, frivolous or vexatious RTIA/IPA applications. In addition, certain clients with mental health problems are particularly anxious about the protection of their confidential information – often with good reason. Such clients might be less inclined to consult us for advice if the information and privacy laws were extended to cover CLCs. Indeed, our staff and volunteer lawyers often have conversations with anxious clients about the level of protection we can guarantee regarding a client’s confidential information. Being able to assure clients that their information is always handled carefully and is protected just as it would be in a private law firm, is invaluable.

In addition we note that CLCs are law firms under the *Legal Profession Act 2007 (Qld)*, and that it would be inappropriate to impose an RTIA or IPA obligation on us simply because we are funded, where there is no similar imposition on private legal service providers.

In conclusion, we submit that the review should not extend RTIA and IPA obligations to organisations such as CLCs, which sometimes enter into service contracts with the Queensland Government. We already have appropriate information and privacy management schemes in place, which are sufficient and appropriate, given our work and professional obligations.

Please contact Scott McDougall on [REDACTED] if you wish to discuss any aspect of this short response.

Yours faithfully
Caxton Legal Centre

[REDACTED]

Scott McDougall
Director