

Celebrating 20 years of Freedom of Information in Western Australia

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Western Australian Information Commissioner

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Distinguished guests, Ladies and Gentlemen, welcome to our celebration to mark the 20th anniversary of Freedom of Information in Western Australia.

I would like to start by acknowledging that the building in which we are meeting is situated on the traditional lands of the Whadjuk people of the Noongar Nation of south-western Australia and by paying my respect to their elders past and present. The building itself is Albert Facey House, named after a great Western Australian who is best known for writing the autobiography *A Fortunate Life*, widely considered an Australian literary classic. Careful observers will have noticed extracts from the book adorning the interior walls of the building. And I would say that as Western Australians, we are indeed fortunate to live in one of the most prosperous, fair and free societies in the world.

One of the key elements of our free society is a respect for the rule of law. For this to be meaningful, nobody can be above the law, including government itself. A key tool to keep government accountable is an effective regime for access to government information.

On 28 November 1991, as part of his second reading speech to the Western Australian Parliament, the then Minister for Justice the Honourable Mr David Smith said:

Freedom of Information legislation represents a fundamental reform of the relationship between state and local governments and the communities they serve. It enshrines in legislation rights which are at the heart of the democratic processes... FOI strengthens democracy, promotes open discussion of public affairs, ensures the community is kept informed of the operations of government and opens government performance to informed and rational debate.

Unlike in some other jurisdictions around the world, freedom of information enjoys strong bipartisan support in our State. Our current Attorney General, the Honourable Michael Mischin MLC, had hoped to attend today and personally say a few words to reflect that support, but is unable to do so because he is attending a cross-jurisdictional meeting of Ministers in Melbourne. He has, however, been kind enough to pass on his wishes in the following terms:

I would like to congratulate the FOI Co-ordinators from the Departments and Agencies along with the FOI Commission for a job well done.

Over the last 20 years, there have been more than 170,000 FOI Applications, with only a handful of these, 18, having been appealed through the Courts, with 14 being dismissed, 2 returned to the FOI Commission for consideration and only two being allowed, whereby the Commissioner's decision has been overturned.

These figures reflect the efficiency and professional standard of the Coordinators and Commission in progressing applications to ensure the transparency of governance at all levels of the State Government.

I appreciate your fantastic efforts and commitment to the role.

*Hon Michael Mischin MLC
Attorney General*

The Attorney's words remind us why Parliament passed the Freedom of Information Act in the first place. Section 3 of the Act provides that its objects are:

- to enable the public to participate more effectively in governing the State; and
- to make the persons and bodies that are responsible for State and local government more accountable to the public.

It is difficult to imagine a set of legislative objects which are more fundamentally tied to the idea of genuine democracy and good government. And I urge all of us to bear these objects in mind whenever we discharge our roles under the Act, whether by responding to queries, dealing with a freedom of information request or making a decision on access to documents.

Today also provides us with an opportunity to acknowledge the work of previous Information Commissioners and their contribution to achieving the objects of the Freedom of Information Act.

The State's inaugural Information Commissioner was Ms Bronwyn Keighley-Gerardy, under whose leadership the office was established over 20 years ago. In sending her apologies for this morning's event and asking me to pass on her best wishes, Ms Keighley-Gerardy noted that it is hard to believe that 20 years have passed since the introduction of freedom of information in Western Australia. Ms Keighley-Gerardy served as Commissioner for 10 of those years and was the first to tackle many of the difficult areas requiring legal interpretation under the Act. Her published decisions continue to provide valuable guidance to this day.

Stepping into Ms Keighley-Gerardy's shoes was Ms Darryl Wookey, who served as Acting Commissioner for four years. Again, we continue to rely on Ms Wookey's external review decisions today. However, her contribution goes even beyond this tenure. Prior to her appointment, Ms Wookey was responsible for much of the legal analysis underlying the work of the office in her previous role as Principal Solicitor.

Ms Wookey was followed as Acting Commissioner by John Lightowlers. Many of you will know Mr Lightowlers personally. Those who know him will not be surprised that John served the people of Western Australia as Commissioner with the greatest professionalism and rigour during his tenure.

The State has also been served by Mr Bruce Denham, Mr Tim Kennedy, Mr Chris Shanahan SC and Ms Anne Marshall, all of whom issued external review decisions as Acting Information Commissioners.

Without detracting from the achievements of past Commissioners, the focus of this morning is on thanking the people in government agencies and Ministers' offices who deal with freedom of information every day.

My staff and I realise that the work of an FOI coordinator or decision maker is not easy. You have to make decisions under the FOI Act which have a direct impact on a citizen's rights. Sometimes those decisions are complex. Often, you have to balance competing public interests in arriving at your decision. The fact that neither the Parliament nor the courts have given a conclusive definition of what the public interest entails confirms that this is not always an easy exercise. But the Parliament has entrusted you with the power to make those important decisions based on the circumstances of the particular case which you are considering.

We also recognise that dealing with freedom of information can sometimes be a thankless task, especially when interacting with parties who may not always appreciate the guidance or decisions they receive. But I hope you also get to experience, at times, the gratitude of people who have finally been given access to the information they need to help them make informed decisions in the future.

In my view, your work is much more critical to achieving the objects of the FOI Act than the work of the Information Commissioner. You have the capacity to make a citizen's interaction with government under the Freedom of Information Act a positive experience. It is you who make the difference between an access applicant being treated with respect or being dismissed summarily. And it is you who, collectively, made 15,702 decisions under the Act last financial year. So today, I want to thank you and to acknowledge the critical role which you play in helping to achieve the legislative objects of enabling greater public participation in our democracy and making government more accountable to the people.

I would also like to pay tribute to my wonderful colleagues in the Office of the Information Commissioner. Since taking up this position some four years ago, I have been able to count on your dedication, experience, energy, integrity and intellect, not to mention your tremendous experience in this complex area. I am immensely grateful for that.

I now invite you to stay and enjoy morning tea with us to celebrate 20 years of freedom of information in Western Australia.

Thank you.