

~~Sitting suspended from 1.00 pm to 2.30 pm.~~

022

RIGHT TO INFORMATION BILL

First Reading

Hon. AM BLIGH (South Brisbane—ALP) (Premier and Minister for the Arts) (2.30 pm): I present a bill for an act about rights to government and other information. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Tabled paper: Right to Information Bill.

Tabled paper: Right to Information Bill, explanatory notes.

Second Reading

Hon. AM BLIGH (South Brisbane—ALP) (Premier and Minister for the Arts) (2.30 pm): I move—

That the bill be now read a second time.

I am pleased to introduce the Right to Information Bill 2009. In September 2007, as members will recall, I commissioned an independent panel, led by Dr David Solomon AM, to review Queensland's freedom of information laws. The panel's review of the freedom of information framework was comprehensive, and the report I received from Dr Solomon in July 2008 provided my government with a clear road map on how we could achieve greater openness and accountability in government. Dr Solomon concluded, and the government agreed, that it was time for the government to renew and reframe its commitment to public access to government information through a new legislative framework.

My government has demonstrated its real commitment to reform by acting immediately to develop two significant pieces of legislation, the Right to Information Bill and the Information Privacy Bill. Both of these bills were released late last year for a four-month public consultation period. A large number of submissions were received during consultation on the bills. Given the complexity and significance of the bill, the input of FOI experts, practitioners and users has been invaluable in finalising the drafting of the bill. The introduction of this bill and the Information Privacy Bill, which I will also introduce today, represents a significant step forward for democracy in Queensland, and demonstrates the Queensland government's commitment to openness and transparency.

Public release of information about government policies and decisions enables informed debate, scrutiny and public participation. Without information, people cannot exercise their rights and responsibilities or make informed choices. Increased openness and transparency also means the government can be held to account for its actions. For this reason, the right to information is a powerful means of promoting trust and integrity in government.

The Right to Information Bill establishes a right to information for Queenslanders. The objects and operational clauses of the bill emphasise that information is to be released administratively unless there is a good reason not to, with applications under the legislation to only be an avenue of last resort.

Under the bill, the public will have a statutory right to access information held by government unless, on balance, release of the information would be contrary to the public interest. The Right to Information Bill replaces the Freedom of Information Act 1992. The bill contains a number of key features that I will briefly outline.

Consistent with Dr Solomon's recommendations, the bill sets out a new public interest framework for determining access applications and fewer blanket exemptions for the release of particular types of information. The exemptions that have been retained in the Right to Information Bill are true exemptions that are not subject to a public interest test. Broadly speaking, the exemptions in the bill cover circumstances where it has been decided that there is an overriding public interest in not disclosing the information because of confidentiality, privacy or security. However, the bill will not prohibit agencies from providing access to exempt material.

Significantly, the exemption for cabinet material has been reframed under the bill, and will only apply to material created for the consideration of cabinet, or which would, if disclosed, prejudice the confidentiality of cabinet deliberations. This exemption will apply for a period of 10 years, after which release would be assessed within the framework of the public interest test. The FOI Act exemptions that are not retained as exemptions in the Right to Information Bill have instead been incorporated into the public interest test as factors favouring nondisclosure.

The reduced number of exemptions means there will be more instances where right to information decision makers will have to use their judgement in applying a public interest test. The starting point for decision makers in applying the public interest test will be that information should be released unless, on balance, it would not be in the public interest to do so. This is a complete reversal of the general approach in the current FOI Act, which allows decision makers to refuse access to information unless there is a public interest reason to release the information.

The public interest test is ultimately about balance. In his report, Dr Solomon recognised that there will be instances when it is not in the public interest for information to be released, for example, where its release could prejudice an individual's right to privacy or prejudice public safety, security or law enforcement.

Decision makers will need to weigh a range of factors outlined in the bill when applying the test—factors favouring nondisclosure and factors favouring disclosure. Each decision will need to be made on a case-by-case basis, having regard to the relevant facts.

The Right to Information Bill clearly emphasises the government's pro-disclosure stance. The way in which factors are to be weighed up in applying the public interest test also emphasise the presumption of disclosure. As a result, I believe the new public interest test will result in better outcomes for applicants seeking information.

In keeping with the move to greater openness and accountability, this bill has broader application than the current FOI Act. Those government owned corporations that do not operate in competition with other private sector corporations will no longer be excluded and all government owned corporations will be caught by the right to information to the extent of their community service obligations.

The Right to Information Bill retains the time based charging structure that is currently used under the FOI Act. It is important that cost should not be a barrier to seeking information, so the threshold for free processing of applications will be increased from two hours to five hours for all applicants. The bill also gives effect to a number of procedural changes for access applications, including reducing the time frame for processing applications from 45 calendar days to 25 business days and allowing for the production of a schedule of relevant documents setting out descriptions of the classes of documents relevant to the application.

The bill expands the functions of the Information Commissioner and establishes a Right to Information Commissioner. The Office of the Information Commissioner will provide assistance to agencies and the public, including through training, guidelines and a helpline. It will also provide guidance on the legislation, monitor its application, and promote awareness of the right to information and privacy reforms. The Information Commissioner will have powers to make decisions under the legislation, to publicly assess agencies' performance and undertake external reviews.

The Right to Information and Information Privacy Bills provide that a review of the operation of the legislation must commence within two years. The review will look at the practical application of the right to information and privacy legislation, including the review decisions made by the Information Commissioner, and produce a report which I will table in the parliament. The review will enable us to identify and resolve any issues that arise in the implementation of such a significant reform.

The Right to Information Bill is a significant instrument in a broader package of right to information policy reforms. The Solomon report recommended that government should routinely and proactively push information into the public domain, instead of waiting for FOI requests to pull that information out of government. This 'push model' is central to my government's right to information reforms. As I said, the right to information legislation is intended to be a last resort for people seeking government information, that is, they should be able to access it by it being proactively released by government in the first place wherever possible.

The bill reinforces proactive administrative release of information by requiring agencies to operate a publication scheme setting out the types of information it holds and the ways in which people can access this information. In addition, where information is released as a result of formal application under the act, agencies may publish the information on a disclosure log at least 24 hours after provision to the applicant, to facilitate broader public access to the information.

My government is committed to increasing the proactive and administrative release of information outside of the legislation and promoting a pro-disclosure culture across the Queensland public sector. This work is already well underway. Summaries of cabinet decisions are now available online, departments are publishing more information proactively, and publication schemes and disclosure logs are set to go live on 1 July. The government is also making strategic changes to information management and promoting good record keeping practices.

With this bill and the Information Privacy Bill, my government is putting into law the important reforms recommended by the independent review panel. The bills are the product of extensive consultation, expert advice and much careful consideration.

The Right to Information Bill recognises the information rights of Queenslanders. This bill, and the broader package of policy reforms that my government is rolling out with it, will make Queensland the most open and accountable government in Australia.

Debate, on motion of Mr Langbroek, adjourned.

023

INFORMATION PRIVACY BILL

First Reading

~~Hon. AM BLIGH (South Brisbane ALP) (Premier and Minister for the Arts) (2.40 pm): I present a bill for an act to provide safeguards for the handling of personal information in the public sector environment, and to allow access to and amendment of personal information. I present the explanatory notes, and I move —~~

~~That the bill be now read a first time.~~

~~Question put — That the bill be now read a first time.~~

~~Motion agreed to.~~

~~Bill read a first time.~~

~~Tabled paper: Information Privacy Bill.~~

~~Tabled paper: Information Privacy Bill, explanatory notes.~~

Second Reading

~~Hon. AM BLIGH (South Brisbane ALP) (Premier and Minister for the Arts) (2.40 pm): I move —~~

~~That the bill be now read a second time.~~

~~I am pleased to introduce the Information Privacy Bill 2009. This is Queensland's first privacy legislation. This is a bill to provide safeguards for the handling of personal information held in the public sector environment and provides a mechanism for people to access and amend their personal information.~~

~~Governments hold information about many personal aspects of people's lives. For example, governments may hold people's personal health records, adoption information or identity information such as driving licences. The government has an obligation to ensure that this information is appropriately managed and the public's privacy is protected.~~

~~The Information Privacy Bill codifies the existing administrative privacy regime and replaces provisions of the existing Freedom of Information Act that deal with applications to access and amend personal information. The bill is designed to work in parallel with the Right to Information Bill 2009 which I have just introduced. My government has developed the two bills to implement the recommendations of the independent review of Queensland's Freedom of Information Act led by Dr David Solomon.~~

~~Along with the Right to Information Bill, an exposure draft of the Information Privacy Bill was released in December 2008 for public consultation for almost four months. A large number of submissions from a range of external stakeholders contributed to the development of the two bills.~~

~~The Information Privacy Bill recognises the importance of protecting individuals' personal information through appropriate safeguards. It establishes how public sector agencies are to deal with personal information by setting out the information privacy principles to which agencies must adhere. The bill extends the application of the information privacy principles to service providers contracted by government by requiring agencies to contractually bind service providers dealing with personal information.~~

~~Ministers and parliamentary secretaries will be required to adhere to the information privacy principles in relation to actions they take in their ministerial capacity. This means that personal information held by ministers will be subject to the same degree of protection as personal information held by public sector agencies. Parliamentary committees and members of parliament generally will continue to be exempt from the bill. This is consistent with other jurisdictions and ensures that the bill does not infringe on the privileges of the institution of parliament.~~

~~The bill will also apply to local government. To allow time for local governments to implement the requirements of the Information Privacy Bill, there will be a transition period of one year before the privacy principles will apply to local government.~~

~~The bill creates a new process to allow people to complain to the Information Commissioner if they believe that an agency has breached the privacy principles in relation to their own personal information. The new Queensland Civil and Administrative Tribunal will hear any complaints that the Information Commissioner is unable to successfully mediate. If the tribunal is satisfied that the complaint~~