



Office of the **Information Commissioner**

# ***Freedom of Information Newsletter***

May 2015

## ***From the Information Commissioner***

Welcome to the first edition of our new *FOI Newsletter*. The newsletter is for agencies, applicants, lawyers, media and anyone with an interest in the WA FOI process. Please feel free to forward it to your colleagues.

The newsletter will have important information about freedom of information in WA (including latest decisions and training opportunities) as well as news from around Australia and overseas.

Your comments or suggestions for the newsletter are very welcome – please use our [Feedback](#) form.

## ***World of FOI***

### **Legacy of Malcolm Fraser**

Australia's first freedom of information legislation, the Commonwealth *Freedom of Information Act 1982*, was a legacy of the prime ministership of Malcolm Fraser, who died in March.

## ***Did you know?***

### **Saving consultation time**

An agency is required to take such steps as are reasonably practicable to obtain the views of third parties before giving access to a document that contains personal, commercial, business, professional or financial information about those third parties (sections 32 and 33 of the FOI Act). However, consultation with third parties is not required when the agency does not propose to give access to the relevant information, either because that information is outside the scope of the access application or because the agency has formed the view that the information is exempt.

Unnecessary consultation with third parties in such cases increases the time for an agency to deal with an access application. In addition, it often raises unnecessary concerns and is likely to hinder rather than assist in the process.

An agency can save a considerable amount of time if it consults with an applicant at the commencement of the FOI process to clarify whether third party information can be excluded from the scope of the application by agreement.

## ***Agency news***

### **Rethinking FOI in agencies**

Information Commissioner Sven Bluemmel was recently asked for examples of agencies that had reviewed and improved their management of FOI issues. The request was made by the Estimates and Financial Operations Standing Committee of the WA Parliament. In reply, Mr Bluemmel gave the committee members two examples – the WA Police and the

Department of Mines and Petroleum (DMP) – from among a number of agencies that had undertaken significant reviews of their information release practices, with positive results.

Mr Bluemmel said the WA Police had created an Information Release Centre to manage its high volume of FOI applications. To help deal with many “routine” applications for information, the centre had staff who specialise in facilitating the release of information judged not to require an FOI application.

DMP had taken significant initiatives to facilitate the release of mining and exploration information, such as a revamped eBookshop, which includes free access to thousands of geological survey products. In February, DMP launched a new app for mobile devices for accessing mapping, measuring and geological information.

### ***Recent decisions of the Information Commissioner***

#### ***[Re Latro Lawyers and Department of State Development](#)*** [2015] WAICmr 7 ([PDF](#))

Documents relating to the development of a State Agreement were considered. The Commissioner’s decision included findings relating to the exemptions in clauses 1, 3, 4(3) and 7 of Schedule 1 to the FOI Act.

The agency’s decision was varied.

#### ***[Re Truscott and the Department for Child Protection and Family Support](#)*** [2015] WAICmr 6 ([PDF](#))

The agency’s decision to refuse access to documents under section 26 of the FOI Act on the basis that the documents cannot be found or do not exist was found to be justified.

The agency’s decision was confirmed.

#### ***[Re Scriven and Rottneest Island Authority](#)*** [2015] WAICmr 5 ([PDF](#))

Statistical data from a survey commissioned by the Rottneest Island Authority was found not to be exempt under clause 10(3) of Schedule 1 to the FOI Act.

The agency’s decision was set aside.

#### ***[Re Murphy and the Department of State Development](#)*** [2015] WAICmr 4 ([PDF](#))

Documents relating to obligations under state agreements were found not to be exempt under clauses 4(3), 6(1), 7, 8(2), 9(1) or 10(1) of Schedule 1 to the FOI Act.

The agency’s decision was set aside.

#### ***[Re McGowan and Department of the Premier and Cabinet](#)*** [2015] WAICmr 3 3 ([PDF](#))

Documents relating to an inquiry into the conduct of a ministerial officer were found not to be exempt under clause 3 or clause 11(1)(c) of Schedule 1 to the FOI Act.

The agency’s decision was set aside.

#### ***[Re Tallentire and Department of Agriculture and Food](#)*** [2015] WAICmr 2 ([PDF](#))

Biophysical viability ratings assigned to individual pastoral leases in an agency report were found not to be exempt under clauses 3(1), 4(3) or 8(2) of Schedule 1 to the FOI Act.

The agency’s decision was set aside.

#### ***[Re Mineralogy Pty Ltd and Department of Mines and Petroleum](#)*** [2015] WAICmr 1 ([PDF](#))

Certain documents relating to exploration licences were found not to be exempt under clauses 3(1), 4(1), 4(2) or 4(3) of Schedule 1 to the FOI Act, as claimed by the third party complainant.

The agency’s decision was confirmed.

### ***FOI Training News***

Upcoming [training dates](#) for agencies

FOI Coordinators Workshop, Wednesday 13 May, 9am – 4:15pm  
FOI Coordinators Workshop, Wednesday 10 June, 9am – 4:15pm

The FOI Coordinators Workshop introduces participants to the objects and the principles of the FOI Act and the major features of the legislation. Topics include the role of decision-makers; FOI applications; exemptions; consultation with third parties; charges; notices of decision and review; amendment of records; publication of information; statistics and reporting.

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