



Kate Chaney MP FEDERAL MEMBER
FOR CURTIN

Freedom of Information Amendment Bill 2025

Legal and Constitutional Affairs Legislation Committee

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I welcome the opportunity to make a submission to the Legal and Constitutional Affairs Legislation Committee about the *Freedom of Information Amendment Bill 2025*.

This submission has been informed by engagement with constituents and experts over the past three years on the Freedom of Information (FOI) system, transparency in government and the role of the public service.

Introduction

FOI is a cornerstone of Australian democracy. It is how we hold governments to account, expose wrongdoing, and ensure that decisions made in the name of the public are visible to the public. The FOI system has played a critical role in uncovering scandals such as Robodebt.

Transparency matters. It limits corruption and waste, protects rights, and strengthens trust in government. Any reform of FOI must be approached with that principle at the centre.

While the FOI system does face challenges, the *Freedom of Information Amendment Bill 2025* before the Parliament is not likely to be the right response. Instead of strengthening transparency, most of its measures would weaken it.

This submission outlines:

- why FOI is so important to Australian democracy;
- the problems that exist in the current system;
- concerns with the proposed reforms; and
- a constructive pathway forward through a comprehensive, independent review.

I recommend an independent review into the entire FOI Act and system is necessary before undertaking major reforms like these.

The Importance of FOI

The FOI Act, introduced in 1982, shifted the default of government from secrecy to openness. Over time, it has revealed mismanagement and corruption. FOI has empowered journalists and whistleblowers, and strengthened public debate.

The most powerful example in recent memory is Robodebt. FOI requests uncovered the internal advice ignored by Ministers and exposed the legal doubts raised by public servants. Without FOI, the scale of that scandal and the harm that it caused might never have come to light.

This is why FOI matters. It is about ensuring governments act in the public interest, and that citizens, journalists, and civil society can hold them accountable when they do not.



The Current Problems with FOI

There is broad recognition that the FOI system is not working as it should. The most serious problems are:

- **Delays:** While first-instance processing times have improved somewhat, too many requests still take months. Appeals now take more than 15 months on average, by which time information may be out of date or irrelevant.
- **Secrecy:** The proportion of requests granted in full has dropped from 59% in 2011–12 to just 25% in 2023–24. In 2022–23, for the first time on record, more FOI requests were refused than granted in full.
- **Culture of reluctance:** Public servants are increasingly cautious about committing advice to writing, for fear it will be disclosed and politicised. This undermines frank and fearless advice.
- **Overwhelming workloads:** The system does create workload pressures for the public service, and vexatious or voluminous requests do occur. The Government has provided a number of specific examples that demonstrate this issue. However, there is limited evidence on the scale of vexatious and frivolous requests, as opposed to genuine requests.

Ultimately, the question is how to balance the cost of transparency with the public interest in accountability.

Concerns with the Bill

The Bill aims to address workload pressures and the culture of reluctance but only puts forward minimal fixes to the problems of secrecy and delay. Its major measures include:

- application fees for FOI requests;
- expanding Cabinet confidentiality from a “dominant purpose” test to a “substantial purpose” test;
- new public interest factors against disclosure, such as risk to “frank and timely discussion”;
- a 40-hour processing cap; and
- limits on anonymous applications.

I have three over-arching concerns:

- **Cherry-picking of recommendations:** The Government claims these reforms reflect previous reviews. Some of them do. But just as many recommendations are ignored or contradicted. For example, the 2013 Hawke Review explicitly recommended no application fees. The Robodebt Royal Commission recommended removing Cabinet exemptions altogether – yet this Bill expands them.
- **Risk of reducing transparency:** Each major measure risks limiting access without clear evidence that it will solve the problems identified. For example, application fees may deter journalists but not bad faith actors. Expanding Cabinet confidentiality may



restrict disclosure without giving public servants greater confidence. Banning anonymous requests may discourage whistleblowers while doing little to stop vexatious applicants.

- **Narrow consultation:** I am advised that so far, consultation has focused heavily on agencies, which understandably want to reduce workload and reputational risk. Engagement with journalists, legal advocates, and civil society has been limited. Unsurprisingly, the changes proposed therefore lean toward reducing transparency.

The Way Forward

Every major review that has touched on FOI (including Hawke (2013), Shergold (2015), Thodey (2019), and the Senate Legal and Constitutional Affairs Committee (2023)) has called for a comprehensive, independent review of the FOI Act. This is largely because the FOI system is large and complex – and therefore, a broad, independent review is needed for significant reform to this system.

Such a review should:

- be broad in scope, rather than limited to the measures in this Bill;
- be led by independent experts, not government departments;
- be informed by significant public consultation, particularly with those who rely on FOI for accountability; and
- be guided by the principle of maximising transparency while ensuring efficiency and managing genuine problems.

Specifically, the review should examine:

- how to improve timeliness, including appeals;
- how to limit exemptions and restore trust in government;
- how to address vexatious and frivolous requests with proportionate tools, including digital safeguards against mass automated applications;
- how to ensure public servants feel safe to provide frank and fearless advice; and
- the potential role of AI to both increase and reduce pressures on the system.

This evidence-based approach would allow genuine problems to be addressed while strengthening transparency, rather than undermining it. The independent review may find that changes proposed by the Government in this Bill are the right ones – but at least this will be based on wholistic analysis and consultation.

Conclusion

There is no doubt that the FOI system needs reform. But the *Freedom of Information Amendment Bill 2025* in the absence of a broad, independent review is not the right reform. It risks making transparency weaker and accountability harder, while offering no clear evidence it will solve existing problems.



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A comprehensive, independent review of the FOI Act is needed – every major review and inquiry has called for this. Such a review would allow us to modernise FOI for an era of digital information and AI, while safeguarding its core purpose: to hold governments to account.

This Bill should not proceed in its current form. Instead, Parliament should commit to a full, independent review to ensure that the FOI system serves the public interest, strengthens trust in government, and protects the integrity of our democracy.

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