Grata Fund

Submission to the Senate Legal and Constitutional Affairs Legislation Committee's inquiry into the Freedom of Information Amendment Bill 2025

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Grata Fund is a partner of the University of New South Wales Faculty of Law and Justice.

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About Grata Fund

Grata Fund is Australia's first specialist non-profit strategic litigation incubator and funder. We remove financial barriers to court, and support people and communities facing injustice to integrate litigation with movement-driven campaigns. We focus on supporting public interest cases in the areas of human rights, climate justice and democratic freedoms.

Acknowledgement

We acknowledge the Gadigal and Bidjigal people who are the Traditional Owners of the land on which we work. We pay respect to the tens of thousands of years of stories and community life that has thrived in the Dharug Nation and to the Elders past, present and emerging. This always was and always will be Aboriginal land.

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Introduction

Grata Fund welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Legislation Committee's inquiry into the Freedom of Information Amendment Bill 2025 (**the Bill**).

The freedom of information (**FOI**) system plays a vital role in Australia's representative democracy by enabling the public to participate in and scrutinise government decision-making.

At the outset of this submission, we draw attention to the longstanding objects of the *Freedom of Information Act 1982* (Cth) (**the Act**), which include giving the Australian community a ***right*** to access government information.[1]

The intention of this right is to 'promote Australia's representative democracy' by increasing public participation in government processes and increasing scrutiny and review of government activities, recognising that information held by the government is a 'national resource'.[2]

In recognition of the importance of the FOI system, Grata Fund launched our FOI Project to assess and address failures in the operation of FOI laws when it comes to public interest information. This submission draws on Grata Fund's experience from our FOI Project, including in our support for three significant FOI proceedings in the Federal Court and ongoing advocacy and educational work in this space.

The problems plaguing the operation of the FOI system are well-documented. For example, in 2023, the Senate Legal and Constitutional Affairs References Committee's inquiry into the operation of Commonwealth FOI laws uncovered evidence that chronic delays, underresourcing, overreliance on disclosure exemptions and a culture of secrecy were rife across the system.[3]

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[1] *Freedom of Information Act 1982* (Cth), s 3(1).
[2] Ibid, ss 3(2)-(3).
[3] Legal and Constitutional Affairs References Committee, Parliament of Australia, *The Operation of Commonwealth Freedom of Information (FOI) Laws* (Report, December 2023).

We are concerned that the Bill fails to meaningfully address the root problems plaguing the FOI system and instead introduces measures that will significantly erode transparency. We are equally troubled that the proposed reforms fail to genuinely engage with the recommendations made by the Senate Legal and Constitutional Affairs References Committee in its comprehensive 2023 report, and the relevant recommendations in the Robodebt Royal Commission report.[4]

We submit that *FOI reform must not come at the cost of transparency and accountability*.

In this submission, we address our key concerns with the Bill:

- It fundamentally **changes the Bill's pro-disclosure objects** and elevates private interests and government efficiency;
- It **substantially expands key disclosure exemptions** which will exacerbate the culture of secrecy and do little to reduce workload for FOI decision-makers;
- It introduces **extraordinary FOI refusal powers** that are ripe for abuse and will likely lead to an increase in internal reviews and IC reviews;
- It will likely **prolong the chronic delays** already faced by applicants; and
- **New costs for FOI applications** will hinder government transparency and accountability.

We make the following recommendations:

Recommendation 1: The Government should withdraw the Bill.

Recommendation 2: The Government should comprehensively implement the recommendations made in the majority report of the Senate Legal and

[4] Legal and Constitutional Affairs References Committee, Parliament of Australia, *The Operation of Commonwealth Freedom of Information (FOI) Laws* (Report, December 2023) xv – xii; *Royal Commission into the Robodebt Scheme* (Report, July 2023) xxi, 657.

Constitutional Affairs References Committee's 2023 inquiry into the operation of Commonwealth FOI laws.

Recommendation 3: Any outstanding FOI issues and reforms should otherwise be the subject of a comprehensive and independent review of the Act with broad terms of reference and adequate time for public consultation.

Changes to the objects of the Act

The Bill fundamentally changes the objects of the Act by shifting the emphasis from the public's right to access information as a means of participating in government processes and scrutiny, to the need to protect 'private interests' and the 'proper and effective operation of government'.[5] As detailed in the explanatory memorandum to the Bill, this change is intended to ensure that the whole Act is interpreted according to these new terms.[6]

If passed, we are deeply concerned that these amendments will lead to many of the disclosure exemptions in Part IV of the Act and the public interest factors set out in section 11B of the Act being reinterpreted such that government activity and decision-making is shrouded in even greater secrecy.

Our concerns are compounded by the related amendments set out in the Bill that will clearly make it more difficult for FOI applicants to access government information, including the expansion of the scope of key exemptions. These reforms appear to be without a comprehensive advisory or public consultation basis, and fail to meaningfully address the genuine structural issues plaguing the FOI system.

[5] Freedom of Information Amendment Bill 2025 (Cth) ('the Bill') sch 1, item 1 (proposed s 3(2)).
[6] Explanatory Memorandum, Freedom of Information Amendment Bill 2025 (Cth) 13.

Summary decision-making powers

The Bill proposes to introduce s 23A(1) to the Act, which gives agencies and Ministers the power to make an access refusal decision in relation to a request for documents, *without having identified the relevant documents*, if it is apparent from the description of the document(s) in the request that they would be exempt.[7]

This power to refuse an FOI request simply on its terms, without having actually identified the relevant documents, is extraordinary and unprecedented in its scope. We are concerned that it poses a substantial risk of abuse and will increase the rate of FOI requests being escalated to internal review and IC review stages, rather than promote the early resolution of requests that would be achieved by a greater pro-disclosure approach.

From a first principles perspective, the proposed section 23A also sets a troubling norm for administrative decision-making by enabling FOI officers to decide that a document is an 'exempt document' (as defined in section 4 of the Act) without actually having applied the relevant statutory exemption test to the document requested by the applicant.

The risk that this will lead to incorrect decisions is heightened in the already fraught context of flawed FOI decision-making at first instance. For example, in 2023–24, 45 per cent of internal review decisions varied the original refusal decision made by an agency or Minister.[8] This means that almost half of initial decisions made by an agency or Minister were flawed, even under the existing regime where FOI decision-makers are required to apply any exemption provisions in full to the requested documents as identified.

As has been noted by the Centre for Public Integrity, this is particularly damning given that internal reviews are conducted by another officer in the same

[7] The Bill (n 4) sch 7, item 1 (proposed s 23A(1)).
[8] Office of the Australian Information Commissioner, *OAIC Annual Report 2023-2024* (Report, 2024) 152.

department, meaning institutional bias, ministerial pressure, and cultures of secrecy can easily carry over.[9] It has also been reported that 91 per cent of the Albanese Government's FOI refusals in 2024 were overturned or varied on appeal - 'the highest overturn rate on record'.[10] With this in mind, we have strong concerns about the proposed summary decision-making powers in the Bill.

Expansion of the Cabinet exemption

The Cabinet exemption is concerned with protecting information central to the Cabinet process and ensuring that the principle of collective ministerial responsibility (central to the Cabinet system) is not undermined. However, we consider that the Bill's proposed expansion of the Cabinet exemption introduces an unjustifiable blanket of secrecy over government documents that goes far beyond any citable rationale for Cabinet confidentiality. It certainly stands at odds with the Report of the Royal Commission into the Robodebt Scheme, which included a closing observation that section 34 of the Act be repealed entirely.[11]

Currently, section 34(1)(a) of the Act provides that a document will be exempt if it has been submitted (or proposed by a Minister to be submitted) to Cabinet for consideration and it was created for the *dominant* purpose of submission to Cabinet.

The Bill proposes to replace section 34(1)(a) with a provision that a document will be exempt if it has been prepared by a Minister or agency and a *substantive* purpose for its preparation was submission to Cabinet.[12]

This is a significant expansion of the exemption and goes far beyond the rationale for Cabinet confidentiality, and will significantly erode legitimate scrutiny and public participation in government decision-making. Under the new proposed

[9] The Centre for Public Integrity, *Freedom of Information: Secrecy and Delay* (Report, 2025) 6.
[10] Rhiannon Down and Noah Yim, 'FOI Bill Leads to Path of Secrecy', *The Australian* (online, 4 September 2025) <https://www.theaustralian.com.au/nation/lawyers-slam-foi-reform-over-cabinet-transparency-fears/news-story/7737cba7b13011d0ecb966220834c6df>.
[11] *Royal Commission into the Robodebt Scheme* (Report, July 2023) 657.
[12] The Bill sch 7, item 3 (proposed s 34(1)(a)).

provision, a document would be exempt from disclosure if it was prepared for a variety of purposes but one of those substantive purposes was submission to Cabinet. This would likely apply even if the document was not ultimately submitted to Cabinet. The related changes proposed to section 34(1)(c) raise similar concerns.

In addition, the Bill proposes to amend section 34(3) in a troubling way. Currently, section 34(3) provides that a document is exempt to the extent that it contains information that would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.

In *Warren v Chief Executive Officer, Services Australia* [2024] FCAFC 73, the Full Federal Court considered section 34(3) and confirmed that a document that reveals a Cabinet deliberation or decision *will not be exempt from disclosure* if the mere *fact* that the deliberation or decision has taken place has been officially disclosed.[13] In reaching this conclusion, the Full Court noted, 'the objective of [section] 34 is "to give effect to the long-established principles of Cabinet confidentiality and to protect from disclosure the workings of Cabinet". That objective is not undermined where there is an official disclosure of the fact of the deliberation or decision taken by Cabinet on a particular subject matter'.[14]

With this in mind, the Bill proposes to amend section 34(3) such that a document will be exempt if it reveals 'a consideration of Cabinet' unless *that information* has been officially disclosed.[15] Relatedly, the Bill proposes to introduce s 34(8) which defines 'consider' in this section very broadly, so as to include acts of discussing, deliberating, noting and deciding.[16]

These proposed amendments to section 34(3) are ostensibly designed to exempt any document that was the subject of even mere Cabinet *noting* from release under the FOI regime, even if the *fact* that these Cabinet considerations are taking place has been officially disclosed. This effectively circumvents the

[13] *Warren v CEO Services Australia* 305 FCR 268 [168].
[14] Ibid [172].
[15] The Bill sch 7, item 6 (proposed s 34(3)).
[16] The Bill sch 7, item 10 (proposed s 34(8)).

findings of the Full Federal Court in *Warren v Chief Executive Officer, Services Australia* and applies a blanket of secrecy over Cabinet business without any appropriate transparency safeguards.

Expansion of the deliberative processes exemption

Section 47C of the Act currently provides that a document is conditionally exempt if it would disclose matters relating to opinion, advice or recommendations, consultation or deliberations that have taken place in the course of an agency, Minister or the Commonwealth's deliberative processes.

If a document falls into this category, section 11A of the Act provides that the document must still be disclosed unless the disclosure would be, on balance, contrary to the public interest. Section 11B of the Act then sets out a range of factors that may be considered when determining whether the document disclosure would be contrary to the public interest. Factors favouring access include promoting the objects of the Act, informing debate on a matter of public importance and promoting effective oversight of public expenditure.[17] Importantly, potential 'embarrassment to the Commonwealth', potential 'misinterpretation', 'confusion', 'unnecessary debate' and the 'high seniority' of a document's author must not be taken into account when applying the public interest test.[18]

We are deeply concerned that the Bill proposes to introduce section 11B(3A) which lists several factors that should weigh *against disclosure* of a document, including the potential that:

- disclosure could prejudice frank or timely discussion as part of government deliberative processes;
- disclosure could prejudice the frank or timely provision of advice to or by an agency or Minister; and
- disclosure could prejudice the orderly and effective conduct of government decision-making process.[19]

[17] *Freedom of Information Act* 1982 (Cth) s 11B(3).
[18] *Freedom of Information Act* 1982 (Cth) s 11B(4).
[19] The Bill sch 7, item 14 (proposed s 11B(3A)).

While these proposed amendments reflect the importance of ensuring that the public service provides frank, timely and fearless advice to the Government, the weighing of these factors against FOI disclosure is misguided and unnecessarily curbs transparency and accountability. We also note that the *Public Service Act 1999* (Cth) already requires the public service to provide advice that is frank, honest, timely and based on the best available evidence, and this should not logically have any bearing on the operation of the FOI system.[20]

Extension of statutory timeframes for decision-making

The Bill drastically extends the time given to agencies and Ministers to process FOI requests. This is done in several instances, including the following:

- The Bill proposes to amend section 15AA of the Act to allow an agency or Minister to extend their initial decision-making period to any length of time if they have the consent of the applicant. Currently, a 30-day limit applies to any such proposed extension of time.[21]
- The Bill proposes to amend section 15(5)(a) of the Act to state that agencies or Ministers must acknowledge receipt of an FOI request within 15 working days (3 weeks) instead of the current 14 days (2 weeks).[22]
- The Bill proposes to amend section 15(5)(b) of the Act to state that agencies or Ministers must make a decision on an FOI request within 30 working days (6 weeks) instead of the current 30 days (approximately 4 weeks).[23]
- The Bill proposes to amend section 15(6)(a) of the Act to allow agencies or Ministers to extend the ordinary decision-making period by 30 working days (6 weeks) instead of the current 30 days (approximately 4 weeks) if consultation for Commonwealth/state relations, business documents or personal privacy is required.[24]

[20] See, for example, *Public Service Act 1999* (Cth) s 10.
[21] The Bill sch 4, item 10 (proposed s 15AA).
[22] The Bill sch 4, item 48 (proposed s 15(5)(a)).
[23] The Bill sch 4, item 48 (proposed s 15(5)(b)).
[24] The Bill sch 4, item 50 (proposed s 15(6)(a)).

- The Bill proposes to amend section 54C(3) to change the statutory period within which an internal review must be decided from 30 days (approximately 4 weeks) to 30 working days (6 weeks).[25]

These changes will exacerbate the existing chronic delays faced by FOI applicants at every stage of the FOI process.[26] It is well documented that delays persistently plague first instance, internal review and Information Commissioner review (**IC review**) stages of the FOI process.[27]

For example, under the current statutory timeframes, 30 per cent of all FOI requests were responded to outside of the statutory timeframe in the 2021-22 financial year[28] and there has not been significant improvement since with 26 per cent of FOI requests decided outside the statutory timeframe in 2023-24.[29] In 2023-24, seven agencies and four ministers decided more than 50 per cent of FOI requests outside the statutory timeframes.[30] The IC review stage is similarly crippled by delays averaging 15.5 months in 2023-24,[31] with some applicants having had to wait several years for their FOI requests to be finalised.[32]

The public's right to access government information is an essential part of a healthy democracy and delays undermine the transparency and accountability function of the FOI system. This issue must be addressed through comprehensive reform of the FOI system. Rather than addressing this issue, the Bill's proposed extension to statutory timeframes will further erode the ability for the public to access government information in a timely way. This will further inhibit effective

[25] The Bill sch 4, item 63 (proposed s 54C(3)).
[26] Grata Fund, Submission No 5 to Senate Legal and Constitutional Affairs References Committee, Parliament of Australia, *The Operation of Commonwealth Freedom of Information (FOI) Laws* (5 June 2023) 6 – 14.
[27] Centre for Public Integrity, *Delay and Decay: Australia's Freedom of Information Crisis* (Briefing Paper, June 2023) 7.
[28] Ibid 3, 7.
[29] Office of the Australian Information Commissioner, *OAIC Annual Report 2023-2024* (Report, 2024) 147; The Centre for Public Integrity, *FOI: Secrecy and Delay* (Report, 2025) 3.
[30] Office of the Australian Information Commissioner, *OAIC Annual Report 2023-2024* (Report, 2024) 146.
[31] The Centre for Public Integrity, *FOI: Secrecy and Delay* (Report, 2025) 7.
[32] See, for example, *Patrick v Australian Information Commissioner* [2024] FCAFC 93 (11 July 2024); *Patrick v Australian Information Commissioner (No 2)* [2023] FCA 530.

scrutiny of government and public participation in its decision making, particularly given the lack of consequences for the Government if the extended timeframes are not met.

To address unreasonable and lengthy delays in the FOI system and as part of a broader review, we reiterate recommendations 1 and 4 from Grata Fund's 2023 submission to the Senate Legal and Constitutional Affairs Committee's Inquiry into the operation of Commonwealth FOI laws. For the Committee's ease of reference, we have included a copy of these recommendations at Annexure 1 to this submission.[33]

Removal of anonymous requests

There can be no doubt that the FOI system serves a critical democratic accountability and public educative function, particularly when used by whistleblowers and journalists. The effective use of FOI by journalists from The Age and the Sydney Morning Herald to investigate the award of a $1 billion government travel contract to a company tied to the then federal Liberal Party Treasurer, is just one example.[34] Investigative journalist Nick McKenzie's use of FOI in his reporting on allegations that a former Special Air Service corporal committed war crimes during deployment in Afghanistan, is another.[35]

However, the Bill proposes to remove the ability of whistleblowers and investigative journalists to request government information anonymously.[36] This will narrow the avenues available for individuals and civil society to interrogate

[33] Grata Fund, Submission No 5 to Senate Legal and Constitutional Affairs References Committee, Parliament of Australia, *The Operation of Commonwealth Freedom of Information (FOI) Laws* (5 June 2023) 2 – 3.
[34] 'Hockey's Helloworld Ties Demand Scrutiny', *The Age* (online, 21 February 2025) <https://www.theage.com.au/national/hockey-s-helloworld-ties-demand-scrutiny-20190221-p50zei.html>; Nick McKenzie and Richard Baker, 'Ambassador Joe Hockey Helps Out Travel Firm', *The Age* (online, 19 February 2019) <https://www.smh.com.au/politics/federal/ambassador-joe-hockey-helps-out-travel-firm-20190219-p50yux.html>.
[35] Aimee Edwards, 'Nick McKenzie Says Freedom of Information System is "Broken" but Warns Reforms Could Make it Worse' *B and T* (online, 9 September 2025) <https://www.bandt.com.au/nick-mckenzie-says-freedom-of-information-system-is-broken-but-warns-reforms-could-make-it-worse/>.
[36] The Bill sch 2, item 53 (amending s 15(2)(b)).

government decision-making and be informed about matters in the public interest – such a change to the FOI framework will be disastrous for transparency and democracy.

Introduction of application fees

Grata Fund has previously raised concerns in relation to the costs that are already associated with making FOI requests, and the fact that this can hinder government transparency and accountability.[37] These concerns are heightened by the Bill's proposed introduction of FOI application fees.[38]

Under section 29 of the Act in its current form and the *Freedom of Information (Charges) Regulation 2019* (Cth), fees can already be imposed for accessing government information, regardless of the quality or quantity of the documents to which access is granted. For example, the Australian Conservation Foundation (**ACF**) was asked to pay $500 for documents relating to climate change and the Government's 2015 intergenerational report. After paying the fee, the ACF received only two pages out of 243 requested pages. These pages were partially redacted and mostly irrelevant.[39]

We also note that, in 2010, the Labor Government passed amendments to the Act which abolished the fees associated with the making of an application. The removal of application fees was part of a wider suite of reforms, all intended to encourage a greater pro-disclosure culture with respect to government information, and to make FOI part of the daily business of government.[40]

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[37] Grata Fund, *FOI Litigation Hit List: Challenging government secrecy in the courts* (Report, August 2021) 14.
[38] The Bill sch 6, item 6 (inserting s 93 C); Explanatory Memorandum, Freedom of Information Amendment Bill 2025 (Cth) 13 [25].
[39] Christopher Knaus and Jessica Bassano, 'How a flawed freedom-of-information regime keeps Australians in the dark', *The Guardian* (Online, 2 January 2019) <https://www.theguardian.com/australia-news/2019/jan/02/how-a-flawed-freedom-of-information-regime-keeps-australians-in-the-dark>.
[40] See, for example, Joe Ludwig, 'The Freedom of Information Act: No Longer A Substantial Disappointment' (2010) 59 *Admin Review* 4.

In this context, the Bill's reintroduction of FOI application fees is a retrograde reform which will deter individuals and communities from engaging with the FOI system as a means of democratic participation. The proposed fee regime is also particularly unnecessary in light of the charges already being imposed on many FOI applicants to access requested information.

Official documents of a Minister

Schedule 8 of the Bill proposes to introduce several amendments concerning FOI requests for official documents of a Minister. We are concerned that the proposed amendments will be unworkable in practice, frustrate the objects of the Act, and create significant difficulties for both applicants and Ministers.

For several years, the Information Commissioner and FOI decision-makers considered that documents were no longer 'in the possession' of a Minister if the relevant Minister left office while the FOI request or a review was on foot. This interpretation led to the absurd consequence that FOI requests and reviews would be rendered void whenever there was a Cabinet reshuffle or an election. It also meant that the requested documents would often be lost and no longer available for release, even if the documents were identified and available at the time the FOI request was initially made.

This problematic approach was corrected by the Federal Court and Full Federal Court in 2024.[41] In *Attorney-General v Patrick*, Rangiah, Moshinsky and Abraham JJ found that the provisions of the Act, including the objects set out in section 3, require Ministers to take steps to ensure that an applicant's right to have their request determined (including on review or appeal) is not frustrated.[42]

The Bill proposes a series of changes to how FOI requests would be managed if a Minister changes or leaves office, including:

[41] *Attorney-General (Cth) v Patrick* [2024] FCAFC 126; *Patrick v Attorney-General (Cth)* [2024] FCA 268.
[42] *Attorney-General (Cth) v Patrick* [2024] FCAFC 126 [93]–[94].

- A provision deeming that a Minister ceases to hold the relevant office for an FOI request if they cease being the responsible Minister for the relevant agency/department;[43]
- A provision relieving agencies of any obligation to search for an official document of a Minister;[44]
- A provision setting out that a Minister leaving office can themselves forward an active FOI request to another Minister or agency, and that such requests will otherwise automatically be forwarded to the agency whose functions most closely relate with the requested documents;[45] and
- A provision barring applicants from making an IC review application in relation to an access refusal decision if the relevant Minister changes or leaves office.[46]

Crucially, these proposed reforms do not require a Minister to identify or locate the documents that are the subject of an FOI request before they leave office or transfer any active requests to another agency or Minister. In a similar vein, it is patently unclear whether, under the proposed section 16B, a Minister would be obliged to ensure that the transfer of any active requests to another agency or Minister includes a copy of the actual documents that are the subject of the request.

These problems are further exacerbated when considered alongside other proposed amendments set out in the Bill, including the summary decision-making powers discussed above, which would enable a Minister to apply exemptions and make a refusal access decision in relation to a request based on its terms alone, without having even identified the documents that are the subject of the request. If a Minister left office while such an FOI request was still on foot and without having searched for or located the requested documents, the applicant's review and appeal rights would be entirely frustrated.

[43] The Bill sch 8, item 1 (proposed s 6D).
[44] The Bill sch 8, item 1 (proposed s 6F).
[45] The Bill sch 8, item 2 (proposed s 16B).
[46] The Bill sch 8, item 12 (proposed s 54L(2A).

We submit that, in practice, these proposed changes will cause a greater number of FOI requests to be frustrated when a Minister leaves office, and they are a retrograde step that will enable Ministers and governments to escape scrutiny through ministerial reshuffles.

If the Government wishes to prescribe a legislative process for dealing with active requests with a Minister leaves office, the Government should undertake a public consultation process to design a regime that properly ensures the preservation of an applicant's right to access information under the Act as detailed in *Attorney-General v Patrick*, and that is appropriately tailored to the practical realities of FOI administration.

Recommendations

In light of the issues canvassed in this submission, we make the following recommendations:

Recommendation 1: The Government should withdraw the Bill.

Recommendation 2: The Government should comprehensively implement the recommendations made in the majority report of the Senate Legal and Constitutional Affairs References Committee's 2023 inquiry into the operation of Commonwealth FOI laws.

Recommendation 3: Any outstanding FOI issues and reforms should otherwise be the subject of a comprehensive and independent review of the Act with broad terms of reference and adequate time for public consultation.

Annexure 1: Recommendations 1 and 4 from Grata Fund's submission to the Senate Legal and Constitutional Affairs Committee's inquiry into the operation of Commonwealth FOI laws (2023)

Recommendation 1: The agency or minister receiving an FOI application should be limited to 30 days to review the request, with a 14-day extension of time available only for specified consultations.

Recommendation 4: The IC review process should be simplified and truncated, with timeframes legislated for each stage of the process as follows (and as depicted in the flowchart below):

(a) within **seven days** of receiving the IC Review application, the OAIC must notify the relevant agency or minister of the application;

(b) the agency or minister must then, within **14 days** of receiving the OAIC notice, provide all relevant documents concerning the FOI application to the OAIC, including any written submissions as to its position;

(c) the FOI applicant may also make further submissions in addition to their IC Review application within the same 14 days;

(d) the agency or minister may make a request for further time to provide the documents or submissions if the application is voluminous or complex. The Information Commissioner may grant an extension of time of **no more than 14 days** if it considers the extension is justified;

(e) failure to provide the documents subject of the FOI application within time, without reasonable excuse, should be an offence – as is already the case for non-compliance with notices issued under s 55R of the FOI Act;

(f) if the agency or minister does not provide submissions within time, the Information Commissioner must proceed with the IC Review process. Any submissions received after the deadline may be considered, but only if this does not delay the IC Review process;

(g) the Information Commissioner must make their decision within **60 days** from the date set out in paragraph (b) above, or as extended by paragraph (d);

(h) where the Information Commissioner has not made a decision within **90 days** from the date set out in paragraph (b) above, or as extended by paragraph (d), the FOI applicant may appeal directly to the ART;

(i) the agency or minister must comply with the decision within **28 days** from the date of the decision, or appeal to the ART.

New IC review process and timeframes recommended by Grata Fund