

Lyndal Peattie Submission to the Freedom of Information Amendment Bill 2025

Thank you for the opportunity to make a submission on the Freedom of Information Amendment Bill 2025. I agree to the publication of this submission.

Proposed amendments restrict fundamental rights

The *Freedom of Information Act 1982* (FOI Act) enshrines core principles of Australia's democracy; specifically, that:

1. People can access information that the government holds about them
2. Policy making, administrative decision making and government service delivery are transparent
3. Better informed communities can participate more effectively in Australia's democratic decision making.

The proposed amendments to the FOI Act undermine all three of these principles

The Australian Public Service (APS) and our elected ministers and senators work for the Australian public. The ability for the Australian public to access information and data about government and APS policy and decision making is an integral part of an Australian Democracy, otherwise we should vote for independent members who openly oppose the major parties' policies. A more strategic approach involves understanding the broader context and identifying areas of improvement. Journalist, researchers and advocates require access to government information to gain a more in-depth understanding of societal issues. I disagree strongly with the changes proposed in the Freedom of Information Amendment Bill 2025.

Recommendation 1: Reject the proposed amendments to the FOI Act.

A contemporary review of the existing FOI system must be conducted

The Hon Michelle Rowland MP, in her second reading speech relies on an old review of the FOI Act (the 2013 Hawke review) and claims that the proposed amendments will align the legislation with modern challenges. Information management systems have evolved enormously since the Hawke review, therefore those recommendations do not reflect the modern workplace. If the intent is to modernise the FOI system, a current review needs to be conducted, otherwise the legislation will not be modern, just somewhat less out of date, but nevertheless out of date. Further, below I show several instances where no evidence is provided to support the proposed changes. A Contemporary review would provide such information and allow evidence-based amendments.

Recommendation 2: Conduct a current review of the FOI Act and Australian Information Commissioner Act 2010.

Before fundamental rights of Australians are diminished APS records management processes must be improved to reduce FOI processing times

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The Australian Government proposes to amend the FOI Act to make it more difficult for people to access information. Such a reduction of Australians' fundamental rights should only be considered if there were a strong, evidence-based case to do so. The Australian Government has not provided such a case, other than to state that significant amounts of time are spent by the APS to respond to FOI requests. The implication is that the FOI requesters are the problem. However, the reason that it takes so long to service FOI requests is that APS information management policies and procedures are inefficient and ineffective.¹

As a former public servant who has worked in FOI areas, I am aware of these inefficiencies, for example:

- Across the APS individual staff store information on their personal part of the agency's electronic records management system (e.g. U: drives etc). Although this information is on the agency's system, it is very difficult to identify relevant information as the records are often stored in folders with a very different nomenclature and structure than that specified in the agency's records management policy. When the staff leave, any knowledge of how and where these records were stored is lost, making it even more difficult to identify and find the information.
- Even within departments and agencies, each business area develops its own electronic file structure and nomenclature. Often when new managers come in these are changed, making the identification of relevant information almost impossible after a few staff turn overs.

Implementing a consistent records management process in APS departments and agencies is a higher priority than reducing the fundamental rights of Australians.

Recommendation 3: Reform as a matter of priority APS records management policies and procedures to ensure rapid information retrieval

Evidence must be provided to support introduction of proposed Section 15AD

In his second reading speech the Minister outlines some impressive figures, such as 1 million hours spent by the APS on processing FOI requests, or \$86.2 million spent by the Department of Home Affairs on FOI requests in 2023-24. However, the Minister does not provide any facts and figures on the number of "vexatious", "frivolous" and "abusive" FOI requests received by the APS. Nor does she provide any definitions of these terms.

Before any amendments to the FOI Act are made, the Australian Government must define the problem posed by "vexatious", "abusive" and "frivolous" FOI requests by collecting and reporting on the frequency and scope of such FOI requests.

If the Australian Government chooses to proceed with these changes, then responsibility for declaring an FOI request to be "vexatious", "abusive" or "frivolous" must lie with a person

¹ [APS faces looming record keeping disaster - Government News](#); [Urgent reforms needed in APS records management](#)

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independent of the agency to which the request relates. I recommend that all references to the ‘agency or minister’ should be changed to ‘Minister or Information Commissioner’. I refer you to Submission 18 made in the consultation on the Whistleblowers Protection Authority Bill (No. 2), where evidence is provided about how neither the government nor the population can trust government departments. The majority of APS staff act with integrity, but there are simply too many examples where public trust has been breached by public servants, including secretaries of departments, to provide them with the power to write off FOI requests on the basis of an internal, non-transparent decision-making process.

The first iteration of this power, if introduced, must therefore be tempered by external oversight, being either the responsible Minister or the Information Commissioner.

Recommendation 4: Proposed section 15AD be amended to replace all instances of “the agency or Minister” with “the Information Commissioner or Minister”.

If introduced, it will then be essential that accurate data is collected and published about the number of FOI requests that have been deemed to be “vexatious”, “abusive” or “frivolous”. Every such decision must be provided to the Office of the Australian Information Commissioner (OAIC). A full analysis of these data must be published in the OAIC annual report, including a breakdown of the number of such decisions by agency.

This provides Australians with information about how this power is used by public officials, and the Australian Government with data to support future amendments of the legislation.

Recommendation 5: Refusals of FOI requests under section 15AD must be provided to the OAIC and a full analysis published in the OAIC annual report.

There should be no processing caps for FOI requests

The Government proposes to introduce in Part 2 a processing cap of 40 hours. This is an unnecessary amendment because Section 24 of the FOI Act already provides a power to refuse an FOI request on the basis that it would unreasonably divert resources. Why do we need a processing cap?

Recommendation 6: Reject the proposal to introduce a 40-day processing cap.

I have indicated above, the lengthy time taken to identify information lies with the agency because of ineffective and inefficient information management processes (see also references provided for Recommendation 2 above). Further, agencies will have multiple people involved in processing FOI requests: FOI team members, line area team members, as well as managers from both areas who approve the responses. If multiple line areas are involved, the number of people increases.

In introducing a processing cap, the government will introduce the perverse incentive for agencies to exceed the cap not because of an unreasonable FOI request, but because of inefficient APS information management processes and inefficient FOI procedures.

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Should the Government proceed with introducing this 40-day cap, then comprehensive information must be made available to the Australian public about how this power is applied. Agencies must report each refusal to process an FOI request under proposed Section 24AA(1)(c) to the OAIC, who must publish this, including a break down for each agency, in their annual report. This also provides the Australian Government with data to support future amendments of the legislation.

Recommendation 7: Refusals of FOI requests under Section 24AA(1)(c) must be provided to the OAIC and a full analysis published in the OAIC annual report.

Concerns that proposed changes could be used to hide inappropriate or abusive behaviours in the workplace

During the recent review of the *Safety, Rehabilitation and Compensation Act 1988* it has become evident that government departments routinely refuse to provide access to evidence held by the employing department for Administrative Appeals Tribunal and Comcare cases. Psychological and emotional abuse, especially narcissistic abuse is conveyed by the use of words and language. Narcissistic and Cluster B personalities use words and language to carry out their abuse. This is why a claimant requires access emails and other workplace correspondence as evidence for the abuse they suffered.

Psychiatrists, criminologist and/or forensic psychologist are able to discern emotionally and psychologically abusive patterns in written correspondence.

- [Coercive Control | Attorney-General's Department](#)
- [National Principles to Address Coercive Control in Family and Domestic Violence](#)
- Technology-facilitated abuse (p.54):
 - [National Plan to End Violence against Women and Children 2022-2032](#)
- Workplace Sexual harassment, predatory and grooming:
 - [Work Health and Safety \(Sexual and Gender-based Harassment Code of Practice\) 2025](#)
 - [Cyberstalking | eSafety Commissioner](#)
 - [Grooming | National Office for Child Safety](#)

In his submission to the independent review of the *Safety, Rehabilitation and Compensation Act 1988*,² former Administrative Appeals Tribunal member Adj Prof Allan Anforth AM, states that:

- the AAT Tribunal are unable to undertake a true *de novo* review of Comcare Cases due to private citizen's inability to access potentially relevant information. Subpoenas are met with accusations of 'fishing' requests and denied or their scope reduced by departments.

² [Submission - Public consultation - independent review of the Safety, Rehabilitation & Compensation Act 1988 - Department of Employment and Workplace Relations](#)

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This matches my experience working in the then Department of Health and Ageing. In July 2024, three months prior to Adj Pro Allan Anforth AM, I raised this issue with the Department's Secretary and First Assistant Secretary. Denying government employees access to information that supports their workers compensation claim should be reviewed and referred to the National Anti-Corruption Commission for investigation. Given such behaviours it is critical that employees have the FOI process as another avenue to obtain information that they otherwise are denied access to.

The NSW Government has recognised the problem of coercive control and other abusive behaviours, and in 2026 it is looking to expand its definition of other types of relationships to which this law applies, including in the workplace. The ACT government has recently announced its intention to pass coercive control laws by mid-2026 and these too should include non-domestic relationships.

- <https://www.nsw.gov.au/family-and-relationships/coercive-control/law>
- <https://www.msn.com/en-au/news/australia/coercive-control-to-be-criminalised-in-act-by-mid-2026-as-opposition-says-government-dragged-their-heels/ar-AA1Nfnw3>

The Australian Public Service Commissioner's State of the Service 2024 report shows that bullying and harassment is observed or experienced by a significant proportion (~10%, or about 18,500 staff) of APS employees.

It is this type of situation, all private FOI or subpoena requests should be handled by the FOI Commissioner and not the employing department, it is a conflict of interest to deny requests.

This further demonstrates the importance of Recommendations 4 – 7 I made above.