



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



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## **October 2025**

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**Australian Press Council**

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## **Submission to the Senate Legal and Constitutional Affairs Legislation Committee**

The Australian Press Council (APC) welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Legislation Committee regarding the Freedom of Information Amendment Bill 2025. The Press Council is the principal body responsible for preserving freedom of the press in Australia and has long emphasised the importance of access to government-held information as a cornerstone of democratic accountability. An effective Freedom of Information (FOI) framework ensures that journalists and the public can scrutinise decision-making, hold institutions to account, and strengthen trust in government.

### **The Australian Press Council**

The objects of the Press Council are to promote freedom of speech through responsible and independent print and digital media, and adherence to high journalistic and editorial standards.

The Press Council is the principal body with responsibility for setting and promoting high professional standards for publisher members and for considering, dealing with and responding to complaints about Australian newspapers, magazines and associated and stand-alone digital outlets. It seeks to meet its objectives by:

- a) encouraging and supporting initiatives by the print and digital media to address the causes for readers' complaints and concerns;
- b) keeping under review and, where appropriate, challenging political, legislative, commercial or other developments which may adversely affect the dissemination of information of public interest and may consequently threaten the public's right to know;
- c) making representations to Governments, public inquiries and other forums as appropriate on matters concerning freedom of speech and access to information;
- d) undertaking research and consultation on developments in public policy affecting freedom of speech, and promoting public awareness of such issues; and
- e) promoting an understanding of the objects and activities of the association especially among editors, journalists and journalism schools.

The Press Council currently covers approximately 450 print and online mastheads. Constituent bodies include most of the major newspaper publishers in Australia. The Press Council considers complaints about print and online publications. Where appropriate, it seeks to achieve agreed remedies, issues letters of advice to publishers and publishes formal adjudications regarding certain complaints.

The Press Council's role is not to represent the media, and constituent members of the Press Council may wish to make their own submissions to the inquiry.

### **Key Principles of FOI and Press Freedom**

The Council has consistently maintained that FOI laws must reflect three principles:

- (i) a presumption of maximum disclosure;
- (ii) timely and affordable access;

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- (iii) independent and well-resourced review mechanisms. International obligations under Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and comparative democratic standards reinforce these principles.

### **Positive Elements of the Bill**

The Council acknowledges the Bill contains reforms that may improve the operation of FOI laws, including:

- Clarification of digital access and delivery requirements.
- Attempts to streamline statutory timeframes.
- Some narrowing of procedural grounds for refusal.

### **Areas of Concern**

Despite these improvements, the Council identifies serious risks that the Bill, in its current form, could undermine transparency:

#### **1. Exemptions**

While exemptions are a necessary safeguard in limited contexts, the Bill does not adequately constrain their scope. Broadly defined exemptions for Cabinet documents, deliberative processes, national security, and “commercial-in-confidence” have historically been applied far beyond their original intent. For example, Cabinet confidentiality has been invoked to withhold entire classes of documents, even when only part of a paper genuinely reveals Cabinet deliberations. Similarly, “commercial-in-confidence” has been used to block scrutiny of major infrastructure contracts, despite strong public interest in accountability for public expenditure.

The current Bill risks entrenching secrecy and allowing exemptions to be misused to protect governments from political embarrassment rather than legitimate confidentiality.

#### **2. Delays**

The effectiveness of FOI depends not only on access but on timely access. At present, delays are systemic. Reports by the Right to Know coalition have documented requests taking more than two years to resolve, rendering the information obsolete for public debate. The Office of the Australian Information Commissioner (OAIC) has also acknowledged growing backlogs, with some reviews extending beyond three years.

The Bill’s inclusion of statutory deadlines is welcome, but without enforceable consequences they remain aspirational rather than binding.

#### **3. Costs**

Access to information is a fundamental democratic right and should not be contingent on financial means. Application and review fees pose a significant barrier for freelance journalists, smaller outlets, academics, and civil society groups. Evidence suggests that individuals are far less likely to pursue reviews when fees are imposed, effectively excluding them from scrutiny. This results in a two-tier system where large media organisations can pursue appeals, but community and independent journalists cannot.



#### **4. Oversight**

Independent and adequately resourced oversight is the linchpin of an effective FOI system. The Bill proposes consolidation of review powers within the OAIC, but this raises concerns of both independence and capacity. The OAIC already faces significant resourcing pressures, with thousands of pending matters and review times stretching into years. Without structural reform, further centralisation will exacerbate delays.

#### **5. Proactive Disclosure**

The Bill misses an opportunity to embed proactive disclosure. By requiring agencies to publish classes of documents, such as ministerial diaries, contracts over a threshold, and final reports of significant inquiries, the demand for FOI would be reduced at its source. Jurisdictions like Queensland have already demonstrated that routine publication of ministerial diaries can enhance transparency and lessen administrative burdens.

Without such obligations, reliance on FOI requests remains heavy, perpetuating backlogs and delaying access. Proactive disclosure shifts the balance from secrecy by default to transparency by default, aligning with international democratic standards and enhancing public trust.

### **Recommendations**

The Council makes the following recommendations to ensure the Bill strengthens, rather than weakens, FOI in Australia:

#### **1. Narrow Exemptions**

Amend sections expanding Cabinet, national security and commercial-in-confidence exemptions to require a rigorous public interest test. Reject any amendments that broaden exemptions without such safeguards.

#### **2. Enforceable Deadlines**

Introduce deemed release provisions where agencies fail to decide within statutory timeframes and establish penalties for persistent non-compliance.

#### **3. Eliminate Excessive Fees**

Remove or minimise application and review fees to ensure affordability for journalists and the public.

#### **4. Independent Oversight**

Establish the FOI Commissioner as a separate statutory office reporting directly to Parliament, rather than solely within the Office of the Australian Information Commissioner. Adequate resourcing must be guaranteed.

#### **5. Proactive Disclosure**

Mandate the publication of classes of documents (such as ministerial briefings, contracts, and high-interest reports) to reduce reliance on FOI requests.



## Conclusion

The Freedom of Information regime is essential to the functioning of Australia's democracy. While the Council supports efforts to modernise FOI laws, the Bill in its current form risks perpetuating delays, excessive secrecy and inequitable access. By implementing the recommendations above, Parliament can ensure that FOI laws meet international standards, strengthen the right to know, and preserve freedom of the press for the benefit of all Australians.