

CHAPTER 6

ACCESS TO DOCUMENTS

Form of access

6.1 Section 20 of the FOI Act governs the form in which access may be given to documents. 'The Age' suggested that paragraph 20(1)(b) should be amended to include the requirement of the provision of 'legible' copies of documents.¹

6.2 The Committee considers this amendment to be unnecessary. In the Committee's view an illegible version of a legible original would not constitute a 'copy' in the sense required by paragraph 20(1)(b).

6.3 As the Department of Veterans' Affairs noted, not all documents contained in agency or Ministerial records are legible.² It may be impossible to provide a legible copy without re-typing. The Committee does not consider that it is reasonable to require that agencies improve upon the quality of illegible originals.

Computer-stored data

6.4 Commonwealth Government record-keeping is increasingly reliant upon the use of computers. Consequently, section 17, which applies to requests involving use of computers, is likely to become increasingly important to the operation of the FOI Act.

1. Submission from 'The Age', p. 16 (Evidence, p. 201).

2. Department of Veterans' Affairs, Report on 1986 Freedom of Information (FOI) Client Survey, para. 8.

6.5 The Committee received little evidence that practical problems have arisen in the operation of section 17. Only one submission, from Mr Graham Greenleaf of the University of New South Wales Law School, examined section 17 in any detail. Consequently, the Committee has thought it necessary to make only brief reference to two, at present largely theoretical, issues concerning access to computer-stored data.

6.6 The first issue relates to whether applicants should be able to obtain access to computer-stored information in computer-readable form, rather than written form. Secondly, it is not certain to what extent agencies may be required to manipulate computer-stored information in order to satisfy access requests.

Access to tapes and disks

6.7 The Act makes no express provision for an applicant to obtain access to a disk or tape. It can be argued that the definition of 'document' in the Act is sufficiently broad to include a computer disk or tape.³ The Attorney-General's Department, however, takes the view that the definition 'does not include computer tapes or discs used for the storage of information in the usual way'.⁴ Hence these items cannot be made available as documents.

6.8 In some cases, it will be both cheaper for agencies and more useful for applicants if access is given to the document requested by providing access to a tape or disk containing a copy of the document (information) rather than to that information in printed form. The Committee considers that the Act should provide for such access.

3. The point is canvassed in the submission from Mr Graham Greenleaf, pp. 6-11. See also Bayne, P.J., Freedom of Information [Law Book Co. Sydney. 1984] pp. 42-48.

4. FOI Memorandum No. 19 (September 1982) para. 9. See also submission from the Department of the Special Minister of State, attached correspondence between Australian Electoral Commission and Attorney-General's Department.

6.9 Accordingly, the Committee recommends that the Act be amended to provide for access in the form of provision by the agency or Minister of a computer tape or disk containing a copy of the requested document.

Requirement that agencies process data

6.10 Broadly, the FOI Act operates by reference to documents, not information. The Commonwealth Ombudsman has commented that, apart from section 17, the Act

reflects a 'hard copy' approach to data and it gives little guidance on how far applicants may expect agencies to manipulate data stored on computers.⁵

For example, an agency may hold on computer a name and address list arranged in alphabetical order. The agency only requires printed copies of the list in that order. An applicant requests access to the list arranged in postcode sequence. Is the agency required to sort the list?⁶

6.11 Section 17 applies where the requested information is not available in discrete form in documents of the agency. The agency is required to produce a written document containing the information if it can do so by using computer equipment ordinarily available to it, unless compliance would substantially and unreasonably divert the resources of the agency from its other operations.

6.12 The Committee considers that this test is appropriate in its present form. In the absence of widespread difficulties in applying the test, the Committee does not consider that it would

5. Commonwealth Ombudsman, Annual Report 1984-85, pp. 175-76.

6. Cf. Evidence, p. 760 (Telecom Australia). Submission from the Commonwealth Ombudsman, p. 7 (Evidence, p. 1335).

be useful to amend the Act so as to attempt to provide more detailed guidance.⁷

Information Access Offices

6.13 Under section 28 of the FOI Act, applicants may request that they be granted access to documents at the Information Access Office closest to their normal places of residence. The FOI Amendment Act 1986 conferred a further function upon these Offices. Documents to be made available for inspection and purchase under sub-section 9(2) must be listed in an up to date statement. Copies of this statement must be available for inspection and purchase at each Information Access Office. Offices have been designated in each State capital city, and in Canberra, Darwin and Townsville. The Offices make use of existing facilities in Australian Archives offices.

6.14 It is not certain what use will be made of Information Access Offices by people seeking section 9 statements. Almost no use has been made of them for access to requested documents.⁸ It appears that agencies, when requested, routinely make documents available for inspection at one of their regional offices, which is generally as close to the applicant, if not closer, than the nearest Information Access Office.

6.15 It was put to the Committee that the Offices appeared to be unnecessary⁹ or, on the other hand, that the role of the Offices should be expanded.¹⁰ The Committee does not think that there is much benefit in maintaining the Offices in their present form.

7. Cf. the guidance provided in FOI Memorandum No. 19 (September 1982) paras. 75-77.

8. Submission from the Inter-Agency Consultative Committee on FOI, p. 5; FOI Annual Report 1983-84, p. 110.

9. Submission from the Inter-Agency Consultative Committee on FOI, p. 5.

10. Submissions from the Library Association of Australia, p. 6; the Department of Housing & Construction, p. 7.

6.16 The Offices could be useful if their functions were enhanced so as to make them the first recourse for those seeking information of all kinds relating to the Commonwealth. This enhancement would involve integrating the present Offices (including their Archives function) with the information delivery functions of the Commonwealth Government Bookshops, Promotion Australia, and individual Departments and agencies. This proposal has not been examined. It extends beyond the Committee's terms of reference.

6.17 The Committee merely notes that it appears that Information Access Offices either should have their functions greatly enhanced so as to make them useful, or consideration should be given to eliminating the Offices.

