

Mending the Practices of Stakeholders: Dealing with Vexatious Applicants

ENVIRONMENTAL DEFENDERS OFFICE (TASMANIA) 2009 CONFERENCE
FREEDOM OF INFORMATION: A PRIVILEGE OR A RIGHT
Jane Worrall, 6 April 2009.

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- Introduction
- What effects do vexatious applicants/applications have on the achievement of the Act's objects-
 - Objects of the Act(s)
 - Equity of access?
 - Qualitatively
 - Behaviours of vexatious applicants.
 - Quantitatively



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- **History and context of the vexatious applicant provision**
 - Removing one means for an individual to participate in Government?
 - An individual or whole of group right?



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- **Which jurisdictions provide a vexatious applicant or vexatious application provisions in Freedom of Information legislation?**
 - South Australia;
 - Western Australia;
 - Queensland; and
 - Northern Territory.
- NB: no uniform approach to provisions.

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- **What is the extent of these provisions?**
 - Vexatious applicant
 - QLD
 - NT
 - Vexatious application
 - WA

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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - Australian Law Reform Commission Inquiry 77: “Open Government: a Review of the Federal, *Freedom of Information Act 1982 (Cth)*”, 1995.




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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - Solomon Report: “The Right to Information: Reviewing Queensland’s Freedom of Information Act,” June 2008.



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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - Ombudsman: “Unreasonable Complainant Conduct: Interim Practice Manual,” August 2007.




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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - NSW Ombudsman: “Review of Freedom of Information Act 1989,” (discussion paper released September 2008 and final report released February 2009.)




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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - Commonwealth exposure drafts and companion manual: “Freedom of Information Amendment Reform Bill,” March 2009 and “Freedom of Information Reform Companion Guide to Exposure Drafts,” March 2009.




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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - Tasmania, Department of Justice directions paper: “Strengthening Trust in Government, Everyone’s Right to Know, Review of the Freedom of Information Act 1991.”



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- **Reviews, proposals for and rationale for legislative reform, and administrative practice manuals:**
 - Summary of reform trends
 - Vexatious *applicant* provision
 - + support



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- **Reform recommendations**

- Support for bureaucracy
- Support for applicants

- **Closing comments**

- Focus on achieving 'important statements of principle' through equity of access.
 - Using FOI resources wisely.