T R A N S C R I P T

INTEGRITY AND OVERSIGHT COMMITTEE

Inquiry into the Operation of the *Freedom of Information Act 1982*

Melbourne – Monday 25 March 2024

MEMBERS

Dr Tim Read – Chair
Hon Kim Wells – Deputy Chair
Ryan Batchelor
Jade Benham
Eden Foster
Paul Mercurio
Rachel Payne
Belinda Wilson

WITNESSES

Royce Millar, Senior Reporter, *The Age*; and

Sam White, Editorial Counsel, Nine Publishing.

The CHAIR: We are resuming the IOC's inquiry into the operation of the *Freedom of Information Act*. To our witnesses, there are some formal matters to cover, so bear with me.

Evidence taken by this committee is generally protected by parliamentary privilege. You are protected against any action for what you say here today, but if you repeat the same things anywhere else, including on social media, those comments will not be protected by this privilege. Any deliberately false evidence or misleading of the Committee may be considered a contempt of Parliament.

All evidence given today is being recorded by Hansard, and you will be provided with a proof version of the transcript for you to check once available. Verified transcripts will be placed on the Committee's website.

Broadcasting or recording of this hearing by anyone other than Hansard is not permitted. From Nine I welcome Royce Millar, Senior Reporter at T*he Age*, and Sam White, Editorial Counsel with Nine Publishing. Thank you for coming. Do you have any brief opening comments or do you want to go straight into questions?

Royce MILLAR: We do, if that is okay. I am just not sure about the time limit, though, Tim.

The CHAIR: Can we keep it to around 5 minutes or so?

Royce MILLAR: We will endeavour to do that. Thanks for that. Nine/*The Age* welcome the opportunity to attend today's hearing and to expand on the written submission that was made in December. We have gathered a lot more information since our submission, especially about the adventures and misadventures of our colleagues using FOI [Freedom of Information]. We will not have time to go through all those examples, unfortunately, nor probably all our concerns, but we are open to questions obviously and to providing further written submission if are able to do that.

FOI is important to the media's crucial role of informing the community about government decisions and workings, but sadly our view is that FOI in Victoria is no longer fit for purpose. Most of our journalists believe the system is broken and that reform is long overdue. Victoria was once a leader in FOI and in 1982 was the first state to enact FOI legislation. Former Victorian Premier John Cain described the FOI Act as proof of his commitment to open government, which he said was a central need of democracy. But, after four decades, the FOI Act and the pull information model that it reflects remains locked in the thinking of its time. Victoria has fallen way behind best practice. Other jurisdictions, including the Commonwealth, Queensland and New South Wales, have since embraced push FOI models, the principle being that the release of information is the norm rather than the exception. We believe Victoria should do the same and better.

We will now address some of the questions that the Committee has asked us to look at, the first being the kind of information that journalists use FOI for. More often than not FOI is used to gather information that should be in the public domain as a matter of course – basic data and research about hospitals, schools, police and the costs and environmental impacts of large public projects like the Suburban Rail Loop, for example, or the Commonwealth Games. Because so much information is kept under wraps here, we and the wider community are forced to use FOI. The reality is that in Victoria the government here receives more FOI requests than any other Australian jurisdiction, including the Commonwealth. In the year 2021–22 there were 6.6 FOIs per thousand people in Victoria compared to 2.7 in New South Wales and 1.4 at the Commonwealth level. I think that the stats in themselves say a lot, actually. Also, we have been asked to look at examples of how the exemptions apply and asked for insights about what to do about that.

One of our major concerns of course is that we are too often denied the information that we seek. Release of government information should be the norm and not the exception, and unfortunately that is not the case. Statistics from OVIC, the Office of the Victorian Information Commissioner, support what most reporters observe: that the percentage of FOI requests granted in full is declining and that the percentage of requests granted in part or refused altogether is on the increase.

FOI decisions are supposed to be made by independent FOI officers of course, but most reporters are sceptical this is what really happens. As my senior colleague and former state editor Josh Gordon has observed, quote: 'If governments don't want to release the information in response to an FOI request, they'll find a way not to.'

I have often personally asked FOI officers about how they go about processing our requests and whether our requests go further up in government, and those more forthright FOI officers have confirmed to me many times that, yes, our requests do go to ministers for 'opinions'. Whether that is necessary or not is something I think the inquiry should be looking at – whether that is a good model.

You may have seen a story in *The Age* on the weekend, actually, by Aisha Dow about how the current government is dealing with media inquiries more generally – not FOI inquiries but media inquiries. That story revealed the extent to which the PPO, the Premier's private office – under the previous Premier at least – dealt with media inquiries, including to individual hospitals and independent health bodies, and that the PPO was intercepting media responses and basically handling media inquiries for all agencies within the health system. We are concerned that maybe the Government is dealing with FOI in the same way. Reporters have noted a trend of ministerial communications, people asking them about their FOI requests. In one case, one agency, a health agency, criticised one of our reporters for time-wasting and for being on a fishing expedition.

I would just like to touch quickly on the exemptions used to knock us back and to deny FOI. There is a lot to be said about this, and we will not have time to go into it in detail, but journalists complain that the government reasons for denying information are often unclear or inconsistent, contradictory or sometimes just weird. They are also often overly technical. Our journalists and lawyers have long noted problems and inconsistencies in the use of section 33, the personal privacy exception; the public interest override, which no doubt the Committee will be looking at in some detail, which is widely used and we think abused; and section 28, 'Cabinet documents'. In our experience, it seems just about any government document that we request is somehow contributing to a Cabinet process, and that is something that needs to be reviewed. We also believe that it is time that the government looks at reviewing Cabinet documents in general in terms of their accessibility in line with what has happened in New Zealand and Queensland, where a great deal more Cabinet documents are being released into the public. Section 30 also has been very problematic for us and our lawyers, which is 'Internal working documents', which seems to be a handy catch-all for refusing documents where other exemptions do not seem to quite work. Similarly, we have had a lot of problems with section 35, which is about documents containing evidence obtained in confidence; section 34, documents relating to trade secrets; and section 31, 'Law enforcement documents'.

Beyond the exemptions of course there are all sorts of other reasons that we get knocked back, which seem to be more about a vibe than anything else. Common amongst those are the refusal of the release of documents on the grounds that they may encourage, quote, 'unnecessary public debate' or because, quote, 'disclosure would be likely to inhibit frankness and candour', and we have multiple examples of both these. To most journalists these refusals just do not seem to make sense at all. Then we get into the more bizarre examples, and in one case study in particular that just came up in recent times, one of our colleagues, Clay Lucas, was denied information from the City of Melbourne about one of Melbourne's most important heritage buildings on the grounds that he was running 'a particular personal crusade'. That is sort of in the weird realm, and we are of the view that it is completely inappropriate and that the motives for somebody making an FOI request should be of no relevance to an FOI decision-maker.

Just quickly, another matter which is absolutely crucial to us is the question of delays and the time that it has taken to deal with FOI requests. For the media it is almost as important as the information itself, because information is of little use to the public if it is out of date or no longer relevant. Again, OVIC, the Office of the Victorian Information Commissioner, statistics show that the number of FOI decisions made on time is declining fast. Just last week one of our senior reporters, Michael Bachelard, got an FOI response from Victoria Police explaining that the response time was now an average of 36 weeks after the due date for any request. That is nine months after the due date, which makes it 10 months after the lodging of requests. That is the standard expected time from Victoria Police to deal with an FOI matter.

Worse still, however, are the resulting delays experienced at OVIC and VCAT [Victorian Civil and Administrative Tribunal]. Both agencies simply are unable to cope with the surging number of complaints and applications. Again, if you have a look at the OVIC submission to the inquiry, it details just how bad it has become. In January we were told VCAT had essentially put all FOI matters on hold indefinitely due to a lack of

members trained to hear such matters. The effect of the delays at OVIC and VCAT is that FOI applicants have no real choice but to wear the delays and the extensions sought by agencies. It is kind of like a catch 22, really.

The CHAIR: Excuse me, Royce.

Royce MILLAR: Yes?

The CHAIR: I feel like we need to leave some time for questions. Have you got much more there?

Royce MILLAR: I am just coming to the end now actually.

The CHAIR: All right.

Royce MILLAR: Just very, very quickly, some insights into the proposed push model and how it might work: one of the big advantages of course of a push model is that the need for costly resource-sapping FOIs is dramatically reduced, and we can all save money and resources and time – journalists, the community and government. It is fair to say that our colleagues in New South Wales, looking at how the system operates in other States, are less scathing about the FOI processes there than most journalists are in Victoria – although one of the things that has been pointed out in New South Wales, in Queensland and at the Commonwealth level is that the whole process is very costly nonetheless.

Okay, I will come to a conclusion now, and just conclude by saying that Nine/*The Age* support a move to a push model because it could or should reduce the number of FOI requests and therefore the costs in delays for all parties, better inform the community about, and involve it in, government decision-making and help dispel the view that government is trying to avoid transparency.

The CHAIR: Thank you very much. That was very helpful and has probably partly or completely answered some of our questions. So just to Committee members, if you feel like your question has been answered, just say so. Jade Benham, did you want to start off?

Jade BENHAM: Yes, I want to expand on the kinds of information that you mentioned at the beginning. You were talking about health information, and I myself have also had to FOI types of data. Can you just clarify what kinds of information you are searching for? Is it geographical data? It is obviously not personal health information. What kinds of things might you be looking to access through FOI as far as the health sector goes?

Royce MILLAR: Are you saying the information that we are seeking that we get, or that we do not get?

Jade BENHAM: Give us a little bit of both, because, like I said, I have had some experience with finding it very, very hard to get simple data like catchment population around regional health services, for example. Do you find you have the same issues?

Royce MILLAR: I think the health reporters have a lot of problems. A recent example – and Sam might be able to elaborate a little bit on this – was particularly around, for instance, 000 stats and response times and so on. That has been something that has been very difficult, and our view is that that sort of information should be much more readily available, if the information is de-identified – and we are not looking at individual cases or their names; there are no privacy matters here. Obviously this information is politically sensitive, but we are of the view that we are not interested in the politics, we are interested in informing the community about important things like response times. Sam, do you have any –

Sam WHITE: No, I think that is a good example, and the statistics around [ambulance] ramping as well. I think our broad position is that there is no reason why that kind of de-identified information cannot be made accessible periodically as a matter of course, to allow the community to judge how the department is tracking and whether things are improving, staying the same or getting worse.

Jade BENHAM: Similar to crime stats data, you might say, that is readily available every quarter – that health-type data.

Royce MILLAR: Yes.

Jade BENHAM: So how does that then support the work that you are doing? Can you just give us an example of how that then might support, in a much more concise, succinct, timely way, the work that you do to inform the public?

Royce MILLAR: I think one of the things that I have thought about more, as we have been working on putting this together, is the amount of time we spend on chasing information that should be readily available, which would give us a bit more time to chase stuff that is perhaps a little bit more – how can I put this – juicy, from a journalist's point of view. I think that is kind of what we are getting at here, that there is a lot of time wasted chasing information that is not actually especially controversial or should not be controversial; it is just the kind of information that should be contributing to public discussion, whether it be health, whether it be whatever. A really good example I think is, for instance, the funding of the cost of public infrastructure – big infrastructure projects. Again, I repeat, the Suburban Rail Loop: it just does not pass the pub test. We do not know and we are not regularly updated about the likely cost of such a massive project. It does not make sense – it does not make sense to a journalist and it does not make sense to the community, I do not think.

Jade BENHAM: Thank you.

The CHAIR: All right, thank you. Let us go to Kim Wells.

Kim WELLS: Thanks, Royce. You have answered most of this, but just in case there is something else you want to add to it: How might a proactive and informal release model in Victoria better support the work that you do?

Royce MILLAR: Well, I think that is what I was just trying to say. I think it would mean that it would probably free us up to spend time on more complex and more difficult reporting, if we were not spending our time chasing stuff that we are of the view should be in the public domain anyway. I think with OVIC, the government's own agency, if you read their report, which I am sure you have done, the statistics tell the story very clearly of how much time, how much money, how much resources we are all spending, on all parts – on our part, on the community's part, on the government's part – on information that should be out there. The comparison of the number of FOIs that have been generated in Victoria compared to New South Wales, Queensland, Tasmania and the Commonwealth, per capita, is off the charts. Western Australia is bad as well because they have a primitive system like ours. A lot of that time could be spent doing more worthwhile journalism – and doing more worthwhile governing for that matter.

The CHAIR: All right. In the interests of time I think we might go straight to Ryan Batchelor.

Ryan BATCHELOR: Just on that last point you made about our numbers being off the charts: given 69 per cent of FOI requests made in Victoria are for individuals to get their personal records, predominantly health, do you think that the same sort of FOI regime that you predominantly would use in seeking public interest documents should apply to individuals seeking personal information, given more than two-thirds of the FOI requests in Victoria are made by individuals or their representatives seeking information about themselves?

Royce MILLAR: I do not have a particularly strong view about that. Sam, do you have a sense about that?

Sam WHITE: We have not made a formal submission on this idea, but it does occur to me that those two categories of information are very different. Someone seeking information about themselves is a very different prospect to journalists seeking information for that sort of broader benefit of the public but which can then go into public interest reporting. Whether or not they should be treated under the same regime is a higher-level question, as is whether or not journalists' FOI applications – or what they eventually might be called – could be treated under a different time regime to individuals who might have different time constraints.

Ryan BATCHELOR: So do you think it should be easier for individuals or harder for individuals?

Sam WHITE: I think it would need to depend on the circumstances. If an individual is looking to get their own information for the purpose of a court proceeding for, for example, health records – for bringing a court claim – they might be subject to strict time constraints and they would need a response quite quickly. We would need to put some further thought into how a model like that might work where individuals seeking their own information would be subject to a different test of what the media might be, for example. That is an idea that has crossed our mind.

Ryan BATCHELOR: Thanks. I have got some further questions on Cabinet. Do you want me to go?

Belinda WILSON: Keep going, yes.

Ryan BATCHELOR: You mentioned Cabinet materials and Cabinet documents. Do you think that Cabinet documents should be made available under FOI?

Royce MILLAR: I think the handy thing about this inquiry is to really grapple with questions like that. I mean, there are five different exemptions for Cabinet documents. I do not know how many FOIs you have done in your time, but the number of times that you run into Cabinet exemptions when you are looking at documents that from our point of view are not especially sensitive – they are not going to issues of privacy and not going to issues of commercial confidentiality, and they are not revealing Cabinet infighting or disagreements or anything like that. A lot of it is just research and data that just happens to have gone to Cabinet. They might have been wheeled through by the tea lady or something – that used to be a joke about the Kennett Government. But it really does seem excessive and seems to hark back to some sort of other era where Cabinet had this sort of special place in the world. It does have a special place in the world obviously, but 99 per cent of the journalists you will speak to will say, 'Why is this so sensitive?'

Ryan BATCHELOR: Given that we have to make recommendations about what the future should hold, where do you think the line should be drawn? Where do you think it is acceptable for information to be kept confidential so that the operations of Cabinet deliberations can be made? We had evidence from David Solomon, who wrote the review of the FOI Act in Queensland, which is pretty significant. You said it was a good thing. He says you need to have Cabinet confidentiality respected in FOI – you have got to have a space where ministers can have a contest of ideas around the table. We have got to figure it out. If you say that the exemption is used too broadly – I do not know who wheels documents into Cabinet rooms anymore, but there is clearly somewhere between that idea of what might occur and having an effective executive government where ministers can sit around a table fully briefed by their departments and thrash out a matter of public policy. Somewhere in the middle we have got to draw the line. Where would you draw the line?

Royce MILLAR: I think you are absolutely right, and Mr Solomon is right as well. I do not think that we have any issues with Cabinet being able to deliberate, have arguments and yell and scream amongst each other and have discrepancy. Totally fine – they should be free to do that behind closed doors. Beyond that and beyond issues of commercial confidentiality, privacy, et cetera, I think we really need to be looking at as much as possible maximising the release of documents that exist beyond that. We can come back to you with a much clearer sort of position on this if you would like that.

Ryan BATCHELOR: It would be helpful, because we will have to make recommendations. All the evidence we have had from various people has said it is important that there is some sort of Cabinet process, right? The thing we are going to grapple with is where you draw the line. Where do you stop?

The CHAIR: And, if I may, I think there is information which might be a report with data – an example we discussed previously was, if we were deciding to make seatbelts compulsory, a report from the College of Surgeons. Then there might be a briefing document or report from the Department of Transport which might take a position, and you could argue that that might imply the position of the minister. And then if the Cabinet recommendation was different to the minister's position, could that be a cause for disagreement? Should that briefing document be 'FOI-able' or not? And then obviously there are the actual minutes of the conversation, which I think a lot of people would say can remain confidential, or for a much longer period. That is just to try to give you a sense of the spectrum, and you might want to get back to us on that.

Sam WHITE: Would it be helpful for the Committee if we put together some case studies of examples where we think FOI officers have erred too far on one side of the line, for example?

The CHAIR: Yes, that would be great.

Ryan BATCHELOR: I think investigations are always better when they are informed by actual case studies.

Royce MILLAR: Yes. And we have lots, we just did not have time to go through all of them today. We have gathered a lot. The Cabinet documents exemption is something that comes up time and time and time

again, especially – I mean, I hate to harp on this – in recent times around the Commonwealth Games and the cancellation of the Commonwealth Games. We have had a lot of FOIs sent around that have been highly unsuccessful, and time and time and time again it has been in one way or another to do with the Cabinet exemptions, which I think we regard most of the cases, most of the examples, have been, very unfortunately.

The CHAIR: Why don't we go to Belinda Wilson now. Sorry, were you –

Ryan BATCHELOR: No, no. I was going to suggest it.

Belinda WILSON: Are you done?

Ryan BATCHELOR: Yes.

Belinda WILSON: From a media perspective, what kinds of government information should proactively be released by ministers and agencies in your opinion?

Royce MILLAR: Well, we have touched on this a little bit already. I guess it is as much as possible really. Really, the FOI Act in 1982 was a reflection of its time. There is no doubt at all that John Cain meant well and was absolutely genuine about what he was doing, and if he was here now I am absolutely sure – I knew him quite well personally – he would be supporting real reform. The principle back then was really about you have the right to request information, and I think we did use it properly. It needs to be tipped on its head – I think the principle should be more about 'Why shouldn't it be released?' As I said before, it should be the release of as much as possible. It should be the norm, not the exception.

The CHAIR: Eden Foster.

Eden FOSTER: Thank you. I might ask you this question: Do you support the retention of FOI application fees and access charges in Victoria? If so, why, and if not, why not?

Royce MILLAR: We are mindful that when the Act first came in there were no fees. I stand to be corrected on this, but I do not think there were fees. And then there was the application fee introduced later on. From memory that was about trying to discourage vexatious and excessive 'FOI-ing'. Our view is that a basic flat $30, $35 fee is acceptable and is not a bad idea necessarily. We feel now of the view that that is okay. Where we seem to get into trouble, though, is with the add-on cost of recovering and releasing documents, collating documents, et cetera, and often those fees seem excessive and sometimes prohibitive, especially in harder and harder times for the media. And sometimes, I guess in some of our darker moments, we wonder whether that is deliberately so, though we do not have any proof. But the truth is that the media will walk away from FOI requests if it is looking like costing too much. You have to make a little cost–benefit analysis, and often we will walk away. If FOI is going to cost us thousands of dollars, we will walk away from it because it may not be worth the time and the money. For a lot of senior journalists who have been around for a long time, it does not seem that the digital recording of documents has made things more efficient, which seems strange. You would think it would, but it does not seem to have done it. So sometimes we sort of suspect that maybe the charges for the recovery and release of documents seem excessive, and we are of the view that that really needs to be looked at very closely.

Eden FOSTER: Okay. Thank you.

The CHAIR: Let us go to Paul Mercurio.

Paul MERCURIO: Thank you. Regarding the effectiveness and efficiency of Victoria's FOI review mechanisms – you spoke about this a bit before – can you elaborate on the experiences of your journalists with respect to VCAT?

Royce MILLAR: Sam might want to.

Sam WHITE: Yes. I should say I probably only have visibility over 1 per cent of the FOI requests that are made in our newsrooms. I tend to get involved when they get to a review stage. Particularly in recent times the review mechanisms through OVIC and VCAT have become more and more unworkable, and that is purely from a timing perspective. We mentioned that, you know, part and parcel of obtaining information through FOI is that that information should be up to date and relevant, and the problem with the review mechanisms is that

they, both in the case of OVIC and VCAT, are now taking in excess of a year at the very least. The matter we had in VCAT in January, the senior member informed us that almost all matters in the VCAT FOI list were being stayed indefinitely and it was only rare cases that were actually being listed to sort of get kicked down the road. That is plainly not an acceptable position, because it means that you are essentially at the whims of the decision-maker. That cannot be right. Any public decision needs to be able to be reviewed as a matter of administrative law. But it is just unworkable as well that a member of the public or a journalist can seek to have something reviewed at VCAT but not have a decision for several years, by which time many things have changed. That is not a criticism of VCAT staff not working hard enough; it is clearly a resourcing issue and an issue of having the right expertise placed in that tribunal. If it is to be the sort of final decision-maker or final review tribunal for decision-making under FOI, then it needs to be properly resourced, we think.

Paul MERCURIO: Sorry, just going back – I think it was something you said, Ryan – I am just really interested: Do you think that everyone should have the same and equal access to information, or were you alluding to before about maybe creating a tiered system?

Royce MILLAR: This has come up a little bit, and it is a tricky one. We would obviously dearly love to get privilege in an FOI system, but it is a difficult case to argue, isn't it? So I think we have kind of actually skirted that issue. It has been raised, but we have kind of skirted it a bit because I think it seems, you know, intuitively a bit unfair for us to claim some sort of special place in the world. If a local resident group or community group or business –

Sam WHITE: Can I step in? I think our position would be that everyone ought to have the same right to access. Whether or not those applications are dealt with in a different way in terms of the timing of release, that is something that might be looked at. But, again, we have not formally made a submission on that.

Paul MERCURIO: I think if you wanted to elaborate on that and give us some more information or make a submission, it would be interesting.

Sam WHITE: Okay. Thank you.

Royce MILLAR: Yes, we are happy to do that, actually.

Sam WHITE: Happy to do that. Thank you.

The CHAIR: I have got a couple of quick questions. You have already gone into some detail about the inconsistent, broad and overused application of statutory exemptions; I just wondered if you had anything further to say about statutory exemptions.

Royce MILLAR: Maybe this goes to a sort of broader issue, and that is my question for you as well in response: how far you are going to go, and whether you are going to be looking at a sort of wholesale review and starting again or looking at tinkering with the existing Act. We are of the view that given the structural problems of the Act, because it is so old and it has been amended 50 times in a very piecemeal way, a wholesale review and going back to the drawing board would be a good thing to do. I think that would give the opportunity to actually look at the exemptions with a fresh eye. The public interest one is sort of classic to us, because it is peppered all through the Act, and it is used in so many different ways and different contradictory ways – in a positive way in terms of release to us, or not. It is very difficult to make any sense of; I suspect it is even for the Government Solicitor. That is a good example of something that really needs to be thoroughly thought through with a clear eye and a sort of contemporary eye about the sort of public interest that we think about now. That might now include, for instance, the environment – there may be extra things that are dealt with in a public interest override which were not thought about at the time. The public interest one is a good example.

Sam WHITE: The only thing I would add is that part of the frustration I see our journalists having is in the sort of inconsistent application of exemptions. It is obviously a difficult thing to apply things like this in a completely consistent way, but the problem when you have inconsistent applications under this regime is that the review mechanisms are not fit for purpose, so the final decision-maker cannot get to the bottom of that inconsistency and figure out what the right approach is. That is the trouble.

The CHAIR: Thank you. I know that you had quite a lot of additional points you wanted to make earlier on. Are there any further points that we have not covered this afternoon that you wanted to just note for us briefly?

Royce MILLAR: Probably more to the point, there are lots of examples which we have probably passed going through. In general terms I think we have covered it. Sam, have you got anything else?

Sam WHITE: No. We have taken on notice that the Committee would be interested in further submissions on Cabinet in confidence and where the line might be drawn on that exemption, and also your query about whether there might be a different way of managing media applications as opposed to members of the public, which again we have not reached a firm landing on.

The CHAIR: Fantastic. I think Ryan Batchelor has got a last quick one.

Ryan BATCHELOR: I can never promise it will be quick, but I can promise it will be last. We had a couple of witnesses give evidence, including one this morning, about the scope of being able to work with applicants to get to the point of an application, narrow the scope or amend the scope, so that the processing can be more efficient and get to the real question that people are after rather than casting a wide net and then having to go away and get all that information and then come back. Several people have said that is one of the reasons that is contributing to delays. I am wondering in your experience how scope relates to timeliness and also potentially cost, and would you be open to, given your applications are probably more likely to err on the side of – I do not want to use fishing in a negative way, but presumably you are trying to find a wide range of information out. Do you have a view on whether there should be a more formalised mechanism for agencies working with applicants to figure out the scope of requests?

Sam WHITE: I tend to think that in a way it is the formal nature of that deliberation at the moment that actually contributes to delay, because once an agency or department gets an application, they will respond by saying, 'We need you to clarify what you are actually after here,' and they will give a deadline of two weeks. Before you know it, four to six weeks has already been kicked down the road – not really through anyone's fault but just through the nature of how these things work. One idea might be to actually make that discussion less formal and even have a phone call to get to the bottom of what is actually sought. That can then be confirmed in writing afterwards – what you have discussed – and that might actually save a lot of time in some applications.

Royce MILLAR: Ryan, on a day-to-day basis that does actually happen. A lot of the FOI officers are great and are really good to deal with – and I have had a lot of experience with this – where somebody will say 'Look, we're struggling a little bit because this seems too broad' or 'We're not sure what you mean by this; maybe if you thought about doing this, we could rein it in and get it to you quicker'. There have been many cases in my experience and other journalists' where that has worked really well. But, again, that is not an intuitive thing, that you trust that person because you can hear that they mean it or whatever. Sometimes you do not have that sense of trust from both sides, and you do often sense other political forces at work. Do you understand what I mean? It depends on the issue, it depends on what you are looking for, and sometimes you can just deal with an FOI officer and fast-track and make the process more efficient. That already does happen. It would be nice to encourage that and somehow nurture that side of the system, which is what Sam is saying.

Sam WHITE: Yes.

Royce MILLAR: It is probably less the case than the other way around as time goes on.

Ryan BATCHELOR: We will figure out how to distil that in recommendations.

The CHAIR: Very good.

Royce MILLAR: I am happy to come back to you on that one as well, actually, in a slightly more articulate way hopefully.

The CHAIR: All right. We would welcome that additional material you have flagged and any other points you want to add.

I would like to thank very much Royce Millar from *The Age* and Sam White from Nine Publishing for coming along and answering our questions. We will suspend the hearing now and resume in just a few minutes with our next witnesses.

Witnesses withdrew.