

Government response to the Integrity and Oversight Committee *Inquiry into the operation of the Freedom of Information Act 1982 (Vic)*

The Victorian Government thanks the Integrity and Oversight Committee for its report and acknowledges the valuable work contained in its report. The IOC's work identifies issues with the current operation of the freedom of information (FOI) system and proposed a fundamental change to the way government information is accessed. The Inquiry's recommendations propose substantial and broad-ranging reforms, and more time is needed to comprehensively assess them.

When the Inquiry was referred to the Committee, government noted it was appropriate for a review to be undertaken to ensure our FOI laws were fit for purpose and are responsive to the contemporary environment and technological changes. Government has significant information holdings, and it is important that individuals accessing information, particularly about themselves, can be facilitated in an efficient and timely manner.

Government reforms

Substantive improvements to the FOI system were delivered in 2017 by establishing the Office of the Victorian Information Commissioner, providing proactive FOI, privacy and data protection leadership in Victoria, and continuing to drive cultural shifts through best practice guidance on information access to the public sector and broader Victorian community. FOI operational amendments and further reforms were made in 2024 to further strengthen protections and streamline processes.

Victoria was the first State to introduce FOI laws and in doing so, recognise that access to government information is intended to enhance transparency and the processes of representative government. Historically, government information was treated as confidential and subject to official secrecy, with access only available through long and costly higher court proceedings. This shifted when the Freedom of Information Act 1982 was introduced, and later Victoria's Charter of Human Rights and Responsibilities Act 2006 (Charter) also enshrined the right to freedom of expression, including the right to seek and receive information and ideas. These reforms recognise the public interest in access to information generally, as well as where an individual has a legislative interest in the information.

This statutory right of access must be balanced with other important public and private interests, such as the right to privacy under the Charter. These competing interests mean that governments seek to treat the information they hold in a way that balances public access with legitimate and proportionate confidentiality. There is also a balance to be struck between different aspects of the public interest of open access and the legitimate need for confidentiality, as well as protecting personal information about individuals.

The government acknowledges that access to information assists the public to exercise their rights and responsibilities as informed citizens, and that this supports informed and robust public discourse. More control by individuals and access over personal information also fosters greater agency for individuals.

The government has a proven track record of improving Victoria's FOI laws. The way information is generated and held has evolved since the FOI framework was first introduced, and the government is committed to considering how the laws can reflect modern information management practices.

Committee recommendations

The Committee has recommended major changes to the current FOI framework so that access to government information is centred around a new 'Right to Information' (RTI) scheme. Given the wide-reaching impact of FOI across state and local government, other public entities and on the public, government is taking the time to consider the report's findings and recommendations in detail to determine whether the proposed RTI scheme and associated frameworks are the most appropriate model for Victoria.

Significant further work and analysis is also required to examine the complex policy, legal, cultural and resourcing issues that are engaged when contemplating systemic redesign.

The Committee made recommendations regarding indigenous data sovereignty and governance principles; Government continues to work with Aboriginal people to embed these principles across data systems and through related Treaty and Yoorrook Justice Commission initiatives.

Importantly, the Committee found that more than two-thirds of FOI requests come from individuals seeking information about themselves held by nearly a thousand government agencies. Government will carefully consider how best to assist individuals access personal information about themselves.

In 2023-24 there were more than 53,000 requests for information in Victoria, representing a significant effort for public sector agencies, third parties and applicants. In considering systemic change, it will also be necessary to take implementation impacts into account, including the sector wide training, culture and change management.

Government supports and encourages the public's access to government information through the FOI system and other mechanisms, including by continuing to promote and facilitate the use of informal and proactive release mechanisms.