

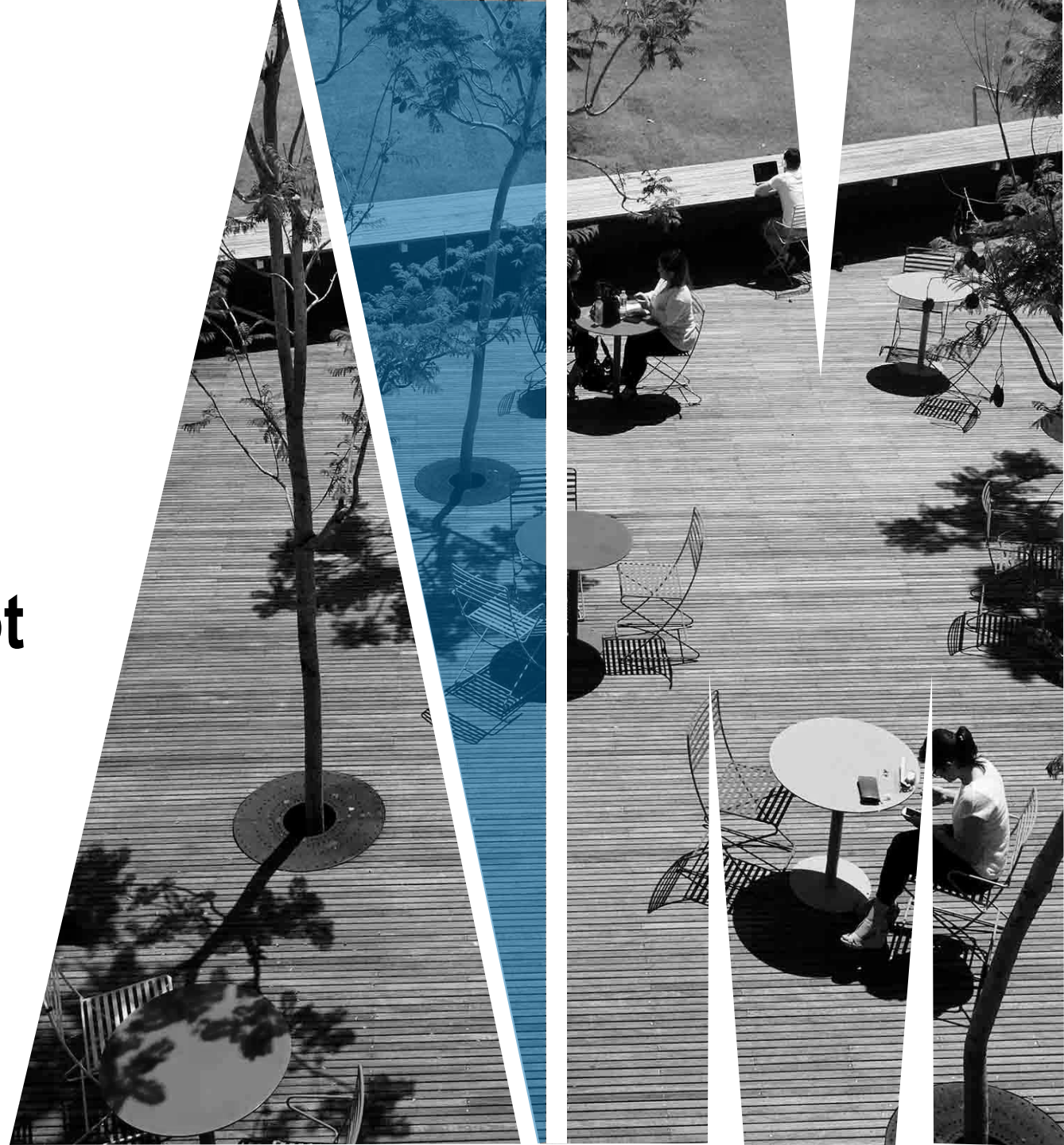


MONASH
University

The culture of administering access to government information and Freedom of Information in Victoria – a pilot study May – August 2019

OVIC Information Access Seminar, 29/10/2019

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Outline

Background and aims

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Background and aims

September 2018 - Monash and OVIC joint public forum on evolution of FOI in Victoria

Followed by research round table at Monash (VIC, WA, Queensland, NSW, Cmwth and OGP)

Workshopped research needed for increased information access functionality

Vic pilot study commissioned

Aim:

Capturing and mapping the culture of administering FOI in a sample of government agencies in Victoria to inform training/awareness programs and campaigns in order to increase the functionality of information access systems in Victoria.

(determine if the culture could be captured)

Previous studies

Methodology

Research questions

- What is the understanding among FOI officers/administrators (on both senior and other levels) of the purpose and functionality of the access to information system in Victoria?
- How do FOI officers/administrators (on both senior and other levels) view/describe their roles within the information access system?
- Do they think FOI/RTI functions well in terms of delivering what the law promise? If so why? If not, what is needed to improve functionality?

Methodology

Research design

Six agencies (both government departments and councils) selected – agencies not named in report or other publications

Online anonymous survey – Qaltrics survey platform (no meta data collected)

Focus groups and individual interviews – anonymised

Monash human research ethics committee approval

VIC information commissioner invitation – but no more OVIC involvement from then on

One contact person nominated per agency – **vital part of the design**

Findings

Study facts

Number of participating agencies: 6

Number of online survey replies: 38

Response rate to survey: 68% (38/56)

Number of focus group interviews and individual interviews: 16

Total number of FOI practitioners interviewed: 27 (focus groups comprised of 2-4 participants)

The online survey

Section one: views and attitudes on information access and FOI

Section two: your role in the VIC FOI system

Section three: the information access culture in your agency

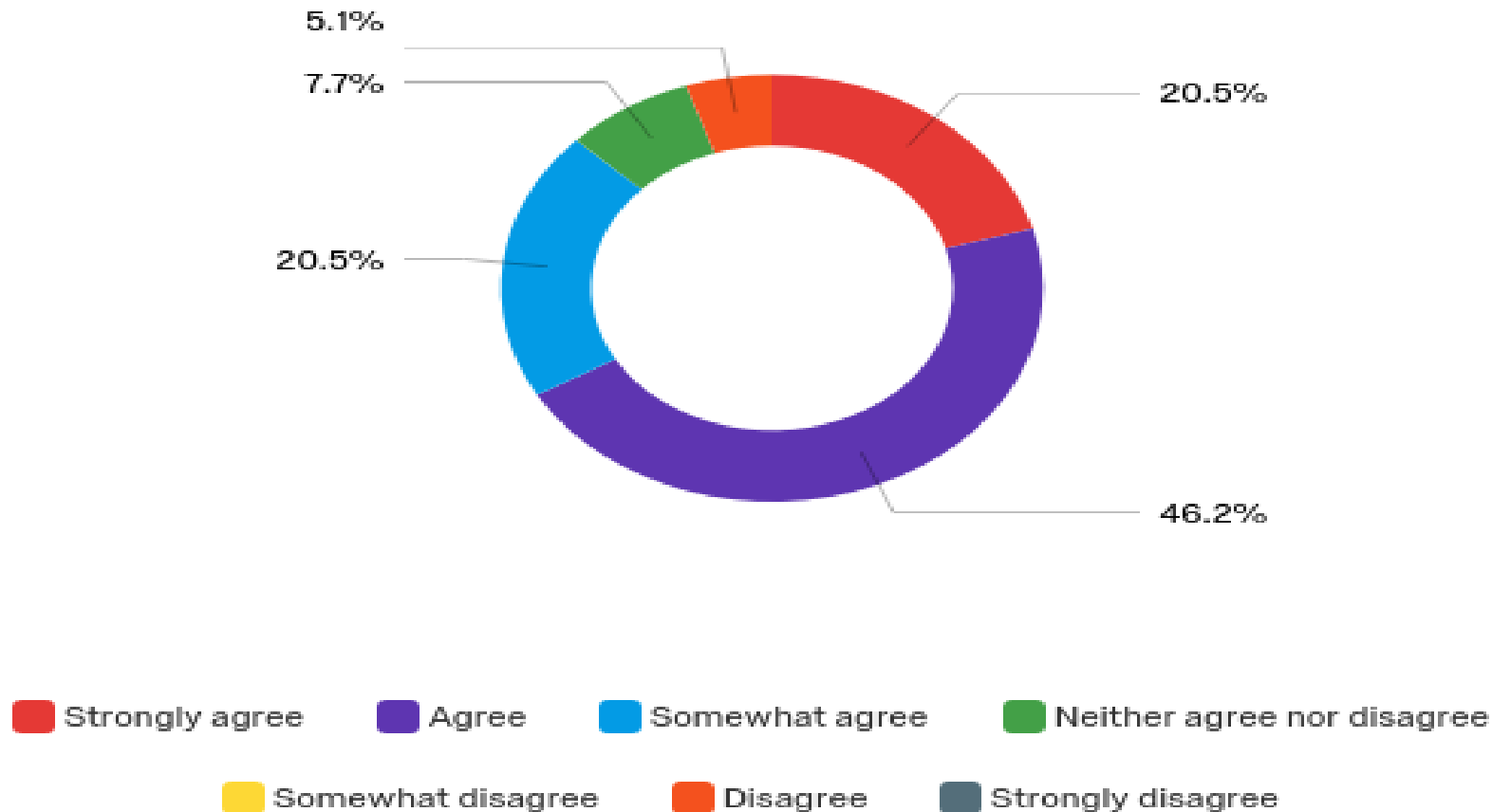
Section four: how does the VIC FOI system function/deliver? What can be improved

34 questions in total

Each section closed with a free text box: “anything else you would like to add?”

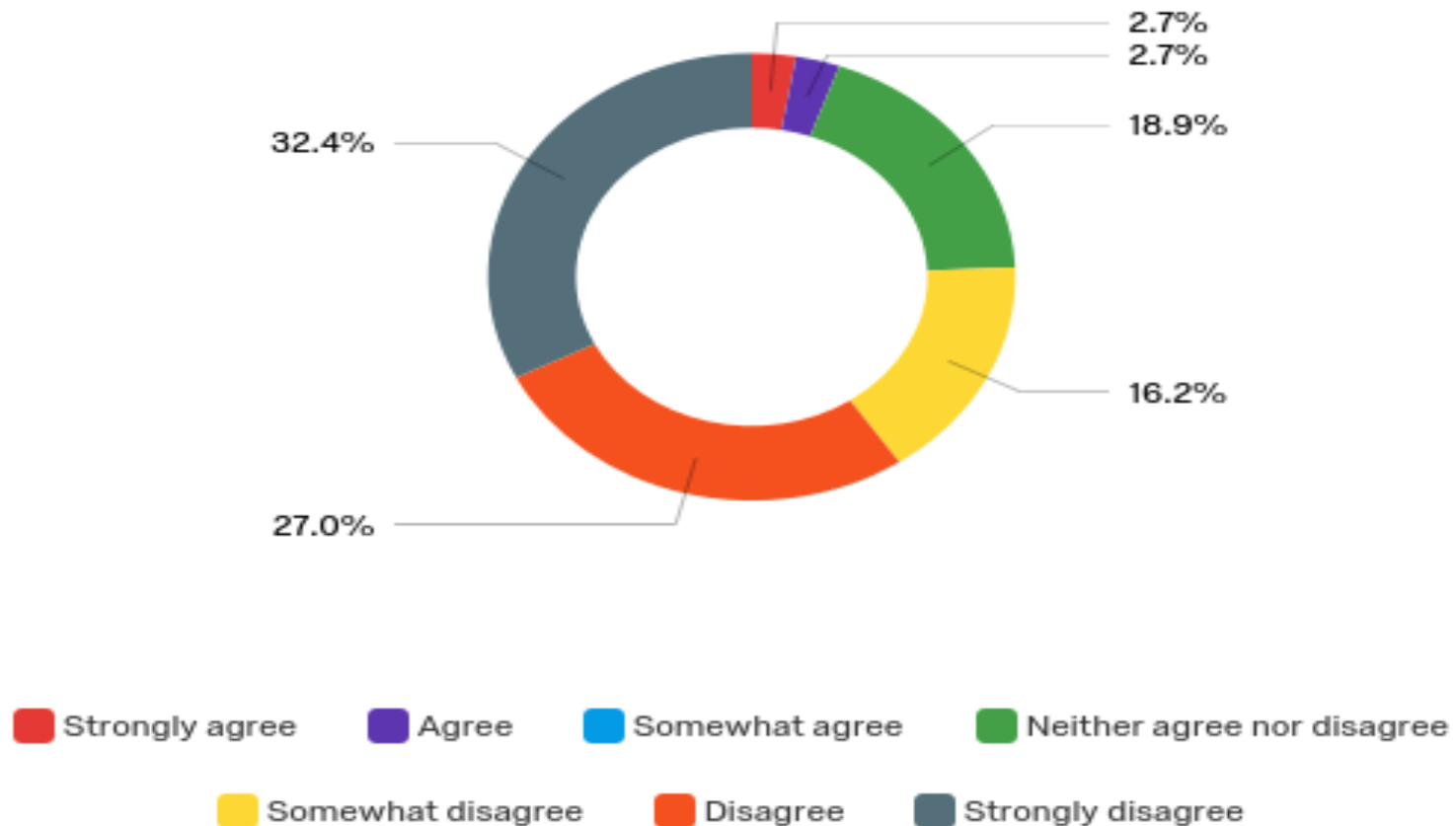
Survey response example

Question 3: *The Victorian information access system also involves the proactive and informal release of documents and information outside the FOI Act.*



Survey

Question14 - *Part of my role in administering the FOI Act is to make sure information potentially embarrassing to my agency or Minister is NOT released.*



Survey

Question16: *Is there anything else you would like to add regarding how you view your role in the information access system?*



Survey

One reply to question 16

“FOI units operate in 'silos' to the rest of the organisation. FOI units would benefit if an increase in informal releases occurred. It is difficult for a FOI unit to promote change in this space. As a result, docs that could be released informally are assessed for release under FOI.”

Survey

Questions 25: *Is there anything else you would like to add regarding the functioning of the current information access system in Victoria?*



A word cloud visualization of responses to the survey question. The words are arranged in a roughly triangular shape, with the most prominent words in the center and smaller words towards the edges. The colors of the words range from light teal to dark teal.

applicant
complete
ensure information
perform administer
provision month
people significant
release training level
advice apply support
better word workovic
management
request system
approach adapt roleact victoria
abilities understanding
receive process
personnel internal
adequate organisation
executive change
application

Survey

One reply to question 25

“I find that the closer management personnel are to the ground, the more capable of understanding the substantive issues in FOI they are. The further detached from the ground-level processing work, the more risk-averse management and executive personnel are.”

Survey summary points

- The willingness to act as information access facilitators;
- The pivotal role of senior executive agency management in both building and maintaining a positive information access culture for FOI users;
- That improvements to the FOI system need a combination of legislative reform and culture change in how FOI is administered.

Focus groups and interviews

A few over arching observations

- Information commissioner's invitation and subsequent hands off approach paid off
- An attitude “continuum” ranging from:
- My agency owns the information and decides how it can be used
- TO
- We should scrap all fees and charges including processing fees and proactively release as much information as possible
- In one of the large agencies – a gulf between how junior and senior FOI staff interpreted the role of proactive release

Focus groups and interviews

The attitude continuum in selected quotes

“...stuff like this [FOI] is so fundamental to democracy. We’ve got to keep in mind that this [FOI] allows people to engage in democracy and it has real life impact.”

“I think there is hypocrisy in the legislation. It’s about giving access to information, but only to those that have \$21.70 in their hand...I don’t understand why we have to have an application fee.”

“Pro-active release [of information] is not part of FOI. OVIC has responsibility for information policy [such as proactive release of information], I have responsibility for release of information under the FOI Act...my job isn’t to release as much information as you can to the public, my job is to respond to FOI requests.”

“There is a culture of pro-disclosure in my agency. I don’t know where it comes from, but it’s there. I see it in senior management being OK with potentially embarrassing information being released. Perhaps it’s a state of Victoria thing, with the state being progressive on these matters.”

“When I did OVIC training the message was – ‘how can the act be interpreted to release information’, but in my agency, it seems the opposite applies – what exemption can we apply to not release information.”

Focus group and interview themes

Theme one: FOI staff role in the information access system

Theme two: proactive disclosure policy

Theme three: the role of agency executive management

Theme four: third-party consultation and other changes/amendments to the Victorian FOI Act

Theme five: hiring policy for FOI staff

Recommendations

The Victorian FOI Act 1982

1. Review the third-party consultation section, alternatively – OVIC to issue more detailed guidelines on third-party consultation;
2. Review and update the act to reflect the current digital information environment;
3. Review the pro-active disclosure sections in reformed FOI/RTI acts in other Australian jurisdictions (such as Queensland, NSW and the Commonwealth) and consider including a pro-active disclosure section in the Victorian Act. This should also include a review of the 'FOI/RTI disclosure logs' that are used in several Australian jurisdictions.

Recommendations

FOI administration culture – MAIN FINDING

4. Based on data in the pilot study – the senior management level (such as the Secretary in government departments and the CEOs in local councils) is crucial in creating a user friendly and information access facilitation culture in agencies. **OVIC should therefore focus its FOI education and information advocacy efforts on this level.** Without the support from the senior agency level, all participants were unanimous in pointing out that little would change. The senior management level at agencies were deemed more important than the ministerial level by the participants in the pilot study when it comes to building a culture of information access that puts facilitation at the core.

ALL interviewees were unanimous in this reply – highly unusual to get unanimous responses in focus groups and interviews.

Recommendations

5. OVIC to create tools useful for creating pro-active information disclosure policies in government agencies. These tools could include examples of existing policies in agencies;
6. OVIC to hold workshops and seminars in how pro-active information disclosure policies can be created;
7. Recruitment of FOI officers and managers were seen as crucial in building a culture of openness and information access facilitation. OVIC to draw up guidelines in collaboration with FOI managers and agency executives on recruiting FOI officers and managers.

Research question one

What is the understanding among FOI officers/administrators (on both senior and other levels) of the purpose and functionality of the access to information system in Victoria?

1. A narrow legal understanding of the aims, eg. receiving and processing FOI applications.
2. A broader understanding including proactive release of information and to interpret the act as widely as possible enabling the agency to release as much information as possible.

This indicates that there is still work to be done for OVIC regarding professional development if category two is to become the dominant interpretation of the Victorian FOI Act. **It should also be noted that the agencies with a clear proactive information release policy had staff that in greater numbers identified with category two, compared to agencies that did not have such a policy.**

Compared to 2004 federal survey

- Part of the International FOI Index Project
- Five countries compared: Australia, South Africa, Sweden, Thailand and the US
- One of three studies asked questions re ownership of government information
- 68 questionnaires sent to Australian federal FOI officers, managers, agency heads and ministers – low response rate
- Less than half of Australian responses ended up in the broader category two – most took a narrow legal view of information facilitation
- Indicates that attitudes have shifted – the question is to what extent?

Research question two

How do FOI officers/administrators (on both senior and other levels) view/describe their roles within in the information access system?

The second research question is connected to the two categories identified in the first research question. Those that identified with the second category saw information access facilitation as important and at times more important than processing and assessing FOI requests. **Interestingly, a number of junior FOI officers in agencies lacking a clear proactive information release policy expressed frustration that the main performance indicator was to have completed all their FOI files by the end of the month.** This indicates that there is a willingness to expand on how the effectiveness of FOI administration is measured. **Here it seems OVIC should consider developing qualitative data points complementing the current quantitative assessment system.**

Research question three

Do they think FOI/RTI functions well in terms of delivering what the law promise? If so why? If not, what is needed to improve functionality?

There was close to consensus that changes and amendments to the act alone is not enough to achieve a well-functioning information access system from a user's point of view. **Participants spoke at length about the importance of a positive information access culture.** Much time in the interviews was spent on discussing how such a culture is best built and maintained. In these discussions there was a clear standout – the crucial role of agency senior management. All 27 interviewees agreed that without the support of senior management, a positive information access culture cannot be built.

Can the FOI/RTI administration culture be captured – YES – based on actionable findings and recommendations

Next steps

Recommendation 8

The pilot study indicates that there are significant differences between Victorian agencies in how FOI/information access is viewed and implemented. It is therefore strongly **recommended that the current study (after some amendments based on the finding in the pilot study) be implemented comprehensively in Victoria.** This would supply OVIC with a complete picture of how FOI is implemented across the state and assist OVIC in designing the support needed to improve FOI functionality in Victoria. **Based on the findings in the pilot study, the senior management team of agencies should be included in the comprehensive study. Following on from that conclusion is that the comprehensive study should also seek to capture the understanding of and attitudes toward FOI/RTI at the political ministerial level.**

Australia Research Council Linkage Project

ARC LP rolling application time line

Professor Moira Paterson, one of Australia's leading FOI/RTI and privacy legal scholars will be the second CI (second Chief Investigator)

Partner originations (PO) so far: OVIC, Ombudsman SA, OIC WA possibly ACT Ombudsman

Great comparative dimension the more jurisdictions that joins the project

Comprehensive implementation including most agencies in your jurisdictions - including senior agency management level and ministerial level

PO have major input into research design – collaboration the aim of LP projects

Implementation of the project 'once removed' from your offices

Monash human research ethics approval

ARC LP

Draft research design

Johan - the culture of implementing FOI/RTI

- The social science dimension: online survey, focus groups/interviews. FOI/RTI practitioners (all levels), senior agency management, ministers. Pro-active disclosure policies – impact on culture

Moir - the role of FOI/RTI practitioner guidelines

- The legal dimension: analysis of FOI/RTI practitioner guidelines, quantitative comparisons of jurisdictions (NSW nationally compiled data a good start)

Again: the research design will be tailored to the needs of each jurisdiction, keeping the comparative component in mind

Research roundtable in Melbourne March, 20, 2020

State and federal dimensions

Final say to I and J - wise FOI managers

Re pro-active information disclosure policy – a crucial FOI/RTI culture building block

“Consult stake holder groups on what they want and need in terms of information access.”

“Give the FOI teams as much autonomy as possible and let them drive the change in working up the policy.”

“If you are to create something meaningful like a proactive release policy – you’ve got to own it.”

“It’s of course harder in a smaller agency, but that’s where OVIC can play a really important role to support especially the smaller agencies.”



THANK YOU

Questions?

