**'Using Transparency to Achieve Equality' – Virtual Workshop hosted by Melbourne Law School**

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**Paper topic**: *Government transparency in decision making*

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Importance of access to information for a health democracy

* With the backdrop of Victoria’s executive response to COVID-19, my paper explores the importance of access to government information for a functioning democracy.
* For meaningful public participation and debate in liberal democracies, there should be some level of shared facts and unbiased information available.
* I am of the view that access to government information via freedom of information legislation (FOI) is therefore, an essential part of our democracy.
* My paper encourages practitioners to interpret current FOI legislation in light of the public’s expectation for open and transparent governments.
* On a practical level, my paper notes the importance of creating a culture of transparency in the public sector, to allow governments to build and maintain the trust of citizens. I conceptualise trust as a marker of government success.
* This year alone, we have seen the establishment of multiple public inquiries, including Victoria’s COVID-19 Hotel Quarantine Inquiry.
* This push for greater government transparency demonstrates that what the public needs to know and should debate, is best left to the public to determine, not the public sector or government.
* We have also seen this year the petition in the House of Representatives for a Royal Commission to ensure a strong, diverse Australian news media.[[1]](#footnote-2)
* Greater news diversity, complemented by access to government information, allows for greater freedom of thought and opinion among citizens, leading to and a much healthier democracy, in my view.

Using FOI to improve relationship between the citizen and the state

* My paper highlights that the introduction of FOI legislation in Westminster-style governments represented a historical shift in the relationship between the citizen and the state.
* Moving away from secretive, executive-led decision making, FOI legislation worked to increase transparency in government decision making, rebalancing the relationship between governments and individuals.
* I also outline the relationship between freedom of information law and the protection of human rights in my paper – examining how access to government information is reflected in founding human rights instruments.
* FOI legislation can work to enliven fundamental human rights – in the freedom of expression, the right to take part in public life and the right to privacy – by ensuring that the release of government information is appropriately balanced with the protection of individuals’ privacy.
* This interplay between access to government information and citizens exercising their rights speaks to the broader theme for our workshop today – ‘Using transparency to achieve equality.’
* I am proud to say that the work of my office is focused on helping citizens exercise their information rights.
* In practice, engagement with freedom of information legislation can help expose government corruption, bias on the part of the decision maker and attempts to discriminate in the policy making process.
* Emerging theory suggests that FOI can create a space for ordinary citizens to better engage with government – encouraging a more participatory form of government decision making.
* My paper concludes with a look at what governments can do to enshrine ‘transparency by design’ for future policy reforms and initiatives. Of course, prioritising the public’s right to access government information is one way to do this.
* To complement existing transparency and accountability mechanisms such as FOI, governments should look to enshrine meaningful oversight measures into legislation and demonstrate a commitment to the responsible and proportionate use of citizens’ personal information, to meet the expectations of the public today.

**What’s on the horizon**

* Future work by my office in this space will focus on conducting further research into the culture of administering the FOI Act in Victoria, in partnership with Monash University.
* I am confident that this work will ultimately lead to greater engagement with FOI and enhanced transparency for government decision making.

1. See, Petition EN1938 - Royal Commission to ensure a strong, diverse Australian news media, available here: <https://www.aph.gov.au/petition_list?id=EN1938>. [↑](#footnote-ref-2)