

Independent Review of Tasmania's Right to Information framework, including office of the Ombudsman.

Submission by David Killick, political editor, The Mercury.

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Preamble: I am grateful for the opportunity to contribute to this review of Tasmania's RTI system. This submission is my reflection on the strengths and weaknesses of the RTI system as a professional journalist and does not necessarily coincide with the views of my newspaper or its parent company, although I hope there would be significant common ground. The opinions expressed in this submission (and any errors of fact) are mine alone. In the spirit of transparency, I am happy for my submission to be made public without redaction.

About me: I am a print and online journalist of 30+ years experience. I started my career at the Sydney Morning Herald and worked in reporting and leadership roles during 13 years at Australian Associated Press in Sydney and Melbourne. For the past 17 years, I have worked at the Hobart Mercury, mainly reporting on politics.

Introduction: Governments in Australia have become increasingly and obsessively secretive during my career. While extracting even basic information from the federal government is a task that would test the patience of the most determined inquisitor, Tasmanian government institutions have turned the practice of keeping secrets into an even higher art. (Perhaps a classic of the genre is the handling of the Right to Information Uplift Project – Discussion Paper, see attachment 12. "RTI report kept secret: Tips to fix transparency redacted" which marred that tilt at reform). As detailed in the attached Mercury reports, many of the fundamental problems have been long known and repeatedly identified. They have not been matched with a zeal for reform.

It should be no surprise that journalists and media organisations are strongly in favour of maximum transparency. The strength of our democratic institutions is enhanced by public confidence that institutions behave in a way that is open and honest with those they serve. But Public confidence does not float easily in a sea of black ink redactions I see in embedded in responses to RTI requests in Tasmania. It is my strong impression from letters to the editor and comments on online stories that The Mercury's audience is vitally engaged with the issue of transparency. It is my hope that our readers in particular could be considered well-informed on the issue.

It is important to remember that the efficient operation of our RTI system is not just the obsessive preoccupation of a few wonks, nor is it for their benefit alone. In addition to motivated citizens, activists, journalists and politicians, there is another, equally important constituency that is served by the RTI system and that is the Tasmanian public as a whole, most of whom will never directly engage with a Right to Information request in their lives. Nevertheless, they too benefit. (These principles are enunciated right up the top of the Act.)

Timely and well-informed scrutiny of government decision-making is critical to improving outcomes in a small jurisdiction where other oversight mechanisms are often small, under-resourced, weak by design or otherwise ineffective. It is increasingly so in a changing and fragmenting media environment.

A verbal public commitment to transparency and to improving the RTI system seems to have become a rite of passage for incoming Tasmanian premiers. (For example, see attachment 4. “Gutwein promise to ease ‘secrecy’”). To date, it has been unmatched by discernible change in the operation of the RTI system. Reforms have been promised and funding allocated, and yet in my experience, even the most mundane secrets continue to be guarded with ferocious jealousy by the gatekeepers of the Tasmanian bureaucracy. The process of review and appeal is grindingly slow. I wrote about this with poorly suppressed anger in 2020. (See attachment 5: No more secrets: culture of cover-up a cancer on Tasmania’s democracy”).

“Keeping bad news — or any news — from reaching the public isn’t some sort of aberration. It is the defining characteristic of this state’s political culture.”

Although I am aware that that intemperate front-page article had at least a transient impression at the highest levels of government, my assessment of the situation has not changed much over the ensuing five years, particularly having noted the response to the Commission of Inquiry. The status quo is rather addictive.

I have included in the attachments section below a selection of my new reports about the operation of the Act since around 2019. There is a somewhat depressing consistency. And yet for me the most extraordinary feature of the system of current disclosure is that even in many of the most well-informed requests is that so much of what is so vigorously defended is eventually revealed to be utterly mundane.

It is my strong impression from the public comments of successive premiers that they regard Right to Information system as being at the forefront of the state’s transparency mechanisms. (I suspect they do not need use it much to obtain information they need.) On the contrary, resorting to our RTI laws should be regarded as the last backstop of disclosure, where less expensive, formal, time-consuming, protracted and difficult mechanisms - such as a Google search, or asking nicely or a properly executed system of routine disclosure - have failed to deliver the desired results. It is possible I gained that impression from the Act itself where it notes that “assessed disclosure is the method of disclosure of last resort”.

Addressing the endemic secrecy that infects Tasmanian political culture is no small task but that difficulty must not prevent an attempt. The notion that most of the work of government is somehow a confidential affair and none of the business of citizens should not be allowed to fester. Transparency should be a core aspiration of government, rather than an afterthought.

There is ample statistical information available to the review to support the contention that the RTI system is not working as it should. It is particularly evident in the high rate of errors in

assessment identified in external reviews. (Such errors are almost universally against disclosure.) I will not restate the findings of the regular reports of the Ombudsman and Department of Justice on this topic to who understand it better than I do.

I want to take the opportunity to particularly commend the work of the Office of the Ombudsman, whose leadership and staff have worked so diligently to ensure the Tasmanian public have access to the information to which they are entitled. Their commitment and work over many years should not go unrecognised.

My experience with Freedom of Information and Right to Information: There are several categories of those who use FOI and RTI to access information. In Tasmania, my impression is that the vast majority of applications by number are people seeking to access information held by the government about them or that affects their personal interests.

I cannot speak to the ordinary user's experience of the RTI system beyond making the observation that current practices are slow, expensive, time consuming, over-bureaucratic and deliver unsatisfactory and inconsistent results. I have had contact with some of these users, who sometimes appeal for help from the media as a last resort. I note in particular difficulties bereaved families have experienced in obtaining information from the Coroners Court that seems to be more readily obtainable in other jurisdictions. (The persistent and increasing problems of accessing what should be readily available information from the state's court system are sadly beyond the terms of this review.)

Tasmania's RTI system is daunting for a determined and experienced user. It must be particularly difficult for first-time users, for those with poor literacy skills and those from non-English speaking backgrounds, those with digital literacy or access issues and others. I hope that the review is able to capture their feedback.

The other constituency of which I have the most experience is what might be called the professional information seeker. As part of my work, I keep a close watch on the disclosure of information released under the Act on the public websites of government agencies, which gives me a taste of the information sought and experience of other applicants. My main exposure to the RTI system comes as an applicant but also from sifting through the disclosed results of other applications. I have made a small number of applications over the last decade. I find the process difficult and uncertain and I have little faith that the information I seek is necessarily complete or will be provided in a timely fashion. I have found on more than one occasion that there is a keen awareness of the source and nature of requests within the ranks ministerial offices, something I did not experience when working interstate, nor do I regard as appropriate.

I have also written extensively about the RTI system and have spoken to and interviewed users and experts are part of that work.

Observations: In my opinion, there are several areas where the current Act and its operating are failing:

1. Reforms made more than a decade ago intended to encourage routine disclosure have not worked as intended. Some departments have managed to produce a flow of information but in total it remains small, fragmented, difficult to access and often incoherent. Accessing repositories of Tasmanian Government data online is sometimes easier done through commonwealth digital repositories. There is no single access point, index or repository of disclosures.
2. The nature of online resources means that information routinely disclosed in digital form may only be available for a short period of time. For example, several departments maintain digital dashboards which disclose performance over the past 12 months. As updates are produced, older material disappears. Another example is the practice of publishing RTI disclosures online. Some agencies appear to remove information after a short time, while others maintain the disclosures for long.
3. The ponderous production of annual reports, tabled en-masse in state parliament at the government's leisure, remains the most reliable and accessible source of routinely disclosed information. Some agencies defer even simple requests because the information will be forthcoming in annual reports which might be months away.
4. Public agencies subject to the Act are under-resourced for the performance of their responsibilities under the Act. I note this was one of the significant findings of the RTI Uplift project.
5. The processing of RTI applications is interminably slow.
6. It has been detailed elsewhere that those who assess RTI requests receive insufficient and inconsistent training and that the approach taken by individuals in different agencies varies widely. I note this too, was eloquently detailed in the survey responses and was one of the prominent findings of the Right to Information Uplift Project – Discussion Paper
7. It is my impression that exemptions under the Act are inappropriately overused, with the result that information that should have been disclosed being withheld. I believe this impression is reinforced by what we know about appeal outcomes, where a significant proportion of appeals result in variations to the original decision.
8. It is my impression that the Ombudsman's office is not properly resourced for the role it plays in overseeing the Act. This is particularly evident by the persistent long wait times for the resolution of appeals. The Ombudsman in Tasmania has a diverse and range of oversight responsibilities.
9. I believe that there are too many exemptions under the current act and its interpretation provides too many excuses for non-disclosure. I have observed in the results of many requests that there an over-reliance on exemptions under the Act to redact large amounts of information with scant justification beyond a citation of the section relied upon. I note several recent redactions on the grounds that material was "irrelevant" for example. It

seems to me that this exemption may be being used to withhold otherwise innocuous information without additional appropriate justification.

10. I believe that the interpretation of exemptions relating to personal information are also inappropriately overused. I would make the observation that it is apparent from many disclosures that information such as the email addresses of government officials, official titles and such are routinely redacted. I am unsure of the basis for the notion that this is private information.
11. It is my opinion that the exemptions under s37 the Act regarding “information relating to business affairs of third party” and “information relating to business affairs of public authority” are overused. The interactions of business with government agencies should attract protection only where disclosure would cause demonstrable detriment to a business’ commercial interest. The expectation of disclosure should be inherent in government dealings with business and exceptions clearly justified.
12. Similarly, the “prejudice relations” exemptions under s41 seem to sit at odds with the fact that prejudicing relations between different levels of government is something that different levels of government indulge in frequently on a range of topics with relish and without seeming consequence.
13. The current system of RTI is a reflection of a time when information help by government was based far more on print-based information and in static and enduring formats. I have not yet seen an example where a RTI request resulted in the disclosure of relevant text messages for example. I am aware that the use of platforms such as WhatsApp and Signal and other ephemeral messaging services is becoming more commonplace. Despite this, I have yet to see a WhatsApp message disclosed as part of a request. I am unaware of multimedia material, such as video and audio being disclosed or if examples of such disclosure exist regardless of the application of section 18(1)(d) of the Act.
14. While the review and appeal process often results in variations to decisions, I suspect that there is not adequate review of the appropriateness of decisions which are not granted in full or in part where an appeal is not made by the applicant.
15. As a result of the above, faith among the public and the media in the integrity of Tasmania’s RTI system is low. It is regrettable that this has an impact on the morale of staff as noted in the Right to Information Uplift Project – Discussion Paper.

Suggestions: consistent with the comments above, I commend to the review the following suggestions:

Accessibility:

1. That consideration be given to removing or significantly reducing the cost of making requests under Tasmanian RTI legislation for all users.
2. Application procedures should be simplified and standardised between agencies, preferably through the use of a single online portal or form.
3. That consideration be given to ways to make RTI more accessible to those with literacy, online access and other difficulties.

Policy and practice:

1. That Tasmania should aspire to be Australia's best jurisdiction with regard to information accessibility, with the most fit-for-purpose, efficient and transparent system in the nation.
2. Greater emphasis should be placed on the need for transparency in public sector employee inductions and training.
3. In instances where government agencies engage with third parties, clear expectations in favour of disclosure should be embedded into agreements and as far as possible the impact of issues such as copyright, commercial-in-confidence and legal professional privilege are dispensed with or minimised with a view to facilitating disclosure.
4. Efforts should be made by public sector leadership to create a culture of transparency, including emphasis and education about the importance of the state's RTI regime.
5. Concerted efforts should be made to increase the volume and speed of routine disclosure by government agencies.
6. Regular and consistent training should be provided to those who process applications under the Act, regardless of which agency they work for.
7. That appropriate resources are made available to permanently reduce the long waiting time for external reviews of decisions.
8. That routine reviews should be implemented of a representative sample of requests that are refused in whole or in part and where no review has been sought by the applicant. The review should examine the appropriateness of refusal or redaction and inform better practice.
9. That a review be conducted of the routine disclosure of RTI requests on agency websites to ensure that it is comprehensive.
10. That disclosed material be kept available for as long as practical, with whole of government guidelines.
11. That consideration be given to a single location or source for such disclosures across government, such as an email distribution list, central log, portal or RSS feed.

12. That to improve accessibility, that whenever possible information that is disclosed is produced in a format that is searchable and that the use of scanned or non-searchable PDF reproductions be avoided.
13. That best practice in disclosure - both routine and requested – be recognised and celebrated.

Regulation and legislation:

1. Greater emphasis should be placed on producing a single, regularly updated and accessible set of principles and detailed handbook to ensure the consistent processing RTI requests.
2. Exemptions to disclosure under that Act should be reduced in number and more rigorously defined so that disclosure is more emphatically the default expectation.
3. Consideration should be given to the adequacy of the current legislation to deal with new forms of government information including instant messaging and of ways to better provide the broad disclosure of information held or embedded in video and audio formats.
4. The exemption in section 41 of the Act relating to “Information likely to affect State economy”, particularly s41(2) is too broad and open to abuse and should be redrafted or removed.
5. Several items in the current schedule 1 of the Act are either too broad or too subjective and should be redrafted or removed, particularly items (b) whether the disclosure would contribute to or hinder debate on a matter of public interest; (k) whether the disclosure would promote or harm the economic development of the State; and (m) whether the disclosure would promote or harm the interests of an individual or group of individuals.
6. Consideration should be given to whether the Ombudsman’s office is the appropriate agency to continue have oversight of appeals within the RTI system. I say this not because of any failing on the part of the Ombudsman’s office but rather that the office is already carrying a lot of responsibility and is perpetually under-resourced. I am aware that some jurisdictions have stand-alone independent agencies. It may be that a small well-funded and independent body is appropriate to aggressively drive best practise, conduct monitoring and reporting, inspire cultural change and develop policy in the related matters of information transparency, privacy, archiving/document retention and open data initiatives for Tasmania.
7. Wherever ultimate responsibility for oversight of the Act, efforts should be made to monitor emerging trends and best practice in other jurisdictions so that Tasmania does not fall behind in future.
8. Another review into the operation of the Act should be scheduled within a reasonable timeframe.

My thanks to those who requested and who are conducting this review. I hope my contribution is helpful.

David Killick
30 April 2025.

Attachments: A note on attachments: The articles below are Mercury news stories or opinion pieces which were accessed from News Corp's digital asset management system in April 2024.

The date notes here may refer to the original digital publication and may vary from the date of print publication. There may be some minor variations between the retrieved version and the version published on different platforms reflecting normal editorial practice. The attachments are intended to give the reader an overview of the nature of the paper's news coverage over time.

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3. Kept in state of secrecy: Tassie rated worst for releasing information. 18/11/2020.
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5. NO MORE SECRETS, Culture of cover-up a cancer on Tasmania's democracy. 20/11/2020.
6. Shh... secret state rules: vast majority of appeals for info upheld. 14/11/2022.
7. Time lag as RTI requests multiply: Ministers slow to respond. 02/04/2023.
8. State's poor secrecy record: RTI system rife with refusals: report 14/07/2023
9. RTI panel lashed over conduct: Integrity Commission calls for disbanding: 22/5/2024.
- 10: Cross our hearts, we'll do better: 23/05/2024.
11. RTI jump but little to show: slow response times. 27/5/2024.
12. RTI report kept secret: Tips to fix transparency redacted. 25/06/2024.

Attachment 1: **Tassie ‘worst’ in nation for transparency** 16/1/2019

DAVID KILLICK, Political Editor

TASMANIA is the worst state in the nation for information transparency, Greens leader Cassy O'Connor says.

Ombudsman Richard Connock this week revealed his office was struggling under a backlog of 50 appeals against Government refusals to release information — with an average delay of 318 days.

The Tasmanian Ombudsman's office has just one staff member to deal with a growing number of Right to Information Act appeals.

Ms O'Connor said the Tasmanian Liberal Government loved keeping the public in the dark.

"During their time in government, the Liberals have been allergic to truth and transparency, engineering a frustrating, often fruitless system so starved of resources that it can take years to get public information which should be readily available," she said.

"The objectives of the Right to Information Act 2009 make clear the intention of Parliament was that discretions available in the Act should be used to provide the maximum amount of information. This is the direct opposite of what happens under the Hodgman Government."

A Government spokesperson rejected Ms O'Connor's comments.

"The Government has a very strong record of enhancing transparency through the routine disclosure of information across all Government departments," he said.

"This includes the first regular disclosure of ministerial spending, and online disclosure of Parliamentarians' register of interests.

"We have every confidence in the Ombudsman's office to undertake their duties.

"While the office operates independently of Government, we will continue to consult with the Ombudsman's office when it comes to Budget submissions and matters of resourcing.

Ms O'Connor said the Greens would again move to strengthen the RTI Act this year, and she challenged Labor and the Liberals to support the move towards greater transparency.

Attachment 2: **YOUR RIGHT TO KNOW: state censorship rebuke.** 19/12/2019.

DAVID KILLICK Political Editor

The Ombudsman's office has rapped State Government departments over the knuckles for editing and obscuring deletions from documents released under Right to Information laws.

The Greens have complained that a response to an RTI request they made was returned as a single edited "highlights" file.

Party leader Cassy O'Connor said the Right to Information Act entitled applicants to receive the original material — and the Ombudsman's office agreed.

"If an applicant requests documents relating to certain matters, and a public authority has documents within the scope requested, then s18(4) would seem to require providing a copy of relevant documents rather than merely text extracted from the documents," it said in response to a complaint.

The Greens have also won their battle to stop government departments censoring RTI-released documents with white blocks, which makes it difficult to tell where information has been removed.

"For a short period of time, the Department (of Primary Industries, Parks, Water and Environment) was trialling different colours for redactions," the department said in a response to the Ombudsman's inquiries. "It was quickly realised which was not a suitable colour, and the department has been using grey redactions since."

The Ombudsman said no government entity should redact documents with white.

"White could appear as if information never existed there in the first place ... thereby avoiding proper scrutiny," it said in a directive to departments. "It is vital that it is made clear and obvious to the applicant exactly where information has been redacted due to an exemption and the ground for that exemption."

Ms O'Connor said the public service should serve the public, not keep politicians' secrets for them

"These respective policies, smacked down by the Ombudsman, confirm government agencies have been politicised and driven into maximum secrecy by the Liberals," she said.

"The intent of the Right to Information Act is to provide information where possible — not withhold or hide it in the interests of politics.

"It is scandalous that State Growth and DPIPWE have decided to actively hide information. They are public agencies responsible for public services and assets."

Attorney-General Elise Archer defended the government's record on RTI and said decisions were made at arm's length from ministers.

"Our government has made processes more open and transparent in relation to government dealings," she said.

Attachment 3: Kept in state of secrecy: Tassie rated worst for releasing information.

18/11/2020.

DAVID KILLICK: Words: 400

TASMANIA is Australia's most secretive state, with the nation's worst performance at releasing information to the public, the Ombudsman says in his annual report.

Government agencies commonly disregard the intent of Right to Information laws, often release nothing at all in response to requests, miss deadlines and fail to provide adequate reasons for their decisions.

Ombudsman Richard Connock said agencies "don't seem to give sufficient weight to the fact that the Act creates a legally enforceable right to obtain information".

Mr Connock said the test of whether the release of information is in the public interest is also "frequently misapplied".

"Tasmania's public authorities refused access to any information in 30 per cent of their 2018-19 decisions," he noted.

"This rate of refusal was nearly twice that of the next-highest jurisdiction (Queensland at 16 per cent) and 750 per cent that of Australia's most open jurisdictions (Victoria and the Northern Territory, both at 4 per cent).

"Tasmania's percentage of refusals in full has been increasing each year since 2016-17 when it was 15 per cent."

Mr Connock also noted that Tasmanian government authorities were also poor at determining RTI requests within the legally required time frames. He said 27 per cent of requests failed to meet deadlines, the second-worst in the nation.

Greens leader Cassy O'Connor said the government should be ashamed of Tasmania being the secretive state.

"Under the Liberals, secrecy is rife – and encouraged in government agencies. It's the culture now," she said.

"We know Premier Gutwein hasn't been the biggest fan of transparency and scrutiny, but we urge him to rethink.

"Government is there to serve the public good, and should be accountable to them, always."

Premier Peter Gutwein said it was nothing to do with him, but rather public servants in government departments.

"The decisions are made at arm's length of government under the RTI Act," he said.

"We have designated RTI officers, who apply the law, that's what they do.

“In terms of how we compare with any other jurisdictions, I think that’s a moot point — our RTI officers are applying the law.”

Mr Gutwein would not reflect on the failure of 30 per cent of requests to receive any information in response.

“I’m not certain what they’re asking for. RTI officers at arm’s length from government apply the law.”

Attachment 4: **Gutwein promise to ease ‘secrecy’** 18/11/2020

DAVID KILLICK. Words: 328

PREMIER Peter Gutwein says he will meet with Ombudsman Richard Connock to find ways to improve government transparency.

The Ombudsman’s annual report revealed the state has the worst performance of any Australian state when it comes to responding to Right to Information requests.

The report revealed that 30 per cent of RTI requests receive no information at all, by far the worst performance in the nation, and almost all appeals against decisions to withhold information were successful.

Labor leader Rebecca White said the result was a sign of the government’s addiction to secrecy.

“It is a damning reflection of the contempt that you hold for people’s right to know,” she said. “Why are you so afraid of transparency? What are you trying to hide?”

Premier Peter Gutwein said the government had made a concerted effort to improve transparency — drawing heckles from opposition members.

Speaker Sue Hickey instructed members to “giggle internally”.

“I took the time last night to read the report and to have a good look at it,” Mr Gutwein said.

“I have to admit, the report does bear further discussion and inspection and this morning I have called Richard Connock and asked for a meeting and asked for a discussion about his perspective and about what can be done to improve transparency.

“We need to understand it, we need to ensure we have a good understanding of what’s occurring.

“I’ll begin that discussion with Mr Connock in the coming days.”

Greens leader Cassy O’Connor said the government had a well-deserved reputation for secrecy.

“You can’t deny these numbers. Apart from organising a last-minute meeting with the Ombudsman to provide some political cover, what are you going to do about it?” she said.

Independent MP Madeleine Ogilvie said transparency was fundamental to democracy. “Government should always be for the people and open to the people,” she said.

Attachment 5: NO MORE SECRETS, Culture of cover-up a cancer on Tasmania's democracy. 20/11/2020

DAVID KILLICK Political Editor. Words: 610

OPINION

CLAIMS of sexual abuse and a cover-up at Ashley Youth Detention Centre and Tasmania's appalling record on handling Right to Information requests seem to have little in common.

They are the same thing: Tasmania's culture of secrecy is a cancer on our democracy.

Abuse claims in education, at the Launceston General Hospital and at the Ashley centre have been known in government circles but kept under wraps for months or years. What else aren't we being told?

Keeping bad news — or any news — from reaching the public isn't some sort of aberration. It is the defining characteristic of this state's political culture.

It infects almost every public institution. It is endemic in the health and education departments, and reflected in the unchecked nepotism of the state's prison system.

It is the leitmotiv of the police service and the courts. DPIPWE could give masterclasses to ASIO at keeping things secret.

It is an obsession that extends to the institutions supposed to protect us: to our milquetoast Integrity Commission and the hasty, opaque inquiries set up to hose down scandals. It runs through our councils and the planning system.

It's reflected in the secret deals in favour of developers and fish farmers, the unfathomable issuing of essential workers' permits for plasterers and carpenters, the parks deals for developers, the million-dollar grants and the favours for donors.

It is a culture that leaves newcomers gobsmacked at its blatancy and audacity.

It is the province of arse-covering public sector jobsworths and self-serving politicians and the army of spin doctors who help them stave off the eternally stretched inquisitors of the press. It is a relic of our convict past, this fear of speaking out. It is a straight line from 'Don't upset the overseer' to 'Don't trouble the Minister'.

The Tasmanian state motto is 'fit in or f... off'.

It is the untroubled embrace of mediocrity, the easy life on the public paycheck. This is no state for whistleblowers. Governance is conducted on a need-to-know basis.

So deeply entrenched, so unremarkable, is Tasmania's aversion to openness that the Commissioner for Children felt it appropriate to tamp down public discussion of the Ashley

rape claims. She says talking about children being raped or abused could harm children. Is that really the problem here?

It all sounds familiar. What other institutions hosed down abuse claims for years, held sham redress processes, dissembled and lied?

When asked in parliament on Thursday about potential abuse of netball players by pedophile nurse and coach James Griffin, Sports Minister Jane Howlett said she couldn't talk about an ongoing police investigation. There is none, Griffin is dead.

It was appallingly, blatantly and obviously untrue. She corrected the record when called out.

Premier Peter Gutwein appeared surprised when he found out Tasmania is the worst state in Australia for releasing public information. This is the same Premier who is hiding a report on electoral donation reform, it's the premier who dodges and deflects at press conferences, who turns the questions back on the inquirer, it's the bloke who is just following the advice of bureaucrats.

It is patronising and entitled and paternalistic. The fish rots from the head, but the whole fish is rotten. Transparency is deeds, not words, Premier.

Where is the anger, where is the outrage?

Why are we protecting pedophiles and abusers from the daylight?

How many child sex abuse scandals and cover-ups will it take for someone in this government to spot the pattern? We know it is more than three.

Is it five? Is it 10?

Attachment 6: **Shh... secret state rules: vast majority of appeals for info upheld.**

14/11/2022.

David Killick. Words: 441

TASMANIA'S bid to shake its reputation as the "secret state" has faltered as public authorities continue to misinterpret Right to Information laws to conceal information that should be made public.

The Tasmanian Ombudsman says the vast majority of appeals against decisions to withhold information are overturned, but appellants are waiting an average of 18 months for their cases to be reviewed amid a massive backlog.

It comes despite repeated commitments from the state government for greater transparency, particularly relating to right to information requests.

Ombudsman Richard's Connock's office is responsible for external reviews of decisions made under the Act.

"Of the 19 external review decisions completed in the 2021-22 reporting year, only three affirmed the decisions of the relevant public authority," he said in his annual report.

"The significant majority varied or set aside the decisions, and two of the decisions in which the public authority's decision was affirmed included significant criticism of the manner in which the assessed disclosure application had been handled," he noted in his report.

"That 95 per cent of the external reviews dealt with in the 2021-22 financial year identified issues with the manner in which the public authority had responded to a request for assessed disclosure is of concern.

"The express object of the RTI Act is clear in relation to its pro-disclosure focus, seeking to increase government accountability and acknowledging that the public has a right to the information held by public authorities who are acting on behalf of the people of Tasmania.

"Too often, sadly, adherence to this object is not evident in practice and a closed, and at times obstructive, approach is taken when responding to requests for assessed disclosure which come before my office."

The report noted that there are 100 further appeals awaiting a review, roughly the same as a year before.

The average wait time for a review is 587 days.

Tasmania has been dubbed the nation's "most secret state".

Former premier Gutwein promised reform in 2020 and revealed that 30 per cent of RTI requests receive no information at all, the worst performance in the nation.

The number of overall complaints lodged with the Ombudsman rose by 27 per cent from 2020-21 to 2021-22 to reach 907 for the financial year. The bulk of the complaints were about state government departments.

Of the 887 complaints dealt with during the periods, 44.5 per cent were declined, referred or out of jurisdiction; 5.5 per cent were discontinued, 39 per cent were found to have no defective administration and 11 per cent were either partly or fully substantiated.

Attachment 7: Time lag as RTI requests multiply: Ministers slow to respond. 02/04/2023.

David Killick. Words: 406

Tasmanians' growing hunger for information from public authorities is being met by a slowdown from departments and ministers – and the granting of fewer requests, a new report shows.

The Department of Justice report into the administration of the Right to Information Act last financial year was tabled in state parliament on Thursday.

It showed the number of requests being dealt with is up nearly 90 per cent since 2019/20, from 1037 to 1957.

But the proportion granted either in full or in part has fallen from 66 per cent to 63 per cent.

And the proportion of requests taking longer than 20 working days to determine grew from 21 per cent to 30 per cent.

State government ministers were the slowest to respond, with just 51 per cent of applications determined within the legally required 20 working days.

Government departments determined 59 per cent of requests within 20 working days, while councils managed 82 per cent and other public authorities 83 per cent.

And incorrect decisions continue to be made.

Ombudsman Richard Connock noted in his annual report that only three out of 19 reviews conducted by his office last financial year resulted in the original decision being upheld. The average wait time for a review is 587 days.

Greens leader Cassy O'Connor said the figures betrayed a government at odds with its spoken commitment to transparency.

"When Jeremy Rockliff became Premier he promised to lead a government of integrity and transparency, but the new RTI figures make a mockery of his claim," she said.

"The Premier and his ministers are leading from the front, with the slowest response times for RTI requests.

"RTI requests have been delayed for weeks and months with the most feeble excuses, and government officials try to exploit or invent loopholes regularly."

Mr Rockliff said the government had provided more resources to the Office of the Ombudsman to handle RTI appeals.

Last year's state budget also allocated \$500,000 over two years to improve and speed up RTI capability and practice in the State Service.

“Well, of course we have put more resources into the Ombudsman process,” Mr Rockliff said on Saturday.

“There’s been – as I understand it – more staff shortages, which are being alleviated now with recruitment of more personnel, as my understanding.

“But the RTI process is at an arm’s length from ministers, as it should be.”

Attachment 8: **State's poor secrecy record: RTI system rife with refusals: report**

14/07/2023

David Killick. Words: 417

Tasmania's right to information system is failing to meet its central goal of delivering affordable, effective and timely details to citizens, a new report has found.

The Environmental Defenders' Office report lutruwita/Tasmania's Ineffective Right to Information System and How to Fix It has found that despite government pledges of increased transparency, things are actually getting worse.

It notes the state has the highest rate of refusals in the nation, an error rate of 70 per cent for initial assessments, unacceptably slow times for reviews of decisions, a growing backlog of appeals and low accountability for mistakes.

"Our analysis confirms that lutruwita/Tasmania's right to information regime is foundering; public authorities are failing to give effect to the objects of the RTI obligations by providing access to information," the report said.

"In fact, lutruwita/Tasmania has Australia's highest error rate in the interpretation of right to information legislation by public authorities and Australia's highest rate of refusal to grant access to information.

"EDO has also found that Tasmanians will also experience delays of nearly three years for external review of RTI decisions."

It echoes observations by leading RTI expert Rick Snell that the Tasmanian Ombudsman's office is a bottleneck for appeals and says there is a need for more funding and resources.

It recommends a review of the RTI Act and amendments to make speedy and complete disclosure of government information the default rather than the exception.

Report author and EDO Tasmania managing lawyer Claire Bookless said it was time to change government culture from one of secrecy to one of openness.

"Our investigation has found the Tasmanian government is the most secretive in Australia, and this has serious implications when it comes to the realm of environmental law," she said.

"Successive governments in Tasmania have denied or delayed access to information that citizens need to participate in environmental decision-making, which is an essential part of any healthy democracy.

"The tendency towards secrecy occurs particularly when the information may be embarrassing for the government or the industries it is supposed to regulate.

“Secrecy undermines public confidence in decision-making and contravenes standards articulated in the United Nations Framework Principles on Human Rights and the Environment.

Attachment 9: **RTI panel lashed over conduct: Integrity Commission calls for disbanding:**
22/5/2024.

David Killick. Words: 535

The Integrity Commission has recommended disciplinary action be taken against a Department of Health employee who refused a Right to Information request by falsely claiming the material could not be released for copyright reasons.

The Commission also recommended Health disband its Right to Information panel due to “serious misconduct risks and its capacity to subvert compliance with the Right to Information Act”.

The report of Investigation Gatehouse was tabled in state parliament on Wednesday.

An opposition MP requested a copy of the acoustic design report for the Royal Hobart Hospital helipad in July 2021.

The Department of Health employee responsible for assessing the request asked the company who produced the report whether it was covered by the provisions of the Copyright Act and therefore should not be released.

The company responded: “There is nothing in the report that is unique ... that we would want to protect our competitors from viewing.

“The report was not prepared for use beyond the project and/or public viewing, however, there is no contractual obligation for the department to keep the report confidential.”

However, the employee refused the release of the information.

“The owner asserts copyright in the material. In my view the disclosure of the material prepared by the owner would be a breach of copyright,” they wrote.

The Department of Health deputy secretary who signed off on the decision also backed it being withheld but told the Integrity Commission he hadn’t seen the response from the company.

“I’m a bit distressed that I didn’t see it because it completely changes the decision in my view, it makes my decision invalid.”

An internal review by the Department of Health – conducted by the same employee – upheld their earlier decision to withhold the document.

The Integrity Commission found this was a conflict of interest. The employee told the Integrity Commission “just because someone is a member of parliament or a journalist that’s trying to generate a story doesn’t mean it’s in the public interest”.

The Integrity Commission noted the same employee had demanded a well-known ABC journalist, who sent an email from her ABC email account with an ABC signature block – prove she was a journalist.

That was something their manager conceded was “probably a little bit too strict”.

The same employee decided that acclaimed journalist Camille Bianchi was not a journalist for the purposes of the RTI Act, the report noted.

The Integrity Commission recommended the secretary of the Department of Health “undertake a formal disciplinary process into the conduct of the employee based on the findings of fact about the employee’s conduct, as set out in the investigator’s report”.

“For unknown reasons, the employee misconstrued the contents of the email in their draft statement of reasons when they referred to copyright over the report as a reason to not release information under the RTI Act,” it said.

“The email from the company clearly stated that copyright rested with the Crown and there was nothing unique or confidential in the report. Further, the employee did not seek advice from Crown law, despite being aware that copyright rested with the Crown.”

Neither the employee or the Department of Health deputy secretary were named in the report.

Attachment 10: Cross our hearts, we'll do better: 23/05/2024

David Killick. Words: 372

The health department has pledged to do better after a scathing Integrity Commission report into the handling of right to information (RTI) requests.

In a report released on Wednesday, the Integrity Commission called for a staff member in the department to be disciplined for wrongfully withholding information after falsely claiming it was covered by copyright.

Department of Health Associate Secretary Shane Gregory said an investigation had begun into whether the employee's actions were a breach of the State Service Act.

"The department is taking the findings of the Integrity Commission investigation into RTI procedures very seriously, accepting all recommendations and committing to improve processes," he said.

"I want to reassure all Tasmanians that having been made aware of these findings, the Department of Health has acted swiftly, accepting all recommendations, and taking action."

Hobart lawyer Roland Browne lodged the original complaint with the Integrity Commission in 2021. He said the long delay in resolving it was unfortunate.

"This is a disgraceful episode, emblematic of a government culture that has no respect for the importance of a functioning and effective freedom of information system," he said.

"This culture undermines democracy. Most significantly, there's been no investigation into whether, and if so, how, the government fostered this state of affairs.

"The government cannot claim ignorance because this culture originates from the very top of the tree."

Greens MLC Cassy O'Connor said the findings were not surprise.

She said the Greens had been calling out RTI panels, which have politicised RTI decisions and subverted lawful processes. But she said they had been met with denial from the Premier and his ministers.

"The Premier – who was also health minister at the time the RTI request lodged by the Greens was being improperly handled – can no longer bury this head in the sand and deny the significant cultural issues that persist in the RTI process," Ms O'Connor said.

Independent MP Kristie Johnston said it was undesirable that it took 2½ years to uncover the "dodgy" handling of RTI requests by the Department of Health.

Attachment 11: **RTI jump but little to show: slow response times** 27/5/2024

David Killick. Words: 367

Tasmanians are seeking more information from government through Right to Information requests – and getting less information more slowly, official statistics show.

The Department of Justice report into the administration of the Right to Information Act across the whole of government, tabled in state parliament, shows Tasmanians made 2165 RTI applications in 2022-23, up 10.6 per cent on the previous year, and 55 per cent on the year before that.

But of the 2050 applications determined, just 28.5 per cent were granted in full, down from 41.5 per cent the year before – with another 48 per cent being granted in part.

Five per cent were refused completely: mostly because the information was either available for purchase or was already available through other means.

Response times appear to have slowed with 61 per cent of applications being determined within the legally required 20 working days, down from 73 per cent in 2020-21.

The Ombudsman continues to find errors in the way applications are assessed. Of the 22 external reviews conducted by the Ombudsman, 17 per cent were varied and 25 per cent set aside altogether.

The Integrity Commission handed down a scathing report into the Department of Health's handling of RTI requests last week: recommending disciplinary action against a staff member who falsely claimed exemption from disclosure for information that should have been released.

The Department of Justice figures showed internal reviews by the Department of Health upheld in full 15 of 16 decisions it made during 2022-23.

Greens leader Rosalie Woodruff has expressed concerns about the use of RTI panels within other government departments “to run cover for ministers”.

Premier Jeremy Rockliff said the Department of Health was taking the Integrity Commission report extremely seriously but did not say whether other departments were using a similar approach.

“Regarding the report on the Department of Health, it has already disbanded its RTI panel,” he said.

“It has developed new RTI policy and procedures.”

Mr Rockliff's department was one of the slowest respondents to RTI requests in 2022-23, with 14 of 24 applications received taking more than 20 working days to determine.

“This points yet again to another failure the Integrity Commission to do its job in a transparent, timely manner.”

Attachment 12: **RTI report kept secret: Tips to fix transparency redacted** 25/06/2024:

David Killick. Words: 586

Suggestions for improving the transparency of Tasmania's Right to Information laws have been redacted from a government discussion paper released under Right to Information laws.

The Right to Information Uplift Project discussion paper was part of a \$500,000 government push to improve transparency in the 2022-23 budget.

It is part of the response to the recommendations of the Commission of Inquiry.

The paper was completed in August last year but wasn't released to the public until a lengthy and dogged fight by the state's leading RTI expert, who described the process as "a farce".

"Proactive disclosure is not being used as the primary method for releasing information, as required by law," the report notes. Large sections of the report eventually released have been blacked out.

"The successful performance of RTI is impacted by some officers who maintain an attitude against disclosing information," it says in one of the unredacted sections.

Five complete pages and sections of others were withheld under section 35 of the RTI Act, which relates to "internal deliberative information".

"Some information sources promote negative publicity about the performance of the Tasmanian State Service's right to information service," the report says, adding that this negatively affected the morale of RTI officers. University of Tasmania Associate Professor Rick Snell is the state's leading expert on RTI laws.

He said he had to put in an RTI request just to find out who was on the committee and waited weeks for a response.

Eventually he discovered a reference to the report, which also took an RTI request and another long wait to obtain.

"There's a reason I don't have much hair – this is it," he said. "Every step of the way they had the opportunity to show best practice, do the right thing, do it quickly and simply. Just withholding the information is stupid," he said.

"They just had every opportunity to deliver, and they failed every single opportunity.

"It's simply a farce. It's like a script out of Utopia."

Member for Nelson Meg Webb asked questions of the government about the issue in parliament last week.

“It’s impossible to escape the irony of having to resort to RTIs and multiple questions in parliament just to obtain a clear status update on the RTI Uplift Project, which was intended to improve government transparency and boost public confidence in our RTI laws,” she said.

“Each time I ask a question in parliament, the response raises further questions.

“Why hasn’t the Project Steering Committee met since the 3rd of August last year, and when will it meet again?

“Will the apparently unspent \$400,000 of the project’s allocation still go into improving the RTI system, or will it be clawed back into the government coffers, and why isn’t the community receiving frank and regular updates?”

A response from the government acknowledged that the Commission of Inquiry had called for greater transparency and the government has responded in the budget.

“This funding recognised the government’s existing commitment to improving access to information through its transparency agenda,” the response said.

“Departments and public authorities remain committed to improving RTI processes, including recruiting additional staff, streamlining processes, waiving fees for victim-survivor applicants and their representatives, and ensuring applicants receive appropriate clinical support if the information released may be traumatising,” it said.

The RTI Uplift Project is expected to meet again in the coming weeks.