

**Presentation to the GOV CIO summit  
1 February 2010 Royal Pines Resort, Gold Coast**

**Implications of Queensland's Right to Information Reforms for Government CIOs**

The government record-keeping and the information management community more generally, is in the wake of an information explosion, without the tools to properly organise it and the systems that can overlay information to make it useful for the community. It is simultaneously challenged by gaps in fundamental data sets, identified in part by the accelerating demand for better and more data.

The industry in fact was a microcosm of the issues identified by the Independent FOI Review Panel when it reviewed Queensland's Freedom of Information legislation, commencing in 2007. At that time the industry through the National Summit on Open Access to Public Sector Information held in 2007, demonstrated the industry was already influenced by OECD thinking, and had by that time identified for itself many of the issues facing the industry and reflected upon by the Independent FOI Review Panel. But we should not let this take away from the story of reform of Queensland's Freedom of Information legislation and the implications for information policy generally and CIOs in particular.

**What are Queensland's Right to Information Reforms?**

In September 2007 within days of Premier Bligh becoming the Premier, Cabinet had approved the terms of reference for a broad ranging review of FOI. An independent panel chaired by Dr David Solomon AM was appointed. The independent panel delivered its final report in June 2008. The government responded in August 2008 by supporting most of the 141 recommendations.

Terms of reference

The independent panel was asked to assess whether the FOI laws were working effectively and what improvements could be made in the context of the Premier announcing to Parliament that the FOI legislation is one of the most important accountability mechanisms for a healthy democracy. In the words of the Premier

*"By establishing this independent review panel to comprehensively review our freedom of information laws, my government is demonstrating its ongoing commitment to open and accountable government."*

General findings

In answer to the question "has FOI in Queensland brought about a "major philosophical and cultural shift in the institutions of Government and the democratisation of information in the last 15 years?" The review said 'no'. The review found that the priority of by government over the last 15 years on

the interoperability of systems, the creation of whole of government data centres etc had meant that little attention had been given to the accessibility of government information by the people, accessibility being effected by availability; searchability; discoverability; transparency of public language; transaction costs; the preservation of information and conditions on the use of the information. The review essentially found that FOI had become an administrative task for agencies and that this had weakened its capacity to be employed strategically and to bring about organisational change. Specifically the review found in relation to the legislation that serial amendments to the law had been contrary to the objective of the Act. In relation to the administration of the law the Review found that the atmosphere did not encourage the fearless application of the law. In short the new era of openness in government had succumbed to the long held views Australia's early public servants inherited the British attitude to official secrecy where the public was provided with information when the government decided there was a need to know, rather than the public having a right to know, and the anonymity of public servants and confidentiality were seen as the twin pillars of professional public service.

The Independent FOI Review identified necessary pre-conditions to sustaining freedom of information law and practice in the spirit of the original draft of the Act. They were

- a favourable policy momentum
- congruent political will (use e.g.)
- a supportive architecture including a **strategic information policy together with a governance framework** that has clearly articulated roles for all relevant agencies including the Public Service Commission, the Information Commissioner, Qld State Archives and the QG Chief Information Office. The architecture includes **a new Act** which has as a basis the notion that information is to be pushed into the public space rather than pulled out of the government space and a **strategic information policy**.

### **What has FOI and RTI to do with CIOs?**

I will now identify some of the specific deficiencies in the old FOI scheme and highlight the way the RTI legislation intends to rectify them with a particular focus on those matters that will affect information management and ICT. The following then is a list of the expected benefits to be reaped from the Queensland approach to RTI.

- First, narrow interpretation of exemption provisions by agency decision makers which operated as a brake on public access to official information has now been replaced with a legislative presumption that all documents are open to the public. Government information is in fact a community resource. This represents a huge cultural shift away from the public being told what the government wanted the community to hear when government decided there was a need for the community to know. Fundamentally it also has implications for pricing policies and open access arrangements.

- Second, the small number of documents agencies were previously required to publish in a Statement of Affairs has been replaced with a requirement to maximise the publication of government information holdings. Agencies are required to publish significant, appropriate and accurate records. Attention has now turned to the systems needed to do this, what and how that information can be published in an accessible way and so that the volume of information does not overwhelm or create what is termed in consumer policy, a confusopoly.
- Third, the intention of the regulatory framework is to make formal applications under the RTI legislation a last resort, with citizens being able to freely access already published information holdings or being able to administratively access information. The practice of some agencies to only provide information requested by the public under the FOI Act in response to individual requests for information has been replaced by the 'push' model where agencies are expected to not only be proactive about the publication of information but to provide administrative access to it. This obligation on agencies requires them to analyse demand for information, anticipate demand for information and to make broad categories of information immediately available in an accessible format or through administrative access schemes. The implication of this shifts responsibility for FOI from the agency FOI decision maker to the agency as a whole. This requirement has focussed senior manager's attention on agency information systems responsible for either the publication or administrative release information and the approval systems for the release of data. Administrative access schemes require individual officers to be clear about their secrecy, loyalty, fiduciary and confidentiality obligations, for agencies to be clear about their security classification schemes. This provides CIOs with a broader focus than the security of the storage systems to broader security interests concerning the management of and disclosure of information.

There is a requirement for public sector officers need to have a working knowledge of what is an official record, how to assess the category of information they are managing and understand what they can lawfully do with it. To manage the risk for individual staff, agencies will be required to identify the classes of information it is prepared to release administratively, and the officers who can make such decisions through the organisation. Systems are needed such as ex-ante decision making and creative commons licensing to so releasable and reusable documents are marked early and easily identifiable by the staff and the public. This will integrally involve every one in the agency in information management.

- Fifth, the failure under FOI to focus on improved accessibility of public sector information is being addressed through a strategic information policy which now, for the first time in Queensland includes a focus on information management. This will bring Queensland into what Professor (now Justice) Paul Finn has described as the third phase of

information management. This new emphasis will give impetus to rolling reform in information management in Queensland in the next 10 years.<sup>1</sup>

- Sixth, improved access to official information will also focus agencies' attention on the quality and integrity of the information that is published.
- Seventh, what was lacking under the FOI regime was a body which could play a part in promoting RTI and Information Privacy, and monitoring compliance. The RTI reforms put in place institutional governance arrangements to ensure that there is compliance with the object of the new legislation. The Information Commissioner can proactively promote and encourage agencies in their information handling practices and can monitor compliance with the new regulatory framework.

Having identified the specific deficiencies under the FOI scheme and how they are remedied under the RTI scheme, and some of the implications for CIOs, the key messages for CIOs include:

- A shift in ICT priorities to include information management, not just in language but also material effort
- A shift in agencies away from FOI being the administrative responsibility of FOI units and record-keeping the administrative responsibility of the record-keeping unit to wider agency responsibility
- A shift in roles or role priority of CIOs from the use of information and communications technologies to include citizen centred information management.
- A shift in agency governance arrangements so that information management becomes the responsibility for the whole executive, not just the CIO or the corporate services manager
- A recognition by agencies that information is a strategic asset that needs to be managed both in terms of systems and governance like human and financial resources
- Government is in the information business and it holds the information in trust for and on behalf of the community which has a right to it.
- Information is a strategic asset that needs to be utilised by agencies to promote desirable social, environmental and economic goals. Let me add some meaning to this statement with some examples. With respect to economic goals, I shall use a quote from the Government 2.0 Taskforce Report - *Engage: Getting on with Government 2.0*:

*"The United States makes complete weather data available to anyone at the cost of reproduction ... European countries, by contrast, typically claim government copyright over weather data and often require the payment of substantial fees. Which approach is better? ... The US weather risk management industry, for example, is ten times bigger than the European one, employing more people, producing more valuable products, generating more social wealth. Another study estimates that Europe invests €9.5bn in weather data and gets approximately €68bn back in economic value — in everything from*

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<sup>1</sup> Finn, Paul, Government Information- law and legislation. 1991. Interim Report. ANU Research School of Social Science. Integrity in Government Project.

*more efficient farming and construction decisions, to better holiday planning — a seven-fold multiplier. The United States, by contrast invests twice as much — €19bn — but gets back a return of €750bn, a 39-fold multiplier. Other studies suggest similar patterns in areas ranging from geospatial data to traffic patterns and agriculture. ‘Free’ information flow is better at priming the pump of economic activity.”*

With respect to environmental goals, the Queensland’s Water Commission providing information to South East Queenslanders about their water usage levels on an increasingly scarce resource in a successful bid to garner community involvement and action in the solution to the water shortage. This strategy provided an effective alternative policy response for government to other market based responses espoused by the Commonwealth Treasury.

With respect to social goals, the Commonwealth Government’s MySchool initiative in part is about driving improvement in school performance by making public performance results. For example, the names of the most violent licensed premises are published in NSW.<sup>2</sup> The strategic use of government information has been credited for a downturn in the number of reported incidents of alcohol related violence in NSW. The NSW Police Commissioner Mr David Owens considers that a combination of tougher police enforcement of incidents, restrictions on opening hours and the “shaming” of pubs by publicly listing their assault rates’ has had a significant effect on the number of incidents.<sup>3</sup> This example appears to provide evidence that the use of crime statistics can activate the community in resolving the related issue and to dampen demand on public services.

CIOs have an integral role to play in assisting their agencies use information as a strategic asset. Queensland Government CIOs are supported by the Queensland Government Chief Information Office which has in place an enterprise architecture framework which is a collection of policies that guide agency ICT initiatives and investments to improve compatibility of and cost effectiveness of ICT across government. In response to the Independent Review Panel’s report on FOI, the Queensland Government has developed the Queensland Government Information Management Strategic Framework in recognition of the fact that mature information management underpinned its vision of an open, accountably and participatory government. The framework was developed collaboratively by the Queensland Government Chief Information Office, Queensland State Archives, the Queensland Information Commissioner, the Strategic Information and ICT Council Information Management Sub-committee. Key documents that form that framework include the information principles that establish the Queensland Government’s values and approach to information, its use and its management; an information policy and position specifying the overarching requirements and targets for agencies; the information management policy framework which identifies and defines the various areas which contribute to effective

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<sup>2</sup> See - ‘Revealed: the most violent pubs and clubs’ a report by Matthew Moore, Sydney Morning Herald 11 March 2008.

<sup>3</sup> ‘NSW to stay tough on pub violence’ report by Stephanie Gardner, AAP, 5 November 2009.

information management, and the information management action plan which sets out the actions to achieve the goals of the strategic framework.

### **What has RTI got to do with other whole of government reforms impacting on CIOs?**

The business of government differs from doing business within a marketplace. Primarily the differences stem from the necessity for government to always act in the public interest and its accountability through the Parliament to the electorate. The differences between government and business have implications for many things including the way in which the government prices its services, contracts, prioritises, and engages with the community.

The Premier aims to have the most open and accountable government in Australia. This aim says something about how the Government would like to transform the interface between it and the community. Government's embrace open government for a range of reasons including fighting corruption and improved accountability, making government more user friendly in order to improve service delivery and increasing interaction between government and external stakeholders, promoting confidence in democracy as a system of government, and achieving other equally important policy goals such as social cohesion and economic growth.

The RTI reforms are central to achieving all this as they are intended to provide better and easier access to information for the community which in turn provides them with the capability to better scrutinise government.

The OECD has established that

*From the public's point of view, an open government is one where businesses, NGOs and citizens can "know things" i.e. obtain relevant and understandable information; "get things" i.e. obtain services from and undertake transactions with the government; and "create things" i.e. take part in government decision making processes.<sup>4</sup>*

Reflecting on these things it becomes apparent that open government has the three dimensions identified by the OECD:

*transparency, in other words being exposed to public scrutiny; accessibility to anyone, anytime, anywhere; and responsiveness to new ideas and demands. These dimensions sound familiar and simple but they present a major challenge to our systems and structures.<sup>5</sup>*

In understanding the link between RTI and Open Government and the Open Government agenda, it becomes clear that many recent initiatives have open government as a basis: The Commonwealth Government's world's best public service being more innovative and providing more strategic advice, The Bligh Government's public sector modernisation agenda including the its Q2 strategy through government ICT.

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<sup>4</sup> OECD Policy Brief. 2005. "Public Sector Modernisation: Open Government", p1

<sup>5</sup> Ibid., p2

Better and easier access to government information has a number of dimensions important for CIOs consideration. It's not just access to information though, it's an orientation around what information would be useful to assist the community to do a range of things including: scrutinise the government, making it more accountable, building knowledge and innovation, solving problems, preparing for future challenges and improving resilience. The utility of information in the hands of the community is largely determined by the following range of factors: legal restrictions on making information public including 'information exemptions' which have been reformed in the legislation which commenced in July this year; availability; searchability; discoverability; transparency of public language; transaction costs; the preservation of information and conditions on the use of the information. These have all been of concern for CIOs, but now have greater emphasis. The RTI reforms require agencies to improve on each of these dimensions of accessibility in shifting from the old pull model to the push model of information disclosure.

We are seeing similar themes in the Queensland Government's new Performance Management Framework with its shift to a services and standards framework. The Government itself has increased its accountability by stating its vision for Queensland in 2020 and its performance goals in Q2 for a stronger, greener, smarter, healthier and fairer Queensland, with obvious implications for information management and ICT. The Government has stated how information and communication technology can help deliver these things in its strategy *Toward Q2 through ICT*. Fundamental to this is a desire to improve and re-shape service delivery, consistent with the Federal drive for a world class public service. These ideas are in addition to the demands already on CIOs around integrated service delivery, WOG data centres and the interoperability of existing systems.

The RTI reforms in Queensland are not only about information disclosure. They are also about how government interacts with the community and how uses its information assets as a strategic resource including performance measurement. There are common themes throughout each piece of the government's public service reform agenda and they are linked to the OECDs modernisation agenda and the RTI reforms are at the heart of those.