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Tasmania



11 August 2023

Premier, the Hon Jeremy Rockliff MP
Executive Building
15 Murray Street
Hobart TAS 7000

By email only: jeremy.rockliff@parliament.tas.gov.au

Dear Premier,

Urgent action required to fix Tasmania's right to information system

The right to information (**RTI**) is enshrined in several international agreements, including Article 19 of the International Covenant on Civil and Political Rights.

RTI is a critical component of Australia's system of government and helps to ensure that decision-makers are accountable for their decisions. A well-functioning RTI system helps maintain trust in our political system.

In recent years, there has been a mounting perception that Tasmanian government agencies are increasingly obstructing public access to information.

While the Tasmanian Government has emphasised its commitment to governing with openness, fairness and transparency,¹ concerning new data has been published that confirms there is an urgent need for action to fix problems that are plaguing Tasmania's failing RTI system.

New data highlights deficiencies in Tasmania's RTI system

Last month, the Environmental Defenders Office (**EDO**) published the report [Transparent Failure: Tasmania's ineffective right to information system and how to fix it](#) (the **Report**). The Report reviewed the handling of applications under the *Right to Information Act 2009* (**RTI Act**) by government departments, statutory authorities and the Tasmanian Ombudsman's Office.

The Report's findings highlight serious deficiencies in the administration of RTI laws over an extended period.

¹ See Tasmanian Government media release at:

https://www.premier.tas.gov.au/budget_2022/budget_releases/governing_with_integrity_and_accountability

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The Report found that Tasmania has:

- **The highest rate of refusals.** Tasmanians are more likely to have their RTI applications refused than citizens anywhere elsewhere in Australia.²
- **An unacceptably high rate of errors.** Tasmanian Government agencies routinely misinterpret the RTI Act when assessing applications. Up to 70% of RTI refusals that have been externally reviewed over the past five years have been overturned by the state Ombudsman.³
- **Unacceptably slow review times.** Citizens must wait almost three years on average to have refused RTI Act applications reviewed. When information is finally released, it is often too old to be of use.⁴
- **A large and growing backlog of unresolved reviews.** Funding for external reviews has flatlined over the past decade while the number of external reviews requested has increased steadily, creating a large and growing backlog.⁵
- **A low level of government accountability.** In any democracy, access to government information is a critical component of government accountability. Currently, the RTI Act is not being administered in a way that allows for the efficient public scrutiny of government decisions.⁶

How to fix the RTI system to improve transparency and accountability

While we welcome the Tasmanian Government's commitment to openness, fairness and transparency and its injection of an additional \$500,000 in the Tasmanian budget over two years to provide training RTI officers within government agencies,⁷ the Report highlights that much more can and should be done by the Tasmanian Government to address the chronic delays and errors plaguing decisions in our RTI system.

We call on the Tasmanian Government to back its commitment to governing with openness, fairness and transparency by taking urgent action to fix Tasmania's failing RTI system, including by:

- Commissioning an independent review of the implementation of the RTI Act with a focus on how improvements can be made to improve the efficiency and effectiveness of the RTI system.⁸
- Reforming the RTI Act to ensure that there is a clear presumption in favour of the public disclosure of information, deadlines on external reviews of RTI decisions by the Tasmanian Ombudsman's office, options to appeal RTI decisions to that Tasmanian Civil and Administrative Tribunal, and regular independent reviews of the operation and implementation of the RTI Act.⁹
- Providing ongoing RTI Act training to public authorities by a suitably qualified independent body with a particular focus on the RTI Act's exemptions and the correct application of the public interest test.¹⁰

² Refer to Key Finding 1 in the Report.

³ Refer to Key Findings 2 and 3 in the Report.

⁴ Refer to Key Finding 4 in the Report.

⁵ Refer to Key Findings 5, 6 and 7 in the Report.

⁶ Refer to Key Findings 9 and 10 in the Report.

⁷ Ibid at n 1.

⁸ Refer to Recommendations 3 and 7 in the Report.

⁹ Refer to Recommendations 1, 2, 4, 5, 6, 9 and 12 in the Report.

¹⁰ Refer to Recommendation 8 in the Report.

- Providing additional resources to the RTI jurisdiction of the Tasmanian Ombudsman’s Office to arrest and reverse the growing backlog of external review applications.¹¹

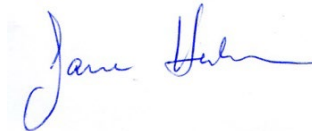
In addition to reforming the RTI Act and providing adequate resources and training on RTI to government agencies, we call on Tasmanian Government Ministers and the heads of government agencies to demonstrate strong leadership to ensure that a renewed culture of openness and transparency is fostered in all aspects of Tasmanian government decision-making and administration.

The current lack of transparency in government decision-making and administration is threatening the health of Tasmania’s democracy. We therefore strongly urge the Tasmanian Government to take the actions outlined in this letter to fix our failing RTI system.

Yours faithfully,



Claire Bookless
Managing Lawyer – lutruwita/Tasmania,
Environmental Defenders Office



Jane Hutchison
President
Community Legal Centres Tasmania



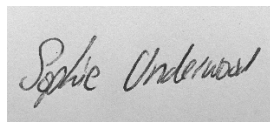
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Sophie Underwood
State Director
Planning Matters Alliance Tasmania

¹¹ Refer to Recommendations 11 and 12 in the Report.

Copies to: Elise Archer MP
Attorney General and Minister for Justice

Rebecca White MP
Leader of the Opposition

Ella Haddad
Shadow Attorney General and Shadow Minister for Justice

Rosalie Woodruff MP
Leader of the Tasmanian Greens

Richard Connock
Tasmanian Ombudsman