FACT SHEET

RIGHT TO INFORMATION AMENDMENT BILL 2019

The Right to Information Act has been in operation for a decade. Sufficient time has elapsed to give a good picture of how the Act operates.

At the time the RTI Act was passed, it was clear the parliamentary intent was to make clear the Ombudsman's jurisdiction in his capacity to review RTI decisions, and to increase government and ministerial accountability.

On debating the Bill in 2009, Ms Giddings said a key element of the legislation was 'the extended role of the Ombudsman' and provided that 'the Office of the Ombudsman continues to be the review body for the Right to Information Act and have greater flexibility and increased powers in determining reviews'.

Mr Hodgman said 'it is important to better empower the Ombudsman' and that he was 'pleased the Office has been given more defined and broader powers under the Bill'.

However one feature of the legislation's operation that has come to light in the last ten years is the differing views on the Ombudsman's jurisdiction to review decisions made by a delegate of a Minister under the Act.

This has been compounded by the recent decision of the Supreme Court of Tasmania in *Gun Control Australia Inc v Hodgman and Archer.* The decision holds that the Ombudsman should not have the ability to review decisions made by the delegate of a Minister or by a Minister. This limits the Ombudsman's jurisdiction even further.

The Bill makes simple amendments to the RTI Act to ensure the Ombudsman's jurisdiction to review RTI decisions of Ministers *and* their delegates is clear.

The Bill also removes the requirement for an internal review to have been conducted before an application for an external review of a Right to Information decision can be lodged.

Several other jurisdictions also do not have internal review as part of their RTI process including Victoria, the ACT and the Northern Territory within Australia, as well as New Zealand, the United Kingdom and the United States.

This change will bring Tasmania into line with these comparable jurisdictions.

The change is desirable, as internal review processes rarely result in substantive changes to a decision. Often internal review decisions result in information still not being released, but a different section of the Act being relied upon for refusal. In other examples cited, an internal review may release minimal extra information only.

It can be said the only practical effect of internal review is to delay the time it takes for a review to be submitted to the Ombudsman for external review.

Allowing unsuccessful applicants to apply straight to the Ombudsman for a review of a decision is likely to be advantageous to applicants and for better public access to information in Tasmania.