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Minister for Corrections
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Hon Ivan Dean MLC
Chair, Public Accounts Committee
Legislative Council
Parliament House
HOBART TAS 7000

Dear Mr Dean

Thank you for the opportunity to contribute to the inquiry to examine the Office of the Ombudsman and Health Complaints Commissioner.

The Tasmanian Government acknowledges and understands the critical role the Ombudsman plays in ensuring the administrative actions of public authorities are lawful, reasonable and fair. The Government has confidence in the Ombudsman's office ability to manage its workload in the most effective and efficient way possible.

This is reflected by recent Government actions which include providing the Office of the Ombudsman with additional funding of \$245,000 per annum in this year's State Budget, for two additional staff members to review Right to Information matters referred to the Office. From positive discussions with the Office, I understand that this funding will enable the Office to undertake reviews of RTI decisions made by public authorities referred to the Office in a more timely manner.

I am also pleased to advise that the Ombudsman, Mr Richard Connock has recently been re-appointed to his held positions for a further term of five years.

The Government also tabled the *Right to Information Amendment (Applications for Review) Bill 2019* in Parliament on 13 June 2019. This Bill seeks to address a gap in the current rights of applicants and external parties to apply to the Ombudsman for a review of certain decisions in relation to applications for assessed disclosure under the *Right to Information Act 2009*.

A recent decision of the Supreme Court in Tasmania has clarified that a decision made by a Minister or a Minister's delegate under the Act in respect of whether or not to release information in the possession of the Minister, is not currently reviewable by the Ombudsman. Following the Supreme Court decision in *Gun Control Australia Inc v Hodgman & Archer* on 8 February 2019, it is now understood that a decision in respect of an application to a Minister for assessed disclosure does not give rise to the same right of external review to the Ombudsman as a decision in respect of whether to release information where the application was made to a public authority.

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Consequently, the Bill maintains the existing review rights for applicants under Part 4 of the Act and makes a number of changes to ensure that a right of external review by the Ombudsman is available for applicants for a decision on whether information will be released under assessed disclosure, regardless of whether the application is made to a Minister or to a public authority, and whether the original decision is made by a Minister, a principal officer of a public authority or a delegated officer. The proposed amendments also provide that an external party who is consulted under section 36 or section 37 in relation to whether the information is exempt information under the Act will have a right to external review by the Ombudsman.

In maintaining existing review rights in the Act the Government's intention is that the internal review rights are maintained and in support of this I would refer the Committee to recent Right to Information Annual Reports on the Department of Justice website (https://www.justice.tas.gov.au/about/right_to_information). Internal review is time limited and therefore, a quick process reducing the potential number of applications to the Ombudsman and, for instance, I note in 2017/18 that around 43% of internal reviews were determined in favour of the applicant or were otherwise resolved without the need for a determination.

The Government remains committed to improving the openness, accountability and transparency of the operations of Government in Tasmania. That is why we have acted quickly to address this matter. These changes will further the objectives of the *Right to Information Act* by ensuring that both applicants and external parties have a review to the Ombudsman in relation to decisions on whether or not information should be provided under the Act, regardless of whether the application for that information is made to a Minister or a public authority.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'E. Archer', written in a cursive style.

Hon Elise Archer MP
Attorney-General
Minister for Justice