Faulkner orders agencies to improve FoI

By Markus Mannheim
Public Service Reporter

The Commonwealth’s top bureaucrats have been told to improve their officers’ attitudes to making information public.

The Special Minister of State, John Faulkner, wrote to agency heads last week to ensure they understood his plans to improve freedom of information laws.

The Senate is expected to approve a Bill this month that will abolish “conclusive certificates”, which allow ministers to suppress documents without giving reasons why.

Senator Faulkner also unveiled a wider range of draft changes to the FoI Act in March, which, if passed, will cut the cost of FoI applications and encourage a “pro-disclosure culture” among public servants.

The proposed laws prevent officials from denying requests on the grounds that the information may cause “confusion or unnecessary debate” or “embarrassment to the government”.

The Government also plans to appoint an independent FoI commissioner to ensure the laws are administered fairly.

Senator Faulkner’s letter reminded departmental secretaries that the Government’s policy was to increase the public’s access to information.

He urged them to take a lead role in creating “a culture of disclosure across agencies”.

“This includes making it clear to FoI decision-makers in your department or agency that the starting point for considering FoI requests should be a presumption in favour of giving access to documents.”

He acknowledged it was proper to exempt some documents from the Act, but said the challenge was to “extend access to government documents as far as possible without jeopardising the confidentiality of material that is genuinely confidential to government”.

When Senator Faulkner first announced the changes, he warned the public that changing the bureaucracy’s attitude towards disclosure would be difficult.

“I’m sure no one here will be surprised to hear that FoI reforms are not universally supported by public servants … I know that some in the Australian Public Service feel that FoI reforms may inhibit their ability to provide frank and fearless advice,” he said.

Governance expert and former Australian National University professor Richard Mulgan, writing on the draft FoI laws last month, said public servants would fight moves towards open government. “Senior public servants are acutely aware of how FoI laws work in practice and they manage their department’s documentary paper trail to avoid politically embarrassing disclosures,” he said.

“A more formally open regime is bound to lead to a more defensive reaction from officials and pressure to sanitise the written record.”

Former public service commissioner Andrew Podger used his retirement speech in 2004 to criticise departments’ tendency to reduce record keeping so as to evade FoI requests.