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JOHN T D WOOD Director

15 January, 2013

Dr Allan Hawke AC
c/-Mr Richard Glenn
Assistant Secretary
Business and Information Law Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Dear Dr Hawke

Additional Submission to FOI Review

I write to comment on the submission made to the Review by the Commonwealth Ombudsman. Unfortunately, it, like a number of others from government agencies, seeks to reduce the effect of the FOI Act on its operations – in this case to exempt the Office. It is also sad to note the emphasis on its, and other agencies, issues rather than being an advocate for openness, and considering the complainants point of view a little more studiously.

In this instance I write as a former Deputy Commonwealth Ombudsman who was in charge of FOI matters within the Office for the period 1994-1999. The Office received considerably more complaints about agencies handling of FOI matters – 288 matters in 1994-95; 283 in 1995-96; 301 in 1996-97; and 276 in 1997-98; and 253 in 1998-99 – than is the case currently. We were publicly critical of a continuing culture of secrecy prevailing in agencies, and of a lack of commitment to providing information to members of the public.

In relation to FOI requests about the Ombudsman's own operations, there was a culture of providing the maximum amount of information to requesters. The one area that caused some concern, was requests for documents about an investigation prior to the matter being finalized. In this regard, we suggested that the Ombudsman be given an exemption for the period of the investigation up to the finalization of the investigation. At that stage, all documents created during the course of the investigation should be available, as part of the process of transparency.

The Ombudsman can exercise considerable powers, and is not subject to review except in very limited legal circumstance. It is important, therefore, that the Office is obliged to meet the highest standards of transparency and accountability. Providing a blanket exemption for the Office would be totally contrary to meeting these standards.



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As one who has investigated government, and corporate sector, agencies attempts to deal with issues relating to querulous and vexatious complainants, I would strongly advise against providing agencies with a power to make such a determination in relation to FOI requesters. As recognized in the work undertaken by all Australian ombudsmen on this subject, it is a matter that requires a great deal of sensitivity and professional experience and judgment. This should be left to the oversight agencies alone, i.e. the Information Commissioner and the Ombudsman.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John T D Wood". The signature is written in a cursive, flowing style with some loops and flourishes.

John T D Wood
Director