

No such thing as a free set of documents

Politicians have numerous ways to evade the 'perils' of freedom of information requests.

A few weeks ago, a staff member of Michael Costa rang the electronic bell that alerts parliamentary journalists to a news conference. As TV, radio and press trooped in, one of Costa's minders handed out yet another copy of yet another press release. This, however, raised the eyebrows of even the most jaded of hacks: 'Police Rosters Fol' screamed the headline, in bold. 'The Minister for Police, Michael Costa, today released a series of operational rosters for Cabramatta police after an Opposition request under Freedom Of Information (Fol),' read the handout. A ministerial rush of blood in the name of open government and accountability? Not likely.

Costa was simply taking to the nth degree a strategy which, to be fair, was pioneered by the Greiner and Fahey administrations, but which has been perfected into a political art form under Bob Carr's government.

The tactic — and Costa deserves points for being the only minister to have the gumption to be so upfront about it — is simple. All requests for documents from Opposition or journalists under Fol legislation are now vetted for the potential political impact of their release. While Fol officers in government departments and authorities are the public servants empowered by the 1989 legislation to collate and respond to Fol requests, there would not be one minister's office which did not routinely study all such requests before they are completed and forwarded to the applicant.

As they are thoroughly screened for their potential newsworthiness, the government is then well placed to respond immediately when the issue is made public or, as happened in the police roster case, to release the information with a particular spin attached.

Costa released the rosters Andrew Tink had asked for but stated they would be the last — such demands could compromise operational or officer security, he said. Tink, a respected police Opposition spokesman, has privately accepted this in the interests of officer security. But it is clear that the rosters could have provided a detailed, statewide picture of internal resourcing decisions, particularly in more troubled local area commands such as Cabramatta, an issue, most would agree, of legitimate public interest.

Examples of Fol requests being released and placed strategically to counter their negative impact are no longer rare. About this time last year, page 39 of a Sunday newspaper carried a four-paragraph story under the headline '\$64,000 question for Carr' and revealed that Carr and his wife had spent nearly \$64,000 on a three-week trip to Italy and Switzerland, visiting Turin, Milan, Treviso, Bologna and Rome, before attending the World Economic Forum in Davos.

The last line of the story said that all the Premier's travel had been taken to 'boost trade and investment in NSW and in accordance with State Government guidelines'. You can bet that had that information been released to the person who requested and paid for it under Fol laws, that is, the NSW Opposition leader, it would not have been buried in the paper.

Instead, the government chose to release the details on a Friday night, the story was buried and, in a final insult, the Fol request was delivered to the Coalition offices the following Monday. Good damage control, no doubt. But is it fair?

The NSW Ombudsman, Bruce Barbour, has taken a close interest in the use of Fol legislation. He documents that when Labor came to power, 81% of requests were granted in full. Last year, this had dropped to 70%. It will be

interesting to see whether this downward trend continues when data on this financial year is published in his annual report, due for tabling on 30 October 2002.

While both sides of politics have abused the Fol laws, under Carr the Fol requests are increasingly rejected by spurious declarations of Cabinet or legal privilege, or commercial in confidence, and that what is finally released is then so heavily censored that it is illegible. (Barbour has found that 22% of government agencies last year used an exemption clause to refuse to hand over material.)

Recent attempts to gain access to Sydney Water's dividend payment forecasts are a good example. The vast majority of documents have been exempted from release, either because they 'affect the economy of the state' or are 'contrary to the public interest'.

As Sydney Water is a monopoly, it is difficult to see exactly what financial secrets could possibly be at risk and why taxpayers should not see just how much the Treasury intends to reap from such cash cows and what the moolah will be used for.

Vetting information or pre-releasing it, however, is not the only tactic to dampen requests. Money talks, but you need a lot of it.

Take as an example requests lodged with various government departments to find out what conferences have been attended by directors-general and their senior executive service, and at what cost.

The Department of Education and Training (DET), first cab off the rank, decreed that this Fol request was not only allowable under the legislation but logistically possible. There's one catch: assigning an officer to dig up the paperwork and collate it would allegedly cost the applicant \$9750. (Another request to the DET to outline the amount spent on advertising as well as the ad campaign known as 'Teach Your Children Well' received the answer that 'no single document is held by the department to meet your request'. However, the letter kindly attached three newspaper articles which provided estimates of the government's annual advertising expenditure!)

The same request to the Department of Community Services was refused because it would require 'diverting resources', and the Department of Health quoted \$17,415 to compile the information. This was dropped to \$10,965 after scrutiny, and whittled down to just \$1980 after further protest. Meanwhile, the Premier's Department said the same request would cost \$1440. Obviously, the ludicrous costs have relegated these Fol requests to the 'never-to-be-seen-again basket'.

In May 2000, the then NSW Opposition leader, Kerry Chikarovski, introduced a private member's bill designed to overhaul the Fol Act and 'lift the lid on the state of secrecy'. The reforms would also have created an Fol commissioner empowered to hear appeals, name obstructive departments and make independent determinations on sensitive documents.

It has taken the bill two years to make it to the top of the business list and it is finally slated for a vote in the lower house next Thursday. What's the bet that in this case, the 'ayes' won't have it?

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