

PAN COMMUNITY COUNCIL

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Background Information on the Public Interest Advocacy Centre (PIAC) 4.3.98

46-48 York St., Sydney, 2000. (02)9299-7833, FAX (02)9299-7855

Introduction

With a view to "encouraging" Minister Knowles to release the revised version of SEPP-15 I propose to take steps to obtain a copy of the Draft Policy from the Department under the FOI legislation. To this end I have approached the Public Interest Advocacy Centre (PIAC) for information and guidance.

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I have spoken with Lurline Gillon-Smith at PIAC who is well informed and helpful. The following items summarise the gist of our conversation.

1. Lurline suggests that we apply for a copy of the Draft and access the response as there is often more than one option that can be pursued if there is a need to follow through. She views as I do, that the Department's initial response is likely to be a rejection of our application. (I am advised by a member of the DUAP staff that there is a standing "direction" that policies requiring the Ministers signature are not released to the public prior to signature by the Minister.)

If they say "No", then it is possible to ask for an "Internal Review" of this decision. This means that it will be considered by a more senior member of the Department.

It has been her experience that documents are sometimes released following such a request!

Such a request (if made within a specified period of time) must be carried out by the Department within a specified time.

2. If they still refuse to produce the requested document the current options are:

- (a) One can go the Ombudsperson and get a review. The Ombudsperson cannot "direct" that the document be released but can "recommend" to the Department that a particular course of action be taken.

- (b) One can appeal the decision in the District Court.

3. The Government has promised to introduce a new structure to handle such cases called an "Administrative Decisions Tribunal" (ADT). It was promised that it would be announced on January 1st last! It could occur at any time. (Shades of SEPP-15!)

One of the advantages of appealing to the ADT is that both sides pay their own costs whereas in the District Court, costs may be awarded against one of the parties.

4. Lurline has recently run an appeal in the District Court against DUAP involving FOI.

5. In response to my inquiry re the wisdom of having the original application submitted by a solicitor she advised that this may well have the effect of indicating that we are "serious" and likely to pursue the application to appeal, if it is refused!
6. The DUAP FOI offers are supposed to be helpful in assisting applicants in their request of material under FOI. The Department has an FOI Section in their Sydney office! I have spoken with an officer in this Section and indeed found him to be helpful as far as getting an Application Form and associated information.
7. If one can convince the Department that our cause is a "public interest" matter, the fee normally about \$30.00 may be reduced.
8. The Department "determines", ie may "claim", that the requested document is an "exempt" document under the Act.
9. So called "Cabinet" documents are "exempt" under FOI. There have been cases where documents were not Cabinet documents but have become Cabinet documents by shredding same after making a copy as a Cabinet document!!

Lurline advises making reference to this practice in our application in an attempt to circumvent this happening in our case. eg.

"We are given to understand that in the past there have been occasions when documents were not Cabinet documents but have "become" Cabinet documents thus making them unavailable under FOI. We trust that this will not happen in this matter."

Lurline asked to be kept informed of our progress especially if it "turns into a Cabinet document"!

10. Lurline supports FOI applications being made on the basis of good Government being "transparent" government! "Government should be 'accountable' and automatically explain why they are not lettering people see documents!
11. The current "Bible" publication on FOI just out, is:-

"The Annotated FOI Legislation", Anne Cossin, Law Book Co, 1997

12. The EDO give legal advice but do not have the resources to litigate, particularly "public interest" matters and PIAC ends up handling these.
13. The PIAC in part, act as a "legal centre" and do run cases themselves (though resources are limited for this purpose), and part as a "Public Interest Law Clearing House" (PILCH). In this regard if there are cases which they cannot handle, and they are "public interest cases", they will refer them to PILCH. A PIAC solicitor will then examine the case and where appropriate, refer same to a selected firm on their list of law firms in Sydney who run cases for PIAC on a *pro bono* basis. They also have a list of recommended barristers, if same are required.

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Registration Form

Re FOI for
BnCon

Please photocopy this form if you wish to register more than one person

NAME _____

POSITION _____

ORGANISATION _____

MAILING ADDRESS _____

POSTCODE _____

E-MAIL ADDRESS _____

TELEPHONE _____

FAX _____

Please place a tick against the Workshop you wish to attend

☐ I wish to register for the Granville Workshop
Thursday 16 October 1997

☐ I wish to register for the Newcastle Workshop
Thursday 23 October 1997

☐ I wish to register for the Sydney Workshop
Tuesday 18 November 1997

Confirmation of Registration

- Payment is due 14 days after booking
- Enrolment will be confirmed by mail when payment is received
- Location of workshop venues and other details will be provided with confirmation of enrolment
- If a booking is not confirmed by payment it may be cancelled to make room for those waiting for a place

Terms and Conditions

- If the unavoidable happens and you need to cancel or transfer to another date, please phone us as soon as possible
- For cancellations up to 7 days before the workshop you booked for, fees will be refunded or allocated to a workshop on another date (where places are available). Fees will not be refunded for cancellations made less than 7 days before the workshop
- Substitute delegates are always welcome at no extra cost — just phone us prior to the workshop

*In-house advocacy training is also available
to organisations on request*

Payment

☐ CHEQUE (made payable to PIAC)

☐ VISA

☐ MASTERCARD

☐ BANKCARD

CARD NUMBER

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NAME OF CARDHOLDER _____

SIGNATURE _____

EXPIRY DATE _____

Enquiries to Cathie Sharp or Glenys Westwood

Fax or Mail this form to:

PIAC, Level 1, 46-48 York Street, Sydney NSW 2000 Tel (02) 9299 7833 Fax (02) 9299 7855

Public Interest Advocacy Centre (PIAC)

PIAC is an independent, non-profit legal and policy centre which was established in Sydney in 1982. It strives to foster a fair and just society by empowering disadvantaged citizens, consumers and communities through strategic test case litigation, policy intervention and community education.

The Centre's work emphasises effective public access to information, participation in society's governance and accountability of the public, private and community sectors.

Work the System

Introduction to Advocacy

PUBLIC
INTEREST
ADVOCACY
CENTRE

1 day training workshops

16 October — Granville

23 October — Newcastle

18 November — Sydney

"As advocates we need to appreciate the current cultural, economic and political transformation of our society and its institutions if we are to reduce the disadvantages this may create and maximise the opportunities it presents."

Working the System, PIAC 1996

Aims

PIAC workshops provide community and consumer representatives with the knowledge and skills to be effective advocates.

This workshop reflects PIAC's aim of enhancing the responsiveness, as well as the representativeness, of our democracy.

The workshop aims to assist people in developing the knowledge and skills to be involved in and to influence society's governance.

Who will benefit from this Workshop

- community workers
- activists and lobbyists
- advocates
- anyone who assists others to understand how the system works

Learning Outcomes

At the end of the workshop participants should be able to:

- define advocacy in the public interest
- understand how the three branches of Australian Government work
- develop strategies for challenging government decisions
- outline processes for public participation in the government and parliamentary processes
- conduct a successful delegation
- identify the basic structure of the legal system
- recognise the benefits and uses of public litigation
- plan an effective campaign

Cost

The fee for the Work the System workshop is \$65.00 per person. Morning and afternoon tea will be provided.

TO REGISTER, COMPLETE THE
REGISTRATION FORM (OVER PAGE)



ALL VENUES HAVE
WHEELCHAIR ACCESS

Robin Reed FOI no 688

FOI only protects Cabinet doc
So for FOI on Ministerial or
view of - my letter,
& phone calls etc.

Use this as a lever to
release

Seek to get assumption
that recommendation is
not to reinstate for
undisclosed reason.

○ Imply media release of
reasons for assumed
refusal.

Get holiday new S/G.
Follow up Robin re FOI -
her history/care. Have
submitted by Graham

Get evidence as basis for
them to act/proceed