

## FREEDOM OF INFORMATION ACT WHITE PAPER UNVEILED

*Fiona Galea Debono  
Times of Malta  
19 July 2007*

The Prime Minister yesterday unveiled a White Paper containing the government's proposals for a Freedom of Information Act, building on a series of measures that have already been taken for more transparency and accountability.

The underlying principle in the proposed law is that government information is subject to disclosure, unless there is a valid reason, justifiable in terms of specific criteria established by law, the Prime Minister explained.

The proposed law was expected to radically change the way information was treated, he continued, adding that the government had to be subject to scrutiny. For those who felt that opening its doors to information was a "risk", Dr Gonzi said that only applied to those who had something to hide.

The document, he said, proposed to significantly change the so far accepted practice that information was only exceptionally disclosed and almost impossible to attain. It should bring about changes in the way citizens and the government interact, helping to ensure that the former were accorded the respect they deserved.

Traditionally, the Prime Minister said, the assumption within the government had been that information should be kept confidential unless express instructions were given to release it - a concept that has been "turned upside down" in the draft law, which aims to ensure that information is open to disclosure unless there is a valid reason to withhold it.

Among its proposals, the proposed law suggests that Maltese citizens have the right to access information held by ministers, departments and government entities, while the requisites to demand information from a public authority have been kept as simple as possible in terms of bureaucracy.

A request for information should normally be answered within 20 working days, with the possibility of an extension of another 40 (following a recommendation by the Journalists' Committee) in cases where, for example, more time would be needed to identify the related documents.

The information would have to be provided in the applicant's preferred form, and the reason why a request for information is denied would have to be explained by the public authority, which would also be obliged to publish certain information in a proactive manner.

The proposed law also provides for an independent mechanism capable of enforcing the law and offering citizens an avenue of appeal against unjustified decisions to withhold information, Dr Gonzi said.

It provides for the establishment of an Information and Data Protection Commissioner as an independent authority with the power to enforce the law and to review and change decisions by public authorities that do not reveal information.

The opposing roles of protecting privacy and the right to information would be amalgamated into one commissioner, who would be able to strike a balance, rather than allowing for the creation of two opposing bodies that could enter into conflict, Dr Gonzi said.

The commissioner's decision could only be reversed by an appeals tribunal for information and data protection, which would be set up, as well as the Court of Appeal, and in limited circumstances.

The draft also permits public authorities to charge fees for access to information, and in keeping with requests from those consulted, the government is committing itself to keep these at a nominal level.

Although the point of departure is that information has to be accessible, Dr Gonzi pointed out that not all government information could be freely revealed and some restrictions on disclosure would have to remain.

These dealt with cases where the disclosure harmed national security, or international relations; if it prejudiced the enforcement of laws, or the protection of public security; and if it created substantial difficulties in the management of the economy, or the government's financial interest, among others.

While considering the related legislation of seven countries, the White Paper reviews and identifies the need for changes to local legislation, which has a bearing on the enactment of a Freedom of Information Act.

It draws mostly on the Australian model and some aspects of the New Zealand law, Dr Gonzi explained.

Already the subject of an initial round of consultation in January, an earlier draft of both the White Paper and the proposed law was forwarded to the media, and suggestions were received from the Journalists' Committee, the Institute of Maltese Journalists, the Commonwealth Human Rights Initiative and individual editors.

Many of the proposed changes have been taken on board, Dr Gonzi said, adding in his foreword to the document that those consulted would, no doubt, see further room for improvement in the present White Paper and draft law, but that it was a better product due to their input.

The government remained open to ideas and the proposals were by no means set in stone.

Dr Gonzi augured that the publication of the White Paper would prompt a healthy discussion that would give rise to a broad range of additional submissions for the government to consider.

Its publication should lead to a period of discussion, which would, in turn, lead to the presentation in Parliament of the Freedom of Information Bill, complete with further amendments and improvements.

Once the Bill is passed through Parliament, the government intends to bring it into force gradually to allow ministries and other public bodies to lay the necessary groundwork for its implementation.

Reactions to and views on the proposals should be sent to the Office of the Principal Permanent Secretary at the OPM by October 31.

Source: <http://www.timesofmalta.com/core/article.php?id=268637>