

Executive Director:
Casuarina McKinney-Lambert

Board of Directors:
Eugenie, Lady Nuttall (co-chair)
Craig Symonette (co-chair)
Colin Callender, Stuart Cove,
Charlie Dana, Bobbie Hallig



**THE BAHAMAS REEF ENVIRONMENT
EDUCATIONAL FOUNDATION**

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28th April, 2016

To: Mr. Shane Miller
Chairman
Freedom of Information Act Committee
BY EMAIL: foibahamas@gmail.com

Dear Mr. Miller,

I appreciate having had the opportunity to review the draft Freedom of Information Act and I have some comments and feedback. Thank you for the extensive work that was done on this new Act that is a great improvement on the earlier version of the Act.

FOIA only applies to information held by a public authority. Although information from a private company that is held by a public authority can be accessed, this does not seem to not adequate.

The definition of a public authority is vague. Do the Town Planning Committee and BEST constitute public authorities, since they are not statutory bodies, ministries or departments?

I am concerned that the Minister has the right to exempt any public authority from the Act. This seems to be too broad a power, and perhaps the Information Commissioner should be empowered to do that.

The Sunset Clause is 30 years, which seems to be too long.

Section 9 says that a public authority can deny a request if they consider it to be vexatious or if complying with unreasonably and substantially divert its resources. While I understand that the information commissioner will publish guidelines I am concerned that this could be an excuse for not disclosing information.

Could you please clarify the fees that would be required. I understand that it is cost-based. Does this include staff time to access documents or just the cost of making a copy? Can electronic documents be provided?

Would it possible to include a more proactive approach to sharing information. For example, some countries post permit applications at a central website available to the public. This can help avoid problems in the long run.

It would be helpful to define "public interest" in the Act and provide examples or guidelines of what would fall into this category.

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The exemptions in Section 21 regarding Government's deliberation process are too narrow. It seems as though there is currently no right to access all parts of an Environmental Impact Assessment. Having access to this information is a critical part of BREEF's work.

Section 23 exempts private companies information if its a trade secret or relates to any other business commercial and financial. There should be an exception for elements of a development agreement that might negatively affect the environment.

It would seem that there should be a more independent and non-partisan method for appointing the Information Commissioner and their staff.

Could the removal of the Information Commissioner result from this person requiring the disclosure of information that they deem releasable? This might impede the Information Commissioner's effective work.

Could we please see a draft of the Regulations that would accompany the Act.

There should be clarity on the issue of this new Act superseding the Official Secrets Act.

I look forward to hearing back from you.

Yours sincerely,

Casuarina McKinney-Lambert (Executive Director)