ARTICLE 19

GLOBAL CAMPAIGN FOR FREE EXPRESSION

MEMORANDUM

on the

Law of Mongolia on Freedom of Information

By

ARTICLE 19
Global Campaign for Free Expression

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I. Introduction

This Memorandum contains an analysis by ARTICLE 19 of the draft Law of Mongolia on Freedom of Information (draft Law). ARTICLE 19 has been asked to comment on the draft Law, which was prepared by a group of legislators and other stakeholders in Mongolia. [NARAA – IS THIS CORRECT?] These comments are based on an unofficial English translation of the draft Law.[1]

ARTICLE 19 welcomes the draft Law as it will go a long way to ensuring respect for the right of freedom of information within Mongolia. There are a number of positive elements in the draft Law, including the fact that it establishes a clear, broad right to information and both an obligation to publish and a request-driven right to access information, as well as the provision for an independent Commissioner of Information. At the same time, the draft Law has some weaknesses, including the fact that it fails to set out clearly the exceptions to the right to access information and the need for further clarification on some points. There are also some omissions, such as the lack of provision

[1] ARTICLE 19 takes no responsibility for the accuracy of the translation or for comments based on mistaken or misleading translation.

for a guide on how to use the Act for consumers, of a requirement to maintain records and of protection for whistleblowers and good faith disclosures.

The following analysis of the Mongolian draft Law is based on two key ARTICLE 19 documents, *The Public's Right to Know: Principles on Freedom of Information Legislation* (ARTICLE 19 Principles)[2] and *A Model Freedom of Information Law* (ARTICLE 19 Model Law).[3] These documents are based on international and best comparative practice concerning freedom of information. Both publications represent broad international consensus on best practice in this area and have been used to analyse freedom of information legislation from countries around the world.

II. International and Constitutional Obligations

The Guarantee of Freedom of Expression

Article 19 of the *Universal Declaration on Human Rights* (UDHR),[4] binding on all States as a matter of customary international law, sets out the fundamental right to freedom of expression in the following terms:

> Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

The *International Covenant on Civil and Political Rights* (ICCPR),[5] a formally binding legal treaty ratified by Mongolia in November 1974, guarantees the right to freedom of opinion and expression at Article 19, in terms very similar to the UDHR.

By ratifying the ICCPR, State parties agree to refrain from interfering with the rights protected therein, including the right to freedom of expression. However, the ICCPR also places an obligation on States to take positive steps to ensure that key rights, including freedom of expression and access to information, are respected. Pursuant to Article 2 of the ICCPR, States must "adopt such legislative or other measures as may be necessary to give effect to the rights recognized by the Covenant." This means that States must create an environment in which a diverse, vigorous and independent media can flourish, and provide effective guarantees for freedom of information, thereby satisfying the public's right to know.

Freedom of expression is also protected in all three regional treaties on human rights, specifically at Article 10 of the *European Convention on Human Rights* (ECHR),[6] at Article 9 of the *African Charter on Human and Peoples' Rights*,[7] and at Article 13 of the

[2] (London: June 1999).
[3] (London: July 2001).
[4] UN General Assembly Resolution 217A(III) of 10 December 1948.
[5] UN General Assembly Resolution 2200A(XXI) of 16 December 1966, entered into force 23 March 1976.
[6] E.T.S. No. 5, adopted 4 November 1950, entered into force 3 September 1953.
[7] Adopted at Nairobi, Kenya, 26 June 1981, entered into force 21 October 1986.

American Convention on Human Rights.[8] Although the decisions and statements adopted under these systems are not directly binding on Mongolia, at the same time they provide persuasive evidence of the scope and implications of the right to freedom of expression which is of universal application.

Freedom of information, including the right to access information held by public authorities, is a core element of the international guarantee of freedom of expression. There is little doubt as to the importance of freedom of information. The United Nations General Assembly, at its very first session in 1946, adopted Resolution 59(I), which states:

> Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the UN is consecrated.[9]

The right to freedom of information as an aspect of freedom of expression has been recognised by the UN. The UN Special Rapporteur on Freedom of Opinion and Expression has provided extensive commentary on this right in his Annual Reports to the UN Commission on Human Rights. In 1997, he stated: "The Special Rapporteur, therefore, underscores once again that the tendency of many Governments to withhold information from the people at large … is to be strongly checked."[10] His commentary on this subject was welcomed by the UN Commission on Human Rights, which called on the Special Rapporteur to "develop further his commentary on the right to seek and receive information and to expand on his observations and recommendations arising from communications."[11] In his 1998 Annual Report, the Special Rapporteur declared that freedom of information includes the right to access information held by the State:

> [T]he right to seek, receive and impart information imposes a positive obligation on States to ensure access to information, particularly with regard to information held by Government in all types of storage and retrieval systems…."[12]

Once again, his views were welcomed by the Commission on Human Rights.[13]

The right to freedom of information has also been explicitly recognised in both the Inter-American and European systems. In October 2000, the Inter-American Commission on Human Rights approved the Inter-American Declaration of Principles on Freedom of Expression.[14] The Preamble reaffirms with absolute clarity the right to freedom of information:

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[8] Adopted at San José, Costa Rica, 22 November 1969, entered into force 18 July 1978.
[9] Adopted 14 December 1946.
[10] Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/1997/31, 4 February 1997, .
[11] Resolution 1997/27, 11 April 1997, para. 12(d).
[12] Report of the Special Rapporteur, *Promotion and protection of the right to freedom of opinion and expression*, UN Doc. E/CN.4/1998/40, 28 January 1998, para. 14.
[13] Resolution 1998/42, 17 April 1998, para. 2.
[14] 108th Regular Session, 19 October 2000.

> CONVINCED that guaranteeing the right to access to information held by the State will ensure greater transparency and accountability of government activities and the strengthening of democratic institutions; …
>
> REAFFIRMING that the principles of the Declaration of Chapultepec constitute a basic document that contemplates the protection and defense of freedom of expression, freedom and independence of the press and the right to information;

The Principles unequivocally recognise freedom of information, including the right to access information held by the State, as both an aspect of freedom of expression and a fundamental right on its own:

> 3. Every person has the right to access information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in databases or public or private registries, and if necessary to update it, correct it and/or amend it.
>
> 4. Access to information held by the state is a fundamental right of every individual. States have obligations to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.

Within Europe, both the Council of Europe[15] and the European Union[16] have also reiterated the importance of the right to information. In February 2002, the Committee of Ministers of the Council of Europe adopted the Recommendation on Access to Official Documents. This documents clearly establishes that States should adopt freedom of information laws to give effect to this important right:

> Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities. This principle should apply without discrimination on any ground, including that of national origin.[17]

National freedom of information laws have been adopted in record numbers over the past ten years in a number of countries, some of which include Fiji, India, Israel, Jamaica, Japan, Mexico, Pakistan, Peru, South Africa, South Korea, Thailand, Trinidad and Tobago, and the United Kingdom, as well as most of East and Central Europe. These countries they join a number of other countries which enacted such laws some time ago, such as Sweden, the United States, Finland, the Netherlands, Australia and Canada. With the adoption of a strong freedom of information law, Mongolia will join a long list of nations which have already taken this important step towards guaranteeing freedom of information.

Constitutional Guarantees

Freedom of expression and information are protected in Article 16 of the Constitution of Mongolia which states:

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[15] Recommendation on Access to Official Documents, R(2000)2, adopted by the Committee of Ministers of the Council of Europe on 21 February 2002.
[16] Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.
[17] Note 15, Principle 3.

> The citizens of Mongolia are enjoying the following rights and freedoms:
> …
> 16) Freedom of thought, opinion, expression, speech, press, and peaceful assembly. Procedures for organizing demonstrations and other assemblies are determined by law.
> 17) The right to seek and receive information except that which the state and its bodies are legally bound to protect as secret. In order to protect human rights, dignity, and reputation of persons and to ensure national defense, security, and public order, the information which is not subject to disclosure must be classified and protected by law.

Article 16.17 is more limited than international guarantees of freedom of expression in a number of ways. Although it protects the right to "seek and receive" information, it does not include the right to "impart" information. Furthermore, the right is not guaranteed "regardless of frontiers", as it is under international law. More serious, however, is that fact that while Article 16.17 requires any restriction to be prescribed by law and pursue a legitimate aim, it fails to require restrictions to be "necessary in a democratic society". This is in practice the most important limitation on the power of the government to restrict freedom of expression and its absence from the constitution is a serious omission.

On the other hand, Article 16.17 does imply a right to access information held by public authorities, since it refers to the right to receive information, apart from where the State is obliged to keep that information secret.

Recommendation:
- Article 16.17 of the Constitution should be amended in accordance with the critique above to bring it into line with international standards.

III. Analysis of the draft Law of Mongolia on Freedom of Information

1. The Regime of Exceptions

One of the most serious problems with the draft Law is the regime of exceptions to the right to access information. Instead of providing for a set of exceptions, the draft Law simply refers to confidential information as established by other laws. Thus, Article 3.1 provides that the law does not apply to information which is rendered confidential by other laws.

ARTICLE 19 recommends that all information be subject to disclosure unless it meets a strict three-part test, as follows:
- the information must relate to a legitimate aim listed in the law;
- disclosure must threaten to cause substantial harm to that aim; and

- the harm to the aim must be greater than the public interest in having the information.[18]

This implies first that every aim justifying non-disclosure is set out in some detail. Second, it is not enough for the information simply to relate to the aim, disclosure must threaten to cause substantial harm to that aim. Otherwise, there can be no reason not to disclose the information. For example, national security is recognised everywhere as a legitimate reason for non-disclosure of certain information, but disclosure of much information relating to national security will not cause any harm. Finally, even when harm is posed to a legitimate aim, there will be circumstances when the overall public interest is still served by disclosure. This might be the case, for example, in relation to information which is private in nature, but which reveals widespread corruption or wrongdoing.

To allow secrecy provisions in other laws – of which there can be expected to be many in Mongolia, as there are in other countries – to override the freedom of information law fails to respect these principles. Secrecy laws will often have been drafted without the idea of open government in mind, some quite a long time ago when notions of democracy and transparency were very different. Many, if not most, will fail to meet the standards set out above. Indeed, to preserve the whole range of secrecy laws will seriously undermine the freedom of information law. It will also leave in place the existing secrecy regime, whereas an important goal of a freedom of information law is to herald in a new system of open government.

Furthermore, existing secrecy laws may not be sufficient to protect all legitimate secrecy interests, in light of the new, broad obligation to disclose information. For example, existing laws may not sufficiently protect private information or commercial confidentiality of third parties.

Instead of leaving simply secrecy provisions in place, ARTICLE 19 recommends that a freedom of information law provide a comprehensive list of exceptions to the basic principle of disclosure, complete with requirements of harm and a public interest override. The freedom of information law should then provide that in case of conflict, it will override any existing secrecy provisions. This has the effect of protecting any legitimate secrecy interests, but consistently with international and constitutional standards of openness.

Recommendations:

- A comprehensive regime of exceptions should be added to the draft Law.
- The freedom of information law should prevail in case of conflict with secrecy provisions.

2. Maximum Disclosure

The principle of maximum disclosure should underpin a freedom of information law. This principle implies that all information should be subject to disclosure, subject only to

[18] See the ARTICLE 19 Principles, note 2, Principle 4.

a limited regime of exceptions in the overall public interest. Both information and public bodies should be defined broadly, to ensure that the scope of the law is wide.

The draft Law defines both government organisations and private entities, the latter as private businesses that operate in accordance with procedures set out in law (Articles 4.1.3 and 4.1.4). The draft Law then specifies, at Article 5.1, that citizens have the right to access information from both government and private entities. However, many other provisions relating to access refer only to government organisations. These include key articles such as Article 6, setting out the basic principles of access, Article 11 providing for an obligation to provide information, and Article 19, providing for receipt of requests for information. It would be preferable if the law provided only for one definition, of public bodies, but defined these as including the private entities now defined separately in the draft Law. In that way, these bodies would be subject to the full set of obligations of disclosure.

A second shortcoming of the definition of bodies subject to the obligation to disclose is that it is limited to those private bodies which operate under a law. The ARTICLE 19 Principles recommend that a wide range of ostensibly private bodies be included, such as nationalised industries and public corporations, non-departmental bodies or quangos (quasi non-governmental organisations), judicial bodies, and private bodies which carry out public functions (such as maintaining roads or operating rail lines). Any body which is owned, controlled or substantially financed by funds provided by government or the State should, for purposes of the freedom of information law, be defined as a public body.

As regards information, the draft Law defines it as "news about people, physical objects, events or facts regardless of its form of expression." (Article 4.1.6) While this is probably an attempt to provide a wide definition, in fact, by limiting it to news, and to news about people, physical objects, events or facts, the result is that the definition is quite limited. It would be preferable just to define information as anything that can be communicated, regardless of form. Furthermore, although the definition applies regardless of form, it might be useful to specify that it applies to all information regardless of the source (that is whether or not it was produced by the body), the date of production and whether or not it is classified.

The draft Law specifies that it applies to citizens but then goes on to define a citizen as an citizen of Mongolia, or a foreign country or a stateless person (Articles 1.1 and 4.1.2). The effect of this is that the definition in practice covers everyone, subject to other laws providing for restrictions in this regard (Article 5.2). This seems, however, to be a very roundabout way of doing this, and it could be misleading. It might be simpler simply to specify that the law applies to everyone.

Finally, the draft Law specifies that non-government organisation and trade unions shall have the right to access information. While this is in itself positive, it might imply that other non-natural persons, such as businesses or political parties, do not have the right of access. These bodies should also have the right to access information; in fact, in other countries these bodies are significant users of freedom of information laws.

Recommendations:

- The draft Law should provide for one central definition of a public body, which should include private bodies which operate under a law or which carry out public functions.
- The definition of information should be simplified and refer simply to anything that can be communicated, regardless of form, date of creation, who produced it and whether or not it is classified.
- Consideration should be given to removing the term citizen, along with its definition, and specifying simply that the law applies to everyone.
- All legal persons should have the right to access information.

3. Correct Information

In several places, the draft Law refers to the idea of 'true and correct' information. For example, in Article 6.1.2, the draft Law provides that one of the basic principles of freedom of information that the government must observe is that, "information shall be true and correct" and Article 11.1.3 provides that an obligation on government officials is "to provide citizens with true and correct information".

It is not entirely clear what this obligation entails. Inasmuch as it means that officials should provide the information actually requested, it is uncontroversial. If, however, it means that officials must ensure that the information they disclose is actually correct, it represents a misunderstanding of how a freedom of information system works. Public bodies are under an obligation to disclose any information they actually hold, regardless of whether or not it is correct. In some cases, this information will have been provided by third parties. In other cases, the government official who produced the information may have made an honest mistake. In yet other cases, the information may represent a dishonest position put forward by government officials. In all cases, the obligation is simply to disclose the information actually held. For example, a journalist may want the information to prove that the government had misled people. In such a case, the actual document, including any incorrect information it might contain, is precisely what is wanted.

Recommendation:

- All references in the draft law to 'true and correct' information should be removed.

4. Obligations on Requesters

Article 10.2 sets out two obligations on citizens who request information, namely to comply with the procedures for obtaining information and not to violate the constitution or laws of Mongolia when exercising the right to information.

ARTICLE 19 questions whether it is necessary to set out these obligations in the law. If a citizen does not comply with the procedures for requesting information, he or she may be denied access to that information. This is a sufficient deterrent to ensure that the established procedures are complied with. It is already, and by definition, contrary to the law to violate any law and, to the extent that it is applicable to ordinary individuals, the

constitution. There is, therefore, no need to reiterate such a prohibition in the freedom of information law.

Recommendation:
- Article 10.2, setting out obligations on requesters, should be removed from the draft Law.

5. Powers of the Commissioner of Information

Article 9.3 provides that the officer in charge of information in each public body shall report on his or her activities to the Commissioner of Information. Article 15.1.2 further provides that the Commissioner of Information has the power to obtain an annual report from public bodies on their activities to implement the freedom of information law. It is not clear what the relationship is between these two provisions.

Reports of this sort are an important means of monitoring the performance of public bodies in the information field. A bit more detail would, however, significantly clarify the scope of this obligation. First, it should be clear that such reports must be provided on an annual basis. Second, the scope of the report should be on the activities of the public body in the information field, not just on the activities of the information officer. Third, the relationship between the two articles noted above should be clarified. Finally, it would be helpful if the draft Law contained more detailed direction on what such reports must include. For example, the ARTICLE 19 Model Law provides that annual reports by public bodies must contain information on:

> (a) the number of requests for information received, granted in full or in part, and refused;
> (b) how often and which sections of the Act were relied upon to refuse, in part or in full, requests for information;
> (c) appeals from refusals to communicate information;
> (d) fees charged for requests for information;
> (e) its activities pursuant to section 17 (duty to publish);
> (f) its activities pursuant to section 19 (maintenance of records); and
> (g) its activities pursuant to section 20 (training of officials).[19]

Article 15.1.7 provides that the Commissioner of Information has the power to submit cases where an official fails to implement his or her orders to a 'higher instance organisation'. It is unclear what this refers to, but such cases should be referred to the courts.

Recommendations:
- Articles 9.3 and 15.1.2, providing for reports on the activities of information officers and public bodies, should be amended to make it clear that these provisions refer to the same report, that such reports must be provided annually and that they should cover all of the activities of the public body in the information field.
- Consideration should be given to providing for more detail regarding the information that public bodies should include in their annual reports to the Commissioner of

[19] Note 3, section 21.

Information.
- Failures to obey orders of the Commissioner of Information should be appealed to the courts.

6. Obligation to Publish

Article 12.1 of the draft Law sets out the obligation on public bodies to publish certain key types of information, even in the absence of a request. The types of information covered include draft laws, decisions and orders of key bodies, the procedure for processing requests for information and the types and forms of information the body holds, as well as its, "charter, structure, budget, vacancy or salary fund".

This is an important and progressive obligation. However, it could be still more detailed regarding the types on information that must be provided. The ARTICLE 19 Model Law, for example, requires every public body to actively publish the following information:

> (a) a description of its structure, functions, duties and finances;
> (b) relevant details concerning any services it provides directly to members of the public;
> (c) any direct request or complaints mechanisms available to members of the public regarding acts or a failure to act by that body, along with a summary of any requests, complaints or other direct actions by members of the public and that body's response;
> (d) a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;
> (e) a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;
> (f) any regulations, policies, rules, guides or manuals regarding the discharge by that body of its functions;
> (g) the content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and
> (h) any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that body.[20]

Recommendation:
- Consideration should be given to including within the draft Law more detail on the obligation of public bodies to publish information proactively.

7. Open Meetings

Article 13 of the draft Law provides for open government meetings. Such meetings must be open to the public except in instances provided for by law and all decisions, apart from those whose confidentiality is protected by law, must be communicated to the public.

This is a commendable provision which is, unfortunately, found in far too few freedom of information laws. At the same time, more detail is needed in relation to this obligation.

[20] Note 3, section 17.

For example, it is presumably the case at present, since there is not yet any general obligation to hold open meetings, that there are few grounds established by law for closing such meetings. To this extent, the provision may overly favour open meetings. On the other hand, as with exceptions to the obligation to provide information, where the law does provide for closed meetings, the grounds for doing this may be excessively broad. To this extent, the provision fails to change current secret practices. What is needed is a more comprehensive regime within the context of the freedom of information law for open meetings.

Recommendation:

- The regime for open meetings established by Article 13 needs to be far more detailed, particularly in relation to the grounds for closing meetings or for refusing to communicate the decisions adopted at such meetings to the public. Alternately, consideration could be given to adopting a separate law dealing specifically with this issue.

8. Complaints

Article 15.1.9 of the draft Law provides that the Commissioner of Information has the power to review and resolve complaints submitted by citizens. This is one of the most important powers of an information commissioner and essential to ensure prompt, effective access to information by citizens. However, the draft Law fails to provide any detail about how such powers should be exercised and, in particular, what remedies may be provided. For example, it should be clear that the Commissioner of Information has the power to view the information in question, to order public bodies to disclose information and to address a range of questions, such as undue delay in providing access to information or excessive fees.

It is also unclear how the complaint mechanism of the Commissioner of Information relate to those set out in Article 25, which provides for complaints to a 'higher instance organisation or official', to the National Human Rights Commission and also to the courts.

ARTICLE 19 recommends a three-step complaints process, first internally within the public body which refused the original request, then to an independent administrative body, such as the Commissioner of Information or the human rights commission, and then, finally, to the courts.

Recommendation:

- The various complaints processes and powers should be clarified.

9. Miscellaneous Issues

Fees

The draft Law provides for the payment of a fee for obtaining public information which shall not exceed the direct expenses incurred for the provision of the information. The draft Law should clarify what is considered to be a direct expense. For example, some laws allow charges for searching for and preparing the information, while others restrict

charges to the costs of duplicating the information. In addition, consideration should be given to making some requests – in particular requests for personal information or requests in the public interest – free or less costly than other requests.

Transfer of Requests

Article 11.3 provides that public bodies shall not transfer requests to another public body "without grounds for doing so." This is an extremely broad formulation, which practically leaves it up to the discretion of officials as to whether or not a request should be transferred. It would be preferable if the draft Law set out clearly the conditions under which a request might be transferred. These might include where the body which received the original request does not hold the information or where there is a question as to whether or not an exception might apply to prevent the disclosure of the information and the other body is better able to determine this issue.

Information Requests

Article 18.1 provides that requesters must provide their name and address when submitting a request. It should also provide that they must indicate with sufficient clarify what information they seek.

Time Limits

Article 19.4 provides that an official shall resolve a request within one day, while Article 23.1 provides that requests shall be responded to within 14 days. It is unclear how these articles relate to each other, or what the intent of the former is. Article 19.1 further complicates the matter, providing that public bodies shall establish a timeline for dealing with requests.

Returning Requests

Article 22 provides for the return of requests which are not properly competed. This is something that should be dealt with at the time a request is submitted, not by subsequent notice.

Recommendations:

- The draft Law should clarify what are considered to be direct costs relating to an information request.
- Consideration should be given to providing that personal and/or public interest requests should be free.
- The draft Law should set out clearly and narrowly the circumstances in which a request for information may be transferred to another body for processing.
- Requesters should be required to specify in sufficient clarify what information they are requesting.
- The issue of time limits for responding to requests should be clarified in the Law.
- Article 22 should make it clear that, whenever possible, improperly submitted requests should be remedied immediately, not by subsequent notice.

10. Omissions

Guide to Using the Law

Many freedom of information laws require the administrative body overseeing implementation of the law, and/or each public body covered by the law, to produce a guide on how to access information. This assists citizens who wish to seek information and can be an important practical way of promoting use of the law.

Record Maintenance

A freedom of information law can be seriously undermined if public authorities keep such poor records that they cannot locate the information sought by requesters. To help avoid this problem, many freedom of information laws place an obligation on public authorities to maintain their records in good condition. The UK Freedom of Information Act 2000, for example, provides for the Lord Chancellor (the minister of justice) to adopt a code of practice concerning the keeping, management and destruction of records by public authorities, with a view to ensuring best practice in this regard across the civil service.

Protection for Whistleblowers

Whistleblowers, individuals who disclose confidential information about wrongdoing in the public interest, should be protected against sanction for such disclosures. This is important to help ensure that matters of public interest do reach the public. For example, whistleblowers can provide an important safety value against corruption or serious mismanagement in government. Furthermore, individuals who disclose information in good faith pursuant to an information request should be protected against sanction, even if in fact the information should have been treated as confidential.

Recommendations:

- The draft Law should required the Commissioner of Information and/or all public bodies to produce a guide for individuals on how to use the law.
- The draft Law should require public bodies to maintain their records in good condition and consideration should be given to establishing a system to ensure that this happens in practice.
- Whistleblowers, individuals who disclose information about wrongdoing, should be protected against sanction as long as they acted reasonably and in good faith.
- Individuals should be protected against sanction for the mistaken disclosure of information as long as they acted reasonably and in good faith.