

## 2024 Solomon Lecture

### *'Push, Pull and Public Trust: Taking stock of citizens' rights to know in a 'Free Assange' Australia'*

Kendall Gilding

Well good morning everyone and welcome to the 2024 Solomon Lecture hosted by the Office of the Information Commissioner. For those of you who don't know me, my name is Kendall Gilding. I am a journalist, television presenter and media commentator. And as someone who has pursued journalism for their entire career, obviously this is a topic very close to my heart because ultimately I believe in truth and I believe information is a privilege. So thank you so much for having me here to be your MC today. Before we begin, I would love to welcome to the stage Aunty Catherine Fisher to deliver the Welcome to Country on behalf of the Turrbal people.

Catherine Fisher

Thank you and good morning everyone. My name's Catherine Georgetown Fisher. I was born and raised on the Aboriginal reserve called Cherbourg. And Cherbourg's made up of 40 plus different language groups that were brought in from all over Queensland from the north, south, east and west and often from the Northern New South Wales area. I always use my grandmother as an example, my father's mother, who was stolen along with her little brother from the Georgetown district in Far North Queensland. And she was brought all the way down here. They were brought down here to Barambah Mission, which is now called Cherbourg. And they didn't even bother to get their right name.

So I'll be looking for that freedom of information. So I'll be following through with this now because they just gave them the English name of Ethel and Arthur. Ethel from Georgetown, Arthur from Georgetown. They didn't even bother to get their right names. So that, they ended up with the surname Georgetown because that's the district they were taken from. So this happened with many of our people as part of the Assimilation Act. And the sad part about it was that they were taken off their country, taken away from their language groups, taken away from their laws, their customs, their traditions and bunched, all piled into a mission. And a lot of those missions were penal settlements. You couldn't move anywhere freely. We had to get permits just to go into the next town.

I was born under the Act. So I was there having to get a permit just to go into town to buy my mother some cotton or something like that. So we had to be back on the mission in time. So there was a lot of, the records at that time, the office records, the superintendent of the mission, he'd have where they all came from, how old they were and caste system. So you can imagine if that was how you were piled up and put elsewhere and taken away from your families. So that's what my people had to grow up with.

Turrbal people, same applied here. But they had a, they actually coexisted with the colonisers until things went wrong and the, these colonisers decided to get rid of

them. So they did. They slaughtered many of them. And those that survived were taken north and they too ended up on Cherbourg. But we survived and we are trying to restore our language and our practices. So this is a reflection of past years from Kakadu Man. He says, first people come to us. They start to run our life quick. They bring drink. First, they should ask about cave, dreaming, fish. But they rush in, they make school. Now Aborigine losing it, losing everything. All our old people are gone. Those first people, they were too quick for us.

So that's a reflection of the past of what happened with many of our people. And that old man is a very insightful man. Because he also says, skin can be different but blood the same. Blood and bone the same. Man can't split himself. So in other words, on a spiritual level, we all come from the one bloodline. Imagine that. The way it was planned that every nation had different colour systems to suit the environment for those places. So you belong to me now. And I belong to you. I'm here to acknowledge you for acknowledging us, the Traditional Custodians on the land that we move around on.

**(SPEAKING TRADITIONAL LANGUAGE)**

In other words, in good spirits, we acknowledge you and welcome you. I mean welcome's a bit late but welcome you to where the Turrbal people once lived and grew up and lived their lives before the invasion. **(SPEAKING TRADITIONAL LANGUAGE)** means blessings to you. Blessings to you and your families. Because remember, we are all here to help each other. And by helping others, we rise together. So this is why you all are here in the first place. So the best way to lose yourself is in the service to others. So I thank you for acknowledging us and we acknowledge you. I'll leave you with a corroboree song and many of you have heard it before. And it's devised and put together by one of the grandfathers who was taken off his country.

He was a Kabi Kabi man and he wrote in it, he speaks in his own language, he sings in his own language, about him wanting to go home to sit down in his own bora bora. He was taken off his country. As I said, he was a Kabi man so, and he was, this was just one of the corroborees that was performed during the visits by the white officials to our mission. And I grew up with it. I was born into it. So I grew up knowing the family of that old fella. So I'm not a singer by any profession but every time, I love singing this because I think of that old fella. I think about him going home to sit down in his own country.

**(SINGS CORROBOREE SONG)**

Thank you and have a wonderful session. Thank you for your work that you do out there and God bless you all. Thank you.

Kendall Gilding

Thank you so much to Aunty Catherine. A little bit of housekeeping before we get things off and running. As you may know, today's session is both being live streamed but also being recorded. So if I could kindly ask you to check that your phone is on silent, that would be greatly appreciated just so we don't disturb any of our guests

and so that you're not immortalised on the recording as the person whose phone rang in the middle. If you're looking for the toilets, there are some straight outside. You can head past the café and to the right and you'll find some. There's also some down on the floor below us. So head down to level zero. And if the, in the unlikely event of an emergency, the exits are clearly marked. There's some here and also at the back of the room where you will have entered in.

Well today is of course a key event as we celebrate International Access to Information Day which is held on the 28<sup>th</sup> of September every year. And this year's theme is Mainstreaming Access to Information and Participation in the Public Sector. And we look forward to exploring this with our keynote speaker and also with our panel discussion today. But before we begin, would you please join me in welcoming Queensland's Information Commissioner Joanne Kummrow.

Joanne Kummrow

Great. Good morning everyone and welcome to the 2024 Solomon Lecture being held here in Meanjin, Brisbane, Queensland. We're delighted you can join us for this annual event hosted by the Office of the Information Commissioner. My name is Joanne Kummrow as Kendall said and I'm Queensland's Information Commissioner. Aunt Catherine has left but I extend my thanks to her for her moving Welcome to Country and welcoming us today. Aunt Catherine, as so many of our Indigenous sisters and brothers, have very powerful stories to tell. They're important stories to be told and important stories that we listen to and learn from.

I respectfully acknowledge the Traditional Owners of this land on which we're meeting, the Yuggera and the Turrbal peoples and pay my respects to Elders past and present and to any Aboriginal and Torres Strait Islander peoples joining us today. On behalf of myself and my colleague Right to Information Commissioner Stephanie Winson and the entire team at the Office of the Information Commissioner, we extend a warm welcome to everyone joining us here at the Queensland State Library's The Edge Auditorium, which is a fabulous venue. So thank you very much. And also to the sound guys who I enjoyed listening to, getting the sound just perfect this morning.

We're also joined by a number of senior public leaders. And to those joining us from around the country, including my interstate information commissioner and ombudsman colleagues. And from further afar via the livestream, welcome. The Solomon Lecture commenced in 2009 and recognises the importance of Queensland's Right to Information legislation, which was passed following a landmark independent review by Dr David Solomon AM in 2008. Dr Solomon sends his apologies that he's not able to join us at this year's event. The legacy of Dr Solomon's review is Queensland's Right to Information legislation, including the clarity with which the RTI Act expresses the Queensland Parliament's clear intention that information in the Government's possession or under its control is a public resource, that there should be open discussion of public affairs.

Openness in Government enhances the accountability of the Government. Openness in Government increases the participation of the community in democratic processes

and leads to better informed decision-making. And that right to information legislation improves public administration and the quality of Government decision-making. Fast forward to 2022 and Professor Coaldrake's independent review of the Queensland public sector and his report *Let the Sun Shine In* focused on the importance of culture and how it is critical to giving effect to the spirit of the Right to Information Act.

If I can quote Professor Coaldrake on the intersection between culture and integrity in his report, he says, key to achieving lasting positive change in any organisation and certainly in Government is culture. And culture is shaped by leaders at all levels. The premier of the day, ministers, MPs, Directors-Generals and senior executives. Their tone will be a precondition for success. Whether that tone be in the form of modelling behaviour, policy ambition, encouraging a contest of ideas, supporting the community in times of crisis or the manner in which authority is exercised and the voice of the public heard.

Culture and leadership are inextricably linked and the themes that are featured in past Solomon lectures and previous audits conducted by my office into agency RTI practices. Since commencing in my role nearly six months ago, I've met with and engaged with a number of Director-Generals, CEOs, commissioners and other senior executives to reinforce the simple message, the culture of openness needs to be led from the top by the agency's senior leadership. Now we need look no further than the evidence uncovered in the Robodebt Royal Commission by former Chief Justice of the Queensland Supreme Court Catherine Holmes AC SC, who stated in her 2023 report that the effectiveness of her recommendations for change to ensure that another Robodebt scheme would not occur again would depend on the Government of the day because culture is set from the top down.

Now as you know today's lecture and discussion panel also coincide with International Access to Information Day, which is held on the 28<sup>th</sup> of September each year. As Kendall mentioned, this year's theme is Mainstreaming Access to Information and Participation in the Public Sector. At its core, this theme highlights the need for Governments to ensure that access to information is part of the everyday. The right to information is a human right. It should not be seen, as so often access to information is, is a battle of the individual seeking access to a document against a Government agency that wants to keep the document confidential or secret. Or as our New Zealand colleagues referred to in a title of one of their investigation reports into access information, not a game of hide and seek.

Queensland's RTI Act clearly requires administrative release as a matter of course, with formal RTI requests used as a last resort. It advances what we call a push model rather than a pull model in that the public sector has an obligation to push as much information out rather than waiting for an individual to make a formal request. In doing so proactive release promotes Government transparency, openness and accountability. What we can see from RTI data collected by Australian information commissioners and ombudsmen responsible for overseeing access to information regimes in Australia is the majority of people seek formal access to information,

they're making requests for their own information, their own personal information that relates to them.

They're seeking information from their local council, public health service, their child's school, their police record, their workplace and in relation to a claim or an application that they've made to a Government agency. For a great many also, and I think as we heard with Aunty Catherine this morning, they seek to better understand their personal history when their child and welfare has been in the hands of the State. So the everyday person is the everyday applicant seeking access to their personal information. In another category, we see citizens, members of parliament, environmental groups, the media, civil society, seeking access to information to better inform them about the workings, decisions and actions of Government.

Access to what we call non-personal information held by Government is critical to informing the public and giving them accurate information, particularly in these days of misinformation. It is through access to reliable and trusted Government information that members of the public and publicly motivated organisations can participate in our democracy, including in Government policy and decision-making, particularly where Government decisions are made and actions taken that directly affect them and their communities. So this year's IAID theme, Mainstreaming Access to Information and Participation in the Public Sector, focuses our attention on the role of the public sector in ensuring the advancement of the human right to information as part of their business as usual or their BAU and to build in a transparency by design approach to all of the information assets they create and they hold, particularly as we navigate the adoption of new and emerging digital and information technologies.

This morning we're delighted to welcome Professor AJ Brown to present the Solomon Lecture, in which he'll expand upon today's IAID theme to examine broader issues around transparency in Government and the availability and disclosure of information, including in the context of public interest disclosures or whistleblowing. Following the Solomon Lecture, we're delighted to hold a panel discussion, moderated by our MC Journalist Kendall Gilding, with Elizabeth Tydd, Australian Information Commissioner, Matthew Cooke, CEO of the Queensland Aboriginal and Islander Health Council and Angela Pyke, Queensland's Deputy Ombudsman, who will be joined by Professor Brown to further explore today's theme, mainstreaming access to information and the role of the public sector by bringing their various perspectives of the experiences of the community who are at the core of the work that we do. So my special thanks to Professor Brown and also to our speakers. But also before I close, to our Auslan interpreters Tanya and Steve who join us today to make our event more accessible and inclusive. Thank you again everybody. I hope you enjoy today's lecture and our panel discussion.

Kendall Gilding

Thank you so much Joanne. Well that does bring us to our 2024 Solomon Lecture and we are delighted to have Professor AJ Brown AM as our guest today. Professor Brown has more than 30 years of experience helping shape Australia's public integrity systems. A professor of public policy and law at Griffith University, he's also chair of

Transparency International Australia and served six years on the Global Board of Transparency International, which is the world anti-corruption organisation.

In 2023 he was made a member of the Order of Australia for services to the law and public policy, particularly through whistleblower protection and in 2024 was appointed as one of two community representatives on the Queensland Public Sector Governance Council. We're so delighted to have him here to deliver his keynote titled Push, Pull and Public Trust, taking stock of citizens' right to know in a free Assange Australia. Would you join me in welcoming Professor Brown.

AJ Brown

Well thank you very much Kendall and thank you very much Jo as well and also Information Commissioner Stephanie Winson and Steven Haigh from the office for the invitation and all the support in giving me the opportunity to fulfil the honour of doing the 2024 Solomon Lecture. And I'd also like to thank Aunty Catherine for her Welcome to Country and might make some further reference to that. I think the lecture that you'll hear from me today is very much about the distance between the society that sometimes we think we are or that we think we're close to achieving and the true amount of effort we need to put in and maybe the true amount of further ground we need to cover to actually be that society.

Because I think some of those issues really run through issues that especially affect our First Nations people but also affect all Australians in terms of the gap between what we want to be and what we're actually dealing with in this day and age when it comes to honesty, truth, accountability, integrity and the role of transparency in that. It's a great honour to be invited to give the Solomon Lecture. I know that David will be, although he can't be with us today, will be watching this when he's in the right time zone to do it because I do feel like I have a personal connection with David Solomon that goes right back to childhood. And it's relevant to what I'll say today about some of the key issues we're facing and the solutions to some of those key issues.

Mostly because my own father Wallace Brown was a journalist who, whoops excuse me, worked very closely with David Solomon throughout his career as a journalist and I think was a fellow traveller with David Solomon as one of those, and this is very relevant to the lecture today, one of those who is in a unique position through the course of their life to be somebody who has stood outside Government, who has stood inside Government, who has stood on the boundary of what Government is doing and has faced and embraced that challenge of really understanding that it's not, that our society is not going to be served by people just being on the inside looking out or just on the outside looking in, that what happens at that interface is so crucial.

And so journalists, public servants, especially integrity agencies and a range of us have a special role and a special responsibility to actually remember, if we're thinking about mainstreaming transparency, mainstreaming access to information, mainstreaming integrity, to remember that we're not just on the inside nor are we

just on the outside. We actually have to be able to straddle that boundary and look both ways in order to resolve some of the big tensions and the big challenges that we're facing in the public integrity space. And so, and really that's a theme that I'll come back to and perhaps by the end of the lecture you'll understand a little bit more about what I'm getting at.

The legacy, whoops, the legacy of the Solomon Review and not just David Solomon but the entire independent panel, Simone Webb and others who played a crucial role in bringing about the really seminal changes to what was previously freedom of information, became rights to information in 2009, which really led the way nationally, is a really crucial moment in Australian history. And is being reflected, continuing to be reflected and followed up on through things like the Coaldrake Review, through actions of Government like the decision to be the first Government in Australia to proactively release cabinet papers after 30 days rather than 30 years, are all just further embodiments of further forward travel towards institutionalising that push principle of information and people's right to access information, not just individually but collectively as being part of the body politic and a functioning society.

But achieving that culture of transparency that Jo mentioned at the beginning, it sounds nice but it's actually very, very hard and constantly involves challenges and battles by definition. And so what I wanted to do today was to talk about some of that broader landscape of the challenges and battles that are going on that affect, especially public sector culture, but really our society as a whole in terms of how are we travelling on that road to being the society and the democracy that we think we should be and sometimes think that we are but in reality we're not quite there yet as a bit of an understatement. And so taking a broad approach to that is something that I can't help but do as somebody involved in Transparency International in particular over a long period of time. It's very similar to the philosophy of the Open Government Partnership that many of you will have heard about and participate in as well of saying that transparency and access to information and information rights are not a standalone separate thing.

They are part of an interrelationship of issues, objectives, agendas that have to be met, if in fact the entire integrity system and the entire political system and entire society is going to function effectively. So quite a bit of what I'll refer to is actually drawing from something that Transparency International does around the world, which is assessments of national integrity systems and putting all of this together in context but with access to information, transparency, absolutely at the core of making public integrity and making good governance work.

And I'll just put in a quick plug that in just over a week on the 8<sup>th</sup> of October Transparency International Australia is very happy to be hosting a special forum here in Brisbane. The details are already on the Information Commissioner's website I noticed. So you can find them there talking about the Open Government Partnership and what more can be done to drive forward agendas of transparency, open Government and public integrity.

So I've got three areas that I wanted to touch on as being just examples to me of where we're operating in a time, a really unique time, interesting time. Academics always say it's interesting. But really in many ways a very also worrying time, concerning time but a decisive time for trying to navigate what, where are, how are we travelling and what are we really achieving and trying to achieve when it comes to these things that we accept, in principle, as being fundamental goods, transparency, accountability, open Government, pushing information out there, public participation but how are we really travelling?

And so the first area and the first prompt I guess to be thinking about this in picture, in the big picture was to think about well what is the state of our commitment and our understanding and commitment to fundamental values of transparency and accountability in this new country that we stand in today which I'm calling a free Assange Australia. What is a free Assange Australia? Well really that's the question. It's a country in which Julian Assange, one of our most famous Australians now walks around somewhere free but convicted of criminal offences under the US Espionage Act for being the channel, the conduit, the recipient and the publisher of public interest information on a, you know on a scale of massive global importance.

And again I've got a, sort of a particular reason to be thinking about what is a free Assange Australia? What does this mean for us and for the overall trajectory of our mission to be transparent, open and accountable societies? Having first met Julian Assange when he first went into house arrest in the UK in Norfolkshire in 2011 my diary tells me. So that's only 13 years ago. Now 13 years later he's actually effectively free for the first time in Australia, having returned to Australia on the 26<sup>th</sup> of June. Why is this so significant?

Well really this period, in this period, and if you think about, and I won't give you a blow by blow lecture of the history of WikiLeaks, etcetera, but if you just reflect on what you know about the impact of Julian Assange having been the founder and the editor-in-chief of WikiLeaks, it coincides with this amazing period where there has never been a more intense transformation in access to information, control of information and some, and big transformations in the forces that are influencing whether and how we can achieve transparency. The whole digital age, especially since the advent of the social media age over that same period has completely transformed the push and the pull of accessing information and the speed and the ease with which it gets transferred and published and the volume and just every aspect.

And so it's in that context that WikiLeaks, which was regarded as being so radical, had its huge impact. Huge impact not only because it actually did what it was, well not what it originally was going to do and I don't want you thinking that I'm an apologist or you know that I'm not critical of WikiLeaks. But what it came to do, was to demonstrate what the media can and perhaps should do to play its role in exposing wrongdoing in this new age. It accessed information from one whistleblower in particular but a number of whistleblowers and it put that out there



in a form and in a scale that was totally unprecedented and has transformed the way the media works.

Digital drop boxes, the scale of the impact of public interest information released through things like the Panama Papers, LuxLeaks, etcetera, it completely, the whole phenomenon sort of captured and completely rewrote the rules of what public access to public interest information through the media might look like in the future, might need to look like. But it also coincided with this huge change in public expectations about access to information, about people expecting that they will get access to information, that they will get access to information now, that everything in fact happens now. If it doesn't happen now, it doesn't happen and it's useless. That's the way our whole world works.

And then finally the fourth big transformation has been the impact of all of that on the way that decisions are made and politics works. The 24-hour news cycle, the struggle for political survival to control discourse and media has never been more intense, it's never been more aggressive. Sometimes it's never been more disgusting. Truth has never been more malleable and never has there been such tides of Government attempts and legislative attempts to re-secretise information in order to try and control the agenda formally or informally as part of just surviving politically in this era in which we live. So we've got a, it's been an amazing 13 years but boy is it a perfect storm of contradictory forces and trends within which decision-makers, politicians, public servants have to try and navigate well what is their role and responsibility.

And so I think it's really interesting and important to reflect on what is a free Assange Australia because on one hand we've got this huge paradox and this is a huge tension in my mind. I'm really not sure what a free Assange Australia is because we had everybody, well not everybody but a lot of people let's say, I'd say a majority of people up to and including the Prime Minister, effectively celebrating this moment and of course the rhetoric, and it's understandable rhetoric, it's valid rhetoric, is that we succeeded in bringing home an Australian who was incarcerated and we'd do the same thing for any other Australian who'd been incarcerated for long enough, etcetera, etcetera, etcetera. You know the narrative, it's a great narrative. But it's not the full story as we all know.

The reason why we, why this is such a clear moral victory is because it's a vindication of, and again I'm not saying that there aren't things to criticise about Julian Assange or WikiLeaks. I'm not saying that there aren't issues to do with the responsibility of the media, any media, any publishers and what that means in this landscape. But nevertheless overall the vindication, the recognition of the impact and at a fundamental level the legitimacy of what WikiLeaks and Julian Assange was trying to do. Some people might find that controversial. Maybe the panel will have a chance to talk about it a bit. But the bottom line is that a terrible precedent has been set.

It's undone decades of what we assumed in US free speech law and the general principle that people publishing public interest information sourced from whistleblowers, which is often the way, are doing their job as opposed to, in this case

now, convicted of a crime. And so this is actually a really worrying conundrum that we have about being proud, about being in free Assange Australia. I hope people do feel proud. But free Assange Australia is a worrying place when it comes to the fact that it now symbolises that backward step in recognition of the role of the media in creating that transparent and free society that we want to be. And it's underscored here in Australia by the fact that we assume that our media, the role of our media is protected and respected in terms of its ability to receive and access sometimes confidential information but publish it in the public interest, that this is a fundamental part of what transparency and accountability is.

And yet we still have very big unresolved questions of our own about how close we've come to prosecuting journalists for doing their job and still, despite some very clear commitments and research and background by the current Federal Government and, in principle, support for strengthening media freedoms in order to rebalance this equation. At the moment we stand with years and years of enquiries by the Australian Law Reform Commission and others into the overreach of secrecy laws and commitment from the Government to wind them back at least a little bit and recalibrate the balance at a federal level.

But very much unresolved, unfinished business. What's really clearly crucial about all of this is that we need to have that independent perspective on when is this right? When is this wrong? What are the balance of interests? Which we currently don't have in our system when it comes to being able to adjudicate when has the public right to know been satisfied and how do we actually prevent our criminal law from being used against the people that we assume are the ones who are entitled to use public interest information and publish it in the public interest.

So we've got a bit of a confusion over the fundamental state of our principles and we haven't, we're not making a lot of progress very quickly to a clear resolution of those principles when it comes especially to federal legislation, nor are we really equipping in this case the courts, because we don't have anybody else to do it, to actually navigate how do we, what sort of independent umpire can actually navigate these fundamentally conflicting forces and trends.

So I wanted to move to that, to a second area which is, which will be no surprise given Jo's introduction, which is to then take one step to look at the role of public servants in this because as Jo said, this is really about an international access to information day this year is really about thinking about well what is the role of the public service and public servants in navigating these big countervailing trends in technology and information flows and expectations about official information. If we can't get it right at that level in terms of the role of the media, then we already know yes, we've got some things to think about.

If we go a step further and think about what are the rules and the principles and how well are we travelling in terms of their implementation to protect public servants who disclose public interest information or information that's at least partly in the public interest, especially when things get tough, when there's wrongdoing or perceived wrongdoing or alleged wrongdoing involved, then we're also not travelling

as well as we should and we could be. So this is actually really, really crucial because public servants, when it comes to official information, public servants, many of you are public servants, are generators of information. That means you've got a bit of an interest in it.

You're the custodians of information, whether you generated it or not. That's a really crucial role. You're also the conscience when it comes to when should this information be released and how and will it be and what role will I play in it whether it's fulfilling, whether it's pushing information out there which you know should be out there, whether you're dealing with requests for information or whether you're dealing with your own information that you've gathered where you know somebody needs to know about this internally, externally, whatever, because there is a problem. And it's, and this is where it comes back to the fact that information rights are not, they're not vanilla. They're not just out there in principle, lovely, just waiting to be enforced in every situation really easily.

When it comes to the crunch, it always involves interests, pressures for confidentiality, games of hide and seek, that's what we're trying to overcome and never is that more the case than when it comes to the question of concerns about something actually being wrong and needing to make a disclosure, and that's why our whistleblower protection regimes are called public interest disclosure regimes. It's only partly about the individual and the individuals. What it is fundamentally about is about the information, about the need for this information to get out.

And as you probably all know, our whistleblower protection regimes are designed to get the information not necessarily out there publicly or out to external stakeholders but just to get it to the right place that it needs to go in the system, if possible, for those issues to be addressed and that in and of itself is a hard enough battle. And our processes are designed so that if that's not working, then yes public servants do have a duty, should be protected to actually take it outside the system because of the public right to know if the system is not actually dealing with that wrongdoing and dealing with that information properly. That's how our legislation is designed. But that's not how it's working in practice. So this is the big, this is the second big dilemma, the second big set of mixed messages that we're getting.

Kendall Gilding

Thank you Professor. Professor Brown's going to take a seat because I will welcome up our panellists of which he is one. I'd love to welcome to the stage Angela Pyke. She was appointed deputy ombudsman in August 2018. Prior to that she was director of financial investigations with the Crime and Corruption Commission. Her career in the public sector spans more than 20 years. She commenced work in the Department of Primary Industries before undertaking roles in law enforcement as a financial investigator working for the Queensland Crime Corruption Commission and the Australian Crime Corruption Commission. Thank you Angela.

I'd also love to welcome Matthew Cooke. He's a proud Aboriginal and South Sea Islander from Byellee people in Gladstone. Matthew has a background in serving the

Aboriginal and Torres Strait Islander community controlled health sector as both a director and CEO over the last 15 years. Matthew is currently CEO of the Gladstone Region Aboriginal and Islander Community Controlled Health Service Limited. He's also actively involved in all aspects of Aboriginal and Torres Strait Islander affairs at national, State, regional and local levels. In 2007 he was named Young Leader in Aboriginal and Torres Strait Islander Health. In 2008 he received the Deadly Vibe Young Leader Award, which sounds pretty cool. In 2011 he received the Australian Institute of Management 2011 Young Manager of the Year Award for Gladstone. Thank you for joining us Matthew.

And thirdly, I'd love to welcome to the stage Elizabeth Tydd who was appointed as Australian Information Commissioner last month after initially holding the role of freedom of information commissioner. Prior to that she served two five-year terms as the information commissioner at the Information and Privacy Commission of New South Wales. Elizabeth has occupied a number of statutory decision-making roles in New South Wales commissions and tribunals, including deputy president of the Workers Compensation Commission and deputy chairperson of the former Consumer Trader and Tenancy Tribunal. Elizabeth has extensive regulatory and governance experience at an executive and board level in a range of jurisdictions and industries.

Please welcome our panel. I want to applaud everyone because it's not a lot of industries that sort of welcome someone in like Professor Brown to really hold the microscope up. Now you did make mention to having a crack at the Commonwealth but the Commonwealth's in the room as well, aren't they?

AJ Brown

Oh good. Good.

Kendall Gilding

I wanted to start out by getting some thoughts from our panellists on what Professor Brown has shared just to kick off our discussion. Perhaps Elizabeth if you'd like to kick us off.

Elizabeth Tydd

Well first of all, thank you for the opportunity and thank you for hosting this fabulous event that every year gives us new things to think about. And Professor Brown's presentation certainly gave me a lot to think about. But he also asked us to contemplate the contemporary environment. What does it look like and what additional protections might be necessary? So I think the two brief points I'd like to make would be in relation to the threat to democracy that arises as a result of mis and disinformation. They're real threats and I think every one of you here, all public servants throughout Australia, no matter Commonwealth, State or Territory, have obligations to act in the public interest and they're enshrined in legislation largely.

It's through that lens that you hold the single source of truth, to actually be able to combat mis and disinformation. Over 50% of people surveyed looking at media literacy in Australia in 2023 indicated that they're not confident that they can actually identify mis or disinformation. And more disturbingly, 69% of them are concerned that mis and disinformation is actually having an adverse effect on our democracy. So I think seeing yourself as integral to that and what you do as actually serving the higher order of our democratic system of Government is really essential to where you come from. From that point, I think we then examine the operation of the statutes, we examine the fundamentals like resourcing and we mainstream our approach to accessing information.

Kendall Gilding

Matthew any thoughts?

Matthew Cooke

Yeah like I, first, I'd like to acknowledge Aunty Cathy for that Welcome to Country this morning and it's great to be here and I acknowledge Professor Brown for that lecture and sharing with us. The correlation I kind of drew when the question was posed about what is the Australia we want to be versus the Australia that we are, what comes to mind for me is the fact that we, as a nation, are still yet to close the gap for First Nations people itself. We've just, we're in the aftermath of a failed referendum on truth and you know that very much speaks to those points that Liz was just sharing about disinformation and misinformation and how we get that right in this day and age as we almost chart a way forward from it.

And I think there's a lot for us to learn about the Australia we want to be, the Australia that we seen some time ago with both sides of politics coming together to commit to closing the gap and addressing health and wellbeing issues by our First Nations people. We can't simply just celebrate us as being the oldest living, surviving culture in this world. We've got to make sure that those commitments given by Government and those things that were legislated or introduced in the policy actually give effect to actually closing the gap no matter who the Government of the day is. So I like that correlation and I like the opportunity about the journey ahead, particularly post a failed referendum.

Kendall Gilding

And Angela?

Angela Pyke

Thank you. I think what highlighted to me is the community expectations about their rights to information has certainly increased over time. And we're now living in a society where there's an expectation that there's immediate access to information. As a public sector, that's a challenge, meeting those expectations and managing those expectations while also ensuring the information that is released is correct and is also balanced in terms of what is released and what can be released, taking into

account of course people's privacy and the like. So, there's certainly challenges going forward I think as a public sector in today's environment in managing those expectations and becoming more digital in our release as well.

Kendall Gilding

I want to get on to the challenges that we do face. And I think the thing about this is it's never, this is never going to be stagnant and it evolves constantly. And so that's it. It's almost like to a degree the goalposts need to keep shifting in order with the time, with the technology, with the community expectation. But I wanted to draw on the theme this year, which as you've heard many times, is mainstreaming access to information and participation in the public sector. I'm really interested in the concept of participation because in that context it could be perhaps the Government department, it could be the worker but it could also be in that push-pull model, the citizen who wants to participate.

And it's a bit like one of your final remarks, Professor, around, you know, they either have a lot of money and they can do it or they, you know they're politically motivated or they're just, you know you're a bit crazy and you want to see it through. But what steps or strides do you think we are making in terms of participating both at a government level but also encouraging the community to be participating in their own right to information? Anyone have anything they want to?

Elizabeth Tydd

I think I'm receiving the nod and I'd like to take forward some of the comments that Professor Brown made in relation to our work in the open Government partnership. So we're on our third national action plan for an open Government partnership. That's one mechanism for mainstreaming a participative democracy. We have worked in earnest and I think as a result of that one initiative, but many others, to elevate the level of trust in Government. Trust is directly linked to accountability and transparency. So, to have a participative democracy, you need to have an accountable, transparent Government.

So Australia has increased its trust score overall and we're now sitting above the OECD average. We've gone from 30s I think. I might just check my notes here. Yeah 38% in 2023 to 46% in 2024. So that's above the OECD average of 39%. But how do you actually achieve that? You achieve that by mainstreaming every day, ensuring that we have a system that proactively releases information, that we have a culture within Government that demands our accountability, that is pro disclosure in its orientation as opposed to looking for reasons not to disseminate information.

So I think those factors really enable confidence and trust so that citizens think it's a worthwhile compact. They elected a government, they expect Government to act on a policy platform and they know that there will be an accountability or report back through that compact of democracy to citizens. That stimulates their desire to participate more and we need to feed that democratic system in a time when we have a reduction in democracies globally and an increase in autocracies.

Kendall Gilding

Professor did you have anything you wanted to add on that?

AJ Brown

Yeah and I'm particularly interested in Matthew's perspective on this actually because when we talk about public participation, I think we've got to think about well what is the public? And our big challenge, and this is, you know, putting sort of the international lens on it that we see in Transparency International chapters around the world and different countries, is that, is, always reinforces to me that we're a very individualistic society and everything that we do is very often predicated on the assumption that we're talking about individuals dealing with Government and individuals having information and individuals getting that information for specific decisions relating to them.

But when it comes to the way that society actually works, we don't just work as individuals, we work as collectives, we work as communities. But we're not very well set up to institutionalise the interrelationship between communities and interest groups. It's okay if you're a top 100 company, then it's okay, you've got the Business Council of Australia and you've got a voice to Government and, etcetera. And the same is true of different industries and different sectors. But once you get below that top level of peak representation, then how the public and the community interact with Government at a collective level is something that we really, I think we've largely failed to figure out our recipes for how best to institutionalise that.

How civil society interacts with and participates in Government and institutionalising that participation without turning community groups or valid voices of the community into just arms of Government. And this is why what's happening in especially Aboriginal controlled organisations is so important. But I think across the board we're not, we have, as a society, I don't think we're very good at that. And I say that partly because internationally we see countries that are really striving to transform themselves. Indonesia for example, enormous political accountability challenges, corruption challenges, etcetera, etcetera, etcetera. But the pace of reform towards greater engagement between community and civil society and Government participation is quite, is a lot more dynamic than ours.

And there's a lot more mechanisms in a lot of countries, including developing countries, for civil society to be participating more actively through social accountability mechanisms in decision-making. And that's all, that all assumes access to information and is part of that mainstreaming. So I think that's where we have some big challenges, not just for access to information but the public participation that this mainstreaming concept is really aimed at trying to foster and develop. So that's why I'm particularly interested in Matthew's experience.

Matthew Cooke

Look I think the point about community participation, so we at the Queensland Aboriginal and Islander Health Council are a peak body for Aboriginal and Torres Strait Islander community-controlled health organisations across the State of Queensland. And their boards are made up of people locally elected from their communities. So in

many ways they're a great living example of self-determination of their communities and taking self-determination across their own health but the governance of their own health systems or part of the health system.

One of the bigger challenges that we have is in, I think it's great to hear talking about mainstreaming it, Jo mentioned in her address about making it business as usual. We need to do that. But we need to move beyond policy platitudes and words. We've seen recently the national closing the gap, national agreement on closing the gap. Within it, it talks about sharing of power and decision-making and autonomy and quite often we see officers of Government reflect that language when they're speaking and sharing about Indigenous affairs in this country. The challenge that we fail to see is the actual shift from talk into actual action and opening it up and allowing our people to have the early access to that current information or matters that are impacting those decisions being made about our affairs.

I often say, it should be nothing about us, without us, when it comes to policy in this country. We've all seen successive reports from the Productivity Commission and the, you know, National Audit Office talking about the fact that we haven't closed the gap. And those reports often talk about the need to empower our communities, empower our people and allow them to be part of the decision-making. But quite often the gap is, as I said, during the correlation between your story, the Australia we want to be versus the Australia we currently are. Well if we're truly going to close the gap, we've got to get beyond talk. We actually have to see all levels of Government and their departments and their agencies actually take those active steps to allowing First Nations people not only a seat at the table to be a part of that decision but actually access that information so they can make informed decision-making. Self-determination is the ability to actually make informed decisions.

Kendall Gilding

Angela I wanted to ask you, as deputy ombudsman, how critical would say proper recordkeeping be? We're talking about speed in a digital time and, but then it's about accuracy as well in a time when we want things immediately. But that doesn't mean, you know, there's still a need for it to be true, correct and accurate. What have you seen in terms of best practice for proper recordkeeping?

Angela Pyke

You know, to take the point that community wants to be able to trust the information that's being provided to them, you really need to take a step back to how the information's being recorded in the first place. So, it is important for the public sector to record their decisions but not just record the decision, record the basis for the decision because that information will be released. And you want to ensure that when the information is released, there's no misinformation, there's no gaps. You don't want people to have to draw their own inferences and make assumptions from the information that's being released because there's gaps in the information. So that recordkeeping is quite important from the outset because that's



the information that's being released. So, you want it to be correct and being able to be relied upon and be trusted.

Kendall Gilding      What would be the best practices in that scenario that you've observed?

Angela Pyke      Every decision, people make decisions, hundreds of decisions every day. It's ensuring that they're recorded. It could just be, you know, you don't need to write a thesis when you're recording a decision. But you do need to just record that the decision has been made, the record is kept in an appropriate place, the document record system, for example, on file. And really documenting the reasons for that decision, how you arrived at that decision. And again, it doesn't need to be a thesis but it does need to be able to be understood by others that can read that record.

Kendall Gilding      And I wonder, maybe this is a question for you Elizabeth, how do we balance that with, in terms of the recordkeeping being comprehensive, being maintained, being kept? It's just data, data, data, isn't it everywhere? With the increasing speed and complexity of Government operations.

Elizabeth Tydd      I think it's a really contemporary question that is challenging from many angles. I might approach it from the angle of accountability. So the accountability, when we look at the nexus between our obligations under State Records Act, under Archives Act, sheet home to an agency head, in the same way they should sheet home to an agency head under freedom of information legislation or information access legislation. And that way you've got the analogous situation to, you know, director's duties. So from there, ensuring that the statutes enable us to act, enable the public sector to act under delegation, so draw a straight line of accountability.

But increasingly I wonder in this digital age if there isn't also a need for strong deterrent effect in relation to the destruction of records, for example, in relation to applying, operating in a way that conceals records or misrepresents records. So that might look like a statute that has both protections for the decision-makers, who act in good faith under that delegation, but it might also look like offence provisions for people within the sector or outside the sector as Government deals with third party providers who might seek to interfere with independent decision-making. So I think that's only one dimension of an answer to your question but it is about the accountability regime and the relationship between the creation of records and documents, documentation of decisions and how we might ensure that it operates as intended.

Kendall Gilding      I want to draw on or extrapolate the idea we discussed earlier around misinformation, disinformation. Matthew your example of the referendum is a

perfect example because during that time it was very heated and there were things out there all over the place that weren't true. And if you don't have a society that are perhaps media literate or savvy to actually know whether something that, I mean so many people will tell you now they're getting their news off Facebook. And you, it's like well where did that information come from? So I wonder is that perhaps, and I'm interested to hear from each of you, is that our greatest challenge in 2024? And I want to maybe pose that through the lens of say the US election and artificial intelligence. You know, we are a tiny country in comparison but we get to watch it play out in a very, very big way. I might start with you Professor.

AJ Brown

Yeah, no, I think it probably is safe to say that it's one of the biggest challenges as Liz said you know in her first remarks as well. And it was sort of buried in bits of what I was talking about in terms of this landscape that we're trying to deal with and the consequences of how we're trying to deal with it. The, and the advent of AI definitely makes it even more challenging. I guess, I couple it with not just the era of misinformation, disinformation being so prevalent and easily manufactured and spread so quickly but also the challenges of societies that are vulnerable to disinformation and misinformation.

And I know that a lot of agencies, especially electoral commissions you know are actively, this is what they're actively working on, is okay how do we actually empower and equip the society to be less vulnerable to disinformation and misinformation? I think the challenges, so that raises for us I think in Australia really big challenges. Our really bad lack of civics education generally in society you know for generations, our assumption that the 1950s mode of well everybody listened to ABC radio and there was the one source of truth and it was very good and everybody got educated and every, you know, so that was good. Everything was fine. I think our assumption that somehow or other we're going to magically end up with enough people knowing how the world works you know to be able to filter, it's obviously completely been blown away.

But also the volume of information. I guess this is always a challenge that I like to throw back to those who are involved in trying to see a push model of official information really put into place because part of the consequence of truly open access, mainstreaming, really, you know, pushing, pushing, pushing, pushing, pushing is just to add to the sea of information that people don't know how to process and navigate. And so it increases, I think, the pressure, and this is part of what I was trying to say in the lecture, that it increases our responsibility to have new gatekeepers and arbiters and umpires and, that are accepted points of truth that people believe in and can go to as being accepted points of truth. And I just think that we're losing any of them and the challenge is how to rebuild those points of truth, whether in the media or whether in institutions.

So that doesn't offer any particular answers. But I think that's the challenge that we know we need to, especially for Australia, those are the challenges we need to embrace. But the civics education side of it is just so crucial. We just cannot expect

people to be able to navigate this landscape without upping our base level of willingness to engage in politically sensitive analysis of issues at a much earlier age as part of our education, not shying away from politics in our education, actually equipping people to embrace it, acknowledge it, recognise rubbish or what they think is rubbish on valid grounds for some particular reason, process information. And we've just, you know, I think we've really fallen back in our education system in terms of creating that capacity in people in general.

Kendall Gilding            Yeah a critical mindset of going, I'm going to the election and, you know, who are my local representatives, you know. Angela within the ombudsman, I mean what would you say in 2024 from a misinformation perspective is what you're encountering?

Angela Pyke                I think to pick up on what AJ said, there is so much information out there and I do also agree that people have issues in determining what's misinformation, what's real information, what they can trust and what's relevant to the matter that matters to them and I think we're seeing that in the integrity landscape in terms of looking at the Queensland sector, the increase in the number of people that contact our office, not necessarily to make a complaint but to talk about where to go, they want information, and also the increase in complaints that the triple C have seen in recent times as well. And I think that's a bit of a sign as to the quantum of information out there and people not being able to necessarily process it themselves as to what's true and what's not. So they're looking to the integrity agencies to assist them with that.

Kendall Gilding            We're almost out of time. So I might just pose a final question for each of you and Matthew I'd love to start with you. What do you see as the most pressing challenges or perhaps opportunities in the next five to 10 years within a right to information space, particularly with these communities which you're representing?

Matthew Cooke            Yeah, it's actually allowing them to participate. So like I was saying earlier, moving beyond words, that we're actually creating spaces at those decision-making tables in the design and development of policy at all levels of Government to make sure that our people have trust in it, that they're participating in it and that there is truly a level of accountability and transparency at all levels of Government to achieving outcomes, not just making broad promises but actually working and realising them in partnership and collaboration with our communities.

Kendall Gilding            Would you say the overall sentiment say in some of these regional, remote First Nations communities is, I mean I know we've got statistics sort of about, you know at the national level but what would you say it is in those areas?

Matthew Cooke

Look it's, whether we've got people living in rural, regional, remote or urban communities, it is our, it is a human right as Jo said earlier and it's our right to self-determination, to be involved in all things and public affairs that involve us. And whilst I talk about some of the challenges out there, there are great examples here in Queensland where we've seen the Queensland Government under the now Premier, when he was former Health Minister, work to introduce legislation to improve health equity across our largest part of the public health system in our hospitals, our 16 hospitals here in Queensland. And that was done in partnership with QAIHC and all of our communities in urban, rural, remote and regional Queensland.

We also, that was off the back of an activity by QAIHC and Henrietta and Adrian Murray, where we worked with what was then the Anti-Discrimination Council of Queensland and former Commissioner Kevin Cox and we developed an institutionalised racism audit tool to actually put across the public health system itself to not only, not just simply measure institutionalised racism but come up with the solutions on how we're going to pragmatically address it in what is you know largely the biggest part of our health system. And so I'm encouraged by that type of work where we can have peak organisations and communities and all levels of Government work together to bring about change and so we shouldn't just always just simply talk about what the challenges and barriers are but also look to promote those examples of where we are getting practical change and good leadership out of all levels of Government and the respective system.

Kendall Gilding

Love that. That's really good. Thank you. Angela your, any ideas on say either challenges or great opportunities in the next 10, five to 10 years?

Angela Pyke

I would say the increase of transparency of information is increasing and ensuring that that information is correct because it's not just governments that are making decisions and then releasing that information. The information that's released and is being requested by a community, they're making their own decisions based on that information. So, it's becoming more and more important that the information that we release is transparent. And I don't think that, I think that's going to increase more than decrease.

Kendall Gilding

Professor? I think we might know yours but, please.

AJ Brown

Well let me just finish on a point of optimism, I guess, because having painted all of those challenges in the lecture, I'd like to go back to that concept of a free Assange Australia and just reflect on the fact that on the 26<sup>th</sup> of June 2024, amidst all of these challenges and risks and unresolved questions and dilemmas and apparent, the

difficulty that governments are having trying to get the policy settings right, etcetera, I think as a country, and this, I may not be speaking for everybody here obviously. Some people may have a completely contrary view. But as a country, I think we could see that we had closed the chapter in a positive way that said something about us as Australians. Julian Assange is Australian.

Our Australian leaders actually worked really hard to get him home. They're saying they would do the same thing for any incarcerated Australian. But we know that it's more than that. We know that it actually is a moral victory and a vindication and a support for, as complicated and controversial as it might have been along the way, for playing our role in creating a more transparent, accountable, honest world where power is held to account, where the truth is told. And those are great Australian traditions in the media, in the public sector, in society.

So I think that we have a lot, having said we've got really poor civics education, we have a lot of base values in our society which we need to continue to draw on and thrive upon and institutionalise and see reflected in actually you know being that society that we want to be. I think we can be that society. I think we can be a leading light society. But we have to work at it. But I think that that turn of events this year said to me, okay I'm a bit less fearful about our ability as a society to say, yep good job, well done. We've actually, we've done something that is our stake in the, our flag in the sand to say you know we're moving in the right direction.

Kendall Gilding

Elizabeth I'll give you the final word.

Elizabeth Tydd

And I'll be brief. But I was inspired by Matt's example of the racism tool because I think that says a lot about how we address the contemporary challenges of data provenance. So that tool obviously worked in a closed system, healthcare data, we do have a single source of truth that went into that. Increasingly, when governments make decisions about us, they don't necessarily reflect that approach, which is a really sound approach. So how is a decision being made and using what mechanism? What data was applied?

If we don't know the data provenance, and this is where we need our State records people, our archives people, if we're not able to properly identify the provenance of that data as an input to decision-making, which is enhanced by technology, be it AI or other forms of machine enhanced decision-making, we will not actually be able to explain to people how that decision was arrived at and that will be something that erodes democracy. But I was absolutely inspired by that example because it says everything about how to do it well and to do it effectively.

Kendall Gilding

Can I please ask you to put your hands together for our four panellists today? Thank you so much to each and every one of you for being here. We really value your time. That does conclude the proceedings today. I also want to commend each and every

one of you for leaning in on this conversation and want to wish you a happy international information, access to information day for Saturday. I'm sure you'll all be you know cutting a cake. So well done and thank you so much for having me.