

Access to information all talk and no action

Neville de Silva takes a look at the government's access to information policy and finds it is mostly hot air.

THE government's access to information policy as broadly spelt out the other day by the administration is as flawed as its much-vaunted commitment to open and accountable government.

When Chief Secretary Anson Chan and Home Affairs Secretary Michael Suen pledged recently that the government's policy on access to information would lead to greater openness and accountability, their comments were treated with undisguised scepticism by those who have advocated greater freedom of information.

Chief Secretary Anson Chan described the proposed measures as "strong, practical and effective". She said that cumulatively, these steps "will meet public expectations of greater transparency from a more accountable and open government".

The Chief Secretary did not indicate whether the government had conducted a scientific survey to assess public expectations.

In the absence of any supporting evidence such a claim must remain essentially an assertion by the administration.

On numerous occasions Mr Patten has underlined the importance of preserving Hong Kong's way of life which includes freedom of expression and of the press.

But neither of these two freedoms, cornerstones of a democratic society, can ever be real if the public is denied access to crucial information by governments that believe they must be the sole arbiters of what information to make available.

The Hong Kong Bill of Rights guarantees freedom of expression, including the right to seek, receive and impart information.

This is not an absolute right. It is subject to certain restrictions. But those restrictions are prescribed by law and not limits arbitrarily imposed by governments and their official minions.

If a person shall have a right to seek information and receive it, then the



MICHAEL SUEN: His comments imply civil servants will draw up a "code of practice".

government cannot say that this person must only seek information which the government in its generosity chooses to release.

But this is precisely what the government is trying to do in the name of greater access to information. What information would be released would still be determined by the administration though it will henceforth be decided under what is euphemistically called a "code of practice".

But who draws up this so-called code that will determine what information the public is entitled to receive? From what Home Affairs Secretary Michael Suen has said it will be civil servants. How it will be shaped in the light of experience will be done by an "internal steering group" which will again be bureaucrats.

The code itself will be ready only in early 1995 and then it will pass through a process of fine-tuning again by bureaucrats. What it amounts to is a time consuming, wasteful exercise to remain exactly where we are — dependent on the bureaucracy for information.

The practice will be extended throughout government "during 1996" which is vague enough to read even as the end of the

year. That is not an impossibility seeing that Mr Suen believes the administration needs to "gather experience in providing greater public access to information".

Mr Suen and the entire administration know that the call for greater access to information began several years ago. Yet this government has waited all these years to gather this experience which is evidence enough of the speed at which the wheels of bureaucracy intend to move.

Typical of bureaucratic thinking, it even wants to conduct a "pilot scheme" to test the system. All this smacks very much of a holding operation where the government will carry on the pretence of trying to provide Hong Kong with a scheme for greater accessibility to information when it is, in reality, trying to maintain the status quo ante by different means.

The government pretends that the public will have redress if bureaucrats refuse to provide information. They will recourse to the Ombudsman. But the Ombudsman himself is highly constrained. The Ombudsman's reports are not made public, nor does he have the power to insist that bureaucratic errors and shortcomings are remedied.

Even if the public complains to the commissioner will he have the power to compel the bureaucracy to release the information sought? If not what is the redress available to the public except mere protestation. There is no guarantee the public would receive the information sought. And equally importantly, what action is contemplated against those who violate this still vague code?

According to the administration there is as yet no code of practice, the types of information to be released have not been categorised, the government is still to learn from the experience of others and a pilot scheme is to be introduced to test the efficacy of the intended system.

If all these things are yet to be done, then how on earth can any responsible civil servant assert that this is a "strong, practical and effective" scheme?

That alone should be sufficient proof that this government has no intention of releasing any more information than the selective trickle, leaks and all, Hong Kong has been accustomed to in the past.