

## **Your Rights to Review and Appeal**

Please read the following information prior to completing the attached application form.

### **INTERNAL REVIEW**

If you are dissatisfied or concerned with a determination made by a South Australian State Government Agency, Local Government Council or University in relation to:

- an FOI application for access to a document, or
- a request for amendment to your personal records

you are entitled to apply for an Internal Review of that determination.

### **How do I make a request for Internal Review?**

To make an application for an Internal Review you must:

- write a letter or lodge an application form with the Principal Officer of the State Government Agency, Local Government Council or University that made the determination, and
- include the application fee of \$29.50.

Generally agencies accept payment by cash, money order or cheque. However, if you would like to pay by credit card you will need to ask the agency if they are able to accept credit card payments.

### **What if I have a concession card?**

In some cases the fee for an Internal Review can be waived. If you are the holder of a current concession card or if you can satisfy the agency that the payment of the fee would cause financial hardship, the agency must waive or remit (reduce or refund) the application fee.

If you are a concession cardholder you will need to provide evidence, eg. you should attach a copy of your concession card when you make the application. Alternatively you will need to give written reasons as to why the payment of a fee would cause you financial hardship.

### **How long does an Internal Review take?**

If you wish to make an application for Internal Review you need to do so within 30 (calendar) days after being notified of the determination.

You will be advised of the outcome of your Internal Review application within 14 (calendar) days of it being received by the agency.

If the agency does not deal with your Internal Review application within 14 (calendar) days you are entitled to an External Review by the State Ombudsman or the Police Complaints Authority, as appropriate. See over for further information on costs and timeframes.

## **When can't I apply for an Internal Review**

If the determination was made by the Principal Officer of a State Government Agency, Local Government Council or University rather than an officer within the agency, and you are dissatisfied with that determination you cannot apply for an Internal Review. However, you can apply for an External Review by the State Ombudsman, the Police Complaints Authority or the District Court.

If you are dissatisfied with a decision to extend the timeframe to deal with your application you cannot apply for an Internal Review. You can however seek an External Review with the State Ombudsman or the Police Complaints Authority.

## **Do I have to pay for a review of a fee or charge?**

Reviews of fees and charges are dealt with by section 53(3) of the FOI Act. Specifically where an agency determines a fee or charge you disagree with, it must, at your request, review that fee or charge and where appropriate reduce the fee.

A person seeking a review of a fee or charge is not required to pay an application fee or any other charge in relation to this review.

Where the agency decides not to reduce the fee or charge and you are still dissatisfied, you can apply to the Ombudsman or Police Complaints Authority for an external review. All applications for external review must be directed to the Ombudsman unless a police officer or the Minister for Police made the original determination; then it must be directed to the Police Complaints Authority.

## **EXTERNAL REVIEW**

After an Internal Review has been completed, or where you are unable to apply for an Internal Review, and you are dissatisfied with the decision, you have the right to apply for an External Review.

### **Who should I apply to?**

If the determination was made by a police officer or the Minister for Police you must apply to the Police Complaints Authority.

All other applications for External Review should be made to the State Ombudsman.

### **How long will an External Review take and how much will it cost?**

If you wish to make an application for an External Review you must do so within 30 (calendar) days after being notified of the determination. However, the State Ombudsman or the Police Complaints Authority can extend this time limit at their discretion. There is no statutory time limit for External Review. The time taken to complete the review will depend on the size and complexity of your original request and the current workload of the officers who will be undertaking the review. You should discuss any concerns you have directly with the State Ombudsman or the Police Complaints Authority.

There is no fee or charge for investigations undertaken by the State Ombudsman or Police Complaints Authority. See below for further information about the Office of the State Ombudsman or the Police Complaints Authority.

Contact Details:	
<b>State Ombudsman</b> <b>Phone:</b> 8226 8699 <b>Toll Free:</b> 1800 182 150 (within SA) <b>Email:</b> ombudsman@ombudsman.sa.gov.au	<b>Police Complaints Authority</b> <b>Phone:</b> 8226 8677  <b>Email:</b> pca@agd.sa.gov.au

## APPEAL TO THE DISTRICT COURT

If you are dissatisfied with:

- a determination not subject to Internal Review, e.g. extensions to deal with an application
- an Internal Review determination, or
- the outcome of a review by the State Ombudsman or the Police Complaints Authority

you have the right to appeal to the District Court.

If you wish to appeal to the District Court you must do so within 30 (calendar) days after being advised of the determination or the results of the review.

Any costs will be determined by the District Court, where applicable.

The procedures relating to applications to the District Court are established by the Court. For more information contact the District Court of South Australia Civil Registry.

Contact Details:
<b>District Court</b> <b>Phone:</b> 8204 0289 <b>Email:</b> <a href="mailto:district.civil@courts.sa.gov.au">district.civil@courts.sa.gov.au</a>

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## Application for Internal Review of Determination

Under s29 & 38 of the *Freedom of Information Act 1991*

### To the Principal Officer

Agency name.....

### Details of Applicant

Last Name .....

Given Names .....

Australian Postal Address .....

..... Post Code .....

Tel (hm) ..... Tel (wk) ..... Tel (mob) .....

Email (*Optional*).....

FOI Reference Number (*If known*).....

I have submitted an application requesting access to documents in accordance with the *Freedom of Information Act 1991*.

I am not satisfied with the determination made by your agency and, therefore, seek a review because:

***(Please place a tick in the appropriate box)***

- I have been refused access to a document
- I have been refused access to part of a document
- I have been refused a request to amend a personal document
- I have been given access to a document but access has been deferred
- I believe I have been charged too much
- I am a third party specified in the documents but have not been consulted about giving access to another person
- I have been consulted but disagree with the determination to release the documents

### Comments

Include any additional comments you wish to be considered in the review of the determination (*include additional pages if necessary*) .....

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**Fees and Charges**

An application fee of \$29.50 must be submitted with the completed application form, unless you are seeking to have the application fee waived. Please attach evidence, eg. a copy of your concession card, or other evidence as proof of financial hardship if this the case.

You are not required to pay a fee or charge if seeking a review of a determination in regard to an application to amend your personal records or a review of a fee or charge determined by the agency.

In the following section please tick as appropriate

- Do you qualify for fee waiver?       Yes       No
- Is proof attached?                       Yes       No
- Is the fee attached?                       Yes       No
- Application Fee is in the form of       Cheque       Cash       Money Order  
*(Please do no send cash through the mail)*

Generally agencies accept fees in the form of money order or cheque, through the mail, and cash, if applying in person. If you wish to pay your application fee via credit card you will need to ask the agency you are applying to if they accept credit card payments.

If no fee is attached and you do not qualify for fee waiver the agency cannot process this application until the fee has been received by the agency.

If the agency varies or reverses a determination so that access to a document is, or will be, given the agency will refund any fees paid by the applicant.

**Applicant's Signature** .....

Date ..... / ..... / 20.....

**OFFICE USE ONLY**

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Received on ..... / ..... / 20.....

Acknowledgment sent on ..... / ..... / 20.....