

ANNUAL REPORT

YEAR
ENDED
JUNE
2015

Freedom of Information Act 1991



Government
of South Australia

This Annual Report has been issued pursuant to Section 54 of the *Freedom of Information Act 1991*.

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The Hon John Rau MP



**Government
of South Australia**

Deputy Premier
Attorney-General
Minister for Justice Reform
Minister for Planning
Minister for Housing and Urban
Development
Minister for Industrial Relations
Minister for Child Protection
Reform


MINUTES forming ENCLOSURE to

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To THE HON THE PREMIER

**2014-2015 ANNUAL REPORT ON THE ADMINISTRATION OF THE FREEDOM OF
INFORMATION ACT 1991**

Pursuant to Section 54 of the *Freedom of Information Act 1991*, I attach three copies of the 2014-2015 Annual Report on the Administration of the *Freedom of Information Act 1991* for tabling in both Houses of Parliament.



John Rau
Deputy Premier
Attorney-General
Date: 9.11.15

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1 Minister's Foreword

This is the twenty fourth freedom of information (FOI) Annual Report to be tabled in Parliament since the commencement of the *Freedom of Information Act 1991* (the Act) in January 1992. Since this date, 207 826 FOI applications have been made across all sectors, this includes State Government, Local Government and South Australian Universities.

Although the Act was committed to the Honourable Susan Close MP on 26 March 2014, as the newly appointed Minister for the Public Sector following the State Election, the delegation of the Act remained with me.

This year agencies across the three sectors received 11 149 applications for access to information under the Act; 511 more than the previous reporting year.

Of the 11 149 applications received, 10 527 applications were determined, with agencies providing access to the information requested either in full or in part in 84% of cases. This was two percent less than last year.

The total cost to government for the administration of the Act in 2014-15 was estimated to be \$10.45 million, which was a 3.2% decrease from the previous year. No single factor contributed to this decrease. Agencies reported decreases in salary costs and accommodation; however, there were reported increases in costs for training and legal advice. External review authorities reported an increase in costs associated with the provision of advice and dealing with external reviews.

Towards the end of 2014, I asked State Records, the agency supporting me in the administration of the Act, to consider reforms that could improve its operation. State Records continued this work during the reporting year.

I would like to express my appreciation for the commitment of agency staff, in particular Accredited FOI Officers and other FOI support staff, across all sectors to this increasingly complex area of administrative law. I would also like to thank State Records of South Australia for its continued support in advising me on the administration of the Act.

The Hon John Rau MP
DEPUTY PREMIER
ATTORNEY-GENERAL

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2 Freedom of Information in South Australia

2.1 What is the Freedom of Information Act?

The objects of the Act include a responsibility to promote openness and accountability in government and to facilitate more effective participation by members of the public in the processes involved in the making and administration of laws and policies.

This is achieved by conferring on members of the public a legally enforceable right of access to documents in the possession of South Australian State and Local Government and South Australian Universities, subject only to such restrictions that are consistent with the public interest and the preservation of personal privacy.

The Act and its subordinate regulations can be accessed via the South Australian legislation website at www.legislation.sa.gov.au.

2.2 Administration of the FOI Act

State Records of South Australia (State Records) provides support to the Minister responsible for the administration of the Act.

This support includes:

- provision of policy and legislative advice in relation to the operation of the Act
- development of information sheets and guidelines
- preparation of the FOI Annual Report
- management of the Freedom of Information Management System (FOIMS)
- provision of regular and ad hoc reports to the Minister
- provision of training and advice to agencies
- responding to enquiries from members of the public.

In order to produce the FOI Annual Report, all agencies subject to the Act are required to make available to State Records statistical information relating to the processing of FOI applications and the number of contracts entered into containing approved confidentiality clauses.

2.3 Reporting

Pursuant to Section 54AA of the Act, FOI reporting requirements were gazetted on 15 June 2006. These requirements remained unchanged in 2014-15.

State Records derives annual FOI statistics from FOIMS to enable this Annual Report to be produced. FOIMS is a secure web-based system for agencies to record FOI applications. It also assists agencies manage their FOI related reporting obligations.

2.4 Agencies subject to the FOI Act

Section 4 of the Act defines those agencies that are subject to it. The definition of 'agency' is inclusive of most State Government agencies and statutory authorities, South Australian Local Government councils (municipal and district) and South Australian Universities.

Schedule 2 of the Act and the *Freedom of Information (Exempt Agency) Regulations 2008* (FOI Exempt Agency Regulations) prescribe those agencies that are exempt from the Act.

Throughout this report a reference to agencies includes all entities subject to the Act across the three sectors, i.e. State Government, Local Government and Universities.

3 The Year in Review

3.1 Committal of the FOI Act

The Act continued to be committed to the Honourable Susan Close MP as the Minister for the Public Sector during the reporting year. The delegation of the Act to the Attorney-General continued.

3.2 Amendments to the FOI Act

3.2.1 *Freedom of Information Act 1991*

A consequential amendment made by the *Legal Practitioners (Miscellaneous) Amendment Act 2013* commenced operation on 1 July 2014.

The effect of this amendment was the inclusion of the Legal Profession Conduct Commissioner in Schedule 2 – Exempt Agencies.

The Legal Profession Conduct Commissioner replaced the Legal Practitioners Conduct Board, effective 1 July 2014.

3.2.2 *Freedom of Information (Fees and Charges) Variation Regulations 2015*

Each year the *Freedom of Information (Fees and Charges) Regulations 2003* are varied to adjust the fees and charges associated with making and processing FOI applications by an agreed consumer price indexation rate approved by Cabinet.

During 2014-15 the fee for making an FOI application was set at \$33.00 and processing charges at \$12.30 for each 15 minutes spent by the agency dealing with the application.

The *Freedom of Information (Fees and Charges) Variation Regulations 2015* were published in the South Australian Government Gazette on 18 June 2015 and commenced operation on 1 July 2015.

3.2.3 *Expiry of Freedom of Information (General) Regulations 2002 and Freedom of Information (Fees and Charges) Regulations 2003*

The *Freedom of Information (General) Regulations 2002* and the *Freedom of Information (Fees and Charges) Regulations 2003* were due to expire on 1 September 2015. In accordance with the *Subordinate Legislation Act 1978* the expiration of these regulations was postponed to 1 September 2016.

3.3 Advice, publications & training

3.3.1 *Advice*

State Records provides an advice service for members of the public seeking access to information held by government agencies. Advice is also provided to agencies in relation to the operation and administration of the Act, and FOIMS.

During 2014-15, State Records responded to 1205 FOI related enquiries from members of the public and agencies. This is a 1.4% decrease in the number of FOI related enquiries responded to by State Records compared with the previous year.

Enquiries by source

	Agencies	Public	Combined
FOI and FOIMS			
Telephone calls	542	245	787
Emails	389	29	418
Total	931	274	1205

3.3.2 Publications

State Records produces guidelines and information sheets to assist FOI officers to process FOI applications.

During 2014-15, one new information sheet was developed in relation to the reporting of overseas travel as required by Premier and Cabinet Circular PCO35.

FOI related guidelines and information sheets can be found on the State Records website at <http://government.archives.sa.gov.au/>.

3.3.3 FOI courses delivered during 2014-15

Section 54A of the Act requires the Minister to develop and maintain appropriate training programs in consultation with the Ombudsman SA and the Police Ombudsman. Section 4 of the Act requires the Minister to approve training for Accredited FOI Officers.

State Records delivered 20 FOI training courses during 2014-15; including training for accredited and non-accredited FOI officers and specialised agency specific FOI training sessions. These sessions were attended by 359 participants.

FOI courses delivered during 2014-15

Course Name	No. of Courses	No. of Attendees
Training for Accredited and Non Accredited FOI Officers	16	296
Specialised FOI training sessions – agency specific	4	63
Total	20	359

3.3.4 On-line FOI awareness education

In February 2015, State Records offered a new on-line continuous FOI awareness module. This module has been completed by 44 participants.

3.4 Statistical data in this report

State Records wrote to agencies on 12 June 2015 to formally advise them of their obligation to report under the Act and to request that they ensure that statistical information relating to their agency for the reporting year was up to date in FOIMS no later than 31 July 2015.

A copy of the FOIMS database was taken on 3 August 2015 and statistical reports for the 2014-15 financial year were run against this copy during the week commencing 3 August 2015.

3.5 Data inconsistency in FOIMS

In previous years it has been reported that analysis of FOIMS data has shown that some agencies have recorded information incorrectly, and that some agencies have used FOIMS to manage non-FOI related requests for access. The difficulties in identifying these entries and the resulting inaccuracies have also previously been reported.

In addition, it has been recently discovered that there are some minor inconsistencies between reports where the output should be the same. In both cases it should be noted that despite these issues the statistics produced from FOIMS remain consistent from year to year.

3.6 Additional reporting responsibilities

3.6.1 Contracts with approved confidentiality clauses

Clause 13(7) of Schedule 1 to the Act requires the Minister to report annually the number of contracts containing approved confidentiality clauses.

For the 2014-15 reporting year, agencies reported executing 250 contracts that contained an approved confidentiality clause. Of the 250 contracts executed in 2014-15:

- State Government reported 192
- Local Government reported 25
- Universities reported 33.

The 192 State Government reported contracts executed during 2014-15 is an increase of 127 on the previous year. This increase is the result of the Office of Digital Government (ODG) executing Head Agreements for mandated across government ICT services. Agreements of this type had not previously been included by ODG as it was thought that only subsequent agency contracts needed to be reported.

In addition, a further 67 contracts containing approved confidentiality clauses were recorded in FOIMS that were executed in previous years. The dates of execution of these contracts ranged between 2004 and June 2014, with most executed between 2011 and June 2014. Of these 67 contracts:

- State Government recorded 23
- Local Government records 0
- Universities recorded 44.

Of the 44 recorded by Universities, all were recorded by the University of Adelaide, with the majority being executed in June 2014.

3.6.2 Documents provided outside of the FOI Act

The objects of the Act make it clear that the legislation is not intended to prevent access to documents or amendment of personal records outside of the FOI process. Access outside of FOI is usually provided through inspection, or copies provided either for purchase or free of charge. This can make the process of information provision simpler and more efficient for both the public and government.

During the reporting year there were 100 reported instances where agencies refused an FOI application because information could be provided outside of FOI. This is a 35% increase to the number reported in 2013-14.

On 29 April 2013, Cabinet approved the online publication of selected information that is regularly requested and released under FOI. On 2 September 2013, Cabinet approved the *Proactive Disclosure of Regularly Requested Information* policy, issued as Premier and Cabinet Circular 35 (PC035). The policy was updated in June 2015, adding the requirement for agencies to publish overseas travel arrangements for public servants.

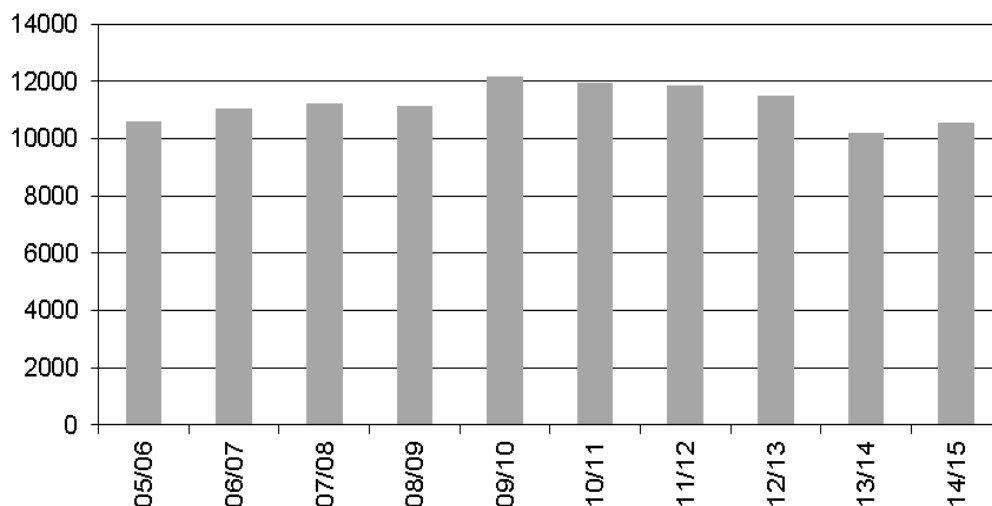
Pursuant to PC035, from 1 July 2013 State Government portfolio agencies have been required to proactively publish on their websites selected information relating to the expenditure and other details of Ministers and Chief Executives including: their mobile phone and credit card usage; hospitality and overseas travel expenses; certain procurement policies, and expenditure on consultants.

4 Statistical Summary – All Years to Date

4.1 State Government

Since the commencement of the Act on 1 January 1992, there has been 203 067 applications for access made to State Government agencies. The chart below shows the number of applications made to State Government over the past ten years.

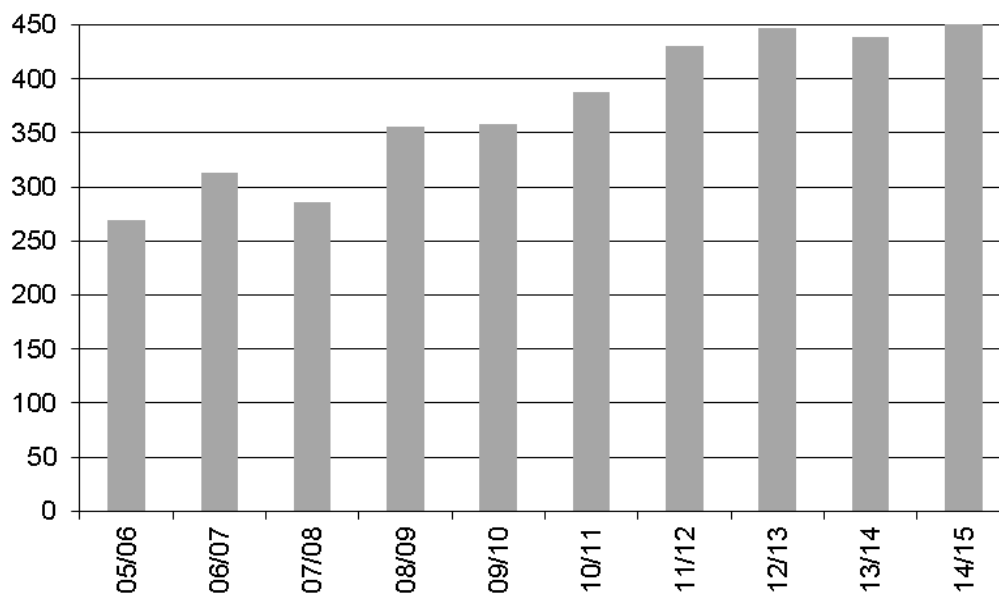
Applications made to State Government since 1 July 2005



4.2 Local Government

Local Government has been subject to the Act since 1 July 2002. Since this date, there have been 4558 applications for access made to Local Government. The chart below shows the number of applications made over the last ten years.

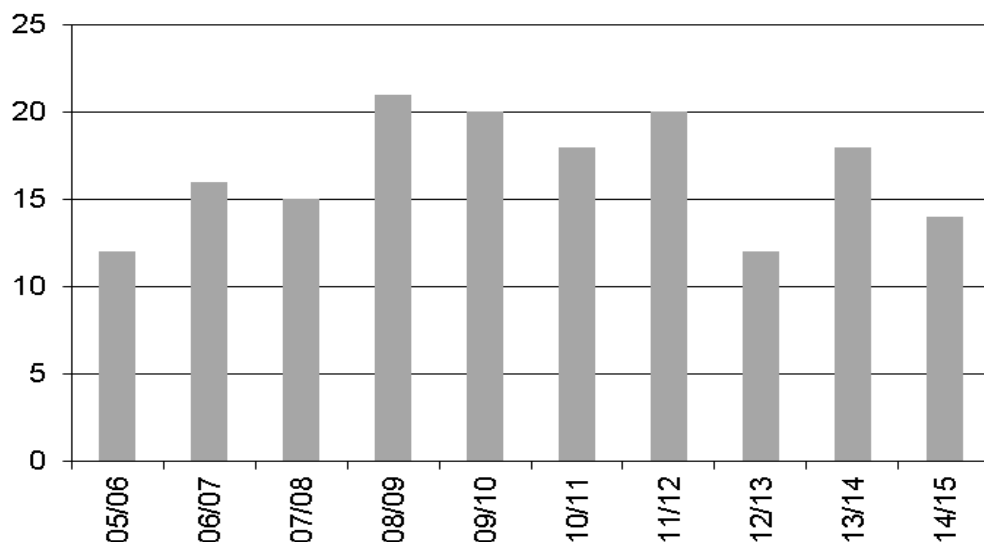
Applications made to Local Government since 1 July 2005



4.3 Universities

The *Freedom of Information (General) Regulations 2002* prescribes the Flinders University of South Australia, the University of Adelaide and the University of South Australia to be included as agencies under the definition of agency in the Act. These Regulations commenced on 11 July 2002. Since that time, there have been 201 applications for access made to Universities. The chart below shows the number of applications made over the last ten years.

Applications made to Universities since 1 July 2005



5 Statistical Summary 2014-15

5.1 Applications processed during 2014-15

This year 11 149 FOI applications for access were received by all agencies subject to the Act; 511 more than 2013-14.

At the end of 2013-14 there were 2111 unfinished applications for access that were carried over into the new reporting year. Therefore, during 2014-15 there was a total of 13 260 applications to be processed; 402 more than last year.

Applications to be processed during 2014-15

Application	State Govt	Local Govt	Universities	All Sectors
New	10 548	587	14	11 149
Carried Over	2 055	52	4	2 111
Total	12 603	639	18	13 260

5.2 Category of access applications

There are two types of access applications that can be made under FOI, either personal or non-personal. In order to report the numbers of each type of application, agencies are asked to classify the application as either personal or non-personal when the application is recorded in FOIMS.

The criteria for determining the category of an application are listed below.

Personal applications include requests for access:

- to documents concerning the applicant's own personal affairs
- to documents concerning another person's personal affairs on that person's behalf
- to documents concerning the applicant's own personal affairs as well as other information
- made by parents seeking access to their child's information
- made by next of kin seeking access to documents concerning the personal affairs about a deceased person.

Non-personal applications include requests for access:

- to documents concerning the personal information of another person without their consent
- to policy or administrative documents, including documents relating to government initiatives or projects.

There are more applications made to State Government agencies for access to personal information than non-personal. However it is the reverse for Local Government with more applications made for non-personal information.

Applications to be processed by sector & application category

Sector	Personal Affairs		Non-Personal Affairs	
	No.	%	No.	%
New applications 2014-15				
State Government	5955	56%	4593	44%
Local Government	107	18%	480	82%
Universities	7	50%	7	50%
<i>Total</i>	<i>6069</i>	<i>54%</i>	<i>5080</i>	<i>46%</i>
Applications unfinished at the end of 2013-14				
State Government	967	47%	1088	53%
Local Government	10	19%	42	81%
Universities	1	25%	3	75%
<i>Total</i>	<i>978</i>	<i>46%</i>	<i>1133</i>	<i>54%</i>
Total to be processed 2014-15	7047	53%	6213	47%

5.3 Types of applicants

When recording FOI application information in FOIMS, agencies are required to record the type of applicant making the request.

The percentages of applications received by applicant type across all sectors are as follows:

- Lawyer / Agent – 31%
- Media – 2%
- Member of Parliament – 22%
- Member of the Public – 37%
- Other – 8%.

Members of Parliament made 310 more applications during 2014-15 than were made in 2013-14.

Notably Local Government reported 66% and 67% increases in applications received from members of parliament and the media respectively. These increases cannot be attributed to any particular agency.

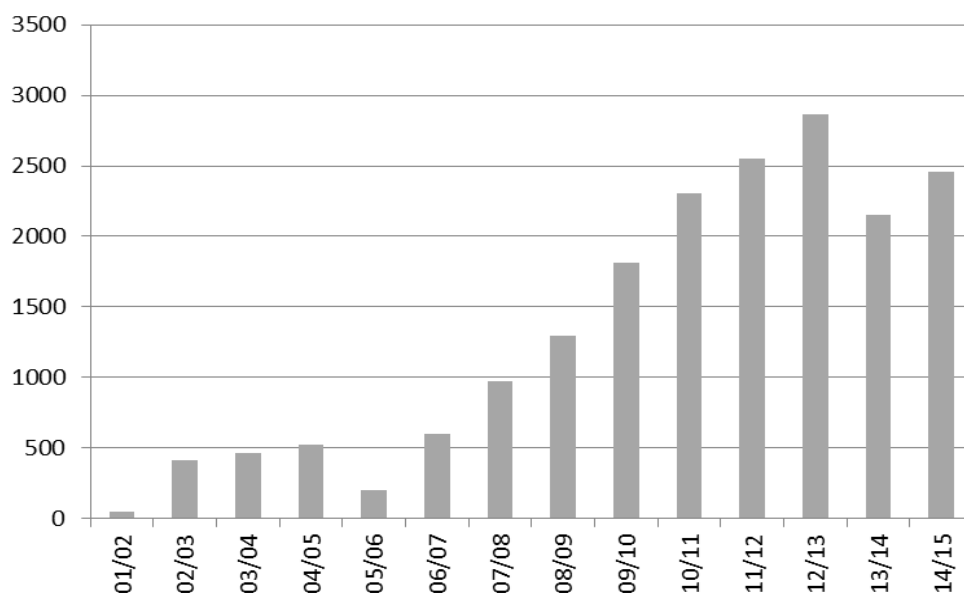
Applications received during 2014-15 by applicant type

Applicant type	State Govt	Local Govt	Unis	All sectors
Lawyer / Agent	3463	44	0	3507
Media	181	30	1	212
Member of Parliament	2325	131	3	2459
Member of the Public	3785	286	9	4080
Other	794	96	1	891
Total	10548	587	14	11149

5.3.1 Applications made by Members of Parliament

This year agencies received 2459 FOI applications from Members of Parliament. As the following chart shows, prior to the 2013-14 reporting year, there was a consistent upward trend in FOI applications received from Members of Parliament. It was reported last year that the decrease in 2013-14 was most likely due to the State Election held in March 2014 and agencies publishing regularly requested information on their websites under the *Proactive Disclosure of Regularly Requested Information* policy. See paragraph 3.62 for further explanation.

Applications made by Members of Parliament since 2001-02



5.4 Across government applications

FOI applications that are the same or similar and sent to more than one agency are commonly known as across government FOI applications.

The scope of these applications often encompasses a large number of documents usually requiring significant time for proper consideration of each document and consultation with third parties, where required by the Act. These applications predominantly concern government information that may be common across many agencies.

The kinds of documents sought during the year included documents in relation to late payment fees, targeted voluntary separation packages, occupational health and safety mandatory reporting, the China Trade Mission and free hospitality and gifts.

There were 12 across government applications received in 2014-15 which equates to approximately 115 separate applications received by State Government agencies. All of these applications were made by Members of Parliament.

From time to time, at the request of agencies, meetings of FOI Officers are arranged to discuss the scope and meaning of these applications and to seek general advice on the interpretation of the Act as it relates to the applications. These meetings provide support to agencies and assist in developing a more efficient approach to processing the applications. During 2014-15 there was one such meeting arranged.

5.5 Release of Cabinet Documents 10 Years or Older

On 1 October 2009, the Government introduced its *Freedom of Information Release of Cabinet Documents under the Ten Year Rule* (the Ten Year Rule) policy issued as Premier and Cabinet Circular 31. The Ten Year Rule sets out the State Government's policy in regard to the release of Cabinet documents under the Act after 10 years rather than the 20 years currently prescribed in the Act.

The Ten Year Rule provides that a Cabinet document can be considered for release, through the FOI process, if 10 years have passed since the end of the calendar year in which it came into existence. When dealing with an application for a Cabinet document under this policy, agencies must give regard to the provisions of the Act, including other exemption clauses in Schedule 1 of the Act. The agency designated to deal with all FOI applications under the Ten Year Rule is the Department of the Premier and Cabinet (DPC).

During 2014-15 there were 136 applications for Cabinet documents made to DPC under the Ten Year Rule. This is 103 more applications than were received during 2013-14. It should be noted, however, that during 2012-13 DPC received 570 applications for Cabinet documents under the Ten Year Rule. The number of applications received during 2014-15 while more than last year is still 434 less than were received during 2012-13.

Of the 136 applications made during the reporting year, 103 were made by Members of Parliament, 21 were made by members of the public, and 12 were made by the media.

During 2014-15 determinations were issued for 195 applications under the Ten Year Rule. Of this number 68 submissions were released in full, 111 submissions were released in part and 16 were refused. A further two applications were withdrawn.

5.6 Response time & extensions

5.6.1 Response times

Agencies must deal with applications made under the Act as soon as practicable and within 30 calendar days of receiving a valid application. If the agency takes longer than 30 calendar days to deal with the application the agency is taken to have refused access to the document. This is referred to as a deemed refusal (see section 5.7.2). In certain circumstances agencies are able to extend this timeframe. Extensions are discussed in section 5.6.2 of this report.

Overall 6418, or 57% of applications were processed within 30 days. This is eight percent more than the previous reporting year.

Response times by sector

Time	State Govt	Local Govt	Unis	All Sectors
0-15 days	3 527	233	2	3 762
16-30 days	2 424	226	6	2 656
>30 days	4 839	78	2	4 919
Total	10 790	537	10	11 337

5.6.2 Extensions

Where applications are either broad or complex in nature or both, section 14A of the Act allows agencies to extend the timeframe to deal with an application.

The Act does not prescribe a specific time period for an extension with agencies being required to extend the time for a reasonable period having regard to the circumstances.

A notice of extension is a determination under the Act and can only be made by the principal officer of an agency. While the applicant does not have a right to an internal review of the decision to extend the time, they do have the right to seek an external review.

Formal extensions

Under section 14A of the Act the principal officer of an agency can extend the period within which an application must be dealt, if satisfied that the application is for access to:

- a large number of documents that require searching a large quantity of information that would unreasonably divert the agency's resources
- a document where consultation is required that cannot be reasonably undertaken within the 30 days.

During the reporting year 243 applications were formally extended under section 14A; an increase of ten percent from the previous reporting year.

Formal extension reasons

Extension reason	State Govt	Local Govt	Uni	All Sectors
Section 14(1)(a) - searching	140	11	0	151
Section 14(1)(b) - consultation	81	10	1	92
Total	221	21	1	243

Negotiated extensions

Some agencies negotiate extensions with the applicant. Negotiated extensions are not prescribed in the legislation but rather are a pragmatic approach taken by agencies for satisfying the needs of the applicant.

Anecdotally it seems that agencies choose to negotiate an extension in cases where formally extending an application is no longer possible. This may be because the

regulatory timeframe for extending an application has passed, or will pass before the determination on the extension is made, or in instances where the criteria for a formal extension cannot be met. During the reporting year 115 applications were extended informally via a negotiated extension compared to 52 in 2013-14; an increase of 121%.

Negotiated extensions by sector

Extension reason	State Govt	Local Govt	Unis	All Sectors
Negotiated	100	15	0	115

5.7 Outcomes of access applications

5.7.1 Determined and processed

During the reporting year there was a total of 13 260 applications to be processed across all sectors.

Applications can be processed in one of three ways. They can be determined, withdrawn by the applicant or transferred to another agency. In total, 10 952 applications were processed by agencies. Of this number, 10 527 were determined and 425 were either transferred or withdrawn.

When an application for access is determined agencies either: fully release a document; partially release a document; or refuse access to a document.

Outcomes of application by sector

Sector	Application Category	Full Release	Partial Release	Refused Number
State Govt	Personal	3248	1872	500
	Non-Personal	2558	795	1022
	Total	5806	2667	1522
Local Govt	Personal	28	35	32
	Non-Personal	247	103	78
	Total	275	138	110
Universities	Personal	3	2	0
	Non-Personal	1	2	1
	Total	4	4	1
All Sectors	Personal	3279	1909	532
	Non-Personal	2806	900	1101
	Total	6085	2809	1633

The rate of release of documents under FOI is 84% across all sectors; 57% of documents being released in full and 27% of documents being released in part.

It should be noted that information reported about response times shows that agencies responded to a total of 11 337 applications, whereas agencies reported determining 10 527 applications; a difference of 810 applications. It is likely that many of these applications are those which have been closed as the application was

not valid and have, therefore, a registered response. In these instances a determination would not be made.

5.7.2 Reasons for refusal or restriction

The Act allows an agency to refuse access to either the whole or part of a document. An agency can refuse access because it has determined that the document is exempt in accordance with Schedule 1 of the Act – ‘Exempt documents’. The other reasons for refusal are listed in the table below.

Reasons for refusing access by sector

Details	State	Local	Unis	Total
Section 15 - Application incomplete/wrongly directed	23	2	0	25
Section 18(1) - Unreasonable diversion of an agency's resources *	50	8	0	58
Section 18(2a) - Abuse of right of access *	22	6	0	28
Section 18(3) - Fees not paid	53	5	0	58
Section 19(2) - Deemed refusal - over 30 days to respond	430	4	0	434
Section 20(1) - Exempt *	2923	120	5	3048
Section 20(1)(b)(c)(d) – Documents otherwise available *	79	21	0	100

* The number of applications where the reason for refusal has been applied.

During 2014-15 agencies reported increases for all reasons for refusal, except refusal as a result of a document being exempt, which decreased by 83.

Agencies reported a 27% increase in the number of deemed refusals under section 19(2). This follows a seven percent increase in 2013-14.

In addition to the reasons for refusal there are other instances that can result in an agency being unable to provide access to a document. These instances can be where the:

- agency that received the application is an exempt agency
- document being sought does not exist or has been lost.

Other reasons why an agency could not provide access to a document

Details	State	Local	Unis	Total
Exempt agency	22	2	0	24
Document does not exist/lost	448	62	0	510

Exemptions

The Act confers on members of the public a legally enforceable right of access to documents subject to certain restrictions. Schedule 1 of the Act includes 19 classes

of exempt documents that agencies need to consider when determining if access to the document can be given in full, in part, or whether access is to be refused.

Application data shows that exemptions were applied 4740 times. The application of an exemption can only be reported once per application. In some circumstances, more than one exemption clause may be applied to refuse access when making a determination. This means that the number of exemptions applied is greater than the number of determinations made.

A complete list of the exemption clauses can be found in Schedule 1 of the Act. The Act is available at www.legislation.sa.gov.au.

The two most commonly applied exemption clauses are:

- Clause 4 – documents affecting law enforcement and public safety
- Clause 6 – documents affecting personal affairs.

5.8 The cost of FOI

In addition to the statistical data derived from FOIMS, State Records seeks further information from agencies in relation to resourcing FOI and other costs associated with FOI. This information includes the number and classification of the staff dealing with FOI in each agency and the time spent undertaking FOI activities. State Records also seeks information relating to any other costs incurred by the agency that relate to FOI, including training and legal costs. The purpose of requesting this information is to estimate the costs associated with the administration of the Act incurred by the three sectors.

5.8.1 Overall cost

The overall cost to agencies for the administration of FOI includes salaries, training, travel and accommodation, seeking legal advice, and any other costs agencies attribute to the administration of FOI. Included in the overall cost to agencies is the support to agencies provided by:

- State Records for the support and management of FOIMS, the provision of training, meetings, and support and advice to the Minister responsible for the Act.
- Ombudsman SA for the cost of legal officers dealing with FOI reviews
- Police Ombudsman for conducting FOI reviews of SA Police determinations
- advising work undertaken by the Crown Solicitor's Office.

It is estimated that the cost of administering the Act in South Australia was \$10.45 million for 2014-15. This is a 3.2% decrease from the previous year.

The costs associated with attending training and seeking legal opinion increased by \$28 336 and \$163 267 respectively. Of the increase in legal costs, 42% of the total was reported by one agency and includes court costs.

5.8.2 Staffing

In order to process FOI applications agencies must employ staff with the appropriate knowledge and skills to understand and complete the tasks involved. Each agency must make the decision on the number and levels of those staff that is appropriate for their agency. While an agency may have a number of staff working on FOI, the Act requires the agency to appoint accredited FOI officers who are at an executive level or in a senior position who reports to an executive. This is to ensure accredited FOI officers have an appropriate level of seniority and expertise to make well informed FOI decisions.

Agency returns show a total of 694 staff across all sectors involved in processing FOI applications; a decrease 272 staff. This can be explained by the decrease of 208 staff involved in FOI related tasks in Local Government. It is likely that this is as a result of 18 Local Government councils not reporting to State Records on the cost of administering the Act in their agencies.

Of the 694 staff involved in processing FOI applications across all sectors, 257 have been designated as accredited FOI officers, a decrease of 17.

Many of these staff spend only a portion of their time undertaking FOI related activities. The 694 staff equates to 116.8 Full Time Equivalents (FTE) involved in processing FOI applications; a decrease of six percent. Of these:

- 102.85 FTE were from State Government
- 12.15 FTE were from Local Government
- 1.8 FTE were from Universities.

State Government reported an increase of 2.75 FTE during this reporting year compared to last year.

Local Government reported a decrease of 10.65 FTE compared to last year. This decrease is likely as a result of 18 Local Government councils not reporting to State Records on the cost of administering the Act in their agencies.

Universities increased their FOI FTE staffing levels by 1.3 FTE.

5.8.3 Fees Collected

Agencies are able to mitigate some of the costs involved in processing FOI requests by charging applicants fees and charges in accordance with the *FOI (Fees and Charges) Regulations 2003* (Fees and Charges Regulations).

In 2014-15 agencies reported recovering \$331 020. Of this \$131 065 was collected as application fees.

Fees collected by sector in 2014-15

Sector	2014-15	2013-14
State Government	\$ 316 234	\$ 356 478
Local Government	\$ 14 786	\$ 14 859
Universities	\$ 0	\$ 0
Total	\$ 331 020	\$ 371 337

5.8.4 Fee waiver

The fee waiver information captured in FOIMS relies on agencies recording any fees and charges that would be waived. Recording fee information is not undertaken on a regular or consistent basis if the agency has no plans to charge the applicant.

As a result, the statistics reported below cannot be considered a complete representation of fees that could have been charged to applicants if they had not qualified for a fee waiver.

Applications where fees were waived

Reason for Fee Waiver	State	Local	Unis	Total
Financial Disadvantage	260	16	0	276
Member of Parliament	473	19	3	495
Other	542	22	1	565
Total Waived	1 275	57	4	1 336
Fee Reduction	28	1	0	29
Total – Waived & Reduced	1 303	58	4	1 365

Section 53(2)(a) requires that FOI regulations must provide for such waiver, reduction or remission of fees as may be necessary to ensure that people are not prevented from exercising their rights under the Act because they are financially disadvantaged.

Agencies reported waiving or reducing application fees for 1365 applications; a reduction of 687 on the previous year. In cases of application fee waiver, there is often an associated reduction or waiver of the processing costs of the application. The total amount of fees and charges waived by agencies was \$232 908, with 21% being waived due to financial disadvantage. This is shown in more detail in the following table.

Fee waiver – financial disadvantage

Fee	State	Local	Unis	All Sectors
Application Fees	\$ 0	\$ 0	\$ 0	\$ 0
Processing Fees	\$ 46 956	\$ 96	\$ 0	\$ 47 052
Transcript Fees	\$ 0	\$ 0	\$ 0	\$ 0
Photocopying	\$ 960	\$ 2	\$ 0	\$ 962
Other Costs	\$ 529	\$ 0	\$ 0	\$ 529
Total	\$ 48 445	\$ 98	\$ 0	\$ 48 543

5.9 Amendment applications

The Act gives members of the public a mechanism to apply for an amendment of a government record about their own personal affairs, which they believe is incomplete, incorrect, out-of-date or misleading.

If an agency refuses to amend the record, the applicant has the right to have a notation added to that record. The notation would include why the applicant believes the record should be amended and may also include any other information that the applicant believes will make the record complete.

This year there were 201 FOI applications for amendment received by agencies, which is a decrease of 30% from 2013-14. All were received by State Government agencies. Of the 201 amendment applications made during 2014-15, 174 were made to a single agency.

In addition to the amendment applications received during 2014-15, there were 28 unfinished amendment applications brought forward from the previous year, all by State Government agencies. Therefore, in total there were 229 FOI applications for amendment to be processed by State Government agencies during 2014-15. Determinations were issued for 205 applications with two applications withdrawn by the applicant and two transferred to another agency.

Amendment of personal information

Outcome	2014-15	2013-14
Amendment agreed	56	55
Amendment refused	131	204
Partial amendment	15	24
Notation added	3	5
Total	205	288

The table below demonstrates that this year, as last year, the primary reason for determining to refuse to amend a record is that the agency has determined the record to be correct.

Reasons for refusal to amend records

Reason	2014-15	2013-14
Records are not incomplete, incorrect, out-of-date or misleading	127	203
Application contains matter that is incorrect or misleading	0	0
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	4	1
Total	131	204

5.10 Review & appeal

The Act allows any person who is aggrieved by a determination made by an agency to seek a review of that determination. In most cases the applicant must, in the first instance, request an internal review or, where the determination was made by the principal officer, an external review. If following an internal or external review the person is still aggrieved by the determination, they may appeal to the District Court. Each of these options is explained in greater detail in the following paragraphs.

5.10.1 Internal review

An applicant can seek an internal review of an agency's determination within 30 calendar days of the original determination and this review must be completed within 14 days. Where an applicant receives a determination by the principal officer of an agency there is no avenue for internal review and any review, if sought by the applicant, must be carried out externally. Upon an internal review, the principal officer may confirm, vary or reverse the determination under review.

This year there were 371 internal review applications received by all three sectors. This is 43 more applications than received in the previous year.

In addition to the 371 internal review applications received during the reporting year there were 51 unfinished applications for internal review brought forward from 2013-14, of these 45 were brought forward by State Government agencies.

Therefore, during 2014-15 there were 422 applications for internal review to be processed. Of these, 94% were to be processed by State Government agencies. Determinations were issued for 302 applications.

Outcome of internal review applications

Outcome	2014-15
Decision confirmed	182
Decision varied	56
Decision reversed	64

5.10.2 External review

If an applicant is aggrieved by an internal review determination or a determination made by an agency's principal officer, they can seek an external review by the Ombudsman SA or the Police Ombudsman.

The Ombudsman SA conducts all external reviews, except for determinations made by the South Australia Police or the Minister responsible for South Australia Police. Determinations made by South Australia Police or the Minister responsible for South Australia Police are reviewed by the Police Ombudsman.

During 2014-15, the Ombudsman SA advised that 101 external reviews were completed, 38 of those were lodged by Members of Parliament.

The Police Ombudsman advised they received 27 new external reviews during 2014-15 with 30 being finalised.

The Ombudsman SA and the Police Ombudsman report separately on external reviews as part of their annual reporting requirements. For further information, please refer to those reports.

5.10.3 Appeal to the District Court

If an applicant is aggrieved by the outcome of an internal or external review they may appeal to the District Court.

During 2014-15, agencies reported six appeals had been before the District Court during the year and all were finalised. In three cases the District Court confirmed the decision of the agency. Of the remaining three appeals, one was varied and two were withdrawn.

5.11 Access applications unfinished at 30 June 2015

Not all applications are processed by the end of the reporting year and are therefore carried over to be processed in the following year. In 2014-15 there were 2354 unfinished applications carried over into 2015-16, an increase of two percent. Of all

unfinished applications, 588 were within the 30 day timeframe and 1766 were outside the 30 day timeframe.

Applications unfinished at 30 June 2015

Sector	Within 30 day timeframe	Outside 30 day timeframe	Total Unfinished
State Government	555	1 688	2 243
Local Government	32	70	102
Universities	1	8	9
Total	588	1 766	2 354

Of the 1766 not processed within 30 days, 53% were personal and 47% were non-personal. Where an application takes longer than 30 days to process, it is common practice for agencies to inform the applicant of the progress of their application.

Most commonly non personal applications are either broad in scope or complex in nature, or both. This combination of scope and complexity can result in agencies taking more time to undertake the tasks of document assessment, consultation and decision making.

Overdue applications unfinished at 30 June 2015

Sector	Personal	Non-Personal	Total
State Government	917	771	1 688
Local Government	16	54	70
Universities	2	6	8
Total	935	831	1 766

6 APPENDICES

6.1 Appendix A – Agency tables

Access applications received – State Government

Agency	Applications Received 2014-15	Applications Received 2013-14
Adelaide & Mt Lofty Ranges Natural Resources Management Board	1	0
Adelaide Cemeteries Authority	0	1
Adelaide Convention Centre	0	0
Adelaide Entertainments Corporation	0	0
Adelaide Festival Centre Trust	1	3
Adelaide Festival Corporation	0	0
Alinytjara Wilurara Natural Resources Management Board	0	0
Architectural Practice Board of SA	0	0
Attorney-General's Department	138	76
Carclew Inc	0	0
Centennial Park Cemetery Authority	0	0
Central Adelaide Local Health Network (CALHN) ¹	2194	2273
Country Health South Australia Local Health Network (CHSALHN) ²	330	250
Courts Administration Authority	14	38
Defence SA	0	9
Department for Correctional Services	229	280
Department for Communities and Social Inclusion	222	199
Department of Education and Child Development	667	514
Department of Environment, Water & Natural Resources	81	59
Department of Further Education, Employment, Science and Technology ³	N/A	32
Department for Health and Ageing	111	100
Department of Manufacturing, Innovation, Trade, Resources and Energy ⁴	N/A	47
Department for Planning, Transport and Infrastructure	278	222
Department for Primary Industries and Regions SA	53	28
Department of State Development ⁵	252	N/A
Department of the Premier and Cabinet	254	330
Department of Treasury and Finance	104	245
Education and Early Childhood Services Registration and Standards Board	0	0
Electoral Commission of South Australia	11	10
Environment Protection Authority	40	21
Equal Opportunity Commission	1	2
Essential Services Commission	4	4
Eyre Peninsula Natural Resources Management Board	0	0
Forestry SA	2	6
Guardianship Board	0	0
Health Performance Council	0	0
History Trust of South Australia	1	0

Agency	Applications Received 2014-15	Applications Received 2013-14
HomeStart Finance	0	0
Independent Gambling Authority	0	0
Industrial Relations Commission	0	0
Industrial Relations Court	0	0
Legal Profession Conduct Commission ⁶	0	8
Legal Services Commission	11	6
Lifetime Support Authority ⁷	0	1
Medical Panel SA	0	0
Motor Accident Commission	0	3
Northern Adelaide Local Health Network (NALHN) ⁸	821	830
Northern & Yorke Natural Resources Management Board	0	0
Office for the Ageing	0	0
Office of the Attorney-General	32	42
Office of the Employee Ombudsman	0	1
Office of the Guardian for Children and Young People	0	0
Office of the Minister - Hon Antonio Piccolo MP	32	44
Office of the Minister - Hon Gail Gago MLC	28	23
Office of the Minister – Hon Geoff Brock MP	7	4
Office of the Minister - Hon Ian Hunter MLC	29	27
Office of the Minister - Hon Jennifer Rankine MP	21	36
Office of the Minister - Hon Jack Snelling MP	16	23
Office of the Minister – Hon Kyam Mayer MLC	10	N/A
Office of the Minister – Hon Leon Bignell MP	50	28
Office of the Minister – Hon Martin Hamilton-Smith MP	11	0
Office of the Minister – Hon Stephen Mullighan MP	17	9
Office of the Minister – Hon Susan Close MP	34	15
Office of the Minister - Hon Tom Koutsantonis MP	60	28
Office of the Minister – Hon Zoe Bettison MP	29	19
Office of the National Rail Safety Regulator (ONRSR)	3	1
Office of the Premier - Hon Jay Weatherill MP	59	101
Office of the Public Advocate	0	3
Office for the Public Sector ⁹	0	0
Office of the Training Advocate	0	0
Office of the Treasurer – Hon Tom Koutsantonis MP	31	36
Outback Communities Authority	0	0
Rail Commissioner	0	2
Regional Development Australia Barossa	0	0
Residential Tenancies Tribunal	0	0
SA Ambulance Service	142	152
SA Arid Lands Natural Resources Management Board	0	1
SA Fire and Emergency Services Commission	73	24
SA Lotteries	0	0
SA Murray Darling Basin Natural Resources Management Board	0	0

Agency	Applications Received 2014-15	Applications Received 2013-14
SA Water	46	45
South Australia Police Service	1986	1940
South Australian Certificate of Education (SACE) Board	1	6
South Australian Civil and Administrative Tribunal	1	N/A
South Australian Country Fire Service	53	55
South Australian Film Corporation	0	0
South Australian Multicultural and Ethnic Affairs Commission	0	0
South Australian Museum	2	0
South Australian Tourism Commission	25	28
South East Natural Resources Management Board	0	0
Southern Adelaide Local Health Network (SALHN) ¹⁰	1015	1072
State Library of South Australia	1	0
State Theatre Company of SA	0	0
Stormwater Management Authority	0	0
Super SA	4	2
TAFE SA	144	8
Teachers Registration Board of SA	10	7
Urban Renewal Authority	48	30
Veterinary Surgeons Board of SA	0	0
West Beach Trust (marketed as Adelaide Shores)	0	0
Women's and Children's Health Network	318	393
WorkCover Corporation	391	305
Workcover Ombudsman	0	0
Workers Compensation Tribunal	0	0
Zero Waste SA	0	4

¹ **Central Adelaide Local Health Network** – includes BreastScreen SA, CALHN Office of the CEO, Donate Life, Pregnancy Advisory Centre, Adelaide Metro Mental Health Directorate – Glenside Campus, Queen Elizabeth Hospital, Royal Adelaide Hospital, SA Dental Service, SA Prison Health Service, Statewide Clinical Support Services and Regional Office.

² **Country Health SA Local Health Network** – health services covered by this local health network are Aboriginal Health, Adelaide Hills Southern Fleurieu and Kangaroo Island Health Service, Aged Care Sub-acute and Community Health Service, Country Health SA - Corporate, Eyre, Flinders & Far North Region, Flinders and Outback, Inner North Country Health Service, Lower South East Health Service, Mallee Coorong Health Service, Country Health SA – Mental Health, Pt Lincoln Ceduna Mid West and Lower Eyre Health Service, Pt Pirie Pt Broughton Southern Flinders and Mid North Health Service, Riverland Health Service, Upper South East Health Service, Yorke and Lower North Health Service.

³ **Department for Further Education, Employment, Science and Technology** merged with the Department of Manufacturing, Industry, Trade, Resources and Energy to become the Department of State Development.

⁴ **Department of Manufacturing, Industry, Trade, Resources and Energy** merged with the Department of Further Education, Employment, Science and Technology to become the Department of State Development.

⁵ **Department of State Development** – from 1 July 2014 the Department for Manufacturing, Innovation, Trade, Resources and Energy merged with the Department of Further Education, Employment, Science and Technology to become the Department of State Development.

⁶ **Legal Profession Conduct Commission** – previously known as the Legal Practitioners Conduct Board

⁷ **Lifetime Support Authority** established by the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013* commenced on 1 July 2013.

⁸ **Northern Adelaide Local Health Network** – includes Lyell McEwin Hospital, Modbury Public Hospital and the NALHN Office of the CEO.

⁹ **Office for the Public Sector** was previously known as the Office for Employment and Review.

¹⁰ **Southern Adelaide Local Health Network** – includes Drug and Alcohol Services SA, Flinders Medical Centre, Noarlunga Health Service, SALHN Mental Health, Repatriation General Hospital and the SALHN Office of the CEO.

Access applications received – Local Government

Agency	Applications Received 2014-15	Applications Received 2013-14
Adelaide City Council	66	33
Adelaide Hills Council	21	6
Alexandrina Council	9	12
Campbelltown City Council	8	5
City of Burnside	15	2
City of Charles Sturt	38	38
City of Holdfast Bay	12	6
City of Marion	30	11
City of Mitcham	21	13
City of Mount Gambier	2	4
City of Norwood, Payneham & St Peters	0	0
City of Onkaparinga	37	30
City of Playford	16	16
City of Port Adelaide Enfield	28	29
City of Port Lincoln	4	3
City of Prospect	14	7
City of Salisbury	33	19
City of Tea Tree Gully	19	9
City of Unley	58	52
City of Victor Harbor	13	2
City of West Torrens	13	14
Clare & Gilbert Valleys Council	3	3
Coorong District Council	1	0
Corporation of the Town of Walkerville	4	3
District Council of Barunga West	1	1
District Council of Ceduna	1	2
District Council of Cleve	0	0
District Council of Coober Pedy	1	1
District Council of Elliston	2	1
District Council of Franklin Harbour	0	0
District Council of Grant	4	7
District Council of Karoonda East Murray	0	1
District Council of Kimba	0	0
District Council of Lower Eyre Peninsula	4	1
District Council of Loxton Waikerie	1	0
District Council of Mallala	3	0
District Council of Mount Barker	7	7
District Council of Mount Remarkable	2	2
District Council of Orroroo Carrieton	0	0
District Council of Peterborough	0	0
District Council of Robe	0	0
District Council of Streaky Bay	2	2
District Council of Tatiara	0	0
District Council of The Copper Coast	17	11

Agency	Applications Received 2014-15	Applications Received 2013-14
District Council of Tumby Bay	14	7
District Council of Wudinna	0	0
District Council of Yankalilla	4	0
District Council of Yorke Peninsula	1	3
Eastern Health Authority Inc.	4	2
Flinders Ranges Council	2	2
Kangaroo Island Council	6	4
Kingston District Council	1	1
Light Regional Council	2	4
Mid Murray Council	8	19
Naracoorte Lucindale Council	1	0
Northern Areas Council	1	1
Port Augusta City Council	2	3
Port Pirie Regional Council	1	3
Regional Council of Goyder	2	5
Renmark Paringa Council	2	1
Roxby Downs Council	1	2
Rural City of Murray Bridge	4	6
Southern Mallee District Council	0	0
The Barossa Council	6	4
The Berri Barmera Council	1	1
Town of Gawler	5	6
Wattle Range Council	5	6
Whyalla City Council	4	6

Access applications received – Universities

Agency	Applications Received 2014-15	Applications Received 2013-14
Flinders University	3	6
University of Adelaide	8	12
University of South Australia	3	0

6.2 Appendix B – Reasons for refusing access

Application incomplete or wrongly directed

Under section 15 of the Act, an agency cannot refuse to accept an application because it does not contain sufficient information, without first taking such steps as are reasonably practicable to assist the applicant to provide the necessary information.

Unreasonable diversion of an agency's resources

Section 18(1) allows an agency to refuse to deal with an application if it appears that the nature of the application, if carried out, would substantially and unreasonably divert the agency's resources.

However, before refusing to deal with it, the agency must first endeavour to assist the applicant to amend the application (so that it would no longer divert the agency's resources). See section 18(2).

Abuse of the right of access

Section 18(2a) allows an agency to refuse to deal with an application if, in the opinion of the agency, the application is part of a pattern of conduct that amounts to an abuse of the right of access or is made for a purpose other than to obtain access to information.

Fees not paid

Under section 18(3), an agency may refuse to deal with an application if it has requested payment of an advance deposit and payment of the deposit has not been made within the period specified in the request.

Deemed refusal

Pursuant to section 19(2), should an agency fail to determine an application within 30 days, or within the time period if it has been so extended, it is deemed a refusal of access. However, a determination for access made after the time period is still considered a valid determination under the Act. See section 19(2a).

Exempt document

Section 20(1)(a) allows an agency to refuse access to exempt documents, of which there are 19 classes outlined in Schedule 1 to the Act.

Otherwise available

Section 20(1)(b), (c) and (d) allows access to be refused to documents that are available for inspection either at the agency which received the application, or at another agency (whether part of a public register or otherwise), or in accordance with another Act. Access can also be refused if the document is usually and currently available for purchase, or was not created by the agency itself and genuinely forms part of library material held by the agency.

6.3 Appendix C – Other reasons for not providing access

Exempt agency

Schedule 2 to the Act lists the agencies that are exempt from the application of the Act. Agencies can also be exempt under Regulation.

The Act can be accessed via the South Australian legislation website at www.legislation.sa.gov.au.

Document does not exist or is lost

Section 23(1)(b) requires that, if an agency does not hold the required document, the agency must advise the applicant to this effect in a notice of determination.