

# Administration of the Freedom of Information Act 1991 2019-20 Annual Report

Administration of the Freedom of Information Act 1991

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To:
Hon Vickie Chapman MP
Deputy Premier
Attorney-General

This annual report will be presented to Parliament to meet the statutory reporting requirements of *Freedom of Information Act 1991* (FOI Act) and the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

This is the twenty ninth freedom of information (FOI) Annual Report to be tabled in Parliament since the commencement of the FOI Act in January 1992.

This report is verified to be accurate for the purposes of annual reporting to the Parliament of South Australia.

Submitted on behalf of State Records of South Australia on the Administration of the *Freedom of Information Act 1991* by:

Simon Froude

Director, State Records

Date 27 October 2020 Signature \_\_\_\_

# From the Attorney General

This report on the administration of the *Freedom of Information Act 1991* (FOI Act) provides an overview of 2019-20 FOI application data, as reported by agencies subject to the FOI Act. Agencies include South Australian state and local government agencies and universities.

This year agencies reported receiving 10 344 new FOI applications. This is consistent with the number of applications received in recent years. Despite working through challenging times, agencies processed more applications within the 30 day time frame and where this couldn't be achieved because of extensive consultation or search requirements, they put in place formal extensions of time so applicants knew when their application would be complete.

Release rates remained stable from previous years as did the types of applications received and the applicants.

Agency staff, in particular those designated as Accredited FOI Officers and other FOI support staff, have worked through difficult times in 2020 but have continued to strive to provide service to the community through the provision of access to government information in accordance with the legislative requirements.

In April 2020 I introduced into Parliament the *Freedom of Information* (*Miscellaneous*) *Amendment Bill 2020*. This Bill would amend the FOI Act to update it in line with legislative developments interstate and changes in technology, taking into account both concerns for enhanced transparency and accountability and the need to balance this with sustainability and efficiency in administration of the legislation.

I am hopeful of the amendments to the FOI Act commencing in 2021.

Vickie Chapman MP

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#### Overview: Freedom of Information Act 1991

#### **Objects**

The objects of the FOI Act include a responsibility to:

- promote openness in government and accountability of Ministers and other agencies and thereby enhance respect for the law and further good government in South Australia, and
- 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:

- ensuring that information concerning the operations of government is readily available to members of the public, Members of Parliament and the media
- conferring on members of the public a legally enforceable right of access to documents held by South Australian state and local government and universities, subject only to such restrictions that are consistent with the public interest and the preservation of personal privacy
- enabling each member of the public to apply for the amendment of government records concerning their personal affairs if those records are incomplete, incorrect, out-of-date or misleading.

The FOI Act and its subordinate regulations can be accessed via the South Australian legislation website at <a href="https://www.legislation.sa.gov.au">www.legislation.sa.gov.au</a>.

#### Administration

State Records of South Australia (State Records) is a business unit with the Attorney-General's Department and has within its remit responsibility for supporting the Minister (the Attorney-General) in the administration of the FOI Act.

#### This support includes:

- provision of policy and legislative advice in relation to the operation of the FOI 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
- response to public enquiries.

In order to produce the FOI annual report, all agencies subject to it are required to make available to State Records statistical information relating to FOI and the number of contracts entered into containing approved confidentiality clauses.

#### Agencies subject to the FOI Act

Section 4 of the FOI Act defines those agencies that are subject to the FOI Act. The definition of 'agency' is inclusive of most South Australian state government agencies and statutory authorities, local government councils (municipal and district) and universities.

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

Throughout this report a reference to agencies includes all entities subject to the FOI Act across the three sectors, ie state government, local government and universities.

#### Reporting

Pursuant to Section 54AA of the FOI Act, FOI reporting requirements were gazetted on 15 June 2006. These requirements remained unchanged in 2019-20.

State Records derives annual FOI statistics from FOIMS to enable this annual report to be produced. FOIMS is a web-based system where agencies record their FOI applications so that they can meet their FOI related reporting obligations.

Additional information, including the costs incurred by agencies in the administration of the FOI Act, is collected via an online survey.

An initiative is currently underway to develop alternate FOI reporting arrangements and to decommission FOIMS. Due to its age, FOIMS is unable to be modified and with the introduction of the *Freedom of Information (Miscellaneous) Amendment Bill 2020* in the South Australian Parliament earlier this year it will be rendered unusable.

#### Other related agencies (within the Minister's area/s of responsibility)

State Records is a business unit of the Attorney-General's Department.

# **Performance**

## **Contribution to whole of Government objectives**

Key objective	Agency's contribution
Open and Transparent Government	Provide access to government information in accordance with the FOI Act
	Provide training and information to agencies to enable them to comply with the requirements of FOI Act

# Specific objectives and performance

Agency objectives	Indicators	Performance
FOI advice to agencies and members of the public	699 phone calls or emailed enquiries were responded to by State Records	A decrease in enquiries was reported due to the implementation of an improved enquiry reporting tool by State Records where multiple interactions are captured within one enquiry.
Publication of guidelines and information sheets to assist FOI Officers and the public	All information sheets, brochures and forms were maintained	State Records produces documents to assist FOI officers to process FOI applications.  FOI related guidelines and information sheets can be found on the State Records website at <a href="http://archives.sa.gov.au/">http://archives.sa.gov.au/</a>
Delivery of accredited training for FOI officers	<b>52</b> students attended the classroom based training	In April, classroom training ceased due to the COVID-19 pandemic. Work is underway to transition to an online format to streamline administration of training and enhance customer experience.
Delivery of online FOI education	60 students enrolled to undertake the online courses	From May 2020 charges for accessing State Records' online FOI training were removed. This will continue in future years with additional training moving online.
Online submission and payment for FOI applications	State government agencies received <b>3206</b> applications through the online FOI Application Form.	FOI applicants seeking to access information held by state government agencies are able to lodge and pay for their FOI applications online using the online FOI Application Form. This figure increased by around 23% from the previous reporting year.

# Reporting required under any other act or regulation

#### Freedom of Information Act 1991

Section 54 – Reports to Parliament

- (1) The Minister administering this Act must
  - as soon as practicable after 30 June and in any case before
     31 October in each year prepare a report on the administration of this
     Act for the 12 months ending on 30 June; and
  - cause a copy of the report to be laid before both Houses of Parliament within six sitting days after preparation of the report is completed.

#### FOI Act statistical information 2019-20

Agencies provide FOI application information through FOIMS and an annual survey to enable a consolidated statistical report to be prepared. The accuracy of the data relies on agencies entering correct data into FOIMS and providing responses to the annual survey.

FOI Act statistical information is available in Attachment 1 to this report and on Data.SA.

The following freedom of information statistical data has been compiled by State Records of South Australia from information provided by South Australian state and local government agencies and universities bound by the *Freedom of Information Act 1991* (FOI Act).

FOI data sets for prior financial years can also be found at Data.SA, and in past FOI annual reports on the State Records website.

TABLE 1 Applications to be processed

Application		State		Local		Unis	А	II Sectors
	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19
New	9 784	9 978	516	490	44	17	10 344	10 485
Carried Over	2 808	2 482	147	143	9	10	2 964	2 635
Total	12 592	12 460	663	633	53	27	13 308	13 120

TABLE 2 Applications to be processed and application category

Sector		Perso	nal Affairs		Non-Perso	nal Affairs
	Qty.	2019-20 %	2018-19 %	Qty.	2019-20 %	2018-19 %
New applications 2019-20						
State Government	7 634	78%	77%	2 150	22%	23%
Local Government	77	15%	16%	439	85%	84%
Universities	18	41%	47%	26	59%	53%
Total	7 729	75%	74%	2 615	25%	26%
Applications unfinished at th	e end of 201	18-19				
State Government	1 939	69%	75%	869	31%	25%
Local Government	28	19%	25%	119	81%	75%
Universities	2	22%	20%	7	78%	90%
Total	1 969	66%	72%	995	34%	28%
Total to be processed 2019-20	9 698	73%	74%	3 610	27%	26%

**TABLE 3** Applications received by applicant type

Applicant type		State		Local		Unis	Д	All sectors
	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19
Member of the Public	4 000	4 115	235	296	24	10	4 259	4 421
Lawyer / Agent	3 597	3 450	59	48	2	0	3 658	3 498
Member of Parliament	1 066	1 514	175	86	1	0	1 242	1 600
Other	983	689	29	52	7	5	1 019	746
Media	138	210	18	8	10	2	166	220
Total	9 784	9 978	516	490	44	17	10 344	10 485

## TABLE 4 Response times

Time	State		Local		Unis		All Sectors	
	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19
0-15 days	2 671	2 506	164	162	10	4	2 845	2 672
16-30 days	2 498	2 209	234	188	13	7	2 745	2 404
>30 days	4 434	4 780	87	91	9	3	4 530	4 874
Total	9 603	9 495	485	441	32	14	10 120	9 950

#### **TABLE 5** Formal extensions of time

Extension reason	State	Local	Unis	All Sectors 2019-20	All Sectors 2018-19
Section 14(1)(a) – searching	306	5	10	321	297
Section 14(1)(b) – consultation	380	14	2	396	266
Total	686	19	12	717	563

#### **TABLE 6** Negotiated extensions

Extension reason	State	Local	Unis	All Sectors 2019-20	All Sectors 2018-19
Negotiated	134	7	1	142	178

**TABLE 7** Outcomes of applications

Sector	Application	Fu	II Release	Partia	al Release		Refused
	Category	2019-20	2018-19	2019-20	2018-19	2019-20	2018-19
State	Personal	3 859	4 100	2 689	2 515	726	747
	Non-Personal	608	571	882	686	594	539
	Total	4 467	4 671	3 571	3 201	1 320	1 286
Local	Personal	21	25	36	28	6	11
	Non-Personal	191	195	131	103	55	68
	Total	212	220	167	131	61	79
Universities	Personal	1	0	15	5	2	1
	Non-Personal	4	3	7	5	5	3
	Total	5	3	22	10	7	4
All Sectors	Personal	3 881	4 125	2 740	2 548	734	759
	Non-Personal	803	769	1 020	794	654	610
	Total	4 684	4 894	3 760	3 342	1 388	1 369

 TABLE 8
 Reasons for refusing access

Details	State	Local	Unis	Total 2019-20	Total 2018-19
Section 15 - Application incomplete/wrongly directed*	10	4	0	14	12
Section 18(1) - Unreasonable diversion of an agency's resources *	109	2	1	112	27
Section 18(2a) - Abuse of right of access *	91	1	1	93	15
Section 18(3) - Fees not paid	14	4	0	18	40
Section 19(2) - Deemed refusal - over 30 days to respond	308	0	0	308	375
Section 20(1) - Exempt *	3 542	151	26	3 719	3 340
Section 20(1)(b)(c)(d) – Documents otherwise available *	59	26	0	85	70
Exempt agency	42	2	0	44	22
Document does not exist/lost	324	35	2	361	421

<sup>\*</sup> The number of applications where the reason for refusal has been applied.

**TABLE 9** Exemptions

Most commonly applied exemptions	2019-20	2018-19
Clause 4 – documents affecting law enforcement and public safety	897	624
Clause 6 – documents affecting personal affairs	2 614	2 329
Clause 7 – documents affecting business affairs	218	212
Clause 9 – internal working documents	328	185
Clause 10 – documents subject to legal professional privilege	150	204
Clause 12 – documents the subject of secrecy provisions	463	395
Clause 13 – documents containing confidential material	348	347
Clause 16 – documents concerning the operations of agencies	277	203

**TABLE 10** Amendment of personal information

Outcome	2019-20	2018-19
Amendment in full	9	12
Amendment refused	68	84
Partial amendment	4	6
Notation added	11	8
Total	92	110

TABLE 11 Reasons for refusal to amend personal information records

Reason	2019-20	2018-19
Records are not incomplete, incorrect, out-of-date or misleading	68	77
Application contains matter that is incorrect or misleading	0	2
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	1	5
Total	69	84

## **TABLE 12** Contracts reported approved confidentiality clauses

Sector	2019-20	2018-19
State Government	27	204
Local Government	19	74
Universities	0	5
Total	46	283

TABLE 13 Cabinet documents 10 years or older - requests for to access

Requests	2019-20	2018-19	2017-18
By MPs	11	5	24
By Public	87	44	198
By Media	13	91	42
Total	111	140	264

TABLE 14 Cabinet documents 10 years or older – access determinations

Determination	2019-20	2018-19	2017-18
Released in full	0	47	76
Released in part	127	58	169
Refused in full	10	7	5
Withdrawn	0	0	1
Total	137	112	251

**TABLE 15** The cost of administering FOI

Cost category	2019-20 \$	2018-19 \$	2017-18 \$
Salary	15 344 767	12 894 695	14 083 398
Other expenses	631 448	558 101	590 758
Total	15 976 215	13 452 796	14 674 156

**TABLE 16** Staffing

Sector	Number of staff		Ful	Il-time equivalent
	2019-20	2018-19	2019-20	2018-19
State Government	585	528	148.2	126.6
Local Government	154	113	15.9	12.1
Universities	95	40	6.5	2.4
Total	834	681	170.6	141.1

**TABLE 17** Application and processing fees collected

Sector	2019-20 \$	2018-19 \$	2017-18 \$
State Government	376 187	290 230	266 658
Local Government	24 201	10 025	28 727
Universities	3 426	490	376
Total	403 814	300 745	295 761

**TABLE 18** Applications for review received

Applications reviewed	2019-20	2018-19
Internal review	355	322
External review - Ombudsman	273	262
External review - South Australian Civil and Administrative Tribunal	21	15
Total	649	599

#### **TABLE 19** Outcome of internal review applications

Outcome	2019-20	2018-19
Decision confirmed	133	141
Decision varied	193	102
Decision reversed	36	37

#### TABLE 20 Applications unfinished at 30 June 2019

Sector	Within 30 day timeframe	Outside 30 day timeframe	Total
State Government	666	2 306	2 972
Local Government	38	145	183
Universities	12	7	19
Total	716	2 458	3 174

## **TABLE 21** Overdue applications unfinished at 30 June 2020

Sector	Personal	Non-Personal	Total
State Government	1 583	723	2 306
Local Government	31	114	145
Universities	1	6	7
Total	1 615	843	2 458

## State Government Agency Access Application Breakdown

Division/Agency		Personal	Non Personal	Total
Attorney-General		61	85	146
_	Attorney-General's Department	23	41	64
	Courts Administration Authority	23	5	28
$\Lambda \parallel \Lambda$	Electoral Commission of South Australia	0	6	6
	<b>Equal Opportunity Commission</b>	1	1	2
	Independent Gambling Authority	0	4	4
	Legal Services Commission	11	0	11
Offi	ce of the Attorney General - Hon Vickie Chapman	2	24	26
	Office of the Public Advocate	1	4	5
Child Protection		187	24	211
	Department for Child Protection	187	14	201
ы ф	Office of the Minister for Child Protection	0	10	10
Education		105	84	189
	Department for Education	101	67	168
	Education Standards Board	0	1	1
	History Trust of South Australia	0	1	1
	Office of the Minister for Education	0	8	8
	SACE Board of South Australia	1	1	2
	TAFE SA	0	5	5
	Teachers Registration Board of South Australia	3	1	4
Energy and Mining		3	53	56
.=2.	Department for Energy & Mining	0	44	44
<b>&gt;- &gt;-</b>	Office of the Minister - van Holst Pellekaan MP	0	9	9
111	Australian Energy Market Commission	3	0	3
Environment and Water		27	108	135
	Department for Environment and Water	8	39	47
	Dog and Cat Management Board	0	1	1
	Environment Protection Authority	0	30	30
	Green Industries SA	0	1	1
	Office of the Minister - Hon David Speirs MP	2	15	17
	SA Arid Lands Natural Resources Mgmt Board	0	1	1
SA Mur	ray Darling Basin Natural Resources Mgmt Board	0	2	2
_	SA Water	17	18	35
S	outh East Natural Resources Management Board	0	1	1

Division/Agency		Personal	Non Personal	Total
Health and Wellbein	g	6304	715	7019
	Barossa Hills Fleurieu Local Health Network	223	26	249
	Central Adelaide Local Health Network	2523	75	2598
	Country Health SA Local Health Network	14	2	16
	Department for Health & Wellbeing	19	184	203
	Eyre & Far North Local Health Network	52	18	70
	Flinders & Upper North Local Health Network	479	55	534
	Limestone Coast Local Health Network	228	4	232
	Northern Adelaide Local Health Network	692	192	884
	Office of the Minister - Hon Stephen Wade MLC	0	39	39
	Riverland Mallee Coorong Local Health Network	117	31	148
	SA Health - Drug and Alcohol Services SA	8	1	9
	SAAS - SA Ambulance Service	191	13	204
	Southern Adelaide Local Health Network	1211	34	1245
	Women's and Children's Health Network	419	30	449
	Yorke & Northern Local Health Network	128	11	139
<b>Human Services</b>		123	87	210
	Disability Services	6	0	6
(90)	Screening Unit	2	0	2
	Department of Human Services	41	31	72
	Office of the Minister - Hon Michelle Lensink MLC	0	30	30
	South Australian Housing Authority	74	26	100
Industry and Skills		30	24	54
Tana	Department for Innovation & Skills	4	22	26
44	Office of the Minister - Hon David Pisoni MP	26	2	28
Police, Emergency S	Services and Corrections	2225	718	2943
	Department for Correctional Services	365	29	394
	Office for Recreation, Sport and Racing	0	2	2
	Office of the Minister - Hon Corey Wingard MP	2	44	46
	SA Fire and Emergency Services Commission	2	9	11
17.71	SA Metropolitan Fire Service	1	30	31
	SA State Emergency Service	0	8	8
	South Australia Police	1849	544	2393
	South Australian Country Fire Service	6	52	58

Division/Agency		Personal	Non Personal	Total
Premier		6	390	396
	Economic Development Board	0	5	5
	Energy Division	0	23	23
	Mineral and Energy Resources	0	1	1
millim	Defence SA	1	5	6
	Department of the Premier and Cabinet	4	286	290
	Office of the Premier - Hon Steven Marshall MP	0	69	69
	State Library of South Australia	1	1	2
<b>Primary Industries</b>	and Regional Development	6	44	50
	Department for Primary Industries & Regions SA	2	21	23
	Forestry SA	0	1	1
	Office of the Minister for PIRD	4	21	25
	Veterinary Surgeons Board of SA	0	1	1
Trade and Investm	ent	3	51	54
1	Department for Trade & Investment	2	21	23
man and a second	Office of the Minister - Hon David Ridgway MLC	0	8	8
465	South Australian Tourism Commission	1	22	23
Transport, Infrastru	ucture and Planning	24	207	231
	Adelaide Cemeteries Authority	1	0	1
	Department of Planning Transport & Infrastructure	12	131	143
	Homestart Finance	0	4	4
	Office of the Minister - Hon Stephan Knoll MP	1	59	60
0 0	Office of the National Rail Safety Regulator	8	4	12
	Rail Commissioner	0	4	4
	Urban Renewal Authority (Renewal SA)	0	4	4
	West Beach Trust (Adelaide Shores)	2	1	3
Treasury		469	429	898
	Compulsory Third Party Regulator	1	0	1
	Department of Treasury and Finance	53	175	228
<b>(S)</b>	Essential Services Commission of SA	0	3	3
	Office for the Public Sector	0	1	1
	Office of the Treasurer - Hon Robert Lucas MLC	1	242	243
	Return to WorkSA	413	7	420
	Super SA	1	1	2

## State Government Agency Amendment Application Breakdown

	Agency	Total
F	South Australia Police	78
	Central Adelaide Local Health Network	9
<b>6</b>	Northern Adelaide Local Health Network	7
	Southern Adelaide Local Health Network	4
	Department of Human Services	3
	Department for Correctional Services	3
	Department for Child Protection	2
	Department for Trade & Investment	1
<b>C</b> 3	Women's and Children's Health Network	1
	Department for Primary Industries & Regions SA	1

## University Access Application Breakdown

University	Personal	Non Personal	Total
Flinders University	12	4	16
University of Adelaide	7	23	30
University of South Australia	1	6	7

## Local Government Access Application Breakdown

Region	Personal	Non Personal	Total
Adelaide City Council	0	39	39
Adelaide Hills Council	0	19	19
Adelaide Plains Council	0	1	1
Alexandrina Council	0	5	5
Barunga West Council	0	2	2
Campbelltown City Council	1	10	11
City of Burnside	0	11	11
City of Charles Sturt	15	14	29
City of Holdfast Bay	16	73	89
City of Marion	1	19	20
City of Mitcham	2	12	14
City of Mount Gambier	1	6	7
City of Norwood, Payneham & St Peters	2	0	2
City of Onkaparinga	5	28	33
City of Playford	2	20	22
City of Port Adelaide Enfield	6	12	18
City of Port Lincoln	0	1	1
City of Prospect	4	4	8
City of Salisbury	13	7	20
City of Tea Tree Gully	4	70	74
City of Unley	2	14	16
City of Victor Harbor	0	2	2
City of West Torrens	6	5	11
Clare & Gilbert Valleys Council	0	1	1
Coorong District Council	0	7	7
Corporation of the Town of Walkerville	0	2	2
District Council of Ceduna	0	1	1
District Council of Cleve	0	1	1
District Council of Coober Pedy	1	3	4
District Council of Elliston	0	1	1
District Council of Grant	0	9	9
District Council of Karoonda East Murray	0	6	6
District Council of Kimba	0	1	1
District Council of Lower Eyre Peninsula	0	2	2
District Council of Loxton Waikerie	0	2	2
District Council of Mount Barker	2	7	9
		_	

Region	Personal	Non Personal	Total
District Council of Mount Remarkable	1	2	3
District Council of Orroroo Carrieton	0	1	1
District Council of Peterborough	1	0	1
District Council of Robe	0	1	1
District Council of Streaky Bay	0	4	4
District Council of The Copper Coast	0	23	23
District Council of Wudinna	0	1	1
District Council of Yankalilla	0	2	2
Eastern Health Authority Inc.	0	4	4
Kangaroo Island Council	0	6	6
Kingston District Council	0	6	6
Light Regional Council	1	19	20
Mid Murray Council	0	4	4
Naracoorte Lucindale Council	1	6	7
Port Augusta City Council	4	1	5
Port Pirie Regional Council	2	1	3
Regional Council of Goyder	0	3	3
Renmark Paringa Council	1	3	4
Roxby Downs Council	0	1	1
Rural City of Murray Bridge	5	7	12
Southern Mallee District Council	0	2	2
Tatiara District Council	0	3	3
The Barossa Council	2	12	14
The Berri Barmera Council	1	3	4
Town of Gawler	1	17	18
Wattle Range Council	2	8	10
Whyalla City Council	0	1	1