

Administration of the Freedom of Information Act 1991

2020-21 Annual Report

Administration of the Freedom of Information Act 1991

GPO Box 464 ADELAIDE SA 5001

GPO Exchange Level 15 10 Franklin Street ADELAIDE SA 5000

www.archives.sa.gov.au/

Contact phone number:8204 8786Contact email:staterecords@sa.gov.auISSN:2208-6102 (Online)Defense of the Ministry and Control of the constraint

Date presented to Minister: 28 October 2021

Administration of the Freedom of Information Act 1991 2020-21 ANNUAL REPORT

To:

Hon Vickie Chapman MP

Deputy Premier Attorney-General Minister for Planning

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 thirtieth 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 28 October 2021

Signature

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From the Attorney General

This report provides an overview on the administration of the *Freedom of Information Act 1991* (FOI Act) and details FOI application data for the 2020-21 financial year, 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 10 462 new FOI applications. This is consistent with the number of applications received in recent years.

During another challenging year due to COVID-19 related disruptions and restrictions, agencies continued to process applications within the 30-day timeframe. In line with the legislation, where this could not be achieved due to extensive consultation or search requirements, formal extensions of time were approved and communicated.

Release rates remained consistent with previous years as did the types of applications received and the types of applicants.

In November 2020, the Training for Accredited and Non-Accredited FOI Officers moved to online delivery. This new delivery method increases accessibility across the State while reducing ongoing cost and contact hours.

Finally, I would like to sincerely thank the many agency staff, in particular those designated as Accredited FOI Officers and other FOI support staff, as they continue to assist and serve the community by providing access to government information.

Vickie Chapman MP

Deputy Premier Attorney-General Minister for Planning

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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 <u>www.legislation.sa.gov.au</u>.

Administration

State Records of South Australia (State Records) is a business unit within 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 the FOI Act are required to make available to State Records statistical information relating to FOI applications and determinations as well as the number of contracts entered into containing approved confidentiality clauses.

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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 2020-21.

State Records derives annual FOI statistics from FOIMS to enable this annual report to be produced. FOIMS is a web-based system in which agencies record information about their FOI applications and determinations. Recording information in FOIMS enables agencies to 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.

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

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

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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 the FOI Act

Specific objectives and performance

Agency objectives	Indicators	Performance
FOI advice to agencies and members of the public	Agency staff and the community have access to information and assistance relevant to accessing government information.	651 phone calls or email enquiries were responded to by State Records
Publication of guidelines and information sheets to assist FOI Officers and the public	Information sheets, brochures and forms are 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
		http://archives.sa.gov.au/
Delivery of a new online accredited training for FOI	Accredited and non-Accredited officer training is available.	67 students completed Accredited and non-Accredited Officer training.
officers		This training transitioned from classroom to an online format in November 2020.
		At the end of the reporting year a further 37 students had commenced the course.
Delivery of online FOI education – FOI General Awareness and FOI Refresher education	Centralised education is available to support FOI officers undertake their roles.	378 students enrolled to undertake the online FOI General Awareness and FOI Refresher courses during the reporting year.
Online submission and payment for FOI applications	An online mechanism is available for the community to lodge and pay for freedom of information applications.	State government agencies received 3089 applications through the online FOI Application Form.

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Reporting required under the Act

Freedom of Information Act 1991

Section 54 - Reports to Parliament

- (1) The Minister administering this Act must -
 - a. 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 2020-21

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.

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The following 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 Image: Comparison of the processed								
Application		State Local University			A	II Sectors		
	2020-21	2019- 20	2020-21	2019-20	2020-21	2019-20	2020-21	2019-20
New	9 841	9 784	587	516	34	44	10 462	10 344
Carried Over	2 849	2 808	213	147	18	9	3 080	2 964
Total	12 690	12 592	800	663	52	53	13 542	13 308

TABLE 2 Applications to be processed and application category									
Sector		Perso	nal Affairs		Non-Perso	nal Affairs			
	Qty.	2020-21 %	2019-20 %	Qty.	2020-21 %	2019-20 %			
New applications 2020-21									
State Government	7 952	81%	78%	1 889	19%	22%			
Local Government	143	24%	15%	444	76%	85%			
Universities	9	26%	41%	25	74%	59%			
Total	8 104	77%	75%	2 358	23%	25%			
Applications unfinished at the	end of 2019-2	20							
State Government	2 033	71%	69%	816	29%	31%			
Local Government	45	21%	19%	168	79%	81%			
Universities	2	11%	22%	16	89%	78%			
Total	2 080	68%	66%	1000	32%	34%			
Total to be processed 2020- 21	10 184	75%	73%	3 358	25%	27%			

TABLE 3 A		ዯ						
Applicant type		State		Local	ι	Jniversity		All sectors
	2020-21	2019-20	2020-21	2019-20	2020-21	2019-20	2020-21	2019-20
Member of the Public	4 547	4 000	353	235	9	24	4 909	4 259
Lawyer / Agent	2 972	3 597	63	59	3	2	3 038	3 658
Member of Parliament	1 035	1 066	124	175	1	1	1 160	1 242
Other	1 133	983	43	29	11	7	1 187	1 019
Media	154	138	4	18	10	10	168	166
Total	9 841	9 784	587	516	34	44	10 462	10 344

TABLE 4 Response times

Time	State			Local	ι	Jniversity	A	II Sectors
	2020-21	2019-20	2020-21	2019-20	2020-21	2019-20	2020-21	2019-20
0-15 days	2 246	2 671	173	164	17	10	2 436	2 845
16-30 days	2 849	2 498	231	234	25	13	3 105	2 745
>30 days	4 063	4 434	106	87	12	9	4 181	4 530

TABLE 5 Formal extensions of time

Extension reason	State	Local	University	All Sectors 2020-21	All Sectors 2019-20
Section 14(1)(a) – searching	690	22	3	715	321
Section 14(1)(b) – consultation	180	18	4	202	396
Total	870	40	7	917	717

TABLE 6 Negotiated exte		i iiii			
Extension reason	State	Local	University	All Sectors 2020-21	All Sectors 2019-20
Negotiated	72	14	0	86	142

TABLE 7 Outcomes of applications								
Sector	Application	Fi	ull Release	Partia	I Release		Refused	
	Category	2020-21	2019-20	2020-21	2019-20	2020-21	2019-20	
State	Personal	3 614	3 859	2 904	2 689	734	726	
	Non-Personal	555	608	572	882	547	594	
	Total	4 169	4 467	3 476	3 571	1 281	1 320	
Local	Personal	27	21	70	36	18	6	
	Non-Personal	165	191	144	131	71	55	
	Total	192	212	214	167	89	61	
Universities	Personal	2	1	6	15	1	2	
	Non-Personal	9	4	14	7	11	5	
	Total	11	5	20	22	12	7	
All Sectors	Personal	3 614	3 881	2 980	2 740	753	734	
	Non-Personal	729	803	730	1 020	629	654	
	Total	4 372	4 684	3 710	3 760	1 382	1 388	

TABLE 8 Reasons for refusing access							
Details	State	Local	Uni	Total	Total		
				2020-21	2019-20		
Section 15 - Application incomplete/wrongly directed*	12	1	0	13	14		
Section 18(1) - Unreasonable diversion of an agency's resources *	56	4	0	60	112		
Section 18(2a) - Abuse of right of access *	12	4	8	24	93		
Section 18(3) - Fees not paid	26	9	1	36	18		
Section 19(2) - Deemed refusal - over 30 days to respond	332	3	0	335	308		
Section 20(1) - Exempt *	3 539	173	21	3 733	3 719		
Section 20(1)(b)(c)(d) – Documents otherwise available *	77	48	0	125	85		
Exempt agency	33	0	0	33	44		
Document does not exist/lost	375	26	0	401	361		

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

TABLE 9 Exemptions		$\widehat{\cdot}$
Most commonly applied exemptions	2020-21	2019-20
Clause 4 – documents affecting law enforcement and public safety	968	897
Clause 6 – documents affecting personal affairs	2 622	2 614
Clause 7 – documents affecting business affairs	200	218
Clause 9 – internal working documents	291	328
Clause 10 – documents subject to legal professional privilege	131	150
Clause 12 – documents the subject of secrecy provisions	503	463
Clause 13 – documents containing confidential material	326	348
Clause 16 – documents concerning the operations of agencies	302	277

TABLE 10 Amendment of personal information Outcome 2020-21

Outcome	2020-21	2019-20
Amendment in full	14	9
Partial amendment	2	4
Notation added	3	11
Amendment refused	39	68
Total	58	92

TABLE 11 Reasons for refusal to amend personal information records

Reason	2020-21	2019-20
Records are not incomplete, incorrect, out-of-date or misleading	37	68
Application contains matter that is incorrect or misleading	2	0
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	0	1
Total	39	69

TABLE 12 Contracts reported approved confidentiality clauses		
Sector	2020-21	2019-20
State Government	26	27
Local Government	25	19
Universities	0	0
Total	51	46

TABLE 13 Cabinet documents 10 years or older - requests for to access				
Requests	2020-21	2019-20	2018-19	
By MPs	42	11	5	
By Public	119	87	44	
By Media	20	13	91	
Total	181	111	140	

TABLE 14 Cabinet documents 10 years or older – access determinations			<u> </u>
Determination	2020-21	2019-20	2018-19
Released in full	103	0	47
Released in part	70	127	58
Refused in full	4	10	7
Withdrawn	0	0	0
Total	177	137	112

TABLE 15 The cost of administering FOI			
Cost category	2020-21 \$	2019-20 \$	2018-19 \$
Salary	16 030 262	15 344 767	12 894 695
Other expenses	703 470	631 448	558 101
Total	16 733 732	15 976 215	13 452 796

TABLE 16 Staffing	g			දී
Sector		Number of staff		Full-time equivalent
	2020-21	2019-20	2020-21	2019-20
State Government	618	585	142.7	148.2
Local Government	175	154	21.3	15.9
Universities	45	95	4.0	6.5
Total	838	834	168.0	170.6

TABLE 17 Application and processing fees collected			F
Sector	2020-21 \$	2019-20 \$	2018-19 \$
State Government	322 028	376 187	290 230
Local Government	31 979	24 201	10 025
Universities	898	3 426	490
Total	354 905	403 814	300 745

TABLE 18 Applications for review received		Q
Applications reviewed	2020-21	2019-20
Internal review	424	355
External review - Ombudsman	359	273
External review - South Australian Civil and Administrative Tribunal	33	21
Total	816	649

TABLE 19 Outcome of internal review applications		Q
Outcome	2020-21	2019-20
Decision confirmed	138	133
Decision varied	85	193
Decision reversed	63	36

TABLE 20 Applications still open at 30 June 2021			
Sector	Within 30 day timeframe	Outside 30 day timeframe	Total
State Government	691	2 623	3 314
Local Government	34	251	285
Universities	1	7	8
Total	726	2 881	3 607

TABLE 21 Overdue applications still open at 30 June 2021			021
Sector	Personal	Non-Personal	Total
State Government	1 807	816	2 623
Local Government	60	191	251
Universities	1	6	7
Total	1 868	1013	2 881

State Government Agency Access Application Breakdown				
Total	Non Personal	Personal	Division/Agency	
165	84	81	Attorney-General and Planning	
52	27	25	Attorney-General's Department	
38	9	29	Consumer and Business Services	
14	8	6	Courts Administration Authority	
10	10	0	Electoral Commission of South Australia	
4	0	4	Fines Enforcement & Recovery Unit	
6	0	6	Forensic Science SA	
4	4	0	Independent Gambling Authority	
6	3	3	Legal Services Commission	
27	23	4	Office of the Attorney General - Hon Vickie Chapman MP	
4	0	4	Office of the Public Advocate	
312	38	274	Child Protection	
292	22	270	Department for Child Protection	
20	16	4	Office of the Minister for Child Protection	
218	83	135	Education	
196	65	131	Department for Education	
1	1	0	Education Standards Board	
1	1	0	History Trust of South Australia	
11	11	0	Office of the Minister for Education	
5	5	0	TAFE SA	
4	0	4	Teachers Registration Board of South Australia	
52	52	0	Energy and Mining	
42	42	0	Department for Energy & Mining	
10	10	0	Office of the Minister - van Holst Pellekaan MP	
155	130	25	Environment and Water	
1	0	1	Adelaide and Mt Lofty Ranges NRMB	
60	45	15	Department for Environment and Water	
3	2	1	Dog and Cat Management Board	
42	40	2	Environment Protection Authority	
3	3	0	Green Industries SA	
1	0	1	Limestone Coast Landscape Board	
19	16	3	Office of the Minister - Hon David Speirs MP	
1	1	0	SA Arid Lands NRMB	
2	2	0	SA Murray Darling Basin NRMB	

Division/Agency		Personal	Non Personal	Total
	Health and Wellbeing	5953	666	6619
	Barossa Hills Fleurieu Local Health Network	251	29	280
	CALHN - Central Adelaide Local Health Network	2212	98	2310
	CHSALHN Corporate	1	1	2
	CHSALHN Mental Health	11	2	13
	Department for Health & Wellbeing	9	177	186
	Eyre & Far North Local Health Network	72	18	90
	Flinders & Upper North Local Health Network	453	55	508
	Lifetime Support Authority	1	0	1
	Limestone Coast Local Health Network	236	7	243
	NALHN - Lyell McEwin Hospital	673	155	828
	Office of the Minister - Hon Stephen Wade MLC	0	20	20
	Riverland Mallee Coorong Local Health Network	141	31	172
SA	Health - Drug and Alcohol Services South Australia	10	3	13
	SAAS - SA Ambulance Service	202	13	215
	SALHN - Southern Adelaide Local Health Network	1175	24	1199
	Women's and Children's Health Network	357	26	383
	Yorke & Northern Local Health Network	149	7	156
AAA	Human Services	126	138	264
2 A M	Department of Human Services	58	47	105
Office	of the Minister - Communities & Social Inclusion (IH)	0	1	1
	Office of the Minister - Hon Michelle Lensink MLC	0	25	25
	Screening Unit	4	0	4
	South Australian Housing Authority	64	65	129
·	Innovation and Skills	8	45	53
-(\$)-	Department for Innovation & Skills	5	30	35
ſŢ,	Office of the Minister - Hon David Pisoni MP	3	15	18
Poli	ce, Emergency Services and Corrections	3051	343	3394
	Department for Correctional Services	721	66	787
	Office f/ Minister for Police, Emgncy Srvc & Crrctn	0	10	10
	SA Fire and Emergency Services Commission	0	7	7
	SA Metropolitan Fire Service	0	11	11
	SA State Emergency Service	1	7	8
	South Australia Police	2327	231	2558
	South Australian Country Fire Service	2	11	13

Division/Agency		Personal	Non Personal	Total
	Premier and Cabinet	6	449	455
	Economic Development Board	0	5	5
(11)	Energy Division	0	23	23
ЩЩЦ	Mineral and Energy Resources	0	1	1
	Defence SA	0	3	3
	Department of the Premier and Cabinet	5	346	351
	Office of the Premier - Hon Steven Marshall MP	1	69	70
	South Australian Museum	0	1	1
	State Library of South Australia	0	1	1
Prim	nary Industries and Regional Development	5	62	67
	Department for Primary Industries & Regions SA	1	38	39
	ForestrySA	0	6	6
	Office of the Minister for PIRD	4	17	21
	Veterinary Surgeons Board of SA	0	1	1
hand	Trade and Investment	3	51	54
Yoy Y	Department for Trade & Investment	0	15	15
	Office of the Minister - Hon Stephen Patterson MP	0	12	12
	South Australian Tourism Commission	0	29	29
	Infrastructure and Transport	21	272	293
	Adelaide Cemeteries Authority	1	0	1
	Department for Infrastructure & Transport	13	180	193
	Homestart Finance	0	4	4
	Office for Recreation, Sport and Racing Office of the Minister - Hon Corey Wingard MP	0	7 48	7 49
	Office of the Minister for Infrastructure and Transport	0	48	49 18
	Office of the National Rail Safety Regulator	3	6	9
	Rail Commissioner	0	4	4
	Urban Renewal Authority (Renewal SA)	1	4	5
	West Beach Trust (Adelaide Shores)	2	1	3
	Treasury	300	287	587
	Compulsory Third Party Regulator	1	0	1
(\$)	Department of Treasury and Finance	84	127	211
	Essential Services Commission of SA	1	1	2
	Office for the Public Sector	0	1	1
	Office of the Treasurer - Hon Robert Lucas MLC	3	153	156
	Return to WorkSA	209	5	214
	Super SA	2	0	2

State Government Agency Amendment Application Breakdown

Agency	Total
South Australia Police	78
Department for Correctional Services	11
Southern Adelaide Local Health Network	10
Central Adelaide Local Health Network	6
Department for Child Protection	3
Northern Adelaide Local Health Network	2
Women's and Children's Health Network	1
Department for Education	1
Limestone Coast Local Health Network	1
South Australian Housing Authority	1

University Access Application Breakdown				
University	Personal	Non Personal	Total	
Flinders University	5	6	11	
University of Adelaide	5	29	34	
University of South Australia	1	6	7	

Local Government Access	Applicati	ion Break	kdown
Region	Personal	Non Personal	Total
Adelaide Hills Council	23	10	33
Adelaide Plains Council	2	1	3
Alexandrina Council	1	10	11
Anangu Pitjantjatjara Yankunytjatjara	7	51	58
Barunga West Council	0	3	3
Campbelltown City Council	0	7	7
City of Adelaide	2	29	31
City of Burnside	0	13	13
City of Charles Sturt	19	30	49
City of Holdfast Bay	16	91	107
City of Marion	0	15	15
City of Mitcham	6	10	16
City of Mount Gambier	0	3	3
City of Norwood, Payneham & St Peters	1	0	1
City of Onkaparinga	17	24	41
City of Playford	2	21	23
City of Port Adelaide Enfield	4	12	16
City of Port Lincoln	1	4	5
City of Prospect	2	6	8
City of Salisbury	12	6	18
City of Tea Tree Gully	16	40	56
City of Unley	3	10	13
City of Victor Harbor	3	7	10
City of West Torrens	7	4	11
Clare & Gilbert Valleys Council	0	1	1
Coorong District Council	1	4	5
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	0	3	3
District Council of Elliston	0	1	1
District Council of Franklin Harbour	0	2	2
District Council of Grant	0	2	2
District Council of Karoonda East Murray	0	1	1
District Council of Lower Eyre Peninsula	0	3	3
District Council of Loxton Waikerie	0	3	3

	Local Government Access Application Breakdown
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Region	Personal	Non Personal	Total
District Council of Mount Barker	1	2	3
District Council of Mount Remarkable	3	2	5
District Council of Orroroo Carrieton	0	1	1
District Council of Peterborough	1	2	3
District Council of Robe	0	12	12
District Council of Streaky Bay	0	5	5
District Council of The Copper Coast	0	32	32
District Council of Tumby Bay	0	5	5
District Council of Wudinna	0	1	1
District Council of Yankalilla	0	2	2
Eastern Health Authority Inc.	0	3	3
Information Management Services	3	4	7
Kangaroo Island Council	5	4	9
Kingston District Council	0	3	3
Light Regional Council	1	20	21
Mid Murray Council	0	6	6
Naracoorte Lucindale Council	0	4	4
Port Augusta City Council	10	3	13
Port Pirie Regional Council	5	2	7
Regional Council of Goyder	0	2	2
Renmark Paringa Council	1	5	6
Roxby Downs Council	0	1	1
Rural City of Murray Bridge	1	11	12
Tatiara District Council	0	1	1
The Barossa Council	5	9	14
The Berri Barmera Council	1	1	2
Town of Gawler	2	21	23
Wattle Range Council	2	11	13
Whyalla City Council	0	5	5
Yorke Peninsula Council	2	0	2