

ANNUAL REPORT

YEAR ENDED
JUNE
2008

Freedom of Information Act 1991



Government
of South Australia

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

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The Hon Jay Weatherill MP

MINUTE

MINUTES *forming* ENCLOSURE to

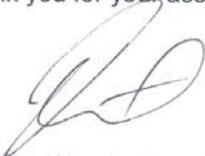
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TO HON MIKE RANN MP
PREMIER

RE **TABLING OF ANNUAL REPORT IN PARLIAMENT – FREEDOM OF
INFORMATION ACT 1991**

Pursuant to Section 54 of the *Freedom of Information Act 1991*, I enclose three copies of the 2007-08 Annual Report on the Administration of the *Freedom of Information Act 1991* for tabling in both Houses of Parliament, no later than 27 November 2008.

Thank you for your assistance.



Hon Jay Weatherill MP
**MINISTER ASSISTING THE PREMIER IN CABINET BUSINESS AND
PUBLIC SECTOR MANAGEMENT**

// /// / 2008



**Government
of South Australia**

Minister for Environment
and Conservation
Minister for Early
Childhood Development
Minister for Aboriginal
Affairs and Reconciliation
Minister Assisting the
Premier in Cabinet
Business and Public Sector
Management

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FOREWORD

This year there were 11 529 applications for access to information held by agencies subject to the *Freedom of Information Act 1991* (the FOI Act). This represents an increase of 148 applications (1%) compared to the previous reporting year.

Over the year agencies reported processing 11 673 applications, this is an increase of 1230 (11%). Of the 11 416 applications completed 75% were granted full access, which was 3% less than the previous year, and 79% were finalised within the 30 day time frame.

The total cost to government for the administration of FOI for the reporting year was estimated to be \$4.68 million, which is approximately \$60 000 less than that reported the previous year. This includes costs associated with processing applications, internal and external reviews, training, reporting and seeking legal advice. Only the direct costs associated with processing applications can be recovered through regulated fees and charges. Agencies reported recouping \$130 066 or 3% of the total reported cost.

The number of applications made by Members of Parliament (MPs), as a proportion of the overall number of access applications received, was 8%, which is consistent with the percentage reported the previous year.

This year agencies reported that lawyers or agents acting on behalf of individuals made 43% of all FOI applications. This is a slight decrease compared to the previous year when agencies reported that lawyers and agents made 46% of all FOI applications.

The FOI Act has recently been committed to me in my new capacity as the Minister Assisting the Premier in Cabinet Business and Public Sector Management. During 2007-08 the FOI Act was administered by the Hon Michael Wright MP. On his behalf, I would like to thank State Records and FOI Officers across government. Their hard work and commitment contributes to more effective participation by the public in the processes of government and promotes openness and accountability in government.

The Hon Jay Weatherill MP
**MINISTER ASSISTING THE PREMIER
IN CABINET BUSINESS AND PUBLIC SECTOR MANAGEMENT**

THE FREEDOM OF INFORMATION ACT 1991

What is the Freedom of Information Act?

The objects of the *Freedom of Information Act 1991* (FOI 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 within the possession of South Australian State and Local Governments and Universities, subject only to such restrictions as are consistent with the public interest and the preservation of personal privacy.

Administration of the Freedom of Information Act

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

This support includes policy and legislative advice in relation to the operation of the FOI Act, development of Information Sheets and Guides, regular and ad hoc reporting, the management of the Freedom of Information Management System (FOIMS), and responding to enquiries from members of the public and agencies in relation to FOI. Included in reporting responsibilities is the preparation of the FOI Annual Report on the Minister's behalf.

In order to produce the FOI Annual Report all agencies bound by the FOI Act are required to make available to State Records statistical information relating to the processing of FOI applications. Statistics collected include the number and type of FOI applications made to agencies and the outcome of those applications.

Pursuant to Section 54AA of the FOI Act, all reporting requirements were gazetted on 15 June 2006.

Agencies bound by the FOI Act

Section 4 of the FOI Act defines those agencies that are bound by the FOI Act. The definition is inclusive of State Government agencies, Statutory Authorities, Local Government Authorities (ie Municipal and District Councils) and the South Australian Universities. Schedule 2 of the FOI Act and the *Freedom of Information (Exempt Agency) Regulations 2008* prescribes those agencies that are exempt from the FOI Act (refer to Appendix E).

Throughout this report a reference to agencies refers to those entities bound by the FOI Act in the three sectors, ie State Government, Local Government and the Universities.

THE YEAR IN REVIEW

Remaking of the Freedom of Information (Exempt Agency) Regulations

The *Freedom of Information (Exempt Agency) Regulations 2008* commenced operation on 28 June 2008, revoking the *Freedom of Information (Exempt Agency) Regulations 1993*.

The new Regulations declare: the Senior Secondary Assessment Board of South Australia (SSABSA), the RESI Corporation, the Generation Lessor Corporation, the Distribution Lessor Corporation and the Transmission Lessor Corporation, the Children in State Care and Children in APY Lands Commission of Inquiry and the Health and Community Services Complaints Commissioner to be exempt under section 4(1) of the FOI Act.

In addition, the new Regulations declare the Minister responsible for the administration of the *Senior Secondary Assessment Board of South Australia Act 1983* (SSABSA) and the *Education Act 1972* and the Department of Education and Children's Services to be exempt agencies in respect of comparative student performance information.

Senior Secondary Assessment Board of South Australia

Established by the *Senior Assessment Board of South Australia Act 1983*, SSABSA is an independent statutory authority that provides curriculum, assessment, reporting and certification services to all members of the three school sectors: Catholic, Independent and State.

SSABSA collects and creates a vast amount of information on students' achievements, performance and participation. In January 2007, a Discussion Paper issued as part of the Government's Education and Care Legislation Report Program suggested that comparative student achievement data should remain confidential in order to prevent inappropriate use. Recognising that some information held by SSABSA should be excluded from access through FOI, the Discussion Paper suggested that the removal of the blanket exemption would be in line with the South Australian Government's policy of accountability and transparency.

While the Government supports the removal of the blanket exemption, it proposed that SSABSA retain its current exemption until the legislation establishing the new South Australian Certificate of Education Board was completed. The specifics of the FOI exemption is to be considered during the Board's governance and transitional arrangements.

Electricity Corporations

The review of the *FOI (Exempt Agency) Regulations 1993* found that it no longer captured all of the State Government's electricity corporations as intended. The new Regulations overcame this anomaly and clarified which electricity corporations would be exempt from FOI.

These corporations hold sensitive commercial information disclosed by private sector entities. To operate efficiently with the private sector, it is essential that these corporations remain exempt from FOI. This provides the private sector entities with the assurance and confidence that the information they provide to Government will not be released under FOI. While these corporations are exempt they remain accountable to the Treasurer and Parliament, have their financial accounts audited by the Auditor-General each year, and are required to produce Annual Reports for tabling in Parliament.

Commission of Inquiry (Children in State Care and Children in APY Lands)

Given the significance of the Commission of Inquiry and the sensitivity of the information collected it is appropriate that the Inquiry remains exempt. This ensures the ongoing privacy of the individuals concerned and provides assurance that their information will remain confidential.

FOI Officer Resourcing in Agencies

In addition to reporting statistical information on FOI applications, agencies were also required to report the number of full-time-equivalent (FTE) staff dealing with FOI within their agency, including their salary ranges.

Agencies across all three sectors reported there were 544 FTE staff involved in processing FOI applications. Of this number 433 (80%) were employed by State Government agencies. Despite the increase in applications received, State Government reported a 2.65% decrease in the number of FTE staff dealing with FOI applications.

Accredited FOI Officers

Section 4 of the FOI Act establishes the Principal Officer of an agency as an Accredited FOI Officer and in addition allows the Principal Officer to designate other officers within the agency as Accredited FOI Officers, provided they attend the approved training and are:

- employed in an executive level position under the *Public Sector Management Act 1995* or in a position that usually reports to an executive; or
- a Police Officer with the South Australia Police; or
- an officer of a University or a Local Government agency employed in a position that usually reports to the Principal Officer or his or her deputy or immediate delegate.

Accredited FOI Officers are responsible for dealing with FOI applications on behalf of their agency and must make a determination within 30 calendar days of the agency receiving an application. Determinations must be dealt with independently and without influence from within or outside the agency, although consultation is allowed under the Act.

During 2007-08, State Records reviewed its Information Sheet '*What is an Accredited FOI Officer?*'. The review of this Information Sheet included the reinforcement of the role and responsibilities of the Accredited FOI Officer, clarification on the designation process and the importance of redesignating Accredited FOI Officers during times of administrative change.

FOI Process Guides and Information Sheets

State Records produces FOI Process Guides and FOI Information Sheets to provide guidance and advice for FOI Officers when processing FOI applications. During 2007-08 a number of Information Sheets were updated to improve the quality of general advice provided to agencies and to reflect any regulatory changes.

The Process Guides and Information Sheets can be found on the State Records website at <http://www.archives.sa.gov.au/foi/foiadmin/index.html>.

FOI Training offered by State Records

Accredited FOI Training

In 2007-08, State Records provided twelve Accredited FOI Officer training sessions that were attended by 233 participants. The Australian Government Solicitor's Office facilitated the sessions on behalf of State Records.

On-Line Training

During 2007-08, State Records completed the development of FOI awareness education for delivery in an on-line environment. The training was released on 11 June 2008.

The purpose of on-line FOI education is to provide broad-based awareness training to agencies in order to raise awareness of FOI whilst furthering the objects of the FOI Act. The training includes a particular focus on the promotion of openness in government and accountability of Ministers and agencies. As the education is delivered in an on-line environment it has the added benefit of being accessible to staff in regional and remote areas.

Training for 2008-09

Demand for more detailed FOI training has increased. The above training will continue to be offered by State Records during 2008-09, but will be complemented by new FOI courses that are currently being developed for delivery during 2008-09.

FOI Training offered by the Local Government Association

The Local Government Association of South Australia (LGA) in conjunction with Norman Waterhouse conducted an FOI training session for Accredited FOI Officers of Local Government authorities. The Ombudsman of South Australia was involved in the delivery of this training, which was attended by 13 participants from both Metropolitan and Regional Councils.

FOI Advice Service

State Records provides an advice service for members of the public seeking information on how to access documents held by government. State Records also provides advice to agencies in relation to the operation and administration of the FOI Act. During 2007-08 State Records responded to 633 telephone and 118 email requests directly related to FOI from members of the public and agencies.

Freedom of Information Management System (FOIMS)

The Freedom of Information Management System (FOIMS) is a web-based system that provides a secure across government tool for consistent recording, processing and reporting FOI applications. State Records derives annual FOI statistics from FOIMS to enable this Annual Report to be created.

FOIMS also provides an efficient system for agencies to manage their own reporting obligations. To assist agencies in achieving this, FOIMS was updated during the year to improve reporting and user friendliness.

State Records provides FOIMS support and assistance to agencies via telephone, email and training. During the reporting year, State Records responded to 301 telephone and 150 email enquiries from agencies regarding FOIMS. These figures are in addition to the telephone and email enquiries mentioned above under *FOI Advice Service*.

Reporting to the Minister

Throughout the year regular reporting is provided to the Minister on non-personal FOI applications received by the major State Government agencies. These reports are collated from the information that is entered by agencies into FOIMS.

Contracts with Approved Confidentiality Clauses

The FOI Act includes a requirement to report annually the number of contracts containing approved confidentiality clauses (refer to Appendix D for a description of Clause 13).

For the 2007-08 reporting year, agencies subject to the FOI Act reported 35 contracts containing an approved confidentiality clause. This was a decrease of 41 from the previous year. Of the 35 contracts reported:

- State Government agencies reported entering into 4 contracts
- Local Government reported entering into 13 contracts
- Universities reported entering into 18 contracts

Documents provided outside of the FOI Act

The objects of the FOI Act make it quite clear that the legislation is not intended to prevent access to documents or amendment of personal records outside of FOI. Access outside of FOI is usually provided through inspection, purchase or free of charge.

A description of the types of documents that may be made available can be found in an agency's Information Statement which is required to be published either on the agency's website or in their Annual Report.

During 2007-08 there were 86 cases where State and Local Government agencies refused an FOI application and provided access, or restricted access, outside of FOI. This is consistent with the previous year.

Documents created prior to 1 January 1987

Section 20(1)(e) of the FOI Act allows an application to be refused because it came into existence before 1 January 1987. However the FOI Act specifically states that this section does not apply if 20 years has passed since the document was created (section 20(2)(c)).

From 1 January 2007 agencies were no longer able to use this clause to refuse an application. However, three agencies reported using this as a reason for refusing access to a document during 2007-08.

To avoid further incorrect use of this section, consideration will be given during 2008-09 to its removal from the FOI Act.

Statistical Data in this Report

Statistical reports were run against the FOIMS database over the week ending 10 August 2008. The figures used in this Annual Report are accurate as of that time.

Agencies Failing to Report

As previously mentioned agencies use FOIMS for the secure management and reporting of their FOI applications.

FOIMS is unable to collect information in relation to the cost of administering the FOI Act. Therefore, in accordance with FOI reporting requirements published in the Government Gazette on 15 June 2006, State Records seeks this information from agencies via a manual return. Not all agencies responded to the request for this information.

This year, four Local Government Councils and 21 State Government agencies failed to respond. However, all were small agencies and the cost of administering the FOI Act in these agencies would not have impacted significantly on the overall estimated cost of FOI.

STATISTICAL SUMMARY

This year there were 11 529 FOI applications for access received by all agencies bound by the FOI Act. The number of received applications increased by 148 (1%) compared to the previous year. Determinations were issued for 11 416 applications.

Of the 11 529 access applications received:

- 11 228 were received by State Government agencies (an increase of 176 applications) with 11 355 applications processed and 11 111 successfully determined
- 286 were received by Local Government (a decrease of 27 applications) with 307 applications processed and 294 successfully determined
- 15 were received by the South Australian Universities (a decrease of one application) with 11 applications processed and 11 successfully determined
- 44% were made by an applicant's lawyer or agent, 35% were made by members of the public, 1% were made by the media and 20% were made by all other kinds of applicants.

Included in the figures of those applications processed and determined are the applications carried forward from the previous year.

Chart 1 shows that for 75% (8357) of FOI applications made to State Government agencies full access was granted to the documents requested. Local Government reported that in 61% (178) of cases full access was granted and Universities 45% (5). The outcome of access determinations for all sectors is listed at Table 1.

Chart 1 – Outcome of Access Applications (2007-08) - All Sectors

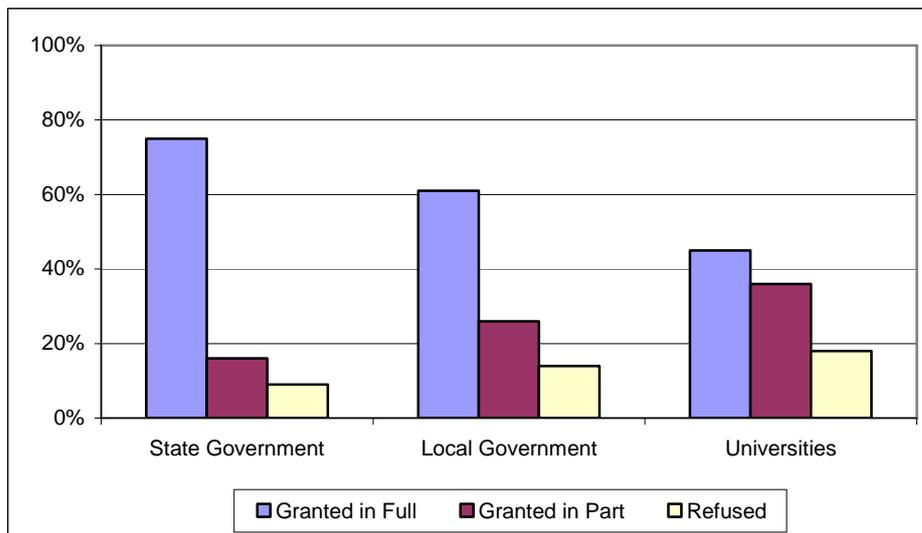


Table 1 – Outcome of Access Applications - All Sectors

<i>Sector</i>	<i>Granted in Full</i>		<i>Granted in Part</i>		<i>Refused</i>	
	<i>07-08</i>	<i>06-07</i>	<i>07-08</i>	<i>06-07</i>	<i>07-08</i>	<i>06-07</i>
State Government	75%	78%	16%	13%	9%	9%
Local Government	61%	54%	26%	27%	14%	19%
Universities	45%	62%	36%	23%	18%	15%

State Government Summary

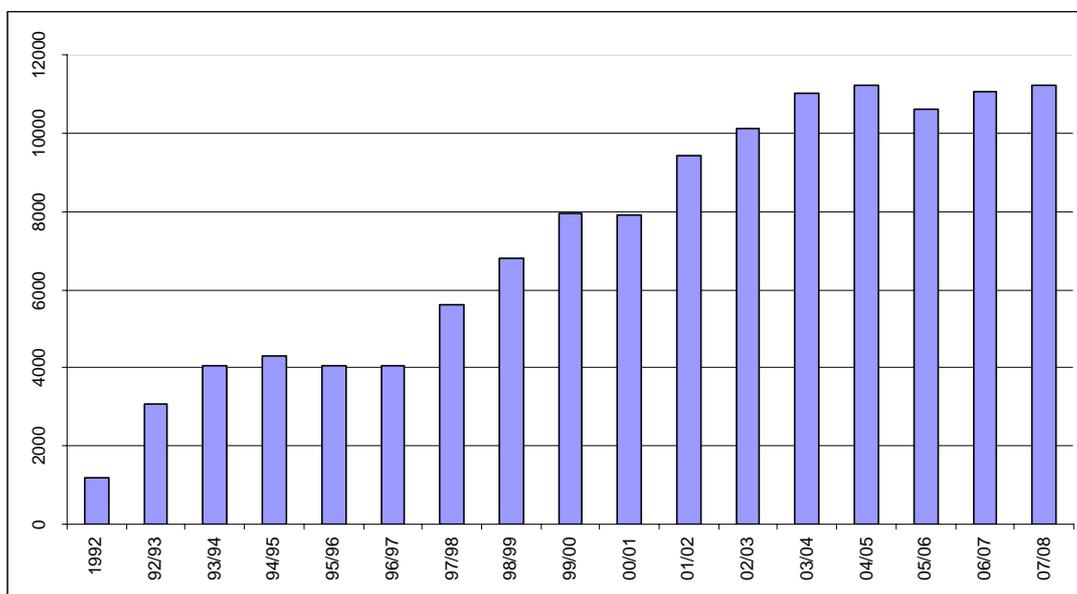
Seventeen Year Analysis

Since the commencement of the FOI Act on 1 January 1992, there have been a total of 123 698 applications for access made to South Australian State Government agencies.

Chart 2 shows the breakdown of these applications over the past 17 years. It should be noted that in 1992 the Act only operated for the second half of the 1991-92 financial year.

The chart also shows that since 2004 the number of FOI applications made to State Government agencies each year has remained relatively stable.

Chart 2 – Applications made to State Government agencies since 1 January 1992



Analysis of 2007-08

For the 2007-08 reporting year there were 11 228 FOI applications for access received by State Government agencies representing a 1.3% increase when compared to the previous year. During the year, agencies reported processing¹ 11 355 access applications and determining 11 111 access applications. Compared to 2006-07 this is an increase of 12% in relation to determined applications.

Key findings from the statistics provided by State Government agencies include:

- 78% of applications processed during 2007-08 were finalised within 30 days, which is 5% less than the previous year
- The number of applications received for non-personal information decreased by 7% compared to the 128% increase reported the previous year

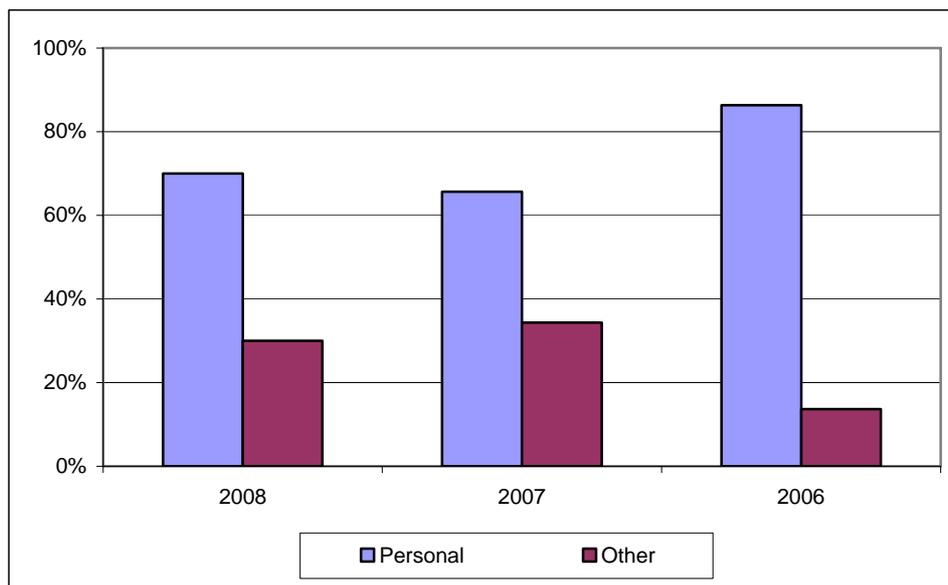
¹ "Processing" encompasses the issuing of a determination, transferring an application to another agency, or ceasing the FOI process as the application has been withdrawn by the applicant.

- The number of applications received for personal information increased by 6%, compared to the 19% decrease reported the previous year
- 1475 extensions were granted compared to 1400 extensions the previous year, representing an increase of 5%
- 1093 unfinished applications are to be carried over to 2008-09. This is a decrease of 35%
- Members of Parliament made 958 applications for access this year. This represents an increase of 64%.

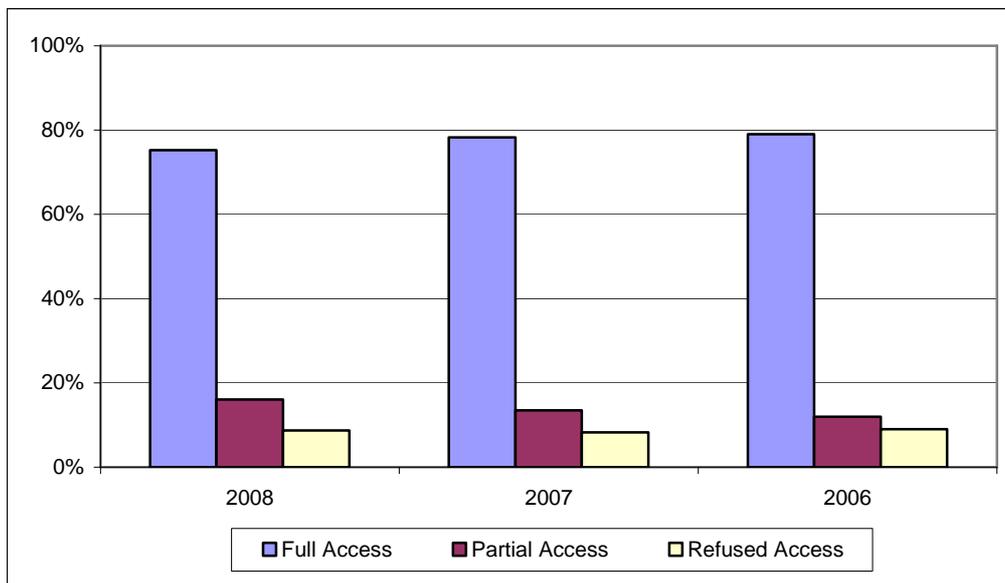
For the 2007-08 reporting year, State Government agencies reported having entered into four contracts that contained an approved confidentiality clause as defined by Clause 13 of Schedule 1 of the FOI Act. This represents a decrease of 83%.

Chart 3a shows the proportion of access applications determined for personal affairs compared to non-personal. Chart 3b shows the outcome of all access applications in State Government agencies.

Chart 3a - Personal and non-personal access applications determined (2007–08) - State Government (11 111 determined access applications)



*Chart 3b – Outcome of all access determinations (2007-08) - State Government
(11 111 determined access applications)*



Local Government Summary

This reporting year there were 286 new FOI applications for access received by Local Government. This represents a 9% decrease compared to the previous reporting year. Local Government processed 303 applications of which 294 were determined.

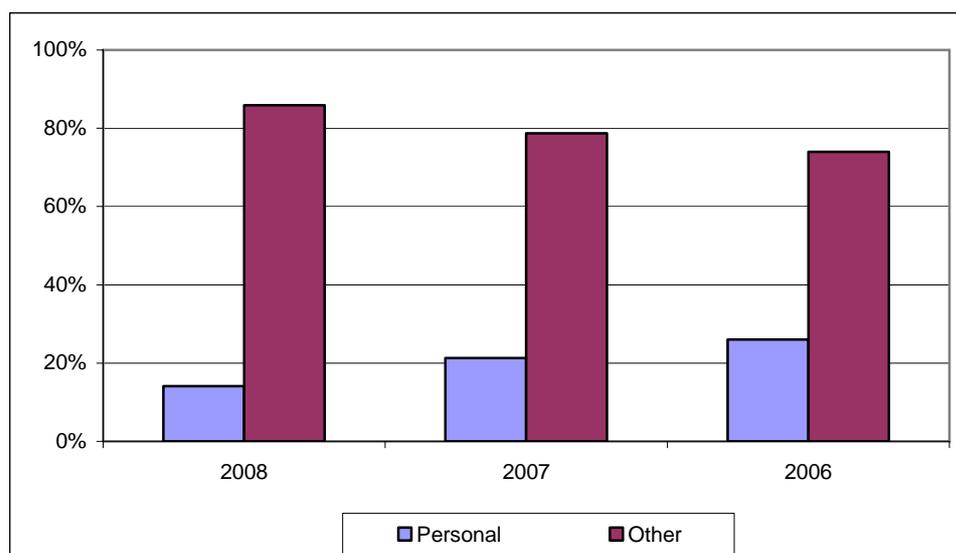
Key findings from the statistics provided by Local Government include:

- 82% of applications in 2007-08 were processed within 30 days, which is 4% more than the previous year
- A 33% decrease in personal affairs applications received compared to the previous reporting year
- A 2% decrease in non-personal affairs applications received compared to the previous reporting year
- A 68% decrease in the number of applications that required the time limit to be extended; there were seven extensions granted this year
- A total of 37 unfinished applications are to be carried over to the 2008-09 reporting year representing a decrease of 46% compared to the previous year
- 15 applications were received from Members of Parliament, which is consistent with the previous year.

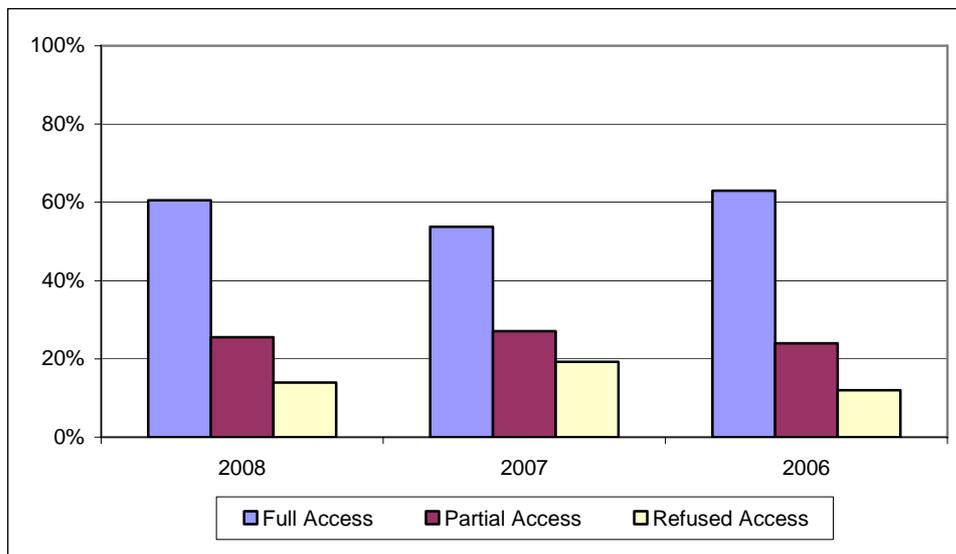
For the 2007-08 reporting year, Local Government agencies reported having entered into 13 contracts that contained an approved confidentiality clause as defined by Clause 13 of Schedule 1 of the FOI Act. This is the same number as that reported in the previous year.

Chart 4a shows the proportion of access applications determined for personal affairs compared to non-personal. Chart 4b shows the outcome of all access applications determined in Local Government.

Chart 4a - Personal and non-personal access applications determined (2007-08) - Local Government (294 determined access applications)



*Chart 4b – Outcome of all access determinations (2007-08) - Local Government
(294 determined access applications)*



Universities Summary

South Australian Universities reported receiving 15 new access applications; one less than the previous reporting year.

Key findings relating to statistics provided by Universities include:

- 11 applications were processed and all but one of these within the 30 day time frame
- Seven personal affairs applications were received compared to 14 in the previous reporting year
- Eight non-personal applications were received compared to two in the previous reporting year.

For the 2007-08 reporting year, Universities reported having entered into 18 contracts that contained an approved confidentiality clause as defined by Clause 13 of Schedule 1 of the FOI Act. This is a decrease of 22 when compared to the previous year.

Chart 5a shows the proportion of access applications determined for personal affairs compared to non-personal. Chart 5b shows the outcome of all access applications in Universities.

Chart 5a - Personal and non-personal access applications determined (2007–08) – Universities (11 determined access applications)

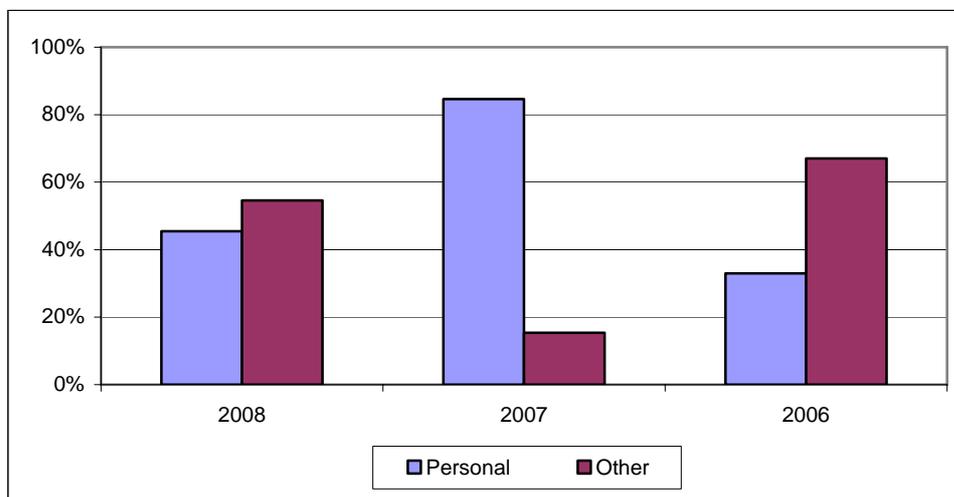
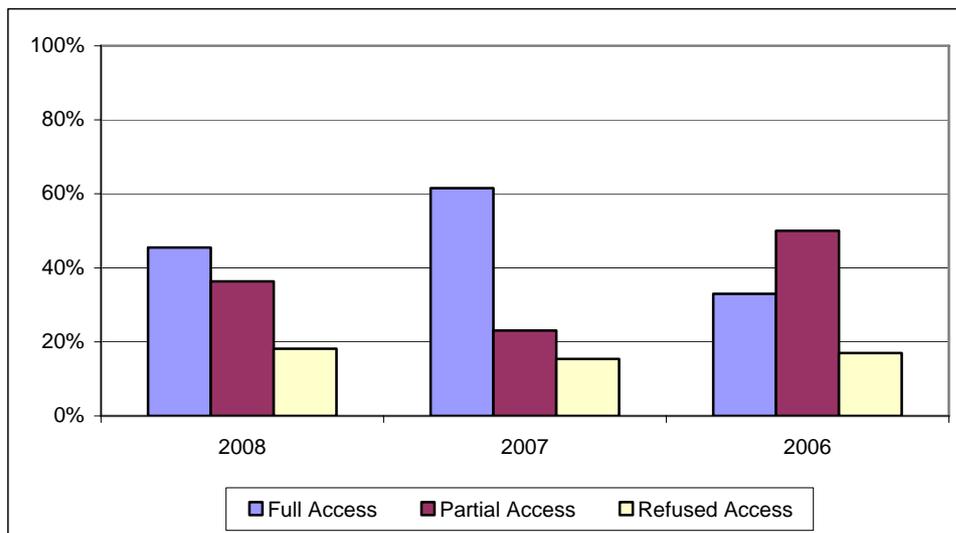


Chart 5b – Outcome of access determinations (2007-08) - Universities (11 determined access applications)



ACTIVITY UNDER THE FOI ACT

Applications received for access

Volume

The combined results of annual statistical returns for all agencies bound by the FOI Act show that there were 11 529 FOI applications for access received during the reporting year.

Of the agencies that provided statistics for this year's Report, 31% of State Government agencies and 49% of Local Government agencies reported no FOI applications being dealt with during 2007-08.

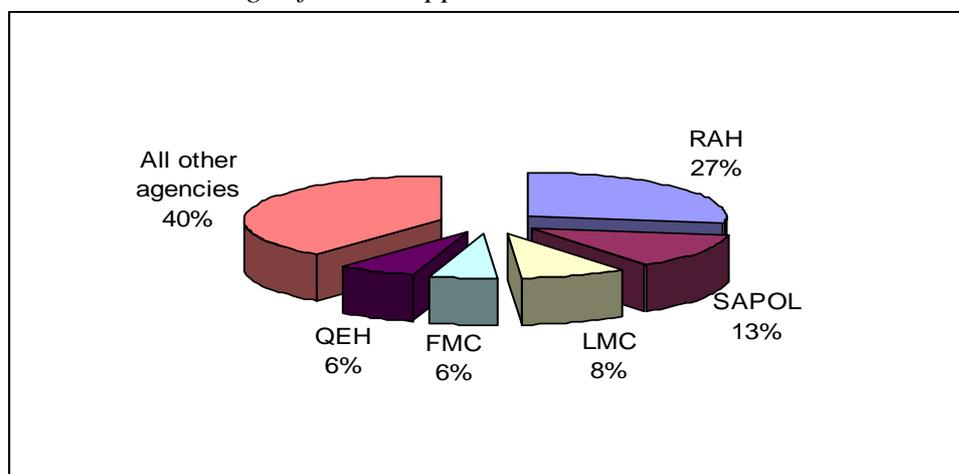
Since 1999-2000, the top five State Government agencies in terms of volume of applications have been reported in detail. In the 2001-02 reporting year a sixth agency, the Lyell McEwin Hospital, was included due to a marked increase in the volume of applications received. The Children Youth and Women's Health Service was removed from the list in 2006-07. This reporting year the top three agencies have retained the same ranking with the Flinders Medical Centre dropping from fourth to fifth place in relation to the number of applications received.

These top five agencies represent 61% of the total applications received by agencies across the three sectors bound by the FOI Act.

Table 2 – Percentage increase / decrease of applications received by the top five agencies

Agency	2007/08	2006-07	% Change
Royal Adelaide Hospital	3124	3407	(8%)
South Australia Police (SAPOL)	1531	1469	4%
Lyell McEwin Hospital	966	859	12%
Queen Elizabeth Hospital	729	656	11%
Flinders Medical Centre	671	717	(6%)

Chart 6 – Percentage of access applications received in 2007-08 – All Sectors



Type

Agencies are asked to distinguish between access applications relating to the applicant's personal affairs and those relating to other matters, which are classified as non-personal applications.

Applications relating to personal affairs can include:

- Applicants seeking access to their own personal information
- Parents seeking access to their child's information
- Requests from people who are acting on behalf of another for access to personal information, where consent is given without requiring the agency to consult the person concerned. This can include solicitors, personal representatives, insurance agencies and guardians
- Next of kin seeking access to personal information about a deceased person
- Applicants applying for their own information as well as other information.

Those applications classified as non-personal can include:

- An applicant applying for the personal information of another person without consent
- Applications for policy or administrative documents.

Tables 3, 4 and 5 show the number and percentage of applications made for access to information relating to both personal affairs and other matters.

Table 3 – Breakdown of Applications received – State Government

<i>Type of applications</i>	<i>2007-08</i>	<i>2006-07</i>	<i>% Change</i>
Personal affairs	7 831	7 382	6%
Other	3 397	3 670	(7%)
Total applications	11 228	11 052	1.6%

Table 4 – Breakdown of Applications received – Local Government

<i>Type of applications</i>	<i>2007-08</i>	<i>2006-07</i>	<i>% Change</i>
Personal affairs	42	63	(33%)
Other	244	250	(2%)
Total applications	286	313	(9%)

Table 5 – Breakdown of Applications received – Universities

<i>Type of applications</i>	<i>2007-08</i>	<i>2006-07</i>	<i>% Change</i>
Personal affairs	7	14	(50%)
Other	8	2	300%
Total applications	15	16	(6%)

Applications carried over into the next reporting year

Not all applications are finalised within the reporting year. Unfinished applications are carried over into the next reporting year.

State Government agencies reported that 1762 unfinished applications were carried forward from 2006-07. At the end of the 2007-08 reporting year, 1135 applications remained undetermined. These applications have been carried forward into the 2008-09. Of these:

- 1093 were made to State Government agencies
- 37 were made to Local Government
- five were made to Universities

At the close of the reporting year 460 (42%) of the 1093 unfinished applications received by State Government agencies were still within the 30 day time frame for issuing a determination. This represents an improvement of 21% when compared to the previous year.

Of the 37 unfinished applications made to Local Government, 18 applications (48%) were still within the 30 day time frame. This represents 22% less unfinished applications being within the 30 day time frame when compared to the 2006-07 reporting year.

The five unfinished applications made to Universities were not within the 30 day time frame for issuing a determination.

Extensions

Section 14A of the FOI Act allows agencies to extend the time period to deal with an application.

Pursuant to section 14A, the Principal Officer of an agency can extend the 30 day period where an FOI application is for access to:

- a large number of documents, or requires a search to be conducted through a large quantity of information and dealing with the application within the 30 day period would unreasonably divert the agencies resources in the exercise of its function, or
- a document that requires consultation under Part 3 Division 2 of the FOI Act that cannot be reasonably undertaken within the time period.

Overall, 1482 applications were extended. Of the total number of applications extended 1475 were made to State Government and seven were made to Local Government.

Of the 1475 applications extended by State Government, 1335 were extended by one agency.

The seven extensions reported by Local Government were spread across 6 different Councils.

Reasons for Refusal or Restriction

The FOI Act allows for the refusal or restriction of access to certain documents.

Table 6 shows the breakdown of the reasons given by agencies across all sectors for the restriction or refusal of access to documents. Tables for each specific sector can be found in Tables 10 to 12 in Appendix B.

Table 6 shows that in the majority of cases where access was restricted or refused, the document being sought was determined to be exempt. This was consistent across all sectors.

One or more reasons for restricting or refusing access may be given in one determination.

Table 6 – Reasons cited for refusing or restricting access (2007-08) - All Sectors

<i>Details</i>	<i>State</i>	<i>Local</i>	<i>Unis</i>
Application incomplete/wrongly directed	30	0	0
Unreasonable diversion of an agency's resources	36	4	0
Abuse of right of access (Section 18(2)(a))	12	0	0
Fees not paid	30	1	0
Deemed refusal (over 30 days to respond)	46	0	0
Exempt document	2123	64	5
Otherwise available	61	25	0
Documents created prior to 1 January 1987	3	0	0
Exempt agency	16	1	0
Document does not exist/lost	335	17	1

Exemptions claimed

Consistently each reporting year, agencies use Clause 6, documents affecting personal affairs, most frequently to exempt matter from release to an applicant. This year is no exception. Table 7 shows that Clause 6 was applied 1456 times by State Government agencies. The next most significant exemption claimed was related to documents affecting law enforcement and public safety.

One or more exemptions may be applied in one determination.

Table 7 – Number of exemptions applied under Schedule 1 of the FOI Act (2007-08) – All Sectors

<i>Clause</i>	<i>Details</i>	<i>State</i>	<i>Local</i>	<i>Unis</i>
1 & 2	Cabinet and/or Executive Council	142	0	0
3	Exempt documents communicated by another government	3	0	0
4	Law enforcement and public safety	821	2	0
5	Intergovernmental / Local Government relations	14	1	0
6	Personal affairs	1456	30	1
6a	Exempt electoral records	2	0	0
7	Business affairs	110	6	4
8	Conduct of research	3	0	2
9	Internal working documents	281	2	1
10	Legal professional privilege	66	9	0
11	Judicial functions	95	0	0
12	Secrecy provisions	128	4	0
13	Confidential information	115	9	2
14 & 15	Economy / financial or property interests	2	1	0
16	Operations of agencies	111	5	0
17	Subject to contempt	16	0	0
18	Companies and Securities	0	0	0
19	Public or archival collections	0	0	0

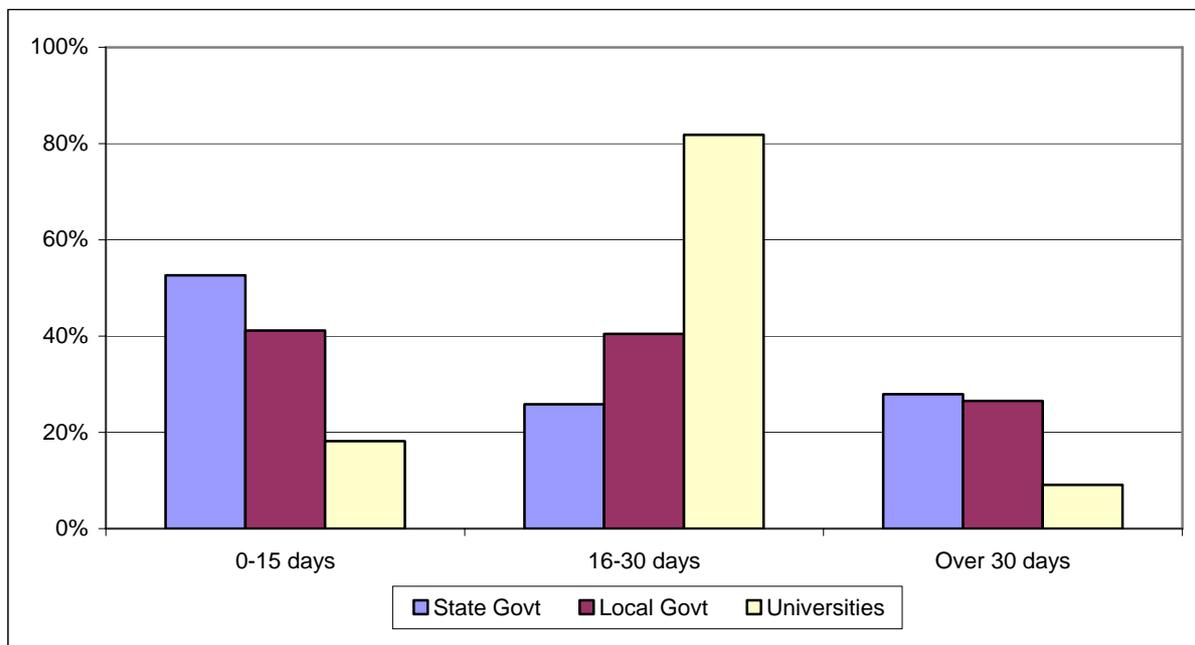
Time Taken to Respond

Since 1 July 2002, all agencies have been required to deal with applications made under the FOI Act as soon as practicable within a 30 day time period. Should the agency take longer than 30 days to process an application without seeking a formal extension to the time period in accordance with section 14A, it will be determined that the agency has refused to provide access to the documents.

In some cases, the applicant agrees to an extension of time without a formal extension. This leaves open the option for the applicant to seek an internal review should they wish to do so.

The chart below compares the time taken to respond to applications for access and amendment across the three sectors.

Chart 7 – Time taken to respond (2007-08) - All Sectors



Over half of all applications made to State Government, over one third made to Local Government and almost one fifth made to Universities were finalised within the first 15 days. In 79% of cases, applications across all three sectors were finalised within the 30 day time frame, which is consistent with the previous reporting year.

Cost of FOI

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*.

Agencies were required to report the regulated fees and charges that could be levied for processing FOI applications and the actual amount recovered during the year. Fees and charges can be levied for:

- An application fee
- Costs to the agency of finding, sorting, compiling and copying documents in order to carry out the FOI process and undertake any consultations required under the Act
- Actual cost incurred by the agency in producing a copy, eg a photocopy or transcript.

The cost to agencies for the administration of FOI, including the processing of FOI applications (as outlined above), training, seeking legal advice, conducting reviews and the management of FOIMS was estimated to be approximately \$4.68 million for the reporting year. Agencies reported that \$130 066 (3%) was recovered only 1% more than the previous year.

The amounts recovered in the 2007-08 reporting year for the three sectors was as follows:

- State Government agencies reported recovering approximately \$127 530
- Local Government authorities reported recovering approximately \$2435
- Universities reported recovering \$103.

The State Ombudsman estimated that the approximate cost for legal officers to deal with FOI was \$281 800. The Police Complaints Authority estimated that its workload in conducting FOI reviews throughout 2007-08 equated to a salary cost of approximately \$15 000.

It was also estimated that the work undertaken by the Crown Solicitor's Office relating to FOI during 2007-08 equated to a salary cost of \$194 000.

Fee Waiver

This reporting year 2031 applications received were eligible for fee waiver. The percentage of applications eligible for a fee waiver fell by 2% when compared to the previous year. In addition, in a further 2146 cases agencies exercised their discretion not to charge the application fee. This represents an increase of 3% compared to the previous reporting year. Therefore, in total 4177 or 36% of all FOI applications were considered eligible for, or received, some form of fee waiver. Despite the increases described above, the overall increase in applications considered eligible for, or received, some kind of fee waiver only increased by 1% over the previous reporting year.

Applications from Members of Parliament

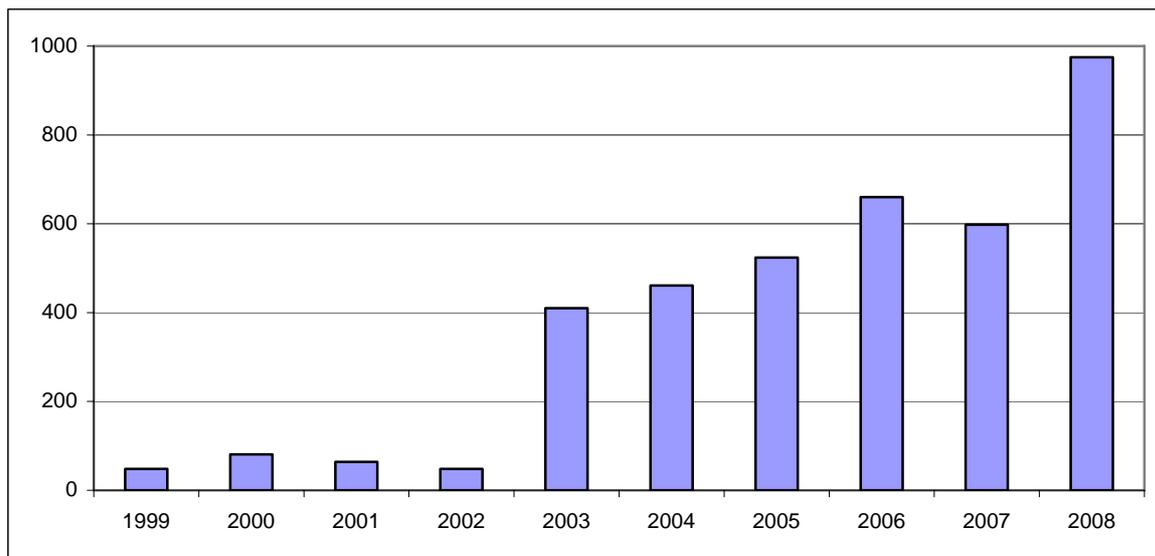
One type of fee waiver provided in the FOI (Fees and Charges) Regulations concerns applications made by Members of Parliament. Members of Parliament have a fee free threshold of \$1000 before they can be asked to pay a processing charge.

This reporting year 975 access applications were received from Members of Parliament. Of these 958 were made to State Government, 15 were made to Local Government and two were made to Universities. This represents an increase of 64% over the previous reporting year.

Of the applications made by Members of Parliament:

- One applicant made eight separate applications to the same agency for complete copies of eight separate files
- One applicant made multiple applications to seven different agencies
- One applicant made 26 separate applications to one agency on the same day all in relation to advertising.

Chart 8 – Number of applications by Members of Parliament – All Sectors



In 116 of the cases, an extension to the time to respond to applications from Members of Parliament was granted under section 14A. The number of days extended ranged from seven to 184 days, with the average being 76 days. In 78% of cases the number of days extended was greater than 28 days.

Applications from the Media

There were 156 applications received from the media in this reporting year. This number represents a decrease of 40% when compared to 258 applications in 2006-07.

Applications from Lawyers or Agents

There were 4991 applications received from lawyers or agents on behalf of individuals across all sectors, 4950 of which were applications for access. The overall figure represents 43% of all applications received, which is 3% less than reported in the previous reporting year.

Broadcast Applications

Over the past few years there has been a noticeable increase in the number of applications made by Members of Parliament and the media that are broadcast to a number of State Government agencies.

These applications are categorised by having the same wording and being made at the same time to multiple agencies by the one applicant. The applications are often ambiguous, lack a date range for the documents being sought and predominately concern government information that is common across many agencies. In addition, the applications can be quite expansive in nature requiring significant time for proper consideration of each document and where necessary consultation with third parties.

From time to time, at requests from FOI Officers, meetings are arranged to discuss the scope and meaning of these applications and to seek general advice in the interpretation of the FOI Act. These meetings provide support to FOI Officers and assist in a more efficient approach to processing these applications. Additionally, clarification is often required from the applicant particularly in regard to defining the scope of the application and, where appropriate, this can be coordinated without the need for agencies to individually contact the applicant.

In 2007-08 agencies reported having received 9 broadcast type applications, representing a 200% increase compared to the previous year.

Amendment of Records Relating to Personal Affairs

The FOI Act provides all members of the public with a mechanism to apply for amendment of government records about their personal affairs, that they believe are incomplete, incorrect, out-of-date or misleading.

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

This year, State Government agencies received 179 applications for amendment of records. Local Government received 1 and the Universities received none. Overall, this represents an increase of 15% compared to the previous reporting year. Twenty-nine of the applications brought forward from 2006-07 were applications seeking amendment. This resulted in a total of 209 applications for amendment to be processed during 2007-08. Of this 193 were determined.

Table 8 shows that in 118 cases, or 61%, of the 193 amendment applications determined by State Government agencies, the amendment was refused. This represents an increase of 14% compared to the previous year.

Table 8 – Amendment of Personal Information – State Government

<i>Outcome of Amendment application</i>	<i>2007-08</i>	<i>2006-07</i>
Amendment agreed	57	35
Amendment refused	118	73
Partial amendment	13	14
Notation added	5	4

The following table (Table 9) shows the reasons given for refusing to amend records. More than one reason can be given for refusing to amend a record.

Table 9 – Reasons for refusal to amend records – State Government

<i>Reasons for refusal to amend records</i>	<i>2007-08</i>	<i>2006-07</i>
Records are not incomplete, incorrect, out-of-date or misleading	116	61
Application contains matter that is incorrect or misleading	1	2
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	2	10

Reviews and Appeals

Any person who is dissatisfied with the outcome of an application can seek an internal or external review.

Internal Review

Sections 29 and 38 of the FOI Act allow any person aggrieved by a determination made by an agency to seek an internal review of that determination.

Applications for internal review should be made within 30 days of the original determination and must be dealt with by the agency within 14 days.

There were 143 applications for internal review received this reporting year. State Government agencies received 131, which is 3% more than the previous year, Local Government received 11 which is three less than the previous year and Universities received one, having received none the previous year.

These figures are very similar to those reported in the previous year.

Of the 136 internal reviews completed during the reporting year:

- 50.5% confirmed the original determination, which is 8% less than the previous year
- 41% varied the original determination, which is 6% more than the previous year
- 6.5% reversed the original determination, which is 3% more than the previous year
- 2% were withdrawn, which is the same as the previous year.

The following chart (Chart 9) shows the results of all finalised internal review applications.

Chart 9 – Results of all finalised internal review applications (2007-08) – All Sectors

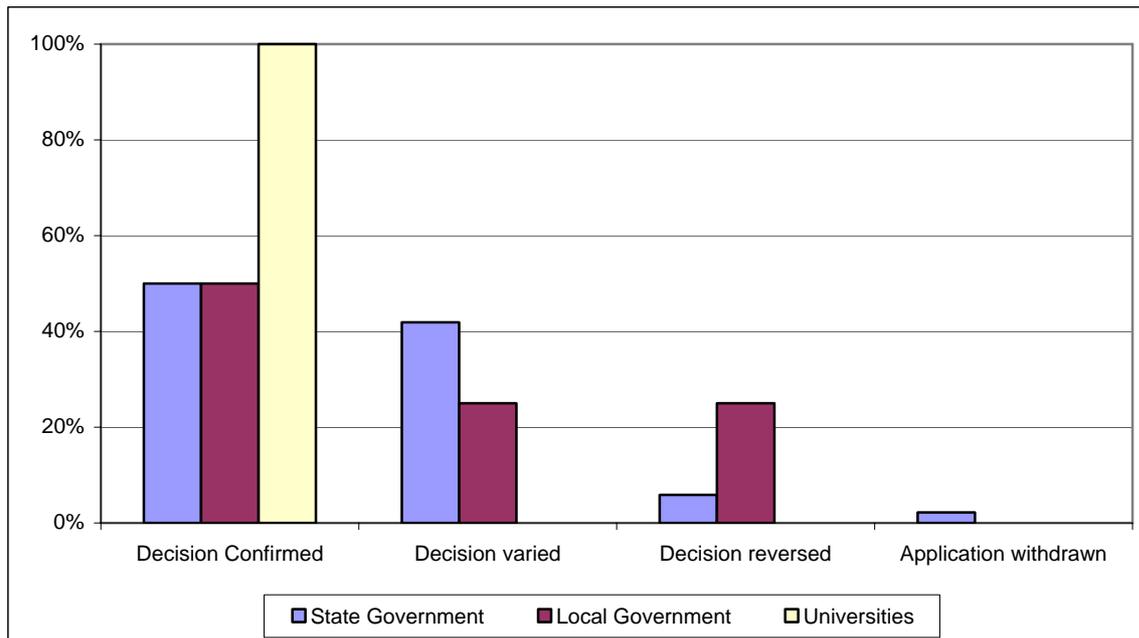


Chart 9 shows that in most cases the determination made on an internal review application confirmed the original decision made by the agency, which is consistent with the previous year.

External Review

If an applicant is aggrieved by an internal review decision, or where the original determination could not be internally reviewed, they may make an application for an external review to the Ombudsman or Police Complaints Authority. The Ombudsman conducts all external reviews, unless South Australia Police or the Minister responsible for South Australia Police made the determination, in which case the external review is conducted by the Police Complaints Authority.

For the 2007-08 reporting year, the Ombudsman’s Office advised that it received 229 FOI related enquiries, of which

- 52 were for reviews, which is 2 less than the previous year
- 13 were investigations, which is 2 more than the previous year.

The Police Complaints Authority advised that it undertook 17 external reviews during the year; this was 4 less than the previous year. Of the 17 external reviews received 14 were finalised by the close of the reporting year.

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

In the event an applicant is aggrieved by the outcome of an external review the applicant may appeal to the District Court. In 2007-08, agencies reported having received four notifications

of appeals being made to the District Court. In the same period, agencies reported that two appeals made to the District Court were completed.

Further appeal against a decision made by the District Court can be made to the Supreme Court in accordance with the rules of that court.

APPENDICES

Appendix A – Objectives, Scope and Interpretations

The objects of the *Freedom of Information Act 1991* (FOI Act) are:

3(1) (a) to promote openness in government and accountability of Ministers of the Crown and other government agencies and thereby to enhance respect for the law and further the good government of the State; and

(b) to facilitate more effective participation by members of the public in the processes involved in the making and the administration of laws and policies.

Scope

The FOI Act applies to all South Australian Government authorities, except where an exemption applies, all Local Government Councils and South Australian Universities. This means that FOI applications can be made to all of these organisations.

Interpretations

Agency

The definition of agency is currently defined as:

- a) a Minister of the Crown; or*
- b) a person who holds an office established by an Act; or*
- (b) an administrative unit under the Public Sector Management Act 1995; or*
- (c) South Australia Police; or*
- (d) a council; or*
- (e) any incorporated or unincorporated body –*
 - i. established for a public purpose by an Act; or*
 - ii. established for a public purpose under an Act (other than an Act providing for the incorporation of companies or associations, co-operatives, societies or other voluntary organisations); or*
 - iii. established or subject to control or direction by the Governor, a Minister of the Crown or any instrumentality or agency of the Crown or a council (whether or not established by or under an Act or an enactment); or*
- (f) a person or body declared by the regulations to be an agency,*

but does not include an exempt agency.

Exempt agencies are listed in Schedule 2 of the FOI Act, and in the *Freedom of Information (Exempt Agency) Regulations 2008*. A list of exempt agencies is attached in Appendix E.

Accredited FOI Officer

The FOI Act requires that an Accredited FOI Officer must deal with an application for access and amendment.

Accredited FOI Officers are defined as;

- a) *the principal officer of the agency; or*
- b) *an officer of the agency who –*
 - i. *has completed training of a type approved by the Minister for an accredited FOI officer; and*
 - ii. *has been designated by the principal officer of the agency as an accredited FOI officer of the agency; and*
 - iii. *–*
 - (A) *in relation to an administrative unit under the Public Sector Management Act 1995 – is employed in an executive position under that Act or in a position that usually reports to an executive; or*
 - (B) *in relation to the South Australia Police – is an officer in South Australia Police; or*
 - (C) *in relation to any other agency – is employed in a position that usually reports to the principal officer of the agency or to the deputy or immediate delegate of the principal officer.*

Appendix B - Tables

Table 10 – Reasons for the restriction or refusal of access to documents – State Government

Reason for refusing or restricting access	2007-08	2006-07
Application incomplete / wrongly directed	30	10
Unreasonable diversion of an agency's resources	36	24
Abuse of right of access	12	19
Fees not paid	30	25
Deemed refusal (over 30 days to respond)	46	110
Exempt document	2123	1512
Otherwise available	61	75
Documents created prior to 1 January 1987	3	3
Exempt agency	16	14
Document does not exist / lost	335	279

Table 11 – Reasons given for the restriction or refusal of access to documents – Local Government

<i>Reason for refusing or restricting access</i>	<i>2007-08</i>	<i>2006-07</i>
Application incomplete / wrongly directed	0	1
Unreasonable diversion of an agency's resources	4	2
Abuse of right of access	0	0
Fees not paid	1	0
Deemed refusal (over 30 days to respond)	0	0
Exempt document	64	74
Otherwise available	25	9
Documents created prior to 1 January 1987	0	2
Exempt agency	1	0
Document does not exist / lost	17	21

Table 12 – Reasons given for the restriction or refusal of access to documents – Universities

<i>Reason for refusing or restricting access</i>	<i>2007-08</i>	<i>2006-07</i>
Application incomplete / wrongly directed	0	0
Unreasonable diversion of an agency's resources	0	1
Abuse of right of access	0	0
Fees not paid	0	0
Deemed refusal (over 30 days to respond)	0	0
Exempt document	5	3
Otherwise available	0	0
Documents created prior to 1 January 1987	0	0
Exempt agency	0	0
Document does not exist / lost	1	1

Table 13 – Completed Applications - State Government

<i>Outcome of Application</i>	<i>2007-08</i>	<i>2006-07</i>
Granted In Full	8 357	7 754
Granted in Part	1 784	1 333
Refused	970	821
<i>Total Completed applications</i>	<i>11 111</i>	<i>9 908</i>
<i>Plus</i>		
Transferred in full	110	116
Withdrawn	104	102
<i>Total Actually Processed</i>	<i>11 325</i>	<i>10 126</i>

Table 14 – Completed Applications - Local Government

<i>Outcome of Application</i>	<i>2007-08</i>	<i>2006-07</i>
Granted In Full	178	137
Granted in Part	75	69
Refused	41	49
<i>Total completed applications</i>	<i>294</i>	<i>255</i>
<i>Plus</i>		
Transferred in full	0	1
Withdrawn	9	9
<i>Total Actually Processed</i>	<i>303</i>	<i>265</i>

Table 15 – Completed Applications – Universities

<i>Outcome of Application</i>	<i>2007-08</i>	<i>2006-07</i>
Granted In Full	5	8
Granted in Part	4	3
Refused	2	2
<i>Total completed applications</i>	<i>11</i>	<i>13</i>
<i>Plus</i>		
Transferred in full	0	0
Withdrawn	0	3
<i>Total Actually Processed</i>	<i>11</i>	<i>16</i>

Table 16 –Agencies Access Applications Received – State Government

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Aboriginal Housing Authority	0	1
Adelaide & Mt Lofty Ranges Natural Resource Management Board	0	0
Adelaide Cemeteries Authority	0	0
Adelaide Entertainments Corporation	0	<i>n/a</i>
Adelaide Festival Centre Trust	0	1
Adelaide Festival Corporation	0	0
Architects Board of SA	1	<i>n/a</i>
Attorney-General's Department	78	85
Balaklava & Riverton Districts Health Service Inc	0	0
Barossa & Light Regional Development Board Inc	0	0
Bordertown Memorial Hospital Inc.	5	6
Carclew Youth Arts Centre Inc	0	0
Ceduna District Health Service Inc	47	52
Centennial Park Cemetery Authority	0	1
CNAHS - Primary Health Care Services (North/North East)	10	9
CNAHS - Glenside Mental Health Service	97	106
Children, Youth and Women's Health Service	455	366
Chiropractors' Board of South Australia	1	0
CNAHS - Lyell McEwin Hospital	966	859
CNAHS - Regional Office	2	5
Cooper Pedy Hospital & Health Services Inc	14	11

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Country Health SA (Port Lincoln)	0	0
Country Health SA (Murray Bridge Office)	0	0
Country Health SA (Adelaide Office)	4	<i>n/a</i>
Courts Administration Authority	65	69
Cummins & District Memorial Hospital	7	3
Department for Administrative & Information Services	1	27
Department for Correctional Services	108	128
Department for Environment & Heritage	29	19
Department for Families and Communities	366	301
Department for Transport, Energy & Infrastructure	208	123
Department for Primary Industries & Resources SA	69	69
Department of Education and Children's Services	70	102
Department of Further Education, Employment, Science & Technology	11	12
Department of Health	83	60
Department of the Premier and Cabinet	185	160
Department of Trade & Economic Development	39	23
Department of Treasury and Finance	57	45
Department of Water, Land & Biodiversity Conservation	27	21
Domiciliary Care SA	9	5
Drug and Alcohol Services South Australia	16	43
Eastern Eyre Health & Aged Care - Kimba Campus	0	0
Environment Protection Authority	1	28

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Equal Opportunity Commission	1	1
Eudunda & Kapunda Health Service Inc	17	0
Eyre Peninsula Natural Resources Management Board	0	0
Flinders Medical Centre	671	717
Forestry SA	12	0
Gawler Health Service	66	72
Guardianship Board	1	2
Hawker Memorial Hospital Inc	0	0
History Trust of South Australia	0	0
HomeStart Finance	0	0
Housing SA	46	53
Independent Gambling Authority	0	0
Inner Southern Community Health Service	0	0
Kangaroo Island Health Service	8	10
Karoonda Hospital - Mallee Health Service	1	0
Kingston Soldiers' Memorial Hospital Inc	3	2
Lameroo District Health Service	0	1
Land Management Corporation	1	2
Legal Services Commission	6	14
Leigh Creek Health Service Inc	0	0
Lower North Health	16	16
Loxton Hospital Complex Inc	0	0

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Medical Board of South Australia	8	11
Meningie & Districts Memorial Hospital & Health Service	0	1
Mid North Health - Booleroo Health Service	0	1
Mid North Health - Peterborough Hospital	6	18
Mid-West Health	4	10
Millicent & District Hospital & Health Service Inc	10	15
Modbury Public Hospital	505	400
Mount Barker & Districts Health Service	35	22
Mount Gambier & Districts Health Service	83	124
Multicultural SA	0	0
Murray Bridge Soldiers Memorial Hospital	10	18
Murray Mallee Community Health Service	0	0
Naracoorte Health Service	12	20
Noarlunga Health Services	135	174
Northern Adelaide Hills Health Service	3	5
Northern Yorke Peninsula Health Service	11	11
Nurses Board of South Australia	6	6
Occupational Therapists Registration Board of SA	0	0
Office of Public Employment	0	1
Office of the Attorney-General	21	17
Office of the Minister - Hon Carmel Zollo	11	10
Office of the Minister - Hon Gail Gago	25	17

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Office of the Minister - Hon John Hill	19	24
Office of the Minister - Hon Jane Lomax-Smith	26	21
Office of the Minister - Hon Jay Weatherill	8	22
Office of the Minister - Hon Jennifer Rankine	11	1
Office of the Minister - Hon Kevin Foley	18	31
Office of the Minister - Hon Michael Wright	11	17
Office of the Minister - Hon Patrick Conlon	3	24
Office of the Minister - Hon Paul Caica	9	1
Office of the Minister – Hon Paul Holloway	42	<i>n/a</i>
Office of the Minister – Hon Rory McEwan	11	<i>n/a</i>
Office of the Public Advocate	1	2
Office of Venture Capital Board	3	5
Orroroo & District Health Service	0	1
Outback Areas Community Development Trust	0	0
Penola War Memorial Hospital Inc	7	5
Pinnaroo Soldiers' Memorial Hospital	1	0
Podiatry (Chiropody) Board of South Australia	0	0
Port Augusta Hospital & Regional Health Services	48	33
Port Broughton District Hospital & Health Services	4	2
Port Lincoln Health Services Inc	6	3
Port Pirie Regional Health Service	48	37
Pregnancy Advisory Centre	11	21

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Queen Elizabeth Hospital	729	656
Quorn Health Services	0	0
Renmark Paringa District Hospital Inc	18	15
Repatriation General Hospital	105	71
Riverland Regional Health Service Inc	68	81
Royal Adelaide Hospital	3124	3407
SA Ambulance Service	128	157
SA Dental Service	44	42
SA Fire and Emergency Services Commission	3	8
SA Lotteries	1	0
SA Water	32	23
SAICORP	0	0
South Australia Police Service	1531	1469
South Australian Community Housing Authority	0	3
South Australian Country Fire Service	10	5
South Australian Film Corporation	0	1
South Australian Museum	0	0
South Australian Psychological Board	0	0
South Australian Tourism Commission	8	3
South Coast District Hospital Inc	29	24
South East Natural Resources Management Board	2	<i>n/a</i>
South East Regional Health Service Inc	0	0

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Southern Flinders Health	2	4
St Margaret's Rehabilitation Hospital	5	2
State Electoral Office	0	8
State Library of South Australia	1	1
State Theatre Company of SA	0	0
Strathalbyn & District Health Service	12	14
Super SA	0	0
Tailem Bend District Hospital	3	11
The Dog & Cat Management Board	0	1
The Mannum District Hospital	1	3
The Physiotherapists Board of South Australia	0	0
TRACsa	0	<i>n/a</i>
TransAdelaide	19	17
Tumby Bay Hospital & Health Services	3	5
Veterinary Surgeons Board of SA	0	0
Waikerie Health Services Inc.	3	0
Wakefield Health	0	0
West Beach Trust	0	0
Whyalla Hospital and Health Services Inc.	62	60
WorkCover Corporation	233	200

Table 17 – Access Applications Received – Local Government

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Adelaide City Council	23	29
Adelaide Hills Council	4	1
Alexandrina Council	2	7
Campbelltown City Council	4	5
City of Burnside	6	10
City of Charles Sturt	27	35
City of Holdfast Bay	4	10
City of Marion	6	9
City of Mitcham	18	19
City of Mount Gambier	0	0
City of Norwood, Payneham & St Peters	0	4
City of Onkaparinga	8	13
City of Playford	4	13
City of Port Adelaide Enfield	47	23
City of Port Lincoln	0	0
City of Prospect	0	0
City of Salisbury	15	13
City of Tea Tree Gully	24	17
City of Unley	52	46
City of Victor Harbor	3	2
City of West Torrens	2	7

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
Clare & Gilbert Valleys Council	0	2
Coorong District Council	0	0
Corporation of the Town of Walkerville	6	15
District Council of Barunga West	0	0
District Council of Ceduna	0	0
District Council of Cleve	0	0
District Council of Coober Pedy	0	0
District Council of Elliston	0	0
District Council of Franklin Harbour	0	0
District Council of Grant	0	2
District Council of Karoonda East Murray	0	0
District Council of Kimba	0	0
District Council of Lower Eyre Peninsula	0	0
District Council of Loxton Waikerie	0	0
District Council of Mallala	0	4
District Council of Mount Barker	2	1
District Council of Orroroo Carrieton	0	0
District Council of Peterborough	0	0
District Council of Robe	0	0
District Council of Tatiara	0	0
District Council of Tumby Bay	0	0
District Council of Yankalilla	0	0

<i>Agency</i>	<i>Number of Access Applications</i>	<i>Number of Access Applications</i>
	<i>2007-08</i>	<i>2006-07</i>
District Council of Yorke Peninsula	1	1
Eastern Health Authority Inc	3	
Flinders Ranges Council	0	0
Kangaroo Island Council	0	0
Kingston District Council	0	1
Mid Murray Council	5	6
Naracoorte Lucindale Council	0	0
Northern Areas Council	0	0
Port Augusta City Council	7	4
Port Pirie Regional Council	0	0
Regional Council of Goyder	0	1
Renmark Paringa Council	0	1
Roxby Downs Council	0	0
Rural City of Murray Bridge	2	
Southern Mallee District Council	0	0
The Barossa Council	3	3
The Berri Barmera Council	1	0
The District Council of Streaky Bay	0	0
Town of Gawler	4	4
Wattle Range Council	1	4
Whyalla City Council	1	1
Wudinna District Council (previously District Council of Le Hunte)	1	0

Table 18 – Access Applications Received - Universities

<i>Agency</i>	<i>Number of Access Applications 2007-08</i>	<i>Number of Access Applications 2006-07</i>
Flinders University of South Australia	5	0
University of Adelaide	7	1
University of South Australia	3	15
<i>Total</i>	<i>15</i>	<i>16</i>

Appendix C – Reasons for Refusing or Restricting Access

Application incomplete or wrongly directed

Under Section 15 of the FOI Act, an agency can not 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).

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 made after the time period is still considered a valid determination under the Act.

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 of the Act.

Otherwise available

Section 20(1) 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, was not created by the agency itself, or forms part of library material held by the agency.

Documents created prior to 1987

Section 20 of the FOI permitted an agency to deny access to documents that came into existence before 1 January 1987 unless 20 years had passed since the document came into existence. This section of the Act is now redundant and consideration will be given for it to be removed when the FOI Act is next amended.

Exempt agency

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

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.

Appendix D – FOI Act Schedule 1 Exempt Documents

Clause 1 - Cabinet documents

Documents that have been specifically prepared for submission to Cabinet or documents, that contain information concerning the deliberations of Cabinet.

Clause (2a) allows for documents prepared for submission to Cabinet to be released under FOI, where a Minister has certified that Cabinet have approved the document as a document to which access may be given under FOI.

Clause 2 - Executive Council documents

Documents that have been specifically prepared for submission to the Executive Council or documents, containing information concerning the deliberations of Executive Council.

Clause 2 sub-section (3) allows for Executive Council documents as described above, to be released under FOI where a Minister has certified that Executive Council have approved the document as a document to which access may be given under FOI.

Clause 3 – Exempt documents communicated by another government

Documents containing information communicated to agencies by the Commonwealth or another State Government, where notice has been received that this information is exempt under corresponding Freedom of Information laws.

Clause 4 - Documents affecting law enforcement and public safety

Documents, which contain matter, the disclosure of which could reasonably be expected to:

- prejudice the investigation of any contravention of the law; or
- identify any confidential source of information in relation to the enforcement of the law; or
- endanger the life and physical safety of any person, or the security of any building, structure or vehicle; or
- prejudice the effectiveness of any law enforcement measure; or
- prejudice the fair trial of any person or the impartial adjudication of any case; or
- prejudice any system or procedure for the protection of persons or property; or
- facilitate the escape from lawful custody of any person.

Clause 5 - Documents affecting inter-governmental or local governmental relations

Documents the disclosure of which could damage relations between the Government of South Australia and the Commonwealth Government or another State and Territory Government – and also documents, which if disclosed, would divulge information communicated in confidence by other Governments.

Clause 6 - Documents affecting personal affairs

Documents, which if disclosed, would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead). Documents that contain allegations or suggestions of criminal or other improper conduct where the truth of those allegations or suggestions has not been established by judicial process, or which contain information about an elector (obtained in the course of the administration of the *Electoral Act 1985* but not recorded on the electoral roll) also fall under this category.

Clause 7 - Documents affecting business affairs

Documents containing trade secrets of any agency or any other person. Also, documents that consist of information with a commercial value to any agency or any other person, or information that, if disclosed, could be expected to have an adverse effect on business, professional, commercial or financial affairs.

A document is not exempt by virtue of this clause if it is a contract entered into by the Crown or an agency.

Clause 8 - Documents affecting the conduct of research

Documents relating to the purpose or results of research (including research that has yet to be commenced or completed) and which, if disclosed, could be expected to have an adverse effect on the agency or other person by or on whose behalf the research is being carried out.

Clause 9 - Internal working documents

Documents containing any opinion, advice or recommendation that has been obtained, prepared or recorded; or any deliberation that has taken place in the course of the decision-making functions of the Government, a Minister or an agency.

Clause 10 - Documents subject to legal professional privilege

Documents containing matter privileged from production in legal proceedings on the grounds of legal professional privilege.

Clause 11 - Documents relating to judicial functions, et cetera

Documents that contain matter relating to the judicial functions of a court or tribunal; or documents, that have been prepared for the purposes of proceedings (including any transcript of the proceedings) that are being heard or are to go before a court or a tribunal.

Clause 12 - Documents the subject of secrecy provisions

Documents that contain information, which if disclosed, would constitute an offence against an Act.

Clause 13 - Documents containing confidential material

Documents which, if disclosed, would found an action for breach of confidence. This also refers to information that is obtained in confidence and which, if disclosed, would be

expected to prejudice the future supply of such information to the Government or to an agency, and would be contrary to the public interest.

A contract entered into by the Crown or an agency is not exempt by virtue of clause 13 unless a confidentiality clause or term is included in the contract that has been approved by a Minister, or a Minister's delegate, or in the case of Local Government and Universities, the agency itself.

Clause 14 - Documents affecting the economy of the State

Documents which, if disclosed, would be expected to have a substantial adverse effect on the ability of the Government or an agency to manage the economy, and would be contrary to the public interest.

Clause 15 - Documents affecting financial or property interests

Documents which, if disclosed, would be expected to have a substantial adverse effect on the financial or property interests of the State or an agency, and would be contrary to the public interest.

Clause 16 - Documents concerning operations of agencies

Documents that, if disclosed, could be expected to prejudice the effectiveness of any method or procedure for the conduct of tests, examinations or audits by an agency and would be contrary to the public interest; or containing matter that, if disclosed, could prejudice the competitiveness of an agency engaged in competitive activities.

Clause 17 - Documents subject to contempt, et cetera

Documents that, if disclosed, would constitute contempt of court or infringe the privilege of Parliament.

Clause 18 - Documents arising out of companies and securities legislation

A document containing matter that appears in a document prepared or received by an agency from the Commonwealth or another State for the purposes of the Ministerial Council for Corporations. It also refers to documents that, if disclosed, would reveal the deliberations or decisions of the Ministerial Council for Corporations (other than a document by which a decision of the Council has been officially published). Documents provided by or held by the Australian Securities and Investments Commission, which relate solely to the Commission's functions in relation to the law of the Commonwealth or State Governments also fall under this category.

Clause 19 - Private documents in public library or archival collections

Documents that are held in a public library or archival collection and have a condition imposed which prohibits their disclosure to members of the public. This only refers to private documents placed in a library or archives (not official records as defined under the *State Records Act 1997*).

Appendix E – Exempt Agencies

The following is a list of exempt agencies that appear in Schedule 2 of the *Freedom of Information Act 1991*.

* * * * *

- e) all Royal Commissions;
- f) the Motor Accident Commission in respect of any matter relating to a claim or action under Part 4 of the *Motor Vehicles Act 1959*;
- g) the Essential Services Commission in relation to –
 - (i) information gained under Part 5 of the Independent Industry Regulator Act 1999 that would, if it were gained under Part 5 of the *Essential Service Commission Act 2002*, be capable of being classified by the Commission as being confidential under section 30(1) of that Act; and
 - (ii) information gained under Part 5 of the *Essential Service Commission Act 2002* that if classified by the Commission as being confidential under section 30(1) of that Act;
- h) the Auditor-General;
- i) the Attorney-General, in respect of functions related to the enforcement of the criminal law;
- j) the Parole Board;
- k) the Solicitor-General, the Crown Solicitor and the Director of Public Prosecutions;
- l) the Ombudsman and the Police Complaints Authority;
- m) the Public Trustee, in respect of functions exercised as executor, administrator or trustee;
- n) the South Australian Government Financing Authority, the Local Government Financing Authority and the South Australian Superannuation Fund Investment Trust;
- o) a Minister of the Crown in respect of the administration of the former South Australian Development Fund or the Industry Investment Attraction Fund (or a fund substituted for the Industry Investment Attraction Fund);
- p) South Australia Police in relation to information compiled by—
 - (i) the former Special Branch; or
 - (ii) the Operations Planning and Intelligence Unit; or

- (iii) the Operations Intelligence Section (or a body substituted for the Operations Intelligence Section); or
 - (iv) the Anti-Corruption Branch (or a body substituted for the Anti-Corruption Branch);
- q) the Local Government Association.

The following is a list of agencies exempt by the *Freedom of Information (Exempt Agency) Regulations 2008 (as of 30.June.2008)*

- (a) the Senior Secondary Assessment Board of South Australia established under the *Senior Secondary Assessment Board of South Australia Act 1983*
- (b) the RESI Corporation, continued in existence under the *Electricity Corporations Act 1994*
- (c) the Generation Lessor Corporation, the Distribution Lessor Corporation and the Transmission Lessor Corporation established under the *Public Corporations Act 1993*;
- (d) the commission of inquiry established under the *Commissioner of Inquiry (Children and State Care and Children on APY Lands) Act 2004*;
- (e) each agency established by or under the *Health and Community Services Complaints Act 2004*.

The following is a list of exempt agencies in respect of comparative student performance information

- (a) the Minister responsible for the administration of the *Senior Secondary Assessment Board of South Australia Act 1983*;
- (b) the Minister responsible for the administration of the *Education Act 1972*;
- (c) the Department of Education and Children's Services.