

# ANNUAL REPORT

YEAR ENDED  
JUNE  
2016

**Freedom of Information Act 1991**



Government  
of South Australia

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

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## **1 Minister's Foreword**

This is the twenty fifth freedom of information (FOI) Annual Report to be tabled in Parliament since the commencement of the *Freedom of Information Act 1991* (the Act) in January 1992. Since this date, 218 572 FOI applications have been made across all sectors, this includes State Government, Local Government and South Australian Universities.

This year agencies across the three sectors received 10 746 applications for access to information under the Act; 403 less than the previous reporting year.

There were 10 090 applications determined, with agencies providing access to the information requested either in full or in part in 84% of cases. This is consistent with last year.

The total cost to government for the administration of the Act in 2015-16 was estimated to be \$10.61 million, which is comparable with the previous year.

I appreciate the efforts and commitment of agency staff, in particular Accredited FOI Officers and other FOI support staff as they serve the community through this increasingly complex area of administrative law. I would also like to thank State Records of South Australia for its continued support in advising me on the administration of the Act.

The Hon John Rau MP  
**DEPUTY PREMIER**  
**MINISTER FOR THE PUBLIC SECTOR**

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## 2 Freedom of Information in South Australia

### 2.1 What is the Freedom of Information Act?

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

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

The Act and its subordinate regulations can be accessed via the South Australian legislation website at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### 2.2 Administration of the FOI Act

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

This support includes:

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

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

### 2.3 Reporting

Pursuant to Section 54AA of the Act, FOI reporting requirements were gazetted on 15 June 2006. These requirements remained unchanged in 2015-16.

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

## 2.4 Agencies subject to the FOI Act

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

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

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

### 3 The Year in Review

#### 3.1 Committal of the FOI Act

The Act was committed to the Honourable Susan Close MP as the Minister for the Public Sector for the period 1 July 2015 to 19 January 2016.

On 19 January 2016 the Honourable John Rau MP was appointed as Minister for the Public Sector and the Act was therefore committed to him in that role.

#### 3.2 Amendments to the FOI Act

##### 3.2.1 *Freedom of Information Act 1991*

A consequential amendment made by the *Correctional Services (Parole) Amendment Act 2015* commenced on 11 February 2016. The effect of this amendment was the inclusion of the Parole Administrative Review Commissioner in Schedule 2 – Exempt Agencies.

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

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

During 2015-16 the fee for making an FOI application was set at \$33.00 and processing charges at \$12.30 for each 15 minutes spent by the agency dealing with the application.

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

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

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

#### 3.3 Advice, publications & training

##### 3.3.1 *Advice*

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

During 2015-16, State Records responded to 1353 FOI related enquiries from members of the public and agencies. This is a 12% increase compared with the previous year.

## ***Enquiries by source***

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	<b>Agencies</b>	<b>Public</b>	<b>Combined</b>
<b>FOI and FOIMS</b>			
Telephone calls	550	421	971
Emails	327	55	382
<b>Total</b>	<b>877</b>	<b>476</b>	<b>1353</b>

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### ***3.3.2 Publications***

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

A new information sheet relating to the interpretation of Premier and Cabinet Circular – *Proactive Disclosure of Regularly Requested information* - PC035 was created during the reporting year. A number of other information sheets, brochures and forms were updated and refreshed.

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

### ***3.3.3 FOI courses delivered during 2015-16***

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

In line with this requirement, State Records delivers training for Accredited and non-Accredited FOI Officers. The training comprises four individual modules and is delivered over a two day period. During 2015-16, 168 students attended some or all modules of the training.

### ***3.3.4 On-line FOI awareness education***

In 2015-16, 36 students enrolled to undertake State Records' FOI General Awareness online course. The course provides participants with a general overview of FOI, the FOI Act and agency and staff responsibilities under the FOI Act.

## **3.4 Statistical data in this report**

State Records wrote to agencies on 20 June 2016 to formally advise them of their obligation to report under the Act and to request that they ensure that statistical information relating to their agency for the reporting year was up to date in FOIMS no later than 31 July 2016.

A copy of the FOIMS database was taken on 1 August 2016 and statistical reports for the 2015-16 financial year were run against this copy commencing 1 August 2016.

### 3.5 Data in FOIMS

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

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

### 3.6 Additional reporting responsibilities

#### 3.6.1 *Contracts with approved confidentiality clauses*

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

For the 2015-16 reporting year, agencies reported executing 269 contracts that contained an approved confidentiality clause. Of the 269 contracts executed in 2015-16:

- State Government reported 199
- Local Government reported 21
- Universities reported 49

In addition, a further 27 contracts containing approved confidentiality clauses were recorded in FOIMS that were executed in previous years. The dates of execution of these contracts ranged between 2011 and 30 June 2015. Of these 27 contracts:

- State Government recorded 4
- Universities recorded 23

Of the 23 recorded by Universities, all were recorded by a single University.

#### 3.6.2 *Documents provided outside of the FOI Act*

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

During the reporting year there were 108 reported instances where agencies refused an FOI application because information could be provided outside of FOI. This is an 8% increase on the number reported in 2014-15.

On 29 April 2013, Cabinet approved the online publication of selected information that is regularly requested and released under FOI. On 2 September 2013, Cabinet approved the *Proactive Disclosure of Regularly Requested Information* policy, issued as Premier and Cabinet Circular 35 (PC035).

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

The policy was updated in June 2015, adding the requirement for all agencies to publish overseas travel arrangements for public servants. The policy was further updated in January 2016 to:

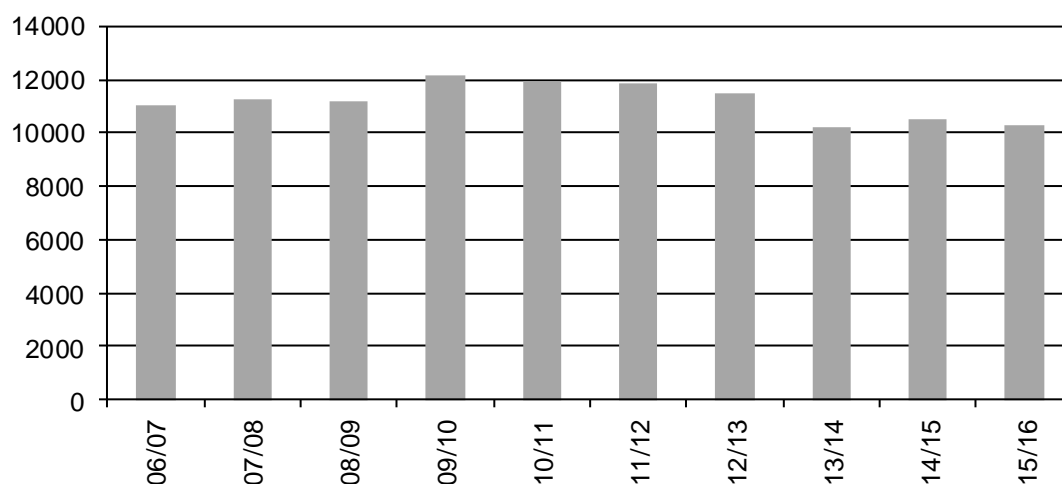
- increase the amount of information to be disclosed for overseas travel;
- include the requirement for Ministers and Chief Executives to publish information related to regional and domestic travel; and
- clarify reporting requirements relating to hosting external visitors.

## 4 Statistical Summary – All Years to Date

### 4.1 State Government

Since the commencement of the Act on 1 January 1992, there has been 213 345 applications for access made to State Government agencies. The chart below shows the number of applications made to State Government over the past ten years.

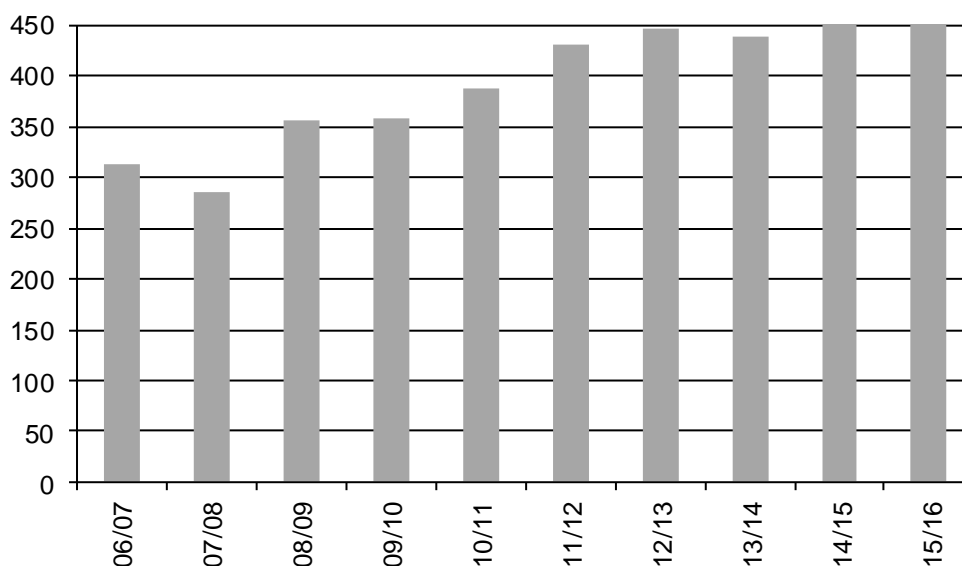
#### *Applications made to State Government since 1 July 2006*



### 4.2 Local Government

Local Government has been subject to the Act since 1 July 2002. Since this date, there have been 5014 applications for access made to Local Government. The chart below shows the number of applications made over the last ten years.

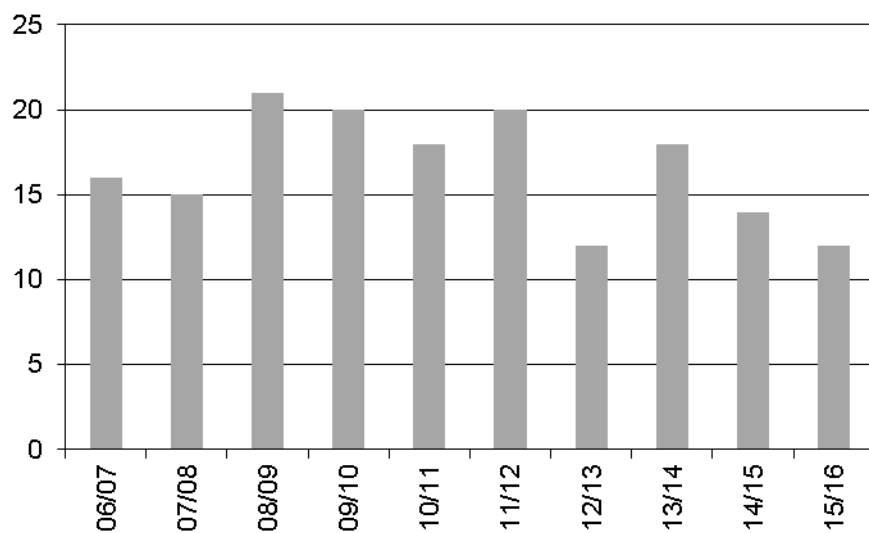
#### *Applications made to Local Government since 1 July 2006*



### 4.3 Universities

The *Freedom of Information (General) Regulations 2002* prescribes the Flinders University of South Australia, the University of Adelaide and the University of South Australia to be included as agencies under the definition of agency in the Act. These Regulations commenced on 11 July 2002. Since that time, there have been 213 applications for access made to Universities. The chart below shows the number of applications made over the last ten years.

#### ***Applications made to Universities since 1 July 2006***





## 5 Statistical Summary 2015-16

### 5.1 Applications processed during 2015-16

This year 10 746 FOI applications for access were received by all agencies subject to the Act; 403 less than 2014-15.

At the end of 2014-15 there were 2121 unfinished applications for access that were carried over into the new reporting year. Therefore, during 2015-16 there was a total of 12 867 applications to be processed; 393 less than last year.

#### ***Applications to be processed during 2015-16***

<b>Application</b>	<b>State Govt</b>	<b>Local Govt</b>	<b>Universities</b>	<b>All Sectors</b>
New	10 278	456	12	10 746
Carried Over	2 020	93	8	2 121
<b>Total</b>	<b>12 298</b>	<b>549</b>	<b>20</b>	<b>12 867</b>

### 5.2 Category of access applications

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

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

Personal applications include requests for access:

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

Non-personal applications include requests for access:

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

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

In 2015-16 there were 814 more personal applications received and 1217 less non-personal applications received than in 2014-15. This represents a shift of 10% from non-personal to personal.

***Applications to be processed by sector & application category***

Sector	Personal Affairs		Non-Personal Affairs	
	No.	%	No.	%
<b>New applications 2015-16</b>				
State Government	6 793	66%	3 485	34%
Local Government	87	19%	369	81%
Universities	3	25%	9	75%
<i>Total</i>	<i>6 883</i>	<i>64%</i>	<i>3 863</i>	<i>36%</i>
<b>Applications unfinished at the end of 2014-15</b>				
State Government	1 150	57%	870	43%
Local Government	19	20%	74	80%
Universities	2	25%	6	75%
<i>Total</i>	<i>1 171</i>	<i>55%</i>	<i>950</i>	<i>45%</i>
<b>Total to be processed 2015-16</b>	<b>8 054</b>	<b>63%</b>	<b>4 813</b>	<b>37%</b>

5.3 Types of applicants

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

The following table shows the number and percentage of applications received by applicant type during the reporting year.

***Applications received during 2015-16 by applicant type***

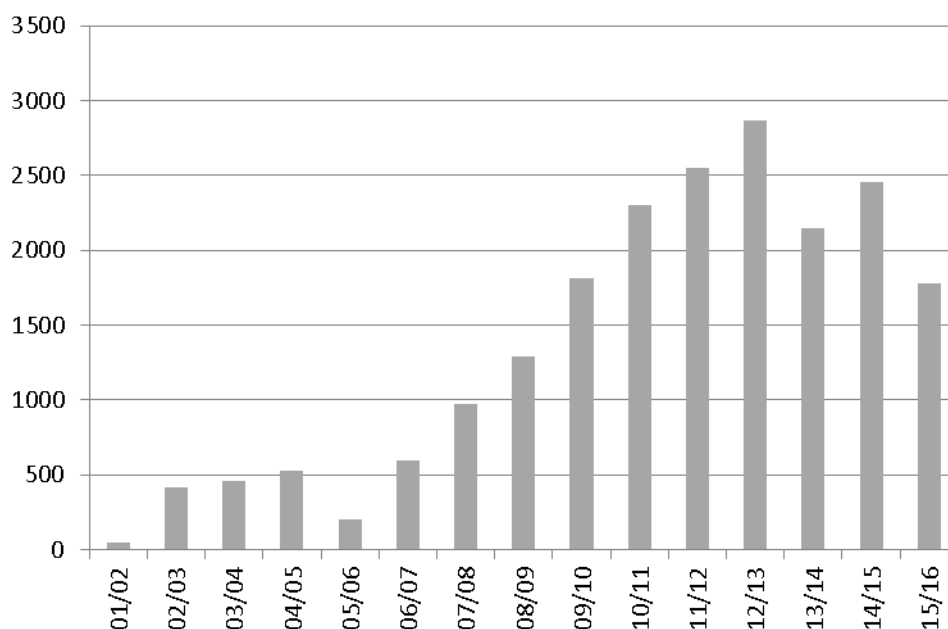
Applicant type	State Govt	Local Govt	Unis	All sectors	% of total
Member of the Public	4 337	214	6	4 557	42%
Lawyer / Agent	3 161	45	1	3 207	30%
Member of Parliament	1 671	108	3	1 782	17%
Other	914	62	2	978	9%
Media	195	27	0	222	2%
<b>Total</b>	<b>10 278</b>	<b>456</b>	<b>12</b>	<b>10 746</b>	

Agencies reported receiving 12% more applications from members of the public during 2015 -16, which has a direct correlation to the increase in personal applications.

### 5.3.1 Applications made by Members of Parliament

This year agencies received 1782 FOI applications from Members of Parliament. This is 28% less than in 2014-15. The reported reduction in applications may in part be linked to agencies publishing regularly requested information on their websites under the *Proactive Disclosure of Regularly Requested Information* policy. See paragraph 3.62 for further explanation.

#### **Applications made by Members of Parliament since 2001-02**



### 5.4 Across government applications

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

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

There were eight across government applications received in 2015-16 which equates to approximately 73 separate applications received by State Government agencies. This represents a reduction of 37% for individual applications from 2014-15. As in the previous reporting year, all of these applications were made by Members of Parliament.

The kinds of information sought during the year included documents related to credit card expenses, travel reports, subscriptions, employee benefits and leave, government carparks, apprenticeships and staff employed on visas.

## 5.5 Release of Cabinet Documents 10 Years or Older

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

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

During 2015-16 there were 142 applications for Cabinet documents made to DPC under the Ten Year Rule.

Of the 142 applications made during the reporting year, 37 were made by Members of Parliament, a 64% decrease from 2014-15, and 105 were made by members of the public, a 400% increase from 2014-15. The media did not make any applications for Cabinet documents under the Ten Year Rule in the reporting year.

During 2015-16 determinations were issued for 113 applications under the Ten Year Rule. Of this number, 96% were released in part or in full, a 4% increase from 2014-15, and four were refused. One application was withdrawn.

## 5.6 Response time & extensions

### 5.6.1 Response times

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

Overall 5864, or 55% of applications were processed within the 30 days. This is similar to the last reporting year.

### ***Response times by sector***

<b>Time</b>	<b>State Govt</b>	<b>Local Govt</b>	<b>Unis</b>	<b>All Sectors</b>
0-15 days	2 985	160	0	3 145
16-30 days	2 500	211	8	2 719
>30 days	4 747	67	3	4 817
<b>Total</b>	<b>10 232</b>	<b>438</b>	<b>11</b>	<b>10 681</b>

#### ***5.6.2 Extensions***

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

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

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

#### ***Formal extensions***

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

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

During the reporting year 255 applications were formally extended under section 14A; an increase of 12 from the previous reporting year.

#### ***Formal extension reasons***

<b>Extension reason</b>	<b>State Govt</b>	<b>Local Govt</b>	<b>Uni</b>	<b>All Sectors</b>
Section 14(1)(a) – searching	113	11	0	124
Section 14(1)(b) - consultation	113	18	0	131
<b>Total</b>	<b>226</b>	<b>29</b>	<b>0</b>	<b>255</b>

#### ***Negotiated extensions***

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

Anecdotally it seems that agencies choose to negotiate an extension in cases where formally extending an application is no longer possible. This may be because the regulatory timeframe for extending an application has passed, or will pass before the determination on the extension is made, or in instances where the criteria for a formal extension cannot be met. During the reporting year 178 applications were extended informally via a negotiated extension compared to 115 in 2014-15; an increase of 55%.

### ***Negotiated extensions by sector***

<b>Extension reason</b>	<b>State Govt</b>	<b>Local Govt</b>	<b>Unis</b>	<b>All Sectors</b>
Negotiated	164	14	0	178

## 5.7 Outcomes of access applications

### *5.7.1 Determined and processed*

During the reporting year there was a total of 12 867 applications to be processed across all sectors.

Applications can be processed in one of three ways. They can be determined, withdrawn by the applicant or transferred to another agency. In total, 10 402 applications were processed by agencies. Of this number, 10 090 were determined and 312 were either transferred or withdrawn.

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

### ***Outcomes of application by sector***

<b>Sector</b>	<b>Application Category</b>	<b>Full Release</b>	<b>Partial Release</b>	<b>Refused Number</b>
<b>State Govt</b>	Personal	3 512	2 093	770
	Non-Personal	1 906	641	734
	<i>Total</i>	<i>5 418</i>	<i>2 734</i>	<i>1 504</i>
<b>Local Govt</b>	Personal	25	40	15
	Non-Personal	161	125	57
	<i>Total</i>	<i>186</i>	<i>165</i>	<i>72</i>
<b>Universities</b>	Personal	2	1	0
	Non-Personal	3	4	1
	<i>Total</i>	<i>5</i>	<i>5</i>	<i>1</i>
<b>All Sectors</b>	Personal	3 539	2 134	785
	Non-Personal	2 070	770	792
	<b>Total</b>	<b>5 609</b>	<b>2 904</b>	<b>1 577</b>

The rate of release of documents under FOI is 84% across all sectors; 55% of documents being released in full and 29% of documents being released in part.

It should be noted that information reported about response times shows that agencies responded to a total of 10 681 applications, whereas agencies reported determining 10 090 applications; a difference of 591 applications. It is likely that many of these applications are those which have been closed as the application was not valid and have, therefore, a registered response. In these instances a determination would not be made.

### 5.7.2 Reasons for refusal or restriction

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

#### ***Reasons for refusing access by sector***

<b>Details</b>	<b>State</b>	<b>Local</b>	<b>Unis</b>	<b>Total</b>
Section 15 - Application incomplete/wrongly directed	51	0	0	51
Section 18(1) - Unreasonable diversion of an agency's resources *	20	7	0	27
Section 18(2a) - Abuse of right of access *	2	4	0	6
Section 18(3) - Fees not paid	24	5	0	29
Section 19(2) - Deemed refusal - over 30 days to respond	375	2	0	377
Section 20(1) - Exempt *	2998	140	4	3142
Section 20(1)(b)(c)(d) – Documents otherwise available *	73	34	1	108

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

During 2015-16 agencies reported decreases of 53% and 79% for the use of Section 18(1) – Unreasonable diversion of an agency's resources and Section 18(2b) – Abuse of right of access respectively. There was also a 13% decrease in the number of reported deemed refusals under section 19(2).

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

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

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

<b>Details</b>	<b>State</b>	<b>Local</b>	<b>Unis</b>	<b>Total</b>
Exempt agency	29	3	0	32
Document does not exist/lost	511	29	2	542

## *Exemptions*

The Act confers on members of the public a legally enforceable right of access to documents subject to certain restrictions. Schedule 1 of the Act includes 19 classes of exempt documents that agencies need to consider when determining if access to the document can be given in full, in part, or whether access is to be refused.

Application data shows that exemptions were applied 4836 times. The application of an exemption can only be reported once per application. In some circumstances, more than one exemption clause may be applied to refuse access when making a determination. This means that the number of exemptions applied is greater than the number of determinations made.

A complete list of the exemption clauses can be found in Schedule 1 of the Act. The Act is available at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

The two most commonly applied exemption clauses are:

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

### 5.8 The cost of FOI

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

#### *5.8.1 Overall cost*

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

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

It is estimated that the cost of administering the Act in South Australia was \$10.61 million for 2015-16. This is comparable with the previous year.



### 5.8.2 Staffing

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

Agency returns show a total of 687 staff across all sectors involved in processing FOI applications; a decrease of 7 staff. The number of staff designated as accredited FOI officers was 255 which is comparable with the previous year.

Many of these staff spend only a portion of their time undertaking FOI related activities. The 687 staff equates to 110.45 Full Time Equivalents (FTE) involved in processing FOI applications; a decrease of eight percent. Of these:

- 98.8 FTE were from State Government
- 10.7 FTE were from Local Government
- 0.95 FTE were from Universities.

State Government reported a decrease of 4 FTE during this reporting year compared to last year.

Local Government reported a decrease of 1.5 FTE compared to last year.

University FTE staffing levels remained stable after an overstatement error of around 50% in 2014-15.

### 5.8.3 Fees Collected

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

In 2015-16 agencies reported recovering \$485 944. Of this, \$158 432 was collected as application fees.

#### ***Fees collected by sector in 2015-16***

<b>Sector</b>	<b>2015-16</b>	<b>2014-15</b>
State Government	\$479 556	\$ 316 234
Local Government	\$ 6 388	\$ 14 786
Universities	\$ 0	\$ 0
<b>Total</b>	<b>\$485 944</b>	<b>\$331 020</b>

### 5.8.4 Fee waiver

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

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

***Applications where fees were waived***

<b>Reason for Fee Waiver</b>	<b>State</b>	<b>Local</b>	<b>Unis</b>	<b>Total</b>
Financial Disadvantage	219	13	0	232
Member of Parliament	371	13	3	387
Other	745	13	0	758
<b>Total Waived</b>	<b>1 335</b>	<b>39</b>	<b>3</b>	<b>1 377</b>
Fee Reduction	53	0	0	53
<b>Total – Waived &amp; Reduced</b>	<b>1 388</b>	<b>39</b>	<b>3</b>	<b>1 430</b>

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

Agencies reported waiving or reducing application fees for 1430 applications; an increase of 65 on the previous year. In cases of application fee waiver, there is often an associated reduction or waiver of the processing costs of the application. The total amount of fees and charges waived by agencies was \$248 184, with 27% being waived due to financial disadvantage. This is shown in more detail in the following table.

***Fee waiver – financial disadvantage***

<b>Fee</b>	<b>State</b>	<b>Local</b>	<b>Unis</b>	<b>All Sectors</b>
Application Fees	\$ 7 227	\$429	\$ 0	\$ 7 656
Processing Fees	\$56 937	\$ 0	\$ 0	\$56 937
Transcript Fees	\$ 0	\$ 0	\$ 0	\$ 0
Photocopying	\$ 2 331	\$ 0	\$ 0	\$ 2 331
Other Costs	\$ 569	\$ 0	\$ 0	\$ 569
<b>Total</b>	<b>\$67 064</b>	<b>\$429</b>	<b>\$ 0</b>	<b>\$67 493</b>

**5.9 Amendment applications**

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

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

This year there were 208 FOI applications for amendment received by agencies, which is an increase of 3 percent from 2014-15. All were received by State Government agencies. Of the 208 amendment applications made during 2015-16, 188 were made to a single agency.

In addition to the amendment applications received during 2015-16, there were 21 unfinished amendment applications brought forward from the previous year, all by State Government agencies. Therefore, in total there were 229 FOI applications for amendment to be processed by State Government agencies during 2015-16. Determinations were issued for 204 applications and four applications were withdrawn by the applicant.

***Amendment of personal information***

<b>Outcome</b>	<b>2015-16</b>	<b>2014-15</b>
Amendment agreed	46	56
Amendment refused	144	131
Partial amendment	12	15
Notation added	2	3
<b>Total</b>	<b>204</b>	<b>205</b>

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

***Reasons for refusal to amend records***

<b>Reason</b>	<b>2015-16</b>	<b>2014-15</b>
Records are not incomplete, incorrect, out-of-date or misleading	142	127
Application contains matter that is incorrect or misleading	1	0
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	1	4
<b>Total</b>	<b>144</b>	<b>131</b>

**5.10 Review & appeal**

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

***5.10.1 Internal review***

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

This year there were 258 internal review applications received by all three sectors. This represents a 30% reduction in applications received compared to the previous year.

In addition to the 258 internal review applications received during the reporting year there were 72 unfinished applications for internal review brought forward from 2014-15, of these 67 were brought forward by State Government agencies.

Therefore, during 2015-16 there were 330 applications for internal review to be processed. Of these, 94% were to be processed by State Government agencies. Determinations were issued for 228 applications and 31 were withdrawn by the applicant.

#### ***Outcome of internal review applications***

<b>Outcome</b>	<b>2015-16</b>
Decision confirmed	128
Decision varied	57
Decision reversed	43

#### ***5.10.2 External review***

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

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

During 2015-16, the Ombudsman SA advised that 126 external reviews were completed, 51 of those were lodged by Members of Parliament.

The Police Ombudsman advised they received 21 new external reviews during 2015-16 with 33 being closed.

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

#### ***5.10.3 Appeal to the District Court***

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

One application received during 2015-16 went on to be appealed in the District Court.

#### **5.11 Access applications unfinished at 30 June 2016**

Not all applications are processed by the end of the reporting year and are therefore carried over to be processed in the following year. In 2015-16 there were 2613 unfinished applications carried over into 2016-17, an increase of 11%. Of all unfinished applications, 643 were within the 30 day timeframe and 1970 were outside the 30 day timeframe.

### ***Applications unfinished at 30 June 2015***

<b>Sector</b>	<b>Within 30 day timeframe</b>	<b>Outside 30 day timeframe</b>	<b>Total Unfinished</b>
State Government	622	1 884	2 506
Local Government	20	78	98
Universities	1	8	9
<b>Total</b>	<b>643</b>	<b>1 970</b>	<b>2 613</b>

Of the 1970 not processed within 30 days, 58% were personal and 42% were non-personal. Where an application takes longer than 30 days to process, it is common practice for agencies to inform the applicant of the progress of their application.

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

### ***Overdue applications unfinished at 30 June 2016***

<b>Sector</b>	<b>Personal</b>	<b>Non-Personal</b>	<b>Total</b>
State Government	1 125	759	1 884
Local Government	18	60	78
Universities	1	7	8
<b>Total</b>	<b>1 144</b>	<b>826</b>	<b>1 970</b>

## **6 APPENDICES**

## 6.1 Appendix A – Agency tables

### ***Access applications received – State Government***

<b>Agency</b>	<b>Applications Received 2015-16</b>	<b>Applications Received 2014-15</b>
Adelaide and Mt Lofty Ranges Natural Resources Management Board	1	1
Adelaide Cemeteries Authority	0	0
Adelaide Convention Centre	0	0
Adelaide Entertainments Corporation	0	0
Adelaide Festival Centre Trust	0	1
Adelaide Festival Corporation	0	0
Alinytjara Wilurara Natural Resources Mgt Board NRM	0	0
Architectural Practice Board of SA	0	0
Attorney-General's Department	144	138
Carclew Inc	0	0
Centennial Park Cemetery Authority	1	0
Central Adelaide Local Health Network (CALHN) <sup>1</sup>	2285	2194
Country Health South Australia Local Health Network (CHSALHN) <sup>2</sup>	330	330
Courts Administration Authority	26	14
Defence SA	11	0
Department for Communities and Social Inclusion	202	229
Department for Correctional Services	200	222
Department for Education and Child Development	541	667
Department for Health and Ageing	109	111
Department for Primary Industries and Resources	41	53
Department of Environment, Water and Natural Resources	65	81
Department of Planning, Transport and Infrastructure	361	278
Department of State Development	132	252
Department of the Premier and Cabinet	239	254
Department of Treasury and Finance	82	104
Education & Early Childhood Services Registration & Standards Board of SA	0	0
Electoral Commission of South Australia	3	11
Environment Protection Authority	21	40
Equal Opportunity Commission	1	1
Essential Services Commission of SA	1	4
Eyre Peninsula Natural Resources Management Board	0	0
ForestrySA	2	2
Guardianship Board	0	0
Health Performance Council	0	0

<b>Agency</b>	<b>Applications Received 2015-16</b>	<b>Applications Received 2014-15</b>
History Trust of South Australia	0	1
Homestart Finance	0	0
Independent Gambling Authority	0	0
Industrial Relations Commission	0	0
Industrial Relations Court	0	0
Legal Practitioners Conduct Board	0	0
Legal Services Commission	2	11
Lifetime Support Authority	0	0
Medical Panel SA	0	0
Motor Accident Commission	0	0
Northern Adelaide Local Health Network (NALHN) <sup>3</sup>	955	821
Northern and Yorke Natural Resources Management Board	0	0
Office for the Ageing	0	0
Office for the Public Sector	11	0
Office of the Attorney-General	22	32
Office of the Employee Ombudsman	0	0
Office of the Guardian for Children Young People	0	0
Office of the Minister - Hon Antonio Piccolo MP <i>(The Hon Antonio Piccolo MPC resigned 19 January 2016)</i>	9	32
Office of the Minister - Hon Gail Gago MP <i>(The Hon Gail Gago MP resigned 19 January 2016)</i>	9	28
Office of the Minister - Hon Geoff Brock MP	9	7
Office of the Minister - Hon Ian Hunter MLC	23	29
Office of the Minister - Hon John Snelling MP	10	16
Office of the Minister - Hon Kyam Maher MLC	6	10
Office of the Minister - Hon Leesa Vlahos MP <i>(The Hon Leesa Vlahos MP was appointed 19 January 2016)</i>	1	N/A
Office of the Minister - Hon Leon Bignell MP	28	50
Office of the Minister - Hon Martin Hamilton-Smith MP	9	11
Office of the Minister - Hon Peter Malinauskas MLC <i>(The Hon Peter Malinauskas MLC was appointed 19 January 2016)</i>	10	N/A
Office of the Minister - Hon Stephen Mullighan MP	23	17
Office of the Minister - Hon Susan Close MP	10	34
Office of the Minister - Hon Tom Koutsantonis MP	21	60
Office of the Minister - Hon Zoe Bettison MP	10	29
Office of the Minister - Jennifer Rankine MP <i>(The Hon Jennifer Rankine MP resigned 3 February 2015)</i>	N/A	21
Office of the National Rail Safety Regulator	11	3
Office of the Premier - Hon Jay Weatherill MP	31	59
Office of the Public Advocate	5	0
Office of the Small Business Commissioner	3	0
Office of the Training Advocate	0	0
Office of the Treasurer - Hon Tom Koutsantonis MP	15	31



<b>Agency</b>	<b>Applications Received 2015-16</b>	<b>Applications Received 2014-15</b>
Outback Communities Authority	0	0
Rail Commissioner	0	0
Regional Development Australia Barossa	0	0
Residential Tenancies Tribunal	0	0
Return to WorkSA	371	391
SA Ambulance Service	135	142
SA Arid Lands Natural Resources Management Board	0	0
SA Fire and Emergency Services Commission	36	73
SA Lotteries	0	0
SA Multicultural and Ethnic Affairs Commission	0	0
SA Murray Darling Basin Natural Rsrcs Mgmt Board	0	0
SA Water	75	46
South Australia Police	2110	1986
South Australian Certificate of Education (SACE) Board of South Australia	4	1
South Australian Civil & Administrative Tribunal	7	1
South Australian Country Fire Service	35	53
South Australian Film Corporation	1	0
South Australian Museum	0	2
South Australian Tourism Commission	24	25
South East Natural Resources Management Board	0	0
Southern Adelaide Local Health Network (SALHN) <sup>4</sup>	996	1015
State Library of South Australia	1	1
State Theatre Company of SA	0	0
Stormwater Management Authority	0	0
Super SA	0	4
TAFE SA	51	144
Teachers Registration Board of South Australia	9	10
Urban Renewal Authority	49	48
Veterinary Surgeons Board of SA	0	0
West Beach Trust (Adelaide Shores)	1	0
Women's and Children's Health Network	342	318
Workcover Ombudsman	0	0
Workers Compensation Tribunal	0	0
Zero Waste SA	0	0

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

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

<sup>3</sup> **Northern Adelaide Local Health Network** – includes Lyell McEwin Hospital, Modbury Public Hospital and the NALHN Office of the CEO.

<sup>4</sup> **Southern Adelaide Local Health Network** – includes Drug and Alcohol Services SA, Flinders Medical Centre, Noarlunga Health Service, SALHN Mental Health, Repatriation General Hospital and the SALHN Office of the CEO.

## ***Access applications received – Local Government***

<b>Agency</b>	<b>Applications Received 2015-16</b>	<b>Applications Received 2014-15</b>
Adelaide City Council	48	66
Adelaide Hills Council	11	21
Alexandrina Council	1	9
Campbelltown City Council	8	8
City of Burnside	11	15
City of Charles Sturt	35	38
City of Holdfast Bay	12	12
City of Marion	20	30
City of Mitcham	20	21
City of Mount Gambier	0	2
City of Norwood, Payneham & St Peters	0	0
City of Onkaparinga	37	37
City of Playford	12	16
City of Port Adelaide Enfield	10	28
City of Port Lincoln	1	4
City of Prospect	6	14
City of Salisbury	13	33
City of Tea Tree Gully	50	19
City of Unley	43	58
City of Victor Harbor	2	13
City of West Torrens	18	13
Clare & Gilbert Valleys Council	4	3
Coorong District Council	0	1
Corporation of the Town of Walkerville	3	4
District Council of Barunga West	0	1
District Council of Ceduna	0	1
District Council of Cleve	0	0
District Council of Coober Pedy	0	1
District Council of Elliston	0	2
District Council of Franklin Harbour	0	0
District Council of Grant	3	4
District Council of Karoonda East Murray	0	0
District Council of Kimba	0	0
District Council of Lower Eyre Peninsula	1	4
District Council of Loxton Waikerie	1	1
District Council of Mallala	7	3
District Council of Mount Barker	7	7
District Council of Mount Remarkable	2	2
District Council of Ororoo Carrieton	1	0
District Council of Peterborough	0	0
District Council of Robe	1	0
District Council of Streaky Bay	3	2
District Council of Tatiara	2	0
District Council of The Copper Coast	15	17
District Council of Tumby Bay	1	14
District Council of Wudinna	0	0
District Council of Yankalilla	1	4
Eastern Health Authority Inc.	0	4
Kangaroo Island Council	16	6

<b>Agency</b>	<b>Applications Received 2015-16</b>	<b>Applications Received 2014-15</b>
Kingston District Council	0	1
Light Regional Council	7	2
Mid Murray Council	0	8
Naracoorte Lucindale Council	0	1
Northern Areas Council	0	1
Port Augusta City Council	1	2
Port Pirie Regional Council	2	1
Regional Council of Goyder	1	2
Renmark Paringa Council	0	2
Roxby Downs Council	0	1
Rural City of Murray Bridge	1	4
Southern Mallee District Council	0	0
The Barossa Council	6	6
The Berri Barmera Council	0	1
The Flinders Ranges Council	0	2
Town of Gawler	8	5
Wattle Range Council	2	5
Whyalla City Council	2	4
Yorke Peninsula Council	0	1

***Access applications received – Universities***

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<b>Agency</b>	<b>Applications Received 2015-16</b>	<b>Applications Received 2014-15</b>
Flinders University	2	3
University of Adelaide	10	8
University of South Australia	0	3

## 6.2 Appendix B – Reasons for refusing access

### Application incomplete or wrongly directed

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

### Unreasonable diversion of an agency's resources

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

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

### Abuse of the right of access

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

### Fees not paid

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

### Deemed refusal

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

### Exempt document

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

### Otherwise available

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

### 6.3 Appendix C – Other reasons for not providing access

#### Exempt agency

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

The Act can be accessed via the South Australian legislation website at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

#### Document does not exist or is lost

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