



**Government
of South Australia**

Administration of the Freedom of Information Act 1991 2017-18 Annual Report

Administration of the Freedom of Information Act 1991

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To:

Hon Vickie Chapman

Deputy Premier

Attorney-General

This annual report is presented to Parliament to meet the statutory reporting requirements of the *Freedom of Information Act 1991* and meets the requirements of Premier and Cabinet Circular *PC013 Annual Reporting*.

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

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

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

Simon Froude

Director, State Records



25/10/2018

Signature

Date

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Section A: Reporting required under the *Public Sector Act 2009*, the *Public Sector Regulations 2010* and the *Public Finance and Audit Act 1987*

Agency purpose or role

State Records of South Australia (State Records) provides support to the Minister responsible for the administration of the *Freedom of Information Act 1991* (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.

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.

Reporting

Pursuant to Section 54AA of the Act, FOI reporting requirements were gazetted on 15 June 2006. These requirements remained unchanged in 2017-18.

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.

Objectives

The objects of the Act include a responsibility to

- promote openness in government and accountability of Ministers and other agencies and thereby enhance respect for the law and further good government in South Australia, and
- facilitate more effective participation by members of the public in the processes involved in the making and administration of laws and policies.

This is achieved by

- ensuring that information concerning the operations of government is readily available to members of the public and to Members of Parliament, and
- conferring on members of the public a legally enforceable right of access to documents held by 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, and
- enabling each member of the public to apply for the amendment of government records concerning his or her personal affairs if those records are incomplete, incorrect, out-of-date or misleading.

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

Key strategies and their relationship to SA Government objectives

Key strategy	SA Government objective
Access to information through the FOI Act is administered efficiently	Better services

Agency programs and initiatives and their effectiveness and efficiency

Program name	Indicators of performance/ effectiveness/ efficiency	Comments
FOI advice to agencies and members of the public	Telephone calls = 555 Emails = 897	During 2017-18 State Records responded to 1452 FOI related enquiries from agencies and members of the public
Publication of guidelines and information sheets to assist FOI Officers	A number of information sheets, brochures and forms were created or updated	State Records produces documents to assist FOI officers to process FOI applications FOI related guidelines and information sheets can be found on the State Records website at http://government.archives.sa.gov.au
Delivery of accredited training for FOI officers	In 2017-18, 74 students attended some or all modules of the classroom based training	Section 54A of the Act requires the Minister to develop and maintain appropriate training programs in consultation with the Ombudsman SA. Section 4 of the Act requires the Minister to approve training for Accredited FOI Officers

Program name	Indicators of performance/ effectiveness/ efficiency	Comments
Delivery of online FOI education	In 2017-18, 31 students enrolled to undertake the online courses	An online refresher course was released in December 2017 for accredited FOI officers. The FOI awareness course, providing a general overview of FOI, the FOI Act and agency and staff responsibilities under the FOI Act, continued to be available
Disclosure Logs for non-personal information released through FOI (PC045)	Policy came into effect 1 October 2017	State government agencies bound by Premier and Cabinet Circular PC045 are required to publish to their websites information relating to the release of non-personal information following release through FOI.
Online submission and payment for FOI applications	In 2017-18, 920 applications were lodged using the online form	An electronic form enabling applicants to lodge and pay for FOI applications online came into operation on 12 September 2017.

Legislation administered by the agency

State Records Act 1997

Freedom of Information Act 1991

Organisation of the agency

At 30 June 2018, State Records comprised four functional teams:

- Archive
- Information Governance
- Operations and Improvement
- Executive

Further information is reported in the Annual Report on the Administration of the State Records Act and on the State Records website.

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

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

Section B: Reporting required under any other act or regulation

Freedom of Information Act 1991

Section 54 – Reports to Parliament

(1) The Minister administering this act must –

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

State Records is responsible for the administration of the *Freedom of Information Act 1991* on behalf of the Attorney General.

FOI Act Statistical information 2017-18

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

A global update to historical FOIMS data occurred at the end of the reporting year to eliminate incomplete application status information.

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

Freedom of Information Annual Report 2017-18 FOI Statistical Data

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

FOI data sets for the 2017-18 financial year and prior financial years can also be found on Data.SA., and in annual reports on the State Records website.

Applications to be processed

Application	State	Local	Unis	All Sectors
New	9 676	479	19	10 174
Carried Over	2 460	134	9	2 603
Total	12 136	613	28	12 777

Applications to be processed by sector and application category

Sector	Personal Affairs		Non-Personal Affairs	
	No.	%	No.	%
New applications 2017-18				
State Government	7 593	78%	2 083	22%
Local Government	92	19%	387	81%
Universities	8	42%	11	58%
Total	7 693	76%	2 481	24%
Applications unfinished at the end of 2016-17				
State Government	1 618	66%	842	34%
Local Government	27	20%	107	80%
Universities	1	11%	8	89%
Total	1 646	63%	957	37%
Total to be processed 2017-18	9 339	73%	3 438	27%

Freedom of Information Annual Report 2017-18 FOI Statistical Data

Applications received by applicant type

Applicant type	State	Local	Unis	All sectors
Member of the Public	3 900	311	12	4 223
Lawyer / Agent	3 878	35	1	3 914
Member of Parliament	1 038	59	4	1 101
Other	688	66	2	756
Media	172	8	0	180
Total	9 676	479	19	10 174

Response times by sector

Time	State	Local	Unis	All Sectors
0-15 days	2 250	201	3	2 454
16-30 days	2 863	212	8	3 083
>30 days	4 179	75	5	4 259
Total	9 292	488	16	9 796

Formal extensions of time

Extension reason	State	Local	Unis	All Sectors
Section 14(1)(a) – searching	332	9	2	343
Section 14(1)(b) - consultation	134	11	3	148
Total	466	20	5	491

Negotiated extensions by sector

Extension reason	State	Local	Unis	All Sectors
Negotiated	183	1	1	185

Freedom of Information Annual Report 2017-18 FOI Statistical Data

Outcomes of application by sector

Sector	Application Category	Full Release	Partial Release	Refused Number
State	Personal	3 878	2 443	719
	Non-Personal	830	444	746
	Total	4 708	2 887	1 465
Local	Personal	18	46	15
	Non-Personal	161	135	69
	Total	179	181	84
Universities	Personal	2	3	2
	Non-Personal	3	2	3
	Total	5	5	5
All Sectors	Personal	3 898	2 493	736
	Non-Personal	994	582	818
	Total	4 892	3 075	1 554

Reasons for refusing access by sector

Details	State	Local	Unis	Total
Section 15 - Application incomplete/wrongly directed*	11	2	0	13
Section 18(1) - Unreasonable diversion of an agency's resources *	80	3	0	83
Section 18(2a) - Abuse of right of access *	37	8	0	45
Section 18(3) - Fees not paid	59	5	0	64
Section 19(2) - Deemed refusal - over 30 days to respond	395	2	0	397
Section 20(1) - Exempt *	3 068	166	8	3 242
Section 20(1)(b)(c)(d) – Documents otherwise available *	57	49	1	107

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

Freedom of Information Annual Report 2017-18 FOI Statistical Data

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

Details	State	Local	Unis	Total
Exempt agency	19	2	0	21
Document does not exist/lost	385	25	2	412

Exemptions

Most commonly applied exemptions	
Clause 4 – documents affecting law enforcement and public safety	493
Clause 6 – documents affecting personal affairs	2 361

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.

Sector	Number of contracts executed in 2017-18
State Government	51
Local Government	56
Universities	5
Total	112

Cabinet documents 10 years or older - requests for to access

Requests	2017-18	2016-17
By MPs	24	67
By Public	198	140
By Media	42	2
Total	264	209

Freedom of Information Annual Report 2017-18 FOI Statistical Data

Cabinet documents 10 years or older – access determinations

Determination	2017-18	2016-17
Released in full	76	23
Released in part	169	165
Refused in full	5	8
Withdrawn	1	7
Total	251	203

The cost of administering FOI

Cost category	Total \$
Salary	14 083 398
Other expenses	590 758
Total	14 674 156

Staffing

Sector	Number of staff	Full-time equivalent
State Government	587	132
Local Government	143	21.4
Universities	34	3.7
Total	764	157.1

Fees collected by sector

Sector	2017-18 \$	2016-17 \$
State Government	266 658	250 769
Local Government	28 727	20 704
Universities	376	198
Total	295 761	271 671

Freedom of Information Annual Report 2017-18 FOI Statistical Data

Applications where fees were waived

Reason for Fee Waiver	State	Local	Unis	Total
Financial Disadvantage	277	8	0	285
Member of Parliament	161	10	3	174
Other	799	32	1	832
Total Waived	1 237	50	4	1 291
Fee Reduction	105	0	0	105
Total – Waived & Reduced	1 342	50	4	1 396

Amendment of personal information

Outcome	2017-18	2016-17
Amendment agreed	35	25
Amendment refused	83	146
Partial amendment	7	9
Notation added	0	4
Total	125	184

Reasons for refusal to amend personal information records

Reason	2017-18	2016-17
Records are not incomplete, incorrect, out-of-date or misleading	80	145
Application contains matter that is incorrect or misleading	0	0
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	5	1
Total	85	146

Application for review received

Applications received	2017-18	2016-17
Internal review	155	346
External review - Ombudsman	127	189
External review -South Australian Civil and Administrative Tribunal	23	N/A
Total	305	353

Freedom of Information Annual Report 2017-18 FOI Statistical Data

Outcome of internal review applications

Outcome	2017-18	2016-17
Decision confirmed	105	173
Decision varied	36	61
Decision reversed	22	53

Applications unfinished at 30 June 2018

Sector	Within 30 day timeframe	Outside 30 day timeframe	Total Unfinished
State Government	762	2 082	2 844
Local Government	22	129	151
Universities	3	8	11
Total	787	2 219	3 006

Overdue applications unfinished at 30 June 2018

Sector	Personal	Non-Personal	Total
State Government	1 453	629	2 082
Local Government	34	95	129
Universities	1	7	8
Total	1 488	731	2 219