

**Freedom of Information Act 1991**

**ANNUAL REPORT**  
YEAR ENDED  
**JUNE 2013**



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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## 1 Minister's Foreword

This is the twenty second FOI Annual Report to be tabled in Parliament since the commencement of the *Freedom of Information Act 1991* (FOI Act) in January 1992. Since this date, 186 039 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 11 959 applications for access to information under the FOI Act. This number is 369 less than the previous financial year.

Of the 11 959 applications received during 2012-13, 11 059 applications were determined, with 85% providing access to the information requested either in full or in part. This was the same as the previous reporting year.

The total cost to government for the administration of the FOI Act in 2012-13 was estimated to be \$10.1 million, which was a 2.9% decrease on the previous year. This small decrease can be attributed to a number of factors, including decreases in agency costs associated with training, seeking legal advice and other additional costs such as equipment and administrative costs.

Responsibility for the FOI Act was committed to the Premier as the Minister for the Public Sector on 21 January 2013 which he delegated to me on 28 February 2013, making this is my first FOI Annual Report. I am appreciative of the effort made by the dedicated Accredited FOI staff and other FOI support staff across the three sectors who work in an increasingly complex area of administrative law. I would also like to thank State Records for the work it undertakes in the administration of the FOI Act in South Australia.



The Hon John Rau MP  
**DEPUTY PREMIER**  
**ATTORNEY-GENERAL**

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## 2 Freedom of Information in South Australia

### 2.1 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 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 FOI 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 FOI Act.

This support includes:

- policy and legislative advice in relation to the operation of the FOI Act
- the development of information sheets and guidelines
- preparation of the FOI Annual Report
- management of the Freedom of Information Management System (FOIMS)
- regular and ad hoc reporting to the Minister
- the 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 FOI 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 FOI Act, FOI reporting requirements were gazetted on 15 June 2006. These requirements remained unchanged in 2012-13.

State Records derives annual FOI statistics from the FOIMS to enable this Annual Report to be produced. FOIMS is a secure web-based system for agencies to record FOI applications. It also assists agencies manage their FOI related reporting obligations.

## 2.4 Agencies subject to the FOI Act

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

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

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



### 3 The Year in Review

#### 3.1 Committal of the FOI Act

From 1 July 2012 to 21 January 2013, the Honourable Michael O'Brien MP was responsible for the FOI Act.

On 21 January 2013, in accordance with the *Administrative Arrangements (Committal of Acts) Proclamation 2013*, the Honourable Jay Weatherill MP was appointed the Minister for the Public Sector and became responsible for the FOI Act.

Commencing on 18 February 2013, in accordance with the *Administrative Arrangements Act 1994*, a delegation by the Minister for the Public Sector saw the Attorney-General, the Honourable John Rau MP, assume responsibility for the FOI Act from 28 February 2013.

#### 3.2 Amendments to the FOI Act

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

A number of the consequential amendments made by the *Independent Commissioner Against Corruption Act 2012* (ICAC Act) commenced on 20 December 2012. One of these amendments was to replace any reference to the Police Complaints Authority with Police Ombudsman in the FOI Act.

Further consequential amendments made by the ICAC Act commenced operation on 1 September 2013. These amendments were as follows:

- the interpretation of agency under section 4 now includes a regional development assessment panel or a council development assessment panel that has been constituted under the *Development Act 1993*.
- Schedule 2 of the FOI Act now includes the Independent Commissioner Against Corruption, and the Office for Public Integrity as exempt agencies.
- Subsection 4(6) has been included to clarify that '*an agency is not to be taken to hold a document while the document is held by or in the possession of an exempt agency for which the agency is responsible.*'

##### 3.2.2 *Freedom of Information (Exempt Agency) Variation Regulation 2012*

This year the *Freedom of Information (Exempt Agency) Regulation 2008* was amended to remove reference to the Senior Secondary Assessment Board of South Australia (SSABSA).

On 1 July 2008, the *SACE Board of South Australia Act 1983* replaced SSABSA with the SACE Board of South Australia. Up to 30 March 2013 the former SSABSA and then the SACE Board of South Australia had full exempt status from the operation of the FOI Act.

From 1 April 2013, the SACE Board no longer has full exemption from the FOI Act and is only exempt in respect of certain functions and classes of information. The

amended regulation describes the classes of information for which the SACE Board is an exempt agency.

### 3.2.3 *Freedom of Information (Fees and Charges) Variation Regulations 2012*

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 index (CPI) indexation rate approved by Cabinet.

During 2012-13 the fee for making an FOI application was set at \$30.50 and processing charges at \$11.40 for each 15 minutes spent by the agency dealing with the application.

The *Freedom of Information (Fees and Charges) Variation Regulations 2013* was published in the South Australian Government Gazette on 6 June 2013 and commenced operation on 1 July 2013.

From 1 July 2013 the fee for making an FOI application is \$31.50 and processing charges are \$11.70 for each 15 minutes spent by the agency in dealing with the application.

### 3.2.4 *Freedom of Information (General) Regulation 2002*

The *Freedom of Information (General) Regulations 2002* were due to expire on 1 September 2013. In accordance with the *Subordinate Legislation Act 1978* the expiration of these regulations was postponed to 1 September 2014.

## 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 FOI Act.

During 2012-13, State Records responded to 989 FOI related enquiries from members of the public and agencies. This is a 23% decrease in the number of FOI related enquiries responded to by State Records the previous year.

It is likely that the decreases received from agencies are as a result of a combination of factors. During the last two years State Records has increased the number of forums and other consultative groups it coordinates. These groups provide opportunities for questions to be answered and for FOI officers to network, with a solicitor from the Crown Solicitor's Office often in attendance. In addition, the Crown Solicitor's Office has established a dedicated inbox to which agencies are able to submit requests for advice that are not expected to result in significant ongoing work. These emails are then distributed amongst solicitors with an undertaking that a response will be provided within 24 hours.

### **Enquiries by source**

	<b>Agencies</b>	<b>Public</b>	<b>Combined</b>
<b>FOI</b>			
Telephone calls	420	213	633
Emails	92	13	105
<b>FOIMS</b>			
Telephone calls	201	0	201
Emails	50	0	50
<b>Total</b>	<b>763</b>	<b>226</b>	<b>989</b>

#### **3.3.2 Publications**

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

During 2012-13, three new information sheets were developed to improve the quality of the general advice provided to agencies and to reflect any regulatory changes.

All FOI related guidelines and information sheets can be found on the State Records website at [www.archives.sa.gov.au/foi/foiadmin/index.html](http://www.archives.sa.gov.au/foi/foiadmin/index.html).

#### **3.3.3 FOI courses delivered during 2012-13**

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

State Records delivered 21 FOI training courses during 2012-13. These sessions were attended by 324 participants.

#### **FOI courses delivered during 2012-13**

<b>Course Name</b>	<b>No. of Courses</b>	<b>No. of Attendees</b>
Training for Accredited and Non Accredited FOI Officers	15	265
Introduction to FOI Management System (FOIMS)	3	21
Specialised FOI training sessions – agency specific	3	38
<b>Total</b>	<b>21</b>	<b>324</b>

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

State Records continued to maintain its on-line option for people to learn about Freedom of Information via the ERNI learning portal. The FOI Induction module was completed by 118 participants.

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

State Records wrote to agencies on 12 June 2013 to formally advise them of their obligation to report under the FOI 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 2013.

A copy of the database was taken on 12 August 2013 and statistical reports for the 2012-13 financial year were run against this copy during the week commencing 19 August 2013.

### 3.5 Data inconsistency in FOIMS

In previous years it has been reported that the analysis of data entered in FOIMS 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 previously been reported. However, it should be noted that despite the data inconsistencies 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 FOI Act requires the Minister to report annually the number of contracts containing approved confidentiality clauses.

For the 2012-13 reporting year, agencies reported executing 154 contracts that contained an approved confidentiality clause. Of the 154 contracts executed in 2012-13:

- State Government reported 75
- Local Government reported 25
- Universities reported 54.

In addition a further, 58 contracts containing approved confidentiality clauses were recorded in FOIMS that were executed in previous years. The dates of execution of these contracts ranged between 2006 and June 2013, but most were executed between 2011 and June 2013. Of these 58 contracts:

- State Government recorded 16
- Local Government recorded 3
- Universities recorded 39.

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

The objects of the FOI 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 136 reported instances where agencies refused an FOI application because information could be provided outside of FOI. This is a 10% increase to the number reported in 2011-12.

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.

This policy requires State Government portfolio agencies 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 requires portfolio agencies to publish this information from 1 July 2013 onwards with most of the information to be published on a monthly basis.

### 3.7 Improving FOI Information Statements

Section 9 of the FOI Act requires agencies to publish an up-to-date Information Statement at least every 12 months. The *Freedom of Information (General) Regulations 2002* (regulations) requires that an agency's Information Statement is published in either the agency's annual report or on its website or both.

The purpose of an Information Statement is to provide members of the public wanting access to information from State and Local Government and Universities with a snapshot of what the agency does, the types of documents held by the agency, and how a person can access the information from the agency.

In March 2013, State Records undertook an assessment of the Information Statements of the 12 portfolio State Government departments and South Australia Police. Following this assessment, State Records wrote to the Chief Executives of the departments and the Police Commissioner advising them of the results of the assessment and asking that they review their Information Statements to ensure the requirements of the FOI Act were being met.

A follow up assessment was conducted which showed that, as at 1 October 2013, six agencies had updated and improved their Information Statements by including more information about their agency; identifying more policies and documents available free of charge to the public; and by publishing the Information Statement directly on their websites rather than in their annual reports. Although the regulations allow for publication in annual reports, State Records recommends that agencies publish Information Statements in an easy to find location on their website given the growing expectation and preference for online interaction with government.

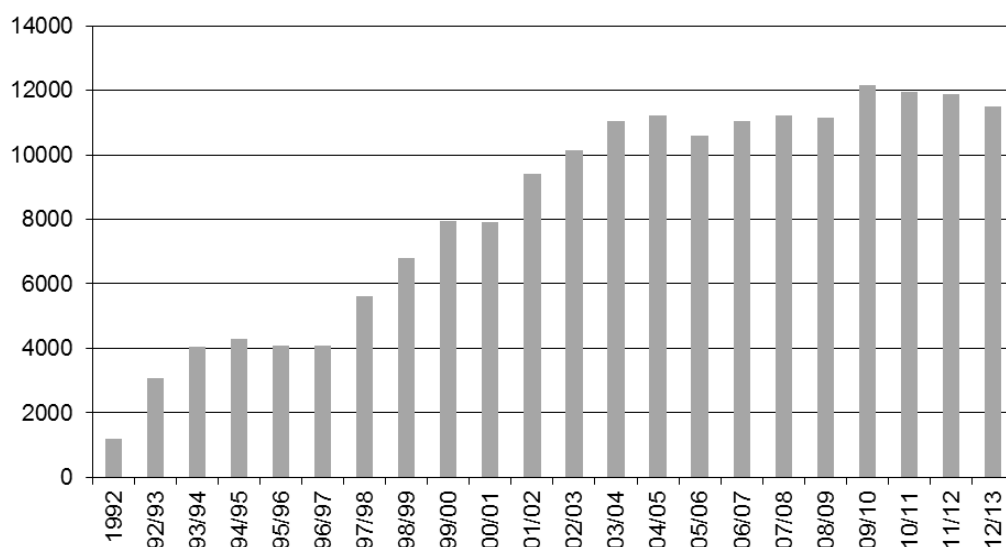
Seven agencies are in the process of updating and improving their Information Statements and intend to publish the updated version before the end of the calendar year.

## 4 Statistical Summary – All Years to Date

### 4.1 State Government

Since the commencement of the FOI Act on 1 January 1992, there has been 182 338 applications for access made to State Government agencies. The chart below shows the growth in applications made to State Government over the past 22 years.

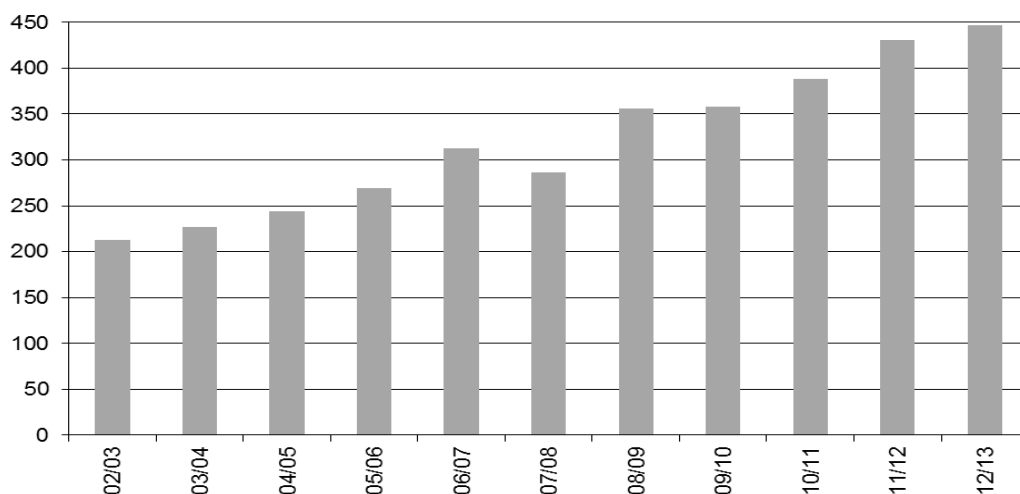
#### *Applications made to State Government since 1 January 1992*



### 4.2 Local Government

Local Government has been subject to the FOI Act since 1 July 2002. Since this date, there have been 3532 applications for access made to Local Government.

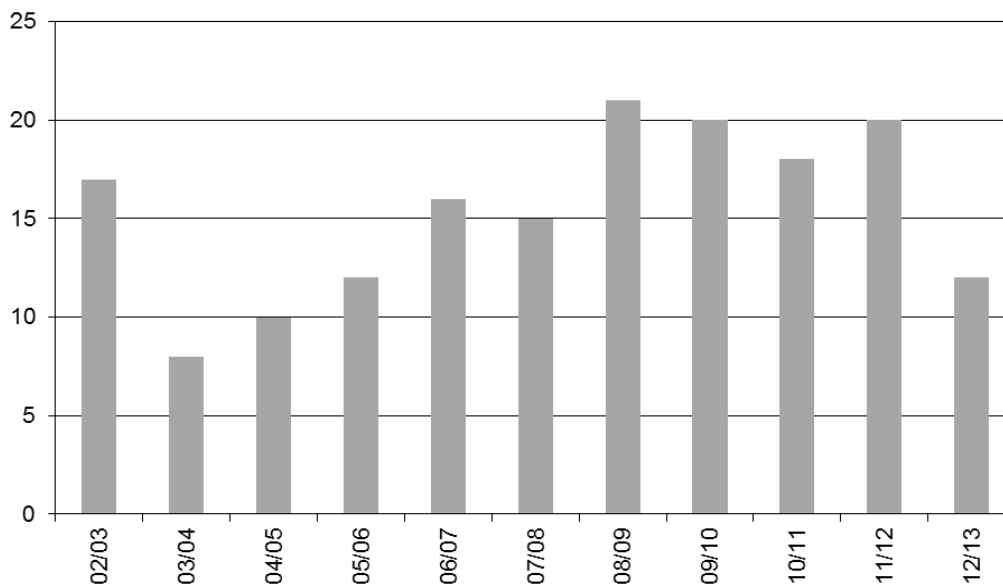
#### *Applications made to Local Government since 1 July 2002*



### 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 FOI Act. These Regulations commenced on 11 July 2002. Since that time, there have been a total of 169 applications for access made to Universities.

#### **Applications made to Universities since 1 July 2002**



## 5 Statistical Summary – 2012-13

### 5.1 Applications processed during 2012-13

This year 11 959 FOI applications for access were received by all agencies subject to the FOI Act, which is 369 less than 2011-12. This reduction could, in part, be as a result of agencies providing more information outside the FOI Act.

At the end of 2011-12 there were 2223 unfinished applications for access that were carried over into the new reporting year. Therefore, during 2012-13 there was a total of 14 182 applications to be processed, which is 147 less than 2011-12.

#### *Applications received and carried over*

<b>Application</b>	<b>State Govt</b>	<b>Local Govt</b>	<b>Universities</b>	<b>All Sectors</b>
New	11 500	447	12	11 959
Carried Over	2 177	40	6	2 223
<b>Total</b>	<b>13 677</b>	<b>487</b>	<b>18</b>	<b>14 182</b>

### 5.2 Category of access applications

There are two types of access application 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 slightly 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.



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

Sector	Personal Affairs		Non-Personal Affairs	
	No.	%	No.	%
<b>New applications 2012-13</b>				
State Government	6 304	55%	5 196	45%
Local Government	71	16%	376	84%
Universities	5	42%	7	58%
<i>Total</i>	<b>6 380</b>	<b>53%</b>	<b>5 579</b>	<b>47%</b>
<b>Applications carried forward from 2011-12</b>				
State Government	806	37%	1 371	63%
Local Government	8	20%	32	80%
Universities	1	17%	5	83%
<i>Total</i>	<b>815</b>	<b>37%</b>	<b>1 408</b>	<b>63%</b>
<b>Total to be processed 2012-13</b>	<b>7 195</b>	<b>51%</b>	<b>6 987</b>	<b>49%</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 types of applicants are as follows:

- Lawyer
- Media
- Member of Parliament
- Member of the Public
- Other.

Of the 11 959 applications made during the reporting year, 33% were received from Lawyers or Agents, 32% from the public and 24% were received from Members of Parliament. There was a 74% increase in applications made by the media compared to the previous year. This increase is most likely explained by the 126% increase in applications made by the media for Cabinet documents under the *Freedom of Information Release of Cabinet Documents under the Ten Year Rule* Policy. See section 5.5 for further explanation.

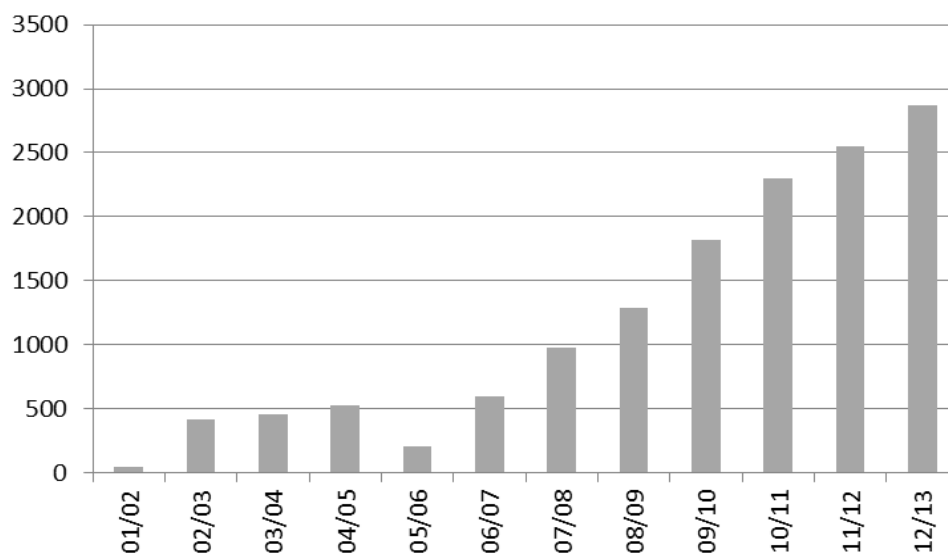
**Applications received during 2012-13 by applicant type**

Applicant type	State Govt	Local Govt	Unis	All sectors
Lawyer / Agent	3 912	44	0	3 956
Media	424	2	0	426
Member of Parliament	2 812	49	6	2 867
Member of the Public	3 552	265	4	3 821
Other	800	87	2	889
<b>Total</b>	<b>11 500</b>	<b>447</b>	<b>12</b>	<b>11 959</b>

### 5.3.1 Applications made by Members of Parliament

This year agencies received 2867 FOI applications from Members of Parliament. This is 12% more than the previous year. As the following chart shows, there has been a consistent upward trend in FOI applications received from Members of Parliament over the last seven years.

#### **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 or broadcast 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 FOI Act. These applications predominantly concern government information that may be common across many agencies.

The kinds of documents sought during the year were in relation to capital works programs, targeted voluntary separation packages, consultancy reports, organisational charts, fraud and dishonesty, internet usage and leave entitlements.

In previous years these kinds of applications have been made by both Members of Parliament and the media. However, this year agencies reported receiving these kinds of applications from Members of Parliament only. There were 10 across government applications received in 2012-13 which equates to 135 separate applications received by State Government agencies and statutory authorities.

From time to time, at the request of agencies, meetings of FOI Officers are arranged to discuss the scope and meaning of these applications and to seek general advice on the interpretation of the FOI Act as it relates to the applications. These meetings provide support to agencies and assist in developing a more efficient approach to processing the applications. During 2012-13 there were two meetings arranged.

## 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 FOI Act after 10 years rather than the 20 years currently prescribed in the FOI 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 FOI Act, including other exemption clauses in Schedule 1 to the FOI Act. The Department of the Premier and Cabinet (DPC) is designated as the agency to deal with all FOI applications under the Ten Year Rule. There were 570 applications for Cabinet documents made to DPC during 2012-13, under the Ten Year Rule. This was an increase of 226% on the previous year. Of the 570 applications made during the reporting year, 321 were made by the media, 248 were made by Members of Parliament and one application was made by a member of the public.

In the 2012-13 reporting year determinations were issued for 186 applications under the Ten Year Rule. Seven submissions were released in full, 138 submissions were released in part, 11 were refused and 30 applications were withdrawn.

On 17 December 2012, Cabinet approved amendments to the Ten Year Rule policy to allow for the online proactive publication of selected Cabinet documents 10 years old. This policy was also amended to allow DPC to proactively publish Cabinet documents previously released under the FOI Act and the Ten Year Rule.

The first selection of Cabinet documents 10 years old were published on 15 April 2013 on the DPC website [www.dpc.sa.gov.au/proactive-disclosure-government-information](http://www.dpc.sa.gov.au/proactive-disclosure-government-information). The selection of 28 documents were the Government's own Cabinet submissions from the year 2002 that were considered to be of interest to the public. This type of disclosure will occur annually. The next publication is scheduled for early 2014 for Cabinet documents from the year 2003.

## 5.6 Response time & extensions

### 5.6.1 Response times

Agencies must deal with applications made under the FOI Act as soon as practicable and within 30 calendar days of receiving a valid application. If the agency takes longer than the 30 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. In certain circumstances agencies are able to extend this timeframe. Extensions are discussed in section 5.6.2 of this report.

Overall 7033, or 59% of all applications were processed within 30 days. While this is a one per cent improvement over last reporting year, 123 fewer applications were processed within the 30 day time frame. A further 4903 took longer than 30 days to process which is a 6% decrease from 2011-12. This is a significant improvement on the 26% increase reported last 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	3 354	170	5	3 529
16-30 days	3 299	201	4	3 504
>30 days	4 845	55	3	4 903
<b>Total</b>	<b>11 498</b>	<b>426</b>	<b>12</b>	<b>11 936</b>

#### **5.6.2 Extensions**

In some cases agencies are unable to deal with an application within the 30 day timeframe. Where applications are either broad or complex in nature or both, section 14A of the FOI Act allows agencies to extend the timeframe to deal with an application.

The FOI Act does not prescribe a specific time period for an extension. The agency is required to extend the time for a reasonable period having regard to the circumstances.

A notice of extension is a determination under the FOI 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 FOI 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 344 applications were formally extended under section 14A; an increase of 80% 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	219	12	0	231
Section 14(1)(b) - consultation	104	9	0	113
<b>Total</b>	<b>323</b>	<b>21</b>	<b>0</b>	<b>344</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 135 applications were extended informally via a negotiated extension; an increase of 108% from the previous reporting year.

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

<b>Extension reason</b>	<b>State Govt</b>	<b>Local Govt</b>	<b>Unis</b>	<b>All Sectors</b>
Negotiated	126	9	0	135

## 5.7 Outcomes of access applications

### 5.7.1 *Determined and processed*

During the reporting year there were a total of 14 182 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, 11 489 applications were processed by agencies. Of this number, 11 059 were determined and 430 were either transferred or withdrawn. When an application for access is determined agencies are able to 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>Refused Percentage</b>
<b>State Govt</b>	Personal	3 668	1 745	697	11%
	Non-Personal	2 742	880	892	20%
	<i>Total</i>	<b>6 410</b>	<b>2 625</b>	<b>1 589</b>	<b>15%</b>
<b>Local Govt</b>	Personal	29	27	6	10%
	Non-Personal	188	112	61	17%
	<i>Total</i>	<b>217</b>	<b>139</b>	<b>67</b>	<b>16%</b>
<b>Universities</b>	Personal	4	1	0	0%
	Non-Personal	2	1	4	57%
	<i>Total</i>	<b>6</b>	<b>2</b>	<b>4</b>	<b>33%</b>
<b>All Sectors</b>	Personal	3 701	1 773	703	11%
	Non-Personal	2 932	993	957	20%
	<b>Total</b>	<b>6 633</b>	<b>2 766</b>	<b>1 660</b>	<b>15%</b>

The average rate of release of documents under FOI is 85% across all sectors, which is same as the previous reporting year. Of this, 60% of documents were released in full and 25% were released in part.

### 5.7.2 Reasons for refusal or restriction

The FOI 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 FOI 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	6	1	0	7
Section 18(1) - Unreasonable diversion of an agency's resources	41	2	0	43
Section 18(2a) - Abuse of right of access	9	1	0	10
Section 18(3) - Fees not paid	36	2	0	38
Section 19(2) - Deemed refusal - over 30 days to respond	317	0	0	317
Section 20(1) - Exempt document	2 810	104	3	2 917
Section 20(1)(b)(c)(d) – Documents otherwise available	97	39	0	136

During 2012-13 agencies reported a 17% increase from the previous reporting year in the number of applications that were refused because the agency took longer than 30 days to respond, that is, the application was considered a deemed refusal under section 19(2). There was also a seven per cent increase in the number of exemptions applied.

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:

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

#### **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>
Document does not exist/lost	568	47	3	618
Exempt agency	23	4	0	27

The number of refusals resulting from documents either not existing or being lost has decreased by four per cent. This may be as a result of improved record keeping practices.

#### *Exemptions*

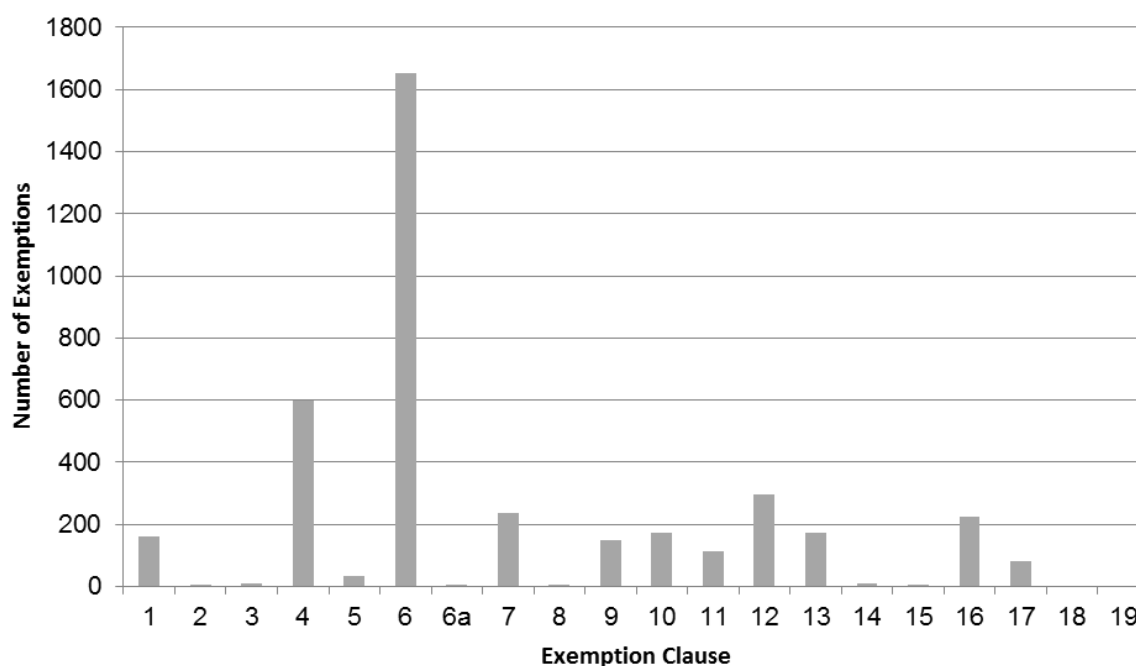
The FOI Act confers on members of the public a legally enforceable right of access to documents subject to certain restrictions. Schedule 1 of the FOI Act includes 19 classes of exempt documents that agencies need to consider when determining if access to the document can be given in full, in part, or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

This year exemption clauses were applied 3913 times. In some circumstances, more than one exemption clause may be applied to refuse access when making a

determination. Overall this results in the number of exemptions applied being greater than the number of determinations made.

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

### **Exemptions applied across all sectors**



The two most commonly applied exemption clauses are:

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

The use of these two exemption clauses accounts for 58% of all clauses applied.

## **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 FOI 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, forums and meetings, and the provision of support and advice to the Minister responsible for the FOI Act.
- State Ombudsman 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 FOI Act in South Australia was \$10.1 million for 2012-13. This is a 2.9% decrease from the previous year.

In 2011-12 it was reported that an increase in the number of staff involved in FOI resulted in an increase of almost \$1 million in associated salary costs, this equated to a 13% increase. This year agencies reported a further 2.5 % increase in salary costs, which may be attributable to increases in salaries in line with CPI. Staffing numbers and costs are discussed in section 5.8.2.

Aside from the reported increase in costs associated with salaries almost all other reported agency costs decreased by between 13% and 46%. This includes costs agencies incurred for attending training, accommodation, seeking legal opinion and other additional costs.

### 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 FOI 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 944 staff across all sectors were involved in processing FOI applications. This is an increase of 3.4% compared to the previous year. Of the 944 staff involved in processing FOI applications across all sectors, 333 have been designated as accredited FOI officers, an increase of 9.5%.

Many of these staff spend only a portion of their time undertaking FOI related activities. The 944 staff equates to 104.8 Full Time Equivalents (FTE) involved in processing FOI applications. Of these:

- 91.7 FTE were from State Government
- 12.8 FTE were from Local Government
- 0.3 FTE was from Universities.

State Government has recorded an 9.5% decrease in their FOI FTE staffing levels and Local Government a 14.7% decrease, whereas Universities decreased by just 0.1 FTE compared to the previous reporting year. The increase in the number of staff involved in FOI compared to the decrease in the number of FTE shows that while there are more staff involved in the FOI process, these staff are spending less



time engaged in FOI related activities. This could be the result of agencies decentralising the processing of FOI applications.

### 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 2012-13 agencies reported recovering \$526 553. Of this amount 29% or \$153 537 was collected as application fees.

#### **Fees collected by sector in 2012-13**

<b>Sector</b>	<b>2012-13</b>	<b>2011-12</b>	<b>% change</b>
State Government	\$516 561	\$227 145	127%
Local Government	\$ 9 992	\$ 5 141	94%
Universities	\$ 0	\$ 30	100%
<b>Total</b>	<b>\$526 553</b>	<b>\$232 316</b>	<b>127%</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	1 017	17	0	1 034
Member of Parliament	626	10	6	642
Other	728	18	0	746
<b>Total Waived</b>	<b>2 371</b>	<b>45</b>	<b>6</b>	<b>2 422</b>
Fee Reduction	10	0	0	10
<b>Total – Waived &amp; Reduced</b>	<b>2 381</b>	<b>45</b>	<b>6</b>	<b>2 432</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 2432 applications. 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 \$367 726, with 27% being waived due to financial disadvantage. This is shown in more detail in the table below.

**Fee waiver – financial disadvantage**

<b>Fee</b>	<b>State</b>	<b>Local</b>	<b>Unis</b>	<b>All Sectors</b>
Application Fees	\$ 31 018	\$ 518	\$ 0	\$ 31 536
Processing Fees	\$ 65 333	\$ 0	\$ 0	\$ 65 333
Transcript Fees	\$ 0	\$ 0	\$ 0	\$ 0
Photocopying	\$ 2 613	\$ 0	\$ 0	\$ 2 613
Other Costs	\$ 1 304	\$ 0	\$ 0	\$ 1 304
<b>Total</b>	<b>\$ 100 268</b>	<b>\$ 518</b>	<b>\$ 0</b>	<b>\$ 100 786</b>

**5.9 Amendment applications**

The FOI 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 392 FOI applications for amendment received by agencies, which is an increase of 40% over the previous year. As was the case in 2011-12, all were received by State Government agencies. Of the 392 amendment applications made during the reporting year, 371 were made to a single agency. This agency reported a 34% increase in the number of amendment applications received.

In addition to the amendment applications received during 2012-13, there were 34 unfinished amendment applications brought forward from the previous year. Therefore, in total there were 426 FOI applications for amendment to be processed by State Government agencies during 2012-13. Determinations were issued for 383 applications with five applications withdrawn by the applicant.

**Amendment of personal information**

<b>Outcome</b>	<b>2012-13</b>	<b>2011-12</b>
Amendment agreed	87	82
Amendment refused	272	169
Partial amendment	18	15
Notation added	6	6
<b>Total</b>	<b>383</b>	<b>272</b>

The table below demonstrates that 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>2012-13</b>	<b>2011-12</b>
Records are not incomplete, incorrect, out-of-date or misleading	271	168
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	1	1
<b>Total</b>	<b>272</b>	<b>169</b>

#### 5.10 Review & appeal

The FOI 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 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 330 internal review applications received by all three sectors. This is 49% more than received the previous year. It is possible that part of this increase may be explained by the 17% increase in the number of deemed refusals. See section 5.7.2 for further explanation of deemed refusals.

In addition to the 330 internal review applications received during the reporting year there were 41 unfinished applications for internal review brought forward from 2011-12, of these 39 were brought forward by State Government agencies.

Therefore, during 2012-13 there were 371 applications for internal review to be processed. Determinations were issued for 290 applications with the decision reversed in 14% of cases.

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

<b>Outcome</b>	<b>2012-13</b>
Decision confirmed	191
Decision varied	58
Decision reversed	41

### 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 State Ombudsman or the Police Ombudsman.

The State Ombudsman 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 conducted by the Police Ombudsman.

During 2012-13, the State Ombudsman advised there were 171 external reviews received with 139 being completed.

The Police Ombudsman advised they received 19 external reviews during 2012-13 with 11 being finalised.

The State Ombudsman 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.

During 2012-13, agencies reported five appeals had been before the District Court during the year and all were finalised. In one of these cases the District Court varied the decision of the agency. Of the remaining four appeals one was withdrawn and three were discontinued.

## 5.11 Access applications carried over to 2013-14

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 2012-13 there were 2756 unfinished applications carried over into 2013-14, an increase of 17%. Of all unfinished applications, 23% were still within the 30 day timeframe.

#### **Applications carried over to 2013-14**

<b>Sector</b>	<b>Within 30 day timeframe</b>	<b>Outside 30 day timeframe</b>	<b>Total Unfinished</b>
State Government	615	2 078	2 693
Local Government	11	46	57
Universities	1	5	6
<b>Total</b>	<b>627</b>	<b>2 129</b>	<b>2 756</b>

Of the 2756 unfinished applications, 2129 or 77% were outside the 30 day timeframe at the close of the reporting year. This is 5% more than the previous year. 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.

Of the 2129 not processed within 30 days, 75% or 1594 were non-personal. Those applications that are either broad in scope or complex in nature, or both, tend to fall into the non-personal category. 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 carried over to 2013-14***

<b>Sector</b>	<b>Personal</b>	<b>Non- Personal</b>	<b>Total</b>
State Government	519	1 559	2 078
Local Government	15	31	46
Universities	1	4	5
<b>Total</b>	<b>535</b>	<b>1 594</b>	<b>2 129</b>

## **6 APPENDICES**

## 6.1 Appendix A – Agency tables

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

<b>Agency</b>	<b>Applications Received 2012-13</b>	<b>Applications Received 2011-12</b>
Adelaide & Mt Lofty Ranges Natural Resources Management Board	2	2
Adelaide Cemeteries Authority	1	1
Adelaide Convention Centre	0	2
Adelaide Entertainments Corporation	0	0
Adelaide Festival Centre Trust	0	1
Adelaide Festival Corporation	0	0
Alinytjara Wilurara Natural Resources Management Board	0	0
Architectural Practice Board of SA	0	0
Attorney-General's Department	92	120
Carclew Youth Arts Inc	0	0
Centennial Park Cemetery Authority	0	0
Central Adelaide Local Health Network (CALHN) <sup>1</sup>	2 455	2 716
Country Health South Australia Local Health Network (CHSALHN) <sup>2</sup>	312	318
Courts Administration Authority	29	51
Defence SA	16	6
Department for Correctional Services	289	272
Department for Communities and Social Inclusion	247	214
Department of Education and Child Development	542	534
Department of Environment & Natural Resources	81	79
Department of Further Education, Employment, Science and Technology	69	46
Department for Health and Ageing	97	148
Department of Manufacturing, Innovation, Trade, Resources and Energy	102	87
Department of Planning, Transport and Infrastructure	253	260
Department for Primary Industries and Regions SA	41	70
Department of the Premier and Cabinet	835	497
Department of Treasury and Finance	348	314
Department for Water		34
Education and Early Childhood Services Registration and Standards Board <sup>3</sup>	1	-
Electoral Commission of South Australia	0	0
Environment Protection Authority	44	37
Equal Opportunity Commission	0	3
Essential Services Commission	1	0
Eyre Peninsula Natural Resources Management Board	0	0
Forestry SA	5	8
Guardianship Board	1	2
Health Performance Council	0	0

Agency	Applications Received 2012-13	Applications Received 2011-12
History Trust of South Australia	0	0
HomeStart Finance	3	1
Independent Gambling Authority	0	13
Industrial Relations Commission	0	0
Industrial Relations Court	1	0
Legal Practitioners Conduct Board	0	0
Legal Services Commission	11	14
Medical Panel SA	0	1
Motor Accident Commission	4	3
Non-government Schools Registration Board <sup>4</sup>	-	0
Northern Adelaide Local Health Network (NALHN) <sup>5</sup>	956	1 229
Northern & Yorke Natural Resources Management Board	0	1
Office for the Ageing	0	0
Office of the Attorney-General	31	50
Office of the Employee Ombudsman	0	1
Office of the Guardian for Children and Young People	0	0
Office of the Minister - Hon Antonio Piccolo MP (The Hon Antonio Piccolo MP was appointed 21 January 2013)	19	-
Office of the Minister - Hon Chloë Fox MP	20	14
Office of the Minister - Hon Gail Gago MLC	21	21
Office of the Minister - Hon Grace Portolesi MP	45	47
Office of the Minister - Hon Ian Hunter MLC	28	9
Office of the Minister - Hon Jack Snelling MP	25	74
Office of the Minister - Hon Jennifer Rankine MP	50	31
Office of the Minister - Hon John Hill MP <sup>6</sup> (The Hon John Hill MP resigned 21 January 2013)	-	23
Office of the Minister – Hon Leon Bignell MP (The Hon Leon Bignell MP was appointed 21 January 2013)	3	-
Office of the Minister - Hon Michael O'Brien MP	25	24
Office of the Minister - Hon Patrick Conlon MP (The Hon Patrick Conlon MP resigned 21 January 2013)	12	25
Office of the Minister - Hon Paul Caica MP <sup>7</sup> (The Hon Paul Caica MP resigned 21 January 2013)	-	56
Office of the Minister - Hon Russell Wortley MLC (The Hon Russell Wortley MLC resigned 21 January 2013)	19	21
Office of the Minister - Hon Tom Kenyon MP	9	12
Office of the Minister - Hon Tom Koutsantonis MP	36	25
Office of the National Rail Safety Regulator (ONRSR) (ONRSR commenced operations on 20 January 2013)	0	-
Office of the Premier - Hon Jay Weatherill MP	106	68
Office of the Public Advocate	1	4
Office for Public Employment and Review (formerly the Office for Ethical Standards and Professional Integrity)	0	1
Office of the Training Advocate	0	0
Office of the Treasurer – Hon Jay Weatherill MP <sup>8</sup>	40	-



Agency	Applications Received 2012-13	Applications Received 2011-12
(The Hon Jay Weatherill MP appointed as Treasurer on 21 January 2013)		
Outback Communities Authority	0	0
Rail Commissioner	59	83
Regional Development Australia Barossa	0	0
Residential Tenancies Tribunal	0	5
SA Ambulance Service	214	198
SA Arid Lands Natural Resources Management Board	0	1
SA Fire and Emergency Services Commission	30	18
SA Lotteries	2	20
SA Murray Darling Basin Natural Resources Management Board	0	2
SA Water	98	66
South Australia Police Service	2 057	2 095
South Australian Certificate of Education (SACE) Board	4	-
South Australian Country Fire Service	26	17
South Australian Film Corporation	4	8
South Australian Multicultural and Ethnic Affairs Commission	0	-
South Australian Museum	0	0
South Australian Tourism Commission	41	41
South East Natural Resources Management Board	1	1
Southern Adelaide Local Health Network (SALHN) <sup>9</sup>	878	1 055
State Library of South Australia	0	1
State Theatre Company of SA	0	0
Stormwater Management Authority	0	3
Super SA	1	2
TAFE SA <sup>10</sup>	5	-
Teachers Registration Board of SA	11	1
The Dog & Cat Management Board	0	0
Urban Renewal Authority (formerly Land Management Corporation)	30	11
Veterinary Surgeons Board of SA	0	0
West Beach Trust (marketed as Adelaide Shores)	2	0
Women's and Children's Health Network	342	395
WorkCover Corporation	226	271
Workcover Ombudsman	0	1
Workers Compensation Tribunal	0	0
Zero Waste SA	6	0

<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 and Statewide Clinical Support Services.

<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, Flinders and Outback Health Service, 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

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Eyre Health Service, Pt Pirie Pt Broughton Southern Flinders and Mid North Health Service, Riverland Health Service, Upper South East Health Service, Whyalla Eastern Eyre and Far North Health Service, Yorke and Lower North Health Service.

<sup>3</sup> The **Education and Early Childhood Services Registration and Standards Board** was established under the *Education and Early Childhood Services (Registration and Standards) Act 2011*. The Board commenced operation on 1 January 2012.

<sup>4</sup> The Non-Government Schools Registration Board ceased to function in December 2011 as a result of the establishment of the Education and Early Childhood Services Registration and Standards Board.

<sup>5</sup> **Northern Adelaide Local Health Network** – includes Lyell McEwin Hospital, Modbury Public Hospital and the NALHN Office of the CEO.

<sup>6</sup> Applications made to Minister Hill's Office prior to his resignation have been reported by Minister Snelling's Office.

<sup>7</sup> Applications made to Minister Caica's Office prior to his resignation have been reported by Minister Hunter's Office.

<sup>8</sup> Applications made to the Office of the Treasurer prior to the appointment of the Hon Jay Weatherill MP as Treasurer are included. Applications made in 2011-12 to the Office of the Treasurer are reported against the Hon Jack Snelling MP.

<sup>9</sup> **Southern Adelaide Local Health Network** – includes Drug and Alcohol Services SA, Flinders Medical Centre, Noarlunga Health Service, Repatriation General Hospital and the SALHN Office of the CEO.

<sup>10</sup> On 1 November 2012 under the *TAFE SA Act 2012*, **TAFE SA** became a Statutory Corporation, and was separated from the Department of Further Education, Employment, Science and Technology (DFEEST).

## Access applications received – Local Government

Agency	Applications Received 2012-13	Applications Received 2011-12
Adelaide City Council	44	40
Adelaide Hills Council	8	11
Alexandrina Council	7	4
Campbelltown City Council	7	15
City of Burnside	12	6
City of Charles Sturt	40	44
City of Holdfast Bay	12	6
City of Marion	13	11
City of Mitcham	16	15
City of Mount Gambier	2	0
City of Norwood, Payneham & St Peters	3	4
City of Onkaparinga	22	26
City of Playford	12	11
City of Port Adelaide Enfield	19	30
City of Port Lincoln	2	0
City of Prospect	7	0
City of Salisbury	13	13
City of Tea Tree Gully	11	5
City of Unley	78	80
City of Victor Harbor	3	5
City of West Torrens	9	16
Clare & Gilbert Valleys Council	5	1
Coorong District Council	0	0
Corporation of the Town of Walkerville	3	2
District Council of Barunga West	0	0
District Council of Ceduna	2	0
District Council of Cleve	0	0
District Council of Coober Pedy	0	1
District Council of Elliston	0	0
District Council of Franklin Harbour	0	1
District Council of Grant	4	2
District Council of Karoonda East Murray	0	0
District Council of Kimba	0	0
District Council of Lower Eyre Peninsula	1	0
District Council of Loxton Waikerie	2	0
District Council of Mallala	0	1
District Council of Mount Barker	8	4
District Council of Orroroo Carrieton	0	0
District Council of Peterborough	0	0
District Council of Robe	0	1
District Council of Streaky Bay	5	0
District Council of Tatiara	0	0
District Council of The Copper Coast	16	20

<b>Agency</b>	<b>Applications Received 2012-13</b>	<b>Applications Received 2011-12</b>
District Council of Tumby Bay	3	2
District Council of Wudinna	0	0
District Council of Yankalilla	2	0
District Council of Yorke Peninsula	2	2
Eastern Health Authority Inc.	1	0
Flinders Ranges Council	0	0
Kangaroo Island Council	2	3
Kingston District Council	1	1
Light Regional Council	4	3
Mid Murray Council	9	10
Naracoorte Lucindale Council	1	0
Northern Areas Council	2	0
Port Augusta City Council	3	9
Port Pirie Regional Council	2	2
Regional Council of Goyder	1	3
Renmark Paringa Council	1	2
Roxby Downs Council	1	0
Rural City of Murray Bridge	7	3
Southern Mallee District Council	0	0
The Barossa Council	2	3
The Berri Barmera Council	3	1
Town of Gawler	8	5
Wattle Range Council	3	2
Whyalla City Council	3	5

***Access applications received – Universities***

<b>Agency</b>	<b>Applications Received 2012-13</b>	<b>Applications Received 2011-12</b>
Flinders University	1	5
University of Adelaide	8	13
University of South Australia	3	2

## 6.2 Appendix B – Reasons for refusing access

### Application incomplete or wrongly directed

Under section 15 of the FOI 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 FOI 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 FOI 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 FOI Act lists the agencies that are exempt from the application of the FOI Act. Agencies can also be exempt under Regulation.

The FOI 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.