

What is Freedom of Information?

The South Australian *Freedom of Information Act 1991* (the FOI Act) gives members of the public a legally enforceable right to access documents, subject to some restrictions. This right applies to documents held by Ministers and government departments; statutory and regulatory bodies; public hospitals; local government councils; and South Australian universities.

What types of documents can I access?

The types of documents you can seek access to include school records; health and welfare records; police and criminal records; minutes; agendas; policy documents; Cabinet documents; research materials; procedural records.

These documents may come in various forms, including paper-based documents, emails and computer files; plans; photographs; videos and audio tapes.

Where do I apply?

To assist you in working out where to submit your application, all government departments, councils and universities must publish a document called an Information Statement. This document is published either on the agency's website, or in its annual report.

Included in the Information Statement are descriptions of documents that may be already publicly available for inspection, purchase or free of charge. It is not necessary to make an FOI application for access to these documents.

A list of all government departments is available at www.sa.gov.au with links to relevant contact information and websites where annual reports are usually published.

If you are looking for documents that concern you personally, it is generally only agencies that you have dealt with that would hold this information. Similar (but not identical) legislation applies to the Commonwealth and other State and Territory Governments. If you think the documents you want

are held by these other governments, you will need to contact them directly.

The FOI Act does not give you the right to seek access to documents in the possession of the private sector. This includes organisations that provide a private health service, like your GP.

The *Commonwealth Privacy Act 1988* applies to most private sector businesses including private health service providers and includes some access provisions. Further information is available from the Australian Information Commissioner who can be contacted on telephone 1300 363 992 or via the website www.oaic.gov.au.

How do I make an FOI application?

Prior to making your request you may wish to talk to the FOI officer in the agency which holds the documents you would like to access. This can be done over the phone, by email or in person. Contacting the agency directly can help you clarify your request.

If you would like to proceed with making a request for access under the FOI Act the agency can provide you with an application form or you can download one from the State Records SA website at www.archives.sa.gov.au.

If you prefer to write a letter, your letter must:

- specify that you are making an application under the *Freedom of Information Act 1991*;
- include the \$32.25 application fee, unless you are eligible for a fee waiver;
- include your name and address in Australia;
- include any information that will enable the agency to identify the document(s); and
- indicate what kind of access you would like, for example, would you like to inspect the document(s) or would you like a copy.

All FOI applications must be lodged directly with the State Government agency, local government council or South Australian university that holds the documents you require access to.

Are there any documents that are not available?

While agencies aim to provide access to the maximum amount of information possible, a number of exemptions exist to protect certain types of documents.

The types of documents that may be exempt include those that:

- would lead to an unreasonable disclosure of another person's affairs;
- are subject to legal professional privilege;
- contain trade secrets or information of commercial value; or
- would affect law enforcement and public safety.

The full list of exemptions can be found in Schedule 1 to the FOI Act.

If the document contains some information that can be released and some that cannot the agency may provide you with a copy of the document with the exempt information removed.

Can I access Cabinet documents?

The Government has a policy to allow you to seek access under the FOI Act to Cabinet documents that are 10 to 20 years or older. This policy is called *PC031 - Disclosure of Cabinet Documents 10 Years or Older*. You can apply for access to these Cabinet documents by using the Access Cabinet Documents application form also available on the State Records website at www.archives.sa.gov.au.

Cabinet documents older than 20 years can be sought through FOI by using the standard Request for Access form available on the State Records website www.archives.sa.gov.au.

How long will it take?

Once your application is received, it must be dealt with by an Accredited FOI Officer within 30 calendar days. If necessary this time frame may be extended. If it is necessary to extend the time frame to process your application you will be notified in writing of the new due date and the reason for the extension.

If the agency has not extended the timeframe for dealing with your application and you do not receive a determination within 30 (calendar) days, the

legislation deems that the agency has refused your application. If this is the case you are entitled to lodge an application for review. For further information you should speak to the agency that you sent your FOI application to.

How much does it cost?

The fee for making an FOI application is \$32.25, which must be paid when you make your application. Most agencies accept cash, cheque or money orders. If you would like to pay using a credit card you will need to contact the agency directly.

There may also be additional charges for processing your application, particularly if you are seeking access to a large number of documents.

All fees and charges will be waived if you hold a valid concession card. You may be required to provide proof by attaching a copy of your concession card to your application.

If you don't have a concession card but are otherwise financially disadvantaged you can discuss this with the Accredited FOI Officer. You may qualify to have your fees and charges waived or reduced. You may still be asked to provide proof.

There is no fee for making an application to:

- amend your personal records, or
- make an application for Cabinet documents 10 to 20 years old under the *Disclosure of Cabinet Documents 10 Years or Older* policy.

What if I believe the agency holds information about me that is incorrect?

The FOI Act also gives you the right to have documents concerning your personal affairs amended if you believe they are incomplete, incorrect, misleading or out-of-date.

An application form to amend information that relates to your personal affairs can be downloaded from the State Records website at

www.archives.sa.gov.au.

The procedure for making an application to amend a document under the FOI Act is very similar to that for making an application for access.

Prior to making your request you may wish to talk to someone from the agency that holds the documents you would like to amend.

What can I do if I'm unhappy with an agency's decision?

When the agency has dealt with your application you will be advised of the outcome in writing. This is called a determination. If the agency has refused access to some or all of the documents you applied for, or refused to amend your personal affairs, the determination will explain why.

You will also be advised about the steps you can take if you are unhappy with the decision that has been made. These steps include seeking a review of the determination and, in some cases, appealing to the District Court.

Further Information

State Records SA
Freedom of Information and Privacy
Tel: (08) 8204 8786
Email: foi@sa.gov.au
Website: www.archives.sa.gov.au



Government of South Australia

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01/07/2014

Your Right to Know

How to use Freedom of Information in South Australia



Government
of South Australia
