

Freedom of Information Act 1991

ANNUAL REPORT
YEAR ENDED
JUNE
2011



Government
of South Australia

For information and advice, please contact:

State Records of South Australia
PO Box 2343
ADELAIDE SA 5001

Phone: (08) 8204 8786
Fax: (08) 8204 8777

email: foi@sa.gov.au

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

MINUTE



Government
of South Australia

MINUTES forming ENCLOSURE to

eA151070

Office of the
Minister for Finance
Minister for
the Public Sector

TO: THE PREMIER

RE: ANNUAL REPORT FOR TABLING – FREEDOM OF INFORMATION

Please find attached three copies of the 2010-2011 *Freedom of Information Act 1991* Annual Report, and an electronic copy for tabling in both Houses of Parliament.

A handwritten signature in black ink, appearing to read 'Michael O'Brien'.

Hon Michael O'Brien MP
MINISTER FOR THE PUBLIC SECTOR

Date: 11/11/10

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1 Minister's Foreword

This is the twentieth FOI Annual Report to be tabled in Parliament since the commencement of the *Freedom of Information Act 1991* (FOI Act) in January 1992. Since then, 161 752 FOI applications have been made across all sectors, this includes State Government, Local Government and South Australian Universities.

On 21 October 2011 the *Freedom of Information Act 1991*, was committed to me in my role as the Minister for the Public Sector.. Prior to this the Honourable Gail Gago MLC, Minister for Public Sector Management, and the Honourable Paul Holloway MLC, Minister assisting the Premier in Public Sector Management were responsible for the FOI Act.

This year agencies received 12 366 applications for access to information held across the three sectors subject to the FOI Act.

During 2010-11, 11 592 applications were determined, 87% being granted access either in full or in part.

Each year the total cost to government for the administration of the FOI Act increases. The cost to agencies for the administration of the FOI Act during 2010-11 is estimated to be \$8.5 million.

During the year some important steps were taken to improve the quality and quantity of data that can be extracted from the across government Freedom of Information Management System (FOIMS). This report is the first to be produced which utilises the new reporting functions of FOIMS.

I would like to thank State Records for its support in relation to the administration of the FOI Act, and to express my appreciation for the commitment and effort made by staff in agencies subject to the FOI Act towards the management of the FOI process. The FOI process often involves making complicated decisions in relation to applications that are often broad in scope and complex in nature.

The Hon Michael O'Brien MP
MINISTER FOR THE PUBLIC SECTOR

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.

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 their processing of FOI applications and the number of contracts entered into containing approved confidentiality clauses.

Pursuant to Section 54AA of the FOI Act, all FOI reporting requirements were gazetted on 15 June 2006. These requirements remain unchanged in 2010-11.

2.3 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, statutory authorities, Local Government authorities and Universities.

Schedule 2 to 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. Schedule 2 is one of two schedules that form part of 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

On 8 February 2011, in accordance with the *Administrative Arrangements (Committal of Acts) Proclamation 2011*, the FOI Act was committed to the Minister for Public Sector Management. On the same day the Honourable Gail Gago MLC was appointed as the Minister for Public Sector Management.

Commencing on 21 October 2011, in accordance with the *Administrative Arrangements (Committal of Acts) Proclamation 2011*, the FOI Act was committed to the Minister for the Public Sector. On the same day the Honourable Michael O'Brien MP was appointed as the Minister for the Public Sector.

3.2 Amendments to the FOI Act

3.2.1 Freedom of Information (Fees and Charges) Variation Regulations 2011

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 indexation factor.

During 2010-11 the fee for making an FOI application was set at \$28.75 and processing charges at \$10.70 for each 15 minutes spent by the agency dealing with the application.

The *Freedom of Information (Fees and Charges) Variation Regulations 2011* was published in the South Australian Government Gazette on 9 June 2011 and commenced operation on 1 July 2011.

From 1 July 2011 the fee for making an FOI application is set at \$29.50 and processing charges at \$11.00 for each 15 minutes spent by the agency in dealing with the application.

3.2.2 Statutes Amendment (Victims of Crime) Act 2009

As reported in 2009-10 FOI Annual Report the *Statutes Amendment (Victims of Crime) Act 2009* commenced operation on 19 September 2010.

The Act amended various acts, including the FOI Act. Specifically, it amended Schedule 2 – Exempt Agencies, to include the Commissioner for Victims' Rights as an exempt agency.

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 2010-11, State Records responded to 1 177 FOI related enquiries from members of the public and agencies.

Table 1 –Enquiries by source

	Agencies	Public	Combined
FOI			
Telephone calls	459	258	717
Emails	145	25	170
FOIMS			
Telephone calls	151	1	152
Emails	138	0	138
Total	893	284	1 177

3.3.2 Publications

Freedom of Information Release of Cabinet Documents under the Ten Year Rule

On 1 October 2009, the Government introduced its *Freedom of Information Release of Cabinet Documents under the Ten Year Rule* policy (the Ten Year Rule) 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 ten years rather than the twenty 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 ten 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.

During 2010-11, 85 applications for Cabinet documents were made to DPC under the Ten Year Rule. Of these, 59 were made by the Media, 25 by Members of Parliament and one from a member of the public.

At the end of 2010-11 determinations had been issued for 34 applications. Of these, 28 submissions were released in full and six submissions were released in part.

Other Publications

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

During 2010-11, one guideline and three information sheets were reviewed 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.

3.3.3 FOI courses delivered during 2010-11

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 Complaints Authority. Section 4 of the Act requires the Minister to approve training for Accredited FOI Officers.

During the year State Records delivered 37 FOI training sessions. These sessions were attended by 425 participants.

In addition, State Records delivered three agency specific FOI awareness sessions free of charge. These sessions were delivered in facilities made available by the organising agency and numbers of attendees are unavailable.

Table 2 – FOI courses delivered during 2010-11

Course Name	No. of Courses	No. of Attendees
Introduction to FOI Management System (FOIMS)	5	34
Training for Accredited and Non Accredited FOI Officers	28	386
Module 1 - FOI Officers and the FOI Act (July 2010)	1	14
Module 2 - Processing FOI Applications (July 2010)	1	14
Module 1 & 2 – FOI Officers Processing FOI Applications	8	121
Module 3 - Assessing FOI Exemption Clauses	9	122
Module 4 - Making and Drafting FOI Determinations	9	115
FOI Awareness	1	5
FOI Awareness - Agency specific	3	n/a
Total	37	425

3.3.4 On-line FOI awareness education

State Records also offers on-line FOI awareness education. Its purpose is to complement the other classroom style FOI sessions by providing easily accessible broad based training designed to raise awareness of FOI for all staff. The training is self-paced and has the added benefit of being accessible to staff in regional areas. This training is available to all staff in State Government, Local Government and Universities free of charge.

During 2010-11 there were 187 enrolments in the on-line FOI awareness training. This is 67% more than reported last year.

3.4 Reporting

State Records derives annual FOI statistics from the Freedom of Information Management System (FOIMS) to enable this Annual Report to be produced. FOIMS is a secure web-based system for the recording, processing and reporting of FOI applications by agencies. It also assists agencies manage their FOI related reporting obligations.

During 2010-11 State Records undertook significant analysis of the reporting functions of FOIMS. This analysis resulted in the creation of several new reports and the enhancement of others. These reports have been used to produce the statistics that are included in this annual report. Access for all users to the new reporting tools will occur during 2011-12 and will be supported via the production of new training material and updates to the FOIMS User Guide.

3.4.1 Statistical data in this report

State Records wrote to agencies on 8 June 2011 to formally advise them of their obligation to report under the FOI Act and to request that they ensure that information relating to their agency in FOIMS was up to date by no later than 31 July 2011.

A copy of the database was taken on 17 August 2011 and statistical reports were run against this copy during the week commencing 22 August 2011.

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. In addition, some agencies were using FOIMS to manage non-FOI related requests for access to information. These kinds of entries in FOIMS are not easily identifiable and create inaccuracies in reporting.

The practice of managing non-FOI related requests for access to information in FOIMS has occurred over a number of years and it appears this has continued during 2010-11. Using FOIMS in this way appears to be part of the culture of particular agencies but is not wide spread across State Government. State Records will continue its attempts to address this issue during 2011-12.

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 2010-11 reporting year, agencies reported executing 110 contracts that contained an approved confidentiality clause. This was an increase of 58 from the previous year. Of the 110 contracts executed in 2010-11:

- State Government reported 69 – an increase of 49;
- Local Government reported 19 – an increase of 3;
- Universities reported 22 – an increase of 6.

In addition to the 110 contracts executed during 2010-11, 41 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 2010. Of these 41 contracts:

- State Government recorded 23;
- Local Government recorded 16;
- Universities recorded 2.

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, purchase or free of charge and can make the process of information provision simpler and more efficient for the public and agencies.

During the reporting year there were 192 reported instances where agencies refused an FOI application because information was provided outside of FOI. This is a 5.5% increase over the figure reported for 2009-10.

3.7 Correction

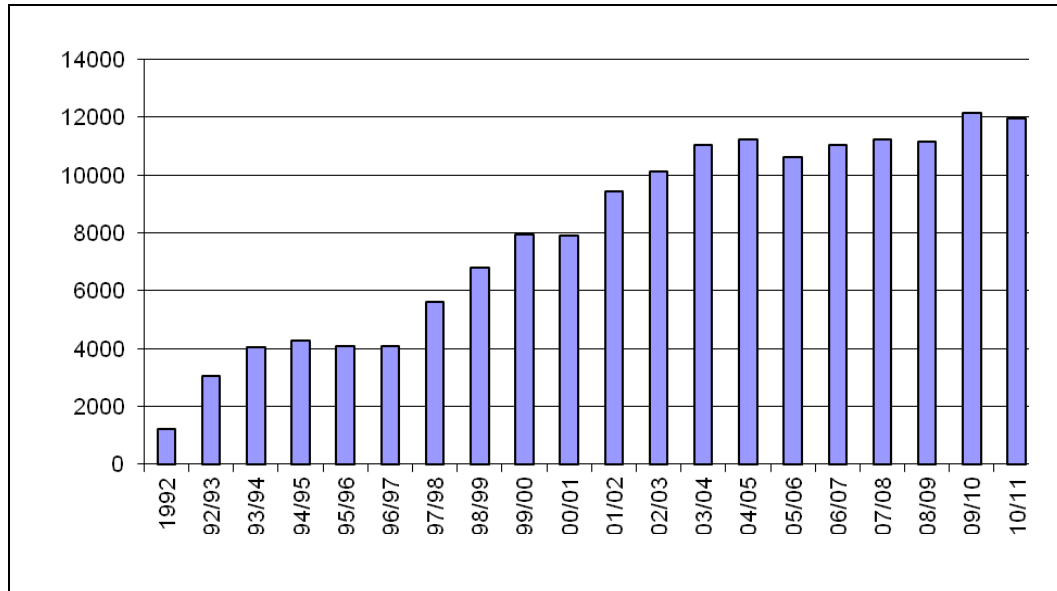
When reviewing the data in the FOI Annual Report 2009-10, an error was found on page 6 in relation to Contracts with Approved Confidentiality Clauses. The text of the second paragraph states there were 49 contracts entered into. The correct number of contracts entered into was 52. The numbers reported for each sector, however, were correct.

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 158 961 applications for access made to State Government agencies.

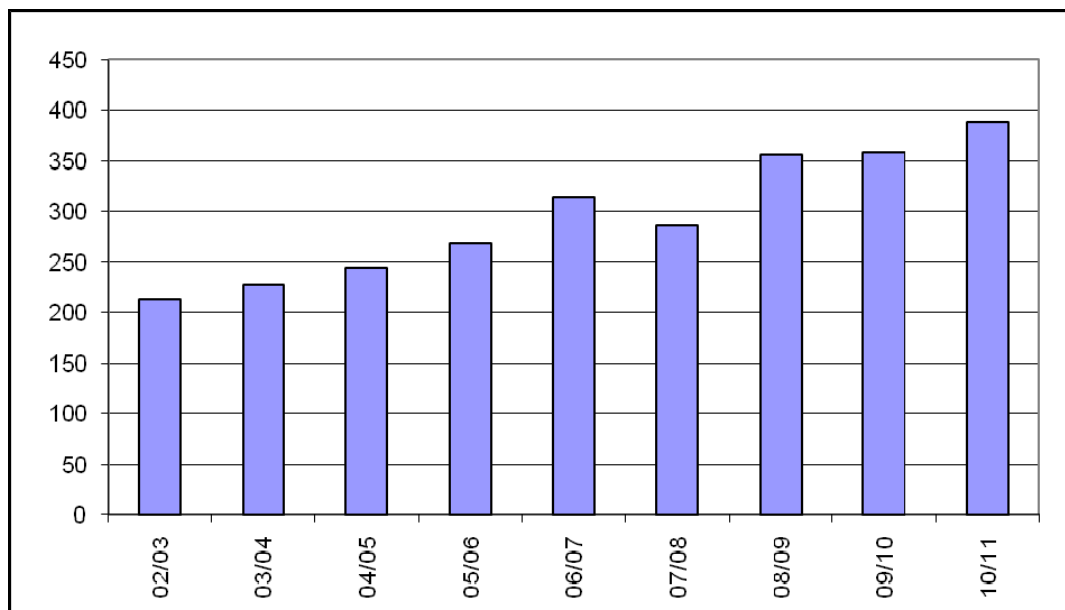
Chart 1 – Applications made to State Government since 1 January 1992



4.2 Local Government

Local Government has been subject to the FOI Act since 1 July 2002. Since this date, there has been a total of 2 654 applications for access made to Local Government.

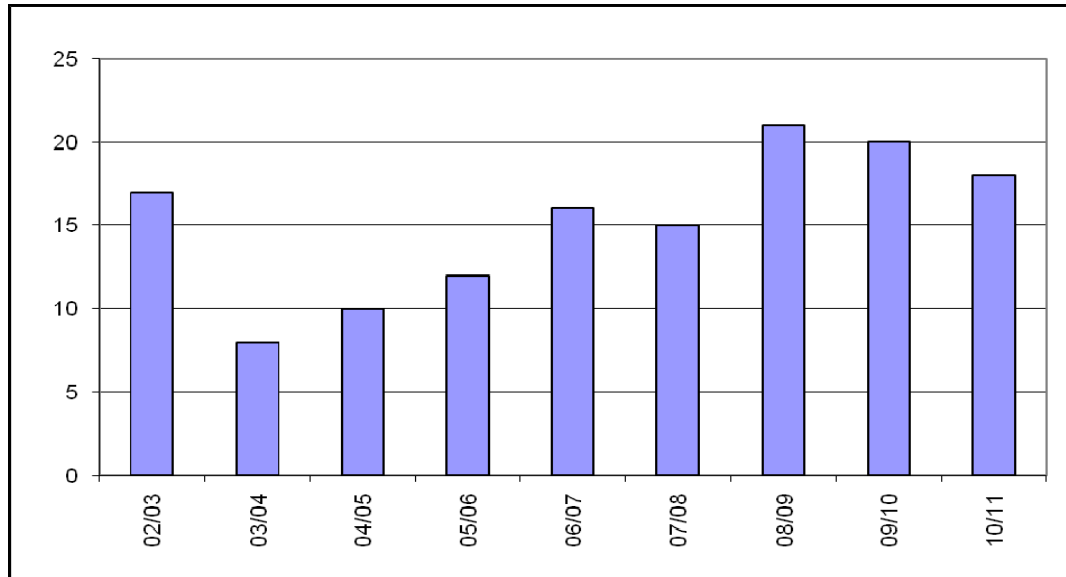
Chart 2 – Applications made to Local Government since 1 July 2002



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 137 applications for access made to Universities.

Chart 3 – Applications made to Universities since 1 July 2002



5 Statistical Summary – 2010-11

5.1 Applications to be Processed During 2010-11

This year 12 366 FOI applications for access were received by all agencies subject to the FOI Act. This is 168 less than were received during 2009-10.

In addition, there were 1 565 unfinished applications for access that were carried over from 2009-10.

Therefore during 2010-11 there were 13 931 applications to be processed.

Table 3 – Applications to be processed

Application	State Govt	Local Govt	University	All Sectors
New	11 960	388	18	12 366
Carried Over	1 528	37	0	1 565
Total	13 488	425	18	13 931

5.2 Category of Access Applications

There are two types of access application that can be made, 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 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; and
- 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; and
- to policy or administrative documents, including documents relating to government initiatives or projects.

Table 4 –Applications to be processed by sector & application category

Sector	Personal Affairs		Non-Personal Affairs	
	No.	%	No.	%
New Applications 2010-11				
State Government	7 022	59%	4 938	41%
Local Government	50	13%	338	87%
Universities	6	33%	12	67%
Total	7 078	57%	5 288	43%
Applications from 2009-10				
State Government	784	51%	744	49%
Local Government	9	24%	28	76%
Universities	0	0%	0	0%
Total	793	51%	772	49%
Total to be processed 2010-11	7 871	56%	6 060	44%

5.3 Types of Applicants

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

Applications can only have one type of applicant assigned. The types of applicants are as follows:

- Member of Parliament;
- Media;
- Lawyers / Agents;
- Public; or
- Other

Of the 12 366 applications made during 2010-11, 38% were made by Lawyers or Agents, 32% were made by the Public and 19% were made by Members of Parliament.

Table 5 –Applications received during 10-11 by applicant type

Applicant type	State Govt	Local Govt	Unis	All sectors
Member of Parliament	2 271	26	4	2 301
Media	121	2	0	123
Lawyer / Agent	4 614	56	1	4 671
Public	3 748	227	12	3 987
Other	1 206	77	1	1 284
Total	11 960	388	18	12 366

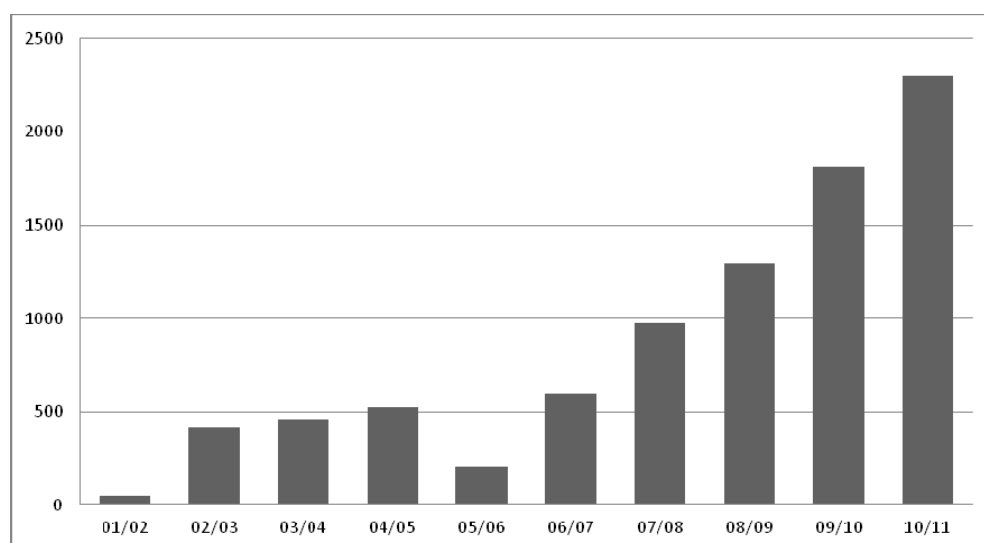
5.3.1 Applications made by Members of Parliament

This year agencies received 2 301 FOI applications from Members of Parliament. This is 27% more than were received last year.

Since 2001-02 agencies subject to the FOI Act have received a total of 8 631 applications from Members of Parliament. Of these 7 185, or 83% have been made since 2005-06. In that year agencies received 203 applications from Members of Parliament which is 1 033% more than were received during 2010-11.

While Members of Parliament do not make the most applications by applicant type in relation to all applications made, they were responsible for 44% of all non personal applications made during 2010-11.

Chart 4 – 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 encompass a large number of documents usually requiring significant time for proper consideration of each document, as well as consultation 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 mobile phone usage, staffing, entertainment expenses, airline memberships, file lists or schedules for files created within specific dates, leave, and submissions relating to specific subjects.

These kinds of applications are usually made by Members of Parliament and the media.

From time to time, at the request of agencies, meetings 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 2010-11 agencies reported receiving 14 across government applications. Thirteen of these were made by Members of Parliament and one was made by the media. All were made to State Government agencies resulting in 163 separate applications.

5.5 Response Time & Extensions

5.5.1 Response times

Agencies must deal with applications made under the FOI Act as soon as practicable and within 30 calendar days. 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 the next section.

Overall 8 049, or 66%, of all applications were processed within 30 days. A further 4 145 took longer than 30 days to process.

Table 6 – Response times by sector

Time	State Govt	Local Govt	Unis	All Sectors
0-15 days	4 959	144	6	5 109
16-30 days	2 761	172	7	2 940
>30 days	4 093	58	3	4 154
Total	11 813	374	16	12 203

5.5.2 Extensions

In some cases agencies are unable to deal with applications within the 30 day timeframe. In recognition of the fact that applications can be both broad and complex in nature the legislation allows agencies to extend the timeframe to deal with an application under section 14A.

The FOI Act does not prescribe a specific time period for extensions. As a result 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

Section 14A of the FOI Act permits the principal officer of an agency to 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; or
- a document where consultation is required that cannot be reasonably undertaken within the 30 days.

During the reporting year 176 applications were formally extended under section 14A.

Table 7 – Formal Extension Reasons

Extension reason	State Govt	Local Govt	Uni	All Sectors
Section 14(1)(a) - searching	114	4	0	118
Section 14(a)(b) - consultation	50	8	0	58
Total	164	12	0	176

Negotiated Extensions

Some agencies negotiate extensions with their applicants. Negotiated extensions are not prescribed in the legislation but rather are a pragmatic approach taken by agencies for applications that cannot be dealt with within the legislated timeframe.

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 time 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 73 applications were extended informally via a negotiated extension.

Table 8 – Negotiated extensions by sector

Extension reason	State Govt	Local Govt	Unis	All Sectors
Negotiated	67	4	2	73

5.6 Outcomes of Access Applications

5.6.1 Determined and processed

During the reporting year there were a total of 13 931 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, 11 898 applications were processed by all agencies. Of this number, 11 592 were determined and 306 were either transferred or withdrawn.

When an application for access is determined agencies are able to fully release a document, partially release a document or refuse access to a document.

Table 9 - Outcomes of application by sector

Sector	Application Category	Full Release	Partial Release	Refused
State Govt	Personal	4 571	1 492	817
	Non Personal	3 147	542	643
	Total	7 718	2 034	1 460
Local Govt	Personal	21	9	10
	Non Personal	195	84	49
	Total	216	93	59
Universities	Personal	4	1	0
	Non Personal	3	2	2
	Total	7	3	2
All Sectors	Personal	4 596	1 502	827
	Non Personal	3 345	628	694
	Total	7 941	2 130	1 521

5.6.2 Reasons for refusal or restriction

The FOI Act allows an agency to refuse or provide partial access to a document. An agency can refuse access because it has determined that the document is exempt in accordance with Schedule 1 to the FOI Act – 'Exempt documents'. The other reasons for refusal include fees not being paid or the documents being otherwise available.

Table 10 – Reasons for refusing access by sector

Details	State	Local	Unis	Total
Section 15 - Application incomplete/wrongly directed	43	1	0	44
Section 18(1) - Unreasonable diversion of an agency's resources	45	5	0	50
Section 18(2)(a) - Abuse of right of access	6	0	0	6
Section 18(3) - Fees not paid	49	6	0	55
Section 19(2) - Deemed refusal - over 30 days to respond	182	0	0	182
Section 20(1) - Exempt document	2 511	71	4	2 586
Section 20(1)(b)(c)(d) – Documents otherwise available	165	27	0	192

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

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

Table 11 – Other reasons why an agency could not provide access to a document

Details	State	Local	Unis	Total
Exempt agency	25	0	0	25
Document does not exist/lost	466	17	1	484

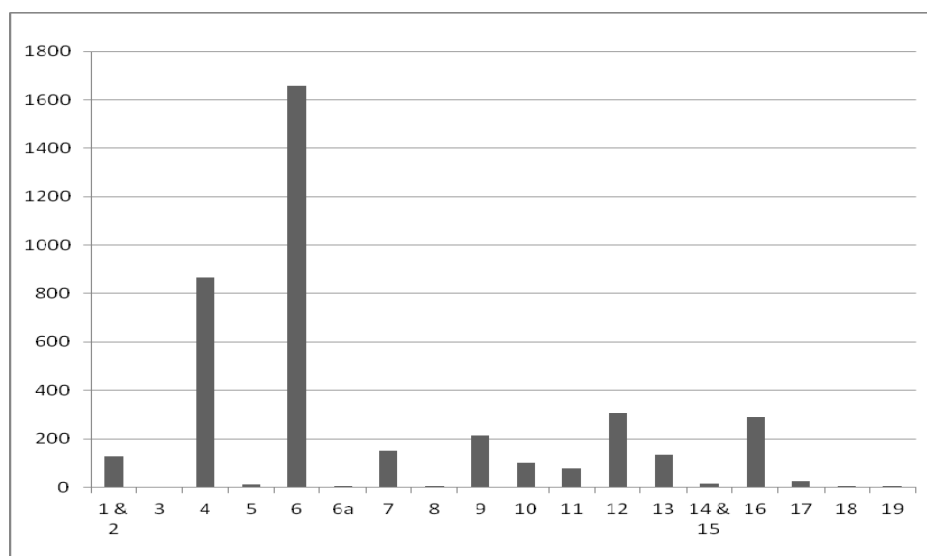
Exemptions

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

This year exemption clauses were applied 3 979 times. This is an increase of 572 or 16.8% compared to the previous year.

A complete list of the exemption clauses is found in Schedule 1 to the FOI Act. The FOI Act is available at www.legislation.sa.gov.au.

Chart 5 – Exemptions applied across all sectors



The two most commonly applied exemption clauses are:

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

The use of these two exemption clauses accounts for 63% of all clauses applied, with 41% being in relation to clause 6.

Based on the number of exemptions applied and the number of determinations issued agencies applied less exemptions per determination during 2010-11 than in 2009-10.

5.7 The Cost of FOI

In addition to the statistical data derived from FOIMS, State Records seeks further information from agencies in relation to FOI resourcing and other costs associated with FOI. This information includes the number and classification of staff dealing with FOI in their agency and the time they spend undertaking FOI activities. In addition, State Records seeks information relating to any other costs incurred by the agency that relate to FOI, including training and legal costs.

The purpose of seeking this information is to quantify the costs associated with the administration of the FOI Act incurred by government.

5.7.1 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 associate with the administration of FOI.

Also included are the costs of support to agencies and their staff including: State Records for the support and management of FOIMS, the State Ombudsman for the cost of legal officers dealing with FOI reviews, the Police Complaints Authority for conducting FOI reviews of SA Police determinations, and the advising work undertaken by the Crown Solicitor's Office.

Based on figures reported in relation to the above, it is estimated that the cost of administering the FOI Act in South Australia was \$8.5 million for 2010-11. This is a significant increase to the figure of \$6.5 million reported last year.

Many agencies reported an increase in the number of staff involved in FOI, and the associated salary costs of these staff increased by \$2.07 m. Agencies have also improved the accuracy and comprehensiveness of their reporting of costs in recent years and this too has contributed to the increase in reported costs.

5.7.2 Staffing

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

Agency returns show a total of 776 staff across all sectors are involved in processing FOI applications, an increase of 26 compared to last year. Of the 776 staff involved in processing FOI applications across all sectors, 326 have been designated as Accredited FOI Officers.

Many of these staff spend only a portion of their time undertaking FOI related activities. The 776 staff equates to 106.7 Full Time Equivalents (FTE) involved in processing FOI applications. Of these:

- 90.9 FTE were from State Government
- 15.2 FTE were from Local Government
- 0.6 FTE was from Universities

The numbers of FTE reported by State Government agencies has increased by 27.1 FTE's or 42% from the 63.8 reported in 2009-10.

There are two likely causes of the reported increase in the number of staff involved in administering the FOI Act. These are;

- More thorough reporting of staff involved in all aspects of FOI processing, for example staff involved in searching for and compiling documents, and photocopying.
- An increase in the number of staff involved in assessing and determining FOI applications in order to deal with the numbers of applications being made.

5.7.3 Fees assessed and 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 order to determine the cost of FOI, agencies are required to report the regulated fees and charges that could be levied for processing FOI applications and the actual amount recovered.

Improved reporting in FOIMS has allowed State Records to extract more meaningful data in relation to fees assessed and collected; however our statistics are completely reliant on agencies accurately entering the data into the database. As a result the data in relation to fees assessed and collected is in some cases not a true reflection of what is actually occurring in agencies.

Enhancements to FOIMS due to be rolled out shortly are expected to improve the collection of fee management information.

Fees Assessed

This year agencies recorded \$488 524 as the total amount that applicants could have been charged, in terms of processing fees, the provision of transcripts, photocopying and other charges. Processing fees are those fees that can be charged by agencies in accordance with the Fees and Charges regulations for each 15 minutes spent processing the application.

Table 12 – Fees assessed by sector in 2010-11

Sector	2010-11	2009-10	% change
State Government	\$477 555	\$330 418	45%
Local Government	\$10 969	\$6 047	81%
Universities	\$0	\$0	0%
Total	\$488 524	\$336 465	45%

Fees Collected

This year agencies reported recovering \$221,996. Of this amount 70% was collected as application fees.

Table 13 – Fees collected by sector in 2010-11

Sector	2010-11	2009-10	% change
State Government	\$205 545	\$123 811	66%
Local Government	\$16 451	\$3 826	330%
Universities	\$0	\$0	0%
Total	\$221 996	\$127 637	74%

The previous table shows a large increase in the amount of fees collected for both the State and Local Government sectors. There are three possible reasons for this.

- The main contributor is likely to be recent reporting enhancements resulting in more meaningful data being extracted from the database.
- Agencies are charging applicants more consistently rather than absorbing the costs associated with processing applications.
- Agencies are keeping better records in relation to fees and charges collected.

5.7.4 Fee waiver

Fee waiver information relies on agencies calculating the fee they would have charged the applicant if the fees and charges associated with the application had not been waived. Recording fees and charges in FOIMS is not undertaken on a regular or consistent basis and many agencies do not record information relating to fees and charges if they are not planning to charge the applicant.

As a result statistics in relation to fee waiver should not be considered as an accurate representation of fees that could have been charged in the event fees and charges were not waived.

Table 14 – Number of applications where fees were waived (all sectors)

Reason for Fee Waiver	State	Local	Unis	Total
Member of Parliament	909	18	0	927
Financial Disadvantage	1 972	58	0	2 030
Other	1 153	5	0	1 158
Total Waived	4 034	81	0	4 115
Fee Reduction	16	2	0	18
Total – Waived & Reduced	4 050	83	0	4 133

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.

During 2010-11, the cost to agencies in waiving the application fees for the 4 115 applications in the table above and all other reported waived fees and charges was \$369 701. Of this figure 41% was waived as a result of financial disadvantage.

Table 15 – Fee waiver – financial disadvantage (all sectors)

Fee	State	Local	Unis	All Sectors
Application Fees	\$56 695	\$1 667	\$0	\$58 362
Processing Fees	\$85 600	\$674	\$0	\$86 274
Transcript Fees	\$256	\$0	\$0	\$256
Photocopying	\$5 512	\$0	\$0	\$5 512
Other	\$0	\$0	\$0	\$0
Total	\$148 063	\$2 341	\$0	\$150 404

5.8 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 193 FOI applications for amendment, eight less than last year. All were received by State Government.

In addition, there were 16 unfinished amendment applications brought forward from 2009-10, all of which were made to State Government.

Therefore, in total there were 209 FOI applications for amendment to be processed by State Government during 2010-11.

Determinations were issued for 178 applications and a further five applications were either transferred to another agency or withdrawn by the applicant.

Table 16 – Amendment of personal information

Outcome of Amendment application	2010-11	2009-10
Amendment agreed	51	48
Amendment refused	107	133
Partial amendment	15	13
Notation added	5	4
Total	178	198

In the following table the reasons for refusing to amend an application are listed. More than one reason can be given per application.

Table 17 – Reasons for refusal to amend records

Reasons for refusal to amend records	2010-2011	2009-10
Records are not incomplete, incorrect, out-of-date or misleading	103	127
Application contains matter that is incorrect or misleading	1	4
Procedures for amending records are prescribed by or under the provisions of another legislative instrument	3	2
Total	107	133

5.9 Review & Appeal

Any person who is aggrieved by the determination of an application can seek a review.

5.9.1 Internal review

The FOI Act allows any person who is aggrieved by a determination made by an agency to seek an internal review of that determination. Applications for internal review must be made within 30 days of the original determination and must be dealt with by the agency within 14 days.

This year there were 280 applications for internal review received by all sectors. This is 54% more than were received last year. In addition there were 22 unfinished applications for internal review brought forward from 2009-10, all of which were brought forward by State Government.

Therefore, during 2010-11 there were 302 applications for internal review to be processed. Determinations were issued for 206 applications.

Table 18 – Outcome of internal review applications

Outcome of Internal Review	2010-11
Decision confirmed	135
Decision varied	60
Decision reversed	11

5.9.2 External review

External Review Authorities

If an applicant is aggrieved by an internal review determination they can seek an external review by the State Ombudsman or the Police Complaints Authority. An applicant can also seek an external review where an internal review was not possible because the determination was made by the principal officer. An applicant can also seek an external review of a determination to extend the timeframe to deal with an application if they consider it to be unreasonable.

The State Ombudsman conducts all external reviews, except for determinations made by the South Australia Police or the Minister responsible for South Australia Police, in which case the Police Complaints Authority conducts the external review.

During 2010-11 the State Ombudsman advised there were 108 external reviews completed. The State Ombudsman also noted that there was an increase in the number of external reviews applications by Members of Parliament.

The Police Complaints Authority advised they conducted 29 external reviews during 2010-11.

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

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.

At the end of 2010-11, agencies reported there were three appeals still before the District Court.

In addition, agencies reported five appeals had been completed during the year. In three of these cases the District Court confirmed the decision of the agency and the remaining two were withdrawn.

5.10 Access applications carried over to 2011-12

Not all applications are processed by the end of the reporting year and are therefore carried over to be processed in the following year.

This year there were 2 046 unfinished applications carried over into 2011-12, an increase of 32%. Of all unfinished applications, 31% were still within the 30 day timeframe.

Table 19 – Carried over to 2011-12

Sector	Within 30 day timeframe	Outside 30 day timeframe	Total Unfinished
State Government	608	1 382	1 990
Local Government	22	30	52
Universities	2	2	4
Total	632	1 414	2 046

5.10.1 Overdue applications carried over to 2011-12

Of the 2 046 unfinished applications, 1 414 or 69% were applications that were outside the 30 day timeframe at the end of the year. In cases 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 1 414 applications, 68% were non-personal. Non personal applications are often broad in scope and usually complex. This combination of scope and complexity can result in agencies taking more time to undertake the tasks of document assessment, consultation and decision making.

Table 20 – Overdue applications carried over to 2011-12

Sector	Personal	Non Personal	Total >30 days
State Government	440	942	1 382
Local Government	14	16	30
Universities	0	2	2
Total	454	960	1 414

6 APPENDICES

6.1 Appendix A – Agency tables

Table 21 – Access applications received – State Government

Agency	Applications Received 2010-11	Applications Received 2009-10
Adelaide & Mt Lofty Ranges Natural Resources Management Board	1	0
Adelaide Cemeteries Authority	1	0
Adelaide Convention Centre	1	0
Adelaide Entertainments Corporation	0	1
Adelaide Festival Centre Trust	0	0
Adelaide Festival Corporation	0	0
AHS - Drug and Alcohol Services South Australia	13	12
AHS - Flinders Medical Centre	685	728
AHS - Glenside Mental Health Service	122	118
AHS - Lyell McEwin Hospital	952	957
AHS - Modbury Hospital	467	513
AHS - Pregnancy Advisory Centre	14	8
AHS - Primary Health Care Services (North/North East)	0	0
AHS - Queen Elizabeth Hospital	758	763
AHS - Regional Office	0	0
AHS - Repatriation General Hospital	141	117
AHS - Royal Adelaide Hospital	2 106	2 781
AHS - SA Dental Services	44	34
AHS - Southern Primary Health	0	-
Alinytjara Wilurara Natural Resources Management Board	0	0
Architectural Practice Board of SA	1	0
Attorney-General's Department (includes the following business units & the Department)	187	102
- Forensic Science SA	41	36
- Office for Racing	0	0
- Office Recreation & Sport	11	0
- Office for Volunteers	0	0
- Office for Women	0	0
- Office of Consumer & Business Affairs	20	12
- Office of the Liquor and Gambling Commissioner	25	0
- Public Trustee	5	0
Carclew Youth Arts Inc	0	0
Centennial Park Cemetery Authority	0	0
Children, Youth and Women's Health Service	366	392
CHSA – Adelaide Hills, Southern Fleurieu & Kangaroo Island Health Service ¹	60	-
CHSA – Aboriginal Health ²	0	-
CHSA – Corporate ³	77	-
CHSA – Flinders & Outback ⁴	56	-
CHSA – Inner North Country Health Service ⁵	43	-

Agency	Applications Received 2010-11	Applications Received 2009-10
CHSA – Lower South East Health Service ⁶	102	-
CHSA – Mallee Coorong Health Services ⁷	25	-
CHSA – Mental Health ⁸	0	-
CHSA – Pt Lincoln, Ceduna, Mid West & Lower Eyre Health Service ⁹	19	-
CHSA – Pt Pirie, Pt Broughton, Southern Flinders & Mid North ¹⁰	56	-
CHSA – Riverland Health Services ¹¹	64	-
CHSA – Upper South East ¹²	26	-
CHSA – Whyalla, Eastern Eyre & Far North Health Services ¹³	57	-
CHSA – Yorke & Lower North Health Services ¹⁴	0	-
Courts Administration Authority	56	53
Defence SA	19	6
Department for Correctional Services	288	196
Department of Environment & Natural Resources (Previously Department for Environment & Heritage)	79	50
Department of Families and Communities (includes the following business units & the Department)	463	63
- <i>Adoptions Family Information & Post Care Service</i>	143	61
- <i>DFC Corporate</i>	0	0
- <i>Disability and Domiciliary Care Services</i>	3	3
- <i>Disability SA</i>	11	20
- <i>Families SA</i>	114	227
- <i>Housing SA</i>	115	106
Department for Primary Industries & Resources SA	55	52
Department for Transport, Energy & Infrastructure (includes the following business units & the Department)	138	48
- <i>Building Management</i>	20	10
- <i>Corporate Services Division</i>	0	0
- <i>Energy Division</i>	10	7
- <i>Government ICT Services</i>	0	0
- <i>Government Relations & Reform Office</i>	0	3
- <i>Land Services Group</i>	4	6
- <i>Minister's Office</i>	0	0
- <i>Office of Major Projects and Infrastructure</i>	1	6
- <i>Office of the Chief Information Officer</i>	2	0
- <i>Policy and Planning Division</i>	0	0
- <i>Policy, Planning and Community Services</i>	0	0
- <i>Public Transport Division</i>	0	8
- <i>Safety and Regulation Division</i>	34	27
- <i>Services SA</i>	1	0
- <i>Transport Services Division</i>	20	8
Department of Education and Children's Services	212	99

Agency	Applications Received 2010-11	Applications Received 2009-10
Department of Further Education, Employment, Science & Technology	38	7
Department of Health	173	145
- Office of the Chief Executive	0	5
Department of Planning & Local Government	100	49
Department of the Premier and Cabinet	335	647
Department of Trade & Economic Development	66	47
Department of Treasury and Finance (includes the following business units & the Department)	314	91
- Contract Services	0	-
- Corporate Services	72	-
- Fleet SA	0	-
- State Procurement and Support Operations	0	-
Department of Water, Land & Biodiversity Conservation (Department of Water)	N/A	31
Department of Water (Previously Department of Water, Land & Biodiversity Conservation)	48	N/A
Electoral Commission of South Australia (State Electoral Office)	0	1
Environment Protection Authority	39	27
Equal Opportunity Commission	3	1
Essential Services Commission	1	2
Eyre Peninsula Natural Resources Management Board	0	0
Forestry SA	1	1
Guardianship Board	0	0
Health Performance Council	0	2
History Trust of South Australia	0	0
HomeStart Finance	0	1
Independent Gambling Authority	0	0
Industrial Relations Commission	0	-
Industrial Relations Court	0	-
Land Management Corporation	14	13
Legal Practitioners Conduct Board	2	8
Legal Services Commission	4	4
Medical Board of South Australia	N/A	12
Medical Panel SA	2	-
Motor Accident Commission	5	0
Non-government Schools Registration Board	1	0
Northern & Yorke Natural Resources Management Board	0	0
Office of the Employee Ombudsman	0	-
Office for Ethical Standards & Professional Integrity	1	0
Office for the Ageing	0	1
Office of the Attorney-General	36	35
Office of the Guardian for Children and Young People	0	1

Agency	Applications Received 2010-11	Applications Received 2009-10
Office of the Minister – Hon Bernard Finnigan	4	-
Office of the Minister - Hon Gail Gago	19	15
Office of the Minister - Hon Grace Portolesi	10	0
Office of the Minister - Hon Jack Snelling	15	0
Office of the Minister - Hon Jane Lomax-Smith	N/A	9
Office of the Minister - Hon Jay Weatherill	18	22
Office of the Minister - Hon Jennifer Rankine	21	19
Office of the Minister - Hon John Hill	61	27
Office of the Minister - Hon Kevin Foley	23	27
Office of the Minister - Hon Michael O'Brien	17	6
Office of the Minister - Hon Michael Wright	23	26
Office of the Minister - Hon Patrick Conlon	30	18
Office of the Minister - Hon Paul Caica	25	16
Office of the Minister - Hon Paul Holloway	20	27
Office of the Minister - Hon Russell Wortley	0	-
Office of the Minister - Hon Tom Kenyon	0	-
Office of the Minister - Hon Tom Koutsantonis	24	21
Office of the Premier - Hon Mike Rann	34	27
Office of the Public Advocate	5	0
Office of the Training Advocate	0	0
Outback Communities Authority (Replaces the Outback Areas Community Development Trust)	0	-
Rail Commissioner	16	-
Regional Development Australia Barossa (Previously Barossa & Light Regional Development Board)	0	0
Residential Tenancies Tribunal	0	-
SA Ambulance Service	191	236
SA Arid Lands Natural Resources Management Board	0	0
SA Fire and Emergency Services Commission	18	11
SA Lotteries	1	1
SA Multicultural and Ethnic Affairs Commission	1	0
SA Water	57	38
SAHSLN Inc - Noarlunga Health Services	175	166
South Australia Police Service	1 937	1 707
South Australian Country Fire Service	17	16
South Australian Film Corporation	4	1
South Australian Museum	0	0
South Australian Psychological Board	0	0
South Australian Tourism Commission	13	9
South East Natural Resources Management Board	0	0
State Library of South Australia	0	0
State Theatre Company of SA	0	0

Agency	Applications Received 2010-11	Applications Received 2009-10
Stormwater Management Authority	4	-
Super SA	0	2
Teachers Registration Board of SA	1	0
The Dog & Cat Management Board	0	0
TransAdelaide (Transferred to the Rail Commissioner)	-	6
Veterinary Surgeons Board of SA	1	0
West Beach Trust (marketed as Adelaide Shores)	0	0
WorkCover Corporation	237	307
Workcover Ombudsman	0	-
Workers Compensation Tribunal	0	-
Zero Waste SA	1	-

¹. **CHSA Adelaide Hills, Southern Fleurieu & Kangaroo Island Health Services** – includes, Anchusa Nursing Home, Carnarvon Hostel, Glenview Homes, Gumeracha District Soldiers Memorial Hospital, Kalimna Hostel, Kangaroo Island General Hospital, Mount Barker & District Health Service, Mount Pleasant District Hospital, South Coast District Hospital (Victor Harbour), Strathalbyn & District Nursing Home, Strathalbyn & District Soldiers Memorial Hospital.

². **CHSA Aboriginal Health** - includes the Directorate

³. **CHSA Corporate** – includes, Balaklava & Riverton Districts Health Service Inc, Barossa Health, Northern Adelaide Hills health Service, Country Health SA (Murray Bridge Office), Country Health SA (Port Lincoln Office), Eudunda & Kapunda Health Service Inc, Lower North Health, Mid West Health, Murray Mallee, Community Health Service, Northern Yorke Peninsula Health Service, Southern Flinders Health Service

⁴. **CHSA Flinders & Outback** – includes, Flinders House, Great Northern War Memorial Hospital (Hawker), Leigh Creek Health Service, Port Augusta Hospital & Regional Health Service, Quorn & District Memorial Hospital, Roxby Downs Health Service, Woomera Health Service

⁵. **CHSA Inner North Country Health Service** – includes, Angaston District Hospital, Eudunda Hospital, Gawler Health Service, Kapunda Hospital, Tanunda War Memorial Hospital

⁶. **CHSA Lower South East Health Service** – includes, Millicent & District Hospital, Mount Gambier & District Health Service, Penola War Memorial Hospital, Pinchunga Hostel, Sheoak Lodge, Southern East Regional Community Health Service

⁷. **CHSA Mallee Coorong Health Service** – includes, Kadistra Hostel, Karoonda & District Soldiers Memorial Hospital, Kyeema Hostel, Lameroo District Hospital, Lower Murray District Hospital (Taillem Bend), Mannum District Hospital, Meningie & District Memorial Hospital & Health Service, Murray Bridge Soldiers Memorial Hospital, Pinnaroo Soldiers Memorial Hospital

⁸. **CHSA Mental Health** – includes, Clinical, Drought Response, Operational

⁹. **CHSA Pt Lincoln, Ceduna, Mid West & Lower Eyre Health Services** – includes, Ceduna Hospital, Ceduna Village Hostel, Central Eyre Peninsula Hospital (Wudinna), Cummins & District Memorial Hospital, Elliston Hospital, Elmhaven, Miroma Place Hostel, Port Lincoln Health Service, Streaky Bay Hospital, Tumby Bay Hospital & Health Service, Uringa

¹⁰. **CHSA Port Pirie, Pt Broughton, Southern Flinders & Mid North** – includes, Booleroo Centre District Hospital & Health Service, Crystal Brook District Hospital, Gladstone Community Health Centre, Hammill House, Jamestown Hospital, Laura & District Hospital, Nalya Lodge, Orroroo Community Home, Orroroo Hospital, Peterborough Soldiers Memorial Hospital, Pt Broughton District Hospital & Health Service, Pt Pirie Regional Hospital

¹¹. **CHSA Riverland Health Services** – includes, Baramba Hospital Campus, Baramba Nursing Home (Hawdon House), Berri Hospital Campus, Bonney Lodge Cottages and Bonneyview Village, Loxton District Nursing Home, Loxton Hospital Complex, Loxton Hostel for the Aged, Pioneer Lodge & Haven, Renmark Nursing Home, Renmark Paringa District Hospital, Renmark Paringa District Hospital Hostel, Waikerie Hospital

¹². **CHSA Upper South East** – includes, Bordertown Memorial Hospital, Charla Lodge Aged Care Facility, Charla Lodge Hostel, Kingston Soldiers Memorial Hospital, Lighthouse Lodge, Naracoorte Hospital, Naracoorte Nursing Home

¹³. **CHSA Whyalla, Eastern Eyre & Far North Health Service** – includes, Cleve Hospital, Cleve Retirement Cottages, Coober Pedy Hospital & Health Services, Cowell District Hospital, Crestview Hostel, Franklin Harbour Village, Kimba District Hospital, Kimba Pioneer Memorial Hostel, Oodnadatta Health Service, The Terrace, Whyalla Hospital & Health Service

¹⁴. **CHSA Yorke & Lower North Health Services** – includes, Balaklava Soldiers Memorial District Hospital, Burra Hospital, Central Yorke Peninsula Hospital (Maitland), Clare Hospital, Community Health Service, Ira Parker Nursing Home, Kara House Nursing Home, Lumeah Homes, Melaleuca Court Nursing Home (Minlaton), Northern Yorke (Wallaroo), Riverton District Soldiers Memorial Hospital, Snowtown Memorial Hospital, Southern Yorke Peninsula Hospital (Yorketown)

Table 22 – Access applications received – Local Government (2010-11)

Agency	Applications Received 2010-11	Applications Received 2009-10
Adelaide City Council	50	30
Adelaide Hills Council	7	6
Alexandrina Council	3	11
Campbelltown City Council	15	10
City of Burnside	8	11
City of Charles Sturt	29	30
City of Holdfast Bay	6	6
City of Marion	11	5
City of Mitcham	22	22
City of Mount Gambier	0	0
City of Norwood, Payneham & St Peters	0	0
City of Onkaparinga	11	8
City of Playford	23	16
City of Port Adelaide Enfield	19	25
City of Port Lincoln	1	1
City of Prospect	8	0
City of Salisbury	20	12
City of Tea Tree Gully	11	23
City of Unley	73	64
City of Victor Harbor	5	1
City of West Torrens	13	14
Clare & Gilbert Valleys Council	0	3
Coorong District Council	0	0
Corporation of the Town of Walkerville	0	0
District Council of Barunga West	0	0
District Council of Ceduna	0	0
District Council of Cleve	0	0
District Council of Coober Pedy	6	0
District Council of Elliston	0	0
District Council of Franklin Harbour	0	0
District Council of Grant	3	1
District Council of Karoonda East Murray	0	0
District Council of Kimba	0	0
District Council of Lower Eyre Peninsula	0	0
District Council of Loxton Waikerie	0	1
District Council of Mallala	0	0
District Council of Mount Barker	4	5
District Council of Orroroo Carrieton	0	0
District Council of Peterborough	0	0
District Council of Robe	0	0
District Council of Streaky Bay	3	0
District Council of Tatiara	0	0
District Council of The Copper Coast	7	1

Agency	Applications Received 2010-11	Applications Received 2009-10
District Council of Tumby Bay	0	0
District Council of Wudinna	0	0
District Council of Yankalilla	1	1
District Council of Yorke Peninsula	1	1
Eastern Health Authority Inc.	1	1
Flinders Ranges Council	0	0
Kangaroo Island Council	4	0
Kingston District Council	0	0
Light Regional Council	1	9
Mid Murray Council	3	4
Naracoorte Lucindale Council	0	0
Northern Areas Council	0	0
Port Augusta City Council	4	11
Port Pirie Regional Council	0	0
Regional Council of Goyder	3	0
Renmark Paringa Council	1	0
Roxby Downs Council	0	0
Rural City of Murray Bridge	0	0
Southern Mallee District Council	0	0
The Barossa Council	5	9
The Berri Barmera Council	0	1
Town of Gawler	3	11
Wattle Range Council	1	1
Whyalla City Council	2	3

Table 23 – Access applications received – Universities (2010-11)

Agency	Applications Received 2010-11	Applications Received 2009-10
Flinders University	3	2
University of Adelaide	12	16
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.

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.