

# FOI FACT SHEET

## Your Rights to Review and Appeal

*South Australian Freedom of Information Act 1991*

Please read the information in this fact sheet before completing the attached application form

### INTERNAL REVIEW

If you are unhappy with a determination made by an agency (includes South Australian State Government Agency, Local Government Council or University) under the *Freedom of Information Act 1991* (FOI Act) in relation to:

- a freedom of information (FOI) application for access to a document, or
- an FOI application for amendment to your personal records

in most cases, you are entitled to apply for an Internal Review of that determination.

### Request an Internal Review

An Internal Review must be lodged within 30 calendar days of you receiving advice of a determination that you are unhappy with.

Applications must be made in writing in accordance with Section 29 or Section 38 of the FOI Act or using the attached *FOI Application Form for Internal Review of a Determination* (Internal Review Form).

An Internal Review application must be made to the Principal Officer of the agency that made the determination you are seeking to have reviewed.

### ***How much does an Internal Review cost?***

There is an application fee of **\$33.50** that must be paid when you lodge your Internal Review application if your review request is for access to documents.

There is no application fee for an Internal Review of an FOI application for amendment to your personal records.

Agencies generally accept payment by cash, money order or cheque. If you would like to pay by credit card you will need to ask the agency if they are able to accept credit card payments.

If, as a result of an Internal Review an agency changes or reverses a determination so that access to a document is, or will be, given, the agency will refund the Internal Review application fee paid by the applicant, where applicable.

### ***What if I have a concession card or can't afford to pay?***

If you are the holder of a current concession card or if you can satisfy the agency that the payment of the application fee would cause financial hardship, the agency must waive or remit (reduce or refund) it.

If you are a concession cardholder you will need to provide evidence e.g. attach a copy of your concession card when you make the application. Alternatively you will need to give written reasons as to why the payment of a fee would cause you financial hardship.

### ***How long does an Internal Review take?***

You will be advised of the outcome of your Internal Review application within 14 calendar days of it being received by the agency.

If the agency does not deal with your Internal Review application within 14 calendar days (or you remain unhappy with the outcome of the Internal Review) you are entitled to an External Review

by the Ombudsman SA or the Police Ombudsman (if the determination was made by a police officer or the Minister for Police). Alternatively you may appeal to the District Court up until 11 December 2016, or from 11 December 2016 onwards, seek a review by the South Australian Civil and Administrative Tribunal (SACAT). See the External Review section below.

### ***When can't I apply for an Internal Review?***

If the original application determination was made by the Principal Officer of an agency rather than another accredited FOI Officer within the agency, you cannot apply for an Internal Review. However, you can apply for an External Review by the Ombudsman SA, the Police Ombudsman, appeal to the District Court up until 11 December 2016, or from 11 December 2016 onwards, seek a review by SACAT.

## **EXTERNAL REVIEW**

After an Internal Review has been completed, or where you are unable to apply for an Internal Review, and you are unhappy with the determination, you have the right to apply for an External Review.

### ***Who should I apply to?***

If the determination was made by a police officer or the Minister for Police you can apply to the Police Ombudsman. All other applications for External Review can be made to the Ombudsman SA.

### ***How long will an External Review take and how much will it cost?***

If you wish to make an application for an External Review you must do so within 30 calendar days after being notified of the determination. However, the Ombudsman SA or the Police Ombudsman can extend this time limit at their discretion. There is no fee or charge for External Reviews undertaken by either Ombudsman.

Contact Details:	
<b>Ombudsman SA</b> <b>Phone:</b> 8226 8699 <b>Toll Free:</b> 1800 182 150 (within SA) <b>Email:</b> <a href="mailto:ombudsman@ombudsman.sa.gov.au">ombudsman@ombudsman.sa.gov.au</a>	<b>Police Ombudsman</b> <b>Phone:</b> 8226 8677 <b>Email:</b> <a href="mailto:policeombudsman@agd.sa.gov.au">policeombudsman@agd.sa.gov.au</a>

## **APPEAL TO THE DISTRICT COURT / REVIEW BY SACAT**

You have a right to appeal to the District Court up until 11 December 2016, or from 11 December 2016 onwards, to seek a review by SACAT if you are unhappy with:

- a determination not subject to Internal Review
- an Internal Review determination, or
- the outcome of a review by the Ombudsman SA or the Police Ombudsman.

You must exercise your right of appeal to the District Court or right of review to SACAT within 30 calendar days after being advised of the determination or the results of the review.

Any costs will be determined by the District Court or SACAT, where applicable.

For more information contact the District Court of South Australia Civil Registry, or from 11 December 2016 onwards, SACAT.

Contact Details:	
<b>District Court – Civil Registry</b> <b>Phone:</b> 8204 0289 <b>Email:</b> <a href="mailto:district.civil@courts.sa.gov.au">district.civil@courts.sa.gov.au</a>	<b>South Australian Civil and Administrative Tribunal (SACAT)</b> <b>Phone:</b> 1800 723 767 <b>Email:</b> <a href="mailto:sacat@sacat.sa.gov.au">sacat@sacat.sa.gov.au</a>

# FOI APPLICATION FORM

## For Internal Review of a Determination

Under sections 29 & 38 of the South Australian *Freedom of Information Act 1991*

Please read the attached '*FOI Fact Sheet – Your Rights to Review and Appeal*'  
before completing and lodging your Internal Review application

<b>To the Principal Officer</b>	
Name of the Agency:	
<b>Details of Applicant</b>	
Surname:	
Given Names:	
Australian Postal Address:	
Suburb:	Post Code:
Emails ( <i>Optional</i> ):	
Contact phone numbers:	
FOI Application Reference Number ( <i>if known</i> ):	
<b>Details of Internal Review</b>	
<p>I am not satisfied with a determination made by your agency and, therefore, seek a review because:</p> <p><i>(Please place a tick in the appropriate box)</i></p> <ul style="list-style-type: none"><li><input type="checkbox"/> I have been refused access to a document</li><li><input type="checkbox"/> I have been refused access to part of a document</li><li><input type="checkbox"/> I have been refused a request to amend a personal document</li><li><input type="checkbox"/> I have been given access to a document but access has been deferred</li><li><input type="checkbox"/> I am a third party specified in the documents but have not been consulted about giving access to another person</li><li><input type="checkbox"/> I have been consulted but disagree with the determination to release the documents</li></ul>	
<b>Comments</b>	

Include any additional comments you wish to be considered in the review of the determination (*attach additional pages if necessary*).

### Fees and Charges

An application fee of **\$33.50** must be submitted with the Internal Review application form, unless you are seeking to have the application fee waived. If you are seeking to have the application fee waived, please attach evidence supporting why it should be waived, e.g. attach a copy of your concession card or other evidence as proof of financial hardship.

An application fee is not required for an Internal Review of an FOI Amendment Application.

In the following section please tick as appropriate

- |  |                                 |                               |                                      |
|--|---------------------------------|-------------------------------|--------------------------------------|
| Is the application fee attached?   | <input type="checkbox"/> Yes    | <input type="checkbox"/> No   |                                      |
| Application Fee is in the form of<br><i>(Do not send cash through the mail)</i>                    | <input type="checkbox"/> Cheque | <input type="checkbox"/> Cash | <input type="checkbox"/> Money Order |
| Do you require a fee waiver?   | <input type="checkbox"/> Yes    | <input type="checkbox"/> No   |                                      |
| Is evidence of the need to<br>waive fees attached?<br><i>(e.g. a copy of your concession card)</i> | <input type="checkbox"/> Yes    | <input type="checkbox"/> No   |                                      |

If you wish to pay your application fee via credit card you will need to ask the agency you are applying to if they accept credit card payments.

If no application fee is attached and you do not qualify for fee waiver, the agency cannot process your application until the fee has been paid.

If the agency varies or reverses a determination so that access to a document is, or will be, given the agency will refund any Internal Review fees paid by the applicant.

Applicant's Signature:

Date ..... / ..... / 20.....

### OFFICE USE ONLY

Received on ..... / ..... / 20.....

Acknowledgment sent on ..... / ..... / 20.....