What is Freedom of Information?

The South Australian *Freedom of Information Act 1991* (FOI Act) gives you 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?

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.

Who do I apply to?

Your application needs to be lodged with the agency that holds the documents you want to access.

All government departments, councils and universities must publish a document called an Information Statement which will assist you to work out where to lodge your application. Information Statements are published either on the agency's website, or in its annual report.

The Information Statements 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.

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.

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?

To help you to clarify your request or work out whether FOI is the right approach, you may wish to talk to the FOI Officer at the agency that holds the documents you would like to access. To do this call the agency's general telephone number and ask to speak to their FOI Officer or FOI Unit.

If you decide to proceed with an FOI application the agency can provide you with an application form or download a Request for Access form from State Records website at www.archives.gov.au or lodge your application using the online FOI application form.

If you prefer you can write a letter that meets the requirements of Section 13 of the FOI Act.

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 redacted.

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 or Cabinet Documents 10 Years or Older*. You can apply for access to these Cabinet documents using the online FOI application form available at www.sa.gov.au/foi.

Cabinet documents older than 20 years can be sought through FOI by using the standard Request for Access form available at www.sa.gov.au/foi

How long will it take?

Once your application is received, it must be dealt with by a FOI Officer within the agency within 30 calendar days. If necessary, this time frame may be extended under section 14A. If the time frame is extended, 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 FOI Officer in the agency that you sent your FOI application to.

How much does it cost?

The fee for making an FOI application is $44.70, 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 for an FOI application to a state government agency, you may be able to use the online FOI application form and payment option available at www.sa.gov.au/foi or 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 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
- access 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.

If you would like to make an application to amend information that relates to your personal affairs the agency can provide you with an application form, or you can download a Request for Amendment form from the State Records website at www.archives.gov.au or lodge an application using the online FOI application form.

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 letter will explain why.

You will also be advised about the steps you can take to seek a review of the decision that has been made.

Further Information

Contact the FOI Unit in the agency that holds the records you are seeking to access.

General information about FOI in South Australia can be found at www.archives.sa.gov.au

Government of South Australia

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Your Right to Know

How to use Freedom of Information in South Australia

Government of South Australia