



# Freedom of Information Policy

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## OVERVIEW

The University of Adelaide is a body established for a public purpose and an “agency” under the Freedom of Information Act 1991 (“the FOI Act”). Members of the public have a right of access to documents created and/or held by the University. This Policy aims to ensure compliance with the University’s obligations under the FOI Act and promote a consistent approach to the handling of applications under that scheme.

The FOI Act provides exemptions which allow the University to refuse access to documents containing information which is not in the public interest to disclose, including confidential information. This Policy aims to ensure that the University applies such exemptions appropriately and in accordance with the principles of the FOI Act.

Where the University (or another party contracting with the University) wants to keep the terms of a contract confidential, certain legislative requirements must be met before the FOI Act exemptions can be relied upon. This Policy sets out the process to be followed to ensure compliance with the FOI Act in relation to confidential contracts or terms of contracts. This Policy also sets out the process for an application for amendment of the University’s records.

## SCOPE AND APPLICATION

This Policy, in conjunction with the FOI Act, applies to all documents held by or on behalf of the University or over which the University has an immediate right of access. This includes documents created or received by Personnel acting on behalf of the University. It also includes documents created or received by the University’s controlled entities in their capacity as an agent of the University. Documents in any format are within scope as per this Policy’s definition of ‘Document’. It does not include documents that are publicly available such as reference or archive material that is otherwise readily accessible from the University.

Neither the FOI Act nor this Policy applies to documents created before 1 January 1987.

## POLICY PRINCIPLES

1. **General principles – public access to University documents**
  - a) Members of the public have a right to access documents held by the University, subject to those exemptions defined in the FOI Act as being consistent with the public interest, including the preservation of personal privacy and the maintenance of confidentiality.

- b) Notwithstanding this public right of access, the University recognises that it is in the interest of the public and impacted stakeholders for access to be refused to certain documents as set out in the FOI Act, for example where the documents contain the personal or business affairs of the University or others.
- c) The University will strive to implement and administer contractual processes and clauses that clearly identify and manage confidential information, so that the authorised exemption under the FOI Act for contracts containing confidential terms can afford proper protection.
- d) Where appropriate and legally permissible, the University will provide access to information in a voluntary, cooperative manner without the need for those seeking information to resort to applications under the FOI Act.
- e) Where applications under the FOI Act are necessary and/or made, the University will process and determine all applications in accordance with the Act.
- f) The denial or limitation of access must be exercised responsibly, and only where legally authorised by the Act.
- g) The University will ensure it appoints such Accredited FOI Officers as are necessary to facilitate the expedient administration of the University's duties under the FOI Act.
- h) All Personnel of the University must cooperate and provide assistance to Accredited FOI Officers seeking access to documents or amendment to documents relevant to an application under the FOI Act.

## 2. Confidential contracts and terms of contracts

Where the nature of a contract justifies the maintenance of confidentiality over some or all of the contract under the FOI Act, the confidentiality clause giving effect to that obligation must be approved by the Vice-Chancellor and President, or the Vice-Chancellor and President's delegate, in advance of the contract being finalised.

## 3. Authorities

### Delegations of Authority

<b>Key</b>	<b>Authority Category</b>	<b>Authority</b>	<b>Delegation Holder</b>	<b>Limits</b>
Information Management	Freedom of Information Confidentiality Clauses	Authorisation of confidentiality clauses in contracts in accordance with Schedule 1, section 13(2)(b) of the FOI Act	Vice-Chancellor and President; Chief Operating Officer; General Counsel and Executive Director, Legal Services	

## PROCEDURES

### 1. Handling FOI applications

#### 1.1 What to do upon receiving an FOI application

##### **Responsibility: All Personnel**

- a) If an FOI application is received on behalf of the University, it must be forwarded to the Accredited FOI Officer within the Legal Services Branch as soon as possible.
- b) All Personnel covered by this Policy must cooperate with the Accredited FOI Officer throughout the processing of an FOI application.

#### 1.2 Application Fees and Requests for Fee Waivers

##### **Responsibility: Accredited FOI Officer**

- a) An application for access to the University's documents must be made in accordance with the FOI Act including being accompanied by such application fee as may be prescribed.
- b) The fees and charges payable are in accordance with the FOI Act and Regulations.
- c) The University will waive a fee or charge where an applicant satisfies the University that:-
  - i) they are a concession card holder (as defined in the Freedom of Information (Fees and Charges) Regulations; or
  - ii) payment of the fee or charge would cause financial hardship to the person.
- d) In order for the University to be satisfied that the applicant is in financial need, the applicant must provide written reasons as to why the payment of the fee would cause financial hardship along with

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such documentary evidence which supports their claim of financial hardship as requested by the University.

### **1.3 Processing Charges and Advance Deposits**

**Responsibility: Accredited FOI Officer and General Counsel and Executive Director, Legal Services**

- a) Where the time involved in processing the application will exceed the time intended to be covered by the published statutory application fee, the Accredited FOI Officer may determine to charge processing charges with the approval of General Counsel and Executive Director, Legal Services. This may include a request to the applicant for an advance deposit as set out in the FOI Act (Section 17). The application of processing fees will be assessed on a case-by-case basis, however, the University will endeavour to provide an estimate to applicants in advance.
- b) Processing charges may be avoided if the applicant agrees to narrow the scope of the application.

### **1.4 University may refuse to deal with certain applications and requests to narrow scope**

**Responsibility: Accredited FOI Officer and General Counsel and Executive Director, Legal Services**

- a) Where the scope of an application is too broad and would cause the University to substantially and unreasonably divert its resources from their use by the University in the exercise of its functions, the FOI Officer will work with the applicant to narrow the scope of the application.
- b) The University may refuse to deal with certain applications as set out in Section 18 of the FOI Act. Any decision by an Accredited FOI Officer to refuse to deal with an application must be approved by General Counsel and Executive Director, Legal Services.

### **1.5 Extension of time**

**Responsibility: Accredited FOI Officer, General Counsel and Executive Director, Legal Services, Vice-Chancellor and President**

- a) If an applicant is seeking access to a large number of documents and/or the application involves consultation with a number of third parties, the University may extend the period within which the application would otherwise have to be dealt with, as set out in Section 14A of the FOI.
- b) Such an extension of time is to be determined by the Vice-Chancellor and President as Principal Officer under the FOI Act.

### **1.6 Ensuring all documents are provided and that exempt material is identified**

**Responsibility: All Personnel**

- a) If asked by the Accredited FOI Officer, conduct a comprehensive search to identify all documents that fall within the scope of the application as soon as possible, collate the documents and forward to the Accredited FOI Officer.
- b) All documents found within the scope of the application must be forwarded to the Accredited FOI Officer even if the person conducting the search believes a document may be confidential or exempt under the FOI Act. No documents are to be withheld from being provided to the Accredited FOI Officer if it falls within the scope of the application.
- c) If it is not clear whether a document falls inside or outside the scope of the application, forward it for consideration by the Accredited FOI Officer.
- d) When forwarding a document to the Accredited FOI Officer that contains information that is confidential or legally privileged, alert the Accredited FOI Officer to that fact, as it may not be obvious on the face of the document.
- e) All managers must ensure co-operation by their staff with the Accredited FOI Officer in responding to FOI applications.

### **1.7 Accredited FOI Officer – making a decision**

**Responsibility: Accredited FOI Officer**

- a) Process FOI applications and make a determination under the FOI Act.
- b) Ensure that the statutory time limits in the FOI Act are complied with and liaise with the applicant where appropriate to keep them informed of the process.
- c) Ensure the reasons given for the determination are sufficient (particularly the reasons for exempting material from access) and comply with the requirements of the FOI Act.

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## 2. Internal review of FOI determinations

**Responsibility: General Counsel and Executive Director, Legal Services; Vice-Chancellor and President**

- a) If an FOI application for internal review is received on behalf of the University, it must be forwarded to the Accredited FOI Officer within the Legal Services Branch as soon as possible.
- b) The Accredited FOI Officer will send an acknowledgement of receipt to the applicant and provide all relevant information to Legal Services for review.
- c) Upon receipt of the material from the Accredited FOI Officer, the General Counsel and Executive Director, Legal Services (or delegate) will review the relevant documents and the basis for the FOI determination and make a recommendation to the Vice-Chancellor and President as soon as possible and within the statutory time limits set out in Section 29 of the FOI Act allowing enough time for the Vice-Chancellor to review and make a determination.
- d) The Vice-Chancellor and President, as the Principal Officer for the University under the FOI Act, must then determine the application for internal review.
- e) If the determination reverses or varies the original determination made by the Accredited FOI Officer, then the Accredited FOI Officer will arrange the reimbursement of the internal review fee to the applicant (if applicable).

## 3. Application for amendment of personal records

**Responsibility: Accredited FOI Officer, all Personnel**

- a) Amendment of personal details may occur as part of the normal process of the University outside of the FOI Act in accordance with the University's Privacy Policy.
- b) While Section 30 of the FOI Act provides that a person may apply to the University for the amendment of a record concerning the person's personal affairs, the University typically handles these requests outside of the FOI Act.

## 4. Third party consultation requests to the University

**Responsibility: All Personnel, Accredited FOI Officer**

- a) If an FOI third party consultation request is received on behalf of the University, it must be forwarded to the Accredited FOI Officer within the Legal Services Branch as soon as possible.
- b) The Accredited FOI Officer will send an acknowledgement of receipt to the sender of the request as soon as possible.
- d) The Accredited FOI Officer will liaise with the relevant local area of the University and any other relevant Personnel regarding the documents within the scope of the request and respond to the sender ensuring that sufficient reasons for any exemptions sought are provided and comply with the requirements of the FOI Act.

## 5. Protecting confidential contract terms from FOI disclosure

### 5.1 Where the terms of a contract will be confidential

**Responsibility: Any Personnel**

- a) Identify the specific parts of the contract document that are confidential, and for which exemption from disclosure under the FOI Act is sought, by including the following term in the contract:  
*"For the purposes of the Freedom of Information Act 1991 (SA), [insert relevant section or clause number(s), appendix number(s), paragraph(s) of the contract, or the words "entire contract", as applicable] of this Agreement is/are confidential."*
- b) Obtain approval of the confidentiality clause in **advance** of the contract being signed, by forwarding the contract to Legal Services Branch prior to it being signed by any party, and preferably at the earliest stages of the negotiation process. Legal Services Branch will arrange for the approval.

### 5.2 Approval of confidentiality clause

**Responsibility: Vice-Chancellor and President**

- a) The confidentiality clause must be approved by the Vice-Chancellor and President, or their delegate, **BEFORE** the contract is signed, or else the exemption for confidential material provided in the FOI Act will not apply and the contract document may be subject to disclosure under FOI.
- b) When determining whether to approve the confidentiality clause keeping the contract terms confidential, the Vice-Chancellor and President or their delegate must consider whether:
  - i) the contract terms in question are genuinely confidential to the parties concerned; and
  - ii) it is in the public interest to keep such terms confidential, having regard to matters such as maintaining the future flow of similar information to the University and the future ability of the University to enter or negotiate similar contracts.

## 6. Reporting and publication obligations

### **Responsibility: Accredited FOI Officer**

- a) Ensure the University complies with its reporting obligations under the FOI Act by reporting all FOI applications in accordance with the timeframes and other requirements set by State Records.
- b) Report all contracts containing an approved confidentiality clause in accordance with the timeframes and other requirements set by State Records.
- c) Ensure the University complies with its general publication obligations under the FOI Act.

## DEFINITIONS

**Applicant** means a person who has made a request.

**Application** means the FOI application made by the applicant.

**Document** is defined under the Freedom of Information Act 1991 (SA) as “includes anything in which information is stored or from which information may be reproduced” and includes Records as defined under the State Records Act 1997 (SA) and Information Assets as defined under the University’s Information Management Policy. This includes, but is not limited to, written or electronic documents, draft documents, records, publications, webpages, emails, text messages, spreadsheets, photographs and images, databases, tools and applications, drawings, plans, sound and video recordings whether stored on a University device or a personal device owned by Personnel which relate to the University or its activities.

**Honorary Titleholder** refers to a person who contributes to the achievement of the academic goals of the University and is awarded an honorary title in recognition of that contribution.

**Personnel** means people associated with the teaching, learning, research, enabling and supporting activities of the University and includes:-

- University officers appointed under the University of Adelaide Act 1971 and external members of the governing body or any committee of the University of Adelaide Council
- academic and professional staff
- titleholders, adjuncts, academic visitors and affiliates of the University
- researchers (including HDR students)
- contractors and consultants
- volunteers.

<b>RMO File No.</b>	2006/4451
<b>Policy custodian</b>	Chief Operating Officer
<b>Responsible policy officer</b>	General Counsel and Executive Director, Legal Services
<b>Endorsed by</b>	Vice-Chancellor’s Executive on 1 February 2023
<b>Approved by</b>	Vice-Chancellor and President on 14 February 2023
<b>Related Policies</b>	Privacy Policy <a href="http://www.adelaide.edu.au/policies/62/">http://www.adelaide.edu.au/policies/62/</a>  Information Management Policy <a href="http://www.adelaide.edu.au/policies/606/">http://www.adelaide.edu.au/policies/606/</a>
<b>Related legislation</b>	Freedom of Information Act 1991 <a href="http://www.austlii.edu.au/au/legis/sa/consol_act/foia1991222/">http://www.austlii.edu.au/au/legis/sa/consol_act/foia1991222/</a>  Freedom of Information (Fees and Charges) Regulations 2018 <a href="https://www.legislation.sa.gov.au/lz/path=/c/r/freedom%20of%20information%20(fees%20and%20charges)%20regulations%202018">https://www.legislation.sa.gov.au/lz/path=/c/r/freedom%20of%20information%20(fees%20and%20charges)%20regulations%202018</a>
<b>Superseded Policies</b>	Freedom of Information Policy - 28 November 2008
<b>Effective from</b>	14 February 2023
<b>Review Date</b>	13 February 2026
<b>Contact for queries about the policy</b>	Contact the FOI Officer on 8313 5804 or email <a href="mailto:foi@adelaide.edu.au">foi@adelaide.edu.au</a>