Legal Compliance
Education and Awareness

Freedom of Information Act 1991
(South Australia)
What does the FOI Act do?

- Promotes accountability & openness in Government & public agencies
- Enables members of the public to request documents held by government & public agencies;
  - from anything in which information is stored (hardcopy or electronic) or
  - from which information may be reproduced;
    - *letters & notes*
    - *reports & plans*
    - *Email*
    - *websites & databases*
    - *photographs, videos & audio tapes*
    - *data on laptops & USB sticks*
- Enables people to request the amendment of documents that relate to them which are incomplete, incorrect, out-of-date or misleading
How does the Act apply to the University?

- The University is an agency subject to the FOI Act.
- Any documentation or recorded information held by the University or staff in their official capacity is subject to FOI:
  - on a business system
  - in your in-box
  - in your desk drawer
- Any person (applicant) can submit an application for access to the University’s documents:
  - correspondence
  - research records
  - minutes from meetings
  - de-identified data & statistics (only where the document already exists)
- FOI only applies to existing records.
- FOI relies on good records management.
Freedom of Information Act 1991 (SA)

How does the application process work?

- **Applicants:**
  - must provide enough details about the document(s) for information to be found
    - use a Request for Access form
  - must provide valid identification & current address
  - do not have to give a reason for their request

- The University must respond within 30 days of the request
- Schools & Areas will be consulted in relation to any FOI application relevant to their activities
- Access to a document **must be given** unless it is an exempt document
  - The University’s FOI Officer will determine this

- Once documents are released the applicant can do with them as they please
What documents can be exempted?

- *Documents that:*
  - are subject to legal professional privilege
  - are contracts containing an approved confidentiality clause
  - contain advice or opinions prepared for the purpose of decision-making
  - would unreasonably disclose information about another person’s personal affairs
  - contain trade secrets or information that has a commercial value
  - contain research results, disclosure of which could have an adverse effect
  - relate to internal assessment or staff management procedures

- Some exemption categories also require the consideration of *public interest* such as:
  - *Research papers & internal working documents*
What happens if access to documents is refused?

- The applicant will be informed of the reasons why, including the exemption category.
- The applicant will be advised of their appeal rights for internal & external review.
- The Ombudsman can investigate & review FOI actions & decisions.
  - State Ombudsman of South Australia
What can happen if I don’t comply?

**Individual Consequences:**
- Where there is a breach of duty or of misconduct in the administration of the Act, staff may be reported to the Vice-Chancellor.
- A breach of the Act may be considered misconduct actionable under the University’s Enterprise Agreement.
- May also be misconduct or maladministration for the purposes of the Independent Commissioner Against Corruption Act.

**University Consequences:**
- If FOI requests are not handled appropriately the University may be subject to investigation by:
  - the State Ombudsman
  - the Independent Commissioner Against Corruption
- Negative publicity:
  - *Damage to the University’s reputation*
  - *Attraction & retention of staff & students is compromised*
University obligations under the Act

**REMEMBER:**

- *Anything* you write about anyone or anything is potentially subject to FOI
  - *Including informal email communication*
- You do **not** have the discretion to decide what can or can not be released
- You must not destroy records
- If entering into a contract which you want to keep confidential, ensure the contract;
  - contains the approved confidentiality clause
  and
  - is approved by the Vice Chancellor or their delegate
- Refer to [FOI Policy](#)
What do I do if I get contacted about an FOI request?

- Immediately forward the request to the University’s [FOI Officer](#)
- Co-operate with the FOI Officer
- Assist in putting together copies of *all* documents relevant to the request
  - *search local filing cabinets or email in-boxes*
- Do not destroy documents
- Provide *everything* you’ve got to the [FOI Officer](#)
- Provide FOI Officer with clear reasons if you feel that any documents should not be released
Additional Resources

- Freedom of Information Officer
  - 8313 5334

- University Freedom of Information Website

- Sue Coppin, Records Services Manager
  - 8313 5184

- Scott Long, Associate Director, Legal Services
  - 8313 8113

- University of Adelaide Freedom of Information policy

- University of Adelaide Enterprise Agreement

- State Records
  - Freedom of Information Guidelines

- Freedom of Information Act 1991 (SA)
Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Freedom of Information Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact Sue Coppin, FOI Officer or Legal & Risk if you are unsure of your compliance obligations under the Act.