

Unilink

Legal & Risk Newsletter

Governance of the University: How much do you know?

You might know that it was founded in 1874, is the third oldest university in the country and was the first Australian university to admit women to academic courses. But did you know that the continuance and administration of the University of Adelaide is provided for under an Act of Parliament?

The University came into being, with a Bill "for an Act to incorporate and endow the University of Adelaide" receiving the Governor's assent on 6 November 1874. The latest incarnation of the legislation - the [University of Adelaide Act 1971 \(SA\)](#) - establishes the University's [governance arrangements](#) and identifies the object of the University as "*the advancement of learning and knowledge, including the provision of university education*".

What does the Act do?

Most importantly, the Act establishes the Council as the governing body of the University, with powers to (among other things):

- Appoint the [Vice-Chancellor & President](#) as the chief executive officer of the University;
- Approve the mission and [strategic direction](#) of the University;
- Establish policy and procedural principles;
- Oversee and monitor academic activities; and
- Make [By-laws](#) (rules regulating behaviour of members of the public on University premises) for certain purposes set out in the Act.



The Act also gives power to the University to confer (i.e. award) degrees, diplomas or other academic awards and establishes the [Adelaide University Union](#) as a legal entity separate and distinct from the University.

Statutes & Rules

The Act grants the Council power to make Statutes and Rules for certain purposes. These are a form of subordinate legislation and, if validly made, have the same force of law as an Act of Parliament. Most matters historically governed by Statutes are now managed through internal University policies. However, there are still some Statutes and Rules that are current and carry the force of law (refer to the [Governance website](#) for the full list of University Statutes and Rules).

Non-compliance

Breaches of the University of Adelaide Act, Statutes, Rules or By-laws may not only lead to internal disciplinary action but may also incur expiation fines or other monetary penalties. For example, a person may be fined up to \$20,000 for unauthorised or use of University insignia (i.e. the University coat of arms, an official title or an official symbol).

All staff are advised to familiarise themselves with the obligations or prohibitions under the Act, Statutes, Rules and By-laws. Council Members have additional compliance responsibilities.

For more information refer to the [University of Adelaide Governance website](#), the [University of Adelaide 101](#) or contact the [Office of the Council Secretariat](#) on 8313 5668.

Introducing our new Manager Compliance

The Legal & Risk Branch would like to formally introduce you to our new Manager, Compliance. Dr Sandra Lilburn has been with us for a number of months now and brings a wealth of knowledge in the areas of governance, regulation and policy review.

Sandra is a graduate of the University and holds degrees from the School of History and Politics. She returned to Adelaide earlier in the year after ten years in Canberra

Sandra can be reached on 8313 0482 or via email at sandra.lilburn@adelaide.edu.au.

After nearly four years as a valued team member, Richard Boyer accepted the role of Finance Manager within the Office of DVC (R).

While he was Manager, Compliance, Richard helped successfully establish the Legal Compliance Framework in nearly 60 areas of the University.





Screening DVDs in the classroom

The University is permitted to screen commercial DVDs in class for teaching purposes (s28 of the Copyright Act). But the University is not entitled to make copies of material from that DVD.

Recording a lecture which includes a screening of a DVD is considered making a copy from the DVD. Therefore, you should stop or pause the lecture recording for the duration of that DVD screening.

If you wish to make copies of the show available to students, consider making a recording from TV, or obtaining from the website of a TV broadcaster (such as SBS on Demand). The University will then be able to rely on its **Part VA statutory licence** to screen that material in class, and make a copy available to students via MyUni.

Having to differentiate between obtaining the material from DVD versus from TV may seem absurd, but that is how the Copyright Act is written and we must comply.



Remember . . .

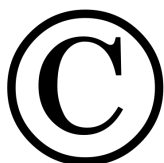
The University has various licence schemes and copyright exceptions that enable staff to use copyrighted material in particular ways. But not every use will be permitted and some permitted uses may be subject to certain conditions.

Want to learn more?

The Legal & Risk Branch offers Education & Awareness training on **Copyright Compliance**, as well as a number of other legal, risk and insurance topics.

The copyright session provides an overview of copyright within the University setting (teaching and research), outlines what licences and exemptions can be relied on for University purposes and offers tips (and traps) for copyright compliance in the digital environment. The session assumes a basic understanding of copyright, which can be obtained from the University's copyright website (www.adelaide.edu.au/copyright) or the Copyright Induction for Staff online course, available to all staff on MyUni.

Please email helpdesklegal@adelaide.edu.au to inquire about booking a group session for your area. The session can be tailored to suit your needs.



If you have a copyright question, contact Geraldine Yam (Copyright Officer) on 8313 5244 or email geraldine.yam@adelaide.edu.au.

Justice of the Peace

Still keeping the peace after 800 years

The origin of Justices of the Peace has been traced back to Britain in 1195, when Richard the Lionheart commissioned certain knights to preserve the peace in unruly areas. “Keepers of the Peace” were appointed in each county, and over time, these keepers had powers to hear and determine trespassers, license public houses and punish offenders. Justices of the Peace were recognised in the Australian colonies from 1788, and the first State Justice of the Peace was appointed after the settlement of South Australia in 1836. Each state and territory has its own legislation to regulate the appointment and powers of Justices of the Peace, thus the functions of the office may differ from state to state. Today there are over 7,000 JPs in South Australia.

What does a JP do?

The main duty of a JP is to act as an independent and objective witness for legal documents and proceedings. A JP may:

- witness an affidavit for use in court;
- witness a statutory declaration;
- certify a true copy of an original document; or
- certify a person's identity.

Who can be a JP?

In South Australia, anyone can be a JP as long as they fulfil certain requirements, relating to (among other things) age, residential status and character. The Governor appoints people as JPs from those nominated by the State Attorney-General.

SOURCE: Attorney-General's department <http://www.agd.sa.gov.au/>

Got travel insurance?

The University's insurance policy provides full medical cover to staff and students while they are undertaking University-approved travel. This should be welcome news to those people visiting the United States, given the number of Australians who fall ill or are injured in the US and who have been caught out by sky-high medical bills.

Earlier in the year, AdelaideNOW reported that some travellers have had to pay more than \$7,000 for a few stitches, \$75,000 for a two night hospital stay and \$300,000 for intensive care treatment. It's estimated that around 25% of Australians head overseas without travel insurance.

If you are heading overseas for University purposes, make sure your total time away does not exceed the maximum duration of cover or the maximum number of incidental private travel days.

For more information, refer to the [Staff and Student Travel Guide](#) or contact Tom Pontt (Insurance Officer) on 8313 3878.

Evidence of a fact not personally seen or heard by a witness, but claimed by him or her to have been said by another. Hearsay evidence is normally not admissible in court proceedings.



Certified Copies, Statutory Declarations & Affidavits: Who can sign or witness?

Certified Copy

What is it?

A copy of a document that has been compared against the original and certified by an authorised person as being a true copy of the original document.

For example:

I certify this and the following ___ pages to be a true and correct copy of the original sighted by me at.....on.....day of.....20....

.....
John A Citizen J.P. # 12345
A Justice of the Peace for South Australia

When would you need it?

Organisations or Government agencies may sometimes ask you to provide certified copies of passports, driver's licences, birth or marriage certificates, bank statements or academic transcripts in order for them to confirm your identity, financial position or credentials. This is in place of having to provide - and thus risking loss or damage to - the original.

Who can certify?

There is no law that prescribes who is authorised to certify a copy; it is open to the organisation requesting the certified copy to stipulate who it accepts as an authorised person. Such a list would typically include Justices of the Peace ("JP"), lawyers, health professionals, teachers, accountants, employees of Australia Post.

Statutory Declaration

What is it?

A written statement in which a person declares something to be true. It must be in the form specified by the *Oaths Act 1936* (SA) or *Statutory Declarations Act 1959* (Cth).

If you are found to have made a false statement, you can be charged with an offence under these laws.

When would you need it?

Organisations may request a statutory declaration if they require you to affirm something to be true for the purposes of satisfying a legal or policy requirement and no other evidence is available, e.g. that you were not the driver of the vehicle that incurred a speeding fine; that your original parchment has been lost or destroyed and you require a replacement.

Who can witness?

Statutory declarations for State purposes may only be witnessed by a JP, Commissioner for Taking Affidavits (any lawyer admitted to the Supreme Court) or Notary Public. The Commonwealth law provides for a broader range of authorised persons.

The authorised person will ask you to "*solemnly and sincerely declare that the contents of this declaration are true and correct to the best of your knowledge and belief.*"

Affidavit

What is it?

A written statement, made on oath or affirmation, that is used as evidence in court proceedings. This is the written equivalent of an oath or affirmation a person takes when giving evidence in person in a court of law and has the same legal consequences.

It is an offence of perjury to lie under oath or affirmation.

When would you need it?

When providing a statement to court, either as a party to the legal proceedings or as a witness.

Who can witness?

Only a Commissioner for Taking Affidavits or a Justice of the Peace. You have the option of either taking an oath (i.e. swearing on the Bible or holy book of your religion) or making an affirmation that the contents are true and correct to the best of your knowledge and belief.

Where can I find a JP on campus?

A JP's services are provided on a voluntary basis to the community. A walk-in service is available on the North Terrace campus from:

John Leeton,
Security Office
Tuesday to Thursday,
6:00am – 2:45pm
8313 5990

There are also various JPs who can be contacted (both on-campus and in the CBD) to provide the service by appointment only.

A lawyer from our Legal team may also be able to certify or witness your document.

This service is by **appointment only** by contacting 8313 4359.

