

From: "AGD:State Records" <StateRecords@sa.gov.au>

To: "Denicola, Alyssa"

Date: 10/08/2023 4:29:42 PM

Subject: Election Commitment FOI - Across Government

Vri100OFFICIAL

Hi everyone,

\~

You are receiving this email because you are listed as a contact on our FOI Contacts List. If you have a colleague who would like to be added to this list or if you'd like to be removed from it, [please let us know using this form](#).

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Further to our advice we released on transfers under the FOI Act dated 1 August 2023, we would like to provide some further clarification about transfers and internal review rights.

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Recently some agencies transferred an application to the Premier's Delivery Unit (PDU) under section 16(1).

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A determination on this application was made by the PDU on the 3 August 2023 and a request for an internal review has now been received by PDU as well as several agencies who transferred their applications to PDU for action.

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The question has been asked ***can an applicant request an internal review on an application where that application has been transferred under section 16 of the Act?***

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Please see below responses for various scenarios that may assist your agency.

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Scenario 1 - A formal transfer has been made under section 16 and the applicant was notified of this fact

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If a formal transfer was made under section 16 of the Act **and** the fact of the transfer (including date of transfer and to which agency) was advised to the applicant prior to the PDU Determination on 3 August 2023, then the answer is **no, an internal review cannot be lodged**.

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In this instance the applicant can only request an internal review from the PDU as the agency who was lawfully transferred responsibility of the progressing the application and who actually made the determination.\~

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Under the FOI Act, review rights, be they internal or external, only arise where a determination has been made.\~ The act of transferring an application is a progressing matter, not a determination in its own right.

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Where an internal review request has been received by an agency, other than the PDU, the agency will need to inform the applicant:

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- the Act only allows review rights for a determination made, this does not include a decision to transfer to another agency for progressing; and
- advise the applicant to lodge their request to the PDU as the determining agency if they wish to pursue an internal review.

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Scenario 2 - A formal transfer has been made under section 16 and the applicant has not been notified of this fact

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Where a formal transfer was made under the Act to the PDU, but the applicant **was not** notified of this fact (as required under section 16 (3)-(4)), then technically the criteria of section 16 has not been met.

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This scenario includes:

- where no correspondence has been sent to the applicant from the initial agency; or
- the applicant was notified after 3 August 2023 (as this is the date the PDU made its determination); or
- where the applicant was notified the FOI is subject to section 16 transfer but as the PDU hold this request is has been closed by the initial agency.\~

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In this case, the answer is **yes, an internal review can be lodged**.

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This means the applicant would be able to request an internal review from agencies that fall within this scenario.

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In this instance, the agency is still responsible for progressing the initial request as the requirements of section 16 have not been achieved.

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As most applications were lodged on 17 July 2023, they are still within the statutory 30-day timeframe to provide a response.\~

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The PDU will continue to accept formal transfers if –

- the original agency is still satisfied that the application should be transferred to the PDU; and
- the application is within the 30 days of receiving the application (and not classed as a deemed refusal); and
- the applicant is advised in further correspondence that the application is formally transferred to the PDU on the specific date the requirements of the Act can still be achieved.

\~

For transfers made under the above conditions post 3 August 2023, PDU will issue a subsequent determination to capture the remaining formal transfers. Please ensure these are supplied to the PDU urgently for processing by the statutory dates. \~

\~
For potential wording (developed in consultation with CSO) when providing clarification to the applicant that the application has, or will be, transferred, contact DPC FOI unit.\~

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Scenario 3 – A formal transfer has not been made:

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Where a formal transfer **has not been made** by an agency to the PDU, but the initial agency believes this application is more closely related to the functions of the PDU, once the 30 calendar days (or any time extension provided under section 14A) has elapsed, the answer is **yes, an internal review can be lodged**.

\~
If the application is still within the 30-day timeframe, a formal transfer (with notification to the applicant) can still be made under section 16 and no internal review can be lodged by the applicant against the original agency. The PDU will continue to accept formal transfers. The PDU will issue a subsequent determination to capture the remaining formal transfers. Please ensure these are supplied to the PDU urgently for processing by the statutory dates. \~

\~
If the 30 calendars have elapsed and no formal transfer has occurred, your agency will either need to progress the application as per usual.

\~
For any agencies that decided the criteria for transfer were not met and you do not wish to transfer the initial request, the application should be progressed as per normal. The applicant will have internal review rights once the relevant timeframe has lapsed (except for where the determination was made by the principal officer of an agency and external review rights apply). \~

\~
Agencies not seeking to transfer the request but receive an internal review whilst the original request is in time, are advised to contact the applicant to inform them their application is still being processed and the expected due date for a determination to be made, noting review rights will be evoked once this date has lapsed or a determination as been made.

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Scenario 4 – No Documents Found

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If a Nil Documents notification has already been issued to the applicant, no review rights exist as this does not constitute a determination for the purposes of the FOI Act.

\~
For agencies planning on making a 'Nil Document' notification, you are advised to make this as soon as practicable.\~ It is recommended to advise the applicant this is a not a reviewable action under the FOI Act as it not a determination but if dissatisfied, a compliant can be made to the Ombudsman under the *Ombudsman Act 1972*.

\~
For clarity, the FOI function for the PDU is managed by the DPC FOI Unit and they have been consulted in relation to the drafting of this email. \~

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DPC FOI will be in contact with the applicant to confirm which agencies are captured under the initial determination made by the PDU on 3 August 2023.

\~
If you have not received contact from the DPC FOI Unit by **COB Thursday 10 August 2023**, PDU did not receive a formal transfer from your agency. For those agencies contacted, this does not mean you have met all the requirements of section 16.\~ You will still fall within scenario 2 if you have not notified the applicant of the transfer before 3 August 2023.

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If you are seeking to be included in the subsequent determination to be issued by the PDU (e.g. those agencies captured under scenario 2 and 3) – please contact the [DPC FOI Unit](#) urgently.

\~
If you require further assistance, you can either contact State Records or seek your own legal advice.

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Kind regards

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From: "Leader of the Opposition" <LeaderoftheOpposition@parliament.sa.gov.au>
To: "Michelizzi, Fran" <Fran.Michelizzi@rtwsa.com>
Date: 11/08/2023 4:00:45 PM
Subject: RE: AA23_1285

Dear Fran,

It is our view that your agency has incorrectly referred this FOI to the Premier's Delivery Unit (PDU).

We acknowledge that Section 16(1)(b) of the South Australian Freedom of Information Act 1991 (FOI Act) allows for an agency to transfer an FOI application to another agency if it is more closely related to the functions of the other agency.

While the subject matter of "election commitments" is clearly associated with the PDU, our FOI application asked a "copy of the most recent work plan". This is the document being sought.

The work plan itself is a document prepared by *your* agency, reflects the work conducted by *your* agency – which is work that is core to the functions of *your* agency.

It is our view that it was not appropriate that this was referred to the PDU.

We request that you re-open this FOI and process it in accordance with the FOI Act.

Kind regards

From: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>
Sent: Thursday, July 27, 2023 3:24 PM
To: Leader of the Opposition <LeaderoftheOpposition@parliament.sa.gov.au>
Subject: AA23_1285

For the attention of: The Hon David Speirs


Dear Mr Speirs

I refer to the Freedom of Information Application dated 17 July 2023 requesting access to documents concerning ReturnToWorkSA. In particular, a copy of the most recent work plan showing progress against election commitments.

Please be advised that the Department of Premier and Cabinet's FOI Unit will provide a response to the above request.

Kind regards

Fran
Fran Michelizzi
Team Leader, Access to Information
Governance
400 King William Street Adelaide SA 5000
08 8233 2983
www.rtwsa.com | fran.michelizzi@rtwsa.com


We recognise that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. We acknowledge that ReturnToWorkSA is located on the traditional lands of the Kurna people and we pay our respects to the Kurna people, and their Elders, past, present and emerging.

'Information contained within this email and any attached document/s should be considered to be Sensitive pursuant to the South Australia Government Cyber Security Framework and the recipient should ensure the information is protected from unauthorised disclosure or loss'

From: "AGD:State Records" <StateRecords@sa.gov.au>

To: "Denicola, Alyssa"

Date: 11/08/2023 9:28:27 AM

Subject: Further clarification on Election Commitment FOI - Across Government advice sent 10/08/2023

\\ri100OFFICIAL

Good morning everyone,

Further to the advice we issued yesterday, please see further clarification regarding scenario 2 – as highlighted in yellow.

We apologise for the confusion this may have caused. Please don't hesitate to contact us if you have any concerns.

Kind regards,

State Records

Scenario 2 - A **formal transfer** has been made under section 16 and the **applicant has not been notified** of this fact

Where a formal transfer was made under the Act to the PDU, but the applicant **was not** notified of this fact (as required under section 16 (3)-(4)), then technically the criteria of section 16 has not been met.

This scenario includes:

- where no correspondence has been sent to the applicant from the initial agency; or
- the applicant was notified after 3 August 2023 (as this is the date the PDU made its determination); or
- where the applicant was notified the FOI is subject to section 16 transfer but as the PDU hold this request is has been closed by the initial agency.

In this case, the answer is **yes, an internal review can be lodged** if the 30 days has elapsed since the application was received.

If still within 30 days of the application being received, an internal review **cannot be lodged unless a determination is made.**

This means the applicant would be able to request an internal review from agencies that fall within this scenario **once the 30 days (or any extended timeframe allowed under the FOI Act).**

In this instance, the agency is still responsible for progressing the initial request as the requirements of section 16 have not been achieved.

As most applications were lodged on 17 July 2023, they are still within the statutory 30-day timeframe to provide a response.

The PDU will continue to accept formal transfers if –

- the original agency is still satisfied that the application should be transferred to the PDU; and
- the application is within the 30 days of receiving the application (and not classed as a deemed refusal); and
- the applicant is advised in further correspondence that the application is formally transferred to the PDU on the specific date the requirements of the Act can still be achieved.

For transfers made under the above conditions post 3 August 2023, PDU will issue a subsequent determination to capture the remaining formal transfers. Please ensure these are supplied to the PDU urgently for processing by the statutory dates.

For potential wording (developed in consultation with CSO) when providing clarification to the applicant that the application has, or will be, transferred, contact DPC FOI unit.

Clare

A/Team Leader, Government Support and Engagement

State Records of South Australia | Attorney-General's Department

E clare.kupisiewicz@sa.gov.au | www.archives.sa.gov.au

P 7322 7077



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Information contained in this e-mail message may be confidential and may also be the subject of legal professional privilege or public interest immunity. If you are not the intended recipient, any use, disclosure or copying of this document is unauthorised.

P Please consider the environment before printing this email

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From: "AGD:State Records" <StateRecords@sa.gov.au>

To: "Denicola, Alyssa"

Date: 15/08/2023 2:17:51 PM

Subject: Additional advice re Election Commitment across government FOI - Use of section 16(1)(b)

\\ri100OFFICIAL

Hello everyone

\\~

You are receiving this email because you are listed as a contact on our FOI Contacts List. If you have a colleague who would like to be added to this list or if you'd like to be removed from it, [please let us know using this form](#).

\\~

The following is provided as a guide only, it does not constitute legal advice.

\\~

Each FOI application, including across government applications, must be progressed and assessed by an agency on a case-by-case basis.\\~ Depending on how the scope is interpreted or clarified, what documents an agency holds and the factors taken into consideration when determining the application can lead to varied determinations.\\~ This includes the decisions to transfer an application.\\~

\\~

As with applying any section or clause of the FOI Act, the accredited FOI officer, or their principal officer, must be satisfied that all elements are met before being applied.\\~ If a determination is made at the direction of your principal officer this needs to be included in the Notice of Determination as it affects the applicants review rights.\\~

\\~

Under section 16(1) the transfer of an application may occur when the document/s to which the application relates to:

1. is not held by your agency but is, to your knowledge, held by another.\\~ In this circumstance, the application can properly be transferred to the other agency pursuant to s 16(1)(a); or
2. is held by your agency but is more closely related to the functions of the other agency.\\~ In this circumstance, the application can properly be transferred to the other agency pursuant to s 16(1)(b).

\\~

In cases where documents are held by your agency which are *not* more closely related to the functions of another agency the application *cannot* be transferred.

\\~

Note, it is not appropriate to do a full transfer if the original agency held additional documents to those held by the receiving agency, e.g. the additional documents are unique to the original agency (not held by the receiving agency) and fall within scope of an application.\\~\\~ In this instance, a partial transfer would be more appropriate to reflect the different determinations required to be made, based on documents within scope, between the original agency and the receiving agency.

\\~

It is best practice for both parties to agree before a transfer is made, this includes where one agency later believes it was made in error.\\~

\\~

Scenario 1 – dispute between agencies before or after transfer

Agencies need to consider who is best placed to make the determination (e.g. does it relate more closely to one agency's functions or both? Does one hold additional documents? In these instances a partial transfer may be considered).

\\~

If agencies cannot agree regarding the transfer of an application, legal advice may need to be sought.\\~ To ensure the applicant can exercise their rights under the FOI Act where such a dispute arises, the applicant could be advised to submit a new application to the original agency.\\~

\\~

Please note: it may be necessary to negotiate an extension of time with the applicant if the 30 calendar days is nearly up and past 14 days since transfer date.\\~ Section 14A is not available if 20 calendar days has passed since the application date was received.

\\~

Scenario 2 – original agency transferred in error

If upon reflection of section 16(1) by the original agency it is felt that the application was transferred in error, agencies will need to:

- a. request the agency that received the transfer to transfer the application back to your agency and
- b. advise the applicant:
 - i. that the original agency has taken carriage of the application again and
 - ii. the anticipated date of determination

\\~

\\~

Scenario 3 – dispute pre-determination

In instances where the applicant disagrees with the transfer, the two agencies will need to:

- a. confirm who is best placed to make the determination prior to proceeding any further (e.g. does it relate more closely

to one agency's functions or both? Does one hold additional documents? In these instances a partial transfer may be considered).

AND

b. if both agencies agree that the determination will be made by the original receiving agency, please refer to the *Scenario 2 above* for the next steps

OR

c. if both agencies agree that the agency who received the transfer should continue with the application, the original agency should:
i. advise the applicant of the fact the agencies do not agree that the transfer was incorrect and the reasons why
ii. advise the applicant that if they are still not satisfied an internal review can be sought once a determination has been made.

Scenario 4 – dispute post-determination

In instances where a transfer has occurred and the receiving agency has made a determination already, the only option, if the applicant disagrees with the transfer, is for the applicant to seek an internal review from the agency who made the determination or to lodge a fresh application with the original agency.

Scenario 5 – incorrect subsection referenced

If your agency has relied on the wrong subsection in section 16 in the notification of the transfer to the applicant (e.g. it doesn't hold documents within the scope of the application but relies on section 16(1)(b) rather than section 16(1)(a)), your agency will need to notify the applicant of the error of the subsection referenced.

It is recommended your principal officer be informed of this matter regardless of which option you take.

Kind regards,

Information Governance Team

State Records of South Australia | Attorney-General's Department

57625? staterrecords@sa.gov.au | 57643? www.archives.sa.gov.au | 57658? (08) 7322 7081



From: no-reply@forms.sa.gov.au

To: "Freedom of Information" <FOI@rtwsa.com>

Date: 17/07/2023 12:49:35 PM

Subject: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

↳

An application for Freedom of Information has been submitted by David Speirs and the receipt number is 18056459

Please log your receipt of this submission by clicking the below link.

Log receipt of application

Request details	
This is an application to:	Access documents
Do you know which agency holds the documents?	Yes
Name of agency	Return to Work SA
Agency telephone	8233 2242
Agency email	foi@rtwsa.com
Agency please note	
Is this application to access or amend	Neither of the above
Document details	
Describe the documents you wish to access.	A copy of the most recent work plan showing progress against election commitments.
'From' date	21/03/2022
'To' date	17/07/2023
Relevant document reference numbers (if known)	
How would you like to access the documents?	I want a copy
Applicant details	
Title	Mr
Given name	David
Family name	Speirs
Organisation	Leader of the Opposition
Unit number	
Street number	
Street name	North Terrace
Street type	
Suburb	Adelaide
State	SOUTH AUSTRALIA
Postcode	5000
My postal address is different	
Preferred phone	82379100

Alternative phone	
Email	LeaderoftheOpposition@parliament.sa.gov.au
Re-enter your email address	LeaderoftheOpposition@parliament.sa.gov.au
Proof of identity	
Acceptable proof of identity includes a scanned copy or photograph of your driver's licence, Medicare card, Centrelink card or passport.	David licence.jpg
Fees	
Today's date	17/07/2023
Application cost	
Based on the information provided the fee for this application is	\$0.00
Do you require a fee waiver?	Yes
Reason for fee waiver	Member of Parliament
Review	
I declare that all the information I have provided is true and correct, and I have read and understood the Outline of Responsibilities (see link at the bottom of this page).	checked
I am aware that no fee is attached and if I do not qualify for a waiver, then this application will not be valid until the fee has been received by the agency.	checked

h

From: "Freedom of Information" <FOI@rtwsa.com>

To: LeaderoftheOpposition@parliament.sa.gov.au

Date: 19/07/2023 2:40:05 PM

Subject: RE: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459 - AA23/1285 [RTWSA-WP.URI60704003]

Attachments: David Speirs MP - FOI AA231285 - acknowledgement letter - 19 July 2023.DOCX

Dear Mr Speirs,

~

Please find attached FOI acknowledgement letter.

~

Kind regards,

~

The Registry

Access to Information Unit
Governance and Risk
400 King William Street Adelaide SA 5000
13 18 55

www.rtwsa.com | foi@rtwsa.com

Return to Work SA

We recognise that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. We acknowledge that ReturnToWorkSA is located on the traditional lands of the Kurna people and we pay our respects to the Kurna people, and their Elders, past, present and emerging.

~

From: no-reply@forms.sa.gov.au <no-reply@forms.sa.gov.au>

Sent: Monday, 17 July 2023 12:50 PM

To: Freedom of Information <FOI@rtwsa.com>

Subject: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

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An application for Freedom of Information has been submitted by David Speirs and the receipt number is 18056459

Please log your receipt of this submission by clicking the below link.

[~ Log receipt of application](#)

~

Request details

This is an application to:	Access documents
Do you know which agency holds the documents?	Yes
Name of agency	Return to Work SA
Agency telephone	8233 2242
Agency email	foi@rtwsa.com
Agency please note	
Is this application to access or amend	Neither of the above

Document details

Describe the documents you wish to access.	A copy of the most recent work plan showing progress against election commitments.
'From' date	21/03/2022
'To' date	17/07/2023

Relevant document reference numbers (if known)	
How would you like to access the documents?	I want a copy

Applicant details

Title	Mr
Given name	David
Family name	Speirs
Organisation	Leader of the Opposition
Unit number	
Street number	
Street name	North Terrace
Street type	
Suburb	Adelaide
State	SOUTH AUSTRALIA
Postcode	5000
My postal address is different	
Preferred phone	82379100
Alternative phone	
Email	LeaderoftheOpposition@parliament.sa.gov.au
Re-enter your email address	LeaderoftheOpposition@parliament.sa.gov.au

Proof of identity

Acceptable proof of identity includes a scanned copy or photograph of your driver's licence, Medicare card, Centrelink card or passport.	David licence.jpg
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Fees

Today's date	17/07/2023
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Application cost

Based on the information provided the fee for this application is	\$0.00
Do you require a fee waiver?	Yes
Reason for fee waiver	Member of Parliament

Review

I declare that all the information I have provided is true and correct, and I have read and understood the Outline of Responsibilities (see link at the bottom of this page).	checked
I am aware that no fee is attached and if I do not qualify for a waiver, then this application will not be valid until the fee has been received by the agency.	checked

✓

✓

19 July 2023

The Hon David Speirs
Member of Parliament
North Terrace
Adeladie SA 5000

Dear Mr Speirs

I refer to your application received by ReturnToWorkSA on 17 July 2023 for access to information under the *Freedom of Information Act (SA) 1991* (the Act).

You have requested:

'A copy of the most recent work plan showing progress against election commitments.'

FOI reference number AA23/1285 has been allocated to your application.

Fees and charges for processing the application have been waived unless the work generated by the application exceeds the threshold for members of parliament pursuant to regulation 6 of section 53 (2) to the Act.

Please note that the Act requires ReturnToWorkSA to process an application within 30 days after the date the application was received, subject to any extension that may be necessary pursuant to section 14A of the Act.

As the information you have requested is non-personal, details of your application (including documents released to you) may be published on RTWSA's website in accordance with Premier and Cabinet Circular PCO45.

If you do not wish to have this information published, you may apply to the Chief Executive Officer for a review within 14 days of receiving the notice of determination.

If you have any queries regarding this matter, please contact Fran Michelizzi on 08 8233 2983.

Yours sincerely



The Registry
Access to Information Unit

From: ["Leader of the Opposition" <LeaderoftheOpposition@parliament.sa.gov.au>](mailto:LeaderoftheOpposition@parliament.sa.gov.au)

To: ["Freedom of Information" <FOI@rtwsa.com>](mailto:FOI@rtwsa.com)

Date: 19/07/2023 2:40:46 PM

Subject: Automatic reply: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459 - AA23/1285 [RTWSA-WP.URI60704003]

Thank you for taking the time to contact David Speirs MP, Leader of the Opposition.

This email is to confirm that we have received your correspondence. We receive a large volume of emails every day and will endeavour to provide a response to your enquiry as soon as possible.

To assist in responding to your email please ensure to provide your full name, address and preferably a phone number.

Thank you again for your email.

Kind regards

Office of David Speirs MP

Leader of the Opposition

Phone: 8237 9137

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The information in this e-mail may be confidential and/or legally privileged. If you are not the intended recipient, access to it is unauthorised and any disclosure, copying, distribution or action taken or omitted to be taken in reliance on it is prohibited and may be unlawful.

From: "Francis, Michael" <Michael.Francis@rtwsa.com>
To: "Michelizzi, Fran" <Fran.Michelizzi@rtwsa.com>
"Quirk, Des" <Des.Quirk@rtwsa.com>
Date: 20/07/2023 5:31:21 PM
Subject: RE: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

Hi Fran

Steve's response covered it well. RTWSA was not the subject of any pre-election commitments.

Hope this assists.

Kind regards
Michael

From: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>
Sent: Thursday, 20 July 2023 1:23 PM
To: Quirk, Des <Des.Quirk@rtwsa.com>; Francis, Michael <Michael.Francis@rtwsa.com>
Cc: Denicola, Alyssa <Alyssa.Denicola@rtwsa.com>
Subject: FW: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

Dear Michael and Des

RTWSA has received a FOI application from the Leader of the Opposition for:

'A copy of the most recent work plan showing progress against election commitments.'

I consulted with Steve Johnson to determine whether we hold any information within the scope of the request. I have received the below response from Steve.

Whilst I am comfortable with his response, I wanted to be absolutely certain that we do not hold information sought by the applicant before a determination is made.

Would you kindly advise if to your knowledge we do hold any information within the scope of this request?

I am happy to discuss the application and would be very appreciative of your input.

Thanking you

Fran

From: Johnson, Steve <Steve.Johnson@rtwsa.com >
Sent: Thursday, 20 July 2023 11:00 AM
To: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com >
Cc: Quirk, Des <Des.Quirk@rtwsa.com >; Denicola, Alyssa <Alyssa.Denicola@rtwsa.com >
Subject: RE: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

Hi Fran

Apologies for the delayed reply. I have been [REDACTED]

My initial thought is that no such document exists. RTWSA wasn't the subject of an election commitment, despite several stakeholders claiming the government had made election commitment's during last year's legislation change.

I believe there is (or was) a small business unit within DPC that was established after Labor won the election to monitor/track the delivery of all election commitments. We have never had contact with them because we don't have any commitments to track or report on.

Let me know how else I can help.

~

Steve

~

~

Steven Johnson

Manager | Government Services & Stakeholder Engagement

400 King William Street Adelaide SA 5000

www.rtwsa.com | Steven.Johnson@rtwsa.com

ReturntoWorkSA

We recognise that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. We acknowledge that ReturnToWorkSA is located on the traditional lands of the Kaurna people and we pay our respects to the Kaurna people, and their Elders, past, present and emerging.

~

~

From: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>

Sent: Tuesday, 18 July 2023 11:29 AM

To: Johnson, Steve <Steve.Johnson@rtwsa.com>

Cc: Quirk, Des <Des.Quirk@rtwsa.com>; Denicola, Alyssa <Alyssa.Denicola@rtwsa.com>

Subject: FW: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

~

Good morning Steve

~

RTWSA has received the attached FOI application from David Speirs, Leader of the Opposition.

~

Before we acknowledge the application, can we please discuss the scope of the request and determine how best to respond.

~

Thanking you

~

Fran

~

~

From: Freedom of Information <FOI@rtwsa.com>

Sent: Tuesday, 18 July 2023 10:36 AM

To: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>

Subject: FW: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

~

Hey Fran,

MP FOI application received. Registered as AA23/1285. Please let me know you are happy for me to acknowledge using standard MP acknowledgement letter.

~

Kind regards,

~

The Registry

Access to Information Unit

Governance and Risk

400 King William Street Adelaide SA 5000

13 18 55

www.rtwsa.com | foi@rtwsa.com

ReturntoWorkSA

We recognise that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. We acknowledge that ReturnToWorkSA is located on the traditional lands of the Kaurna people and we pay our respects to the Kaurna people, and their Elders, past, present and emerging.

~

From: no-reply@forms.sa.gov.au <no-reply@forms.sa.gov.au>

Sent: Monday, 17 July 2023 12:50 PM

To: Freedom of Information <FOI@rtwsa.com>

Subject: Application under Freedom of Information Act 1991 - FOI Application Receipt Number 18056459

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↳

An application for Freedom of Information has been submitted by David Speirs and the receipt number is 18056459

Please log your receipt of this submission by clicking the below link.

Log receipt of application

↳

Request details

This is an application to:	Access documents
Do you know which agency holds the documents?	Yes
Name of agency	Return to Work SA
Agency telephone	8233 2242
Agency email	foi@rtwsa.com
Agency please note	
Is this application to access or amend	Neither of the above

Document details

Describe the documents you wish to access.	A copy of the most recent work plan showing progress against election commitments.
'From' date	21/03/2022
'To' date	17/07/2023
Relevant document reference numbers (if known)	
How would you like to access the documents?	I want a copy

Applicant details

Title	Mr
Given name	David
Family name	Speirs
Organisation	Leader of the Opposition
Unit number	
Street number	
Street name	North Terrace
Street type	
Suburb	Adelaide
State	SOUTH AUSTRALIA
Postcode	5000
My postal address is different	
Preferred phone	82379100
Alternative phone	
Email	LeaderoftheOpposition@parliament.sa.gov.au
Re-enter your email address	LeaderoftheOpposition@parliament.sa.gov.au

Proof of identity

Acceptable proof of identity includes a scanned copy or photograph of your driver's licence, Medicare card, Centrelink card or passport.

David licence.jpg

Fees

Today's date

17/07/2023

Application cost

Based on the information provided the fee for this application is

\$0.00

Do you require a fee waiver?

Yes

Reason for fee waiver

Member of Parliament

Review

I declare that all the information I have provided is true and correct, and I have read and understood the Outline of Responsibilities (see link at the bottom of this page).

checked

I am aware that no fee is attached and if I do not qualify for a waiver, then this application will not be valid until the fee has been received by the agency.

checked

✓

✓

From: ["Johnson, Steve" <Steve.Johnson@rtwsa.com>](mailto:Steve.Johnson@rtwsa.com)
To: ["Michellez, Fran" <Fran.Michellz@rtwsa.com>](mailto:Michellez@rtwsa.com)
Date: 21/07/2023 11:43:05 AM
Subject: FW: Freedom of Information Request - Progress on Election Commitments

Hi Fran
See below email chain relevant to that FOI on election commitment tracking.
Thank you
Steve

Steven Johnson
Manager | Government Services & Stakeholder Engagement
400 King William Street Adelaide SA 5000

Steve.Johnson@rtwsa.com | Steven.Johnson@rtwsa.com

ReturnWorkSA
We recognise that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. We acknowledge that ReturnWorkSA is located on the traditional lands of the Kaurna people and we pay our respects to the Kaurna people, and their Elders, past, present and emerging.

From: Stewart, Patrick (AGD) <Patrick.Stewart@sa.gov.au>
Sent: Friday, 21 July 2023 11:37 AM
To: Johnson, Steve <Steve.Johnson@rtwsa.com>
Cc: Oehme, Angus <angus.oehme@sa.gov.au>
Subject: FW: Freedom of Information Request - Progress on Election Commitments

Hi Steve
Understand the message below went to Department CEs but not to other agencies subject to FOI requirements.

Just wanted to pass on this email from DPC.
Thanks
Patrick

Patrick Stewart | Acting Chief of Staff

Office of the Hon Kym Maher MLC
Minister for Aboriginal Affairs | Attorney-General | Minister for Industrial Relations and Public Sector
Leader of the Government in the Legislative Council

L19, 10 Franklin Street Adelaide SA 5000 | Attorney-General's Department | www.agf.sa.gov.au
A GPO Box 464 Adelaide SA 5001 | E patrick.stewart@sa.gov.au | [+61 8 8213 1000](tel:+61882131000)



From: Stapleton, Jessica (DPC) <Jessica.Stapleton@sa.gov.au>
Sent: Thursday, 20 July 2023 4:47 PM
To: DL Ministerial Office Managers <DLMinisterialOfficeManagers@sa.gov.au>; Murphy, Thomas (DHS) <Thomas.Murphy@sa.gov.au>
Subject: FW: Freedom of Information Request - Progress on Election Commitments

Hi All
Please see below communication sent to all CE's today regarding the progress of election commitments FOI request.

Thanks
less
Jessica Stapleton
Manager
Office of the Premier and Cabinet
Department of the Premier and Cabinet
P 842 97348 | jessica.stapleton@sa.gov.au | www.dpc.sa.gov.au
Level 15, State Administration Centre, 200 Victoria Square (Tandanyangga), ADELAIDE SA 5000
GPO Box 2343, ADELAIDE SA 5001

Good afternoon,
I understand we have all recently received a request for access to documents under the *Freedom of Information Act 1991* (the FOI Act), relating to progress on election commitments.
Pursuant to section 16(1)(b) of the FOI Act, an agency to which an application has been made may transfer the application to another agency if the document to which it relates is more closely related to the functions of the other agency.
I understand the request more closely relates to the functions of the Premier's Delivery Unit. Therefore, I have asked the Premier's Delivery Unit to respond to the request on behalf of all agencies.
Here is some suggested wording for your agency to send to the applicant.

The documents you seek are more closely related to the functions of the Premier's Delivery Unit (the PDU).
Pursuant to s16(1)(b) of the *Freedom of Information Act 1991*, the agency would seek to transfer your application to that agency's Freedom of information Unit. However, on this occasion I have been advised that you have already submitted the request to the PDU.
The PDU will provide a response to this request which will include particulars for our agency. Therefore, this request has now been closed.
If you have any queries, please contact the Department of the Premier and Cabinet Freedom of Information Unit via email at DPCFOIunit@sa.gov.au

Regards
Damien Walker
Chief Executive
Department of the Premier and Cabinet

Damien.Walker@sa.gov.au | www.dpc.sa.gov.au
Principal Executive Officer: Rebecca Smart
Rebecca.smart@sa.gov.au

Level 16, State Administration Centre (Tandanyangga)
200 Victoria Square, ADELAIDE SA 500
GPO Box 2343, ADELAIDE SA 5001
DX 56201



OUR RAP

We acknowledge this land. The Dreaming is still living. From the past, in the present, into the future, forever.
Information contained in this email message may be confidential and may also be the subject of legal professional privilege or public interest immunity. If you are not the intended recipient, any use, disclosure or copying of this document is unauthorised.

From: "Michelizzi, Fran" <Fran.Michelizzi@rtwsa.com>

To: LeaderoftheOpposition@parliament.sa.gov.au

Date: 27/07/2023 3:23:53 PM

Subject: AA23_1285

Attachments: AA23_1285 Determination.docx

For the attention of: The Hon David Speirs

\~

Dear Mr Speirs

\~

I refer to the Freedom of Information Application dated 17 July 2023 requesting access to documents concerning ReturnToWorkSA. In particular, a copy of the most recent work plan showing progress against election commitments.

\~

Please be advised that the Department of Premier and Cabinet's FOI Unit will provide a response to the above request.

\~

Kind regards

\~

Fran

Fran Michelizzi

Team Leader, Access to Information

Governance

400 King William Street Adelaide SA 5000

08 8233 2983

www.rtwsa.com | fran.michelizzi@rtwsa.com



We recognise that Aboriginal and Torres Strait Islander people are the First Peoples of Australia. We acknowledge that ReturnToWorkSA is located on the traditional lands of the Kaurna people and we pay our respects to the Kaurna people, and their Elders, past, present and emerging.

\~

\~

27 July 2023

FOI Ref No. AA23/1285

Hon David Speirs
Leader of the Opposition
Sent via email: LeaderoftheOpposition@parliament.sa.gov.au

Dear Mr Speirs

I refer to your application received on the 17 July 2023, requesting access to information under the *Freedom of Information Act (SA) 1991* (the FOI Act).

Application

I note your application requested:

'A copy of the most recent work plan showing progress against election commitments.'

Transfer of application

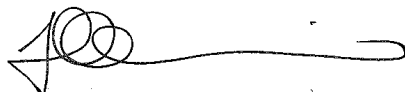
I have considered the scope of your application and have determined that the documents you seek are more closely related to the functions of the Premier's Delivery Unit (the PDU).

Pursuant to section 16 (1) (b) of the Act, ReturnToWorkSA (RTWSA) would seek to transfer your application to the PDU's Freedom of Information Unit. However, on this occasion I have been advised that you have already submitted the request to the PDU.

Given the PDU will provide a response to this request which includes particulars for RTWSA, I have closed the application.

If you have any queries, please contact the Department of Premier and Cabinet's Freedom of Information Unit via email at DPCFOIUnit@sa.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Fran Michelizzi", with a long horizontal flourish extending to the right.

Fran Michelizzi
Accredited FOI Officer

From: "Denicola, Alyssa" <Alyssa.Denicola@rtwsa.com>

To: "Michelizzi, Fran" <Fran.Michelizzi@rtwsa.com>

Date: 27/07/2023 12:24:51 PM

Subject: RE: AA23_1285 Determination

Hi Fran

~

Subject to any feedback from Des, I am comfortable with the response, noting that it is consistent with DPC's recommended approach.

~

Thank you,

~

Kind regards

~

Alyssa Denicola

Manager Governance & Corporate Risk

400 King William Street Adelaide SA 5000

08 8233 2351

www.rtwsa.com | Alyssa.Denicola@rtwsa.com

ReturnToWorkSA

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~

~

From: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>

Sent: Thursday, 27 July 2023 11:07 AM

To: Denicola, Alyssa <Alyssa.Denicola@rtwsa.com>; Quirk, Des <Des.Quirk@rtwsa.com>

Subject: AA23_1285 Determination

~

Hi Alyssa and Des

~

Given the Department of Premier and Cabinet's directive in relation to the Leader of the Opposition's FOI application, I have prepared the attached response.

~

Please let me know if you have any queries concerning the matter. I will send this response out by COB today if you have no amendments or comments.

~

Thanking you

~

Fran

27 July 2023



Hon David Speirs
Leader of the Opposition
Sent via email: LeaderoftheOpposition@parliament.sa.gov.au

Dear Mr Speirs

I refer to your application received on the 17 July 2023, requesting access to information under the *Freedom of Information Act (SA) 1991* (the FOI Act).

Application

I note your application requested:

'A copy of the most recent work plan showing progress against election commitments.'

Transfer of application

I have considered the scope of your application and have determined that the documents you seek are more closely related to the functions of the Premier's Delivery Unit (the PDU).

Pursuant to section 16 (1) (b) of the Act, ReturnToWorkSA (RTWSA) would seek to transfer your application to the PDU's Freedom of Information Unit. However, on this occasion I have been advised that you have already submitted the request to the PDU.

Given the PDU will provide a response to this request which includes particulars for RTWSA, I have closed the application.

If you have any queries, please contact the Department of Premier and Cabinet's Freedom of Information Unit via email at DPCFOIUnit@sa.gov.au.

Yours sincerely

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Fran Michelizzi
Accredited FOI Officer

From: "Michelizzi, Fran" <Fran.Michelizzi@rtwsa.com>
To: "Leader of the Opposition" <LeaderoftheOpposition@parliament.sa.gov.au>
Date: 29/08/2023 4:35:55 PM
Subject: RE: AA23_1285

Dear Mr Speirs

I refer to your email below and to the Premier's Delivery Unit (PDU) subsequent determination dated 16 August 2023, and the internal review determination dated 16 August 2023.

In addition to confirming that ReturnToWorkSA does not hold documents relevant to your request, the PDU determinations further confirm that if ReturnToWorkSA was to re-open your application, the outcome would not have resulted in a different determination. On this basis, and given that the transfer has occurred between ReturnToWorkSA and the PDU, and that the receiving agency has made determinations under the Act, ReturnToWorkSA is unable to reverse the transfer or re-open the application.

If you have any queries concerning the matter, please contact the PDU's FOI Unit on 8429 0114 or via email at DPCFOIUnit@sa.gov.au.

Yours sincerely

Fran Michelizzi
Team Leader, Access to Information
Governance
400 King William Street Adelaide SA 5000
081 8233 2983
www.rtwsa.com | fran.michelizzi@rtwsa.com



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From: Leader of the Opposition <LeaderoftheOpposition@parliament.sa.gov.au>
Sent: Friday, 11 August 2023 4:01 PM
To: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>
Subject: RE: AA23_1285

Dear Fran,

It is our view that your agency has incorrectly referred this FOI to the Premier's Delivery Unit (PDU).

We acknowledge that Section 16(1)(b) of the South Australian Freedom of Information Act 1991 (FOI Act) allows for an agency to transfer an FOI application to another agency if it is more closely related to the functions of the other agency.

While the subject matter of "election commitments" is clearly associated with the PDU, our FOI application asked a "copy of the most recent work plan". This is the document being sought.

The work plan itself is a document prepared by your agency, reflects the work conducted by your agency – which is work that is core to the functions of your agency.

It is our view that it was not appropriate that this was referred to the PDU.

We request that you re-open this FOI and process it in accordance with the FOI Act.

Kind regards

From: Michelizzi, Fran <Fran.Michelizzi@rtwsa.com>
Sent: Thursday, July 27, 2023 3:24 PM
To: Leader of the Opposition <LeaderoftheOpposition@parliament.sa.gov.au>
Subject: AA23_1285

For the attention of: The Hon David Speirs

Dear Mr Speirs

I refer to the Freedom of Information Application dated 17 July 2023 requesting access to documents concerning ReturnToWorkSA. In particular, a copy of the most recent work plan showing progress against election commitments.

Please be advised that the Department of Premier and Cabinet's FOI Unit will provide a response to the above request.

Kind regards

Fran
Team Leader, Access to Information
Governance
400 King William Street Adelaide SA 5000
081 8233 2983
www.rtwsa.com | fran.michelizzi@rtwsa.com



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