



OmbudsmanSA

FREEDOM OF INFORMATION

Information Sheet - Complaints about 'Sufficiency of Search' issues

This information sheet will help you to understand what is involved if an FOI applicant believes an agency has not identified all documents within the scope of the application.

What is involved?

If an FOI applicant believes an agency has failed to identify all of the documents within the scope of their FOI application, they can make a complaint to the Ombudsman under the *Ombudsman Act 1972*.

This process is separate and distinct from the external review process provided for under the FOI Act (which allows applicants to challenge the exemptions claimed over documents by an agency).¹ However, a 'sufficiency of search' complaint process may run concurrently with an external review.

Our process

As Ombudsman SA is an office of last resort, the Ombudsman will expect the complainant to have raised the issue with the agency before they approach Ombudsman SA.

On receipt of a complaint, the Ombudsman may ask the complainant to provide:

- the complainant's reasons for believing the agency holds additional documents that fall within the terms of the FOI access application, and any supporting evidence
- details of any further searches or enquiries the complainant believes the agency could reasonably be asked to make in an effort to locate additional documents.

The Ombudsman will then assess the complainant's submission and may:

- decide to take no further action (if, for example, there are no reasonable grounds to believe that the agency has any additional documents)
- contact the agency and see if the matter can be resolved (if it appears likely there are further documents which are subject to the FOI application),
- commence an investigation to determine whether the agency has failed to identify relevant documents.

Where an investigation finds the agency erred, the Ombudsman may make relevant recommendations to the agency. These are not enforceable.

Unlike determinations made under the FOI Act, the Ombudsman's decision in relation to a 'sufficiency of search' complaint is not reviewable by the South Australian Civil and Administrative Tribunal.

Issued: 14 March 2018

¹ The FOI Act does not provide for the review of 'sufficiency of search' issues - *El Shafei v Central Adelaide Local Health Network* [2017] SACAT 5.