OFFICIAL



T&F23/0946 A3234163

13 December 2023

State Administration Centre 200 Victoria Square Adelaide SA 5000 GPO Box 1045 Adelaide SA 5001 DX56205 Tel 08 8226 9500 Fax 08 8226 3819

http://www.treasury.sa.gov.au ABN 19 040 349 865

Freedom of Information - Inclusion of Arts Organizations in the list of NGOs supported with funding for Indexation Supplementation

I refer to your application under the *Freedom of Information Act 1991* (FOI Act), received by the Department of Treasury and Finance (DTF) on 26 July 2023.

Your application specifically requested:

All briefings, advice, memos and/or correspondence relating to the inclusion of Arts organizations in the list of NGOs supported with funding for indexation supplementation - in particular any information relating to which organizations were included in the program or not, and any related advice. [Date Range: 1/10/2022 - 26/07/2023]

Under the FOI Act, an agency has 30 days to respond to a freedom of information request. As DTF did not respond to your request within the time frame required, the department is deemed to have refused you access to all documents relevant to your application. However, I have decided to process the request as if the statutory time frame had been met.

The purpose of this letter is to advise you of my determination.

A total of 9 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 4 documents, copies of which are enclosed,
- I grant you access in part to 4 documents, copies of which are enclosed, and
- I refuse you access to 1 document.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

Documents released in full

Documents 4, 6, 7 and 9.

Documents released in part

Documents 1 and 3.

• Contains information prepared and discussed between DPC and DTF regarding the NGO Indexation Supplementation, which concerns a deliberations or decisions of Cabinet.

This information falls within the definition of concerning a deliberations or decisions of Cabinet under the FOI Act and is therefore exempt from release pursuant to clause 1(1)(e) of Schedule 1.

Documents 1 and 5.

Contains mobile phone numbers of public sector staff.

This information falls within the definition of personal affairs under the FOI Act and is therefore exempt from release pursuant to Clause 6(1) of Schedule 1.

Document 8.

 Contains information detailing DTF observations and opinions regarding NGO Indexation supplementation eligibility parameters, which were considered by the Treasurer.

This information falls within the definition of 'opinion, advice or recommendation prepared for decision-making of the Government, a Minister or an agency' under the FOI Act. I acknowledge public interest favours transparency regarding government decisions, however, on balance, the Treasurer requires frank and candid advice to consider when making an informed decision. Therefore, this information is exempt from release pursuant to clause 9(1)(a)(i) of Schedule 1.

Documents refused in full

Document 2.

• Contains information regarding the NGO Indexation Supplementation detailed in the Mid-Year Budget Review, which concerns a deliberations or decisions of Cabinet.

This information falls within the definition of concerning a deliberations or decisions of Cabinet under the FOI Act and is therefore exempt from release pursuant to clause 1(1)(e) of Schedule 1.

Exemptions

Clause 1—Cabinet documents

(1) A document is an exempt document—

(e) if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet;

Clause 6—Documents affecting personal affairs

(1) A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Clause 9-Internal working documents

- (1) A document is an exempt document if it contains matter—
 - (a) that relates to-
 - (i) any opinion, advice or recommendation that has been obtained, prepared or recorded

. . .

Please note, in compliance with Premier and Cabinet Circular PC045 - Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045), DTF is required to publish a log of all non-personal information released under the Freedom of Information Act 1991.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: https://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars. Please visit the website for further information.

Appeal rights

If you are aggrieved with this determination, you have a right to apply for internal review under subsection 29(1) of the FOI Act. Pursuant to subsection 29(2), your application must:

- be in writing
- be accompanied by the application fee of \$40.75 (unless fee waiver applicable) payment options available on request.
- be addressed to the Principal Officer
 - Rick Persse
 Principal Freedom of Information Officer
 Department of Treasury and Finance
- be mailed to GPO Box 1045, Adelaide SA 5001, or emailed to
 <u>DTFOfficeoftheUnderTreasurer@sa.gov.au</u>, within 30 days after the day on which you receive this letter or within such further time as the Principal Officer may allow.

If you require any further information, please contact DTF Freedom of Information Unit via email at freedomofInformation2@sa.gov.au.

Yours sincerely

Ankanla

Tonia Roache

ACCREDITED FREEDOM OF INFORMATION OFFICER

OFFICIALSchedule of Documents

T&F23/0946 - - "Inclusion of Arts Organizations in the list of NGOs supported with funding for indexation supplementation [1/10/2022 – 26/07/2023]"

Doc. No.	Date	Description of Document	# of pages	Determination	Exemption Clause
001		Email	2	Released in part	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee 6(1) - Unreasonable disclosure of personal affairs
002		Attachment to Document 1	9	Refused in full	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
003		Email	2	Released in part	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee
004	6/07/2023	Email	2	Released in full	
005	6/01/1900	Attachment to document 4 - Letter	3	Released in part	6(1) - Unreasonable disclosure of personal affairs
006	6/07/2023	Attachment to document 4 - Email	1	Released in full	
007	6/07/2023	Attachment to document 4 - Email	1	Released in full	
008	6/07/2023	Attachment to document 4 - Minute	2	Released in part	9(1)(a)(i) - Contains matter relating to opinion, advice or recommendation prepared for decision-making of the Government, a Minister or an agency & contrary to public interest
009	6/07/2023	Attachment to document 4 - Draft letter	1	Released in full	

OFFICIAL 1 of 1

From: Yates, Roy (DTF)
Sent: Clause 1(1)(e)

To: Burness, Sandy (DTF)

Subject: RE: NGO Indexation Clause 1(1)(e)

Attachments: Clause 1(1)(e)

OFFICIAL

From: Burness, Sandy (DTF) <Sandy.Burness@sa.gov.au>

Sent: Clause 1(1)(e)

To: Yates, Roy (DTF) <Roy.Yates@sa.gov.au>
Subject: FW: NGO Indexation Clause 1(1)(e)

OFFICIAL

Just checking – did you get the summary spreadsheet Clause 1(1)(e)

Clause 1(1)(e)

From: Burness, Sandy (DTF)

Sent: Clause 1(1)(e)

To: Yates, Roy (DTF) < Roy. Yates@sa.gov.au >; Bishop, Sam (DTF) < Sam. Bishop@sa.gov.au >

Subject: FW: NGO Indexation Clause 1(1)(e)

OFFICIAL

Clause 1(1)(e)

From: Allanson, Kylie (DPC) < Kylie. Allanson@sa.gov.au>

Sent: Clause 1(1)(e)

To: Burness, Sandy (DTF) < Sandy.Burness@sa.gov.au>

Cc: Woolhouse, Steven (DPC) <<u>Steven.Woolhouse@sa.gov.au</u>>; Hodgetts, Claire (DPC) <<u>Claire.Hodgetts@sa.gov.au</u>>;

Layther, Jennifer (DPC-ARTS) < Jennifer.Layther@sa.gov.au >

Subject: NGO Indexation Clause 1(1)(e)

OFFICIAL

Hi Sandy

In line with your recent discussions with Steve, please find attached the Clause 1(1)(e)

Please let me know if you require anything further.

Regards

Kylie Allanson

Manager, Financial Performance and Reporting

Finance and Procurement, Communities and Corporate Department of the Premier and Cabinet

T Clause 6(1)

E kylie.allanson@sa.gov.au | W dpc.sa.gov.au

Level 12, State Administration Centre 200 Victoria Square (Tartanyangga) ADELAIDE SA 5000 DX Number 56201



We acknowledge this land. The Dreaming is still living. From the past, in the present, into the future, forever.

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From: Yates, Roy (DTF)
Sent: Clause 1(1)(e)

To: Voigt, Lorinda (DPC)

Cc: Allanson, Kylie (DPC); Bishop, Sam (DTF)

Subject: RE: NGO Indexation Supplementation 2022-23 Clause 1(1)(e)

OFFICIAL

Hi Lorinda, the NGO policy applies to the minimum wage case not self-employed artists. As outlined in the minute to CFOs grants to individuals are specifically excluded. Funding increases for these parties is at the discretion of agencies from existing resources.

Roy

From: Voigt, Lorinda (DPC) <Lorinda.Voigt@sa.gov.au>

Sent: Clause 1(1)(e)

To: Yates, Roy (DTF) <Roy.Yates@sa.gov.au>

Cc: Allanson, Kylie (DPC) <Kylie.Allanson@sa.gov.au>; Bishop, Sam (DTF) <Sam.Bishop@sa.gov.au>

Subject: NGO Indexation Supplementation 2022-23 Clause 1(1)(e)

OFFICIAL

Good morning Roy

Please find updated workings the NGO Indexation Supplementation Clause 1(1)(e)

If you can update our journal accordingly that would be much appreciated.

Further to this, in requesting this information for the Arts grants, questions were raised about Clause 1(1)(e)
which we've been asked to
provide a response which I'm hoping DTF can assist with.

Dear Kylie

Please find attached the NGO Indexation Supplementation spreadsheet with Arts Organisations Program award details. Apologies

Clause 1(1)(e)

While we have advised the AICSA that we will pass on these queries, we have not committed to providing a direct response. If how Minister soon to discuss this issue and we anticipate that a brief will be sought from us.

Regards Jen

Jennifer Layther

Director, Arts South Australia
Department of the Premier and Cabinet

T+61 (8) 8429 2978

E jennifer.layther@sa.gov.au | W arts.sa.gov.au

Level 12, State Administration Centre, 200 Victoria Square, (Tarntanyangga), ADELAIDE 5000 GPO Box 2308, ADELAIDE SA 5001





Any questions, please let me know.

Regards

Lorinda Voigt

Principal Management Accountant Finance and Procurement, Communities and Corporate Department of the Premier and Cabinet

P 08 7133 7903

E lorinda.voigt@sa.gov.au | W dpc.sa.gov.au

From: Blight, Tricia (DTF)

Sent: Thursday, 6 July 2023 3:31 PM

To: King, Jody (DTF)

Cc: Burness, Sandy (DTF); Williams, Rachel (DTF)

Subject: FW: Copy of letter to the Premier, Treasurer and Minister Michaels re: indexation

Attachments: AICSA_IndexationLetter_22052023.pdf; Indexation concerns - email to Minister Michaels 28 June

2023.pdf; A2904213 - Arts Industry Council SA re NFP Indexation

HI Jody

Yes – we already have this letter and have prepared the attached response which has gone to the Tr but he has not yet approved, so can't be provided to AICSA or the Minister yet.

Thanks Tricia

From: King, Jody (DTF) < jody.king@sa.gov.au>

Sent: Thursday, July 6, 2023 2:57 PM

To: Blight, Tricia (DTF) <Tricia.Blight@sa.gov.au>; Williams, Rachel (DTF) <Rachel.Williams2@sa.gov.au>

Subject: FW: Copy of letter to the Premier, Treasurer and Minister Michaels re: indexation

OFFICIAL

Hi

The Arts Industry Council is part of our NFP Advisory Group and has provided us with this information on indexation.

I am not sure if there has been any correspondence provided to date, but I am sure we will receive this formally shortly.

It might be worth having a meeting with the correct people in your team to start looking at this. Can you please let me know who I should contact?

Thanks Jody

From: AICSA Info <info@aicsa.net.au>
Sent: Thursday, July 6, 2023 2:45 PM
To: King, Jody (DTF) <iody.king@sa.gov.au>
Cc: Reid, Jack (DTF) <iody.king@sa.gov.au>

Subject: Copy of letter to the Premier, Treasurer and Minister Michaels re: indexation

Hi Jody,

Following on from our NFP CoP meeting, please find a copy of the letter sent to the Premier, Treasurer and Minister Michaels re: application of indexation to arts organisational multi-year funding agreements.

With permission from the committee, I've also attached a copy of an email sent to Minister Michaels last week, following up on the same topic.

Many thanks,

Kim Roberts

General Manager | AICSA

Pronouns: she/her

Please note I work part-time and will respond as soon as possible.

Kaurna Yerta, PO Box 10334, Adelaide BC SA 5000



Arts Industry Council of South Australia (AICSA) acknowledges that we live, work and make art on Aboriginal Lands, including Kaurna Yerta. We pay our respect and deep thanks to Elders past, present and emerging, as well as to First Nations leaders in our arts sector.

Penov, Jasminka (DTF)

From: DTF:Treasurer Ministerial Correspondence

Sent: Thursday, 25 May 2023 12:09 PM

To: DTF:BAP Admin

Subject: A2904213 - Briefing & Draft Response

Attachments: Letter from Arts Industry Council SA re: NFP Indexation; CORRESPONDENCE -

Outgoing Letter template.docx

Categories: Jasminka

Good afternoon,

Please provide a Briefing & Draft Response to the attached correspondence.

DUE DATE - 1 June 2023

IMPORTANT: Due to the Government's commitment to provide responses within 30 days, if you do not anticipate being able to meet the due date stated above, please contact our office via

<u>DTFTreasurerMinisterialCorrespondence@sa.gov.au</u> requesting an extension and provide a valid reason. This request will be considered by a Ministerial Liaison Officer and an extension may be granted.

Kind regards

Sarah Gysbers

Senior Business Support Officer | Office of the Treasurer, the Hon. Stephen Mullighan MP

State Administration Centre, Level 8, 200 Victoria Square ADELAIDE SA 5000

t 822 61890 | m Clause 6(1) | e Sarah.gysbers@sa.gov.au | w treasury.sa.gov.au



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PO Box 10334 Adelaide BC, SA 5000 ABN 65 728 182 104

0419 846 144 info@aicsa.net.au www.aicsa.net.au

The Honourable Peter Malinauskas MP Premier of South Australia GPO Box 2343 Adelaide SA 5001

Monday 22 May 2023

Dear Premier Malinauskas,

cc. Stephen Mullighan MP, Treasurer
Andrea Michaels MP, Minister for Arts

I'm writing to raise the Arts Industry Council of South Australia's concerns about the possibility that an agreed supplementation to the NFP indexation rate may not be applied to the arts sector. We urge the SA Government to consider and resolve this issue as a matter of urgency.

The NFP indexation policy enacted by former governments has been a progressive and sensible reform that acknowledges that indexation applied to multi-year granting contracts with the not-for-profit sector helps maintain the value of government funding. Four peak bodies worked with the Treasury to achieve this reform – South Australian Council of Social Services, Conservation Council of SA, Volunteering SA and NT, and the Arts Industry Council of South Australia.

The NFP indexation policy that was adopted was for a consistent indexation rate across the not-for-profit sector.

We wholeheartedly support and congratulate the current Government for its Mid-Year Budget Review decision to top up the 2.5% indexation rate with a 2.6% supplementation, bringing the total rate to 5.1% for 2022-23 for the 'social, community, homecare and disability sectors', forming a new baseline for future years. While still below inflation, this acknowledges increases in inflation, super, wages and cost of living.

We find it concerning that so far there has been no announcement that this increase will also be applied to the not-for-profit arts sector funded by the Government in multi-year agreements.

Our concern is that the lack of an industry-specific award (an issue the sector is actively working to address) for arts workers is being used to justify a move away from a sector-wide approach. The arts sector includes a large cohort of workers who can fall between the gaps of

the Live Performance Award and the Social and Community Services Award due to the breadth and diversity of roles creative employment entails.

The not-for-profit arts and cultural sector is a part of the broader social sector, working for public good and community access to culture. Wages rises, cost-of-living pressures, superannuation rises, and inflation, are all costs that affect the arts and cultural sector as much as it does the rest of the social sector. Indexation ensures that the value of multi-year operational grants is somewhat maintained, and in fact encourages annual increases to wages for people in the arts sector.

We encourage the Government to work with the Arts Industry Council SA on this issue and move to ensuring that a reasonable NFP indexation rate of 5.1% is applied consistently to the non-profit, for-purpose, sector in South Australia.

Sincerely,

Jessica Alice

Chair

Arts Industry Council of South Australia

Updated indexation concerns

Emma Webb <emma@vitalstatistix.com.au>

Wed 28/06/2023 4:45 PM

To:AGD:Minister Michaels <MinisterMichaels@sa.gov.au>
Cc:Wemmer, Joel (AGD) <Joel.Wemmer@sa.gov.au>;Jessica Alice
Dear Minister,

:AICSA Info <info@aicsa.net.au>

Thank you very much for your time this morning, and in particular the discussion around the NFP indexation rate. We appreciate the work that you and your team are doing around this very important issue.

We have since become aware today, via colleagues from arts organisations and then confirming this with staff at Arts South Australia, that the NFP supplement has in fact been offered to around six arts organisations – of very diverse artforms and sizes, some in the AOP cohort and others who are major organisations. These organisations were deemed eligible for the NFP indexation supplement of 2.6% by Treasury, and were informed of this and asked to invoice for the payment on Friday.

It appears that they were deemed eligible based on their responses to the email sent by Arts South Australia in late March, asking questions of organisations' employment practices under minimum awards. You will recall we have previously questioned why this email was sent, its wording, its relevancy to indexation policy, and the fact that organisations were not made aware of its intent and the possible effect on their operational funding when replying.

Today's information has only served to add to our concerns about the application of indexation in the arts, and issues of fairness and transparency.

While we certainly would not begrudge these 6 organisations this indexation supplement – we think all should receive it – it surely must be questioned why Treasury has only deemed 6 organisations eligible across both the AOP and Majors cohorts (at least 40 organisations?) And it of course undermines any argument that this is a policy being applied to a certain type of 'frontline' organisation seen as more worthy than any other part of the social sector also subject to the same inflationary and cost issues.

We urge you to continue to advocate for the arts sector with the Treasurer on this issue.

Kind regards, Emma (on behalf of AICSA)

Emma Webb
Artistic Director / Co-CEO
VITALSTATISTIX
contemporary art and community life

Waterside Workers Hall Kaurna Country 11 Nile Street Port Adelaide SA 5015 emma@vitalstatistix.com.au 08 8447 6211



From: Penov, Jasminka (DTF)

Sent: Tuesday, 27 June 2023 1:12 PM

To: DTF:Treasurer Ministerial Correspondence

Cc: Persse, Rick (DTF); Pribanic, Tammie (DTF); Blight, Tricia (DTF); Burness, Sandy (DTF); Bishop, Sam

(DTF)

Subject: A2904213 - Arts Industry Council SA re NFP Indexation

Attachments: Minute to Tsr - Arts Industry Council re NFP Indexation (A2928849).pdf; Trs Response - Arts

Industry Council re NFP Indexation (A2928852).docx

Good Afternoon

Please noter the attached approved correspondence for Treasurer's consideration.

Regards Jasminka

Jasminka Penov

Business Coordinator | Management Support | Budget and Performance Branch

State Administration Centre, Level 7, 200 Victoria Square ADELAIDE SA 5000 t 08 8429 0303 | e jasminka.penov@sa.gov.au | w treasury.sa.gov.au



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8



MINUTES forming ENCLOSURE

File: T&F22/0887

Doc No: A2928849

To: The Treasurer

LETTER FROM ARTS INDUSTRY COUNCIL RE: NFP INDEXATION

Timing: ROUTINE

Recommendations/Issues: It is recommended that you:

- Note as part of the 2022-23 Mid-Year Budget Review, the Government approved a supplementary increase of an additional 2.6 per cent for 2022-23 to the indexation rate applied to government grants to eligible Not-For-Profit (NFP) organisations;
- Note that the 2023-24 Budget has extended this assistance to apply a higher indexation rate to the 2023-24 financial year;
- Note Ms Jessica Alice, Chair of the Arts Industry Council of South Australia, has written
 to the Premier seeking the same indexation arrangement be applied to NFP
 organisations in the arts sector as part of multi-year agreements;
- Note that a specific condition of eligibility for the additional funding was that the
 agreement with the NFP organisation be for the delivery of services on behalf of the
 government and include a provision for staffing costs impacted by minimum Award
 outcomes. For that reason, most NFP arts entities have been excluded from the
 application of the policy;
- 9(1)(a)(i) Opinion or advice
- Sign the attached response to Ms Alice, on the Premier's behalf, outlining that the Government does not support extending the eligibility parameters.

Approved/Not Approved

Hon. Stephen Mullighan MP Treasurer

/ / 2023

Key Points:

- The base indexation rate inherent within the existing budget from 2021-22 to 2024-25 that is applied to multi-year funding agreements between South Australian Government agencies and Not-For-Profit (NFP) organisations is currently 2.5 per cent.
- As part of the 2022-23 Mid-Year Budget Review, supplementation for additional indexation of 2.6 per cent in 2022-23 over and above this was approved, bringing the total indexation rate applied to agreements between State Government agencies and eligible NFPs to 5.1 per cent for the 2022-23 financial year. The 2023-24 Budget has recently extended this additional indexation assistance into the 2023-24 financial year.
- Eligibility to the higher indexation rate was deliberately limited to NFPs which deliver services on behalf of government. To be eligible, the agreement with the NFP organisation had to include a provision for staffing costs impacted by minimum Award outcomes, or be a peak body providing advice or similar back to government.
- Ms Jessica Alice, the Chair of the Arts Industry Council of South Australia, has written to the Premier seeking this same supplementation be applied to agreements associated with NFPs in the arts sector, given the majority of Government grant agreements with arts NFPs are not structured in this way.
- As the Arts sector is not award based (it largely comprises self-employed individuals) it is difficult to tell what the base hourly rate for individuals working in the sector is and how they are impacted by the latest CPI increases. For these reasons, the majority of arts entities have not qualified for the additional government supplementation, based on the parameters of the approved policy.
- 9(1)(a)(i) Opinion or advice

•

A draft reply to Ms Alice, on that basis, is attached for your consideration.

Tricia Blight

EXECUTUVE DIRECTOR, BUDGET AND PERFORMANCE

27 16 12023

Contact Officer:	Samuel Bishop		
Telephone:	8429 0548		
Email address:	sam.bishop@sa.gov.au		

OFFICIAL 9

A2928852

Ms Jessica Alice Chair, Arts Industry Council of South Australia PO Box 10334 ADELAIDE SA 5000

Dear Ms Alice

Thank you for your correspondence in relation to the Government's announcement that it has applied additional indexation to multi-year agreements between State Government agencies and eligible Not-For-Profit (NFP) organisations for both the 2022-23 and 2023-24 financial years.

The Government's announcement is in recognition of the service delivery costs associated with minimum Award outcomes and inflation pressures.

Eligibility criteria was deliberately targeted to funding agreements with NFP organisations for the delivery of services on behalf of the Government and that include a provision for staffing costs impacted by minimum Award outcomes.

Agencies have determined the eligibility of individual NFPs to receive additional supplementation within the confines of the above parameters, on a consistent basis across the sector.

For that reason I do not support any broadening of the application of the policy, which I consider to be appropriately targeted

I thank you again for your correspondence.

Yours sincerely

Hon. Stephen Mullighan MP

Treasurer

June 2023