

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2014

**Agriculture**

**Question:** 153

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

Since September 7, 2013:

1. How many requests for documents under the FOI Act have been received?
2. Of these, how many documents have been determined to be deliberative documents?
3. Of those assessed as deliberative documents:
  - a. for how many has access to the document been refused on the basis that it would be contrary to the public interest?
  - b. for how many has a redacted document been provided?

**Answer:**

1. From 7 September 2014 to 30 April 2014 the department received 49 requests for documents under the FOI Act.
2. Of those 49 requests, 11 documents were determined to contain deliberative material which, after applying the public interest test, was exempt from disclosure.
3. Of those 11 documents:
  - a. access was refused to six documents. Multiple exemptions applied to these documents.
  - b. access in part was provided to five documents.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2014

**Agriculture**

**Question:** 154

**Division/Agency:** Office of the General Counsel

**Topic:** Legal costs

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

1. List all legal costs incurred by the department or agency since Additional Estimates in February, 2014
  - a. List the total cost for these items, broken down by source of legal advice, hours retained or taken to prepare the advice and the level of counsel used in preparing the advice, whether the advice was internal or external
  - b. List cost spend briefing Counsel, broken down by hours spend briefing, whether it was direct or indirect briefing, the gender ratio of Counsel, how each Counsel was engaged (departmental, ministerial)
2. How was each piece of advice procured? Detail the method of identifying legal advice

**Answer:**

Agencies are required (under the *Legal Services Directions*) to report legal services expenditure figures to the Office of Legal Service Coordination (OLSC). Those figures are required to be reported by 30 August each year. To require the department and its portfolio bodies to review and provide detail of all legal services and legal services expenditure for this period would be a significant diversion of resources.

Legal expenditure for each portfolio agency is detailed below and has been calculated consistently with the methodology for calculating legal expenditure for the OLSC.

1. For the period 25 February 2014 to 30 April 2014, the department and relevant portfolio agencies spent (including GST) as follows:

**Department of Agriculture**

- \$80 696 on legal services from the Australian Government Solicitor
- \$46 805 on legal services from private law firms
- \$245 388 on internal legal services

**Question: 154 (continued)**

**Australian Fisheries Management Authority (AFMA)**

- Nil on legal services from the Australian Government Solicitor
- Nil on legal services from private law firms
- \$161 729 on internal legal services

**Australian Pesticides and Veterinary Medicines Authority (APVMA)**

- \$28 301 on legal services from the Australian Government Solicitor;
- \$29 357 on legal services from private law firms.
- \$253 186.16 on internal legal services.

**Cotton Research and Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$2049 on legal services from private law firms

**Fisheries Research and Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$5850 on legal services from private law firms

**Grains Research & Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$88 846.17 on legal services from private law firms
- \$61 835.00 on internal legal services (Note: this does not include super or other entitlements)

**Grape and Wine Research and Development Corporation (GRDC)**

- Nil on legal services from the Australian Government Solicitor
- \$16 744.20 on legal services from private law firms

**Rural Industries Research and Development Corporation**

- Nil on legal services from the Australian Government Solicitor
- \$31 191 on legal services from private law firms

**Wine Australia**

- Nil on legal services from the Australian Government Solicitor
- \$5805 on legal services from private law firms

**Question:** 154 (continued)

2. The Department and portfolio agencies all obtain external domestic legal services from legal service providers on the Legal Services Multi-Use List. In addition, internal legal advice is provided by the Office of the General Counsel in the Department of Agriculture. AFMA, APVMA and GRDC also have in-house legal teams. The in-house legal teams do not charge for legal advice provided, nor do they estimate the commercial value of legal advice provided.

**Rural and Regional Affairs and Transport Legislation Committee**

ANSWERS TO QUESTIONS ON NOTICE

Budget Estimates May 2014

**Agriculture**

**Question:** 155

**Division/Agency:** Office of the General Counsel

**Topic:** Freedom of Information

**Proof Hansard page:** Written

**Senator LUDWIG asked:**

**Consultation with other departments, agencies and the minister**

1. Other than for the purpose of discussing a transfer under section 16 of the Act, does the department consult or inform other departments or agencies when it receives Freedom of Information requests?
2. If so, for each instance provide a table setting out the following information:
  - a. The department or agency which was consulted;
  - b. The document;
  - c. The purpose of the consultation;
  - d. Whether an extension of time was sought from the applicant to allow time for the consultation, including whether it was granted and the length of the extension;
  - e. Whether an extension of time was sought from the Information Commissioner to allow time for the consultation, including whether it was granted and the length of the extension
3. Other than for the purposes of discussing a transfer under section 16 of the Act, has the department consulted or informed the minister's office about Freedom of Information requests it has received?
4. If yes, provide a table setting out the following information:
  - a. The requests with respect to which the minister or ministerial office was consulted;
  - b. The minister or ministerial office which was consulted;
  - c. The purpose of the consultation;
  - d. Whether an extension of time was sought from the applicant to allow time for the consultation, including whether it was granted and the length of the extension;

**Question: 155 (continued)**

- e. Whether an extension of time was sought from the Information Commissioner to allow time for the consultation, including whether it was granted and the length of the extension
- f. Whether any briefings (including formal briefs, email briefings and verbal briefings) were provided to the minister's office.

**Staffing resources**

The following questions relate to the period from 18 September 2013:

- 1. For the period of time from 18 September 2013, what was the average FTE is allocated to processing FOI requests?

**FOI Disclosure Log**

- 1. For the purposes of meeting its obligations under 11C of the Act, does the department or agency:
  - a. Maintain a webpage allowing download of documents released under section 11A (direct download)?
  - b. Require individuals to contact the department or agency to ask for the provision of those documents (request for provision)?
  - c. Facilitate to those documents in a different manner (if so, specify).
- 2. If the department or agency has moved from a system of meetings its 11C obligations by direct download, to a system of meeting those obligations by request for provision, provide the following information:
  - a. The dates for which documents were made available for direct download, and the dates for which documents were made available through request for provision;
  - b. The total number of direct downloads of documents released under 11A the departmental or agency website;
  - c. The total number of requests for provision to documents that had been directly received, and how many had been processed by [date]?
  - d. What was the average FTE allocated to monitoring incoming email, collating and forwarding documents providing under a request for provision?
    - i. What was the approximate cost for salaries for the FTE staff allocated to this task?
- 3. Has the department or agency charged any for access to a document under section 11C(4)?
- 4. If so, please provide the following information in a table:
  - a. On how many occasions charges have been imposed;
  - b. The amount charged for each document;
  - c. The total amount charged;

**Question:** 155 (continued)

- d. What is the highest charge that has been imposed.

**With respect to FOI requests:**

1. How many documents were assessed (at internal review or - if internal review was not requested - by the original decision maker) as conditionally exempt?
2. Of those, how many were:
  - a. Released in full
  - b. Released in part
  - c. Refused access on the grounds that release of the document would be contrary to the public interest
  - d. Other (please specify).

**Answer:**

1. Yes.
2. Agencies are required to provide information and statistics to the Information Commissioner on a quarterly and annual basis. They are not required to keep statistics on the frequency and purpose of consultations with other Commonwealth agencies or the minister.
3. Yes.
4. See answer to question 2 above.

**Staffing resources**

**1. Department of Agriculture**

From 18 September 2013 to 30 April 2014, an average of three FTE was allocated to primarily processing FOI requests.

**Australian Fisheries Management Authority (AFMA)**

From 18 September 2013 to 30 April 2014, an average of one FTE was allocated to primarily processing FOI requests.

**Australian Pesticides and Veterinary Medicine Authority (APVMA)**

From 18 September 2013 to 30 April 2014, an average of two FTE was allocated to primarily processing FOI requests.

**Fisheries Research and Development Corporation (FRDC)**

From 18 September 2013 to 30 April 2014, an average of less than 0.1 FTE was allocated to primarily processing FOI requests.

**Question:** 155 (continued)

**Cotton Research and Development Corporation (CRDC)**

From 18 September 2013 to 30 April 2014, an average of 0.2 FTE was allocated to primarily processing FOI requests.

**Rural Industries Research and Development Corporation (RIRDC)**

From 18 September 2013 to 30 April 2014, an average of 0.1 FTE was allocated to primarily processing FOI requests.

**Grains Research and Development Corporation (GRDC)**

It is difficult to estimate the average FTE as the compliance officer coordinates FOI requests in consultation with other GRDC staff.

**Wine Australia**

From 18 September 2013 to 30 April 2014, an average of less than 0.1 FTE was allocated to primarily processing FOI requests.

**FOI disclosure log**

Agency	Question 1a.	Question 1b.	Question 1c.
Department of Agriculture	Yes	Yes	N/A
AFMA	Yes	Yes	N/A
APVMA	Yes	Yes	N/A
FRDC	Yes	Yes	N/A
CRDC	Yes	Yes	N/A
RIRDC	No	Yes	N/A
GRDC	Yes	Yes	N/A
Wine Australia	No	Yes	N/A

- 2. N/A.
- 3. No.
- 4. N/A.



**Question: 155 (continued)**

**With respect to FOI requests**

Agency	Question 1.	Question 2a.	Question 2b.	Question 2c.	Question 2d.
Department of Agriculture	193	0	187	6 (due to s42 exemptions as well as conditional exemptions)	N/A
AFMA	12	0	12	0	N/A
APVMA	19	0	16	3	N/A
FRDC	0	N/A	N/A	N/A	N/A
CRDC	0	N/A	N/A	N/A	N/A
RIRDC	0	N/A	N/A	N/A	N/A
GRDC	3	1	2	0	N/A
Wine Australia	0	N/A	N/A	N/A	N/A