

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

26 February 2014

Question: AET 999-1034

Topic: Freedom of Information (ATO)

Written: 5 March 2014

Senator LUDWIG asked:

- 999) Can the department please outline the process it under goes to access Freedom of Information requests?
- 1000) Does the department consult or inform the Minister when it receives Freedom of Information requests?
- a) If so, when?
 - b) If so, how does this occur?
- 1001) Does the department consult or inform other departments or agencies when it receives Freedom of Information requests?
- a) If so, which departments or agencies?
 - b) b. If so, when?
 - c) If so, how does this occur?
- 1002) Does the department consult or inform the Minister when or before it makes a decision on a Freedom of Information request?
- a) If so, when?
 - b) If so, how does this occur?
- 1003) Does the department consult or inform other departments or agencies when or before it makes a decision on a Freedom of Information request?
- a) If so, which departments or agencies?
 - b) If so, when?
 - c) If so, how does this occur?
- 1004) What resources does the department commit to its Freedom of Information team?
- 1005) List the staffing resources by APS level assigned solely to Freedom of Information requests
- 1006) List the staffing resources by APS level assigned indirectly to Freedom of Information requests
- 1007) Does the department ever second addition resources to processing Freedom of Information requests?
- a) If so, please detail those resources by APS level
- 1008) How many officers are currently designated decision makers under the Freedom of Information Act 1982 within the department?
- b) How does this differ to the number of officers designated as at 6 September 2013?
- 1009) How many officers are currently designated decision makers under the Freedom of Information Act 1982 within the Minister's office?
- a) How does this differ to the number of officers designated as at 6 September 2013?
- 1010) Of the officers that are designated decision makers under the Freedom of Information Act 1982 within the Ministers office, how many are seconded officers from the department?

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- 1011) What training does the department provide to designated decision makers under the Freedom of Information Act who work within the department?
- Of the officers designated as decision makers within the department, how many have received formal training?
 - Of the officers designated as decision makers within the department, how many have received informal training?
 - How long after each officers appointment as a designated decision maker did they receive formal training?
 - What did the training involve?
 - How long was the training?
 - By whom was the training conducted?
- 1012) What training does the department provide to designated decision makers under the Freedom of Information Act who work within the Minister's office, excluding those officers on secondment from the department?
- Of the officers designated as decision makers, how many have received formal training?
 - Of the officers designated as decision makers, how many have received informal training?
 - How long after each officers appointment as a designated decision maker did they receive formal training?
 - What did the training involve?
 - How long was the training?
 - By whom was the training conducted?
- 1013) Since 7 September 2013, how many Freedom of Information requests been shown or alerted to the Minister or their office?
- List those notified request
 - How many instances were each of this requests brought to the office or the Minister's attention?
 - How many of these items resulted in a separate formal brief being provided to the Minister?
 - How many of these items resulted in a separate informal briefing (including by email) being provided to the Minister?
 - How many requests have resulted in multiple formal briefs being provided to the Minister or their office?
 - How many requests have resulted in multiple informal briefs (including by email) being provided to the Minister or their office?
- 1014) Does the department provide FOI PDFs for download on their website?
- 1015) If not, what is the cost associated with staffing to require monitor email and collate and forward requested FOI documents?
- 1016) How does the department test it is complying with accessibility standards for its websites?
- 1017) Does the department comply with accessibility standards for all its websites?
- 1018) What would be the effect on the accessibility rating of the department's website if FOI PDFs were provided on the department websites?

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- 1019) What accessibility testing of the website was done and what were the points of failure prior to this change in access for FOI documents?
- 1020) Have the website accessibility standards been solely or partly responsible for not putting FOI PDF documents on the department websites?
- 1021) How does the department facilitate anonymous access to the FOI disclosure files?
- 1022) How many times were the last 20 FOI requests PDFs which were made available on the website downloaded? How often have the FOI requests only available by email request been sent?
- 1023) How long does it take to requests for disclosed FOI files to be processed? What was the average turnaround from request to sending of files in the last 3 months?
- 1024) What was the content of communications with other departments about the website accessibility standards and FOI PDFs?
- 1025) Where did advice concerning the website accessibility certification and provision of PDFs come from and what was the content of that advice?
- 1026) Does the department consider that not providing direct download of PDFs is more accessible for people with disabilities and the general public than providing the links?
- 1027) What efforts have been made to make FOI PDFs accessible to members of the public who have disabilities?
- 1028) Has advice from the information commissioner been sought regarding providing FOI requests available by email request only?
- 1029) Has any disability advice group or consultant been contacted regarding making the FOI requests accessible to people with disabilities?
- 1030) Is this compatible with the information commissioners guidelines- specifically that “published information should be accessible — in particular, it should comply with an agency’s obligation to meet the Web Content Accessibility Guidelines (Version 2)”
- 1031) How does email PDF provision meet the information commissioner’s requirement that “13.124 Information that forms part of the IPS must be published ‘to members of the public generally’”?
- 1032) Is not providing the FOI PDFs on the website a means of avoiding not conforming to the WCAG 2.0 or other guidelines?
- 1033) Does the department have a separate email address or inbox for receiving and responding to FOI requests?
- If so, list each email account
 - List the officers who can assess and reply from those separate accounts, broken down by staffing classification level
- 1034) Do FOI officers ever receive or respond to applicants from their individual email account as opposed to from a central account?
- If so, how does the officer distinguish between communication related to their task as a decision maker and their primary work task ?
 - How do FOI decision makers that receive emails related to FOI decisions in their normal work capacity distinguish these emails from FOI decision emails?

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Answer:

999) Yes. An officer within ATO General Counsel area opens each FOI request. General Counsel engages the relevant business line areas of the ATO to search for documents that fall within the scope of the request. The business line area delivers up to General Counsel any documents found. Authorised FOI decision-makers within General Counsel make the FOI decisions using evidence provided by the relevant business line area or third party. General Counsel conducts all dealings with the FOI applicant.

1000) No.

1001) Sometimes yes.

- a) With any department or agency having a relevant interest in a document that falls within the scope of the request, such as in connection with transfer of an FOI request to another department or agency under section 16 of the FOI Act. Other circumstances include: with the Department of Prime Minister and Cabinet in connection with any Cabinet or Cabinet-related materials; and with Austrac in connection with certain Austrac material.
- b) As soon as we become aware, on the face of the document, of the relevant interest.
- c) The General Counsel FOI function makes contact with the FOI function in the other agency.

1002) No.

1003) Sometimes yes, in the same circumstances as set out in AET 1001 above.

1004) ATO commits about half of its General Counsel resources to work primarily on FOI. ATO also commits people from its twenty or so business line areas to search for documents and to provide evidence relating to those documents back to General Counsel on a case by case basis. The General Counsel and the business line areas conduct their dealings in relation to FOI requests by means of an Information Law Network comprising some fifty members identified by the business line areas.

1005) At any time, approximately 50 per cent of staffing resources within General Counsel are assigned to work primarily on FOI requests. As at 28 February 2014 the staffing resources assigned primarily to FOI work were as follows:

Level	FTE
APS3	2.0
APS4	1.0
APS5	5.3
APS6	10.5
EL1	6.7
EL2.1	2.0
EL2.2	1.0
Total	28.5

1006) The staff hours of other ATO officers spent on FOI requests, as submitted to the Office of the Australian Information Commissioner pursuant to section 93 of the FOI Act for the financial year ending 30 June 2013, were as follows:

Level	hours
SES	100
APS6 to EL2	25,000
APS1 to 5	7,000
Total	32,100

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1007) No.

1008) There are at present 62 officers in the ATO who are authorised FOI decision makers comprising: all 58 officers in General Counsel at APS3 and above; the First Assistant Commissioner Corporate; and the three Second Commissioners.

a) No difference.

1009) N/A to the ATO.

1010) N/A to the ATO.

1011) The ATO provides on the job training to its designated FOI decision-makers. The ATO provides formal training to decision makers when there are significant amendments to the FOI Act.

a) 58.

b) 58.

c) Various times depending on when the officer commenced and when significant amendments are made to the FOI Act.

d) Formal training covered the changes to the FOI Act. Informal training covers practice and procedure, recent Information Commissioner, Administrative Appeals Tribunal and Court decisions.

e) Formal training was one day. Informal training is ongoing.

f) Formal training is provided by an external legal services provider. Informal training is on-the-job as provided by supervisors and peers.

1012) None. (a) – (f) N/A to the ATO.

1013) None. (a) – (f) N/A to the ATO.

1014) The ATO provides FOI PDFs for download via an online ordering system. Once a user provides their personal details, they are emailed a link to download the documents they have requested.

1015) There is no monitoring cost as this is included in the overall administration cost of our warehousing, the FOI packages are in general distributed automatically via our website. We have never supplied hard copy documents. When packages are too large to email the images burnt to DVD which are charged at \$3.64.

1016) Testing is conducted with the various sites by a dedicated accessibility testing team. We also use an internally published accessibility guide and make business decisions based on Web Content Accessibility Guidelines version 2.0 that provide the greatest level of access to information for all users.

1017) The department is working towards complying with accessibility standards for all of its websites (WCAG 2.0 under the Australian Government National Transition Strategy).

1018) It would likely reduce accessibility of the site by a minor factor unless an alternate version of the PDF is made available. FOI PDFs would only comprise a small percentage of the overall site's content.

1019) The various sites are always evolving and updating. Accessibility testing is part of this process and recommendations are made to improve accessibility of the site as content is added/changed.

1020) No.

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- 1021) There is currently no anonymous access to ATO FOI requests. All clients wishing to access the FOI packages must first register on the website. This registration is controlled by user name and password, only known to the individual client.
- 1022) The last 20 FOI PDF packages available for ordering from the ATO website have been downloaded 49 times. All packages are sent as a link via email.
- 1023) In the vast majority of cases the FOI package is downloaded from the website, therefore delivery is almost instant. On the remote occasion that the package is too large to email it is burnt to CD and dispatched to the clients' postal address within 48 hours.
- 1024) Beyond advice provided by the Australian Government Information Management Office (AGIMO) the ATO has not engaged directly with other departments regarding the accessibility of FOI PDFs as these are not provided on our website.
- 1025) The ATO has taken its advice on PDFs from AGIMO.
- 1026) No.
- 1027) The department is working towards complying with accessibility standards (including PDFs) for all of its websites (WCAG 2.0 NTS)
- 1028) No.
- 1029) No.
- 1030) As per AET 1027 above.
- 1031) The online ordering system is available to all members of the public.
- 1032) No.
- 1033) Yes.
- a) FOI@ato.gov.au is for receiving FOI requests.
 - b) 58 designated FOI decision makers within General Counsel have access to that email inbox. Generally, that inbox is accessed by a small number administrative staff and supervisors within General Counsel.
- 1034) Yes. Most applicants approach the ATO by email to FOI@ato.gov.au. Initial recognition of the fact of receipt of the request is usually sent from FOI@ato.gov.au. Further correspondence issues from the officer's ATO mail account upon the matter being allocated to a case officer who is a designated FOI decision maker within General Counsel.
- a) The need to distinguish does not arise because it is only people who work primarily on FOI within General Counsel who have direct dealings with FOI applicants.
 - b) If, as rarely happens, an applicant makes an FOI request to a business line officer other than General Counsel the recipient forwards the request to General Counsel where it is registered as an FOI request, and then dealt with in the usual way.