

Rural and Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2014

Agriculture

Question: 164

Division/Agency: Office of the General Counsel

Topic: Freedom of Information

Proof Hansard page: Written

Senator LUDWIG asked:

1. Can the department please outline the process it under goes to access Freedom of Information requests?
2. 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?
3. 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. If so, when?
 - c. If so, how does this occur?
4. 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?
5. 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?
6. What resources does the department commit to its Freedom of Information team?
7. List the staffing resources by APS level assigned solely to Freedom of Information requests

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8. List the staffing resources by APS level assigned indirectly to Freedom of Information requests
9. Does the department ever second additional resources to processing Freedom of Information requests?
 - a. If so, please detail those resources by APS level.
10. How many officers are currently designated decision makers under the *Freedom of Information Act 1982* within the department?
 - a. How does this differ to the number of officers designated as at 6 September 2013?
11. 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?
12. 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?
13. What training does the department provide to designated decision makers under the Freedom of Information Act who work within the department?
 - a. Of the officers designated as decision makers within the department, how many have received formal training?
 - b. Of the officers designated as decision makers within the department, how many have received informal training?
 - c. How long after each officers appointment as a designated decision maker did they receive formal training?
 - d. What did the training involve?
 - e. How long was the training?
 - f. By whom was the training conducted?
14. 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?
 - a. Of the officers designated as decision makers, how many have received formal training?
 - b. Of the officers designated as decision makers, how many have received informal training?
 - c. How long after each officers appointment as a designated decision maker did they receive formal training?
 - d. What did the training involve?
 - e. How long was the training?
 - f. By whom was the training conducted?

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15. Since 7 September 2013, how many Freedom of Information requests [have] been shown or alerted to the Minister or their office?
 - a. List those notified [of the] request
 - b. How many instances were each of this requests brought to the office or the Minister's attention?
 - c. How many of these items resulted in a separate formal brief being provided to the Minister?
 - d. How many of these items resulted in a separate informal briefing (including by email) being provided to the Minister?
 - e. How many requests have resulted in multiple formal briefs being provided to the Minister or their office?
 - f. How many requests have resulted in multiple informal briefs (including by email) being provided to the Minister or their office?
16. Does the department provide FOI PDFs for download on their website?
17. If not, what is the cost associated with staffing to require monitor email and collate and forward requested FOI documents?
18. How does the department test it is complying with accessibility standards for its websites?
19. Does the department comply with accessibility standards for all its websites?
20. What would be the effect on the accessibility rating of the department's website if FOI PDFs were provided on the department websites?
21. What accessibility testing of the website was done and what were the points of failure prior to this change in access for FOI documents?
22. Have the website accessibility standards been solely or partly responsible for not putting FOI PDF documents on the department websites?
23. How does the department facilitate anonymous access to the FOI disclosure files?
24. 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?
25. How long does it take to requests for disclosed FOI files to be processed? What was the average turn around from request to sending of files in the last 3 months?
26. What was the content of communications with other departments about the website accessibility standards and FOI PDFs?
27. Where did advice concerning the website accessibility certification and provision of PDFs come from and what was the content of that advice?

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28. 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?
29. What efforts have been made to make FOI PDFs accessible to members of the public who have disabilities?
30. Has advice from the information commissioner been sought regarding providing FOI requests available by email request only?
31. Has any disability advice group or consultant been contacted regarding making the FOI requests accessible to people with disabilities?
32. Is this compatible with the information commissioner's 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)"?
33. 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'"?
34. Is not providing the FOI PDFs on the website a means of avoiding not conforming to the WCAG 2.0 or other guidelines?
35. Does the department have a separate email address or inbox for receiving and responding to FOI requests?
 - a. If so, list each email account
 - b. List the officers who can assess and reply from those separate accounts, broken down by staffing classification level
36. Do FOI officers ever receive or respond to applicants from their individual email account as opposed to from a central account?
 - a. If so, how does the officer distinguish between communication related to their task as a decision maker and their primary work task?
37. How do FOI decision makers that receive emails related to FOI decisions in their normal work capacity distinguish these emails from FOI decision emails?

Answer:

1. The process for lodging a request under the *Freedom of Information Act 1982* (FOI Act) is outlined on the department's website at: www.daff.gov.au/about/accessing-information/foi. All FOI requests are managed in accordance with the FOI Act, Guidelines issued by the Australian Information Commissioner and departmental FOI policies and procedures current at the time of the decision.
2. A weekly report which includes new FOI requests is prepared within the department. A copy is provided to the minister's office for information.

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3. The department consults other departments or agencies as required regarding documents containing material related to their functions. The frequency and requirement for consultation depends on the nature of the request.
4. The minister's office is provided a copy of the decision.
5. See answer to question 3.
6. There is a Freedom of Information Section within the Office of the General Counsel.
7. As at 28 February 2014, the department had two APS 6 officers and one APS 5 officer in the FOI Section working primarily on FOI requests.
8. None.
9. No.
10. All SES officers and eight non-SES officers are authorised to make decisions. Information about authorisations under the FOI Act is available on the department's website at: <http://www.daff.gov.au/about/accessing-information/foi/faq>.
 - a. There has been no change in the authorisations of departmental officers since 6 September 2013.
11. An authorisation signed 18 October 2013 authorised two positions within the Minister's office as decision makers under the FOI Act.
 - a. The previous authorisation was for one position within the Minister's office.
12. None.
13. In April 2012, prior to the centralisation of FOI decision making within the department, a tailored course for SES and non-SES FOI decision makers was provided by the Australian Government Solicitor. The department has an online FOI course which is available to all officers in the department. Other formal additional training and on the job training are provided as required.
14. The department does not provide training to designated decision-makers within the minister's office. FOI advice and support is provided as required.

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15. From 7 September 2013 to 28 February 2014, the Minister's Office was advised of 23 new FOI requests received by the department.
 - a. The recipients of some or all of the FOI reports were Departmental Liaison Officers, an advisor to the minister or the minister's Chief of Staff.
 - b. Each FOI request was included in the FOI reports until the matter was finalised.
 - c. None.
 - d. The Minister's Office asked for further clarification on the nature of three of these requests.
 - e. None.
 - f. See answer to question 15.d.
16. Yes, in almost all circumstances. Some information is not published, in accordance with section 11C of the FOI Act.
17. The cost is minor, due to infrequency.
18. The department utilises a combination of automated and manual testing to confirm websites conform to accessibility standards. Automated checking is used to test accessibility issues that are programmatically determinable. Manual checking utilises: key board only site navigation, code scanning and visual inspection as the basis for defining accessibility issues.
19. The department has commenced the implementation of the recommendations of the Web Content Accessibility Guidelines (WCAG) 2.0 level AA and is on track to have all its websites comply with accessibility standards by December 2014, meeting Commonwealth requirements.
20. PDFs of documents released under the FOI Act are usually provided on the department's website. The documents are provided in other formats upon request.
21. The department has made no changes to how it provides access to FOI documents.
22. No. See answer to question 16.
23. Anyone can access information available via the department's FOI disclosure log. With the exception of information that is not published in accordance with section 11C of the FOI Act, documents that are not published on the FOI disclosure log can be accessed on request. The only information required is the provision of a valid electronic or physical address to which the documents can be sent.
24. The department records activity on its websites. It would be a significant diversion of the department's resources to convert these records into statistics on the number of times PDFs are downloaded from the FOI disclosure log. None of the FOI documents released under the FOI Act are only available by email.
25. The average time taken to process FOI request requests finalised by the department between 01 December 2013 and 28 February 2014 was 37.7 days.

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26. The department has not communicated with other agencies on these topics. We refer to the Web Content Accessibility Guidelines 2.0.
27. The department has not received any such advice.
28. No. The department is continually working to improve our online information and experiences so that they are more useful, usable, and accessible for everyone. Some documents are published in more than one format. Web pages are made available in HTML where feasible. Formats for documents which may be provided include Microsoft Word (doc), Rich Text Format (RTF), Portable Document Format (PDF), Zip for larger files, HTML for web browsers and basic text (txt).
29. Members of the public who are not able to access FOI PDF's are advised to contact the department for assistance. We will try to meet all reasonable requests for an alternate format of the document in a timely manner and at the lowest reasonable cost.
30. No.
31. No.
32. The department's approach is to publish FOI requests in PDF format. The disclosure log is published in a HTML table. While HTML is currently the most commonly used text format able to prove conformance to WCAG 2.0, the department's approach is not limited to the use of HTML to meet WCAG 2.0. Over time more technologies will conform to WCAG 2.0 and agencies will be able to rely upon them to meet their accessibility obligations under the National Transition Strategy.
33. The department complies with the requirements of the FOI Act and Guidelines issued by the Australian Information Commissioner. The Information Commissioner has identified a number of options which agencies can use to improve accessibility, all of which are now used by the department. These are to include advise on the FOI disclosure log that anyone who is unable to access the format provided should contact the agency, to apply optical character recognition to scanned hard copy documents and to use electronic redaction tools.
34. See answer to Question 32.
35. No. See answer to Question 32.
36. Yes.
 - a. The email address is: foi@daff.gov.au.
 - b. Only members of the FOI Section can access and send emails from this account.
37. FOI Officers may occasionally send an email to an applicant from their individual account; however the department's policy is that all FOI-related emails be sent from the FOI email account.
38. Generally, the handling and decision making of FOI requests is managed by the FOI Section. Emails that relate to FOI decisions have unique FOI reference numbers included in the subject lines and/or body of the text.

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ANSWERS TO QUESTIONS ON NOTICE

Additional Estimates February 2014

Agriculture

Question: 165

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/agency since 7 September 2013
 - 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 an unreasonable diversion of government 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 7 September 2013 – 28 February 2014, the department and relevant portfolio agencies spent (including GST) as follows:

Department of Agriculture

- \$876 025 on legal services from the Australian Government Solicitor
- \$147 648 on legal services from private law firms
- \$889 999 on internal legal services

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Australian Fisheries Management Authority (AFMA)

- \$13 200 on legal services from the Australian Government Solicitor
- Nil on legal services from private law firms
- \$173 605 on internal legal services
- \$8233 on counsel

Australian Pesticides and Veterinary Medicines Authority (APVMA)

- \$303 193 on legal services from the Australian Government Solicitor
- \$122 550 on legal services from private law firms
- \$691 048 on internal legal services

Cotton Research and Development Corporation

- Nil on legal services from the Australian Government Solicitor
- \$7040 on legal services from private law firms

Fisheries Research and Development Corporation

- Nil on legal services from the Australian Government Solicitor
- \$72 138 on legal services from private law firms

Grains Research & Development Corporation

- Nil on legal services from the Australian Government Solicitor
- \$181 012 on legal services from private law firms

Grape and Wine Research and Development Corporation

- Nil on legal services from the Australian Government Solicitor
- \$40 012 on legal services from private law firms

Rural Industries Research and Development Corporation

- Nil on legal services from the Australian Government Solicitor
- \$14 355 on legal services from private law firms

Wine Australia

- Nil on legal services from the Australian Government Solicitor
- \$29 520 on legal services from private law firms

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 and by in house teams in AFMA and the APVMA. The in house legal teams do not charge for legal advice provided, nor does it estimate the commercial value of legal advice provided.