

Senate Community Affairs Committee
ANSWERS TO ESTIMATES QUESTIONS ON NOTICE
SOCIAL SERVICES PORTFOLIO
2014-15 Supplementary Estimates Hearings

Outcome Number: 3

Question No: 438

Topic: DSBS outcomes & FOI

Hansard Page: Written

Senator Polley asked:

- a. Can the Department provide precise advice on what obligations the DSS FOI delegates and independent decision makers have if a request is made by a Ministerial office to delay the release of FOI materials?
- b. Can the delegates or decision makers be compelled to take direction from a Ministerial Office?
- c. Do the delegates and independent decision makers have obligations under the FOI Act and guidelines issued by the Information Commissioner to report any interference made by Ministerial offices?

Answer:

- a. The Department's FOI decision makers perform their duties independently and in accordance with the provisions of the *Freedom of Information Act 1982* (the FOI Act), the Guidelines issued by the Information Commissioner under s.93A of the FOI Act and the Better Practice Guide issued by the Attorney-General's Department. The FOI Act contains clear rules about the timeframes within which FOI decisions are to be notified to applicants. A decision maker may consult another Department or agency, including Minister's Offices, before making a decision on an FOI request.
- b. No. Decision makers exercise their powers under the FOI Act independently and are not subject to direction.
- c. No. However any such issue would be elevated to the Chief Legal Counsel within the Department. It is noted that FOI decisions are subject to review under the *Administrative Decisions (Judicial Review) Act 1977*, including on the basis of a discretionary power being exercised by a Commonwealth officer at the direction or behest of another person