

Senate Standing Committee on Environment and Communications

Answers to Senate Estimates Questions on Notice

Additional Estimates Hearings February 2014

Communications Portfolio

NBN Co Limited

Question No: 124

Program No. NBN Co Limited

Hansard Ref: In Writing

Topic: Freedom of Information

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
8. List the staffing resources by APS level assigned indirectly to Freedom of Information requests
9. Does the Department ever second addition 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?

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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?
15. Since 7 September 2013, how many Freedom of Information requests been shown or alerted to the Minister or their office?
 - a. List those notified 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?

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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?
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 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)”
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?
 - b. 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:

1. NBN Co has a freedom of information (FOI) webpage, found at **<http://nbnco.com.au/about-us/media/freedom-of-information.html>**
That page provides details as to how applicants may apply to NBN Co for documents under the FOI Act, either via email to **FOIofficer@nbnco.com.au** or via post to the company's offices in North Sydney.
2. NBN Co will only consult with its Shareholder Ministers where formal third party consultations are required under the FOI Act. NBN Co does not inform its Shareholder Ministers upon receipt of an FOI request.
a-b. Not applicable.
3. NBN Co will only formally consult with other Departments or Agencies, where formal third party consultations are required under the FOI Act. NBN Co may inform its Shareholder Departments – the Department of Communications and the Department of Finance if the FOI application is likely to be of significant public interest.
 - a. Refer to answer to question (3) above.
 - b. NBN Co will generally inform its Shareholder Departments as soon as practicable after receipt of an FOI application, which it considers to be of significant public interest.
 - c. If NBN Co is of the opinion that the FOI application may be of significant public interest, the company will email its Shareholder Departments.
4. NBN Co will only consult with its Shareholder Ministers, where formal third party consultations are required under the FOI Act. NBN Co does not inform its Shareholder Ministers before its FOI Officer makes an access decision under the FOI Act. NBN Co's FOI Officer makes his decisions independently, based upon his interpretation of the FOI Act and its Regulations, relevant case law, the Information Commissioner's Guidelines and other relevant sources.
a-b. Not applicable.
5. NBN Co will only formally consult with other Departments or Agencies, where formal third party consultations are required under the FOI Act. NBN Co may inform its Shareholder Departments regarding FOI decisions if the company considers that the FOI matter may be of significant public interest. The FOI Officer makes his decisions independently, based upon his interpretation of the FOI Act and its Regulations, relevant case law, the Information Commissioner's Guidelines and other relevant sources.
 - a. Refer to answer to question (3) above.
 - b. If NBN Co considers an FOI access decision to be of significant public interest, the company will endeavour to inform its Shareholder Departments as soon as practicable after the FOI Officer has made his determination.
 - c. If NBN Co considers an FOI access decision to be of significant public interest, the company will generally inform its Shareholder Departments via email.
6. FOI resourcing details may be found on the Information Commissioner's website at the following link and they have not changed materially since those statistics were published. **<http://www.oaic.gov.au/images/documents/freedom-of-information/foi-resources/foi-reports/foi-stats-2012-13/annual-report-2012-13-foi-agency-stats.xls>**

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7. NBN Co is a Government Business Enterprise (GBE) and its staff do not fall under the APS level categories. FOI staffing details are outlined in the Information Commissioner's website, noted at answer to question (6) above.
8. No staff are assigned indirectly to FOI requests.
9. No.
 - a. Not applicable.
10. There is one officer designated as a decision maker under the FOI Act.
 - a. It does not differ.
11. Not applicable.
 - a. Not applicable.
12. Not applicable.
13. Not applicable.
 - a. The FOI Officer is a lawyer, with extensive formal training and experience in FOI matters at the State and Commonwealth levels.
 - b-f. Not applicable.
14. Not applicable.
15. Not applicable – NBN Co does not inform its Shareholder Ministers or their offices about FOI requests.
 - a-f. Not applicable.
16. Yes.
17. Not applicable.
18. NBN Co's internal web team undertakes relevant testing regarding its compliance with accessibility standards. NBN Co has developed an implementation plan so as to align with Level AA of the W3C Web Content Accessibility Guidelines (WCAG 2.0) by the Commonwealth's Government's deadline of December 2014.
19. NBN Co endeavours to comply with all relevant accessibility standards in relation to the content and information provided to the public via its websites. NBN Co's current aim is to meet WCAG 2.0 Level A standards (website design in line with worldwide standards for disability access). Details regarding NBN Co's efforts may be found at the following link: <http://www2.nbnco.com.au/accessibility.html/>
In addition, NBN Co has developed an implementation plan so as to align with Level AA of the WCAG 2.0 standards.
20. Refer to answer to question 19 above. NBN Co seeks to ensure that all PDFs documents released under the FOI Act are accessible in a machine-readable format using an OCR or optical character recognition application. In addition, NBN Co provides instructions in its webpages to enable members of the public to contact NBN Co's FOI Officer or other NBN Co staff so as to obtain other versions of these documents in a more accessible format.
21. NBN Co's internal web team undertakes accessibility testing. In relation to the testing of documents released under the company's FOI Disclosure Log, NBN Co had identified PDF documents that may not be fully machine-readable. NBN Co subsequently converted all PDF documents in its Disclosure Log into a machine-readable format. Refer also to answer to question 20 above, for further details.

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22. NBN Co does upload PDF versions of documents released under the FOI Act, but converts those PDF documents into a machine-readable format using an OCR or optical character recognition application. NBN Co has an implementation plan in place to align with WCAG 2.0 Level AA standards.
23. NBN Co complies with the section 11C of the FOI Act and publishes all disclosable FOI documents on its Disclosure Log, found at <http://nbnco.com.au/about-us/media/freedom-of-information/disclosure-log.html>
As such, the public has the ability to download any documents disclosed by NBN Co on an anonymous basis. In addition, NBN Co provides instructions in its webpages to enable members of the public to contact NBN Co's FOI Officer or other NBN Co staff so as to obtain other versions of these documents in an alternative or more accessible format.
24. There were 1,950 downloads. NBN Co does not make documents available for release only via email. As outlined at answer to question 23 above, NBN Co publishes all disclosable documents released under the FOI Act on its Disclosure Log.
25. NBN Co complies with its statutory obligations and processes FOI applications within the relevant legislative time frames. In relation to matters requiring third party consultations, the average turnaround was within the 60 day limit, as permitted by sections 27 and 27A of the FOI Act. For FOI applications not requiring third party consultations, the average turnaround time was 23 days.
26. NBN Co's internal web team has liaised with the Department of Communications regarding best practice efforts in relation to WCAG 2.0 Level AA standards, with the objective of meeting the December 2014 deadline for compliance.
27. NBN Co's internal web team provided advice to the company regarding WCAG 2.0 A compliance. That advice indicated that our company was largely in compliance with relevant standards regarding PDF documents.
28. NBN Co considers that it is meeting relevant accessibility standards and provides additional options for individuals with disabilities to contact the company and request other formats more amenable to their specific needs.
29. NBN Co's aim is to meet WCAG 2.0 Level A compliance (website design in line with worldwide standards for disability access). Details regarding NBN Co's efforts may be found at the following link: <http://www2.nbnco.com.au/accessibility.html/>
That page provides tips and links to useful information which aims to assist users with disabilities to access our websites. We have also included information about how to give us feedback as well as details about complaints handling. In relation to PDFs, members of the public are invited to contact NBN Co if they encounter any inaccessible documents in this or other formats. NBN Co also ensures that PDF documents disclosed under the FOI Act have been translated with optical character recognition software so that they are more easily machine-readable.
30. No. Refer to answer to question 24 above.
31. NBN Co's internal web team provided the company with advice regarding how best to make all documents, including documents released under the FOI Act, accessible to people with disabilities. As part of its plans to be fully compliant with WCAG 2.0 Level AA, NBN Co is completing a review of its external website. In that process, the company plans to engage a specialist external consultant to assess NBN Co's accessibility efforts.
32. Yes. Refer to answer to question 31 above.

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33. Refer to answers to questions 23 and 24 above.
34. On its website, NBN Co makes available machine-readable PDF versions of all disclosable documents released under the FOI Act. Refer to answers to questions 23 and 24 above.
35. Yes.
 - a. The address is **FOIOfficer@nbnco.com.au**
 - b. David Mesman, General Manager Legal – FOI & Knowledge Management. As a GBE, NBN Co does not follow the APS grading scheme.
36. Generally, applicants make FOI access requests to NBN Co via the **FOIOfficer@nbnco.com.au** account. However, formal correspondence will be transmitted through the individual officer's NBN Co email account.
 - a. All emails sent to the **FOIOfficer@nbnco.com.au** account are automatically forwarded to the General Manager Legal – FOI & Knowledge Management and are managed in a systematic manner. The majority of his work is FOI-related and he distinguishes those emails through careful management of relevant email accounts and by maintaining distinct and well organised FOI files.
 - b. Refer to answer to part (a) above.