

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

26 February 2014

Question: AET 294-329

Topic: Freedom of Information

Written: 5/03/2014

Senator LUDWIG asked:

294. Can the department please outline the process it under goes to access Freedom of Information requests?
295. Does the department consult or inform the Minister when it receives Freedom of Information requests?
- If so, when?
 - If so, how does this occur?
296. Does the department consult or inform other departments or agencies when it receives Freedom of Information requests?
- If so, which departments or agencies?
 - If so, when?
 - If so, how does this occur?
297. Does the department consult or inform the Minister when or before it makes a decision on a Freedom of Information request?
- If so, when?
 - If so, how does this occur?
298. Does the department consult or inform other departments or agencies when or before it makes a decision on a Freedom of Information request?
- If so, which departments or agencies?
 - If so, when?
 - If so, how does this occur?
299. What resources does the department commit to its Freedom of Information team?
300. List the staffing resources by APS level assigned solely to Freedom of Information requests
301. List the staffing resources by APS level assigned indirectly to Freedom of Information requests
302. Does the department ever second addition resources to processing Freedom of Information requests?
- If so, please detail those resources by APS level
303. How many officers are currently designated decision makers under the Freedom of Information Act 1982 within the department?
- How does this differ to the number of officers designated as at 6 September 2013?
304. How many officers are currently designated decision makers under the Freedom of Information Act 1982 within the Minister's office?
- How does this differ to the number of officers designated as at 6 September 2013?

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305. 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?

306. 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?

307. 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?

308. 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?

309. Does the department provide FOI PDFs for download on their website?

310. If not, what is the cost associated with staffing to require monitor email and collate and forward requested FOI documents?

311. How does the department test it is complying with accessibility standards for its websites?

312. Does the department comply with accessibility standards for all its websites?

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313. What would be the effect on the accessibility rating of the department's website if FOI PDFs were provided on the department websites?

314. What accessibility testing of the website was done and what were the points of failure prior to this change in access for FOI documents?

315. Have the website accessibility standards been solely or partly responsible for not putting FOI PDF documents on the department websites?

316. How does the department facilitate anonymous access to the FOI disclosure files?

317. 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?

318. 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?

319. What was the content of communications with other departments about the website accessibility standards and FOI PDFs?

320. Where did advice concerning the website accessibility certification and provision of PDFs come from and what was the content of that advice?

321. 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?

322. What efforts have been made to make FOI PDFs accessible to members of the public who have disabilities?

323. Has advice from the information commissioner been sought regarding providing FOI requests available by email request only?

324. Has any disability advice group or consultant been contacted regarding making the FOI requests accessible to people with disabilities?

325. 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)"

326. 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'"?

327. Is not providing the FOI PDFs on the website a means of avoiding not conforming to the WCAG 2.0 or other guidelines?

328. 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

329. Do FOI officers ever receive or respond to applicants from their individual email account as opposed to from a central account?

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- 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?

Answer

294. The ASIC website advises the public that it may make applications either via a specific ASIC Freedom of Information (FOI) email address or by regular post addressed to the Senior Manager of the Administrative Law Team.

Most requests are made by email. Three staff within the Administrative Law Team have access to this email address – the Senior Manager, the Senior Specialist and the Senior Lawyer (the FOI Administrators). A small number of applications are received by regular post.

The date and time of receipt of emails are noted in the email software. The date of receipt of regular post FOI requests are stamped on the envelope by the relevant mail room.

An FOI Administrator will assess the nature of the information sought by the FOI request and forward the request to the ASIC department best suited to respond.

295. Rarely.

- a. If the requested information has been provided to ASIC by the Minister.
- b. This would occur by contacting the relevant Minister's office and asking for the details of the person to whom the relevant consultation should be directed to. Then providing the relevant information to that person.

296. When the information has been provided to us by another department or relates sufficiently to their operations that consultation or transfer is warranted. This is only occasionally necessary.

a. It varies, but could include departments such as the Treasury and agencies such as the Australian Prudential Regulation Authority.

b. See above answer to 296.

c. By contacting the relevant agency and asking for the details of the person to whom the relevant consultation should be directed to. The relevant information is then provided to that person.

297. Only in the circumstances identified at 295 above.

a-b. See 295 above.

298. Only in the circumstances identified at 296 above.

a.-c. See 296 above.

299. One of the FOI Administrators, the Senior Specialist (Exec Level 2), is exclusively committed to FOI work. Of the other FOI Administrators, the Senior Manager (Exec Level 2) spends approximately 20% of their time dealing with FOI work and the Senior Lawyer (Exec Level 2) spends approximately 90% of their time on FOI work. The remaining members of the Administrative Law Team (all Exec Level 1) are available to perform FOI work as required.

ASIC's Misconduct and Breach Reporting team receive a substantial proportion of FOI requests made to ASIC. This team has an Exec Level 1 officer who spends approximately 60% of their time on FOI work.

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Similarly, ASIC's Registry Services area receives a high volume of FOI requests and it is estimated that 50% of an Exec Level 1 officer's time is committed to FOI work.

In addition to these staff, each operational area has a number of officers who have been authorised by the Chairman as FOI decision-makers (FOI Officers). When an FOI Administrator refers a request to a relevant operational area, the manager of the relevant team will then assign the FOI request to one of these FOI Officers.

FOI officers may spend anywhere between (approximately) 5- 40 hours responding to an FOI request.

The FOI Administrators and remaining members of the Administrative Law Team are available throughout the decision making process to assist FOI Officers.

300. As referred to in 299 above, there is only one ASIC officer who is solely committed to FOI work – the Senior Specialist.

301. The list of FOI Officers is updated periodically to allow the departure and arrival of suitably qualified staff. Generally, officers authorised by the Chairman to action FOI requests are required to be at an Exec Level 1 or higher. If they are engaged at a lower level, then they must have a legal qualification.

On 19 July 2012, the Chairman approved arrangements for the purposes of subsection 23 of the *Freedom of Information Act 1982* (FOI Act) to create two categories of FOI Officers as follows:

- Category A FOI Officers – These officers are authorised to exercise all power under the FOI Act, aside from those relating to internal review and those powers exercisable only by the Australian Information Commissioner (AIC). There are approximately 320 Category A FOI Officers.
- Category B FOI Officers – These officers are additionally authorised to make internal review decisions. There are approximately 250 Category B FOI Officers.

302. Rarely.

a. In 2011, two former Australian Government Solicitor (AGS) officers (Exec Level 1 and 2) were employed on contract for 6 months to assist with the substantial number of complex FOI requests arising from the Storm Financial matter.

In 2013, a former ASIC officer was engaged for a period of 3 months to assist with FOI requests arising from the Trio Capital matter. That officer was engaged at Exec Level 1.

303. As referred to in 301 above, approximately 570.

a. There may be a slight difference, allowing for natural attrition and new staff, some of whom have been granted FOI authorisations.

304. We do not have information about FOI practices or resourcing within the Minister's office.

a. See answer to 304 above.

305. See answer to 304 above.

306. ASIC purchased a significant amount of FOI training approximately two years ago from the Office of the Australian Information Commissioner (OAIC). Some 200 staff participated in this training.

We understand that, due to resourcing issues, the OAIC no longer provides such training.

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More recently, those FOI Officers who quite often deal with FOI requests have attended FOI training provided by the AGS. This was a two day training program. This program is prohibitively expensive to provide on a broader scale.

Presently, FOI Officers (and particularly those new to FOI) are guided and mentored by more experienced FOI Officers and the FOI Administrators.

The OAIC has produced detailed guidance material regarding the processing of FOI, FOI review requests and other aspects of the FOI Act. ASIC FOI Officers are encouraged to refer to this material. Further, the Administrative Law Team are available to assist FOI Officers with questions about specific requests.

In this way FOI officers are regularly provided with informal "on-the-job" training.

a-f. See answer to 306 above.

307 See answer to 304 above.

a-f. See answer to 304 above.

308. None.

a-f..Not applicable.

309. No.

3010. Negligible.

311. Accessibility testing is now a standard part of ASIC IT's testing procedures when developing browser-based applications including websites. An automated accessibility tool is used to test technical compliance with W3C standards.

When preparing website content, the ASIC web publishing team uses accessibility techniques to ensure that content can be meaningfully understood by users with assistive technology. Applications such as Jaws, and automated checkers are also used to test selected pages. The web publishing team regularly attend accessibility training and conferences. One member of the team has completed a formal university course in accessibility.

During 2013, ASIC engaged Vision Australia to do some audits of various external ASIC websites and applications against W3C Web Content Accessibility Guidelines WCAG 2.0. Their report recommendations are being used to inform current and future remediation work on the relevant websites and applications.

ASIC is currently has a project to re-platform the entire asic.gov.au website to a new content management system to facilitate compliance with accessibility guidelines. Significant accessibility testing of content is being carried out as part of this project.

312. ASIC is currently working towards compliance with Web Content Accessibility Guidelines 2.0 at AA level. Compliance levels vary depending on the website or browser-based application. As identified by Vision Australia, some ASIC applications need minor work and others significant work to meet compliance with AA level.

313. Publishing information only in PDF format is not sufficient to comply with the WCAG 2.0 accessibility guidelines. The content also has to be provided in an alternative format (such as HTML,

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word etc) to enable compliance. Given that the ASIC website currently doesn't comply with WCAG 2.0, the addition of FOI PDFs would not have an impact on its accessibility rating.

314. Compliance levels vary depending on the website or browser-based application. As identified by Vision Australia, some ASIC applications need minor work, and others significant work to meet compliance with AA level. The key areas requiring further work are the ASIC online forms, the ASIC transactional site (ASIC Connect), and the search registers. These are not related to FOI.

315. No.

316. There is open access to the disclosure log on ASIC's website. A person may make an email request for documents listed on the disclosure log without disclosing their identity and the documents will be provided.

317. As referred to at 308 above, we do not provide PDF downloads on our disclosure log. We have received no requests in relation to the last 20 entries on the disclosure log.

318. About one week. There have been no requests in the past 3 months.

319. There has been no such communication.

320. The Australian Government Information Management Office (AGIMO) has indicated the following:

“PDF does not yet have approved Sufficient Techniques to claim WCAG 2.0 conformance, so it cannot be ‘relied upon’ in the provision of government information. At least one other format must be provided with all PDF documents. AGIMO review this position when formalised Sufficient Techniques become available for PDF.”

Source: [Australian Government webguide](#)

321. Accessibility was not the reason for FOI PDFs not being published on the website. The reasons for not providing PDF FOI documents on the disclosure log is set out at 326 below.

322. Currently FOI PDFs are made available by email and are not published on the ASIC website.

If a decision is made to publish that information on the website, all reasonable attempts would be made to make sure the information can be read by assistive technology.

323. No, we have not considered limiting the ability to make FOI requests to email only.

324. No.

325. Currently FOI PDFs are made available by email and are not published on the ASIC website.

If a decision is made to publish that information on the website, all reasonable attempts would be made to make sure the information complies with WCAG 2.0.

326. The procedure for accessing PDF copies of disclosure log documents is clearly set out on ASIC's public webpage. ASIC places no restrictions on the provision of those documents to persons who request them. The documents are simply provided. In this regard, the documents are available to the public generally.

327. No. Given the number of high volume of FOI requests deal with by ASIC and the substantial amount of documentation released and the best utilisation of ASOC's website capabilities, it was

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decided that it was more appropriate to provide a description of documents on the disclosure log as opposed to a PDF and make the documents available to persons upon request.

328. Yes.

a. foirequest@asic.gov.au

b. The FOI Administrators referred to at 294 above.

329. The majority of FOI requests are received via the designated ASIC FOI email address. Occasionally, an ASIC officer may receive a request to via their individual ASIC email account. This usually occurs when an applicant has been previously dealing with that ASIC officer and their request relates to those dealings.

Once a request has been allocated to a particular FOI Officer it is common for that officer to communicate with the FOI applicant using that officers individual ASIC email account.

a. The FOI Act requires, inter alia, a valid FOI request must be a request that is identified as being made under the FOI Act.

b. As referred to at 328a FOI requests must be identified as such. Subsequent communications are likely to refer to the fact that they relate to an FOI request.