

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

26 February 2014

**Question: AET 435-470**

**Topic: Freedom of Information (ACCC)**

**Written: 5 March 2014**

**Senator LUDWIG asked:**

435. Can the department please outline the process it under goes to access Freedom of Information requests?
436. 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?
437. 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?
438. 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?
439. 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?
440. What resources does the department commit to its Freedom of Information team?
441. List the staffing resources by APS level assigned solely to Freedom of Information requests
442. List the staffing resources by APS level assigned indirectly to Freedom of Information requests
443. Does the department ever second addition resources to processing Freedom of Information requests?
  - a. If so, please detail those resources by APS level

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

Additional Estimates

26 February 2014

444. 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?
445. 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?
446. 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?
447. 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?
448. 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?
449. 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?

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

Additional Estimates

26 February 2014

- 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?
450. Does the department provide FOI PDFs for download on their website?
451. If not, what is the cost associated with staffing to require monitor email and collate and forward requested FOI documents?
452. How does the department test it is complying with accessibility standards for its websites?
453. Does the department comply with accessibility standards for all its websites?
454. What would be the effect on the accessibility rating of the department's website if FOI PDFs were provided on the department websites?
455. What accessibility testing of the website was done and what were the points of failure prior to this change in access for FOI documents?
456. Have the website accessibility standards been solely or partly responsible for not putting FOI PDF documents on the department websites?
457. How does the department facilitate anonymous access to the FOI disclosure files?
458. 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?
459. 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?
460. What was the content of communications with other departments about the website accessibility standards and FOI PDFs?
461. Where did advice concerning the website accessibility certification and provision of PDFs come from and what was the content of that advice?
462. 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?
463. What efforts have been made to make FOI PDFs accessible to members of the public who have disabilities?
464. Has advice from the information commissioner been sought regarding providing FOI requests available by email request only?
465. Has any disability advice group or consultant been contacted regarding making the FOI requests accessible to people with disabilities?

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

Additional Estimates

26 February 2014

466. 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)”
467. 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’”?
468. Is not providing the FOI PDFs on the website a means of avoiding not conforming to the WCAG 2.0 or other guidelines?
469. 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
470. 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?

#### Answer:

435. Once a valid FOI request is received by the ACCC, it is processed in the following manner.
- The ACCC will usually prepare and send the applicant a cost estimate, if appropriate summarising how many files, documents and third parties fall within the scope of the request, and outlining the likely cost of processing the request (stopping the statutory timeframe for processing the request).
  - If fees are applicable, the applicant will normally be required to either pay a 25% deposit of the estimated charges, or make an application for the waiver of the fees in accordance with the *Freedom of Information Act 1982* (FOI Act).
  - Once any deposit has been paid (or an agreement reached on a waiver application) the statutory timeframe resumes.
  - Third party consultation will be conducted if required and the statutory timeframe extended if necessary.
  - The ACCC decision maker then assesses the documents to decide if they can be released, or should be exempt from release.
  - The applicant will be notified of the decision, any assessed charges that are payable and any review rights.
  - Any documents to which access has been granted will be released to the applicant and, where appropriate, published on the disclosure log on the ACCC website after the remainder of the assessed charge has been paid and any third party review period has expired.

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

26 February 2014

436. No
- a. Not applicable
  - b. Not applicable
437. Other agencies/departments may be consulted regarding their views on whether documents should be released where the documents relate to that agency/department and/or to discuss the possibility of a transfer of a request under section 16 of the FOI Act. Occasionally, other agencies/departments may be informed about an FOI request, for example where an applicant requests the same documents from multiple agencies.
- a. The relevant agency/department that the documents relate to.
  - b. As soon as is practicable after the decision is made to consult or inform that agency/department.
  - c. A transfer under section 16 of the FOI Act, or consultation regarding particular documents, is normally completed via email.
438. As a matter of course the ACCC does not consult or inform the Minister when or before it makes a decision on a FOI request.
- a. The ACCC would consult with the Minister where the documents originated from or made reference to the Minister which might trigger a transfer of the request under section 16 of the FOI Act or require consultation with the Minister in the same manner as any other part of the Commonwealth.
  - b. This consultation/transfer is normally completed via email and occurs as soon as practicable in the circumstances.
439. See response to AET 437.
- a. See response to AET 437.
  - b. See response to AET 437.
  - c. See response to AET 437.
440. The ACCC has two staff members in its FOI team and 1 staff member who manages the FOI team as part of their broader duties.
441. Of the two staff members dedicated to the ACCC's FOI team:
- one is at APS 4 classification, and
  - one is at APS 6 classification.
442. In the 2012-2013 financial year, staff indirectly assigned to FOI at the APS 1-5 level spent 104.5 hours on FOI. Staff at the APS 6-EL2 level spent 1,108 hours on FOI. Staff at the SES level spent 39 hours on FOI.
443. No
- a. Not applicable

## Senate Standing Committee on Economics

### ANSWERS TO QUESTIONS ON NOTICE

#### Treasury Portfolio

#### Additional Estimates

26 February 2014

444. 68 ACCC officers are authorised to make FOI access decisions. This derives from a broad instrument of authorisation that empowers staff from time to time holding, occupying or performing the duties of specified positions.

a. No change.

445. In respect of the ACCC's FOI responsibilities - none.

a. No change.

446. Not applicable

447. a. – f.

Formal training is offered periodically to decision makers and is usually conducted by the Australian Government Solicitor (AGS). Most recently, the AGS session offered to decision makers ran for half a day and 20 ACCC staff attended. The training provided an overview of the FOI Act and concentrated on how to determine whether to release documents or to exempt documents in whole or part. Informal training is made available to all FOI decision makers as required. This informal training is usually conducted by experienced ACCC legal and FOI staff and usually consists of one to one training for new decision makers who have not yet received formal training. The period between authorisation and training varies, noting that many authorised staff will not be called on as decision makers for extended periods.

448. Not applicable.

a. Not applicable.

b. Not applicable.

c. Not applicable.

d. Not applicable.

e. Not applicable.

f. Not applicable.

449. Nil. There was one instance in which the Minister's office was consulted for their views regarding the possible release of a document originating with a Minister's office. However, this consultation request was withdrawn by the ACCC prior to any response from that office.

a. Not applicable.

b. Not applicable.

c. Not applicable.

d. Not applicable.

e. Not applicable.

f. Not applicable.

450. Yes. The ACCC publishes released documents on its disclosure log maintained on [foi.accc.gov.au](http://foi.accc.gov.au), a separate website to the ACCC's other sites.

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

26 February 2014

451. Not applicable.
452. The ACCC uses a suite of automated testing tools in addition to manually verifying accessibility compliance both during development and for ongoing content publishing.
453. The [acc.gov.au](http://acc.gov.au) and [aer.gov.au](http://aer.gov.au) websites conform to WCAG2 level AA. The [foi.acc.gov.au](http://foi.acc.gov.au) website partially conforms to WCAG2 level AA and other sites are currently progressing towards WCAG2 level AA compliance.
454. Many of the documents published on the ACCC's FOI website are not published in an accessible format because they need to be redacted and then scanned in order to protect redacted material. If these documents were published on [acc.gov.au](http://acc.gov.au) then the level of WCAG 2.0 content conformance would decrease.
455. Testing of the ACCC's FOI website was performed with screen reader software and software to allow enlargement of text for visually impaired users. The ACCC has not identified any points of failure.
456. Not applicable.
457. The FOI application form on the ACCC website allows for anonymous requests to be made. Anonymous requests can also be sent directly via email.
458. 9,001 times in total.  
Not applicable.
459. The ACCC does not generally need to process requests for access to disclosed FOI files as these are published as PDFs on the ACCC FOI website.  
Not applicable.
460. The ACCC made submissions to the Office of the Information Commissioner and Australian Government Information Management Office (AGIMO) regarding website accessibility issues and FOI PDF documents. AGIMO advised that they were considering the issues raised in our submissions but did not provide a conclusive response.
461. Advice was obtained from AGIMO concerning website accessibility and PDFs. This advice is available at <http://webguide.gov.au/accessibility-usability/accessibility/pdf-accessibility/>.
462. Not applicable.
463. Members of the public are advised that they can contact the ACCC to make alternative arrangements for access to documents.
464. Not applicable.
465. During the development of the ACCC FOI website, contact was made with an accessibility consultant.
466. The ACCC's FOI website is partially compliant with WCAG level 2. In the event that any information provided may be inaccessible, for example a scanned copy of a handwritten document, it may be requested in an alternate format from the ACCC's FOI team. This approach is consistent with the OAIC guidelines, Part 14, paragraph 14.63.

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

26 February 2014

- 467. Not applicable.
- 468. Not applicable.
- 469. Yes.
  - a. [foi@acc.gov.au](mailto:foi@acc.gov.au)
  - b. FOI Coordinator (APS 6) and FOI Administrative Assistant (APS 4).
- 470. In most cases no, but in limited cases the decision maker may be contacted directly by the applicant.
  - a. The communication normally refers to FOI.
  - b. The communication normally refers to FOI.