

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

16 February 2012

Question No: AET 1160 - 1169

Topic: Freedom of information (ATO)

Hansard Page: Written

Senator Bushby asked:

1160. Has the Department/agency received any advice on how to respond to FOI requests?
1161. What was the total cost to the department to process FOI requests for 2009-10 and 2010-11?
1162. What is the total cost to the department to process FOI requests for this financial year to date?
1163. How many FOI requests did the Department receive for the financial year 2009-10 and 2010-11?
1164. For each financial year, how many requests were denied and how many were granted?
1165. Did the department fail to meet the processing times outlined in the FOI Act for any requests?
- a. If so, how many?
- b. Do any of these requests remain outstanding?
1166. How many FOI requests has the Department received for this financial year to date?
1167. How many requests have been denied and how many have been granted?
1168. Has the department failed to meet the processing times outlined in the FOI Act for any requests?
- a. If so, how many?
- b. Do any of these requests remain outstanding?
1169. How many conclusive certificates have been issued in relation to FOI requests for this financial year to date?

Answer:

1160. Yes. For some complex or voluminous freedom of information requests, the ATO receives legal advice from external legal service providers who are engaged to assist with the processing of the request. In most cases this legal advice is incidental to the more general assistance provided by the external legal service providers in processing requests.

ATO decision makers also refer to the Australian Information Commissioner's Guidelines issued under section 93A of the *Freedom of Information Act 1982*. On 28 July 2011, the Department of the Prime Minister and Cabinet provided freedom of information guidance notes to all departments – http://www.dpmc.gov.au/foi/guidance_notes.cfm.

1161. The total cost to the ATO to process freedom of information (FOI) requests in 2009-10 was \$2,952,231.

The total cost to the ATO to process FOI requests in 2010-11 was \$4,283,567.

Total cost includes salary costs, non-labour costs and external legal expenditure, but does not include the salary costs of business area ATO staff who assist with some search and retrieval work.

1162. The total cost to the ATO to process FOI requests for this financial year to 31 January 2012 is \$4,453,321.

Total cost includes salary costs, non-labour costs and external legal expenditure, but does not include some search and retrieval costs (the costs incurred by business line staff in search and retrieval work is not captured).

1163. In 2009-10, the ATO received 795 FOI requests.

In 2010-11, the ATO received 852 FOI requests.

1164. In 2009-10 decisions were made in 732 cases:
- i. the ATO granted full access in 274 cases
 - ii. the ATO allowed part access in 355 cases
 - iii. the ATO denied access in 103 cases

250 requests were withdrawn by applicants before a decision was made and three were transferred to other agencies. There were 67 requests on hand at the end of the financial year.

- In 2010-11 decisions were made in 582 cases:
- i. the ATO granted full access in 148 cases
 - ii. the ATO allowed part access in 320 cases
 - iii. the ATO denied access in 114 cases

158 requests were withdrawn by applicants before a decision was made. There were 179 requests on hand at the end of the financial year.

1165. In 2009-10 the ATO failed to meet processing times outlined in the FOI Act in relation to 358 cases (49% of cases decided in the year). Of these, 64% were finalised within the next 30 days due. Eight cases received during the year remain outstanding at 31 January 2012 (out of a total of 27 overdue cases on hand at that date). While tranches of documents comprising thousands of pages have been released to the applicants in these eight outstanding cases, they have yet to be finalised because of the large number of documents covered by the requests. The applicants have been advised of the delay and of the likely response date.

In 2010-11 the ATO failed to meet processing times outlined in the FOI Act in relation to 241 cases (41% of cases decided in the year). Of these, 65% were finalised within the next 30

days. Four cases received during the year remain outstanding at 31 January 2012 (out of a total of 27 overdue cases on hand at that date). While thousands of pages in tranches of documents have been released to the applicants in these four outstanding cases, they have yet to be finalised because of the large number of documents covered by the requests. The applicants have been advised of the delay and of the likely response date.

1166. The ATO has received 470 FOI requests for the financial year to 31 January 2012.

1167. For this financial year to 31 January 2012, decisions were made in 514 cases:

- the ATO granted full access in 104 cases
- the ATO allowed part access in 280 cases
- the ATO denied access in 130 cases

38 requests were withdrawn by applicants before a decision was made and one matter was transferred to another agency.

1168. The ATO failed to meet processing times in 159 matters this financial year to 31 January 2012 (31% of cases decided in the year to 31 January). Of these, 47% were finalised within the next 30 days. 15 of the cases received during the year remained outstanding at 31 January 2012 (out of a total of 27 overdue cases on hand at that date). These 15 outstanding cases are taking an extended period to finalise because of the large number of documents covered by the requests. The applicants have been advised of the delay and of the likely response date.

1169. There have been no conclusive certificates issued in relation to ATO freedom of information requests in 2011-12 to 31 January 2012.

(Note: conclusive certificates were abolished by the *Freedom of Information (Removal of Conclusive Certificates and Other Measures) Act 2009* (Cth).)