

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
BUDGET ESTIMATES 2012-2013

Prime Minister and Cabinet Portfolio

Department/Agency: Australian Public Service Commission
Outcome/Program: Cross Portfolio
Topic: Freedom of Information

Senator: Ryan

Question reference number: 90

Type of question: Written

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Number of pages: 4

Question:

1. Has the department/agency received any updated advice on how to respond to FOI requests?
2. What is the total cost to the department/agency to process FOI requests for 2011-12? How many FOI requests did the department/agency receive in 2011-12? How many requests were denied and how many were granted? Did the department fail to meet the processing times outlined in the FOI Act for any requests? If so, how many? Do any of these requests remain outstanding?
3. What is the total cost to the department to process FOI requests for this financial year to date?
4. How many FOI requests has the Department received for this financial year to date? How many requests have been denied and how many have been granted? Has the department failed to meet the processing times outlined in the FOI Act for any requests? If so, how many and why? Do any of these requests remain outstanding? If so, how many and why?

Answer:

1. Yes.

The Office of the Australian Information Commissioner (OAIC) regularly provides agencies with information through its OAICnet Email service. This information frequently directs agencies to updated advice on FOI matters, including case notes and general advice on how to respond to FOI requests.

On 30 April 2009, Senator the Hon John Faulkner, wrote to all agency heads, outlining the government's FOI reform objectives and asking that agency heads seek to enhance a culture of disclosure by making it clear to FOI decision makers that the starting point for considering FOI requests should be a presumption in favour of giving access. In addition,

the Department of the Prime Minister and Cabinet issued guidance to agencies prior to November 2010. A further letter of advice was received from the then Minister for Privacy and Freedom of Information in October 2010, updating agencies on progress with FOI reform. In November 2010 the Australian Information Commissioner issued guidelines under the *Freedom of Information Act 1982* (the FOI Act), which are updated from time to time. FOI decision-makers must have regard to those guidelines when making a decision on a request. In July 2011, the Department of the Prime Minister and Cabinet provided FOI Guidance Notes to all agencies. Where relevant, this guidance is taken into account by authorised decision makers within the Commission.

Guidelines and information published by the Australian Information Commissioner and the OAIC are updated from time-to-time and employees of the Commission regularly refer to these guidelines and information on the OAIC's web site.

In accordance with the provisions of the FOI Act, the Commission consults with third parties, where necessary, about the release of business documents or documents affecting personal privacy. In these circumstances, the Commission often receives submissions from those third parties. Where necessary, the Commission also consults with other Government agencies about particular FOI requests. In these circumstances, the Commission often receives advice and submissions from those agencies.

The Commission has requested and received advice directly from the OAIC about matters concerning the processing of FOI requests. The Commission has requested and received external legal advice in relation to individual FOI requests when considered necessary.

2. In addition to supporting the Public Service Commissioner, employees of the Australian Public Service Commission are also made available to the Merit Protection Commissioner, the Remuneration Tribunal and the Defence Force Remuneration Tribunal. Each of these offices and bodies is a separate 'agency' for the purposes of the FOI Act.

After the end of each financial year, the OAIC compiles and publishes agency FOI statistical information, including information about agencies' FOI costs. No costs were reported by the Defence Force Remuneration Tribunal for financial year 2011-12. The published costs for the Commission, the Merit Protection Commissioner and the Remuneration Tribunal are presented in Table 1 below.

	Salary costs plus 60% related costs	Non-labour costs	Total costs
Australian Public Service Commission	\$101,822	\$10,296	\$112,118
Merit Protection Commissioner	\$24,255	\$200	\$24,455
Remuneration Tribunal	\$1,193	\$0	\$1,193

Table 1: Summary of 2011-12 FOI costs

The Commission is not familiar with the methodology used by the OAIC to calculate these costs.

During 2011-12, the Defence Force Remuneration Tribunal did not receive or respond to any FOI requests. FOI data for the other three agencies is presented in tables 2 and 3.

	FOI requests received 2011-12
Australian Public Service Commission	36
Merit Protection Commissioner	8
Remuneration Tribunal	3

Table 2: FOI requests received during 2011-12

	Granted in full	Granted in part	Access refused	Transferred	Withdrawn	Total outcomes
Australian Public Service Commission	10	7	7	2	7	33
Merit Protection Commissioner	4	2	1	-	2	9
Remuneration Tribunal	-	1	-	-	1	2

Table 3: FOI outcomes during 2011-12

The discrepancies between the number of requests received and the total outcomes for each agency arise due to cases being carried over at each end of the financial year.

During 2011-12, all FOI responses by the Commission and the Merit Protection Commissioner were made within the statutory timeframes. One response by the Remuneration Tribunal was made up to 30 days outside the statutory timeframe for responding to requests. None of the four agencies currently has an outstanding request that is beyond the statutory timeframe for a response.

3. The data required to respond to this question fully are not readily available and an unreasonable diversion of resources would be required to compile this data ahead of the regular FOI reporting cycle.

4. FOI data for the financial year-to-date is included in tables 4 and 5 below. The one outcome reported against the Remuneration Tribunal relates to a request received in the previous financial year. The Defence Force Remuneration Tribunal has not received or responded to any FOI requests this financial year.

	FOI requests received 2012-13 (year-to-date)
Australian Public Service Commission	14
Merit Protection Commissioner	1

Table 4: FOI requests received during 2012-13 (year-to-date)

	Granted in full	Granted in part	Access refused	Transferred	Withdrawn	Total outcomes
Australian Public Service Commission	6	4	5	-	1	16
Merit Protection Commissioner	-	-	1	-	-	1
Remuneration Tribunal	-	1	-	-	-	1

Table 5: FOI outcomes during 2012-13 (year-to-date)

The discrepancies between the number of requests received and the total outcomes for each agency arise due to cases being carried over at each end of the financial year.

The Commission has two FOI requests outstanding, which are likely to be finalised within the statutory timeframe for a response. None of the other three agencies have any outstanding FOI requests.

Three of the Commission's responses were provided outside the statutory timeframe, including any extensions granted. In two cases, extensions of time were sought from the applicants but the applicants did not respond. One of these responses was provided two days late and the other was provided one day late.

One FOI response was provided approximately one month late but within a period of extension granted by the OAIC. This FOI applicant has a history of harassing and abusive correspondence with the Commission and measures were therefore taken to block email correspondence from the person. In doing so, an FOI request from the person was inadvertently blocked. This was drawn to the Commission's attention by the OAIC when the applicant complained and the Commission subsequently responded to the FOI request and put in place measures to allow email correspondence to the Commission's FOI email address to be received from the person.