

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
OFFICE OF THE AUSTRALIAN INFORMATION COMMISSIONER

Question No. 39

Senator Brandis asked the following question at the hearing on 16 October 2012:

Senator BRANDIS: Professor McMillan, what is the average length of time from filing to final decision of FOI applications? Do you deal with this by calendar years or financial years?

Prof. McMillan: There is a table that is set out in the annual report that was tabled last week. It shows that 88 per cent of FOI requests to government agencies, or 24½ thousand requests, are decided within the applicable statutory time frame, which can be—

Senator BRANDIS: That is not what I am asking you, though. I am asking what the average length of time was from the filing of the request to the final determination of the request for FOI applications in each of the financial years, assuming you do it on a financial year basis, 2011-12, 2010-11 and 2009-10. Can you tell me that?

Prof. McMillan: I will take that on notice. I think the answer might be that those figures are not available. That sort of figure has not been prepared. At the moment, the reporting framework for agencies to report is whether they have dealt with a request within the applicable statutory time period, which is presumptively 30 days but can be more with authorised extensions, or whether the request is taken as being decided more than 30 days outside the applicable time frame, more than 60 days outside or more than 90 days outside.

Senator BRANDIS: That is fine, though the request I made of you is an elementary statistic: the average length of time it takes to deal with a request.

Prof. McMillan: It requires computation across 250 government agencies, Senator.

Senator BRANDIS: You are in the freedom of information business, Professor McMillan. So, if we cannot trust you to provide us with information about how free information is, who can we trust?

Prof. McMillan: The annual report contains a substantial amount of information, Senator, but, as you would be aware, to existing documents the act does not require the preparation of information that is not currently available—

Senator BRANDIS: Well, that is the information that I am requesting and you have taken that on notice.

Prof. McMillan: I have taken it on notice.

The answer to the honourable senator's question is as follows:

The OAIC is not able to answer this question. Since 1982–83, Australian Government agencies and Ministers subject to the *Freedom of Information Act 1982* (Cth) (the Act) have provided data on their activities under the Act.

The data includes:

- the number and type of FOI requests made to Australian Government agencies and Ministers
- the number of decisions made granting, partially granting or refusing access, and the number and outcome of applications for internal review
- the number and outcome of requests to amend personal records
- charges collected.

The data includes some information on the time taken by agencies and Ministers to respond to FOI requests. For example, there is information on the number of FOI requests processed within applicable statutory time periods, and information on those agencies and ministers that took more than 90 days to finalise an FOI request beyond the applicable statutory time period. The most recent available data is contained in Chapter 9 of the OAIC's 2011–12 Annual Report www.oaic.gov.au/publications/reports/annual-report_11-12/chapter9.html. However, the data does not allow the calculation of the average length of time from filing to final decision of FOI applications.