

Freedom of Information in Defence

Handling Note:

- Associate Secretary, Matt Yannopoulos, to lead on this topic.
- First Assistant Secretary Ministerial and Executive Coordination and Communication, Rowena Bain, to support.

Key Messages

- Defence is committed to transparency and, wherever possible, the release of documents under the *Freedom of Information Act 1982* (FOI Act).
- Defence is committed to finalising FOI requests in a reasonable timeframe.
- Defence must balance transparency with the need to protect sensitive and classified information in line with the provisions under the FOI Act, particularly relating to Defence operations, capabilities, international relations and commercial interests.

Talking Points

Freedom of Information (FOI) Performance and Timeliness

- Defence finalised 570 FOI requests in FY 2022-23 to 31 March 2023. Of these:
 - 451 decisions were made.
 - 67 per cent were completed within statutory timeframes. This was slightly down on the Department's performance of 71 per cent for FY 2021-22.
 - 117 requests were withdrawn by the applicant.
 - Reasons that impact a decision to withdraw a request include where the information is publicly available or has been provided to them directly under administrative release.
 - 2 requests were transferred to another agency.
 - This is appropriate when the information is more closely connected with the functions of another agency.
- 58 decisions were subject to a request for internal review, of which:
 - 19 resulted in the original decision being upheld.
- Defence has spent \$104,072 in FY 2022-23 to 31 March 2023 on FOI training for decision makers and case managers.

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If pressed: Why did the Department's timeliness reduce?

- Timeliness has been impacted for a number of reasons, including ensuring FOI decisions are of high quality, improving the consultation within Defence before a decision is made, and a significant increase in the number of FOI requests received.
 - Defence has seen an increase of 41 per cent in the number of FOIs received when compared to the same period last year.
- Defence is working to improve our processes with an aim of getting FOI decisions to applicants sooner.

If pressed: Why did a particular decision take so long to finalise?

- There are a number of reasons why Defence may take longer to finalise an FOI request.
 - The documents may need to be sought from a wide range of areas in Defence and can take time to locate.
 - The information may be particularly sensitive, and therefore close consultation and advice may be needed from a number of subject matter experts to understand the consequence of sensitive or classified information being made public.
 - It may also be appropriate to consult with individuals, businesses or entities before making a decision. Those consulted need to be afforded appropriate time to consider what may be a large amount of sensitive information.

If pressed: Why did Defence spend \$154,175 on FOI training in FY 2021-22?

- Defence has a comprehensive program provided by the Australian Government Solicitor to train FOI decision makers.
 - 275 staff are currently accredited to make FOI decisions.
- In FY 2022-23 to 31 March 2023, more than 109 staff have completed the FOI training program.
- Defence's investment in training recognises the importance of FOI and meeting our obligations under the FOI Act.

If pressed: What involvement does the Minister's Office have in FOI decisions?

- Prior to their release, Defence flags FOI requests that may be sensitive or reported in the media with key stakeholders in the Department, as well as the relevant Minister's Office.
- This ensures all areas with an equity in the information are aware of the decision and the upcoming release to the applicant.

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If pressed: Are talking points prepared for FOI requests?

- Defence prepares talking points for the Defence Executive and Ministerial Offices prior to sensitive documents being released.

Background

- Defence uses the outcomes of internal and external reviews to inform and educate FOI decision makers and improve business processes.
- Defence ceased charging for voluminous FOIs in 2020 due to criticisms regarding the accuracy and appropriateness of its charges.

Supporting Information

Questions on Notice

Senate Estimates Hearing: (9 November 2022)

- In QoN 51, (SQ22-000235) 310 St Kilda Road, Senator David Van (LNP, Victoria) asked for information relating to the Department's proposed refurbishment and use of the Victoria Barracks site at 310 St Kilda Road. One aspect of Senator Van's question sought information on the Department's compliance with FOI statutory timeframes.
- In the November 2022 Estimates hearing Senator Van asked the Associate Secretary if he expected FOI officers to be as helpful as they could to parliament and particularly the Senate in their work, and claimed there were 'ducks and drakes being played' to frustrate his FOI requests.

Freedom of Information (FOI) Requests

- None.

Recent Ministerial Comments

- No recent comments.

Relevant Media Reporting

- Following the release of a series of East Timor-related FOI decisions to a media organisation in July 2022, [the outlet criticised Defence](#) for releasing the overdue documents late on a Friday after experiencing 'radio silence' after making the requests. The outlet also criticised the culture of the 'public relations folks dealing with FOI'.

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Division:	Ministerial and Executive Coordination and Communication
PDR No:	SB23-000574
Prepared by: Luke McGowan, Assistant Secretary, Media and Information Disclosure Mob: s22 Ph: s47E(d) Date: 26 April 2023	Cleared by Division Head: Rowena Bain, First Assistant Secretary, Ministerial and Executive Coordination and Communication Mob: s22 Ph: s47E(d) Date: 26 April 2023
Consultation:	N/A
Cleared by DFG: Tracey Mackrow, Assistant Secretary Finance Enabling Mob: s22 Ph: s47E(d)	Date: 24 April 2023
Cleared by Associate Secretary: Matt Yannopoulos, Associate Secretary, Associate Secretary Group	Date: 28 April 2023

Questions on notice referred to within the brief:**Budget Estimates**

310 St Kilda Road

Senator David Van

Question

How many times has the Department of Defence failed to deliver on its statutory requirements to respond to Freedom of Information requests?

Answer

Defence processed 71 per cent of Freedom of Information requests in 2021-22 within the applicable statutory period, compared to the Australian Government average of 70 per cent.

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Defence Questions on Notice

Handling Note:

- Associate Secretary, Matt Yannopoulos, to lead on Questions on Notice.

Key Messages

- Defence is committed to answering and tabling responses to Questions on Notice within reasonable timeframes.
- Since 22 May 2022, 168 Parliamentary Questions on Notice have been asked of the Minister representing Defence Portfolio Ministers in the Senate. Of these, 115 have been tabled.
- At the February 2023 Senate Estimates hearing, the Department took 93 Questions on Notice. Of these, 82 have been tabled.

Talking Points**Parliamentary Senate Questions on Notice**

- Since 22 May 2022, 168 Parliamentary Questions on Notice (QoN) have been asked of the Minister representing Defence Portfolio Ministers in the Senate.
- As at 25 May 2023:
 - 115 questions have been tabled; and
 - 53 questions are yet to be tabled *[refer to the table below]*.

QoN No.	Topic	Tabling Due Date	Date(s) provided to MO	Asking Senator
1119	Former Government unfunded announcements	13 January 2023	4 January 2023 s47C	Nita Green
1139	Australian Army Chaplains	13 January 2023	9 January 2023 s47C	David Shoebridge
1364	Export Licences Granted to Israel	23 February 2023	6 February 2023 s47C	David Shoebridge

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QoN No.	Topic	Tabling Due Date	Date(s) provided to MO	Asking Senator
			First provided Updated version(s) provided	
1402	Legislative Instruments	10 March 2023	15 February 2023	Michaelia Cash
1415	Legislative Instruments	10 March 2023	15 February 2023	Michaelia Cash
1425	Legislative Instruments	10 March 2023	15 February 2023	Michaelia Cash
1447	Public Interest Disclosure Scheme	15 March 2023	22 February 2023 s47C	David Van
1448	Public Interest Disclosure Scheme	15 March 2023	1 March 2023 s47C	David Van
1466	Hikvision and Dahua Devices	28 March 2023	14 March 2023 s47C	James Paterson
1479	Ukraine War	3 April 2023	22 March 2023 s47C	Jacqui Lambie
1717	Foreign Interference in relation to the Referendum and the Voice to Parliament	28 April 2023	17 April 2023 s47C	James Paterson
1730	Technology manufactured or sold by DJI	28 April 2023	11 April 2023	James Paterson
1743	Technology manufactured or sold by DJI	28 April 2023	11 April 2023 s47C	James Paterson
1753	Technology manufactured or sold by DJI	28 April 2023	11 April 2023	James Paterson
1777	Meeting with Anacta Strategies Pty Ltd	6 May 2023	17 April 2023 s47C	James Paterson
1789	Meeting with Anacta Strategies Pty Ltd	30 April 2023	17 April 2023	James Paterson
1799	Meeting with Anacta Strategies Pty Ltd	6 May 2023	17 April 2023	James Paterson
1844	Efficiency Dividend Rate	4 May 2023	21 April 2023	Jane Hume

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QoN No.	Topic	Tabling Due Date	Date(s) provided to MO	Asking Senator
			First provided Updated version(s) provided	
1857	Efficiency Dividend Rate	4 May 2023	21 April 2023	Jane Hume
1867	Efficiency Dividend Rate	4 May 2023	21 April 2023	Jane Hume
1889	Minister's Calls and Briefings relating to AUKUS Announcement	4 May 2023	s47C 28 April 2023	Simon Birmingham
1894	Talisman Sabre 2023	12 May 2023	19 April 2023 s47C	David Shoebridge
1895	Bullying	11 May 2023	28 April 2023	David Shoebridge
1896	ADF's Reconciliation Action Plan	11 May 2023	24 April 2023	David Shoebridge
1897	Former ADF Personnel Training other Countries	11 May 2023	27 April 2023 s47C	David Shoebridge
1898	Afghanistan Inquiry Response	11 May 2023	24 April 2023	David Shoebridge
1899	Autonomous Weapons	11 May 2023	26 April 2023 s47C	David Shoebridge
1900	Ordnance Storage Bunkers in Orchard Hills	11 May 2023	24 April 2023	David Shoebridge
1901	Defence Exports	11 May 2023	26 April 2023 s47C	David Shoebridge
1902	Cyber Security	11 May 2023	1 May 2023 s47C	David Shoebridge
1911	Australian Cyber Security Centre	11 May 2023	N/A	David Shoebridge
1912	Australian Signals Directorate	11 May 2023	N/A	David Shoebridge
1913	Security Incidents	11 May 2023	2 May 2023 s47C	David Shoebridge

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QoN No.	Topic	Tabling Due Date	Date(s) provided to MO	Asking Senator
			First provided Updated version(s) provided	
1923	ChatGPT	11 May 2023	11 May 2023	David Shoebridge
1948	Austender CN3947349	11 May 2023	19 April 2023	Michaelia Cash
1949	Austender CN3948920	11 May 2023	21 April 2023	Michaelia Cash
1950	Austender CN3951410	11 May 2023	21 April 2023	Michaelia Cash
1951	Austender CN3951616	11 May 2023	19 April 2023	Michaelia Cash
1952	Austender CN3951998	11 May 2023	19 April 2023	Michaelia Cash
1953	Austender CN3952603	11 May 2023	21 April 2023	Michaelia Cash
1954	Austender CN3952605	11 May 2023	18 April 2023	Michaelia Cash
1955	Austender CN3952609	11 May 2023	19 April 2023	Michaelia Cash
1956	Austender CN3954420	11 May 2023	19 April 2023	Michaelia Cash
1999	MRH Sustainment Contract	12 May 2023	26 April 2023	David Shoebridge
2000	MRH Sustainment Contract	12 May 2023	27 April 2023	David Shoebridge
2004	MRH-90	19 May 2023	s47C 24 May 2023	David Shoebridge
2021	TikTok	21 May 2023	11 May 2023	James Paterson
2031	TikTok	19 May 2023	15 May 2023	James Paterson
2071	Nuclear-Powered Submarine Task Force Contractors	31 May 2023	19 May 2023	David Shoebridge
2099	Fees & Remuneration	10 June 2023	N/A	Alex Antic
2111	Fees & Remuneration	10 June 2023	N/A	Alex Antic
2121	Fees & Remuneration	10 June 2023	N/A	Alex Antic
2159	First Nations Employees	22 June 2023	N/A	David Shoebridge

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February 2023 Senate Estimates Questions on Notice

- 93 questions were taken on notice at the February 2023 Senate Estimates hearing.
 - 36 were taken on the day; and
 - 57 were received in writing.
- Of these, 82 have been tabled.
- Questions were due for tabling by 31 March 2023.
 - Eight were tabled by the due date; and
 - 74 were not tabled by the due date. Of which:
 - Five were tabled on 4 April 2023;
 - Four were tabled on 5 April 2023;
 - Seven were tabled on 6 April 2023;
 - Two were tabled on 14 April 2023;
 - Two were tabled on 17 April 2023;
 - One was tabled on 19 April 2023;
 - 14 were tabled on 21 April 2023;
 - Three were tabled on 24 April 2023;
 - Three were tabled on 28 April 2023;
 - Two were tabled on 1 May 2023;
 - 18 were tabled on 17 May 2023;
 - Two were tabled on 18 May 2023;
 - Eight were tabled on 19 May 2023; and
 - Three were tabled on 23 May 2023.
 - 11 are still to be tabled [refer to the table below].

QoN No.	Topic	Date(s) provided to MO	Asking Senator
		First provided Updated version(s) provided	
6	Authorisation process for military deployment	14 March 2023 s47C	Steele John
13	Number of cameras 2018 and 2021	14 March 2023	Ciccone

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QoN No.	Topic	Date(s) provided to MO	Asking Senator
		First provided Updated version(s) provided	
		19 May 2023	
16	HMAS <i>Coonawarra</i>	14 March 2023 s47C	White
37	Hunter class frigates review	14 March 2023	Birmingham
40	Workforce numbers	14 March 2023 s47C	Lambie
57	SEMPRO	14 March 2023	Chandler
58	SEMPRO Policy	14 March 2023	Chandler
59	ACON Membership	14 March 2023 s47C	Chandler
75	Credit Cards	14 March 2023 s47C	Hume
88	Labour Hire/Austender	14 March 2023 s47C	Hume
89	Functions (Departmental)	17 March 2023 s47C	Hume

- Of the 85 responses not tabled by the due date, 69 responses (or 81 per cent) were provided to the approving Minister's office by 14 March 2023.
- All responses to the 85 questions were received in the approving Minister's office by 27 March 2023.

Supporting Information

Questions on Notice

- No QoNs asked.

Freedom of Information (FOI) Requests

- None.

Recent Ministerial Comments

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- No recent comments.

Relevant Media Reporting

- None identified.

Division:	Ministerial and Executive Coordination and Communication	
PDR No:	SB23-000573	
Prepared by: Melissa King, Assistant Secretary, Ministerial Parliamentary and Cabinet Branch Mob: s22 Ph: s47E(d) Date: 24 April 2023	Cleared by Division Head: Rowena Bain, First Assistant Secretary, Ministerial and Executive Coordination and Communication Mob: s22 Ph: s47E(d) Date: 25 May 2023	
Consultation:	N/A	
Cleared by CFO / DPG / DSR:	N/A	
Cleared by Deputy Secretary (or equivalent Band 3/3*): Matt Yannopoulos, Associate Secretary, Associate Secretary Group	Date: 26 May 2023	

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