



Freedom of Information (FOI) Sensitive Request Analysis

Final Report

Prepared for

Department of Immigration and Border Protection

26 September 2017

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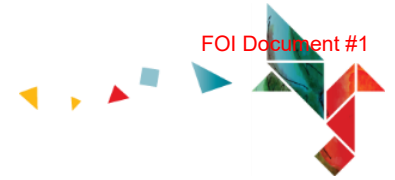
Synergy's ability to make observations and recommendations will be limited to the specific circumstances and facts documented in the sample of sensitive FOI requests reviewed as part of this assignment. Sample results and observations cannot be extrapolated to give population results and observations. Using a small sample can lead to credibility problems and is susceptible to bias.

Synergy was not engaged to deliver documented process maps containing key process steps, process roles, controls, risks, gaps and legislative references. Process phases have been based on documents and advice provided by DIBP staff. Synergy has not observed the performance of tasks in the FOI process, nor verified the integrity of data provided by DIBP, and has relied on representations made and data provided by DIBP staff.

Synergy's recommendations and conclusions are subject to these caveats, limitations and DIBP representations.

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Executive summary

Introduction

The purpose of this report is to communicate the results of an analysis of a sample of 30 sensitive freedom of information (FOI) requests. The report draws conclusions, based on the sample provided, in relation to the drivers of low levels of compliance with statutory FOI timeframes and provides recommendations for improvement.

The impacts of the FOI workload are most apparent in the sensitive request category, where processing times can be upward of 160 days (compared to a statutory timeframe of 30 days) and compliance rates are below 50%.

The department's FOI process has been the subject of several previous reports which have been reviewed as part of this engagement. However, a detailed review of the implementation status of previous recommendations has not been undertaken.

Methodology

The key phases in the review included:

- interviews with staff in the FOI section
- review of previous internal and external reports (full list at Appendix A)
- review of selected process and procedural documentation
- analysis of a sample of 30 sensitive FOI cases to establish timelines (summarised at Appendix B).

The staff of the FOI section provided significant insight into the challenges faced by the department in relation to timely processing of sensitive FOI requests. Further details of the methodology are provided.

Conclusions

The main categories in the FOI process are set out in the table opposite, including the average days taken for each category for the sample analysed. These were used to estimate the length and cause of identifiable delays. Drivers for delays can all be improved or addressed to some extent. Sensitive request processes are largely too complex and dependent upon professional judgement to obtain benefits from significant automation. However, there are improvements to processes, technology and relationship management (some of which have already been identified by the FOI Section) that can:

- reduce the time impost of consultation and document searches;
- make better use of the time of existing sensitive FOI resources;
- improve organisational cooperation and buy-in; and
- improve tracking and reporting.

Summary Results

154	
Average days to process each FOI request in the sample *Total days start to finish	
46.6	28.8
avg days attributed to scoping, PRNs and appeals	avg days attributed to early consultation / preparation
29.2	21.4
avg days attributed to late consultation / finalisation	avg days attributed to document searches
5.8	7.4
avg days attributed to ADM nomination	avg days attributed to case allocation
14.7	
average days for which a cause could not be identified from TRIM records or were caused by other minor issues	
50.8	
Average extension / clock pause days for each FOI request in the sample	

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Methodology

The key phases of the review are set out below:

PHASE	Report / policy review	Staff interviews	Sample review
ACTIONS	<ul style="list-style-type: none"> Review relevant sections of the FOI Act to determine how these relate to the Department. Review documentation regarding the Department's sensitive FOI request processing framework, including: <ul style="list-style-type: none"> the Department's FOI processing policy FOI related procedural documentation previous independent reviews of the sensitive FOI process undertaken by internal audit or external consultants. 	<ul style="list-style-type: none"> Interview key staff responsible for the management of the Department's processing of sensitive FOI cases to: <ul style="list-style-type: none"> help build understanding of the Department's FOI process and the roles of each team member in the FOI section identify perceived challenges and pain points identify potential improvements to processes, procedures and relationship management 	<ul style="list-style-type: none"> Obtain a sample of 30 sensitive FOI cases Obtain access to relevant folders in TRIM Construct a timeline based on the documentation in TRIM, in line with the Department's aspirational 30-day FOI timeline where possible Categorise and quantify any relevant delays Obtain and analyse caseload allocation figures

The methodology for the sample review was subject to a number of limitations and required significant assumptions and judgement. In particular:

- TRIM is not a workflow management system and does not contain a complete record of all actions, conversations or other activities in relation to a FOI matter.
- The FOI process is not linear and assignment of delays to steps in the process involved a significant amount of judgement based on the records in TRIM.
- Synergy was provided with a small judgement sample of 30 cases. Using a small sample can lead to credibility problems and is susceptible to bias, and as a result the sample results and observations cannot be extrapolated to give population results and observations.
- Workload allocation figures were provided at a point-in-time report and may not reflect the full year.
- Synergy was not engaged to deliver documented process maps containing key process steps, process roles, controls, risks, gaps and legislative references. Process phases have been based on documents and advice provided by DIBP staff. Synergy has not observed the performance of tasks in the FOI process, nor verified the integrity of data provided by DIBP, and has relied on representations made and data provided by DIBP staff.



Methodology (cont.)

Summary of delays

The analysis of the sample of 30 sensitive cases involved searching departmental records to identify a timeline for each case and determine the main sources of delays in issuing FOI responses. In order to consistently analyse and categorise results, the FOI process was divided into the following generic phases based on the department's aspirational 30-day timeline:

- | | |
|--|-------------------------------|
| 1. Determine validity / preliminary assessment | 7. Draft decision |
| 2. Action email / decision maker nominated | 8. Quality assurance |
| 3. Document retrieval | 9. Finalising decision |
| 4. Preliminary assessment of charges | 10. Processing |
| 5. Acknowledge receipt | 11. Notification of applicant |
| 6. Examination, preparation and review | |

The phases assisted with the construction of indicative timelines, which were then used to estimate the length and cause of identifiable delays, which were assigned to the following categories:

- | | |
|--------------------------------------|-------------------------------------|
| 1. Scoping, PRNs and appeals | 5. ADM / BCA search and appointment |
| 2. Scheduled consultation | 6. Case allocation |
| 3. Late consultation* | 7. Unexplained / other |
| 4. Scheduled external consultation** | |

* Consultation undertaken prior to drafting the decision

** Consultation undertaken after drafting the decision

Summary Results based on total days

154	
Average days to process each FOI request in the sample *Total days start to finish	
46.6	28.8
avg days attributed to scoping, PRNs and appeals	avg days attributed to early consultation / preparation
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Average extension / clock pause days for each FOI request in the sample	

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Observations

Section summary

The detailed observations have been made through the following processes:

- interviews with staff in the FOI section
- review of previous internal and external reports (full list at Appendix A)
- review of selected process and procedural documentation
- analysis of a sample of 30 sensitive FOI cases to establish timelines (summarised at Appendix B).

The staff of the FOI section provided significant insight into the challenges faced by the department in relation to timely processing of sensitive FOI requests. The FOI section has already identified a range of system improvements which are currently in various stages of implementation at the time of this report, with some impacted by budget constraints. In addition, the staff of the FOI section proposed a number of changes to sensitive FOI request processes and procedures that would realise efficiency and effectiveness benefits.

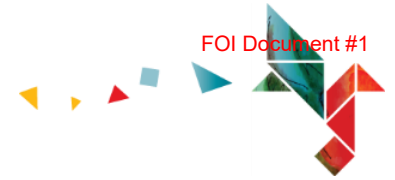
The observations arising from the review can be grouped into four broad categories:

- caseload allocation
- locating information
- need for consultation
- technological factors

Details of the observations under each category are provided in this section, with related observations provided in the Recommendations section.

Interviews were held with:

- Assistant Secretary – FOI, Privacy and Records
- Acting Director, Freedom of Information Section
- all Assistant Directors in the Freedom Of Information Section (Canberra office)



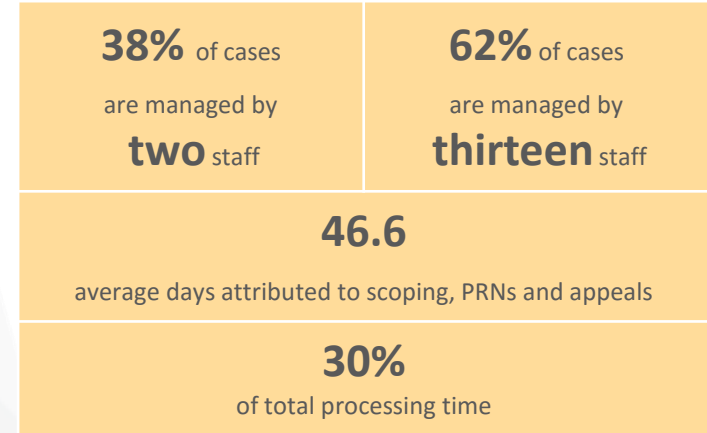
Observations (cont.)

Caseload allocation

Sensitive FOI request caseloads are not allocated evenly across the FOI section, which can create bottlenecks. Reporting provided by the FOI section identified a significant concentration of casework amongst a small number of staff. This is partly due to the allocation of review work, which is not reflected in the caseload statistics.

The current resourcing mix also contributes to bottlenecks. At present, registrations are performed by a single EL1 staff member with a high sensitive FOI request caseload. Analysis of the sample of 30 cases showed that on average, case allocation on average took 7.4 days per case.

Resourcing levels are also likely to contribute to the delays seen in the scoping, PRN and appeal processes category (which averaged 46.6 days for the sample cases), as management of these issues is resource-intensive for the FOI team.

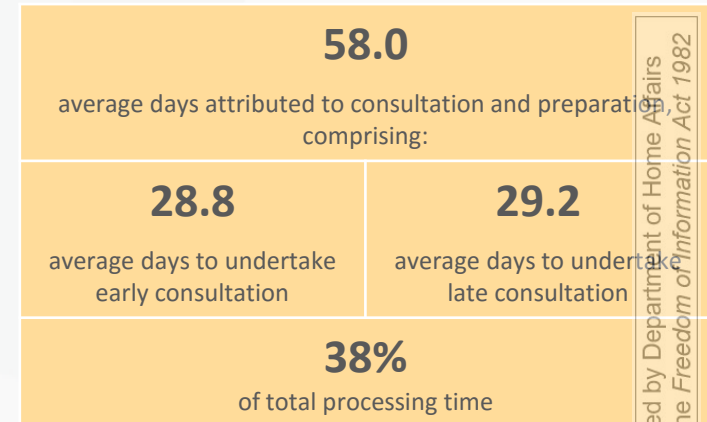


Need for consultation

The department operates a decentralised decision making model for sensitive FOI requests, which involves extensive consultation. This model is consistent with the recommendations of previous reviews, and is viewed as necessary due to the nature of requests and the environment in which the department operates. A centralised decision-making model would potentially result in a faster process, but would significantly increase the department's risk exposure.

Based on analysis of the sample cases, the average number of days attributed to consultation processes was 58.0 days (38% of total processing time).

Of this, 28.8 days are attributed to early, planned consultation and 29.2 days are attributed to 'late' consultation which occurs after the first draft decision has been provided to the authorised decision maker.



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Observations (cont.)

Locating information

Previous reports (including the Ernst and Young report, the OAIC own motion investigation and the ANAO's audit of records management practices) identify a range of improvements that the department could make in relation to record keeping practices and document management. The department is currently in the process of digitising a range of paper records, with a range of files still only held in hardcopy.

Even where records have been kept in the department's records management system (TRIM), in some instances the FOI section faces challenges in obtaining approval to access the appropriate TRIM containers.

These factors are compounded by a perception of a 'siloed' approach to information management, which means that knowing about the existence of a particular file (and subsequently locating it) is often achieved through relationships built with the 'right people' in the relevant business areas.

As a result, the document search process is heavily reliant upon relationships rather than strong information management systems and processes.



Technological factors

There are a range of potential efficiencies available from technological improvements, including:

- case management and access to appropriate workflow software; and
- general improvements to case management software (Resolve).

Two minor technological improvements are currently being implemented – the automation of training registrations and implementation of Hot Docs, which will realise efficiencies through automatic completion of a range of common document templates.

In addition to the issues identified in the FOI section's report on potential improvements to Resolve (some of which are currently being implemented), it was observed that:

- Resolve is currently unsuitable for workflow management and requires significant manual intervention for case tracking and reporting; and
- Resolve does not include data validation to ensure that exemption codes match with decision codes, which creates a need for manual re-work and corrections prior to developing reports.



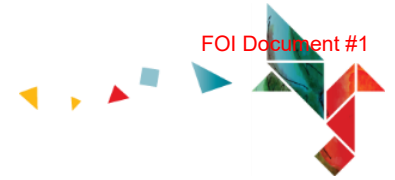
Recommendations

No	Recommendation	Rationale
1	<p>Consider the implementation of a workflow tool such as the Parliamentary Document Management System (PDMS) to assist with meeting statutory FOI processing timeframes and tracking delays to assist with accountability.</p> <p>In addition, prioritise existing technology projects. Initiatives with the greatest immediate benefits include rollout of Hot Docs across the FOI branch, implementing an e-lodgement form, improvements to Resolve reporting functionality and integration with the TRIM records management system.</p>	<p>The successful implementation of the identified technology projects are expected to help reduce workloads and provide efficiency gains in the FOI section without the need for extensive change management of key stakeholders.</p> <p>In addition, the introduction of a workflow tool such as the PDMS would assist with identifying issues and bottlenecks leading to delays in processing sensitive FOI requests.</p>
2	<p>Nominate an administrative officer to perform registrations (with oversight) and administrative tasks such as training session administration.</p>	<p>FOI case officers currently spend a portion of their time on a range of administrative tasks (such as registrations, reporting and training admin) that could be more efficiently performed by a dedicated administrative officer at a more junior level.</p>
3	<p>Implement a model that assigns each case officer as a 'relationship manager' with a particular area of the business and group up 'like' requests where possible.</p> <p>Undertake a dedicated program of personalised SES-to-SES contact and relationship building, reduce the legalistic focus of training and communicate how the FOI section can help and empower business areas to deal with FOI matters.</p>	<p>Officers in the FOI section reported that processing of FOI cases is more efficient when they are owned by areas of the department that have a strong relationship with the FOI team.</p> <p>Assigning formal 'relationship manager' roles and building the requirements into position descriptions and performance agreements will help to embed a culture of business partnering, which can then provide a vehicle to leverage the goodwill of opinion leaders and promulgate positive messaging on the FOI section and process.</p> <p>Revising the focus of training to communicate the benefits and assistance available for business areas will help the FOI section position itself to be seen as an enabling function that provides value to the business in helping it meet its statutory FOI responsibilities.</p>
4	<p>Further enhance the recently drafted business process maps to a level that can support the development of a risks and controls analysis, time and motion / costing studies.</p>	<p>Refinement of the recently drafted business process maps will support the implementation of future systems and process improvements and provide management with assurance that an appropriate control framework exists.</p>

Appendix A – Reports reviewed

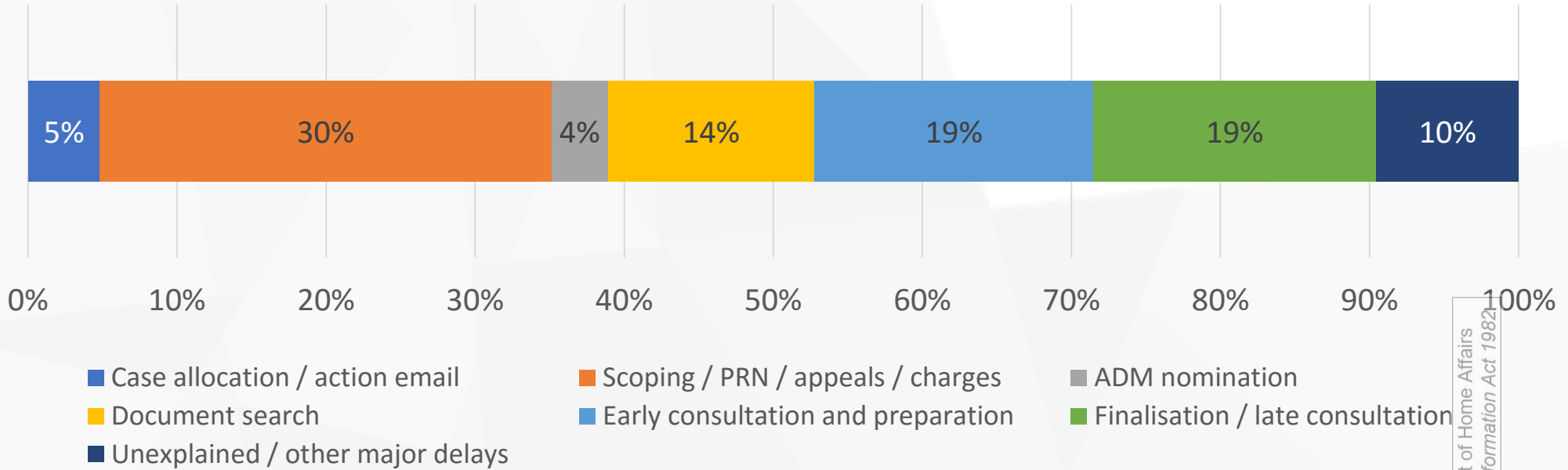
The following reports were reviewed as part of this engagement:

- KPMG *Internal Audit – Management of the Freedom of Information Act 1982* (2007)
- Commonwealth Ombudsman *Timeliness of decision making under the Freedom of Information Act 1992* (2008)
- Ernst and Young *Management Initiated Review of Freedom of Information* (2011)
- Office of the Australian Information Commissioner *Processing of non-routine FOI requests by the Department of Immigration and Citizenship* (2012)
- Robert Cornall AO *Independent comparative review of the Department of Immigration and Citizenship’s freedom of information procedures* (2012)
- Tony Corcoran PSM *Public access to information: an active approach to disclosure and public engagement* (2015)



Appendix B – Summary results

Percentage of processing days (excluding extensions)



A detailed table showing the Summary results for the cases sampled is available separately in Excel format

Summary results - Elapsed Processing Days for a sample of 30 sensitive FOI requests

September 2017

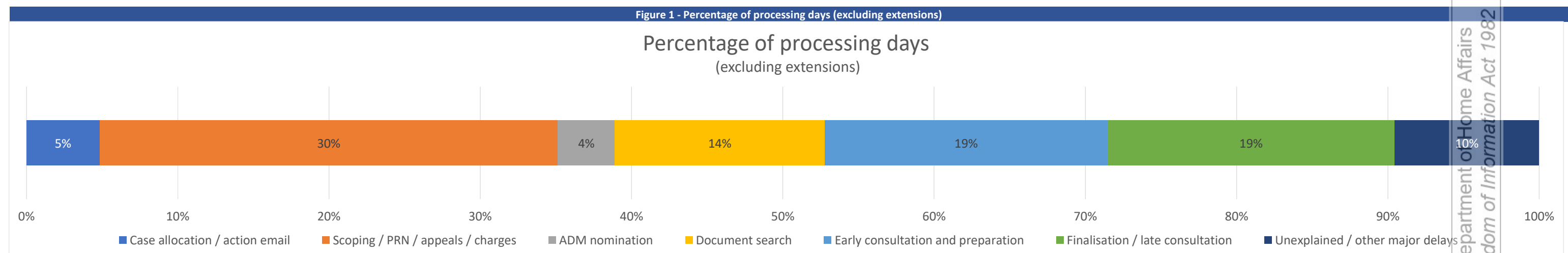
Table 1 - Overview of Cases

Case #	Case number	Start date	End date	Total days taken	Total days allowed (includes extensions and clock pauses)	Overdue days (total days less allowed days)	Case allocation / action email	Scoping / PRN / appeals / charges	ADM nomination	Document search	Early consultation and preparation (prior to first draft decision)	Finalisation / late consultation (including pending alert)	Unexplained / other major delays	Total days (excluding impact of pauses/extensions)	Extensions	Total days (adjusted for clock pauses/extensions)	Reviews / Appeals	Simple / Complex	No. of pages/ folios released	Charges	ADM division	All divisions / business areas involved
Case 1	ADF2017/23304	23/02/2017	6/06/2017	104	30	74	6	0	6	14	7	61	9	103	0	103	n/a	Medium	4	No	International	International Refugee and Humanitarian Strategic Policy
Case 2	ADF2016/20066	10/05/2016	5/06/2017	391	76	315	24	0	4	31	45	185	102	391	-46	345	n/a	High	39	Yes - but refunded as case became overdue	Detention, Compliance and Removals Division	Detention Services Children, Community and Settlement Services Detention, Compliance and Removals Media Operations Corporate Services Executive
Case 3	ADF2016/59815	25/08/2016	31/05/2017	280	30	250	55	29	0	118	51	26	0	279	0	279	n/a	Low	735	No	Detention Services Division	Detention Services Legal Detention Services Media Operations
Case 4	ADF2017/21530	15/02/2017	30/05/2017	105	90	15	2	0	0	6	48	27	21	104	-60	44	OAIC	Medium	7	No	Detention Services Division	Media Operations Immigration and Citizenship Policy
Case 5	ADF2017/39402	12/04/2017	26/05/2017	44	47	-3	0	44	0	0	0	0	0	44	-17	27	n/a	Medium	0 (withdrawn after practical refusal notice - estd. 7000 pages)	No	n/a - PRN issued	Immigration and Citizenship Policy
Case 6	ADF2017/34675	29/03/2017	22/05/2017	54	64	-10	2	0	15	0	31	6	0	54	-34	20	n/a	Low	177	Yes	Refugee and Humanitarian Visa Management Division	Refugee and Humanitarian Visa Management
Case 7	ADF2016/12240	13/03/2016	18/05/2017	431	105	326	4	69	0	30	215	113	0	431	-75	356	n/a	Medium	22	No	Operation Sovereign Borders Joint Agency Task Force	Maritime Border Command Operation Sovereign Borders Joint Agency Task Force
Case 8	ADF2017/26603	7/03/2017	16/05/2017	70	30	40	2	0	0	6	16	18	28	70	0	70	n/a	Low	1	No	Refugee and Humanitarian Visa Management Division	Refugee and Humanitarian Visa Management
Case 9	ADF2016/58625	5/10/2016	11/05/2017	218	84	134	12	94	0	0	82	30	0	218	-54	164	n/a	Medium	1	No	Integrity, Security and Assurance Division	Integrity, Security and Assurance Media Operations
Case 10	ADF2016/61833	20/10/2016	10/05/2017	202	30	172	4	151	0	13	29	5	0	202	0	202	OAIC	High	163	No	Corporate Services	Detention, Compliance and Removals International Integrity, Security and Assurance Executive Media Operations
Case 11	ADF2016/61722	Excluded from sample - duplicates case 10 as two requests were treated together																				
Case 12	ADF2017/4253	31/12/2016	5/05/2017	126	62	64	11	42	10	23	26	11	0	123	-32	91	n/a	High	75	No	Detention Compliance and Removals Division	Detention Services Detention Compliance and Removals Legal Services ISA Exec Support Children, Community and Settlement Services Executive Offshore Operational Coordination and DH Reporting Media Operations
Case 13	ADF2017/26564	7/03/2017	4/05/2017	58	60	-2	1	2	0	28	21	6	0	58	-30	28	n/a	Low	3	Yes	Visa and Citizenship Management Division	Visa and Citizenship Management Strategic Policy and Planning Web Operations
Case 14	ADF2017/27387	9/03/2017	4/05/2017	56	65	-9	5	6	0	22	17	6	0	56	-35	21	n/a	Low	1	Yes	Strategic Policy and Planning Division	Strategic Policy and Planning
Case 15	ADF2017/39452	13/04/2017	3/05/2017	20	30	-10	0	20	0	0	0	0	0	20	0	20	n/a	Low	0	No	n/a - request withdrawn. Applicant withdrew after being directed to publicly available info.	Visa and Citizenship Management Strategic Policy and Planning
Case 16	ADF2017/38578	10/04/2017	3/05/2017	24	30	-6	0	23	0	0	0	0	0	23	0	23	n/a	Low	0	No	n/a - request withdrawn. Applicant withdrew after being directed to publicly available info.	Visa and Citizenship Management Strategic Policy and Planning
Case 17	ADF2017/21215	10/02/2017	26/04/2017	75	60	15	7	0	0	21	13	34	0	75	-30	45	n/a	Medium	1	No	Operation Sovereign Borders Joint Agency Task Force	Maritime Border Command Operation Sovereign Borders Joint Agency Task Force
Case 18	ADF2017/34580	28/03/2017	19/04/2017	23	30	-7	3	0	1	5	5	1	7	22	0	22	n/a	Low	2	No	Ministerial and Parliamentary	Ministerial and Parliamentary
Case 19	ADF2016/61713	20/10/2016	18/04/2017	180	30	150	4	151	1	6	7	12	0	181	0	181	OAIC	High	0 (practical refusal - estd 1550 pages)	No	n/a - PRN issued	International Integrity, Security and Assurance Detention, Compliance and Removals Media Operations Executive
Case 20	ADF2017/30771	8/03/2017	13/04/2017	37	30	7	14	0	0	5	1	12	4	36	0	36	n/a	Medium	0 (nil documents)	No	Ministerial and Parliamentary	Executive
Case 21	ADF2015/12723	4/06/2015	27/03/2017	661	458	203	0	481	0	59	4	66	52	662	-428	234	OAIC / Internal	Medium	0 (refused in full - 1 page in scope)	Yes - but charges set aside by OAIC	Offshore Settlement Branch International Division	Offshore Settlement Branch International Media Operations
Case 22	ADF2016/56247	29/09/2016	17/03/2017	170	106	64	0	21	0	0	139	9	0	169	-76	93	OAIC	Low	274	No	Detention Services Division	Detention Services Media Operations Executive
Case 23	ADF2016/72411	21/11/2016	15/03/2017	114	60	54	4	0	76	11	15	8	0	114	-30	84	n/a	Medium	0 (refused in full - total of 118 pages in scope)	No	Integrity, Security and Assurance Division	Integrity, Security and Assurance Investigations

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Case #	Case number	Start date	End date	Total days taken	Total days allowed (includes extensions and clock pauses)	Overdue days (total days less allowed days)	Case allocation / action email	Scoping / PRN / appeals / charges	ADM nomination	Document search	Early consultation and preparation (prior to first draft decision)	Finalisation / late consultation (including pending alert)	Unexplained / other major delays	Total days (excluding impact of pauses/extensions)	Extensions	Total days (adjusted for clock pauses/extensions)	Reviews / Appeals	Simple/ Complex	No. of pages/ folios released	Charges	ADM division	All divisions / business areas involved
Case 24	ADF2015/69922	16/12/2015	9/03/2017	449	419	30	15	154	34	0	16	36	194	449	-389	60	n/a	High	1	No	Community Protection Division	Visa and Citizenship Services Group Compliance Statistics Strategic Policy Immigration and Citizenship Policy Detention, Compliance and Removals Children, Community and Settlement Community Protection Enforcement Command
Case 25	ADF2017/26901	8/03/2017	9/03/2017	1	30	-29	6	0	0	10	4	16	0	36	0	36	n/a	Medium	0 (transferred to another agency)	No	Minister's Office	Minister's Office
Case 26	ADF2017/18321	1/02/2017	7/03/2017	35	60	-25	0	12	0	7	4	11	0	34	-30	4	n/a	Medium	2	No	Refugee and Humanitarian Visa Management Division	Refugee and Humanitarian Visa Management Media Ops
Case 27	ADF2017/8632	17/01/2017	3/03/2017	46	30	16	15	0	6	8	0	7	9	45	0	45	n/a	Medium	262	No	Health Services and Policy Division	International Health Services and Policy
Case 28	ADF2016/62548	17/10/2016	21/02/2017	128	60	68	8	0	15	90	0	1	0	114	-30	84	n/a	Low	0 (refused in full - 2 pages in scope)	No	People Division	People
Case 29	ADF2016/63433	20/10/2016	6/02/2017	110	60	50	8	4	0	27	38	32	0	109	-30	79	n/a	Medium	6	No	Immigration and Citizenship Policy	Immigration and Citizenship Policy
Case 30	ADF2016/25399	6/06/2016	3/02/2017	242	77	165	4	49	0	80	0	109	0	242	-47	195	n/a	High	120	Yes - but refunded as case became overdue	International	Detention, Compliance and Removals Corporate Services International Executive
Total				4453	2343	2110	216	1352	168	620	834	848	426	4464	-1473	2991						

Delay category:	Case allocation / action email	Scoping / PRN / appeals / charges	ADM nomination	Document search	Early consultation and preparation	Finalisation / late consultation	Unexplained / other major delays	Total
Percentage of days elapsed	5%	30%	4%	14%	19%	19%	10%	100%
Avg processing days per case	7.4	46.6	5.8	21.4	28.8	29.2	14.7	153.9
Avg delay days per case (excluding outliers)	7.5	29.8	5.7	19.8	21.0	12.6	4.2	100.6
Total elapsed days in sample	216	1352	168	620	834	848	426	4464



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