



Decision to grant an extension of time under s 15AB of the *Freedom of Information Act 1982*

Agency	Australian Federal Police
FOI applicant	Mr Iain Peterson
Date of decision	27 June 2023
OAIC reference number	RQ23/03469
Agency reference number	LEX1474

Decision

1. On 13 June 2023, the Australian Federal Police (AFP) applied to the Information Commissioner under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) for an extension of 29 days to 13 July 2023 to process Mr Iain Peterson's (the FOI applicant) request of 16 March 2023 (the FOI request).
2. As a delegate of the Information Commissioner, I am authorised to make decisions on extension of time applications under s 15AB(2) of the FOI Act.
3. Under s 15AB(2) of the FOI Act, I have decided to extend the processing period by 29 days to 13 July 2023. My reasons are outlined below.

Background

4. On 16 March 2023, the FOI applicant made an FOI request to the AFP. The FOI decision was due to be provided to the FOI applicant on 14 June 2023.
5. On 13 June 2023, the AFP applied to the Information Commissioner for further time to process the FOI applicant's request under s 15AB(1) on the basis that the processing period is insufficient to adequately deal with the FOI request, because it is complex and/or voluminous. A copy of the AFP's reasons is included at **Attachment A**.

Reasons for decision

6. Subsection 15AB(2) of the FOI Act requires that I consider whether the application is justified on the basis that the processing period referred to in s 15(5)(b) is insufficient for dealing with the request, on the basis that the request is complex or voluminous.

7. In granting this extension of time under s 15AB(2), I have considered the following factors:
 - Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act, to which I must have regard, in particular [3.150] – [3.155]
 - the scope of the FOI request
 - the AFP's reasons for seeking an extension
 - whether an agreement to extend the processing period under s 15AA of the FOI Act has first been attempted or obtained by the AFP
 - any extension to the processing timeframes utilised under s 15(8)
 - the work already undertaken, and still required, to finalise the request.
8. On the information before the OAIC, I am satisfied that an extension to the processing period until **13 July 2023** is justified, for the following reasons:
 - Based on the AFP's submissions, I am satisfied that the request is complex, based on the sensitive nature of the documents requested and difficulties incurred in obtaining timely responses from consulted third parties.
 - Based on the AFP's submissions that the FOI applicant's request captures approximately 300 pages, I am satisfied the request is also voluminous in nature.
9. In granting this extension, I have also considered the work already undertaken by the AFP to finalise the request and the steps taken by the AFP to utilise relevant extension of time provisions available under the FOI Act to allow for third party consultation.
10. The AFP must provide the FOI applicant with a decision by 13 July 2023.
11. If the AFP does not provide the FOI applicant with a decision by 13 July 2023 the FOI applicant may seek review by the Information Commissioner of the AFP's deemed access refusal decision of 13 July 2023. Further information on applying for IC review is available on the OAIC website. Any application for IC review would need to be made within 60 days of the AFP's decision or deemed decision. It also remains open to the AFP to apply for a further extension of time from the Information Commissioner if considered appropriate.
12. This extension of time matter is now closed. Your review rights are set out below.
13. If you would like to discuss this matter, please contact our office by email at FOIDR@oaic.gov.au, quoting reference number RQ23/03469.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Noah Harris', written in a cursive style.

Noah Harris
Assistant Review Adviser
Office of the Australian Information Commissioner

27 June 2023

The agency's reasons for requesting an extension of time, as included in the extension of time request form.

Please provide a timeline setting out the work already completed in order to process this request. Where an extension of time has previously been granted, describe the work that was undertaken during that extended period. *

16 March 2023 - Request received
 27 March 2023 - Initial line area chasers sent
 27 March 2023 - Acknowledgement sent to the applicant
 27 March 2023 - Initial response from a line area outlining new chaser to be sent to additional line area.
 28 March 2023 - Further chaser sent to new line area
 28 March 2023 - Chaser response from new line area.
 29 March 2023 - Chaser response from initial line area
 29 March 2023 - Initial assessment of documents undertaken by FOI officer. Significant volume of documents identified.
 3 April 2023 - Consultation notice sent to the applicant alongside 30 day extension pursuant to s15(8).
 3 April 2023 to 2 May 2023 - extensive review of documents completed by FOI case officer. Determined that further clarification from line areas required regarding the origin and nature of the documents.
 2 May 2023 - correspondence sent to line area requesting further information as above.
 4 May 2023 - Correspondence from line area regarding information requested - referred to different area to obtain information
 5 May 2023 - Response from different area regarding FOI request for clarity
 8 May 2023 - Response from different area with the additional information requested by FOI.
 8 May 2023 - s15AA request sent to the applicant.
 9 May 2023 - following further review of documents, consultation undertaken with line area regarding sensitivities surrounding the scope of the applicant's request.
 15 May 2023 - Third party consultation sent out to relevant area.
 24 May 2023 - Acknowledgement of consultation received, however FOI notified the consultation process will take longer than FOI anticipated.
 5 June 2023 - Follow up regarding the third party response to FOI's request for consultation
 6 June 2023 - notified consultation is still ongoing.
 13 June 2023 - decision to send s15AB extension request to the OAIC.

What work is required to finalise the request? *

- Once the consultation response is received, finalise the mark-ups of the documents.
- Receive QA for the documents
- Send the documents for clearance
- Notify the applicant of a decision.

Why is the request considered complex or voluminous? *

- The FOI request has revealed over 300 pages of documents that could fall within the scope of the applicant's request.
- A vast number of the documents identified as relevant originate from a third party requiring the AFP to consult with the third party prior to a FOI decision being finalised. There have been significant delays obtaining a response from the relevant third party, however it would not be appropriate for AFP FOI to provide the applicant a decision regarding their request without the response of this third party.
- Significant clarification from line areas was required regarding potential sensitivities relating to the documents and their origin. The line areas in turn required time to collate answers for FOI regarding sensitivities that relate to the documents.
- The scope of the applicant's request relates to inherently sensitive subject matter which again, requires the response of the third party prior to FOI being able to finalise the request.
- The FOI case officer has recently been on leave during the process period of this request. Due to AFP FOI currently experiencing a significant volume of new requests, as well as the case officer's unique knowledge of the request and sensitivities relevant to this request (gained through line area consultation), it would be difficult to transfer this matter to another FOI officer.

Do other agencies or parties have an interest in the request? *

Yes.

Please describe the measures that would be taken to ensure a decision is made within the period of the requested extension and to keep the applicant informed of the progress of the request *

Further follow ups to third party.
 Once a response is received, immediate final review of documents and send for QA and clearance.
 Provide the applicant a decision to their request.

Review rights

If you disagree with the Office of the Australian Information Commissioner's (OAIC) decision you can apply to the Federal Court of Australia or the Federal Circuit and Family Court of Australia for a review of a decision of the Information Commissioner, if you think that a decision by the Information Commissioner to grant an extension of time is not legally correct. You can make this application under the *Administrative Decisions (Judicial Review) Act 1977*.

The Court will not review the merits of your case, but it may refer the matter back to the Information Commissioner for further consideration if it finds the decision was wrong in law or the Information Commissioner's powers were not exercised properly.

An application for review must be made to the Court within 28 days of the OAIC sending the decision to you. You may wish to seek legal advice as the process can involve fees and costs. Please contact the Federal Court registry in your state or territory for more information, or visit the Federal Court website at <http://www.fedcourt.gov.au/>.

Further information

Further information about how applications to extend the timeframe to process an FOI request are handled by the OAIC can be found published on our website:

For FOI applicants: [How to make an FOI request: Extensions of time](#)

For agencies and ministers: [Guidance and advice: Extension of time for processing requests](#)

The OAIC has the power to investigate complaints about an agency's actions under the *Freedom of Information Act 1982* (FOI Act). This is a separate process from asking for an Information Commissioner review following a decision made under the FOI Act. Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act, rather than the decision itself.

In some cases, the Information Commissioner's investigation of a complaint may lead to the agency addressing the issues that you have complained about. In other cases, the Information Commissioner may make suggestions or recommendations that the agency should implement. The Information Commissioner can only make non-binding recommendations as a result of a complaint. You and the agency will be notified of the outcome of the investigation.

FOI complaints to the OAIC must be made in writing. Our preference is for you to use the [online FOI complaint form](#) if at all possible.

Further information about how to make a complaint can be found published on our website: <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint>.

Making a complaint to the Commonwealth Ombudsman

If you believe you have been treated unfairly by the OAIC, you can make a complaint to the Commonwealth Ombudsman (the Ombudsman). The Ombudsman's services are free. The Ombudsman can investigate complaints about the administrative actions of Australian Government agencies to see if you have been treated unfairly.

If the Ombudsman finds your complaint is justified, the Ombudsman can recommend that the OAIC reconsider or change its action or decision or take any other action that the Ombudsman considers is appropriate. You can contact the Ombudsman's office for more information on 1300 362 072 or visit the Commonwealth Ombudsman's website at <http://www.ombudsman.gov.au> .