



Our reference: RQ23/03936
Agency reference: 2023-00870

CR

Sent by email: foi+request-10371-44c0fe50@righttoknow.org.au
CC: foi@auspost.com.au

Extension of time under s 15AC

Dear Applicant,

On 10 July 2023, the Australian Postal Corporation (the Corporation) advised this office that it had not made a decision on your FOI request of 7 June 2023 within the statutory period provided by the *Freedom of Information Act 1982* (Cth) (the FOI Act). Consequently, the FOI Act deems that the Corporation has refused your request.

However, s 15AC of the FOI Act allows the Information Commissioner to extend the processing time for an FOI request where the initial decision period has ended and the agency or Minister has not provided the applicant with notice of a decision. The Corporation has applied for further time to finalise your request.

Decision

As a delegate of the Information Commissioner, I am authorised to make decisions on applications for extensions of time under s 15AC(5) of the FOI Act.

I have considered the Corporation's application, and have decided to decline an extension. My reasons follow:

- In providing a timeline setting out the work already completed by it to process your request, the Corporation has advised the OAIC:

30/6 - requested information from Mail Channel and Product

30/6 - requested information from Network Innovation and Assets & Development & Support Services

6/7 - information sought from Network Analytics & Service Reporting.

However, the Corporation has not provided any reasons as to why it only started actioning your FOI request on 30 June 2023, which was 21 days after it received your request on 7 June 2023.

- The Corporation has informed the OAIC that it did not approach you for an agreement to extend the processing timeframe pursuant to s 15AA of the FOI Act because '[s]earches are taking longer than anticipated'. However, I am not satisfied that the length of time taken to conduct searches has any significant bearings on the viability of approaching you for an agreement under s 15AA. It was open to the Corporation to approach you for such an agreement whilst it was conducting the searches.
- The Corporation has provided limited evidence of any technical or practical challenges involved in the processing of the request, nor presented evidence of a voluminous range of documents captured in the request.

The effect of this decision is that the Corporation is deemed to have refused your FOI request. It appears you have applied for Information Commissioner (IC) review of the Corporation's deemed access refusal decision, which will continue to be progressed.

I note that the *Freedom of Information (Charges) Regulations 2019* provides if an applicant is not notified of a decision on a request within the statutory time limit (including any extension of time), the agency or minister cannot impose a charge for providing access, even if the applicant was earlier notified that a charge was payable (regs 7(2), (3)). This extension under s 15AC of the FOI Act does not mean that charges can be reimposed and any deposit you have paid should be refunded.

Contact

If you have any questions about this letter, please contact me on 1300 363 992 or via email at foidr@oaic.gov.au. In all correspondence please include OAIC reference: RQ23/03936.

Yours sincerely



Thomas Hanaee
Assistant Review Adviser
Freedom of Information Branch

18 July 2023

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 Court 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/reviews-and-complaints/make-an-foi-complaint/>.