



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

Agency	APSC - Australian Public Service Commission
FOI applicant	W C
Date of decision	3 April 2024
OAIC reference number	RQ24/01164
Agency reference number	LEX 801

Decision

1. I refer to the application made by Australian Public Service Commission (the Agency) under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) for an extension of time to process W C's (the FOI applicant) request of 1 February 2024 (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 5 days to 8 April 2024. My reasons are outlined below.

Background

4. On 1 February 2024, the FOI applicant made an FOI request to the Agency. The FOI decision was due to be provided to the FOI applicant on 2 April 2024.
5. On 28 March 2024, the Agency 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 Agency'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 Agency'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 Agency
 - any extension to the processing timeframes utilised under s 15(6)
 - 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 **8 April 2024** is justified, for the following reasons:
 - Based on the Agency's submissions, I am satisfied that the request is complex, based on the sensitive nature of the documents requested.
9. In granting this extension, I have also considered the work already undertaken by the Agency to finalise the request, measures taken by the Agency to ensure a decision is made within the extended time period and steps taken by the Agency to first utilise relevant extension of time provisions available under the FOI Act to allow for third party consultation.
10. The Department must provide the FOI applicant with a decision by 8 April 2024.
11. If the Agency does not provide the FOI applicant a decision by 8 April 2024 the FOI applicant may seek review by the Information Commissioner of the Agency's deemed access refusal decision of 8 April 2024. 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 Agency's decision or deemed decision. It also remains open to the Agency 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 RQ24/01164.

Yours sincerely,



Lakshmi Gopinath
Assistant Director
Freedom of Information Branch

Office of the Australian Information Commissioner

3 April 2024

Attachment A

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. *

The Commission has undertaken relevant search requests in relation to the applicant's FOI request. To assist the Commission in clarifying the scope of the request, the Commission informally consulted with the applicant to clarify their request. The Commission has been required to undertake relevant third party and courtesy consultations and have completed these within the 30 day extension period.

What work is required to finalise the request? *

The Commission has now finalised the relevant consults, however, noting the Easter period, require additional time to finalise the decision letter to the applicant. As noted above, there are a number of sensitivities to consider in relation to this matter and the Commission wants to ensure that the applicant understands the reasons for the decision that will be issued.

Why is the request considered complex or voluminous? *

The request is considered complex due to the sensitivities that the Commission needs to consider due to the content of the documents captured within scope of the request.

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 *

The Commission is continuing to process the request in line with the FOI Act and finalising the decision letter to the applicant which the Commission intends to issue as soon as possible.

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> .