



Our Reference: 17/713

7 September 2017

Mr James Smith

By email: foi+request-3998-f5a693c6@righttoknow.org.au

Dear Mr Smith

Your Freedom of Information Request – extension of time

I refer to your email of 8 August 2017, seeking access to documents under the *Freedom of Information Act 1982* (the FOI Act).

Section 15(5)(b) of the FOI Act stipulates that an applicant be notified of a decision on a request for access to documents within 30 days from which the request was received. Section 15(6) allows this time limit to be extended by a further 30 days where, in relation to a request, the requirements of section 26A, 27 or 27A make it appropriate to extend the initial time period.

In the case of your request, such a situation has arisen in the context of section 27A. That is, consultation is required with respect to documents affecting the personal privacy of a third party. As such, the time frame for rendering a decision on your request has hereby been extended by 30 days.

I have attached the relevant provisions of the FOI Act to this letter as **Annexure A**.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Regina Weiss'.

Regina Weiss
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Annexure A

15 Requests for access

[...]

Timeframes for dealing with request

(5) On receiving a request, the agency or Minister must:

(a) as soon as practicable but in any case not later than 14 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified that the request has been received; and

(b) as soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request (including a decision under section 21 to defer the provision of access to a document).

[...]

Extension of processing period to comply with requirements of section 26A, 27 or 27A

(6) Where, in relation to a request, the agency or Minister determines in writing that the requirements of section 26A, 27 or 27A make it appropriate to extend the period referred to in paragraph (5)(b):

(a) the period is extended by a further period of 30 days; and

(b) the agency or Minister must, as soon as practicable, inform the applicant that the period has been so extended.

27A Consultation—documents affecting personal privacy

Scope

(1) This section applies if:

(a) a request is made to an agency or Minister for access to a document containing personal information about a person (including a person who has died); and

(b) it appears to the agency or Minister that the person or the person's legal personal representative (the person concerned) might reasonably wish to make a contention (the exemption contention) that:

(i) the document is conditionally exempt under section 47F; and

(ii) access to the document would, on balance, be contrary to the public interest for the purposes of subsection 11A(5).

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

(2) In determining, for the purposes of paragraph (1)(b), whether the person concerned might reasonably wish to make an exemption contention because of personal information in a document, the agency or Minister must have regard to the following matters:

(a) the extent to which the information is well known;

(b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the information;

(c) the availability of the information from publicly accessible sources;

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(d) any other matters that the agency or Minister considers relevant.

Opportunity to make submissions

(3) The agency or Minister must not decide to give the applicant access to the document unless:

- (a) the person concerned is given a reasonable opportunity to make submissions in support of the exemption contention; and
- (b) the agency or the Minister has regard to any submissions so made.

(4) However, subsection (3) only applies if it is reasonably practicable for the agency or Minister to give the person concerned a reasonable opportunity to make submissions in support of the exemption contention, having regard to all the circumstances (including the application of subsections 15(5) and (6) (time limits for processing requests)).

Decision to give access

(5) If the agency or Minister decides to give access to the document, the agency or Minister must give written notice of the decision to both of the following:

- (a) the person concerned;
- (b) the applicant.

Access not to be given until review or appeal opportunities have run out

(6) However, the agency or Minister must not give the applicant access to the document unless, after all the opportunities of the person concerned for review or appeal in relation to the decision to give access to the document have run out, the decision to give access still stands, or is confirmed.

Note 1: The decision to give access to the document is subject to internal review (see Part VI), review by the Information Commissioner (see Part VII) and review by the Tribunal (see Part VIIA).

Note 2: For when all opportunities for review or appeal in relation to the decision to give access to the document have run out, see subsection 4(1).

Notice and stay of decision not to apply unless submission made in support of exemption contention

(7) Subsections (5) and (6) do not apply unless the person concerned makes a submission in support of the exemption contention as allowed under paragraph (3)(a).

Edited copies and personal information

(8) This section applies:

- (a) in relation to an edited copy of a document—in the same way as it applies to the document; and
- (b) in relation to a document containing personal information—to the extent to which the document contains such information.