

**From:** [INFORMATION.LAW](#)  
**To:** [FOIDR](#)  
**Subject:** FOI 24434 Request for Extension of time under (section 15AB) 14 days to 25 October [DLM=For-Official-Use-Only]  
**Date:** Wednesday, 10 October 2018 1:10:16 PM  
**Attachments:** [image001.png](#)  
[FOI 24434 - OAIC extension form.pdf](#)  
[FW Freedom of Information request - Copy of the Monthly RC metrics reports for July 2017 thru to June 2018 TO BE CLASSIFIED DLMFor-Official-Use-Only.msg](#)  
[Re FOI 24434 Request for Extension of time under s15AA of the Freedom of Information Act 1982 \(FOI Act\) DLMFor-Official-Use-Only.msg](#)  
[Re FOI 24434 Request for Extension of time under s15AA of the Freedom of Information Act 1982 \(FOI Act\) DLMFor-Official-Use-Only.msg](#)

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Good afternoon,

### **FOI 24434 – Section 15AB extension request**

Please find attached a request for an extension of processing time to **25 October 2018**, to finalise the above FOI request. I also attach a copy of the FOI request and correspondence from the applicant in response to our original request for an extension under section 15AA.

If you require any further information to support this request please let us know.

Kind Regards,

**Leia (Position Number 62210022)**

Assistant Director

Information Law Section | Legal Services and General Counsel Branch

Legal Assurance and Governance Division

Department of Veterans' Affairs

**E:** [xxxxxxxxxx.xxx@xxx.xxx.xx](mailto:xxxxxxxxxx.xxx@xxx.xxx.xx) | **W:** [www.dva.gov.au](http://www.dva.gov.au)

cid:image001.png@01D0027A.1DAB84F0



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### **IMPORTANT**

1. Before opening any attachments, please check for viruses.
2. This e-mail (including any attachments) may contain confidential information for the intended recipient. If you are not the intended recipient, please contact the sender and delete all copies of this email.
3. Any views expressed in this e-mail are those of the sender and are not a statement of Australian Government Policy unless otherwise stated.
4. Electronic addresses published in this email are not conspicuous publications and DVA does not consent to the receipt of commercial electronic messages.
5. To unsubscribe from emails from the Department of Veterans' Affairs (DVA) please go to [http://www.dva.gov.au/contact\\_us/Pages/feedback.aspx](http://www.dva.gov.au/contact_us/Pages/feedback.aspx), and advise which mailing list you would like to unsubscribe from.
6. Finally, please do not remove this notice.

**Australian Government****Office of the Australian  
Information Commissioner**

# IC Request Form

**Making an application for an Information Commissioner request**

## Quick Checklist

The Office of the Australian Information Commissioner can grant extensions of time to agencies who are processing Freedom of Information requests.

This form can be used by agencies to request an extension of time to process an FOI request or to notify an agreed extension of time. For details of the information required or the process for extensions of time please see our publication "Notifying and requesting extensions of FOI processing time from the Information Commissioner" at

[www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-agency-resources/foi-agency-resource-13-extension-of-time-for-processing-requests](http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-agency-resources/foi-agency-resource-13-extension-of-time-for-processing-requests)

If you wish to request a REVIEW of an FOI decision then there is another form. Please see our webpage

<http://www.oaic.gov.au/freedom-of-information/foi-reviews> for details.

If you wish to COMPLAIN about the handling of your FOI application there is another form. Please see our webpage

<http://www.oaic.gov.au/freedom-of-information/foi-complaints> for details.

If you have difficulties completing this form please send an email to [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au) or ring our enquiries line on 1300 363 992.

### Your personal information

If you have any questions about the personal information we collect and how we will handle your information, please contact the OAIC or see our [privacy policy](#) available on our website.

### Use and disclosure of your information

We will use the information you have provided to assess the application you have made to us.

### Collection of your information

We may need to collect further information from you in order to handle the matter. If you do not provide this information to the OAIC, it may affect how we handle the matter.

### Accessing your information

If you would like to access to the information about you that the OAIC holds, please contact the enquiries line. More information is available on the [Access our information](#) page on our website.

**Please select one of the following options. \***

- ☒ I am submitting a notification of or request for extension of time on behalf of an agency
- ☐ I am submitting a notification of or request for extension of time on behalf of a Minister



Australian Government

Office of the Australian  
Information Commissioner

# IC Request Form

Making an application for an Information Commissioner request

## Getting Started

### Before you start

- You can save this form to your computer so you can come back to it later
- Fields marked with an asterisk (\*) must be completed before you can submit the form
- You can attach documents in support of your request (ie Word documents) to the Request Details section of this form
- If you have trouble completing this form, please send an email to [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)
- This form is sent to the Office of the Australian Information Commissioner via a secure system to ensure your personal information is protected.

### What happens to your application?

- Staff of the Office of the Australian Information Commissioner will assess the information you have provided and decide the appropriate next steps. We will then contact you.
- We will use the information you have provided to assess your request. We will usually disclose the information you give us to third parties relevant to your request. In case of a challenge to a decision by this Office, we may need to disclose some information to a review body, for example a court or tribunal.
- Your personal information will be used and stored in accordance with the Australian Privacy Principles.

You can also submit a request in writing, by email, fax, phone or in person by visiting one of our offices.

## Details

Please note we are unable to accept anonymous requests. You must provide an email or postal address so that we can send you notices.

Which agency are you representing? \*

- ☐ Attorney-General's Department
- ☐ Australian Customs and Border Protection Service
- ☐ Australian Federal Police
- ☐ Australian Securities and Investments Commission
- ☐ Australian Taxation Office
- ☐ Commonwealth Ombudsman
- ☐ Department of Agriculture
- ☐ Department of Communications
- ☐ Department of Defence
- ☐ Department of Education
- ☐ Department of Foreign Affairs and Trade
- ☐ Department of Human Services
- ☐ Department of Immigration and Border Protection
- ☐ Department of Prime Minister and Cabinet
- ☒ Department of Veterans' Affairs
- ☐ Department of Employment
- ☐ Other

**Your details**

Title \*

First Name \*

Leia

Last Name \*

Phone (daytime) \*

Email \*

information.law@dva.dov.au

**FOI applicant's details**

Is the FOI applicant \*

- ☒ an individual
- ☐ an organisation

What is the name of the FOI applicant this request for extension of time applies to?

Title \*

First Name \*

Julie

Last Name \*

Right to Know

**The applicant's contact details**

(You must provide at least one contact method for the applicant. Our preference is an email address or phone number.)

Preferred contact method \*

- ☐ Email ☐ Phone ☐ Post ☒ Other

Email

Phone (daytime) \*

Mobile

Postal Address

City

State

Postcode

Other contact details (eg. Fax or international address)

foi+request-4798-cb04f8a0@righttoknow.org.au

Is the FOI applicant represented? \*

- ☐ Yes ☒ No

**FOI Reference number**

Your FOI reference for this application

FOI 24434

Please select the type of extension you are seeking \*

- ☐ Extension of time notification with the agreement of the applicant (s15AA)
- ☒ Extension of time to process complex or voluminous requests (s15AB)
- ☐ Extension where decision not made within time (s15AC)
- ☐ Extension where internal review decision not made within time (s54D)
- ☐ Extension where request for amendment or annotation not made within time (s51DA)

Has the statutory time period for processing already run out? That is, has a deemed decision already been made?

☐ Yes ☒ No

You are applying for an extension of time on the grounds that the statutory period is insufficient to adequately deal with an FOI request because the request is complex or voluminous. You must provide satisfactory information to demonstrate that the request is complex or voluminous and that the extension of time is justified.

Date you received FOI request \*

11/09/2018

Requested length of extension (ie number of days) \*

14

Current date decision is due \*

11/10/2018

New decision date if extension granted \*

25/10/2018

Did you approach the applicant for an extension of time under s15AA?

☒ Yes ☐ No

What was the outcome? Did the applicant raise any concerns about delays?

Extension was not agreed to. Applicant was of the view that DVA has not taken any action to process the request & that insufficient information was given to support an extension & well as citing PM&C guidelines. Applicant also asked if agreed whether DVA would agree to not issue charges and/or release in full. Undertaking of that nature could not be provided. We also advised her that steps were taken to search for documents & we were following up. Extension not agreed.

Has the processing period been extended as a result of other statutory provisions, or are you considering such an extension? (For instance, through applicant's agreement, consultation provisions or provisions about charges or the scope of the request that impact on the statutory due date)

☐ Yes ☒ No

Please explain the reasons for the request and why an extension would be justified. Requests for longer extensions of time (more than 30 days) will require greater justification. You will need to address:

- why the request is considered complex or voluminous
- work already undertaken in processing the request
- work required to finalise the request
- work undertaken on this request following any earlier extension granted
- any consultation with the applicant concerning length of time
- whether other agencies or parties have an interest in the request
- measures that will be taken to ensure a decision will be made with the period of extension granted and to keep the applicant informed about progress

We sought a 15AA with the applicant as we had not received the documents from the business area despite follow up. Extension wasn't agreed to. We sent further follow ups to the relevant business area and we unfortunately were only given the documents in scope last night. Upon review this morning it is apparent complexity arises in that the information is gathered for the purpose of assisting with the ANAO reporting functions and we had not been in a position to consult with the ANAO. Until this takes places we will not be in a position to issue a decision. I understand this consult will commence this week and I have asked for a reply to be provided within a week to allow us time to consider, prep the documents if needed and to finalise the decision. If a response from the ANAO takes place sooner it will be our intention to issue a decision earlier. A copy of the FOI request will be attached. If the OAIC feels further information is required please let us know.

## Supporting Information

You may also attach other relevant information that supports your application. We would prefer any supporting documents be submitted electronically. Submitting attachments in hardcopy may result in delays in processing your application.

Do you have any electronic documents you would like to attach to this form? \*

☐ Yes ☒ No

Do you have any paper documents you are posting to the Office in support of your application? \*

☐ Yes ☐ No

**Review Submission****Submitting your application to the Information Commissioner to request an extension of time**

Please review the information contained in your application for an extension of time. If you would like to change anything, you can return to any area of the form to make changes.

Once you submit the application, you will receive a confirmation message with a receipt number stating that your request has been sent to the Office of the Australian Information Commissioner for processing. Please take note of the receipt number so that you can use it when enquiring about the status of your application.

What happens next? The Office will assess your application and then contact you about the next steps in our process.

If you have not yet completed your form and want to work on it later click:

**Save**

The 'Save' button allows you to save a draft copy of this form to your local computer so you can access this form without being connected to the internet.

When you are ready to submit your form click:

**Save & Submit**

The 'Save & Submit' button will allow you to submit your application to the Office of the Australian Information Commissioner for processing and save a local copy.

As the aforementioned ANAO report highlighted that despite the number of cases-on-hand / work-in progress files has fallen by 17.9 per cent (2,266) from the start of the 2015 to 2017 period to its end, but the DVA average TTTP (time taken to process) only fell between 3 per cent and 9 per cent across all R&C claim categories in the same period, inferring that DVA is considerably less efficient at processing liability claims

than it used to be, it is hoped this information may shed some light on the causes of this loss of efficiency.

Yours faithfully,

Julie

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Please use this email address for all replies to this request:

xxxxxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxx.xxx.xx

Is xxx@xxx.xxx.xx the wrong address for Freedom of Information requests to Department of Veterans&#x27; Affairs? If so, please contact us using this form:

[https://www.righttoknow.org.au/change\\_request/new?body=dva](https://www.righttoknow.org.au/change_request/new?body=dva)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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**From:** [Julie](#)  
**To:** [INFORMATION.LAW](#)  
**Subject:** Re: FOI 24434 Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act) [DLM=For-Official-Use-Only]  
**Date:** Thursday, 27 September 2018 8:22:54 PM

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Dear INFORMATION.LAW,

I don't have enough information from what you have provided to assess whether an extension would be reasonable, or even whether the time frame sought is reasonable.

You have basically just inferred you haven't done any work to date on this FOI, but now realising the due date is coming up, want to treat the FOI as if it was made next week, instead of nearly a month ago.

Whether this is actually true or not, I have no information to determine either way.

I do note that the Information Commissioner has previously determined that if an agency's mismanagement or failure to adequately resource its FOI functions had caused a delay, the FOI applicant should not be penalised for it (because it's not their fault).

While I would consider agreeing to a reasonable extension, I have no information before me from DVA to assess what is reasonable in the circumstances (which may be 30 days or something lesser or not at all).

I am also concerned that despite citing a higher FOI workload, it seems that many people are being told they will have ongoing delays to their FOI by DVA at the moment, so it is unclear what DVA is actually working on right now that is causing these delays (especially if everyone is getting these delay notices).

So, as I do not want to treat you unfairly by just making a decision on very limited information from you, can you please advise the following before Oct 3:

- \* What work to date has already taken place on this FOI?
- \* What timetable of steps can DVA outline for this FOI if the extension is granted (maybe I can save you some time by letting you know what's not necessary)?
- \* Will DVA agree not to make any charges notices or not to refuse to release anything, if the extension is agreed (there is not much point giving extra time if you have no intent to provide access)?
- \* Can you provide some transparency about this higher workload? Is it due to more FOIs, or higher priority FOIs, or staff absences or some other factor (and was there a reason DVA did not foresee it)?

I look forward to your response, which will hopefully provide the missing detail necessary to make an informed and fair decision on your application.

Yours sincerely,

Julie

-----Original Message-----

Dear Julie,

Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act)

FOI 24434

A decision is due on your request by 11 October 2018.

Unfortunately, the Department will be unable to finalise your request by this date due to a large competing case load. While it is our goal to process your request as soon as practicable, we would be grateful if you would agree to a 30 day extension of time to process your request under section 15AA of the FOI Act. If you are agreeable to the extension, the revised due date for the decision will be 10 November 2018.

Please advise whether you agree to the extension of time by 5 October 2018.

If you agree to an extension, we will advise the Office of the Australian Information Commissioner (OAIC) of the extension. As part of this, the Department will provide your name and email address in case the OAIC needs to contact you in about your FOI request.

If you have any questions about your FOI matter, please contact us using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs

GPO Box 9998, Canberra ACT 2601

Facsimile: (02) 6289 6337

Email: [1][email address]

Kind regards,

Information Law Team

Information Law | Legal Services & Assurance Branch

Department of Veterans' Affairs

Gnabra House – 21 Genge Street Canberra City ACT 2601|GPO Box 9998  
Canberra ACT 2601

E: [2][email address]

[3]cid:image001.png@01D0027A.1DAB84F0

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Please use this email address for all replies to this request:

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<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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**From:** [Julie](#)  
**To:** [INFORMATION.LAW](#)  
**Subject:** Re: FOI 24434 Request for Extension of time under s15AA of the Freedom of Information Act 1982 (FOI Act) [DLM=For-Official-Use-Only]  
**Date:** Wednesday, 3 October 2018 12:39:34 PM

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Dear INFORMATION.LAW,

So, to summarise your carbon copy response (which is the same response given to all the FOIs of mine you have delayed, despite them being on very different topics and even different in scope capture):

^ Despite, according to Prime Minister and Cabinet guidelines someone else posted here on Right to Know, agencies commit no more than 2 calendar days to the conducting searches phases (and then only up to a maximum of one hour of staff time), the DVA has only just started this step and has yet to complete it (I note the DVA did not state when it first conducted these searches, nor state when they would be completed, despite the DVA being aware there is a hard limit on the time the DVA will conduct such searches);

^ Despite that the DVA has not completed any steps, even though the 30 day s 15(5)(b) deadline has almost expired, the DVA has not and will not commit nor consider what time it will commit to completing all the FOI steps by (which is concerning given the DVA has hard limits as to how much time it will spend on any FOI step, and should be planning and managing FOIs, not asserting that they are treated as hoc by the DVA's specialised FOI staff);

The DVA may cause further delay by issuing a very late practical refusal, or very late charges notice, or very late intent to refuse access decision, all which will extend this FOI by months (possibly years if it goes to IC Review.

It is concerning that, having failed to substantiate any reasonable grounds for the initial failure to handle this FOI in accordance with the statutory obligations, that the DVA has just sat on the FOI for the vast majority of the s 15(5)(b) statutory period, to create delay. That is inconsistent with the aims and objects of the Freedom of Information Act.

It is also concerning that the 30 day extension sought, was not based on any reasonable need assessment, but rather to just claim the maximum extension possible (again inconsistent with the aims and objects of the Act).

You have not provided me with any substantive evidence that would justify that they delays caused were due to factors outside your control, to support extension. There is a worrying lack of transparency here, especially when the DVA has sought extensions to all my FOIs, regardless of simplicity or narrowness of scope.

I do note however that there remains another 7 business days before the s 15(5)(b) statutory deadline expires and that according to the Prime Minister and Cabinet guidance, this is ample time to complete a number of steps (including assessment).

If the DVA can update me on the progress it has made by COB Tuesday 9 October 2018, and if there has been substantive progress made, I will consider an extension at that time.

It is still something of a concern however, that the DVA is processing FOIs in an ad hoc haphazard way (which is the most generous and positive interpretation you can put on in), instead of planning and managing them professionally and competently in line with the aims, objects and purposes of the FOI Act and the various directives and guidelines that apply.

Yours sincerely,

Julie

-----Original Message-----

Good morning Julie,

Thank you for your replies.

The Department has undertaken steps to process your request, including search requests to identify the documents you have sought access to. The Information Law Section is following up the results of those searches. We are unable to provide you with a timetable as such, but can advise that once the documents are identified and received, this section will need to review the material (and consider if a document can or needs to be created as noted in your request), and then ultimately make a decision on your request. As the documents have not yet been received by this section, we cannot advise at this stage how voluminous it may be. The Department is unable to agree that a charges notice will not be applied nor can we provide an undertaking that full access will be provided in lieu of you agreeing to an extension of time.

Although we have asked for an extension of 30 days, we would welcome any extension you are agreeable with.

Kind Regards,

Information Law Team  
Department of Veterans' Affairs  
E: [email address] | W: [www.dva.gov.au](http://www.dva.gov.au)

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Please use this email address for all replies to this request:  
xxxxxxxxxxxxxxxxxxxxxxxxxxxx@xxxxxxxxxx.xxx.xx

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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**From:** FOIDR  
**To:** ["INFORMATION.LAW"](#)  
**Subject:** RQ18/02960 - Extension of time decision [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 10 October 2018 3:55:00 PM  
**Attachments:** [Extension of time decision - Letter to the Department.pdf](#)  
[image001.jpg](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

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Our reference: RQ18/02960


Your reference: FOI 24434

**Ms Leia** 

Department of Veteran's Affairs

By email: [xxxxxxxxxxx.xxx@xxx.xxx.xx](#)

## Extension of time under s 15AB

Dear Ms 

Please find the Office of the Australian Information Commissioner's extension of time decision attached.

Kind regards



**Carl English** | Assistant Review Officer  
Freedom of Information Dispute Resolution  
Office of the Australian Information Commissioner  
GPO Box 5218 Sydney NSW 2001 | [oaic.gov.au](#)  
+61 2 9284 9745 | +61 412 345 678 | [carl.english@oaic.gov.au](mailto:carl.english@oaic.gov.au)



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Australian Government

Office of the Australian Information Commissioner

Our reference: RQ18/02960

Your reference: FOI 24434

Ms Leia **s 47F**

Department of Veteran's Affairs

By email: [information.law@dva.dov.au](mailto:information.law@dva.dov.au)

## Extension of time under s 15AB

Dear Ms **s 47F**

Thank you for your correspondence of 10 October 2018, in which you applied for an extension of time for Department of Veteran's Affairs (the Department) to process Julie's request, received 11 September 2018, under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

You have sought an extension on the basis that the current processing period is insufficient to deal adequately with Julie, request, because it is voluminous and complex.

## Decision

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

I have decided to grant the Department an extension of time under s 15AB(2) of the FOI Act **to 25 October 2018**. In coming to this decision I have considered factors including your advice that:

- The FOI team was only provided with access to the documents 9 October 2018
- After reviewing the documents, the Department has identified the need to consult with the ANAO

By granting an extension of time it is anticipated that the Department will provide a well-reasoned and better managed decision.

Julie will be notified of this decision.

## Contact

If you have any questions about this email, please contact me on 02 9284 9745 or via email [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au). In all correspondence please include OAIC reference number RQ18/02960.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. English', is shown within a light blue rectangular border.

Carl English  
Assistant Review and Investigation Officer  
Freedom of Information Dispute Resolution

10 October 2018

**Action Print - Phone call - Requestor or Rep****Action Details**

Case Number: RQ18/02960  
Assigned To: English, Carl  
Assigned Date: 11-Oct-2018 2:16 PM

**Comments**

Called Leia to advise that the FOI applicant has requested the application form. Leia advised that it is ok to provide to the applicant.

**Due Dates**

Reminder Date:	12-Oct-2018 2:16 PM	English, Carl (Action Owner)
Due Date:	12-Oct-2018 2:16 PM	English, Carl (Action Owner)
Escalate Date:	15-Oct-2018 2:16 PM	English, Carl (Case Owner)

**Closure**

Completed By: McKenna, Megan  
Completed Date: 11-Oct-2018 2:16 PM  
Outcome: