

**From:** S [REDACTED] Leia on behalf of [Information.Law](#)  
**To:** [FOIDR](#)  
**Cc:** [Information.Law](#)  
**Subject:** FOI 23544 – Request for an extension of time under section 15AB of the FOI Act [DLM=For-Official-Use-Only]  
**Date:** Thursday, 30 August 2018 2:47:24 PM  
**Attachments:** [image001.png](#)  
[OAIC extension form - 15AB - FOI 23544.pdf](#)  
[FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason.pdf](#)  
[Re FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 SECUNCLASSIFIED.msg](#)  
[RE FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 SECUNCLASSIFIED.msg](#)  
[FOI 23544 DLMSensitiveLegal.msg](#)

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Good afternoon OAIC,

### **FOI 23544 – Request for an extension of time under section 15AB of the FOI Act**

Please find attached a request for an extension of time to **1 October 2018** (noting 30 days would fall on Sunday, 30 September), to finalise the above FOI request. Details are contained within the attached form. I have also attached documents to help in your decision making.

Please feel free to contact me should you have any questions or require any further justifications.

Kind Regards,

**Leia** S 47F [REDACTED]

Assistant Director

Information Law | Legal Services & Assurance

Department of Veterans' Affairs

**T:** 02 6120 8128 | **E:** [xxxxxxxxxxxx@xxx.xxx.xx](mailto:xxxxxxxxxxxx@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 asterix (\*) 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 \*

Ms

First Name \*

Leia

Last Name \*

s 47F

Phone (daytime) \*

(02) 6120 8128

Email \*

informationlaw@dva.gov.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 \*

Last Name \*

Verity

Pane

**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

s 22

Phone (daytime)

Mobile

Postal Address

City

State

Postcode

Other contact details (eg. Fax or international address)

Is the FOI applicant represented? \*

- ☐ Yes ☒ No

**FOI Reference number**

Your FOI reference for this application

FOI 23544

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 *	Requested length of extension (ie number of days) *
16/07/2018	30
Current date decision is due *	New decision date if extension granted *
31/08/2018	01/10/2018

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?

The applicant agreed to an extension until 31 August 2018.

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

Initial searches resulted in a section 24AB consultation process. The applicant was advised the request in its original form would result in a diversion of resources (noting a total of 60 hours of processing time would be required). The applicant asked the Department to create a document under FOI for legal expenditure data relating to 3 Financial Years. The applicant was advised that data is not yet available for the 17/18FY, but that it was for the 15/16 & 16/17 FYs. The applicant revised the scope of the request to be for the 15/16 FY.

Although I have decided that this removes the diversion issue, the request remains voluminous. I estimate that at a minimum, it will still require around 30 hours to process the request in its revised form. I have spoken with the business area undertaking some of this task and they advised some additional information off-site will need to be recalled as some data from the 15/16FY is not readily available. The officer assisting with this task was away while we undertook the 24AB consultation, but has since returned and taken steps to assist. The business area is unable to create the document requested, so this task will fall upon me to finalise. I will be supplied with the data and I will need time to gather it and format in the style requested by the applicant.

The attached 24AB notice provides you with context around the work involved in extracting and assessing the data. I am also considering ways in which I can reveal the information without having to apply exemptions under the FOI Act.

I also attach information that suggests the applicant may not be agreeable to this extension. It is not a quick request to action and further time is needed to ensure the document requested is suitable and responsive to the terms of the request.

If you require any further information or justifications please do not hesitate to contact me. If any information is shared with the applicant I would appreciate you withholding my name as the applicant posts all communication on the Right to Know website. I have attached relevant documents for your information.

### 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

Please add any documents to be sent electronically with this form  
(Please ensure that the total size of each attachment does not exceed 2MB  
Please ensure that the total size of all attachments does not exceed 10MB)

 **Add Attachment/s**

Attachment Name	Size (in KB)		
FOI 23544 - Notice of intention to refuse request - Consultation due to practice	432.19		

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.





Australian Government  
Department of Veterans' Affairs

FOI

## Request consultation process due to existence of a practical refusal reason under section 24AB of the *Freedom of Information Act 1982*

Information Law, Legal Services & Assurance, Department of Veterans' Affairs

**Applicant:** Verity Pane  
**Notice date:** 15 August 2018  
**FOI reference number:** FOI 23386

### Requested documents:

*"In light of recent media reporting and admissions by the Minister in Federal Parliament that the Department spent more than \$0.6m in external legal services fees in regards to just one veteran - Martin Rollins - in relation to DVA's deliberate backdating of a rewrite of a DVA policy to exclude Mr Rollins' receiving a benefit he was entitled to at the time of his applying for it (<http://www.abc.net.au/7.30/dva-secretly-changed-rules-to-deny-veterans-claim/9883774>) there is a public interest in understanding how the Department is expending public funds on external legal services.*

*While the Department reports just one summary total of expenditure on external legal services in its annual reports, this is clearly insufficient and far too opaque to understand what the Department is spending on external legal costs for individual matters. While this information does indicate the Department spends between \$7m - \$10m on external legal services roughly every financial year, it gives no indication whether it may relate to only a small number of individual veterans or many or what the Department roughly spends per legal issue - which is important to understand when considering if the claims that the Department is combative and litigious are overstated or not.*

*Certainly the recent admission (initially refuted) that the Department has spend in excess of half a million dollars, litigiously, to defend this backdated change of policy to deny Martin Rollins a benefit that existed at the time he applied for it (and ironically this legal expenditure many hundreds of thousands of dollars greater than the benefit he was otherwise entitled to receive), raises public interest questions whether such excessive external legal expenditure is endemic or is a one off isolated case.*

*To that end, under FOI, I seek under s 17 of the FOI Act for a summary document to be created (so as to avoid unnecessary disclosure of irrelevant Departmental information) from data in the Departments financial and information management systems, to break down these global external legal services expenditure, so that greater transparency is given.*

*I seek a breakdown to be provided for the last three financial years - FY17/18, FY16/17, and FY15/16 - and to be broken down to matters involving individual veterans and other. Where matters involved individual veterans, this should be further broken down to stating the cumulative external legal services expenditure per veteran involved (with each veteran referred to by pseudonym - so first veteran is Veteran A, next is Veteran B, and so on). In order to reduce burden, where external legal expenditure involving an individual veteran is below \$10K cumulative for each financial year, they may be reported as a group (as the interest is in excessive external legal expenditure). An example of the layout I seek is below:*

.....FY17/18.....FY16/17.....FY15/16  
 .....\$.....\$.....\$  
 Other  
 Veteran A  
 Veteran B  
 etc  
 Veterans > \$10K"

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Dear Verity Pane,

#### **Freedom of Information Request: FOI 23544**

I refer to your request for access to documents under the *Freedom of Information Act 1982* (FOI Act) received 16 July 2018.

I, Position Number 62210022, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).

This is a notice of an intention to refuse access to the documents you have requested because a 'practical refusal reasons' exist under section 24(1) of the FOI Act. I am issuing this notice under section 24AB(2) of the FOI Act.

The practical refusal reason applicable to your request is that the work involved in processing your request would substantially and unreasonably divert the resources of the Department from its operations as specified in section 24AA(1)(a)(i) of the FOI Act due to its size and complexity.

#### **Section 24AA**

Under section 24AA(2) of the FOI Act, the agency must have regard to the resources that would have to be used for:

- identifying, locating or collating the documents within the filing system of the agency;
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);
- making a copy or an edited copy, of the document; and
- notifying any interim or final decision on the request.

I consider that all of the above factors have a bearing on your request. The reasons why a practical refusal reasons exists in relation to your request is set out below.

#### ***Why I intend to refuse your request***

##### **Request is substantial**

Following initial enquiries, I estimate that 60 hours of processing time is required to deal with this request. The reasons for this are as follows:

- Your request asks the Department to create a document under section 17 of the FOI Act. To do so, the Department needs to retrieve data that is not readily available, review that data and assemble it in the manner you have requested. This requires, for example:



- a. initial searches and retrieval of data that may be relevant to your request;
  - b. extraction and sorting the data into Financial Years;
  - c. identification of each line item for each month to ascertain which payments are within the scope of your request;
  - d. further searches to clarify payments of line items where it is not apparently clear they fall within the scope of your request (for example, payments can range from, but are not limited to, cost recovery, matters in the AAT, the Federal Court and other related legal costs of the Department);
  - e. extraction of the relevant line items into a new document;
  - f. sorting the data to collate payments related to individual surnames/clients;
  - g. searches to ascertain the surnames identified are for the same individual and not for different individuals who share the same surname;
  - h. removal of identifying information;
  - i. sorting information so as to indicate which line items fall under or over the \$10,000 threshold.
- Approximately eight (8) hours was taken to identify relevant material. The data that was identified covers the 2015/16 and 2016/17 Financial Years. Data for the 2017/18 Financial Year is not yet readily available. Due to the voluminous nature of potentially relevant material and the broad scope of your request, manual verification of the data is and would continue to be required to ensure relevant information has been captured and that each payment is within the scope of your request. I conservatively estimate an additional two (2) hours would be required to ensure all relevant data has been identified and retrieved.
  - To assist in ascertain whether a document could be created as per your request, a sample of the available information was used to undertake the tasks noted above. This sample involved the assessment of 110 line items comprising a three (3) month period. This task took 3 hrs and 45 minutes to complete.
  - An assessment of available information for the 2015/16 and 2016/17 Financial Years indicates a total of 1,449 line items covering the 24 month period will need to be assessed. The processing time involved in undertaking this task, based on the time it took to undertake the sample above is estimated to be in excess of 48 hours.
  - The relevant document once finalised, will have to be analysed and a decision made before it can be released to you. Some of the information within the document, may be exempt from disclosure under the FOI Act.
  - Further to the previous point, a Statement of Reasons will still need to be provided to you. I anticipate that it would take approximately two (2) hours to draft the Statement of Reasons and Schedule of Documents for this decision, noting on initial review that any exemptions applied would need to be detailed.

The above estimate does not take into account the time taken to review and prepare the sample of documents or to issue this notice to you.

Taking these factors into account, I have concluded the request as it currently stands is substantial.

### **Request is unreasonable**

For the purpose of providing this notice, I have considered whether the substantial resource burden would be unreasonable having regard to the following:

- 60 hours of processing time is, at face value, an unreasonable burden for a single FOI request, taking into account the need to process multiple requests at any given time, and the impact such a burden would have on responding to other FOI applicants.
- High level data relating to the Department legal expenditure is already available to you and the public through reporting within the Department's Annual Reports.
- Due to the broad nature of your request and the fact that it covers legal expenses spanning several Financial Years, the volume of material to be assessed is high. There also exists complexity in determining which payments fall within the scope of your request.

Taking these factors into account, I have concluded the request as it currently stands is unreasonable, as well as substantial (as outlined above).

#### **Further clarification about what is sought**

In addition to the above, it is unclear precisely what payments you want identified in the document. As noted above, the payments identified range from cost recovery action, matters involving the AAT, the Federal Court and other related legal costs. In its current form those items do not provide such information concerning the documents you seek to access as is reasonably necessary to enable a responsible officer of the Department to identify. This is also called a 'practical refusal reason' (section 24AA).

#### **What you should do?**

You can revise the request in a form that would remove the grounds for refusal. Please note that even if you do modify your request, it is possible that a practical refusal reason under subsection 24AA(1)(a)(i) may still exist or the Department may need further time to process your revised request – this will depend on the terms of your final request. As far as is reasonably practicable, we are happy to provide you with further information to assist you in making your request in such a form that removes the practical refusal ground.

If you are able to pinpoint the specific information you seek to be included that would assist. In particular, you may wish to consider for example:

- limiting payments to specific activities such as costs related to matters before the Administrative Appeals Tribunal;
- narrowing the scope to a more specific timeframe, rather than a three year period;
- providing further information and clarification to explain what types of legal payments you want captured in the document.

Please note you have **14 days** from the date you receive this notice to either:

- withdraw the request;
- make a revised request; or
- indicate that you do not wish to revise the request.

If you do not respond in one of these ways within 14 days the request will be taken to have been withdrawn pursuant to section 24AB(7) of the FOI Act. If you indicate you do not wish to revise your request, the Department will proceed to make a decision on whether to refuse the request on resource grounds under section 24(1).

If you need more time to respond, please contact Information Law within the 14 day period to discuss your need for an extension of time.

Please note under section 24AB(8) of the FOI Act, the time for processing your FOI request is suspended from the day you receive this notice until the day you do one of the things listed above.

If you would like to revise your request or have any questions, please contact Information Law using the details listed below:

**Post:** Legal Services & Assurance, Department of Veterans' Affairs  
GPO Box 9998, Canberra ACT 2601  
**Facsimile:** (02) 6289 6337  
**Email:** [informationlaw@dva.gov.au](mailto:informationlaw@dva.gov.au)

Yours sincerely

**Position Number 62210022**

Information Law

Legal Services & Assurance

15 August 2018

**From:** [Verity Pane](#)  
**To:** [Information.Law](#)  
**Subject:** Re: FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 15 August 2018 8:22:58 PM

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Dear Unnamed Officer (Position Number 62210022),

While a rough estimation has been provided, it appears the Department is satisfied based on its enquiries that this FOI would take 60 leisure hours for collection, assessment and decision issuance.

The primary basis of your agency's practical refusal intention is that the amount of external legal services expenditure against veterans is very large, and covers a large number of matters. That does answer a question in, and of, itself that the Department is a frequent user of external legal services providers in litigation and opinion seeking against veterans.

But in light of this, if there is a willingness to pay for this, as per usual cost recovery processes in FOI, does the Department still intend to refuse access? Just because as FOI may exceed the free processing period is generally insufficient to refuse access, and mechanisms exist for requester contribution to be made in these circumstances.

You state to process the FOI application would deny others the opportunity to have their own FOI applications, but provide no supporting evidence to substantiate that. How many open and overdue FOIs does DVA have presently? Is there any reason a consent to extend the processing deadline cannot offset any intensity of resource allocation, as I would be prepared to consider that.

You also state the application covers 'several' financial years, despite only three being sought, and is too 'broad', yet paying for external legal services providers is not a common administrative practice and requires SES level approval. While making reference to this, you fail to provide enough information to allow for any stratification to adequately allow for any informed revision of scope to occur.

I would however be willing to refine the scope to FY15/16 in the first instance, which could have helpfully been identified in your estimates but wasn't (instead you looked for factors to reject, rather than offer alternatives).

I guess the only thing we both agree in full on is that it is evident that DVA is a regular high frequency user of external legal services providers, over and above the more limited use by other agencies.

I still think that ways ahead exist, despite your claims to the contrary.

Yours sincerely,

Verity Pane

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

Good evening Verity Pane,

FOI 23544 – section 24AB Notice of intention to refuse – Request  
consultation due to practical refusal reason

I refer to your request for access to information under the Freedom of  
Information Act 1982 (FOI Act); received on 16 July 2018.

Please find attached a notification under section 24AB of the FOI Act,  
advising you of the Department's intention to refuse your request on the

grounds that a practical refusal reason exists. A decision on this request will be made pending the outcome of this requested consultation process. Please review and consider the attached notice and advise how you wish to proceed by 29 August 2018.

If you require any further assistance or time to respond to this notice please do not hesitate to contact us.

Kind Regards,

Information Law Team

Department of Veterans' Affairs

E: [1][email address] | W: [2]www.dva.gov.au

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

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

**s 22**

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:** [Verity Pane](#)  
**To:** [Information.Law](#)  
**Subject:** RE: FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 [SEC=UNCLASSIFIED]  
**Date:** Friday, 24 August 2018 7:23:38 PM

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Dear Unnamed Officer,

As you waited until the second last day to issue a practical refusal notice, when practice is that practical refusal notification should be made within 14 days (and it appears the reason for the late issue was to intentionally delay progress of this FOI, unethically), I will only grant you an additional 14 days (plus an extra day or two to show I'm kinder than you) from the original statutory expiry date.

The new statutory deadline is therefore 5pm on Friday 31 August 2018.

Yours sincerely,

Verity Pane

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

Good evening Verity Pane,

Thank you for your email and option to revise the scope.

Information regarding the amount of work involved and options to revise were provided to you on 15 August. A decision to impose a charge to process your request has not been considered because the work involved in processing your request in its current form, would result in a diversion of resources. An extension of time to process your request would not remove the practical refusal reasons in its current form. As explained in the consultation notice to you, the request is considered both substantial and unreasonable for one request. The process involved in extracting the information you seek and the type of legal expenses that may be covered in that data was explained in the notice. The notice provided options to you, including for example, to revise the timeframe or even clarify which payment types you wanted captured. Further, information about the Department's volume of FOI requests is publicly available (e.g. within the OAIC's Annual Report and on [data.gov.au](http://data.gov.au); <https://data.gov.au/dataset/freedom-of-information-statistics>). This should give you an indication of the volume of requests the Department deals with each year.

Based on the below, I am satisfied that revising the scope to the 2015/16 Financial Year will remove the practical refusal reason. We would be grateful if you would agree to an extension of time under section 15AA of the FOI Act, to allow the Department more time finalise your request. If possible, we would be grateful for an extension of 30 days.

I hope the above assists.

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:

**s 22**

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:** [Komora, George](#)  
**To:** S [Leia](#)  
**Cc:** [Reglar, Alison](#)  
**Subject:** FOI 23544 [DLM=Sensitive:Legal]  
**Date:** Friday, 24 August 2018 7:45:49 PM

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Note, Leia – following Verity Pane’s response, in the above matter, tonight, he posted on RTK:

**[Verity Pane](#) left an annotation (August 24, 2018)**

I predict that not only will this agency reject the offer of extension but will apply to the OAIC under s 15AB to extend this statutory deadline further, despite just stating that only one financial year was \*not\* complex or voluminous (which are the grounds for extension being approved).

As highlighted by respected FOI commentator Peter Timmis, s 15AB requests get ticked and flicked by the OAIC despite no evidence frequently being provided by the agencies that request them (in fact it is a very rare event indeed if the OAIC rejects such an application) <http://foi-privacy.blogspot.com/2013/02/...>

That’s the problem of a so called regulator who is too much in bed with those they are supposed to monitor.

Regards,  
George

**From:** [FOIDR](#)  
**To:** § 22  
**Subject:** RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]  
**Date:** Friday, 31 August 2018 10:41:00 AM

---

Our reference: RQ18/02489  
Agency reference: FOI 23544

**Ms Verity Pane**

By email: § 22

## Extension of time application by the Department of Veterans' Affairs

Dear Ms Pane

I write to you to advise that on 30 August 2018 the Office of the Australian Information Commissioner (the OAIC) received a request from the Department of Veterans' Affairs (the Department) for an extension of time to process your freedom of information request.

The Department has applied for an extension of time under s 15AB of the *Freedom of Information Act 1982* (Cth) because your request is considered to be voluminous and complex.

The Department has requested an **extension of time to 1 October 2018**. I will take any comments you may have to make into account when deciding the application.

Please respond to this email by **5 September 2018**. If I do not hear from you by this date, I will proceed to make a decision on the basis of the information provided to me by the Department.

You will be notified of the decision once the matter has been finalised.

### Contact

If you have any questions, please do not hesitate to contact me. In all correspondence please include reference number RQ18/02489.

Kind regard

**Megan McKenna** | Assistant Review Officer | Freedom of Information Dispute Resolution  
**Office of the Australian Information Commissioner**  
Level 3, 175 Pitt Street, SYDNEY NSW 2000  
GPO Box 5128 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)  
Phone: +61 2 8231 4292 | E-mail: [xxxxx.xxxxxxx@xxxx.xxx.xx](mailto:xxxxx.xxxxxxx@xxxx.xxx.xx)

**From:** S [REDACTED] Leia on behalf of [Information.Law](#)  
**To:** [Megan McKenna](#)  
**Subject:** \*\*\*24AB form as discussed\*\*\* FOI 23544 – Request for an extension of time under section 15AB of the FOI Act [DLM=For-Official-Use-Only]  
**Date:** Friday, 31 August 2018 11:55:02 AM  
**Attachments:** [image001.png](#)  
[FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason.pdf](#)  
[Re FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 SECUNCLASSIFIED.msg](#)  
[Re FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 SECUNCLASSIFIED.msg](#)  
[FOI 23544 DLMsensitiveLegal.msg](#)  
[OAIC extension form - 15AB - 23544 - Copy.pdf](#)

---

Hi Megan,

24AB form as discussed. If you are wanting to provide the applicant any of the other documents attached (internal DVA emails) please ensure our names are removed. I can do this if needed.

Thank you. Please let me know if there is anything further you require or if you would like us to respond to any comments made by the applicant regarding the extension sought.

Kind Regards,

**Leia** S 47F [REDACTED]

Assistant Director

Information Law | Legal Services & Assurance

Department of Veterans' Affairs

**T:** 02 6120 8128 | **E:** [xxxxxxxxxxxx@xxx.xxx.xx](#) | **W:** [www.dva.gov.au](#)

cid:image001.png@01D0027A.1DAB84F0



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**From:** S 47F [REDACTED], Leia **On Behalf Of** Information.Law

**Sent:** Thursday, 30 August 2018 2:47 PM

**To:** 'xxxxxxxxxxxx@xxxx.xxx.xx' <xxxxxxxxxxxx@xxxx.xxx.xx>

**Cc:** Information.Law <xxxxxxxxxx@xxx.xxx.xx>

**Subject:** FOI 23544 – Request for an extension of time under section 15AB of the FOI Act [DLM=For-Official-Use-Only]

Good afternoon OAIC,

#### **FOI 23544 – Request for an extension of time under section 15AB of the FOI Act**

Please find attached a request for an extension of time to **1 October 2018** (noting 30 days would fall on Sunday, 30 September), to finalise the above FOI request. Details are contained within the attached form. I have also attached documents to help in your decision making.

Please feel free to contact me should you have any questions or require any further

justifications.

Kind Regards,

**Leia** S 47F

Assistant Director

Information Law | Legal Services & Assurance

Department of Veterans' Affairs

**T:** 02 6120 8128 | **E:** [xxxxxxxxxxxx@xxx.xxx.xx](mailto:xxxxxxxxxxxx@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  
Department of Veterans' Affairs

FOI

## Request consultation process due to existence of a practical refusal reason under section 24AB of the *Freedom of Information Act 1982*

Information Law, Legal Services & Assurance, Department of Veterans' Affairs

**Applicant:** Verity Pane  
**Notice date:** 15 August 2018  
**FOI reference number:** FOI 23386

### Requested documents:

*"In light of recent media reporting and admissions by the Minister in Federal Parliament that the Department spent more than \$0.6m in external legal services fees in regards to just one veteran - Martin Rollins - in relation to DVA's deliberate backdating of a rewrite of a DVA policy to exclude Mr Rollins' receiving a benefit he was entitled to at the time of his applying for it (<http://www.abc.net.au/7.30/dva-secretly-changed-rules-to-deny-veterans-claim/9883774>) there is a public interest in understanding how the Department is expending public funds on external legal services.*

*While the Department reports just one summary total of expenditure on external legal services in its annual reports, this is clearly insufficient and far too opaque to understand what the Department is spending on external legal costs for individual matters. While this information does indicate the Department spends between \$7m - \$10m on external legal services roughly every financial year, it gives no indication whether it may relate to only a small number of individual veterans or many or what the Department roughly spends per legal issue - which is important to understand when considering if the claims that the Department is combative and litigious are overstated or not.*

*Certainly the recent admission (initially refuted) that the Department has spend in excess of half a million dollars, litigiously, to defend this backdated change of policy to deny Martin Rollins a benefit that existed at the time he applied for it (and ironically this legal expenditure many hundreds of thousands of dollars greater than the benefit he was otherwise entitled to receive), raises public interest questions whether such excessive external legal expenditure is endemic or is a one off isolated case.*

*To that end, under FOI, I seek under s 17 of the FOI Act for a summary document to be created (so as to avoid unnecessary disclosure of irrelevant Departmental information) from data in the Departments financial and information management systems, to break down these global external legal services expenditure, so that greater transparency is given.*

*I seek a breakdown to be provided for the last three financial years - FY17/18, FY16/17, and FY15/16 - and to be broken down to matters involving individual veterans and other. Where matters involved individual veterans, this should be further broken down to stating the cumulative external legal services expenditure per veteran involved (with each veteran referred to by pseudonym - so first veteran is Veteran A, next is Veteran B, and so on). In order to reduce burden, where external legal expenditure involving an individual veteran is below \$10K cumulative for each financial year, they may be reported as a group (as the interest is in excessive external legal expenditure). An example of the layout I seek is below:*

.....FY17/18.....FY16/17.....FY15/16  
 .....\$.....\$.....\$  
 Other  
 Veteran A  
 Veteran B  
 etc  
 Veterans > \$10K"

---

Dear Verity Pane,

#### **Freedom of Information Request: FOI 23544**

I refer to your request for access to documents under the *Freedom of Information Act 1982* (FOI Act) received 16 July 2018.

I, Position Number 62210022, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).

This is a notice of an intention to refuse access to the documents you have requested because a 'practical refusal reasons' exist under section 24(1) of the FOI Act. I am issuing this notice under section 24AB(2) of the FOI Act.

The practical refusal reason applicable to your request is that the work involved in processing your request would substantially and unreasonably divert the resources of the Department from its operations as specified in section 24AA(1)(a)(i) of the FOI Act due to its size and complexity.

#### **Section 24AA**

Under section 24AA(2) of the FOI Act, the agency must have regard to the resources that would have to be used for:

- identifying, locating or collating the documents within the filing system of the agency;
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request);
- making a copy or an edited copy, of the document; and
- notifying any interim or final decision on the request.

I consider that all of the above factors have a bearing on your request. The reasons why a practical refusal reasons exists in relation to your request is set out below.

#### ***Why I intend to refuse your request***

#### **Request is substantial**

Following initial enquiries, I estimate that 60 hours of processing time is required to deal with this request. The reasons for this are as follows:

- Your request asks the Department to create a document under section 17 of the FOI Act. To do so, the Department needs to retrieve data that is not readily available, review that data and assemble it in the manner you have requested. This requires, for example:

- a. initial searches and retrieval of data that may be relevant to your request;
  - b. extraction and sorting the data into Financial Years;
  - c. identification of each line item for each month to ascertain which payments are within the scope of your request;
  - d. further searches to clarify payments of line items where it is not apparently clear they fall within the scope of your request (for example, payments can range from, but are not limited to, cost recovery, matters in the AAT, the Federal Court and other related legal costs of the Department);
  - e. extraction of the relevant line items into a new document;
  - f. sorting the data to collate payments related to individual surnames/clients;
  - g. searches to ascertain the surnames identified are for the same individual and not for different individuals who share the same surname;
  - h. removal of identifying information;
  - i. sorting information so as to indicate which line items fall under or over the \$10,000 threshold.
- Approximately eight (8) hours was taken to identify relevant material. The data that was identified covers the 2015/16 and 2016/17 Financial Years. Data for the 2017/18 Financial Year is not yet readily available. Due to the voluminous nature of potentially relevant material and the broad scope of your request, manual verification of the data is and would continue to be required to ensure relevant information has been captured and that each payment is within the scope of your request. I conservatively estimate an additional two (2) hours would be required to ensure all relevant data has been identified and retrieved.
  - To assist in ascertain whether a document could be created as per your request, a sample of the available information was used to undertake the tasks noted above. This sample involved the assessment of 110 line items comprising a three (3) month period. This task took 3 hrs and 45 minutes to complete.
  - An assessment of available information for the 2015/16 and 2016/17 Financial Years indicates a total of 1,449 line items covering the 24 month period will need to be assessed. The processing time involved in undertaking this task, based on the time it took to undertake the sample above is estimated to be in excess of 48 hours.
  - The relevant document once finalised, will have to be analysed and a decision made before it can be released to you. Some of the information within the document, may be exempt from disclosure under the FOI Act.
  - Further to the previous point, a Statement of Reasons will still need to be provided to you. I anticipate that it would take approximately two (2) hours to draft the Statement of Reasons and Schedule of Documents for this decision, noting on initial review that any exemptions applied would need to be detailed.

The above estimate does not take into account the time taken to review and prepare the sample of documents or to issue this notice to you.

Taking these factors into account, I have concluded the request as it currently stands is substantial.

### **Request is unreasonable**

For the purpose of providing this notice, I have considered whether the substantial resource burden would be unreasonable having regard to the following:



- 60 hours of processing time is, at face value, an unreasonable burden for a single FOI request, taking into account the need to process multiple requests at any given time, and the impact such a burden would have on responding to other FOI applicants.
- High level data relating to the Department legal expenditure is already available to you and the public through reporting within the Department's Annual Reports.
- Due to the broad nature of your request and the fact that it covers legal expenses spanning several Financial Years, the volume of material to be assessed is high. There also exists complexity in determining which payments fall within the scope of your request.

Taking these factors into account, I have concluded the request as it currently stands is unreasonable, as well as substantial (as outlined above).

#### **Further clarification about what is sought**

In addition to the above, it is unclear precisely what payments you want identified in the document. As noted above, the payments identified range from cost recovery action, matters involving the AAT, the Federal Court and other related legal costs. In its current form those items do not provide such information concerning the documents you seek to access as is reasonably necessary to enable a responsible officer of the Department to identify. This is also called a 'practical refusal reason' (section 24AA).

#### **What you should do?**

You can revise the request in a form that would remove the grounds for refusal. Please note that even if you do modify your request, it is possible that a practical refusal reason under subsection 24AA(1)(a)(i) may still exist or the Department may need further time to process your revised request – this will depend on the terms of your final request. As far as is reasonably practicable, we are happy to provide you with further information to assist you in making your request in such a form that removes the practical refusal ground.

If you are able to pinpoint the specific information you seek to be included that would assist. In particular, you may wish to consider for example:

- limiting payments to specific activities such as costs related to matters before the Administrative Appeals Tribunal;
- narrowing the scope to a more specific timeframe, rather than a three year period;
- providing further information and clarification to explain what types of legal payments you want captured in the document.

Please note you have **14 days** from the date you receive this notice to either:

- withdraw the request;
- make a revised request; or
- indicate that you do not wish to revise the request.

If you do not respond in one of these ways within 14 days the request will be taken to have been withdrawn pursuant to section 24AB(7) of the FOI Act. If you indicate you do not wish to revise your request, the Department will proceed to make a decision on whether to refuse the request on resource grounds under section 24(1).

If you need more time to respond, please contact Information Law within the 14 day period to discuss your need for an extension of time.

Please note under section 24AB(8) of the FOI Act, the time for processing your FOI request is suspended from the day you receive this notice until the day you do one of the things listed above.

If you would like to revise your request or have any questions, please contact Information Law using the details listed below:

**Post:** Legal Services & Assurance, Department of Veterans' Affairs  
GPO Box 9998, Canberra ACT 2601  
**Facsimile:** (02) 6289 6337  
**Email:** [informationlaw@dva.gov.au](mailto:informationlaw@dva.gov.au)

Yours sincerely

**Position Number 62210022**

Information Law

Legal Services & Assurance

15 August 2018

**From:** [Verity Pane](#)  
**To:** [Information.Law](#)  
**Subject:** Re: FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 15 August 2018 8:22:58 PM

---

Dear Unnamed Officer (Position Number 62210022),

While a rough estimation has been provided, it appears the Department is satisfied based on its enquiries that this FOI would take 60 leisure hours for collection, assessment and decision issuance.

The primary basis of your agency's practical refusal intention is that the amount of external legal services expenditure against veterans is very large, and covers a large number of matters. That does answer a question in, and of, itself that the Department is a frequent user of external legal services providers in litigation and opinion seeking against veterans.

But in light of this, if there is a willingness to pay for this, as per usual cost recovery processes in FOI, does the Department still intend to refuse access? Just because as FOI may exceed the free processing period is generally insufficient to refuse access, and mechanisms exist for requester contribution to be made in these circumstances.

You state to process the FOI application would deny others the opportunity to have their own FOI applications, but provide no supporting evidence to substantiate that. How many open and overdue FOIs does DVA have presently? Is there any reason a consent to extend the processing deadline cannot offset any intensity of resource allocation, as I would be prepared to consider that.

You also state the application covers 'several' financial years, despite only three being sought, and is too 'broad', yet paying for external legal services providers is not a common administrative practice and requires SES level approval. While making reference to this, you fail to provide enough information to allow for any stratification to adequately allow for any informed revision of scope to occur.

I would however be willing to refine the scope to FY15/16 in the first instance, which could have helpfully been identified in your estimates but wasn't (instead you looked for factors to reject, rather than offer alternatives).

I guess the only thing we both agree in full on is that it is evident that DVA is a regular high frequency user of external legal services providers, over and above the more limited use by other agencies.

I still think that ways ahead exist, despite your claims to the contrary.

Yours sincerely,

Verity Pane

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

Good evening Verity Pane,

FOI 23544 – section 24AB Notice of intention to refuse – Request  
consultation due to practical refusal reason

I refer to your request for access to information under the Freedom of  
Information Act 1982 (FOI Act); received on 16 July 2018.

Please find attached a notification under section 24AB of the FOI Act,  
advising you of the Department's intention to refuse your request on the

grounds that a practical refusal reason exists. A decision on this request will be made pending the outcome of this requested consultation process. Please review and consider the attached notice and advise how you wish to proceed by 29 August 2018.

If you require any further assistance or time to respond to this notice please do not hesitate to contact us.

Kind Regards,

Information Law Team

Department of Veterans' Affairs

E: [1][email address] | W: [2]www.dva.gov.au

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

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

**s 22**

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.

---

**From:** [Verity Pane](#)  
**To:** [Information.Law](#)  
**Subject:** RE: FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 [SEC=UNCLASSIFIED]  
**Date:** Friday, 24 August 2018 7:23:38 PM

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Dear Unnamed Officer,

As you waited until the second last day to issue a practical refusal notice, when practice is that practical refusal notification should be made within 14 days (and it appears the reason for the late issue was to intentionally delay progress of this FOI, unethically), I will only grant you an additional 14 days (plus an extra day or two to show I'm kinder than you) from the original statutory expiry date.

The new statutory deadline is therefore 5pm on Friday 31 August 2018.

Yours sincerely,

Verity Pane

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

Good evening Verity Pane,

Thank you for your email and option to revise the scope.

Information regarding the amount of work involved and options to revise were provided to you on 15 August. A decision to impose a charge to process your request has not been considered because the work involved in processing your request in its current form, would result in a diversion of resources. An extension of time to process your request would not remove the practical refusal reasons in its current form. As explained in the consultation notice to you, the request is considered both substantial and unreasonable for one request. The process involved in extracting the information you seek and the type of legal expenses that may be covered in that data was explained in the notice. The notice provided options to you, including for example, to revise the timeframe or even clarify which payment types you wanted captured. Further, information about the Department's volume of FOI requests is publicly available (e.g. within the OAIC's Annual Report and on [data.gov.au](http://data.gov.au); <https://data.gov.au/dataset/freedom-of-information-statistics>). This should give you an indication of the volume of requests the Department deals with each year.

Based on the below, I am satisfied that revising the scope to the 2015/16 Financial Year will remove the practical refusal reason. We would be grateful if you would agree to an extension of time under section 15AA of the FOI Act, to allow the Department more time finalise your request. If possible, we would be grateful for an extension of 30 days.

I hope the above assists.

Kind Regards,

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

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

**s 22**

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:** [Komora, George](#)  
**To:** [S \[REDACTED\] .Leia](#)  
**Cc:** [Reglar, Alison](#)  
**Subject:** FOI 23544 [DLM=Sensitive:Legal]  
**Date:** Friday, 24 August 2018 7:45:49 PM

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Note, Leia – following Verity Pane’s response, in the above matter, tonight, he posted on RTK:

**[Verity Pane](#) left an annotation (August 24, 2018)**

I predict that not only will this agency reject the offer of extension but will apply to the OAIC under s 15AB to extend this statutory deadline further, despite just stating that only one financial year was \*not\* complex or voluminous (which are the grounds for extension being approved).

As highlighted by respected FOI commentator Peter Timmis, s 15AB requests get ticked and flicked by the OAIC despite no evidence frequently being provided by the agencies that request them (in fact it is a very rare event indeed if the OAIC rejects such an application) <http://foi-privacy.blogspot.com/2013/02/...>

That’s the problem of a so called regulator who is too much in bed with those they are supposed to monitor.

Regards,  
George



**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 asterix (\*) 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 *	Last Name *
<input type="text"/>	<input type="text"/>	<input type="text"/>
Phone (daytime) *	Email *	
<input type="text"/>	<input type="text" value="informationlaw@dva.gov.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 *	Last Name *
<input type="text"/>	<input type="text" value="Verity"/>	<input type="text" value="Pane"/>

**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

<input type="text"/>	<input type="text"/>
----------------------	----------------------

Postal Address



City

State

Postcode

<input type="text"/>	<input type="text"/>	<input type="text"/>
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Other contact details (eg. Fax or international address)

Is the FOI applicant represented? \*

- ☐ Yes      ☒ No

**FOI Reference number**

Your FOI reference for this application

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 \*

16/07/2018

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

30

Current date decision is due \*

31/08/2018

New decision date if extension granted \*

01/10/2018

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?

The applicant agreed to an extension until 31 August 2018.

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

Initial searches resulted in a section 24AB consultation process. The applicant was advised the request in its original form would result in a diversion of resources (noting a total of 60 hours of processing time would be required). The applicant asked the Department to create a document under FOI for legal expenditure data relating to 3 Financial Years. The applicant was advised that data is not yet available for the 17/18FY, but that it was for the 15/16 & 16/17 FYs. The applicant revised the scope of the request to be for the 15/16 FY.

Although I have decided that this removes the diversion issue, the request remains voluminous. I estimate that at a minimum, it will still require around 30 hours to process the request in its revised form. I have spoken with the business area undertaking some of this task and they advised some additional information off-site will need to be recalled as some data from the 15/16FY is not readily available. The officer assisting with this task was away while we undertook the 24AB consultation, but has since returned and taken steps to assist. The business area is unable to create the document requested, so this task will fall upon me to finalise. I will be supplied with the data and I will need time to gather it and format in the style requested by the applicant.

The attached 24AB notice provides you with context around the work involved in extracting and assessing the data. I am also considering ways in which I can reveal the information without having to apply exemptions under the FOI Act.

I also attach information that suggests the applicant may not be agreeable to this extension. It is not a quick request to action and further time is needed to ensure the document requested is suitable and responsive to the terms of the request.

## 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

Please add any documents to be sent electronically with this form  
(Please ensure that the total size of each attachment does not exceed 2MB  
Please ensure that the total size of all attachments does not exceed 10MB)



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.

**Megan McKenna**

---

**From:** FOIDR  
**Sent:** Friday, 31 August 2018 3:01 PM  
**To:** 'Verity Pane'  
**Subject:** RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]  
**Attachments:** OAIC extension form - 15AB - 23544 - Copy.pdf; FOI 23544 - Notice of intention to refuse request - Consultation due to ....pdf; Re: FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 [SEC=UNCLASSIFIED]; RE: FOI 23544 - Notice of intention to refuse request - Consultation due to practical refusal reason - Response sought by 29 August 2018 [SEC=UNCLASSIFIED]

**Security Classification:**  
 UNCLASSIFIED

Dear Ms Pane

I understand you have previously written to Ms Megan McKenna of this office requesting a copy of the Department of Veteran's Affairs' (the Department) application for an extension of time. A copy of the application and supporting documents is attached for your reference.

I would appreciate if you could provide any further comments you wish to make by 3 September 2018. Although, if you need further time to provide comments, please let me know before that date. Otherwise, If I do not receive further information from you by that date I will make a decision on the basis of the information we already have on hand.

Kind regards

Carl English | Assistant Review and Investigation Officer | Freedom of Information Dispute Resolution  
 Office of the Australian Information Commissioner  
 GPO Box 5218 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)  
 Phone: +61 2 9284 9745 | E-mail: [carl.exxxxxx@xxxx.xxx.xx](mailto:carl.exxxxxx@xxxx.xxx.xx)

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

**From:** Verity Pane s 22  
**Sent:** Friday, 31 August 2018 11:43 AM  
**To:** FOIDR <[fxxxx@xxxx.xxx.xx](mailto:fxxxx@xxxx.xxx.xx)>  
**Subject:** Re: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]

Dear FOIDR,

I forgot to add it is worth reflecting that Veteran's have previously caused extensive delays to other FOIs I have made to them, included one valid FOI  
 ([https://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Frequest%2Fcost\\_of\\_external\\_legal\\_services%23incoming-12905&data=01%7C01%7Cfoidr%40oaic.gov.au%7C6618f9ffbc614a63fee408d60ee3200d%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=2dIVCqHLU6E2RNjBwSLsJir8YJC2HRpnACfi%2Fu3vTuQ%3D&reserved=0](https://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Frequest%2Fcost_of_external_legal_services%23incoming-12905&data=01%7C01%7Cfoidr%40oaic.gov.au%7C6618f9ffbc614a63fee408d60ee3200d%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=2dIVCqHLU6E2RNjBwSLsJir8YJC2HRpnACfi%2Fu3vTuQ%3D&reserved=0)) they refused to acknowledge for the whole statutory period and even after it became a deemed refusal, until I made an OAIC IC Review application about it (and even then they drew it out), despite me confirming that had received each and every communication in that FOI.

While I reserve the right to make a submission with the benefit of having seen Veteran's s 15AB application first, I offer this as something to reflect on in the interim.

Yours sincerely,

Verity Pane

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

Our reference: RQ18/02489

Agency reference: FOI 23544

Ms Verity Pane

By email: [FOI #4697 email]

Extension of time application by the Department of Veterans' Affairs

Dear Ms Pane

I write to you to advise that on 30 August 2018 the Office of the Australian Information Commissioner (the OAIC) received a request from the Department of Veterans' Affairs (the Department) for an extension of time to process your freedom of information request.

The Department has applied for an extension of time under s 15AB of the Freedom of Information Act 1982 (Cth) because your request is considered to be voluminous and complex.

The Department has requested an extension of time to 1 October 2018. I will take any comments you may have to make into account when deciding the application.

Please respond to this email by 5 September 2018. If I do not hear from you by this date, I will proceed to make a decision on the basis of the information provided to me by the Department.

You will be notified of the decision once the matter has been finalised.

Contact

If you have any questions, please do not hesitate to contact me . In all correspondence please include reference number RQ18/02489.

Kind regard



Megan McKenna | Assistant Review Officer | Freedom of Information Dispute Resolution

Office of the Australian Information Commissioner

Level 3, 175 Pitt Street, SYDNEY NSW 2000

GPO Box 5128 SYDNEY NSW 2001 |

[1]<https://apac01.safelinks.protection.outlook.com/?url=www.oaic.gov.au&data=01%7C01%7Cfoidr%40oaic.gov.au%7C6618f9ffbc614a63fee408d60ee3200d%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=%2BAA44dEEWWiSB6Ea%2BQYiMA%2BE%2B1kJXvHe4UDQcwl%2Bo%3D&reserved=0>

Phone: +61 2 8231 4292 | E-mail: [2][email address]

## References

### Visible links

1.

<https://apac01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.oaic.gov.au%2F&data=01%7C01%7Cfoidr%40oaic.gov.au%7C6618f9ffbc614a63fee408d60ee3200d%7Cea4cdebd454f4218919b7adc32bf1549%7C1&mp;sdata=dMIE02Cpqxkauv9xarC8%2FmRBsFgri%2BV3XMGfZcNu62g%3D&reserved=0>

2. [mailto:\[email address\]](mailto:[email address])

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

**s 22**

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://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Fhelp%2Foffice%2F&data=01%7C01%7Cfoidr%40oaic.gov.au%7C6618f9ffbc614a63fee408d60ee3200d%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=WhVkWUITkUCbxNRT00asYRWd2bOFnodDnzlcQRePHHI%3D&reserved=0>

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.

**Megan McKenna**

---

**From:** FOIDR  
**Sent:** Friday, 31 August 2018 4:00 PM  
**To:** 'Verity Pane'  
**Subject:** RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]  
**Attachments:** 20180831155521573.pdf

**Security Classification:** UNCLASSIFIED

Dear Ms Pane

My apologies, as advised by Ms McKenna we will wait until 5 September 2018 for your submissions. I have attached another version of the application.

Please let me know if you cannot open it.

Kind regards

Carl English | Assistant Review and Investigation Officer | Freedom of Information Dispute Resolution  
Office of the Australian Information Commissioner  
GPO Box 5218 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)  
Phone: +61 2 9284 9745 | E-mail: [carl.exxxxxx@xxxx.xxx.xx](mailto:carl.exxxxxx@xxxx.xxx.xx)

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

From: Verity Pane S 22  
Sent: Friday, 31 August 2018 3:43 PM  
To: FOIDR <[fxxxx@xxxx.xxx.xx](mailto:fxxxx@xxxx.xxx.xx)>  
Subject: RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]

Dear Carl,

As per Megan's email of earlier today opportunity to respond was by 5 September, but I note you have reduced that now to 3 September.

I will endeavour to provide response by 3 September however, in order to allow the OAIC to make decision within five business, but I am unable to do so currently as the copy of Veteran's s 15AB submission you have attached is not a copy of the Veteran's s 15AB application at all (the other documents work though and are what they say they are).

Please remedy as soon as possible today.

Yours sincerely,

Verity Pane

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

Dear Ms Pane

Kind regards

Phone: +61 2 9284 9745 | E-mail: [email address]

s 22

https://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Fhelp%2Foffice  
rs&data=01%7C01%7Cfoidr%40oac.gov.au%7C7bb7aa09c075437aecfd08d60f04a545%7Cea4cdebd454f42189  
19b7adc32bf1549%7C1&sdata=%2F2gbnfw77hVA6yojg7G7TkrWtxdiHUGuFpzfXfBcXlM%3D&reserved=0

-----

**From:** Carl English  
**To:** [Sandra Wavamunno](#)  
**Cc:** [Megan McKenna](#)  
**Subject:** RQ18/02489 - EOT request - DVA and Verity Pane [SEC=UNCLASSIFIED]  
**Date:** Friday, 31 August 2018 12:03:00 PM

---

Hi Sandra

Just want to flag the below.

We've received an EOT request from DVA in regards to Verity Pane. Ms Pane contacted us before the DVA submitted the application, advised she expected the EOT application would be made, and asking for a copy of the application once it was received.

Megan contacted DVA and consulted about releasing the application and DVA have provided a version that they are happy for us to provide to Ms Pane.

Ms Pane has provided an extensive submission opposing the EOT and advises she may provide more after seeing the s 15AB application.

I am minded to grant the EOT at this stage. Ms Pane is unlikely to be satisfied with the decision.

Happy to discuss.

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

**Office of the Australian Information Commissioner**

GPO Box 5218 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)

Phone: +61 2 9284 9745 | E-mail: [xxxx.xxxxxxx@xxxx.xxx.xx](mailto:xxxx.xxxxxxx@xxxx.xxx.xx)



Our reference: RQ18/02489

Your reference: FOI 23544

Ms Leia **s 47F**

Department of Veterans' Affairs

By email: [information.access@dva.gov.au](mailto:information.access@dva.gov.au)

Dear Department Of Veterans' Affairs

### Extension of time (application) under s 15AB

Thank you for your correspondence of 30 August 2018, in which you applied for an extension of time for **the** Department Of Veterans' Affairs (**the Department**) to process **Ms Pane's** request, received 16 July 2018, under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

**[Remove if irrelevant]** You advised that **the Department** already extended the decision period, by a further period of 30 days, to allow for consultation in accordance with s 15(6) of the FOI Act.

**[Remove if irrelevant]** You advised that **the Department (also/previously)** obtained agreement under s 15AA of the FOI Act for an extension of time from the applicant to 31 August 2018.

**[Remove if irrelevant]** The Office of the Australian Information Commissioner previously granted DVA an extension of time under s 15AB(2) of the FOI Act. This extended the decision period to 31 August 2018 (RQ18/02489). You now seek a further extension of time to process the request.

You have sought an extension on the basis that the current processing period is insufficient to deal adequately with Ms Pane's request, because it is voluminous **and/or** complex.

### **[Remove if irrelevant]** Contact with Applicant

On **[date of contact]**, I contacted Ms Pane to seek their view on **the Department's** request. On **[date]**, Ms Pane responded to my inquiries and provided comments which I have taken into consideration. **OR** I have not received a response from Ms Pane.

### 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 **1 October 2018**. In coming to this decision I have considered factors including your advice that:

- list things we have taken into consideration in making decision, such as volume of documents, complexities, difficulties with document retrieval or searches, delays in consultations etc

I am satisfied with **the Department's** proposal to manage this request, in particular:

- list things that agency has said it will do to manage the extended time such as hold regular meetings, staged release and expected dates for this to occur, keeping applicant updated, follow up on consultations etc

**[Remove if irrelevant]** I have also taken into consideration that Ms Pane has raised no objections to **the Department's** request.

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

### **Or (if not granting EOT)**

I have decided not to grant **the Department** an extension of time under s 15AB(2) of the FOI Act. In coming to this decision I have considered the following factors:

- **[insert reasons for decision]**.

Ms Pane will be notified of this decision.

### **Contact**

If you have any questions about this email, please contact me on **(Phone number)** or via email [Carl.English@oaic.gov.au](mailto:Carl.English@oaic.gov.au). In all correspondence please include OAIC reference number RQ18/02489.

Yours sincerely





Our reference: RQ18/02489

Agency reference: FOI 23544

Ms Verity Pane

By email: s 22

Dear Ms Pane

### Extension of time (application) under s 15AB

On 30 August 2018, Department Of Veterans' Affairs (**the Department**) applied for further time to make a decision on your FOI request of **16 July 2018**.

This application was on the basis that the processing period is insufficient to deal adequately with your request, because it is complex **or/and** voluminous.

**[Remove if irrelevant]** The **Department** has advised the OAIC that the processing time has already been extended by agreement under s 15AA of the FOI Act to **31 August 2018**.

### **[Remove if irrelevant]** Consultation

On **[date of contact]**, I contacted you to seek your views on **the Department's** request. On **[date]**, you responded to my inquiries and provided comments which I have taken into consideration. **OR** I have not received a response from you.

### Decision

I have decided to grant **the Department** an extension of time to process your request to **1 October 2018**. This decision has been made under s 15AB(2) of the *Freedom of Information Act 1982* (Cth).

By granting further time it is anticipated that **the Department**CKXG will provide a well-reasoned and better managed decision.

### Contact

If you have any questions regarding this email please contact me on **(phone number)** or via email [Carl.English@oaic.gov.au](mailto:Carl.English@oaic.gov.au). Please quote OAIC reference number RQ18/02489 in all correspondence.

Yours sincerely

Carl English  
Review and Investigation Officer  
Dispute Resolution Branch



**From:** [FOIDR](#)  
**To:** s 22  
**Subject:** RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]  
**Date:** Friday, 7 September 2018 4:09:00 PM  
**Attachments:** [Letter to Ms Pane.pdf](#)

---

Our reference: RQ18/02489  
Agency reference: FOI 23544

**Ms Verity Pane**

Sent by email: s 22

**Extension of time under s 15AB**

Dear Ms Pane

Please find correspondence in relation to the processing of your FOI request attached.

Yours sincerely

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

**Office of the Australian Information Commissioner**

GPO Box 5218 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)

Phone: +61 2 9284 9745 | E-mail: xxxx.xxxxxxx@xxxx.xxx.xx



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ18/02489  
Agency reference: FOI 23544

**Ms Verity Pane**Sent by email: **s 22**

## Extension of time under s 15AB

Dear Ms Pane

On 30 August 2018, the Department of Veterans' Affairs (the Department) applied for further time to make a decision on your FOI request of 16 July 2018.

This application was on the basis that the processing period is insufficient to deal adequately with your request, because it is complex and voluminous.

## Consultation

On 31 August 2018, the Office of the Australian Information Commissioner wrote to you to seek your views on the Department's request. You responded to our inquiries and provided a number of comments that I have taken into consideration.

## Decision

I have decided to grant the Department an extension of time to process your request to **1 October 2018**. This decision has been made under s 15AB(2) of the *Freedom of Information Act 1982* (Cth).

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

## Contact

If you have any questions regarding this email please contact me on 02 9284 9745 or via email [Carl.English@oaic.gov.au](mailto:Carl.English@oaic.gov.au). Please quote OAIC reference number RQ18/02489 in all correspondence.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'CAE', is positioned above the typed name.

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

7 September 2018

**From:** [FOIDR](#)  
**To:** ["xxxxxxxxxxxx.xxxxxx@xxx.xxx.xx"](#)  
**Subject:** RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]  
**Date:** Friday, 7 September 2018 4:06:00 PM  
**Attachments:** [Extension of time decision to DVA.pdf](#)

---

Our reference: RQ18/02489  
Your reference: FOI 23544

**Ms Leia** s 47F

Department of Veterans' Affairs  
By email: xxxxxxxxxxxx.xxxxxx@xxx.xxx.xx

## **Extension of time under s 15AB**

Dear Ms s 47F

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

Kind regards

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

**Office of the Australian Information Commissioner**

GPO Box 5218 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)

Phone: +61 2 9284 9745 | E-mail: xxxx.xxxxxxx@xxxx.xxx.xx



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ18/02489

Your reference: FOI 23544

Ms Leia **s 47F**

Department of Veterans' Affairs

By email: [information.access@dva.gov.au](mailto:information.access@dva.gov.au)

## Extension of time under s 15AB

Dear Ms **s 47F**

Thank you for your correspondence of 30 August 2018, in which you applied for an extension of time for the Department of Veterans' Affairs (the Department) to process Ms Verity Pane's request, received 16 July 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 Ms Pane's request, because it is voluminous and complex.

## Contact with Ms Pane

On 31 August 2018, the Office of the Australian Information Commissioner (OAIC) wrote to Ms Pane to seek her view on the Department's request. Ms Pane responded to our inquiries and provided comments which I have taken into consideration.

## 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 1 October 2018**. In coming to this decision I have considered factors including your advice that:

- Ms Pane asked the Department to create a document outlining the Department's legal expenditure data relating for financial year 2015/16.
- Some of the data is not readily available and will need to be recalled from off-site storage.
- The information needs to be collated and the document requested by Ms Pane created from the information in the format requested.

- The Department estimates it would take 30 hours to finalise the request.

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

Ms Pane 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 [Carl.English@oaic.gov.au](mailto:Carl.English@oaic.gov.au). In all correspondence please include OAIC reference number RQ18/02489.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'C. English', is shown on a light background.

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

7 September 2018

**Megan McKenna**

---

**From:** FOIDR  
**Sent:** Wednesday, 12 September 2018 11:48 AM  
**To:** 'Verity Pane'  
**Subject:** RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]  
**Attachments:** Extension of time decision to DVA.pdf

**Security Classification:**  
UNCLASSIFIED

Dear Ms Pane

Thank you for your email. I apologise for the delay in my response.

I note that your comments were taken into consideration in coming to this decision. I have attached a copy of the detailed reasons provided to the Department of Veteran's Affairs. However I have removed the contact details of the specific contact at the Department.

I hope this satisfies your query.

Kind




**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](http://oaic.gov.au)  
+61 2 9284 9745 | +61 412 345 678 | [carl.english@oaic.gov.au](mailto:carl.english@oaic.gov.au)

regards

 |  |  |  [Subscribe to OAICnet newsletter](#)

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

**From:** Verity Pane   
**Sent:** Tuesday, 11 September 2018 3:35 AM  
**To:** FOIDR <fxxxx@xxxx.xxx.xx>  
**Subject:** Re: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]

Dear Carl,

I note, despite being required to consider the submission made about the s 15AB extension, your decision letter does not reflect any such consideration and merely uses the OAIC template text which is to say nothing more than the submission was considered (but gives no evidence of such consideration, such as evidence of weighing up the submission against the the submission of DVA) and merely repeats the template text line that by granting the s 15AB application it is anticipated DVA will provide a well reasoned and managed response (despite DVA never having done so for any FOI it has received a s 15AB extension for).

As you may be aware, a failure by a delegate to demonstrate consideration was given in a decision letter provides a reviewable ground.

Before proceeding down that path, can you give transparency to your reasoning in your decision, beyond throwaway generic template text, or does this reflect you gave no consideration at all and merely just spat out the template letter.

Yours sincerely,

Verity Pane

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

Our reference: RQ18/02489

Agency reference: FOI 23544

Ms Verity Pane

Sent by email: [FOI #4697 email]

Extension of time under s 15AB

Dear Ms Pane

Please find correspondence in relation to the processing of your FOI request attached.

Yours sincerely

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

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 |

[1]<https://apac01.safelinks.protection.outlook.com/?url=www.oaic.gov.au&data=01%7C01%7Cfoidr%40oaic.gov.au%7C57f5be8dd1574968966808d61743be08%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=i3cpjemQMNTzTZmkC3brEVPI2VZsZE9ReA4fJxDBbx8%3D&reserved=0>

Phone: +61 2 9284 9745 | E-mail: [email address]

References

Visible links



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

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.



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ18/02489

Your reference: FOI 23544

Department of Veterans' Affairs

By email: [information.access@dva.gov.au](mailto:information.access@dva.gov.au)

## Extension of time under s 15AB

Dear

Thank you for your correspondence of 30 August 2018, in which you applied for an extension of time for the Department of Veterans' Affairs (the Department) to process Ms Verity Pane's request, received 16 July 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 Ms Pane's request, because it is voluminous and complex.

## Contact with Ms Pane

On 31 August 2018, the Office of the Australian Information Commissioner (OAIC) wrote to Ms Pane to seek her view on the Department's request. Ms Pane responded to our inquiries and provided comments which I have taken into consideration.

## 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 1 October 2018**. In coming to this decision I have considered factors including your advice that:

- Ms Pane asked the Department to create a document outlining the Department's legal expenditure data relating for financial year 2015/16.
- Some of the data is not readily available and will need to be recalled from off-site storage.
- The information needs to be collated and the document requested by Ms Pane created from the information in the format requested.

- The Department estimates it would take 30 hours to finalise the request.

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

Ms Pane 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 [Carl.English@oaic.gov.au](mailto:Carl.English@oaic.gov.au). In all correspondence please include OAIC reference number RQ18/02489.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'CE', is positioned above the typed name and title.

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

7 September 2018

**Megan McKenna**

---

**From:** Sandra Wavamunno  
**Sent:** Wednesday, 12 September 2018 11:37 AM  
**To:** FOIDR  
**Subject:** RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]

**Security Classification:**  
UNCLASSIFIED

Thanks Carl

As discussed.

Kind regards

Sandra

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

**From:** FOIDR  
**Sent:** Wednesday, 12 September 2018 9:58 AM  
**To:** Sandra Wavamunno <sxvxxx.xxxxxxxxx@xxx.xxx.xx>  
**Subject:** FW: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]

Hi Sandra

Ms Pane has objected to the s 15AB decision we made, on the grounds that we did not take her consultation responses into consideration. I think all we can really do in response is to give her a copy of the reasons for decision provided to the agency, which provides more detailed explanation of why we granted the request.

Do you agree? Happy to discuss.

Carl

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

**From:** Verity Pane **S 22**  
**Sent:** Tuesday, 11 September 2018 3:35 AM  
**To:** FOIDR <fxxxx@xxx.xxx.xx>  
**Subject:** Re: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]

Dear Carl,

I note, despite being required to consider the submission made about the s 15AB extension, your decision letter does not reflect any such consideration and merely uses the OAIC template text which is to say nothing more than the submission was considered (but gives no evidence of such consideration, such as evidence of weighing up the submission against the the submission of DVA) and merely repeats the template text line that by granting the s 15AB application it is anticipated DVA will provide a well reasoned and managed response (despite DVA never having done so for any FOI it has received a s 15AB extension for).

As you may be aware, a failure by a delegate to demonstrate consideration was given in a decision letter provides a reviewable ground.

Before proceeding down that path, can you give transparency to your reasoning in your decision, beyond throwaway generic template text, or does this reflect you gave no consideration at all and merely just spat out the template letter.

Yours sincerely,

Verity Pane

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

Our reference: RQ18/02489

Agency reference: FOI 23544

Ms Verity Pane

Sent by email: [FOI #4697 email]

Extension of time under s 15AB

Dear Ms Pane

Please find correspondence in relation to the processing of your FOI request attached.

Yours sincerely

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

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 |

[1]<https://apac01.safelinks.protection.outlook.com/?url=www.oaic.gov.au&data=01%7C01%7Cfoidr%40oaic.gov.au%7C57f5be8dd1574968966808d61743be08%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=i3cpjemQMNTzTZmkC3brEVPI2VZsZE9ReA4fJxDBbx8%3D&reserved=0>

Phone: +61 2 9284 9745 | E-mail: [email address]

## References

### Visible links

1.

<https://apac01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.oaic.gov.au%2F&data=01%7C01%7Cfoidr%40oaic.gov.au%7C57f5be8dd1574968966808d61743be08%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=sTS90QPURtFQDWl3LmwxAUOtfu1wMvrlhxyDxzFLYi8%3D&reserved=0>

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

**S 22**

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://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Fhelp%2Foffice&data=01%7C01%7Cfoidr%40oaic.gov.au%7C57f5be8dd1574968966808d61743be08%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=HRgOrr4EuJQVD48Y2%2BVZrGC75xJJUqd9XVhMg7%2F180%3D&reserve\\_d=0](https://apac01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Fhelp%2Foffice&data=01%7C01%7Cfoidr%40oaic.gov.au%7C57f5be8dd1574968966808d61743be08%7Cea4cdebd454f4218919b7adc32bf1549%7C1&sdata=HRgOrr4EuJQVD48Y2%2BVZrGC75xJJUqd9XVhMg7%2F180%3D&reserve_d=0)

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.





**Australian Government**

**Office of the Australian Information Commissioner**

Our reference: RQ18/02489

Dear Ms Pane

Thank you for your correspondence of 12 September 2018.

Further information about how applications to extend the timeframe to process an FOI request are handled by the Office of the Australian Information Commissioner (OAIC) can be found published on our website:

[FOI fact sheet 16: Freedom of information — Extensions of time](#)

[FOI agency resource 13: Extension of time for processing requests](#)

The OAIC will take an applicant's views into account when deciding a request for an extension of time under s 15AB, as we have done in this instance, however the final decision rests with the OAIC.

If you disagree with the OAIC's 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/>.

Yours sincerely

**From:** Carl English  
**To:** [Sandra Wavamunno](#)  
**Subject:** RQ18/02489 - response to Ms Pane [SEC=UNCLASSIFIED]  
**Date:** Friday, 14 September 2018 3:36:00 PM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

---

Hi Sandra

I've drafted a response to Ms Pane. Do you mind having a look? Its attached to the file.

Carl



**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](http://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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**Megan McKenna**

---

**From:** FOIDR  
**Sent:** Friday, 14 September 2018 10:37 AM  
**To:** Sandra Wavamunno  
**Subject:** FW: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]

**Security Classification:**  
UNCLASSIFIED

Hi Sandra

I'm not sure what more we can provide Ms Pane. We could provide her the below (I modified the closure review rights), which I think also applies to EOTs

**Judicial review**

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/>.

**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>.

What do you think?

Carl

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

**From:** Verity Pane S 22  
**Sent:** Wednesday, 12 September 2018 12:50 PM  
**To:** FOIDR <fxxxx@xxxx.xxx.xx>  
**Subject:** RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]

Dear Carl,

While I appreciate copy of your decision to DVA, which includes a copy of a few lines from the submission of DVA, it again demonstrates no reconciliation between the competing claims of the parties, and again throws away a generic “I have considered” without showing any such consideration or analysis.

In particular, despite DVA claiming (without any evidence in support, beyond the unsupported claim itself) that it needed to retrieve archived material from off-site storage, for a s 17 compilation that can only be from digital information system holdings from TRIM, G: drive and their FMIS, you appear to have satisfied yourself that is a necessity without even knowing what is required to be retrieved and from where or any supporting information at all.

It appears that an unsupported vague and opaque claim of off-site storage of something, despite being specifically challenged by my submission that the digital holdings in question are not archived in some dusty warehouse in some undisclosed location, but being recent and in digital form, remain on the premises of the Department’s servers and is still immediately accessible.

This appears that you made your decision not on the facts, but rather on formulaic unsupported claims by DVA (if they say off site then on that alone, without any detail of what is allegedly offsite, you reach a unsustainable state of satisfaction).

Of course it may be possible you received some information you have not disclosed still, but you are yet to show any, and you did state you had provided everything you based your decision on, so the conclusion is you did so unreasonably and irrationally formulaically, despite being a directly contested ground.

Also, that approach would directly contradict that FOI applicants are not to be penalised by an agency’s (intentional) poor records management or (intended) failures to maintain an adequate records system, which is reflected explicitly in the Guidelines and also as the Senate report on FOI noted, “A poor information retrieval system or unwise delegation of authority [to someone who will be absent or away from the workplace] may be the cause of the burden of which it [the agency] complains... [but agencies] would realise soon enough that reliance on reasons of their own ineptitude would not be considered a legitimate invocation of the exemption”

I would remind you of your OAIC s 15AB processing policy which states:

Under s 15AB (2) the Information Commissioner may extend the initial period by 30 days, or longer, by written instrument, where the Information Commissioner considers the application justified. Key issues in considering such a request will be:

- \* The length of extension sought – is it less than, or greater than, 30 days ☐
- \* The justifications provided by the agency on why they consider the matter complex or voluminous ☐
- \* The nature and scope of the FOI Request ☐
- \* Views of the applicant in relation to an EOT ☐
- \* The likelihood that the agency will make a decision within the extended period of time or the matter will become a deemed refusal (s 15AC).

Agency applications should provide measurable/quantifiable explanations and justifications as to why a matter is either complex or voluminous, why the required EOT is needed, and how they will ensure a decision is made within the EOT. This information should be provided up front, with minimal need to request additional information from an agency. Examples of the types of information provided by agencies where s 15AB EOTs have been granted include:

- \* An explanation of activities taken in processing the FOI request as at the date of application for the EOT. This type of information is useful in assessing whether the request has been appropriately managed. This should include when the matter was received and any EOTs already granted by agreement (15AA) or by the agency/Minister (eg: 15(6) or (7)).
- \* The number of documents and folios identified, or an approximation where scoping work is continuing.

\* An explanation of the type of documents located (eg: reports, briefings, investigation files, etc) and key exemptions identified. These issues quite often go to complexity of a matter. Such information can be based on a sample for large requests.

- \* An outline of activities to be undertaken within the EOT to deliver a decision on the FOI request – eg:
  - Estimate of time to assess documents and to undertake redactions (days/weeks)
  - Estimate of time to retrieve records (eg: where they are old and stored off site)
  - Sensitivities/complexities that affect time needed
  - ongoing investigations, etc.
  - Whether a need to consult third parties has been identified, and how much time is estimated to consult and assess responses.

As per the OAIC policy, OAIC officers are required to review all relevant documents, identifying key elements of the matter relevant to the s 15AB application – eg justification by agency, scope of FOI request, EOT sought (above or below 30 days), urgency, any indication that the applicant would object (ask agency if they have contacted the applicant for their views about the EOT – and if not why not).

However, there is little to no evidence of this having been obtained and assessed, again it appears that the OAIC is satisfied on nothing more than simply saying the words ‘off-site’ without any details or evidence to support, and no testing of that unsupported claim took place, despite it being a contested claim.

So did you seek any information from DVA to justify the unsupported off-site claim before you made the s 15AB approval, and did you consider that applicants are not to be penalised by claimed poor records management or poor delegation of an agency before granting the s 15AB approval in the ritualised way you appear to have done (rather than on reasonable considered grounds)? Can you show any reconciliation of the disputed claims? As none of this is evident in the material provided, and infers the decision was made unreasonably, without due consideration (simply having template text that says you considered is insufficient if there is nothing to demonstrate any evaluation of that allegedly considered)

If you can't, then I guess there is no choice but to seek external review of this decision.

Yours sincerely,

Verity Pane

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

Dear Ms Pane

Thank you for your email. I apologise for the delay in my response.

I note that your comments were taken into consideration in coming to this decision. I have attached a copy of the detailed reasons provided to the Department of Veteran's Affairs. However I have removed the contact details of the specific contact at the Department.

I hope this satisfies your query.

Kind regards[1][IMG]

Carl English | Assistant Review  
Officer

Freedom of Information Dispute  
Resolution

Office of the Australian Information  
Commissioner

GPO Box 5218 Sydney NSW 2001 |  
[2]oaic.gov.au

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[4][IMG] | [5][IMG] | [6][IMG] | [7]Subscribe to OAICnet newsletter

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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.

**From:** FOIDR  
**To:** "Verity Pane"  
**Subject:** RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]  
**Date:** Tuesday, 18 September 2018 11:47:00 AM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

---

Our reference: RQ18/02489

Dear Ms Pane

Thank you for your correspondence of 12 September 2018.

Further information about how applications to extend the timeframe to process an FOI request are handled by the Office of the Australian Information Commissioner (OAIC) can be found published on our website:

[FOI fact sheet 16: Freedom of information — Extensions of time](#)

[FOI agency resource 13: Extension of time for processing requests](#)

The OAIC will take an applicant's views into account when deciding a request for an extension of time under s 15AB, as we have done in this instance, however the final decision rests with the OAIC.

If you disagree with the OAIC's 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/>.

Yours sincerely



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

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**Carl English**

---

**From:** FOIDR  
**Subject:** RE: IC Review - DVA FOI 23544 made 16 July 2018 - Charges Levy Notices decisions issued after s 15AB extension

Verity Pane **s 22**

OAIC reference: RQ18/02489

Agency: FOI 23544

Dear Ms Pane

Thank you for your email in relation to FOI 23544.

I have reviewed your file as you claim that there is a deemed refusal of 29 August 2018.

I note that on 24 August 2018, in response to the Department's request for an extension of time under section 15AA of the FOI Act, you said:

... I will only grant you an additional 14 days (plus an extra day or two to show I'm kinder than you) from the original statutory expiry date.

The new statutory deadline is therefore 5pm on Friday 31 August 2018.

In light of the above correspondence, there does not appear to be a deemed refusal of 29 August 2018.

**Charges decision**

I understand from your email you are now seeking Information Commissioner review of the Departments internal review decision of 31 October 2018, which imposed a charge of \$2,500.79. Your email did not include a copy of the decision you wish to have reviewed.

Section 54N of the *Freedom of the Information Act 1982* (the FOI Act) says that in order to make a valid application for IC review a person must send us a copy of the decision they want reviewed with their application. If no decision is provided, the application is not valid.

Please provide a copy of the FOI decision you wish to have reviewed by (1 week). If you do not provide a copy of this decision, your application will be closed as invalid.

If you would like to discuss this matter you may contact me on 02 9284 9745 or via email [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au).

Kind regards



**Vivian Yue** | Review Officer  
Freedom of Information  
Office of the Australian Information Commissioner  
GPO Box 5218 Sydney NSW 2001 | [oaic.gov.au](http://oaic.gov.au)  
+61 2 9284 9797 | [vivian.yue@oaic.gov.au](mailto:vivian.yue@oaic.gov.au)

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**From:** Verity Pane **s 22**  
**Sent:** Thursday, 1 November 2018 2:54 AM  
**To:** Enquiries <enquiries@oaic.gov.au>  
**Subject:** IC Review - DVA FOI 23544 made 16 July 2018 - Charges Levy Notices decisions issued after s 15AB extension

Ah OAIC,

I have déjà vu as I feel it's the same abuses and problems reported to you, which you then ignore and more often than not scheme with the Responding agency to corrupt the whole process, but then it's not like there is a choice to seek review with anyone else, so here we are.

**Timeline:**

16 July 2018 - FOI made

18 July 2018 - s 15(5)(a) acknowledgement received

15 August 2018 - s 24AB practical refusal notice issued (on s 15(5)(b) expiry date) - DVA claimed it would take 60 hrs

15 August 2018 - Disputed, but consent given to reduce scope to 1/3rd of original

24 August 2018 - DVA removes practical refusal based on 2/3rds reduction in scope but seeks another 30 days extension (on FOI nearly six weeks old already) on factors within their control. I note that despite notification of consent for reduced scope been given to DVA on the same day notice was given, DVA did not respond until the end of the 14 day s 15(5)(b) processing pause, so in assessing their request I offered an extension to 31 August 2018 taking into account the additional time DVA already had the benefit of. No DVA response to the offer was received before the FOI went deemed refusal and it is apparent that despite the extension offered DVA did not accept it, as it still sought a much longer extension (greater than even originally sought) therefore it could not rely on the offer as it had rejected by its own actions.

29 August 2018 - Original s 15(5)(b) deadline would have expired on 15 August 2018, but clock paused when DVA issued a intention to practically refuse, which paused the s 15(5)(b) clock for 14 days after the day the applicant is given the notice (s 24AB(2)). As the notice was given on the original expiry day, the s 15(5)(b) period expired on 29 August 2018.

30 August 2018 - DVA unlawfully applies to OAIC for s 15AB extension on the day after the amended expiry period, without giving any notice it intended to do so.

31 August 2018 - OAIC writes to me giving notice of s 15AB extension but fails to disclose that as the FOI had gone deemed refusal before any application had been made and approved, there was no lawful power to consider a s 15AB extension.

7 September 2018 - Despite DVA having not undertaken any actual work on the FOI decision, apart from on the practical refusal notice and then the s 15AB application, and the FOI already being 53 days old at this

point, Carl English of the OAIC unlawfully grants DVA another 24 days within which to issue a decision notice.

27 September 2018 - DVA instead issues a charges notice (73 days after the FOI was made) seeking charges of \$690.75. It provides no evidence to substantiate its estimates beyond unsupported claims.

2 October 2018 - Internal Review of Charges sought based on lack of evidentiary support for estimates, especially in light of a series of random and excessive estimates that bear no relationship to the work involved (with even work of the same type for similar periods wildly differing from one estimate to the next).

31 October 2018 - Internal Review Decision on Charges almost quadruples charges levy to \$2,500.79 and again provides no direct evidence to substantiate estimates claims other than unsupported assertions (which are required to be considered against DVA history of untruthfulness and estimates whose primary purpose is not to recover reasonable costs but to put high barriers before applicants).

At what point will the OAIC say enough and stop this blatant abuse, instead of enabling it. Effectively quadrupling the charges levy is so extreme it is untenable, especially given the absence of direct evidence to support these estimates. DVA writes a creative fiction of the most inefficient and effective process it can imagine, writes it in an email to itself and that is the 'evidence' it relies on... It's beyond a joke and that the OAIC gives it any credence is offensive. DVA is a self interested party and it has shown time and again it will lie to suit itself, yet the OAIC just looks the other way.

When will the OAIC follow its own published policy, directives and instructions and stop undermining the IC Review system.

To avoid all doubt IC Review is sought because it is the only review now available (and which DVA have forced, knowing it buys them further delay), and the address for notices is this address. I seek DVA to properly satisfy the FOI and issue decision notice and as it did not accept the extension offered (it never communicated its acceptance of the counter offer and by seeking additional time from the OAIC without notice to me, acted inconsistent with the common law surrounding acceptances) the decision went deemed on 29 August 2018.

Ms Pane BA(Hons) MPhil



**RQ18/02489**McKenna, Megan  
15-Nov-2018 1:42 PM**Title**

DVA - Department of Veterans' Affairs | Pane, Verity

**Receipt Details**

File Type:	Extension of time	Received Date:	30-Aug-2018 12:00 AM
Case Type:	Extension of time	Received By:	English, Carl
How Received:		Registered Date:	31-Aug-2018 9:50 AM
Owned By:	English, Carl	Registered By:	English, Carl
		Closed Date:	07-Sep-2018 4:09 PM
		Closed By:	English, Carl

**Case Details**

How Received:	Email
File Security:	UNCLASSIFIED
Agency Reference Number:	FOI 23544
Request Decision:	Granted
Extension Date:	1-Oct-2018
Primary Client Group:	Agency
Represented By Client Group:	Individual
Parent Case Entity Code:	IC Request
Case PrimaryPerson:	DVA - Department of Veterans' Affairs
Case Respondent:	Pane, Verity
Extension days:	30
Original Decision Date:	31-Aug-2018
Request from:	Agency
Request Sub Type:	s15AB - complex or voluminous
Agency Request Received Date:	16-Jul-2018
Retention Class:	OAIC RA 61986 (D2)

**Case Parties - 2**

Requestor Client:	DVA - Department of Veterans' Affairs
Request Relating To Client:	Pane, Verity

**Summary**

See email address provided  
consult due 5 September

**Actions - 12 (All Completed)**

Action	Owner	Due	Completed
Record Request details and attach docs (Agency)	English, Carl	03-Sep-2018	31-Aug-2018
Send EOT acknowledgement (Agency)	Triage - FOI	03-Sep-2018	31-Aug-2018, English, Carl: Not required
Move to Triage basket	English, Carl	03-Sep-2018	31-Aug-2018
Allocate to Triage Officer (REQ)	Triage - FOI	03-Sep-2018	31-Aug-2018, English, Carl

Assess EOT Request	English, Carl	03-Sep-2018	07-Sep-2018: Don't escalate
Correspondence from request relating to	English, Carl	05-Sep-2018	07-Sep-2018
Hi Carl, s 54T subs in resolve. Thanks			
Notify Parties of Decision (REQ EOT)	English, Carl	10-Sep-2018	07-Sep-2018
Close Request	English, Carl	10-Sep-2018	07-Sep-2018
Prepare Letter (Ad-Hoc)	English, Carl	18-Sep-2018	14-Sep-2018
Await Manager Approval (Corro Ad Hoc)	Wavamunno, Sandra	16-Sep-2018	18-Sep-2018: Approved
Send Letter	English, Carl	21-Sep-2018	18-Sep-2018
Await Clearance - Assistant Director	Wavamunno, Sandra	08-Nov-2018	05-Nov-2018
Hi Sandra I've just prepared a response to Verity's new request - grateful for your review. Thank you! Vivian			

### Documents - 36

Title	Date Added	By
FOI 23544 – Request for an extension of time under section 15AB of the FOI Act [DLM=For-Official-Use-Only]	30-Aug-2018 2:47 PM	English, Carl
RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 10:41 AM	McKenna, Megan
Re: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 11:34 AM	McKenna, Megan
Re: RQ18/02489 - Veterans' Affairs FOI 23386 - s 15AB request. Copy of s 15AB request to respond to. [SEC=UNCLASSIFIED]	31-Aug-2018 11:37 AM	McKenna, Megan
Re: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 11:43 AM	McKenna, Megan
***24AB form as discussed*** FOI 23544 – Request for an extension of time under section 15AB of the FOI Act [DLM=For-Official-Use-Only]	31-Aug-2018 11:54 AM	English, Carl
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 3:01 PM	English, Carl
Re: RQ18/02489 s 15AB DVA application	31-Aug-2018 3:55 PM	English, Carl
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 3:59 PM	English, Carl
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 3:43 PM	English, Carl
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 4:29 PM	English, Carl
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs	31-Aug-2018 4:26 PM	English, Carl

[SEC=UNCLASSIFIED]		
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	03-Sep-2018 7:47 PM	McKenna, Megan
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 5:38 PM	McKenna, Megan
RE: RQ18/02489 - Extension of time application by the Department of Veterans' Affairs [SEC=UNCLASSIFIED]	31-Aug-2018 5:52 PM	McKenna, Megan
Re: RQ18/02489	07-Sep-2018 3:17 AM	English, Carl
Fw: RQ18/02489	07-Sep-2018 1:56 PM	English, Carl
Decision Letter to Requestor - 15AB -	07-Sep-2018 3:34 PM	English, Carl
Decision Letter 15AB to Request Relating To Verity Pane	07-Sep-2018 3:35 PM	English, Carl
General Letter to	07-Sep-2018 3:36 PM	English, Carl
General Letter to Ms Verity Pane	07-Sep-2018 3:58 PM	English, Carl
RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	07-Sep-2018 4:09 PM	English, Carl
RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	07-Sep-2018 4:06 PM	English, Carl
Re: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	07-Sep-2018 4:15 PM	English, Carl
RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	12-Sep-2018 11:47 AM	English, Carl
RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	12-Sep-2018 11:36 AM	English, Carl
FW: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	12-Sep-2018 9:58 AM	English, Carl
General Letter to Ms Verity Pane	14-Sep-2018 2:55 PM	English, Carl
RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	12-Sep-2018 12:50 PM	English, Carl
RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	18-Sep-2018 11:47 AM	English, Carl
RE: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	18-Sep-2018 12:28 PM	English, Carl
FW: IC Review - DVA FOI 23544 made 16 July 2018 - Charges Levy Notices decisions issued after s 15AB extension [SEC=UNCLASSIFIED]	01-Nov-2018 9:29 AM	Yue, Vivian
RE: IC Review - DVA FOI 23544 made 16 July 2018 - Charges Levy Notices decisions issued after s 15AB extension	01-Nov-2018 12:00 AM	Yue, Vivian
RQ18/02489 - response to Ms Pane [SEC=UNCLASSIFIED]	14-Sep-2018 3:36 PM	English, Carl
RQ18/02489 - EOT request - DVA and Verity Pane [SEC=UNCLASSIFIED]	31-Aug-2018 12:03 PM	English, Carl
FW: RQ18/02489 - Extension of time decision [SEC=UNCLASSIFIED]	14-Sep-2018 10:36 AM	English, Carl

**Comments - 1**

Created	By	Comment
07-Sep-2018 4:09 PM	English, Carl	Case Closed by s 47E(d) carl.english on 07-Sep-2018 16:09