



Our reference: RQ14/00811

Ms Sophie Brunetti
Information Access
Australian Federal Police
By email

Dear Ms Brunetti

Extension of time request under s 15AC

Thank you for your correspondence of 22 April 2014, in which you requested further time for Australian Federal Police (AFP) to process Mr Henare Degan's request of 29 December 2013 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

Mr Degan's request has been deemed as refused as a decision has not been made by AFP within the statutory timeframe. You have therefore sought further time to finalise processing of the request.

You advise that AFP already extended the 30 day decision period, by a further period of 30 days, to allow for consultation in accordance with s 15(6) of the FOI Act. You advise that AFP obtained agreement under s 15AA of the FOI Act for an extension of time of 15 days from the applicant.

You requested a further 90 days to finalise the request. This would be an extension to 9 June 2014.

Contact with Applicant

Given the length of time requested, prior to making a decision I contacted Mr Degan to seek his view on the AFP's extension request. On 26 April 2014, Mr Degan communicated his objection to the extension. I have taken this response into account in making my decision.

Decision

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

I have decided to grant AFP further time under s 15AC(5) of the FOI Act **to close of business 23 May 2014**. In coming to this decision I have considered the following:

- the AFP states that the request is complex, as it involves approximately 150 pages of correspondence and requires third party consultations

- the AFP states that it is necessary to consult with the other party to the relevant memorandum of understanding. There have been significant delays in receiving a response to requests for consultation from this third party, which have not been caused by the AFP
- the AFP has received a significant increase in FOI applications over the past several months, whilst also experiencing staff shortages and absences, resulting in team members' caseloads doubling. The team member originally responsible for this matter has left the team causing further delays

In light of these circumstances I have decided that an extension should be granted to allow for a well-reasoned and better managed decision to be made.

However, I do not believe that the 90 days requested by the AFP is required. The most significant contributor to the delay to date appears to be the non-response from the other MOU party to the AFP's request for consultation. I have decided to provide an additional month from the date of the extension request, on the basis that this should be sufficient time for the AFP to finalise the request without the benefit of a response from the other MOU party. If the MOU party does not respond to the AFP's request for its views within a reasonable time, the AFP is obliged to make a decision without taking those views into account. It appears that the AFP has given that party sufficient time and should now proceed to prepare a decision without the benefit of the other party's input.

Therefore I have decided to provide a lesser extension to **close of business 23 May 2014**.

An extension under s 15AC of the FOI Act will mean that the deemed refusal is taken never to have applied if AFP makes a decision and takes all reasonable steps to provide it to the applicant by the extended date. Such an extension can only be granted once and cannot be extended by a variation. Please note that an extension under s 15AC of the FOI Act does not allow charges to be reimposed.

A copy of this decision will be provided to the FOI applicant.

Yours sincerely

Annan Boag
Assistant Director, FOI Dispute Resolution
Office of the Australian Information Commissioner

28 April 2014