



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ19/02165

Agency reference: FOI/2019/150

Mr H W

Sent by email: foi+request-5491-70caa1aa@righttoknow.org.au

Extension of time under s 15AB

Dear Mr W

On 20 August 2019, the Department of the Prime Minister and Cabinet (the Department) applied for further time to make a decision on your FOI request of 28 June 2019 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

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

The Department advised that the statutory timeframe had already been extended to allow for consultation in accordance with s 15(6) of the FOI Act.

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 of 30 days under s 15AB(2) of the FOI Act **to 26 September 2019**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons follow:

- the request relates to sensitive commercial and professional information of a third party organisation and its staff, some of whom are no longer employed by the organisation
- the Department has experienced delays in receiving a response to third party consultations. The third party organisation has advised the Department that it is necessary to track down and contact relevant former staff before a substantive response can be provided. Further time is required for the Department to receive the substantive response from the third party
- due to the sensitive nature of the documents, there is a limited number of Department staff with access to the relevant documents and further time is required for staff to obtain relevant clearances.

Contact

If you have any questions about this email, please contact me on (02) 9284 9686 or via email foidr@oaic.gov.au. In all correspondence please include OAIC reference number at the top of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adie Chang', written in a cursive style.

Adie Chang

Assistant Review and Investigation Adviser (Legal)
Freedom of Information Dispute Resolution

22 August 2019

Review rights

If you disagree with the Office of the Australian Information Commissioner's (OAIC) decision you can apply to the Federal Court of Australia or the Federal Circuit 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/>.

Further information

Further information about how applications to extend the timeframe to process an FOI request are handled by the OAIC can be found published on our website:

For FOI applicants: [How to make an FOI request: Extensions of time](#)

For agencies and ministers: [Guidance and advice: Extension of time for processing requests](#)

The OAIC has the power to investigate complaints about an agency's actions under the Freedom of Information Act 1982 (FOI Act). This is a separate process from asking for an Information Commissioner review following a decision made under the FOI Act. Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act, rather than the decision itself.

In some cases, the Information Commissioner's investigation of a complaint may lead to the agency addressing the issues that you have complained about. In other cases, the Information Commissioner may make suggestions or recommendations that the agency should implement. The Information Commissioner can only make non-binding recommendations as a result of a complaint. You and the agency will be notified of the outcome of the investigation.

FOI complaints to the OAIC must be made in writing. Our preference is for you to use the [online FOI complaint form](#) if at all possible.

Further information about how to make a complaint can be found published on our website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.