



Our reference: RQ20/00180
Agency reference: CRM 2020/356

Mr Steve Smith

Sent by email: foi+request-5909-52df4711@righttoknow.org.au

Extension of time under s 15AB

Dear Mr Smith

On 13 January 2020, the Australian Federal Police (the AFP) applied for further time to make a decision on your FOI request of 15 November 2019 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

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

The AFP previously obtained your agreement under s 15AA of the FOI Act for a 30-day extension of time to 14 January 2020.

Contact with you

On 17 January 2020, I wrote to you to seek your view on the AFP's application. I invited you to provide any comments by 20 January 2020. You have not responded to those inquiries.

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 AFP an extension of time of 29 days under s 15AB(2) of the FOI Act **to 12 February 2020**. I am satisfied that the AFP's application for an extension of time is justified, because the request is complex. My reasons follow:

- the material was prepared for the purposes of appearing at a Committee hearing and advice needs to be sought concerning whether the information is subject to Parliamentary Privilege. This involves reviewing the transcript and cross-checking against information disclosed during earlier hearings
- the material contains third party information which requires careful consideration

- the material contains information that may be considered deliberative and requires further consideration
- the information contained within the documents concerns ongoing investigations and matters that are currently before the courts. Further time is required to carefully assess what is disclosed so as to not affect court proceedings, and
- the material contains operational information relating to sensitive investigations the release of which may have an adverse effect on the AFP and its partner agencies. Further consideration needs to be given to the disclosure of this information together with the information that is publicly available.

Contact

If you have any questions, please contact me on (02) 9284 9721 or via email shelley.napper@oaic.gov.au. In all correspondence please include the OAIC reference RQ20/00180.

Yours sincerely



Shelley Napper

Assistant Director (A/g)
Freedom of Information

24 January 2020

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/>.