



Our reference: RQ20/01710
Agency reference: CRM 2020/582

Mr Justin Warren

Sent by email: foi+request-6191-8e966724@righttoknow.org.au

Extension of time under s 15AB

Dear Mr Warren

On 27 May 2020, the Australian Federal Police (the AFP) applied for further time to make a decision on your FOI request of 28 February 2020 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 AFP advised that the statutory timeframe had already been extended to allow for consultation in accordance with s 15(6) of the FOI Act.

The AFP previously obtained agreement under s 15AA of the FOI Act for a 30-day extension of time from you to 28 April 2020.

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 considered the AFP's application and have decided to decline an extension. In coming to this decision, I have considered factors, including:

- the FOI request was received on 28 February 2020
- on 24 March 2020, the applicant agreed to an extension of 30 days under s 15AA
- on 24 April 2020, the AFP notified the applicant of third party consultation under s 15(6) of the FOI Act and the processing period was extended by 30 days, and
- the AFP's submissions regarding the complexity of this matter.

Based on the information currently before the OAIC, I am not satisfied that the Department has established further time for dealing with this request is required for the purposes of s 15AB of the FOI Act.

The effect of this decision is that the AFP is deemed to have refused your FOI request. If the AFP has not issued you with its decision by 28 May 2020, you may wish to seek Information Commissioner review of the AFP's deemed refusal of your request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#).

I note that the *Freedom of Information (Charges) Regulations 1982* provides if an applicant is not notified of a decision on a request within the statutory time limit (including any extension of time), the agency or minister cannot impose a charge for providing access, even if the applicant was earlier notified that a charge was payable (regs 7(2), (3)).

Contact

If you have any questions about this letter, please contact me on (02) 9284 9721 or via email shelley.napper@oaic.gov.au. In all correspondence please include OAIC reference RQ20/01710.

Yours sincerely



Shelley Napper

Assistant Director (A/g)
Freedom of Information

29 May 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/>.