



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ20/01571  
Agency reference: 1-KWNNC17

**Mr John Lloyd**

Sent by email: [foi+request-6203-4da1ee2c@righttoknow.org.au](mailto:foi+request-6203-4da1ee2c@righttoknow.org.au)

## Extension of time under s 15AB

Dear Mr Lloyd

On 30 April 2020, the Australian Taxation Office (the ATO) applied for further time to make a decision on your FOI request of 8 March 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 and voluminous.

The ATO previously obtained your agreement under s 15AA of the FOI Act for an extension of time to 4 May 2020 (OAIC reference: RQ20/01556).

## Contact with you

On 1 May 2020, I wrote to you to seek your view on the ATO's application. I invited you to provide any comments by 5 May 2020, however a response has not been received.

## 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 ATO an extension of time under s 15AB(2) of the FOI Act **to 2 June 2020**. I am satisfied that the ATO's application for an extension of time is justified, because the request is complex and voluminous. My reasons follow:

- you previously agreed to an extension of time under s 15AA of the FOI Act with the ATO, as the scope of the request required searches across email records covering a period of 7 years and three months, and the potential voluminous nature of the documents
- the email archives from which emails responsive to the request would have to be identified and sourced are stored in 87 outlook archive folders, accessible only to a

limited number of ATO officers. They cannot be searched as one group in one search, but must be individually searched

- the ATO has conducted a sample search of 10 folders. Based on the results of that sampling process, a section 24AB request consultation notice has been sent to you, and
- further searches for documents would then need to be made by the relevant officers, who have many significant, high priority demands on their time, particularly in the current circumstances.

## Contact

If you have any questions about this letter, please contact me via email [shelley.napper@oaic.gov.au](mailto:shelley.napper@oaic.gov.au). In all correspondence please include OAIC reference RQ20/01571.

Yours sincerely



**Shelley Napper**

Assistant Director (A/g)  
Freedom of Information

7 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/>.