



Our reference: RQ20/01306  
Agency reference: 1606

## Applicant

Sent by email: [foi+request-6245-2c35d2b3@righttoknow.org.au](mailto:foi+request-6245-2c35d2b3@righttoknow.org.au)

## Extension of time under s 15AB

Dear Applicant

On 26 March 2020, the Department of Health (the Department) applied for further time to make a decision on your FOI request of 19 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 or voluminous.

The Department attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you, however a response was not received.

## Contact with you

On 1 April 2020, the OAIC wrote to you to seek your view on the Department's application. 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 Department an extension of time under s 15AB(2) of the FOI Act **to 18 May 2020**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons and considerations follow:

- the Department has received a number of FOI requests relating to the COVID-19 pandemic
- searches for document relating to this FOI request need to be conducted by the line area responsible for the COVID-19 response
- the Department is currently experiencing extreme demands on its resources due to the COVID-19

- the decision maker of this request is currently unavailable due to their responsibilities regarding the COVID-19 pandemic
- when you were approached by the Department seeking agreement to an extension of time under s 15AA of the FOI Act, a response was not received, and
- when you were consulted by the OAIC regarding this extension of time application, a response was not received.

## 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 RQ20/01306.

Yours sincerely



**Shelley Napper**

Assistant Director (A/g)  
Freedom of Information

8 April 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/>.