



Our reference: RQ20/01604
Agency reference: FOI 1681

Mr Chris F

Sent by email: foi+request-6322-5f4e41ed@righttoknow.org.au

Extension of time under s 15AB

Dear Chris

On 6 May 2020, the Department of Health (the Department) applied for further time to make a decision on your FOI request of 29 April 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 Department attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. The Department advised that you refused the request for an extension of time.

Contact with you

On 7 May 2020, I wrote to you to seek your view on the Department's application. You responded to my inquiries and provided comments that I have taken into consideration, including:

- You do not consider that the request is either voluminous or complex: you estimate that there would be no more than a couple of documents being produced per day over the time-period of the request that would fall within the scope of your request. You also consider that searches for relevant documents would not take long to perform.
- You consider that there is a public interest in the release of the information requested. In particular you referred to public commentary on the implementation and functioning of the COVIDsafe app and the implications for the use of the app in relation to public policy around COVID-19 restrictions.
- You also consider that the release of the information is time sensitive because the COVIDsafe app is being used in relation to proposed legislation and impending public health policy changes around COVID-19.

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 28 June 2020**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons follow:

- The Department has experienced a significant impact on its resources generally as a result of the COVID-19 pandemic and the Department has received a large volume of requests in relation to COVID-19.
- The line area responsible to conducting searches in relation to the request currently does not have the resources required as a result of COVID-19.
- The decision maker for this request is currently unavailable due to their national incident room responsibilities.

While I note your objections to this extension of time application, I am satisfied that a 30 day extension of time is appropriate in this circumstance.

Contact

If you would like to discuss this matter you may contact me on 02 9284 9745 or via email Carl.English@oaic.gov.au. In all correspondence please include the reference number at the top of this letter.

Yours sincerely



Carl English
Review Adviser (Legal)
Freedom of Information Dispute Resolution

13 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/>.