



Our reference: RQ20/01757  
Agency reference: FOI 1716

**Chris F**

Sent by email: [foi+request-6333-69c2233d@righttoknow.org.au](mailto:foi+request-6333-69c2233d@righttoknow.org.au)

## Extension of time under s 15AB

Dear Chris

On 4 June 2020, the Department of Health (the Department) applied for further time to make a decision on your FOI request of 7 May 2020 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.

## Contact with you

On 4 June 2020, I wrote to you to seek your view on the Department's application. You responded to my inquiries and provided comments which I have taken into consideration, including that:

This request was intended specifically for the DTA and not for the Department of Health, which is why the requests are the same. The DTA transferred this back to Health which was not the original intention of my request.

I'm happy for this duplicate request which has ended up at Health to be closed under FOI s 24(2)(a), as long as the original Department of Health request remains open.

On 5 June 2020, I spoke to the Department who advised that the FOI request that is the subject of this extension of time application was received at a later date to your FOI request with the same scope, and as such may include additional documents due to the differing timeframe.

## 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 of 14 days under s 15AB(2) of the FOI Act **to 20 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:

- on 29 April 2020, the Department received a request for the same information from you. On 12 May 2020, this request was transferred from the Digital Transformation Agency. The Department is processing both requests and ensuring it locates all the relevant documents. The Department is currently consulting the with the Digital Transformation Agency
- the line area which is responsible for processing this request is the Department's Information Technology Division, who is leading the response and development of the COVID Safe app. The decision-maker for this request is currently managing critical priorities, and
- the Department anticipates finalising this request prior to the proposed extension date, however the additional time will ensure you are provided with the correct information that falls within the scope of your request.

## Contact

If you have any questions, please contact Tahnee De Souza on (02) 9284 9861 or via email [tahnee.desouza@oaic.gov.au](mailto:tahnee.desouza@oaic.gov.au). In all correspondence please include the OAIC reference RQ20/01757.

Yours sincerely



### **Tahnee De Souza**

Assistant Review and Investigation Adviser  
Freedom of Information

5 June 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/>.