



Our reference: RQ21/00684  
Agency reference: FOI/2021/021

**S Ley**

Sent by email: [foi+request-7093-bf11673e@righttoknow.org.au](mailto:foi+request-7093-bf11673e@righttoknow.org.au)

## Extension of time under s 15AB

Dear S Ley

On 22 March 2021, the Department of the Prime Minister and Cabinet (Department) applied for further time to make a decision on your FOI request of (date) 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 in nature.

## 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 Department's application and have decided to decline an extension.

I note on 23 March 2021, you sought Information Commissioner review (IC Review) under s 54L of the FOI Act on the basis as you had not received a decision on your request by 22 March 2021 and the Department was deemed to have refused your request pursuant to s 15AC of the FOI Act.

As the Department had requested an extension of time under s 15AB on 22 March 2021, prior to the expiry of the statutory processing period, at the time of your IC review application the Department had not yet been deemed to have refused your request.

However, as the Department's extension of time has now been declined, the Department is now deemed to have refused your request and the OAIC will correspond separately with you in relation to your IC review (MR21/00275).

## Contact

If you have any questions about this email, please contact me at [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au). In all correspondence please include OAIC reference number at the top of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Irene Nicolaou', followed by a period.

**Irene Nicolaou**

Director Investigations and Compliance  
Freedom of Information

1 April 2021

## 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/>.