



Our reference: RQ21/03137  
Agency reference: 098/21/22

**Mr Alan Ashmore**

Sent by email: [foi+request-7797-1296e3b7@righttoknow.org.au](mailto:foi+request-7797-1296e3b7@righttoknow.org.au)

## Extension of time under s 15AB

Dear Mr Ashmore

On 7 October 2021, the Department of Defence (the Department) applied for further time to make a decision on your FOI request of 2 September 2021 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 and voluminous.

The statutory timeframe had been suspended under s 24AB of the FOI Act.

The Department previously obtained your agreement under s 15AA of the FOI Act for a 7-day extension of time to 11 October 2021 (OAIC reference: RQ21/03113).

## Contact with you

On 11 October 2021, the OAIC wrote to you to seek your view on the Department's application. The OAIC invited you to provide any comments by 13 October 2021. You have not responded to those inquiries.

## 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 3 November 2021**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex and voluminous. In coming to this decision, I have considered the following factors:

- On 2 September 2021, the Department received your FOI request.

- On 24 September 2021, the Department issued you its request consultation notice under s 24AB of the FOI Act, you responded and revised the scope of your request on 26 September 2021.
- The Department has advised that due to a identifying a large number of sensitive documents, careful consideration is required.
- Additional time is required to conduct courtesy consultations with other government agencies prior to making a decision, and to finalise and clear the decision.

I note the objections you provided to the Department in relation to the extension of time it obtained from you under s 15AA of the FOI Act.

...I will, under no circumstances, agree to a further modification to my request nor an extension of time beyond what I have agreed to in this response. Be assured I will escalate this matter if I have not received this FOI in full by the close of business on 11 October 2021.

Based on the information currently before the OAIC, I am satisfied that a 23-day extension is appropriate in this circumstance, particularly in consideration of the number of consultations the Department was required to undertake with other government agencies.

## Contact

If you have any questions, please contact me on (02) 9284 9847 or via email [jasmin.clarke@oaic.gov.au](mailto:jasmin.clarke@oaic.gov.au). Please quote OAIC reference number at the top of this page in all correspondence.

Yours sincerely



**Jasmin Clarke**

Assistant Review and Investigation Advisor  
FOI Regulatory Group

14 October 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/>.