



Our reference: RQ21/03917

Agency reference: FOI 3372

Mr Jaay H

By email: foi+request-8076-0a7d371a@righttoknow.org.au

Extension of time under s 15AB

Dear Mr H

On 10 December 2021, the Department of Health (Department) applied for further time to make a decision on your FOI request of 7 November 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 FOI request, because it is complex.

The Department advised that the statutory timeframe had already been extended to allow for consultation in accordance with s 15(6) of the FOI Act.

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

Contact with you

On 15 December 2021, the OAIC wrote to you to seek your view on the Department's application.

The OAIC invited you to provide any comments by 17 December 2021. You responded to those enquiries and provided comments that I have taken into consideration.

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 10 days under s 15AB(2) of the FOI Act to **16 January 2022**. 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 advised that:

- On 7 November 2021, the Department received your FOI request.
 - The Department considers your request to be complex as it is sensitive in nature.
 - On 16 December 2021, the Department has advised that third party responses were due.
 - Due to the Christmas shutdown period, the Department requires additional time to consider third party submissions after the shutdown period and to finalise your request.
- When consulted by the OAIC, you did not object to this extension of time, but did stress that the public interest in these documents be taken into consideration.

Contact

If you have any questions about this letter, please contact me on +61 2 9284 9815 or via email to Summen.Sarwar@oaic.gov.au. In all correspondence, please include OAIC reference: RQ21/03970.

Yours sincerely



Summen Sarwar
Administrative Assistant (Legal)
FOI Regulatory Group

21 December 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/>.