



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/00335
Agency reference: LEX 47339

Ms Verity Pane

By email: foi+request-8226-6602b843@righttoknow.org.au

Notification to: Information.Law@dva.gov.au

Extension of time under s 15AB

Dear Ms Pane

On 21 January 2022, the Department of Veterans' Affairs (Department) applied for further time to make a decision on your FOI request of 24 December 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 attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. The Department advised that it did not receive a response from you by the specified date.

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 2 February 2022**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons and considerations follow:

- the scope of the request relates to all s 55G FOI Act varied or substituted decisions made by the Department, each with copy of their corresponding original FOI request, that were created in the last six years (2015-2021)
- following internal conversations, the Department confirmed that there is no centralised reporting for s 55G decisions. As a result, these decisions needed to be individually sourced

- the Department has advised that searches undertaken of various databases found a number of documents relevant to s 55G decisions, and
- the Department has further advised that the majority of these documents likely contain exempt material, as such, it is more practical and time efficient to create a new document summarising these decisions as per s 17 of the FOI Act. An extension of time is needed in order to generate this document.

Based on the information currently before the OAIC, I am satisfied that that granting a 9-day extension of time is appropriate at this time, particularly in consideration of the complexities around search and retrieval for this matter, along with the need to create of a document in order to satisfy the scope of the request.

Contact

If you have any questions about this letter, please contact me on (02) 9284 9721 or via email to shelley.napper@oaic.gov.au. In all correspondence please include OAIC reference: RQ22/00335.

Yours sincerely



Shelley Napper

Assistant Director Investigations and Compliance
FOI Regulatory Group

28 January 2022

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 OAIIC 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 OAIIC 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 OAIIC 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/>.