



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/00848
Agency reference: LEX 47367

Ms Verity Pane

By email: foi+request-8240-a666e3a2@righttoknow.org.au

Extension of time under s 15AB

Dear Ms Pane

On 10 March 2022, the Department of Veterans' Affairs (Department) applied for further time to make a decision on your FOI request of 3 January 2022 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.

The Office of the Australian Information Commissioner has previously granted the Department an extension of time under s 15AB(2) of the FOI Act (OAIC reference: RQ22/00357). This extended the decision period to 16 February 2022.

Contact with you

On 14 March 2022, the OAIC wrote to you to seek your view on the Department's application. You responded to those inquiries 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 considered the Department's application and your comments in response to the OAIC's letter of 14 March 2022, and have decided to decline an extension.

Based on the information before the OAIC, I am not satisfied that the application to extend the processing period is appropriate.

You may wish to seek Information Commissioner review of the Department's deemed refusal of request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#).

Contact

If you have any questions, please contact me on (02) 9284 9716 or via email to Eoin.McMahon@oaic.gov.au. In all correspondence, please quote OAIC reference number: RQ22/00848.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Eoin McMahon', with a long horizontal flourish extending to the right.

Eoin McMahon
Review Advisor

FOI Regulatory Group

1 April 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 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/>.