



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/00357  
Agency reference: LEX 47367

**Ms Verity Pane**

By email: [foi+request-8240-a666a3a2@righttoknow.org.au](mailto:foi+request-8240-a666a3a2@righttoknow.org.au)

Notification to: [Information.Law@dva.gov.au](mailto:Information.Law@dva.gov.au)

## Extension of time under s 15AB

Dear Ms Pane

On 25 January 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 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.

## 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.

Whilst the Department has requested an extension of time until 4 March 2022 to provide a decision, I have decided to grant the Department an extension of time under s 15AB(2) of the FOI Act **to 16 February 2022**. I am satisfied that an extension of time is justified, because the request is complex. My reasons and considerations follow:

- the Department has advised that it has undertaken a series of searches to locate the reports you have requested
- the Department's FOI team has consulted with three business areas: Contract Advisory Services, Secretary and Records Management, and

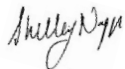
- the Department has further advised that searches to date have only located references to documents. As such, it appears that due to the age of the requested material (2008/2009), further time will be search and assess historical records and electronic storage locations to properly satisfy the decision maker that sufficient searches have been undertaken.

I consider an extension of time of 14 days under s 15AB of the FOI Act to be appropriate in this circumstance, particularly in consideration of the age of the documents requested and to allow the Department further opportunity to take all reasonable steps to find documents within the scope of the request given the results of searches conducted to date.

## 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](mailto:shelley.napper@oaic.gov.au). In all correspondence please include OAIC reference: RQ22/00357.

Yours sincerely



### **Shelley Napper**

Assistant Director Investigations and Compliance  
FOI Regulatory Group

2 February 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/>.