



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/00877
Agency reference: LEX 47490

Ms Julie A

By email: foi+request-8406-89f51a13@righttoknow.org.au

Notification to: information.access@dva.gov.au

Extension of time under s 15AB

Dear Ms Julie A

On 11 March 2022, the Department of Veterans' Affairs (Department) applied for further time to make a decision on your FOI request of 11 February 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 you refused the request for a 30 day extension.

Contact with you

On 16 March 2022, Ms Irene Nicolaou of the OAIC wrote to you to seek your view on the Department's application. You responded to Ms Nicolaou's inquiries and provided comments which I have taken into consideration, including that:

- You oppose the extension of time sought from the Department.

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

- The Department considers the matter to be complex as due to the sensitive nature of the documents within scope of the request, relating to self harm and suicide. The Department anticipates that it will be necessary to consult with all relevant business areas to ensure that all applicable exemption provisions are considered, and notes that undertaking these consultations may take some time to complete.
- The Department advises that an additional 30 days of processing will allow the Department to properly process this FOI request, to ensure that all reasonable searches have been undertaken and all documents that are within scope are considered for release.

I note your objections to this extension of time application. However, based on the information currently before the OAIC, I am satisfied that this extension of time is appropriate particularly in consideration of the sensitivities involved in relation to the material sought, and the Department's submissions that the additional time will be used to ensure all reasonable steps will be taken to locate documents within the scope of the request.

If the Department does not make a decision by 13 April 2022 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 about this letter, please contact me on (02) 9284 9716 or via email to Eoin.McMahon@oaic.gov.au. In all correspondence please include OAIC reference: RQ22/00877.

Yours sincerely



Eoin McMahon
Review Adviser
FOI Regulatory Group

22 March 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/>.