

FOIREQ22/00120 265

Re: [Request for an extension] s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	29-Jul-2020 3:32 PM	Napper, Shelley
RE: [Request for an extension] s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	29-Jul-2020 3:41 PM	Napper, Shelley
RE: s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	29-Jul-2020 3:47 PM	Napper, Shelley
RE: s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	29-Jul-2020 4:26 PM	Napper, Shelley
RE: s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	09-Sep-2020 7:39 PM	Napper, Shelley
RE: s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	10-Sep-2020 4:55 PM	Napper, Shelley
RE: s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	16-Sep-2020 8:17 AM	Napper, Shelley
Automatic reply: s22 - FOI complaint - Investigation notice [SEC=OFFICIAL]	16-Sep-2020 8:17 AM	Napper, Shelley
s22 - FOI Complaint - Department's submissions [SEC=OFFICIAL]	28-Sep-2020 10:29 AM	Napper, Shelley
s22 - Section 86 letter.docx	12-Jul-2021 11:22 AM	Dunlop, Rochelle
s22 - 86 Notice.docx	12-Jul-2021 11:27 AM	Dunlop, Rochelle
s22 evidence matrix	12-Jul-2021 11:28 AM	Dunlop, Rochelle
RD working chronology	12-Jul-2021 11:29 AM	Dunlop, Rochelle
s22 Attachment B	12-Jul-2021 11:30 AM	Dunlop, Rochelle
s22 - Charges Notice_16 Jan 2019.pdf	10-Aug-2021 11:45 AM	Dunlop, Rochelle
s22 response to charge notice .txt	10-Aug-2021 11:53 AM	Dunlop, Rochelle
Attachment B.docx	16-Aug-2021 12:10 PM	Dunlop, Rochelle
Attachment C - Information sheet	16-Aug-2021 12:11 PM	Dunlop, Rochelle
s22 s 86 Notice post FOIC meeting.docx	16-Sep-2021 2:15 PM	Dunlop, Rochelle
Attachment E - Department response dated 10 September 2021.pdf	16-Sep-2021 2:35 PM	Dunlop, Rochelle
RE: s22 and Department of Veterans' Affairs [SEC=OFFICIAL]	17-Sep-2021 8:34 AM	Nicolaou, Irene
[Draft s 86 Notice] s22 and the Department of Veterans' Affairs [SEC=OFFICIAL]	17-Sep-2021 9:58 AM	Nicolaou, Irene
post foic s22 s 86 Notice 20 Sept.docx	20-Sep-2021 10:12 AM	Dunlop, Rochelle
s22 - FOIC edits Section 86 letter.docx	20-Sep-2021 10:28 AM	Dunlop, Rochelle
Draft s 86 notice clean copy.docx	21-Sep-2021 8:49 AM	Dunlop, Rochelle
Draft s 86 letter - clean copy.docx	21-Sep-2021 8:54 AM	Dunlop, Rochelle
RE: RESUBMIT FOR YOUR REVIEW - s22 - Notice on completion documents [SEC=OFFICIAL]	20-Sep-2021 8:05 PM	Dunlop, Rochelle
s22 s 86 Notice - Attachment B.pdf	27-Sep-2021 8:52 AM	Dunlop, Rochelle
Attachment C - Legislation and FOI Guidelines	27-Sep-2021 8:58 AM	Dunlop, Rochelle
s22 - FOI Complaint - s 86 Notice on Completion - s22 [SEC=OFFICIAL]	27-Sep-2021 11:41 AM	Nicolaou, Irene
s22 - FOI Complaint - s 86 Notice on Completion - s22 [SEC=OFFICIAL]	27-Sep-2021 11:41 AM	Dunlop, Rochelle
RE: s22 [SEC=OFFICIAL]	27-Sep-2021 11:44 AM	Dunlop, Rochelle

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FW: s22 - FOI Complaint - s 86 Notice on Completion - s22 [SEC=OFFICIAL]	19-Oct-2021 10:23 AM	Nicolaou, Irene
RE: s22 - FOI Complaint - s 86 Notice on Completion - s22 [SEC=OFFICIAL]	19-Oct-2021 10:38 AM	Nicolaou, Irene
s22 - s 86 Closure to Complainant.docx	19-Oct-2021 11:03 AM	Nicolaou, Irene
[For Noting] - FOI Complaint - s22 and DVA - s22	19-Oct-2021 11:03 AM	Nicolaou, Irene
RE: s22 FOI Complaint - s 86 Notice on Completion - s22 [SEC=OFFICIAL]	19-Oct-2021 10:38 AM	Nicolaou, Irene
s22 - Letter - Ms Elizabeth Hampton.pdf	20-Oct-2021 11:29 AM	Nicolaou, Irene
[For Noting] - FOI Complaint - s22 and DVA - s22 [SEC=OFFICIAL]	20-Oct-2021 12:50 PM	Nicolaou, Irene
s22 - Your FOI complaint about the Department of Veterans' Affairs - investigation outcome [SEC=OFFICIAL]	20-Oct-2021 1:20 PM	Nicolaou, Irene

Cross References - 3

Case	Comments
s22	

Comments - 1

Created	By	Comment
20-Oct-2021 1:23 PM	Nicolaou, Irene	Case Closed by s 47E(d) on 20-Oct-2021 13:23

From: s22
To: FOIDR
Subject: Re: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]
Date: Thursday, 21 March 2019 6:59:01 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[DSC_0186.JPG](#)

Good Afternoon Shelley,

I would first like to clear up some information in your background.

10 September 2018

- The Department of Veterans' Affairs (DVA) sent me an illegal refusal decision under the FOI Act 1982 Sect 53A(c) (a decision that purports to give access, while not actually giving said access).

18 October 2018

- DVA claimed that they where unaware of my address, or how to give the information to me. This is incorrect, as they had already sent me a refusal decision on 10 September 18 to the same address (see above).
- This was the second illegal refusal decision IAW:
 - the FOI Act 1982 Sect 15AC (a decision not made within the time frame as defined by the Act (30 days) is deemed as refusal), and
 - the FOI Act 1982 Sect 53A(c) (a decision that purports to give access, while not actually giving said access)
 - Sect 15AC as DVA did not even purport to 'give' the documents to me on time, and
 - Sect 53A(c) as DVA have now purported to do so falsely, as per my explanation from DVA's correspondence to you on 16 January 2019 (see below).

16 January 2019

- DVA sent a response to you, I do not have a copy of this document, but you claimed it said DVA had informed you "*that the USB containing the documents has been provided to [me]*".
- I dispute this on the grounds supplied in the FOI Act 1982 Sect 53A(c).
 - This is now the third illegal refusal decision as DVA purported to give access while they have never supplied the alleged documents. They mailed me a USB that was broken such that it was unusable (see attached photograph). While I am sure DVA will argue this must have happened in the post, I believe given the history, this was a calculated move by DVA to illegally deny my rights.

Next Steps:

The initial reason I requested this information was because I required it to place a formal complaint with the Commonwealth Ombudsman about DVA illegally refusing to s22 [REDACTED]. After a few emails to the Minister for Veterans' Affairs, this has now been remedied without an investigation, however an explanation as to why this occurred has never been supplied.

It has now also been brought to my attention that a member who was bullying and harassing me while I was in the Department of Defence (s 47F [REDACTED]), now works for DVA, and his hiring appears to coincide with the s 22 [REDACTED]. Due to DVA's sheer resolution to deny these documents to me, I can't help but to make a connection.

- Yes, I do wish to continue with my IC review, on the grounds that I have not been supplied with the documents requested.
- I would also like to place a formal complaint IAW the FOI Act Sect 70 for the above reasons (specifically the three illegal refusal decisions).
 - I trust this email is suffice to do this?

Regards,

s22

On 19/3/19 8:35 am, FOIDR wrote:

Our reference: s 22

Agency reference: s 22

Dear s 22

I refer to previous correspondence in relation to your IC review application regarding the Department of Veterans' Affairs (the Department).

Background

On 18 September 2018, you applied to the OAIC for an IC review of the Department's decision of 10 September 2018. Your application stated that the Department had not provided you with access to the documents in relation to its decision.

On 20 September 2018, the OAIC acknowledged receipt of your IC review application.

On 16 October 2018, the Department made its internal review decision, which identified an additional 87 documents.

On 18 October 2018, you forwarded to the OAIC the Department's internal review decision dated 16 October 2018, stating that you had not received any documents in relation to the internal review decision.

On the same date, the Department wrote to you to explain that it was unable to provide the documents to you by email as the file is too large. As such the Department would need to provide them to you by post in either hardcopy or electronically by USB or disc. They requested that you nominate a postal address and indicate whether you would prefer hardcopy or USB/disc.

On 25 October 2018, you advised the Department of your postal address and requested the documents be provided on USB.

On 22 November 2018, the OAIC commenced IC review and requested information from the Department.

On 16 January 2019, the Department provided a response to the OAIC's request for information, informing the OAIC that the USB containing the documents has been provided to you.

Next Steps

In consideration of the above, in particular that the Department has now provided you with access to the documents you requested, could you please advise by **2 April 2019** whether:

<!--[if !supportLists]-->• <!--[endif]-->you wish to withdraw you IC review application, or

<!--[if !supportLists]-->• <!--[endif]-->if you wish to continue with this application, on what grounds do you disagree with the Department's internal review decision.

If you have an queries please email xxxxx@xxxx.xxx.xx or call (02) 9284 9721 and quote OAIC reference **s 22**.

Please note that if a response is not received by **2 April 2019**, this matter may be finalised under s 54W of the FOI Act.

Kind regards,
Shelley



Shelley Napper | Review and Investigation Adviser (Legal)

Freedom of information

Office of the Australian Information Commissioner

GPO Box 5218 Sydney NSW 2001 | oaic.gov.au

+61 2 9284 9721 | xxxxxxx.xxxxxx@xxxx.xxx.xx



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s22

Nicolaou, Irene
09-May-2022 11:15 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	21-Mar-2019 12:00 AM
Case Type:	Decline	Received By:	Chang, Adie
How Received:		Registered Date:	26-Mar-2019 5:11 PM
Owned By:	Napper, Shelley	Registered By:	Napper, Shelley
		Closed Date:	10-Sep-2021 11:50 AM
		Closed By:	Nicolaou, Irene

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Internal review decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	finalised 73(e)
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	10-Sep-2023

Case Parties - 2

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs

Summary

Issues
regarding three 'illegal refusal decisions' - decisions purporting to give access while not actually giving access.
Substance of complaint related to X-ref s22

Issues - 1**Issue Description:** Processing Request**Is Primary Issue:** Yes**Issue Allegation:** processing delay**Issue Outcome:** s73(e) - frivolous, vexatious, lacking in substance**Actions - 9 (All Completed)**

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Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Chang, Adie	28-Mar-2019	26-Mar-2019
Move to Triage basket (FC REG)	Chang, Adie	27-Mar-2019	26-Mar-2019
File Note	Napper, Shelley	18-Oct-2019	14-Jul-2020
Closure hardcopy folder not yet printed & compiled (SN - 17/10)			
File Note	Napper, Shelley	21-Oct-2019	25-May-2020
<p>Thanks Shelley - one further minor change from me in track also - then ok to sent out. Thanks Irene _____ Dear Irene I have conducted a final revision of the draft ITD and made one further change in tracked. Please let me know if this is now ready to send to C. Thanks SN (25/5) _____ Thanks Shelley just a couple more changes in track - this is now ready to send to the C pending legal advice received which I anticipate should come next week. Please monitor for when it is ready to send out. Irene _____ Dear Irene I have review and accepted the tracked changes and reviewed to ensure the remainder of the ITD is consistent with those changes. The clean draft is in the Docs tab for your consideration. Thanks SN (15/5) _____ Hi Shelley - my sincere apologies for the delay in getting this back to you. I have included some suggestions in track. Happy to discuss approach. Thanks irene _____ Dear Irene Please find in the Docs tab a draft ITD to the C for your consideration. Thanks SN (18/10)</p>			
Await Clearance - Director	Napper, Shelley	02-Jun-2020	26-May-2020
Thanks Shelley _____ Dear Irene Draft resp to C in the Docs tab for your review. Thanks SN (26/5)			
Await Clearance - Director	Napper, Shelley	15-Sep-2021	09-Sep-2021
Thanks Shelley please proceed to send to RA for clearance. Irene 8/9 _____ Dear Irene Please find draft closure letter to C in the Docs tab for your consideration. Thanks SN (8/9)			
File Note	Napper, Shelley	13-Sep-2021	10-Sep-2021, Nicolaou, Irene
Hi Shelley - just one minor comment from Rocelle - I have deleted the sentence and sent back up for clearance. Irene 10/9			
Notify relevant parties of closure	Napper, Shelley	13-Sep-2021	10-Sep-2021, Nicolaou, Irene
Close Case	Napper, Shelley	13-Sep-2021	10-Sep-2021, Nicolaou, Irene
Documents - 32			
Title	Date Added		By
FW: [new FOI complaint] s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	25-Mar-2019 10:08 AM		Chang, Adie
RE: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	26-Mar-2019 5:19 PM		Chang, Adie
Re: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	21-Mar-2019 2:39 PM		Napper, Shelley
s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	25-Mar-2019 2:40 PM		Napper, Shelley
s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	25-Mar-2019 2:41 PM		Napper, Shelley
s22 - Documents have been	25-Mar-2019 2:41 PM		Napper, Shelley

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re-sent by registered post [SEC=UNCLASSIFIED]		
RE: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	25-Mar-2019 2:41 PM	Napper, Shelley
Re: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	28-Mar-2019 2:41 PM	Napper, Shelley
RE: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	29-Mar-2019 2:41 PM	Napper, Shelley
Re: s22 Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	29-Mar-2019 2:42 PM	Napper, Shelley
Re: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	03-Jun-2019 2:42 PM	Napper, Shelley
Re: s22 Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	11-Jun-2019 2:42 PM	Napper, Shelley
Re: s22 - Information Commissioner Review of DVA decision [SEC=UNCLASSIFIED]	21-Mar-2019 6:56 PM	Napper, Shelley
s22 Draft ITD to C.docx	17-Oct-2019 12:57 PM	Napper, Shelley
s22 FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	25-May-2020 2:40 PM	Napper, Shelley
Re: s22 FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	25-May-2020 4:40 PM	Napper, Shelley
RE: s22 - FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	26-May-2020 8:02 AM	Napper, Shelley
Re: s22 - FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	26-May-2020 4:15 PM	Napper, Shelley
RE: s22 FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	27-May-2020 1:47 PM	Napper, Shelley
20200525 s22 Letter to C.pdf	08-Sep-2021 4:23 PM	Napper, Shelley
s22 Letter to C.docx	08-Sep-2021 4:39 PM	Napper, Shelley
[Draft s 73 Closure] s22 - s22 and Department of Veterans' Affairs [SEC=OFFICIAL]	09-Sep-2021 7:42 AM	Napper, Shelley
RE: [Draft s 73 Closure] s22 and Department of Veterans' Affairs [SEC=OFFICIAL]	09-Sep-2021 11:21 PM	Nicolaou, Irene
RE: [Draft s 73 Closure] s22 and Department of Veterans' Affairs [SEC=OFFICIAL]	10-Sep-2021 7:39 AM	Nicolaou, Irene
RE: [Draft s 73 Closure] s22 and Department of Veterans' Affairs [SEC=OFFICIAL]	10-Sep-2021 8:08 AM	Nicolaou, Irene
[Draft s 73 Closure] s22 and Department of Veterans' Affairs [SEC=OFFICIAL]	10-Sep-2021 8:22 AM	Nicolaou, Irene
s22 Letter to Complainant.pdf	10-Sep-2021 10:45 AM	Nicolaou, Irene
20200525 s22 Letter to C.pdf	10-Sep-2021 10:46 AM	Nicolaou, Irene
s22 - FOI Complaint from s22 finalised under s 73(e) of the FOI Act [SEC=OFFICIAL]	10-Sep-2021 11:45 AM	Nicolaou, Irene
s22 - Your FOI Complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	10-Sep-2021 11:45 AM	Nicolaou, Irene

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RE: [Draft s 73 Closure] s22 10-Sep-2021 8:33 AM Nicolaou, Irene
[redacted] and Department of Veterans' Affairs
[SEC=OFFICIAL]
RE: [Draft s 73 Closure] s22 10-Sep-2021 11:48 AM Nicolaou, Irene
[redacted] and Department of Veterans' Affairs
[SEC=OFFICIAL]

Cross References - 1

Case	Comments
s22	

Comments - 1

Created	By	Comment
10-Sep-2021 11:50 AM	Nicolaou, Irene	Case Closed by s 47E(d) on 10-Sep-2021 11:50



Getting Started

Before you start

- You can save this form to your computer so you can come back to it later.
- Fields marked with an asterisk (*) must be completed before you can submit the form.
- You can save details of your original FOI request in a separate document (i.e. a Word document) and attach it to this form.
- If you have trouble completing the form please send an email to enquiries@oaic.gov.au
- This form is sent to the Office of the Australian Information Commissioner via a secure system to ensure your personal information is protected.

What happens to your application?

- Staff of the Office of the Australian Information Commissioner will assess the information you have provided and decide the appropriate next steps. We will then contact you.
- We will use the information you have provided to assess your application, conduct the investigation and conciliate your complaint. We will usually disclose the information you give us to the agency you have complained about and, if necessary, others who have information relevant to your complaint. In the case of a challenge to a decision by this Office, we may need to disclose some information to a review body for example, a court or tribunal.
- Your personal information will be used and stored in accordance with the Australian Privacy Principles.

You can also submit a complaint in writing, by [email](#), fax, phone or in person by visiting one of our offices.

Details

Your Details (You must provide at least one contact method)

Title	First Name *	Last Name *
<input type="text" value="s22"/>	<input type="text" value="s22"/>	<input type="text" value="s22"/>

If you wish your complaint to be anonymous, please write 'anonymous' in both boxes. Please note, we may not be able to investigate anonymous complaints.

If you are enquiring on behalf of an agency/organisation please supply the Organisation Name

Organisation Name

Preferred contact method *

☒ Email ☐ Phone ☐ Post ☐ Other

Email

Phone (daytime)

Mobile

Postal Address

City

State

Postcode

Other contact details (eg. fax or international address)

Further instructions (for example, if you need an interpreter and in which language)

Are you submitting the complaint on behalf of someone else? *

☐ Yes ☒ No

Agency Information

Please select the Australian Government agency which is the subject of your FOI complaint. *

- ☐ Australian Federal Police
- ☐ Australian Taxation Office
- ☐ Department of Defence
- ☐ Department of Education
- ☐ Department of Foreign Affairs and Trade
- ☐ Department of Human Services
- ☐ Department of Immigration and Border Protection
- ☐ Department of Prime Minister and Cabinet
- ☒ Department of Veterans' Affairs
- ☐ Department of Employment
- ☐ Other

Previous contact with the agency

Please provide any FOI reference number(s) if available (separate reference numbers by commas)

s22

Do not provide tax file numbers or other confidential account-type number(s).

Please provide a summary of the current status of the FOI Request that has lead to this complaint

s22 - Decision - Granted
s22 - Decision - Granted
s22 - Decision - Granted

FOI Complaint Details

Please provide a summary of your complaint *

I have had 3 deemed decisions from the Department of Veterans' Affairs over a 7 month period (20/12/18 to 04/07/19):

s22 - Request for Access to Documents

I submitted a request for access to my personal information on 20/11/18 under s 15 of the FOI Act and was not given a decision within the required 30 days (20/12/18) – the decision was given in 60 days (21/01/19) but I do not recall agreeing to an extension of 30 days.

I lodged a complaint with the Department (s22) and requested a copy of the documents (my written agreement or the notice given the Information Commissioner) which would have allowed an extension of time with agreement under s 15AA of the FOI Act.

The Department could not produce either of these documents but said I was contacted about the extension and verbally agreed to an extension, this is unacceptable – the extension was not valid under s 15AA of the FOI Act.

s22 - Request for Access to Documents

I submitted request for access to my personal information on 20/02/19 under s 15 of the FOI Act and a decision was not given within the required 30 days (22/03/19) – the decision was given in 51 days (12/04/19) after an extension was granted by the Information Commissioner (s22) under s 15AC of the FOI Act. However, I did not receive the final documents for this request until 10/05/19 – 80 days later.

I lodged a complaint with the Department **s22** and requested an explanation on why a decision was not able to be made within 30 days period and why an extension was not requested under s 15AA of the FOI Act.

The Department explained that they had accidentally closed the FOI request, which is unacceptable – how can a FOI request be closed without a decision?

s22 – Request for Amendment of Personal Records

I submitted a request for amendment of personal records on 04/06/19 under s 48 of the FOI Act and was not given a decision within the required 30 days (04/07/19) – the decision was given within 73 days (21/01/19) after an extension was granted by the Information Commissioner (?) under s 51DA of the FOI Act.

I lodged a complaint with the Department **s22** and requested an explanation on why a decision was not able to be made within 30 days required under s 51D of the FOI Act.

The Department explained that they had a high volume of FOI requests, which is unacceptable – they could have applied for an extension under s 51DA of the FOI Act and informed me that they were doing so on 04/07/19.

What action or result would you like from the Information Commissioner? *

A change to the practices or procedures of the Department of Veterans' Affairs.

If you have contacted us before on this matter, please provide your original reference number

Supporting documents

To commence an application, the office requires copies of the following documents:

- any documentation indicating that you are authorised to act for another person

You may also attach other relevant information that supports your application.

Do you have any electronic documents that you want to send electronically with this online application for review?

☒ Yes ☐ No

Please add any documents to be sent electronically with this form

(Please ensure that the total size of each attachment does not exceed 2MB

Please ensure that the total size of all attachments does not exceed 10MB)



Add Attachment/s

Attachment Name	Size (in KB)		
DVA - s 22 - Complaint.pdf	279.5		
DVA - s 22 - Acknowledgement.pdf	124.45		
DVA - s 22 - Resolution.pdf	135.05		
DVA - s 22 - Complaint.pdf	299.53		
DVA - s 22 - Acknowledgement.pdf	130.71		
DVA - s 22 - Complaint.pdf	253.98		
DVA - s 22 - Acknowledgement.pdf	139.16		
DVA - s 22 - Resolution.pdf	121.24		

Do you have any paper documents which you would like to send to the office in support of your complaint?

If so, after you have submitted this form electronically, please print it and attach it to your documents so we can relate them to your electronic application. You can then post your documents relating to your complaint to

Information Commissioner
GPO Box 5218 Sydney NSW 2001


FOI Complaint Submission**Submitting your FOI Complaint to the Information Commissioner**

Please review the information contained in this complaint form. If you would like to change anything you can return to any area of the form to make changes.


Once you submit the complaint you will receive a confirmation message with a receipt number indicating that your complaint has been sent to the Office of the Australian Information Commissioner for processing. Please take note of the receipt number so you can use it when enquiring about the status of your application.

What happens next? The Office will assess your application and then contact you about the next steps in our process.

If you have not yet completed your form and want to work on it later click:

	Save	The 'Save' button allows you to save a draft copy of this form to your local computer so you can access this FOI Complaint request form without being connected to the internet.
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When you are ready to submit your form click:

	Save & Submit	The 'Save & Submit' button will allow you to submit your application to The Australian Information Commissioner for processing and save a local copy.
--	--------------------------	---

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s22

Nicolaou, Irene
09-May-2022 11:16 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	15-Sep-2019 12:00 AM
Case Type:	Preliminary Inquiry	Received By:	Kreiselmaier, Hannah
How Received:		Registered Date:	20-Sep-2019 11:32 AM
Owned By:	Lappan, Martine	Registered By:	Lappan, Martine
		Closed Date:	07-Sep-2020 2:36 PM
		Closed By:	Lappan, Martine

Case Details

Stage:	Closed
How Received:	Website
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	* ML - Ready for allocation draft ITD
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	107184
Destruction Due Date:	7-Sep-2022

Case Parties - 2

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs

Summary

C seeking to lodge a complaint relating to three deemed decisions by DVA. It appears A has received decisions in respect of all 3 requests, and wants to lodge a complaint in relation to DVA's handling of his requests. Outcome sought - A change to the practices or procedures of the Department of Veterans' Affairs.

Withdrawn by complainant on 7/9/20

Issues - 1

Issue Description: Processing Request

Is Primary Issue: Yes

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Issue Allegation: processing delay**Issue Outcome:** withdrawn/conciliated**Actions - 13 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Kreiselmaier, Hannah	24-Sep-2019	26-Sep-2019, Napper, Shelley
Move to Triage basket (FC REG)	FOI - Triage	27-Sep-2019	26-Sep-2019, Napper, Shelley
File Note	Napper, Shelley	27-Sep-2019	27-Sep-2019
Thanks Shelley - just one update then good to go. IN _____ Dear Irene Please find in the Docs tab for your review Draft PIs to R. Thanks SN (26/9)			
Correspondence from respondent	Napper, Shelley	10-Oct-2019	09-Oct-2019
Hi Shelley Email from R dated 09/10/19 requesting an EOT for two weeks to 01/11/19 has been saved to the Documents tab. Kind regards Adie (09/10/19)			
Await response - Respondent or Rep	FOI - Complaints	01-Nov-2019	31-Oct-2019, Napper, Shelley
EOT granted Resp due 1/11			
Correspondence from complainant	Napper, Shelley	04-Dec-2019	04-Dec-2019
Correspondence from complainant	Nicolaou, Irene	18-Mar-2020	20-Mar-2020
Dear Irene Please see corro saved on file from C. Thanks SN (18/3) _____ Hi Shelley Update request from C saved in docs tab. Thanks SM (18/03/20)			
File Note	Lappan, Martine	23-Mar-2020	07-Sep-2020
Hi Martine - Please provide subs to C and invite withdrawal. If C wishes to process please commence drafting s 73(e) ITD. Happy to discuss approach Thanks Irene 29/6 _____ Hi Shelley - please draft ITD quoting relevant subs (check confidentiality pls) on basis that R ack delays, apologies for delay, decisions have since been provided and R taken action/steps since to ensure it doesn't happen again. Thanks Irene			
Phone call - Respondent or Rep	FOI - Complaints	21-May-2020	22-May-2020, Napper, Shelley
Matilda from DVA called re email s22 s 47F _____ _____ A resp wont be able to be provided until next week. Thankd for call (SN 20/5)			
Ownership Reassigned	Nicolaou, Irene	04-Sep-2020	04-Sep-2020
Reassigned from 'FOI - Complaints' to 'Lappan, Martine' by 'Nicolaou, Irene'			
Await response - Complainant or Rep	Lappan, Martine	18-Sep-2020	07-Sep-2020
Notify relevant parties of closure	Lappan, Martine	08-Sep-2020	07-Sep-2020
Close Case	Lappan, Martine	08-Sep-2020	07-Sep-2020

Documents - 42

Title	Date Added	By
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FOIREQ22/00120 281

DVA - s22 - Complaint.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Acknowledgement.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Resolution.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Complaint.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Acknowledgement.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Resolution.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Complaint.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
DVA - s22 - Acknowledgement.pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
FOI_Complaint_s22.xml	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
s22 (3).pdf	20-Sep-2019 11:35 AM	Kreiselmaier, Hannah
RE: New complaint matter - s22 [SEC=OFFICIAL]	19-Sep-2019 4:46 PM	Kreiselmaier, Hannah
s22 - Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	20-Sep-2019 11:45 AM	Kreiselmaier, Hannah
New complaint matter - s22 [SEC=OFFICIAL]	20-Sep-2019 11:47 AM	Kreiselmaier, Hannah
forms.business.gov.au - Form: FOI Complaint_ Submission s22	15-Sep-2019 12:31 PM	Kreiselmaier, Hannah
s22 Combined complaint docs.pdf	26-Sep-2019 9:03 AM	Napper, Shelley
s22 PIs to R.docx	26-Sep-2019 9:08 AM	Napper, Shelley
s22 - FOI complaint - Notification and request for information [SEC=OFFICIAL]	27-Sep-2019 4:47 PM	Napper, Shelley
s22 FOI Complaint about the Department of Veterans' Affairs - Update [SEC=OFFICIAL]	27-Sep-2019 4:51 PM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information [SEC=OFFICIAL]	03-Oct-2019 9:22 AM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information [SEC=OFFICIAL]	08-Oct-2019 9:47 AM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information [SEC=OFFICIAL]	09-Oct-2019 9:17 AM	Chang, Adie
RE: s22 - FOI complaint - Notification and request for information [SEC=OFFICIAL]	09-Oct-2019 9:33 AM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information [SEC=OFFICIAL]	09-Oct-2019 9:57 AM	Chang, Adie
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	31-Oct-2019 1:22 PM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	31-Oct-2019 1:41 PM	Napper, Shelley
s22 - FOI Complaint - Update [SEC=OFFICIAL]	31-Oct-2019 1:48 PM	Napper, Shelley
Re: s22 - FOI Complaint - Update [SEC=OFFICIAL]	03-Dec-2019 6:45 PM	Kreiselmaier, Hannah
RE: s22 - FOI Complaint - Update [SEC=OFFICIAL]	04-Dec-2019 2:08 PM	Napper, Shelley
Re: s22 - FOI Complaint - Update [SEC=OFFICIAL]	17-Mar-2020 10:01 PM	Mayhew, Stephanie
s22 Draft ITD to C.docx	19-May-2020 10:44 AM	Napper, Shelley

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s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	19-May-2020 10:55 AM	Napper, Shelley
RE: s22 FOI Stats - DVA [SEC=OFFICIAL]	19-May-2020 9:09 AM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	21-May-2020 5:00 PM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	22-May-2020 7:44 AM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	22-May-2020 8:37 AM	Napper, Shelley
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	22-May-2020 8:40 AM	Napper, Shelley
s22 - FOI complaint regarding the Department of Veterans' Affairs	01-Jan-2001 12:00 AM	Lappan, Martine
s22 - FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	04-Sep-2020 3:27 PM	Lappan, Martine
Re: s22 FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	07-Sep-2020 1:31 PM	Lappan, Martine
RE: s22 - FOI complaint regarding the Department of Veterans' Affairs [SEC=OFFICIAL]	07-Sep-2020 2:31 PM	Lappan, Martine
RE: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	07-Sep-2020 2:35 PM	Lappan, Martine
Automatic reply: s22 - FOI complaint - Notification and request for information SEC=OFFICIAL function is not defined!	07-Sep-2020 2:35 PM	Lappan, Martine

Cross References - 2

Case	Comments
s22	Deemed refusal of amendment request
s22	

Comments - 1

Created	By	Comment
07-Sep-2020 2:36 PM	Lappan, Martine	Case Closed by s 47E(d) on 07-Sep-2020 14:36

Complaints to persons in government that have honesty and integrity. Included by default, and the named party by agencies, is the Information Commissioner.

Re my past FOI applications to the below.

FOI applications by me to Defence, ComCare, DVA / Open Arms, and National Archives Australia.

Without prejudice (I am not legally trained).

s22

"Complaints and Freedom of Information applications.

06.06.2019

2

Unlawful conduct by agencies including DVA, National Archives, Defence, ComCare, Veterans Review Board and Open arms etc. All are unlawfully dealing with my lawful applications. Do not send anything by trackable post or registered mail.

I request prosecutions be mounted against these agencies for their total disregard of my legal rights.

I made a lawful FOI application to each of the above.

s22 has well named you for corruption over the years. Order all the staff involved to do my FOI applications.

Both enclosed letters clearly show to any decent person the lies told by staff illegally treating me as being a non citizen or worse.

Defence states it holds the same (illegal), position. ComCare has also stated the same illegal position.

Yours sincerely,

s22

FOI applications by me to Defence, ComCare, DVA / Open Arms, and National Archives Australia.

Without prejudice, (I am not legally trained).

1.

s22

"Complaints and Freedom of Information applications.

08.05.2019 (A).

To all concerned.

s22

All documents are required on hard copy as well as on computer USB stick.

Defence, ComCare, DVA / Open Arms, National Archives Australia,

To Defence

To Defence I urgently request you do my previous Freedom of Information application which you have so far have not legally responded, to except in a minor and irritating way. Please bring that application up to this days date, which is the 08.05.2019. s22

s22

Part 2 of FOI to Defence etc.

s22

s22



s22

FOI applications by me to Defence, ComCare, DVA / Open Arms, and National Archives Australia.

Without prejudice. (I am not legally trained).

1.

s22

"Complaints and Freedom of Information applications.

23.05.2019 (A).

To all concerned.

Defence, ComCare, DVA / Open Arms, National Archives Australia,

s22

It is clear that you do not have lawful and or honest motives.

I would be willing to extend time though you appear to be acting contrary to all my rights, even to that of s22 making a lawful Freedom of Information Application.

I also believe you are causing a civil rights action.

23.05.2019.

Yours sincerely,

s22

s22

FOIREQ22/00120 289

s22

Nicolaou, Irene
09-May-2022 11:16 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	08-Jan-2020 12:00 AM
Case Type:	Decline	Received By:	Mayhew, Stephanie
How Received:		Registered Date:	31-Jan-2020 2:16 PM
Owned By:	English, Carl	Registered By:	English, Carl
		Closed Date:	17-Nov-2020 8:34 AM
		Closed By:	English, Carl

Case Details

Stage:	Closed
How Received:	Fax
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial request sent
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	Decision with DC
Retention Class:	OAIC RA 61986 (D2)
Destruction Due Date:	17-Nov-2022

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

Refusal to process FOI application s22 and it was deemed to be made on s22

*The registration date should be 8 January 2020, being the date the FOI team received the complaint from Legal Services. A file note will be entered in Resolve in relation to the registration date being different from the fax date in due course.

Issues - 1

Issue Description: Processing Request

Is Primary Issue: Yes

FOIREQ22/00120 290

Issue Allegation: failure to assist with application**Issue Outcome:** s73(e) - frivolous, vexatious, lacking in substance**Actions - 11 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Mayhew, Stephanie	04-Feb-2020	31-Jan-2020
Move to Triage basket (FC REG)	Mayhew, Stephanie	03-Feb-2020	31-Jan-2020
Allocate to Triage Officer (FC TR)	FOI - Triage	03-Feb-2020	31-Jan-2020, Mayhew, Stephanie
Write to applicant/complainant	English, Carl	03-Feb-2020	22-Sep-2020
File Note	English, Carl	29-Apr-2020	25-May-2020
Draft decline on the basis s 73(b) on the basis that: - No IC review where the deemed access refusal would be more appropriately dealt with under IC review. - the outcome seeking (prosecution is outside of the FOI jurisdiction)			
Await Clearance - Director	English, Carl	15-May-2020	01-Sep-2020
Thanks Carl - cleared pending 1) confirmation of whether IC review requested/on foot 2) discussion on approach of provision to C. Thanks Irene 27/8 ____ [draft ITD - resub] Hi Irene I've amended the ITD and replicated the changes in the other matters. Regards Carl ____ Hi Carl - couple of comments/suggestions in track - please include these across the remainign ITDs for my final clearance. Thanks Irene ____ [draft ITD] Hi Irene I've drafted an ITD based on the approach used in 213. Happy to discuss. Regards Carl			
Await Clearance - Director	English, Carl	24-Sep-2020	17-Nov-2020
Thank you Carl please proceed to RA as discussed. Irene 22/9 ____ [draft closure - resub] Hi Irene I've accepted your changes and responded to the comment. Ready to resub. Carl Thanks Carl couple of suggestions. Irene 18/9 ____ [draft complaint closure] Hi Irene I've drafted a closure notice in this matter. Happy to discuss. Carl			
Correspondence from complainant	English, Carl	20-Oct-2020	17-Nov-2020
Hi Carl Correspondence from s22 on file. Thanks Hannah 20/10/2020			
Notify relevant parties of closure	English, Carl	18-Nov-2020	17-Nov-2020
Close Case	English, Carl	18-Nov-2020	17-Nov-2020
Await Clearance - Director	English, Carl	27-Nov-2020	20-Nov-2020
Perfect thank you Carl ____ [draft closure to R] Hi Irene I've drafted the closure to R in this matter. Happy to discuss. Carl			

Documents - 25

Title	Date Added	By
20200131150457680.pdf	31-Jan-2020 3:12 PM	Mayhew, Stephanie
draft ITD letter.docx	08-May-2020 1:12 PM	English, Carl
06062019160855-0001.pdf	08-May-2020 1:18 PM	English, Carl
s22	03-Jun-2020 4:04 PM	English, Carl

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and s22 [SEC=OFFICIAL]		
Outgoing mail [SEC=OFFICIAL]	01-Sep-2020 3:41 PM	English, Carl
FW: Postage 2 [SEC=UNOFFICIAL]	01-Sep-2020 4:37 PM	English, Carl
draft closure letter.docx	16-Sep-2020 3:04 PM	English, Carl
draft cover sheet.docx	16-Sep-2020 3:44 PM	English, Carl
Letter to s22 re DVA complaint.pdf	16-Sep-2020 3:53 PM	English, Carl
General Letter to s 22	31-Jan-2020 2:22 PM	English, Carl
[For approval][FOI complaint notices] [SEC=OFFICIAL]	22-Sep-2020 4:55 PM	English, Carl
RE: [For approval][FOI complaint notices] [SEC=OFFICIAL]	30-Sep-2020 9:06 PM	English, Carl
RE: FOI Complaints - Intent to decline [SEC=OFFICIAL]	28-Apr-2020 4:00 PM	English, Carl
[Draft Complaint s73(b) closures] s22	02-Oct-2020 10:20 AM	English, Carl
[SEC=OFFICIAL]		
FW: From: , you have received a 4 page fax on: +s22 from Remote ID [SEC=OFFICIAL]	20-Oct-2020 8:37 AM	Kreiselmaier, Hannah
RE: Voice Mail (48 seconds) [SEC=OFFICIAL]	04-Nov-2020 1:56 PM	English, Carl
FW: Voice Mail (48 seconds) [SEC=OFFICIAL]	04-Nov-2020 1:32 PM	English, Carl
FW: Voice Mail (48 seconds) [SEC=OFFICIAL]	05-Nov-2020 9:53 AM	English, Carl
Outgoing post [SEC=OFFICIAL]	05-Nov-2020 9:41 AM	English, Carl
outgoing mail [SEC=OFFICIAL]	16-Nov-2020 9:21 AM	English, Carl
Outgoing mail. [SEC=OFFICIAL]	16-Nov-2020 12:33 PM	English, Carl
draft closure letter to R.docx	20-Nov-2020 2:33 PM	English, Carl
RE: Outgoing mail. [SEC=OFFICIAL]	19-Nov-2020 2:08 PM	English, Carl
RE: Outgoing mail. [SEC=OFFICIAL]	20-Nov-2020 2:51 PM	English, Carl
s22 - Complaint under s 70 of the Freedom of Information Act 1982 [SEC=OFFICIAL]	20-Nov-2020 3:25 PM	English, Carl

Comments - 1

Created	By	Comment
17-Nov-2020 8:34 AM	English, Carl	Case Closed by s22 on 17-Nov-2020 08:34

From: [Enquiries](#)
To: [FOIDR](#)
Subject: FW: Freedom of Information Act - Section 70 complaint [SEC=OFFICIAL]
Date: Friday, 4 September 2020 8:05:59 AM
Attachments: s22
s22 [Statement of Reasons.pdf](#)
s22 [Extension of time under s 15AB.pdf](#)

From: s22
Sent: Thursday, September 3, 2020 7:34 PM
To: Enquiries <enquiries@oaic.gov.au>
Subject: Freedom of Information Act - Section 70 complaint

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

Section 70 of the *Freedom of Information Act 1982* allows a person to complain to the Information Commissioner about an action taken by an agency in the performance of functions, or the exercise of powers, under the *Freedom of Information Act*. Section 69 of the *Freedom of Information Act 1982* requires the Information Commissioner to investigate a section 70 complaint.

My section 70 FOI complaint (performance of function complaint) is about the Department of Veterans' Affairs, and relates to their section 15AB application of 31 July 2020 to the Office of the Australian Information Commissioner.

Delegate Carl English approved the Department's section 15AB application, solely on the basis of information given by the Department, on 6 August 2020.

I did not object to the application as I had no power or authority to investigate or verify the legitimacy of the Department's claims (which were that the FOI was complex as there were over 200 pages of documents in scope to review, and there were a number of sensitivities within the documents including sensitive operational and deliberative material).

It was also the delegate's legal responsibility under section 15AB to ensure any state of satisfaction they reached was according to the rules of reason in that the specific requirements of the express statutory conditions are established by the material the delegate relies on (requiring enquiry and verification of any claims made by the applying agency). That was the delegate's statutory role, and therefore they had the power to make such basic enquiries, whereas I had no such power or authority to make such enquiries to the Department.

Section 15AB requires that the delegate must be reasonably satisfied that the claims made by the Department are justified, and the FOI is complex, voluminous, or both, before granting such an extension.

Subsequently the Department issued an FOI decision (dated 1 September 2020), where the schedule showed the Department identified only 3 pages were captured by the scope of the FOI request - a considerable deviation from the prior claim of the Department used in its section 15AB application that "over 200 pages of documents" were in scope and needed to be reviewed. Similarly, the prior claim of the Department used in its section 15AB application that were complex sensitivities present in the documents in scope to justify a claim the FOI was complex is simply not borne out by the documents identified as in scope by the FOI decision, which was three summary slides from material released externally by the Department previously (to the consultative forums).

The key issue in this section 70 complaint is that the claims made in the Department's section 15AB application bear no resemblance to what the FOI decision has shown was actually considered (given all documents within scope of the FOI request, whether access is given or refused, are listed in the schedule, and the schedule clearly shows only 3 pages of documents were in scope and reviewed, not over 200, and there was no complexity involved whatsoever as the number of pages that had to be reviewed was token and no complex sensitivities or deliberative material was present in any of those 3 pages. The claims made by the Department in that section 15AB application are fictional.

This misrepresentation is a significant issue, especially when delegates fail to make any basic enquiries about such claims when receiving section 15AB applications (effectively transferring their discretionary powers to the requesting agency, by letting approval rest solely on whatever the agency claims to be the case).

Sincerely

s22

FOIREQ22/00120 294

s22

Nicolaou, Irene
09-May-2022 11:17 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	04-Sep-2020 12:00 AM
Case Type:	Decline	Received By:	Mayhew, Stephanie
How Received:		Registered Date:	21-Sep-2020 12:26 PM
Owned By:	Clarke, Jasmin	Registered By:	Clarke, Jasmin
		Closed Date:	01-Jun-2021 8:42 AM
		Closed By:	Clarke, Jasmin

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case PrimaryPerson:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	[COMBO] [Transferred 1/6/21]
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	41910
Destruction Due Date:	1-Jun-2023

Case Parties - 3

Complainant Client:	s 22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

EOT complaints

Complaint against DVA's application of a 15AB EOT

To refer to Comm ombudsman- COMBO ref number s22

Issues - 1**Issue Description:** Processing Request**Is Primary Issue:** Yes

FOIREQ22/00120 295

Actions - 18 (All Completed)

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Mayhew, Stephanie	23-Sep-2020	02-Feb-2021, Napper, Shelley
Ownership Reassigned	Mayhew, Stephanie	21-Sep-2020	21-Sep-2020
Assigned to 'FOI - Complaints' by 'Mayhew, Stephanie'			
Correspondence from complainant	Nicolaou, Irene	26-Oct-2020	26-Oct-2020
Hi Irene Correspondence from C on file. Thanks Hannah			
File Note	Clarke, Jasmin	16-Dec-2020	19-Apr-2021, Nicolaou, Irene
Draft COMBO referral letter stipulating on what basis we are transferring. Draft to be cleared through Libby.			
Correspondence from complainant	Clarke, Jasmin	14-Jan-2021	08-Feb-2021
Jasmin please draft ack to C advising that further submissions have been placed on file and will be considered. Thanks Irene _____ Email recieved from C CE 14/01/21			
File Note	FOI - Complaints	03-Feb-2021	02-Feb-2021, Napper, Shelley
Allocated to JC 2/2/21			
Move to Triage basket (FC REG)	FOI - Complaints	03-Feb-2021	02-Feb-2021, Napper, Shelley
Allocate to Triage Officer (FC TR)	FOI - Triage	03-Feb-2021	02-Feb-2021, Napper, Shelley
Ownership Reassigned	Napper, Shelley	02-Feb-2021	02-Feb-2021
Assigned to 'FOI - Triage' by 'Napper, Shelley'			
Ownership Reassigned	Napper, Shelley	02-Feb-2021	02-Feb-2021
Assigned to 'Clarke, Jasmin' by 'Napper, Shelley'			
File Note	Clarke, Jasmin	09-Feb-2021	08-Feb-2021
Dear Jasmin Please proceed. Thanks SN (8/2) _____ Hi Shelley Draft ack to C ready for review. Thanks, JC (8/2)			
File Note	Clarke, Jasmin	23-Feb-2021	27-Apr-2021
Hi Shelley Step 1 - Intent to transfer to COMBO is ready for review. Thanks, JC (22/2)			
Await Clearance - Director	Clarke, Jasmin	26-Apr-2021	11-May-2021
Thanks Jasmin - answered and cleared to go. Irene 11/5 _____ Hi Irene Just one comment for your consideration in letter to C. Thanks, JC (11/5) Thanks Jasmin - pending any alternate views to my comments please proceed. Irene 5/5 _____ Hi Irene Redrafted Step 1/2 with the discussed amendments as requested. Thanks, JC (30/4) _____ Hi Irene Discussed with Avi about the potential duplicate. One comment for your consideration. Happy to discuss further. Thanks, JC (20/4) _____ Thank you Jasmin please proceed once revisions in track accepted. Irene 19/4 _____ Hi Irene Step 1/2 is ready for your review. Thanks, JC (19/4)			

FOIREQ22/00120 296

File Note	Clarke, Jasmin	22-Apr-2021	26-Apr-2021
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clarify with Avi- one complaint or 2 separate complaints- review email chain

File Note	Clarke, Jasmin	28-Apr-2021	11-May-2021
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Thanks Jasmin - I have made some comments for your action. Pending any alternate views from you please proceed. Thanks Irene 5/5 _____ COMBO transfer - Your FOI complaint about EOT decision (s22) - Your FOI complaint about EOT decision (s22) Address as 1 complaint as the above examples are case studies- send this first then send s22

Await Clearance - Director	Clarke, Jasmin	03-Jun-2021	01-Jun-2021
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Thank you Jasmin - please proceed to finalise. 31/5 _____ Hi Irene Thank you for clearing step 4. Revision in step 3 is ready for your review. Thanks, JC (31/5) _____ Hi Jasmin - Step 4 to COMBO cleared. One addition in Step 3 to C. Thanks Irene 31/5 _____ Hi Irene Draft step 3/4 ready for your review. I note no resp from C or R in relation to consults. Thanks, JC (27/5)

Notify relevant parties of closure	Clarke, Jasmin	02-Jun-2021	01-Jun-2021
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Close Case	Clarke, Jasmin	02-Jun-2021	01-Jun-2021
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Documents - 23

Title	Date Added	By
Document Bundle s22 .pdf	21-Sep-2020 12:28 PM	Mayhew, Stephanie
s22 Statement of Reasons.pdf	21-Sep-2020 12:28 PM	Mayhew, Stephanie
s22 Extension of time under s 15AB.pdf	21-Sep-2020 12:28 PM	Mayhew, Stephanie
FW Freedom of Information Act - Section 70 complaint SECOFFICIAL.msg	21-Sep-2020 12:29 PM	Mayhew, Stephanie
RE: Freedom of Information Act - Section 70 complaint [SEC=OFFICIAL]	21-Sep-2020 12:30 PM	Mayhew, Stephanie
Re: Section 70 Complaint - Department of Veterans' Affairs	26-Oct-2020 3:37 AM	Kreiselmaier, Hannah
RE: Section 70 Complaint - Department of Veterans' Affairs [SEC=OFFICIAL]	26-Oct-2020 1:36 PM	Nicolaou, Irene
RE: s22 Freedom of Information Act - Section 70 complaint [SEC=OFFICIAL] section 15AC (8)(a)	14-Jan-2021 3:22 PM	English, Carl
RE: s22 - Freedom of Information Act - Section 70 complaint [SEC=OFFICIAL] section 15AC (8)(a)	08-Feb-2021 4:00 PM	Clarke, Jasmin
RE: s22 - Freedom of Information Act - Section 70 complaint section 15AC(8)(a) [SEC=OFFICIAL]	08-Feb-2021 4:21 PM	Clarke, Jasmin
[DRAFT] Consultation to Ombudsman - s 74 Transfer.docx	22-Feb-2021 2:50 PM	Clarke, Jasmin
[DRAFT] Intention to transfer under s 74 to complainant.docx	22-Feb-2021 2:50 PM	Clarke, Jasmin
[DRAFT] Letter to Complainant - s 74 Transfer to Ombudsman.docx	22-Feb-2021 2:50 PM	Clarke, Jasmin
[DRAFT] Letter to Ombudsman - s 74 Transfer.docx	22-Feb-2021 2:50 PM	Clarke, Jasmin
s22 [SEC=OFFICIAL]	20-Apr-2021 8:58 AM	Clarke, Jasmin

FOIREQ22/00120 297

s22	- Transfer of FOI complaint to Commonwealth Ombudsman [SEC=OFFICIAL]	11-May-2021 3:23 PM	Clarke, Jasmin
s22	- Your FOI Complaint – Notice of intention to transfer to the Commonwealth Ombudsman [SEC=OFFICIAL]	11-May-2021 3:23 PM	Clarke, Jasmin
s22	Your FOI Complaint – transfer to the Commonwealth Ombudsman	31-May-2021 4:04 PM	Clarke, Jasmin
s22	- Transfer of FOI complaints to Commonwealth Ombudsman	31-May-2021 4:05 PM	Clarke, Jasmin
s22	Your FOI Complaint – Transfer to the Commonwealth Ombudsman [SEC=OFFICIAL]	01-Jun-2021 8:38 AM	Clarke, Jasmin
s22	- Transfer of FOI complaints to Commonwealth Ombudsman [SEC=OFFICIAL]	01-Jun-2021 8:41 AM	Clarke, Jasmin
RE: s22	- Transfer of FOI complaints to Commonwealth Ombudsman [SEC=OFFICIAL]	02-Jun-2021 3:39 PM	Clarke, Jasmin
RE: s22	- Transfer of FOI complaints to Commonwealth Ombudsman [SEC=OFFICIAL]	02-Jun-2021 3:45 PM	Clarke, Jasmin

Cross References - 1

Case	Comments
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s22

Comments - 1

Created	By	Comment
01-Jun-2021 8:42 AM	Clarke, Jasmin	Case Closed by s 47E(d) on 01-Jun-2021 08:42

From: s22
To: FOIDR
Subject: Section 70 Complaint - Department of Veterans' Affairs
Date: Thursday, 22 October 2020 5:30:51 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

I write to make a section 70 complaint about the recent repeated practice of the Department of Veterans' Affairs (the Department) to refuse access to FOI requests involving s 17 compilations on the basis that the requested information cannot be compiled into a document "automatically" by the database or system the information resides in.

I have seen a number of recent FOI decisions made by the Department that make this claim, including one of my own (as well as that of s 22 and other veteran advocates), that has refused access on this untenable basis.

Section 17(1)(c)(i) does not impose such restrictions as claimed by the Department, and I note that the Department itself has compiled such section 17 documents in part with manual processes (often with ridiculous costs claims made initially) in earlier FOI decisions.

Similarly, other agencies compile such section 17 documents in part with manual processes, just so long as retrieval would not substantially or unreasonably divert agency resources.

It is a display of bad faith by the Department to essentially misrepresent section 17 as allowing access to be refused if a document is not able to be produced by a pre-existing report template in full, free of any human interaction, especially since this change of interpretation is a recent and quite cynical one.

Sincerely

s22

FOIREQ22/00120 299

CP20/02286Nicolaou, Irene
09-May-2022 11:18 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	22-Oct-2020 12:00 AM
Case Type:	Decline	Received By:	Kreiselmaier, Hannah
How Received:		Registered Date:	03-Nov-2020 10:31 AM
Owned By:	Clarke, Jasmin	Registered By:	Clarke, Jasmin
		Closed Date:	14-Jan-2022 3:33 PM
		Closed By:	Clarke, Jasmin

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Internal review decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	[73[b][e] Closed 14/1/22
Next Action Date:	10-Nov-2021
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	41910
Destruction Due Date:	14-Jan-2024

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

S 17 complaints

Complaint about the repeated practice of the Department of Veterans' Affairs to refuse access to FOI requests involving s 17 compilations on the basis that the requested information cannot be compiled into a document "automatically" by the database or system the information resides in.

Issues - 2**Issue Description:** Other Issue (free text)

FOIREQ22/00120 300

Is Primary Issue: Yes**Issue Description:** Other Issue (free text)**Is Primary Issue:** No**Actions - 25 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Kreiselmaier, Hannah	05-Nov-2020	03-Nov-2020
Move to Triage basket (FC REG)	Clarke, Jasmin	04-Nov-2020	24-Nov-2021
Ownership Reassigned	Kreiselmaier, Hannah	03-Nov-2020	03-Nov-2020

Assigned to 'FOI - Complaints' by 'Kreiselmaier, Hannah'

File Note	Nicolaou, Irene	22-Mar-2021	05-May-2021
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Dear Irene Please see draft IT saved. Attachment A is fairly short so I have not made this a separate document but can do so if you prefer. Thanks AS (19/4) _____ s 73(b) - whether the R can produce s 17 doc requires assessment of the scope of the request etc and better dealt with under the IC review process.

Ownership Reassigned	Nicolaou, Irene	19-Apr-2021	19-Apr-2021
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Reassigned from 'FOI - Complaints' to 'Selvarajah, Avanithah' by 'Nicolaou, Irene'

Ownership Reassigned	Nicolaou, Irene	27-Apr-2021	27-Apr-2021
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Reassigned from 'Selvarajah, Avanithah' to 'Clarke, Jasmin' by 'Nicolaou, Irene'

Await Clearance - Director	Clarke, Jasmin	12-May-2021	05-May-2021
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Thank you Jasmin - couple of revisions - pending any alternate views this is cleared to proceed. Irene 5/5 _____ Hi Irene Draft ITD is ready for your review with some additional changes to Avi's doc. I note no attachment A as background is brief, happy to add if you prefer. Thanks, JC (5/5)

File Note	Clarke, Jasmin	11-May-2021	19-May-2021
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Thanks Jasmin - please send up to RA for clearance. Irene 19/5 _____ Hi Irene Thank you for your guidance. Revised draft is ready for your review with tracked changes. Thanks, JC (19/5) _____ Hi Jasmin lets discuss approach. Thanks Irene _____ Hi Irene Thank you for your comments. I have revised the draft to reflect RA's comments from 20/01520. One minor comment in relation to new attachment A. Thanks, JC (17/5) ____ Thank you Jasmin please see comments within - please also ensure the darft is updated as per RA comments in SN matter (she will provide you with a copy). Thanks Irene 14/5 _____ Hi Irene Thank you for your comments. Amendments are ready for your review. Thanks, JC (13/5) _____ Hi Jasmin - come comments and revisions for your consideration. Thanks Irene 13/5 _____ Hi Shelley Draft closure is ready for your review. I note C responded to ITD, i have outlined the additional issues and addressed them Thanks, JC (10/5)

File Note	Clarke, Jasmin	13-Oct-2021	13-Oct-2021
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Thanks Jasmin please proceed after a good proof read and double check contact email. Thanks Irene 13/10 _____ Hi Irene Draft RFI to C is ready for your review. Thanks, JC (13/10) _____ Hi Jasmin - please see outcomes of meeting in documents tab. Please proceed to draft RFI correspondence to C: - ack response to ITD - noting that C has raised concerns regarding the application of s 17 to a number of matters - requesting further particulars of those matters she is referring to (eg reference number of the FOI request, date of FOI

FOIREQ22/00120 301

request etc) Once C has provided the particulars of individual FOI requests - the FOIC is minded to proceed to s 75 investigation requesting the following information: - policies /procedures re the application of s 17 - decision notices in the FOI requests (that C particularised in RFI) Please give me a call to discuss if unsure. Thanks Irene 12/10

File Note	Clarke, Jasmin	28-Oct-2021	04-Nov-2021
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Dear Jasmin Please proceed. Thanks SN (3/11) _____ Hi Shelley As discussed in our meeting yesterday, draft email to C is ready for your review. Thanks, JC (3/11) ____ Hi Irene Resp to particularise complaint was due today, C has provided partial responses in a number of emails. C has requested 4 week EOT till 24 Nov to finish collating righttoknow s 17 requests. Happy to draft a response. Thanks, JC (27/10)

File Note	Clarke, Jasmin	09-Nov-2021	14-Jan-2022
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s 22

File Note	Clarke, Jasmin	12-Nov-2021	19-Nov-2021
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Thank you Jasmin - if you are also able to complete a table outlining the case studies that would also be helpful. Irene 11/11 _____ Hi Irene Just FYI, we have not received further subs from C. Will proceed to conduct review of the 3 responses we have received where C has provided further clarification/evidence from s 22 _____. The submissions will assist in assessment of either: Systemic issue IC reviewable Once i have reviewed, i will set up a meeting for next week with FOIC to discuss. Thanks, JC (11/11)

Allocate to Triage Officer (FC TR)	FOI - Triage	25-Nov-2021	24-Nov-2021, Clarke, Jasmin
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Ownership Reassigned	Clarke, Jasmin	24-Nov-2021	24-Nov-2021
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Assigned to 'FOI - Triage' by 'Clarke, Jasmin'

Ownership Reassigned	Clarke, Jasmin	24-Nov-2021	24-Nov-2021
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Assigned to 'Clarke, Jasmin' by 'Clarke, Jasmin'

Conduct Triage (FC TR)	Clarke, Jasmin	25-Nov-2021	24-Nov-2021: Further Info
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Seek Further Information (FC TR)	Clarke, Jasmin	25-Nov-2021	24-Nov-2021
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Conduct Triage (FC TR)	Clarke, Jasmin	25-Nov-2021	24-Nov-2021: Invalid s 70
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Notify relevant parties of closure	Clarke, Jasmin	25-Nov-2021	14-Jan-2022
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File Note	Clarke, Jasmin	03-Dec-2021	08-Dec-2021
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Dear Jasmin Please see below and happy to discuss. Thanks SN (7/12) _____ Hi Shelley As set out in my email, There is a draft closure on file – I think the matter can proceed to a s 73(b) closure and in exercising the discretion, considering that other FOI requests referenced are also subject to relevant review rights and the FOI applicants are able to seek review. RA 6.12.2021 _____ Rocelle - can you please review this matter and consider whether closure reasonable in the circumstances? I note there is a draft closure letter on file that may be of assistance.

Await Clearance - Assistant Director	Clarke, Jasmin	14-Dec-2021	08-Dec-2021
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Hi Jasmin Thank you for your work on this. A couple of comments for your consideration, then please progress to the Assistant Commissioner for review. Thanks SN (8/12) _____ Hi Shelley Revised draft is ready for your review in tracked. Thanks, JC (8/12) _____ Thanks Jasmin - a couple of comments for your consideration. SN (8/12) _____ Hi Shelley Draft closure under s 73[b] with [e] 'flavour' is ready for your review. I note clearance has been prepared including **draft snapshot (might have to scroll up in docs) which provides brief summary. Thanks, JC (7/12)

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Await Clearance - Nicolaou, Irene 20-Jan-2022 14-Jan-2022, Clarke, Jasmin
Director

Hi Irene Draft closure is ready for your review. One comment for your review, with changes in track. Thanks, JC (13/1)

Await Clearance - Clarke, Jasmin 21-Jan-2022 14-Jan-2022
Director

Hi Jas I have inserted the FOIC signature into the letter - please convert to PDF. In relation to closure to R please hold off as I need to discuss with RA. Please attached ITD to C. Please proceed to close and remember to touch base with me on Tuesday re closure to R. Thanks Irene 14/1 _____ Hi Irene Draft closure to R is ready for your review. I have the draft email to C ready to go with Attachment A prepped, just awaiting the PDF closure to C with FOIC's signature. Do i also include Attachment B- the previous ITD in the email to C?, or just Attachment A? Thanks, JC (14/1)

Close Case Clarke, Jasmin 17-Jan-2022 14-Jan-2022
File Note Clarke, Jasmin 01-Feb-2022 31-Jan-2022

Dear Jasmin Please proceed. Thanks SN (31/1) _____ Hi Shelley Sorry about the delay in sending this, i got caught up with other complaint matters after the 18th when FOIC approved the new approach. I understand that IN wanted the A's closure letter emailed to R in this instance, no longer requiring the closure letter to R. Then moving forward we will just cc agencies when sending the A's closure letter. I was hoping you could review the draft closure email to R before i send? Many thanks, JC (31/1/22)

Documents - 59

Title	Date Added	By
Section 70 Complaint - Department of Veterans' Affairs.msg	03-Nov-2020 10:34 AM	Kreiselmaier, Hannah
RE: Section 70 Complaint - Department of Veterans' Affairs [SEC=OFFICIAL]	03-Nov-2020 10:39 AM	Kreiselmaier, Hannah
s22 - Draft ITD.docx	19-Apr-2021 6:49 PM	Selvarajah, Avanithah
Re: Section 70 Complaint - Department of Veterans' Affairs	27-Apr-2021 10:47 AM	Nicolaou, Irene
RE: Section 70 Complaint - Department of Veterans' Affairs [SEC=OFFICIAL]	27-Apr-2021 10:47 AM	Nicolaou, Irene
s22 - Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	05-May-2021 11:13 AM	Clarke, Jasmin
Re: s22 Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	05-May-2021 6:16 PM	Clarke, Jasmin
s22 -Closure to C .docx	07-May-2021 9:32 AM	Clarke, Jasmin
RE Section 70 Complaint - Department of Veterans' Affairs SECOFFICIAL.msg	07-May-2021 10:20 AM	Clarke, Jasmin
Section 70 Complaint - Department of Veterans' Affairs.msg	07-May-2021 10:24 AM	Clarke, Jasmin
Re Section 70 Complaint - Department of Veterans' Affairs.msg	07-May-2021 10:25 AM	Clarke, Jasmin
20210505-s22 - ITD to C.pdf	07-May-2021 10:29 AM	Clarke, Jasmin
Re s22 - Your FOI complaint about the Department of Veterans' Affairs SECOFFICIAL.msg	07-May-2021 10:29 AM	Clarke, Jasmin
s22 Cover letter.docx	07-May-2021 10:34 AM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure s22	19-May-2021 10:15 AM	Clarke, Jasmin

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and the Department of Veterans' Affairs (OAIC ref s22)		
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	19-May-2021 2:46 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	19-May-2021 3:30 PM	Clarke, Jasmin
Complaint closure to R.docx	25-May-2021 12:56 PM	Clarke, Jasmin
RE: Discussion s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	12-Oct-2021 1:23 PM	Nicolaou, Irene
Particularise complaint docx.docx	12-Oct-2021 3:49 PM	Clarke, Jasmin
s22 Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	13-Oct-2021 11:27 AM	Clarke, Jasmin
Re: s22 - Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	13-Oct-2021 7:55 PM	Clarke, Jasmin
Fwd: Re: s22 - Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	13-Oct-2021 7:57 PM	Clarke, Jasmin
Re: s22 - Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	13-Oct-2021 10:44 PM	Clarke, Jasmin
Re: s22 - Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	27-Oct-2021 1:02 AM	Clarke, Jasmin
RE: s22 Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	03-Nov-2021 9:19 AM	Clarke, Jasmin
RE: s22 - Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	03-Nov-2021 1:55 PM	Clarke, Jasmin
RE: s22 Your complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	03-Nov-2021 2:27 PM	Clarke, Jasmin
RE: [FOI Commissioner input meeting] Complaints - Jasmin [SEC=OFFICIAL]	09-Nov-2021 11:08 AM	Clarke, Jasmin
s22 case studies.docx	17-Nov-2021 8:09 AM	Clarke, Jasmin
AVERAGE CALL ABANDONMENT.pdf	17-Nov-2021 10:53 AM	Clarke, Jasmin
s22 - Statement of Reasons 22.09.2020.pdf	17-Nov-2021 10:53 AM	Clarke, Jasmin
s22 Statement of Reasons- Case study 3.pdf	17-Nov-2021 12:51 PM	Clarke, Jasmin
s22 Statement of Reasons IR 23.11.20- Case study 3 p2.pdf	17-Nov-2021 12:51 PM	Clarke, Jasmin
Fwd: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) ***LEGAL-IN-CONFIDENCE*** [SEC=OFFICIAL]	04-Jun-2021 9:00 AM	Nicolaou, Irene
[TEMPLATE] Draft closure to C-.docx	24-Nov-2021 3:56 PM	Clarke, Jasmin
Case studies 1,2 and 3.pdf	01-Dec-2021 1:52 PM	Clarke, Jasmin
Responses after ITD.pdf	01-Dec-2021 1:58 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) ***LEGAL-IN-CONFIDENCE*** [SEC=OFFICIAL]	06-Dec-2021 11:53 PM	Napper, Shelley
20210505-s22 - ITD to C.pdf	08-Dec-2021 8:37 AM	Napper, Shelley

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s22 Attachment A.docx	08-Dec-2021 12:37 PM	Napper, Shelley
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	08-Dec-2021 1:50 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	17-Dec-2021 9:59 AM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	17-Dec-2021 12:25 PM	Clarke, Jasmin
FW: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	11-Jan-2022 12:26 PM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	12-Jan-2022 9:49 AM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	12-Jan-2022 9:54 AM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref s22) [SEC=OFFICIAL]	13-Jan-2022 2:04 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	14-Jan-2022 12:19 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	14-Jan-2022 12:52 PM	Clarke, Jasmin
[TEMPLATE] Complaint closure to R.DOCX	14-Jan-2022 2:30 PM	Clarke, Jasmin
s22 - Your FOI complaint about the Department of Veterans' Affairs - Decision	14-Jan-2022 2:43 PM	Clarke, Jasmin
Closure to C.pdf	14-Jan-2022 3:18 PM	Clarke, Jasmin
s22 - Your FOI complaint about the Department of Veterans' Affairs - Decision [SEC=OFFICIAL]	14-Jan-2022 3:31 PM	Clarke, Jasmin
Re: s22 - Your FOI complaint about the Department of Veterans' Affairs - Decision [SEC=OFFICIAL]	14-Jan-2022 3:56 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	18-Jan-2022 3:45 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	18-Jan-2022 5:02 PM	Clarke, Jasmin
s22 - Complaints under s 70 of the Freedom of Information Act 1982	31-Jan-2022 12:19 PM	Clarke, Jasmin
s22 - Complaints under s 70 of the Freedom of Information Act 1982 [SEC=OFFICIAL]	31-Jan-2022 4:04 PM	Clarke, Jasmin

Cross References - 1

Case	Comments
s22	

FOIREQ22/00120 305

Comments - 1

Created	By	Comment
14-Jan-2022 3:33 PM	Clarke, Jasmin	Case Closed by s 47E(d) on 14-Jan-2022 15:33

From: [REDACTED]
 To: [REDACTED]
 Subject: Section 70 FOI Act Complaint - Department of Veterans' Affairs - Request Consultation Decision Issued 2 December 2020
 Date: Monday, 7 December 2020 2:23:55 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Madam/Sir,

I am a person, and for the purposes of the *Freedom of Information Act* I am making a section 70(1) complaint, in writing, in respect of the Department of Veterans' Affairs Request Consultation Decision of 2 December 2020

While I note the Information Commissioner is of the view that a section 70(1) complaint is not desired by her when an IC Review of an FOI decision is available, no IC Review is available of a Request Consultation decision under the FOI Act (as it is not an access grant or access refusal decision or deemed decision), so the only appropriate avenue is a section 70 complaint regarding the actions of the Department in respect to this FOI request (and the pattern of practice it reveals, when assessed against a repeated practice by the Department to make Request Consultation decisions within only a few days of the expiry of the processing deadline, contrary to the obligation under the Guidelines for the Department to identify any intention to seek request consultation as soon as is practicable and not to use request consultations as an artificial means to otherwise circumvent the 30 day processing period by impeding timely access)

S 22

It relates to an FOI request made to the Department on 5 November 2020, which was due for decision on Monday 7 December 2020. As mentioned, the Request Consultation Decision (which was not flagged informally beforehand as is recommended by the Guidelines) was only issued late evening on 2 December 2020 (five calendar days before expiry of the processing period). As mentioned, this is inconsistent with the obligation to give timely notice of any request consultation - as a guideline of acceptable practice followed at other agencies:

[2020] AICmr 58 (Consultation request decision on Day 18);
 [2020] AICmr 53 (Consultation request decision on Day 11);
 [2020] AICmr 51 (Consultation request decision on Day 18);
 [2020] AICmr 39 (Consultation request decision on Day 15);
 [2020] AICmr 28 (Consultation request decision on Day 14);
 [2020] AICmr 26 (Consultation request decision on Day 19);
 [2020] AICmr 25 (Consultation request decision on **Day 1**);
 [2020] AICmr 20 (Consultation request decision on Day 9);
 [2020] AICmr 12 (Consultation request decision on **Day 4**); and
 [2020] AICmr 11 (Consultation request decision on Day 6);

This is contrasted to a recent history of the Department's request consultation decision timings from those published on Right to Know:

On Day 27 https://www.righttoknow.org.au/request/briefs_that_the_secretary_signed#incoming-19391
On Day 23 https://www.righttoknow.org.au/request/terms_of_agreement_purchase_order_2#incoming-19406
On Day 23 https://www.righttoknow.org.au/request/tender_guidelines#incoming-18810
On Day 23 https://www.righttoknow.org.au/request/contract_lapel_pins#incoming-18805
On Day 23 https://www.righttoknow.org.au/request/contracts_mous_tenders#incoming-18799
On Day 23 <https://www.righttoknow.org.au/request/cn3528664#incoming-18807>
On Day 26 https://www.righttoknow.org.au/request/external_legal_costs_in_201819_f#comment-2682

This former highlights the reasonable expectation that any request consultation intention be identified by the agency around a fortnight after it receives an FOI request, and the latter indicates the degree of deviation by the Department to this principle. Last minute request consultation requests create a real risk that an agency is using request consultations as a unfair barrier to access than for any real operational need (as the Department's history here shows)

It is inevitable that the Department will, like in past pseudo-consultation claims, seek an extension from the Information Commissioner after the consultation period expires (and the Department will use all of the consultation period to delay processing, even if scope was reduced to one page tonight - in violation of section 24AB(6)(b) as it has done previously) or claim third party consultation, to intentionally cause even more prolonged delay (as the Department's FOI statistics bear out)

So, for the reasons given above, it is appropriate to make a section 70(1) complaint at this point, rather than let this improper practice be compounded further by more improper practice by the Department. It is readily apparent that the Department has not intended to seek request consultation co-operatively and in good faith as required (refer [37] at *Warren and Dept of Human Services* [2019] AICmr 22)

Apart from the late deployment of the Request Consultation Decision (intended solely to interfere with the obligation to facilitate and promote public access to official documents, promptly and at the lowest reasonable cost as set out by section 3(4) of the Act), the Request Consultation Decision made by the Department raises the following issues relevant to a section 70 investigation:

* Despite clearly stating the scope of the FOI (see below) as including any brief signed or initialed by the Secretary herself (in any form or way) during October 2020 as being within scope, the delegate at paragraph 7 ignores this and redefines the scope without my consent as being for "briefs in which the Secretary was the final signatory" despite this clearly being contrary to the scope defined by me with the delegate

"...a brief is a summary document prepared by agency staff for an office holder, that seeks to provide an overview of one or more issues, and that often seeks consent for a course of action to be approved, or presents options to be endorsed by that office holder (but sometimes can simply be advisory only, with no action required other than to "note" the contents of the brief).

A brief signed by the Secretary would, in terms of an FOI scope, include any brief signed by the Secretary regardless of the mechanism of that signature (physical, electronic, etc). To avoid all doubt, any document which received the Secretary's signature during the scope period (regardless of whether a physical or electronic signature), that had for that document (whether stamped on, stapled to, digitally attached, or in the document itself) a specific box or area for the Secretary's signature or initials (whether physical or electronic), and which had such a signature or initials, and was a document that sought the Secretary to either "note", "approve", "agree", "endorse" or "discuss" (or other similar verbs) as an action requested, is a document in scope in the scope period..."

* The scope is only for any brief processed through the Secretary's office (as all briefs to a Department Secretary would be required to be submitted through), for the Secretary's signature or initials - it is inconceivable that the Department is so grossly mismanaged that the Secretary's Office has no register of such internal or external briefs being processed through them and/or that a copy of any such signed or initialed brief would not be recorded/captured digitally in TRIM or other electronic database by the Department and the Secretary's Office (otherwise these important documents would go missing, have unknown statuses, etc grinding Departmental processes to a halt repeatedly). There is no Departmental Secretary's office that is run in such a manner - briefs to or thru the Secretary are significant Department documents, which the Archives Act requires solid records to be kept of, including registers and more advanced recording keeping than other transactional Department documents

* The Department claims (paragraph 15, page 5) that the Secretary received over 111 briefs through PDMS alone "for the Secretary's signature in October 2020" - firstly, the scope of the FOI was for briefs signed or initialed by the Secretary in October 2020, not received, and this claim should be evaluated with regard to the Department's previous fraudulent section 15AB claim of 31 July 2020 (**S22**) which claimed that there were over 200 pages of documents in scope for **S22**, only for the FOI decision released on 2 September to identify only 3 pages of documents in scope (and those being very summary power point slides), for what was a multi-million dollar Departmental program. Both the former and the latter indicate that this claim by the Department should be treated with upmost caution, given their repeated propensity to misrepresent key facts

* The Department has claimed (also paragraph 15, page 5) in its Request Consultation that to review the first page (as only the first page of briefs within scope are requested) of briefs in scope would take **10 minutes per page to just review the first page of each brief (and another additional 11 hours on top of this to consider exemptions, redact, and prepare any subsequent FOI decision)** - this is grossly excessive to the review time considered appropriate and defensible by the Information Commissioner for such documents (30 seconds for review alone, but up to 5 minutes if assessing, reviewing and redacting for release - unless the document required specialist technical knowledge to assess or contained an overwhelming amount of sensitive information that would require redaction), and is directly contrary to the Information Commissioner's finding in *'GD' and DPMC* [2015] AICmr 46 [at 21]. It is relevant that the documents in scope are briefs either for the Secretary or the Minister (passing through the Secretary) and as such will be written in plain English and written for accessibility (given the Minister and the Secretary are not technical specialists, but general management executives), as is the expectation and format for such briefs (so use of dot point summary style presentation), and that the first page of any such brief is typically an executive summary, so written for easily readability

* While such estimates are required to be made on a sample of 10% to 15% of documents in scope, it does not appear any such sampling took place (no evidence of any is given by the delegate beyond "initial enquiries" having been alleged), but the estimates given appear based solely on 'guesstimates' by the delegate for what the might believe any such sample may show

* The delegate also estimates another 37 hours to search and create a list of all briefs in scope for October 2020, which again is figure without evidence, and which appears excessively overinflated by the delegate, for the reasons mentioned above

* Despite the Department claiming COVID impacts (paragraph 19-20), the areas responsible for the documents in scope of the request are based in Canberra and Brisbane (and unlike Melbourne) neither location is subject to COVID workplace reduction restrictions. Despite the Department repeatedly claiming all year that its FOI operations have been impacted by COVID, it has repeatedly resisted requests **s 22**

s 22 for evidence of any such impact on the Information Law area (which is based in Brisbane) that is tasked for all such FOI activity for the Department. Brisbane and Canberra, unlike Sydney, have had no real COVID workplace restrictions and Department staff in Information Law are provided with full facilities to work from home remotely in any case. Notably the Information Law area within the Department has no COVID related duties and claims of it being impacted by 'redeployment' activities are untenable (as these are carried out by another Division at the Department - by health policy officers, not lawyers)

* The claim (paragraph 20) by the Department that they are the "third highest recipient of FOI requests" and inferring that this reduces their responsibilities as a result under FOI law is outrageous and contrary to the Guidelines which state that there is an expectation that agencies will sufficiently staff their FOI areas to meet their obligations under the FOI Act, given it is their inherent non-derogable responsibility to do so

As this decision raises multiple systemic conduct issues, especially when assessed against a repeated pattern of improper use of request consultation periods by the Department, it is appropriate for investigation by the Information Commissioner under section 70

Sincerely

s22

FOIREQ22/00120 308

s22

Nicolaou, Irene
09-May-2022 11:18 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	07-Dec-2020 12:00 AM
Case Type:	Preliminary Inquiry	Received By:	Nirmaleswaran, Poorvaja
How Received:		Registered Date:	09-Dec-2020 10:19 AM
Owned By:	Clarke, Jasmin	Registered By:	Clarke, Jasmin
		Closed Date:	29-Jun-2021 9:28 AM
		Closed By:	Clarke, Jasmin

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	[ITD - 73(e)] [closed 29/6/21]
Next Action Date:	21-Jun-2021
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	134501
Destruction Due Date:	29-Jun-2023

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

C complains about the consultation process. Specifically:

While I note the Information Commissioner is of the view that a section 70(1) complaint is not desired by her when an IC Review of an FOI decision is available, no IC Review is available of a Request Consultation decision under the FOI Act (as it is not an access grant or access refusal decision or deemed decision), so the only appropriate avenue is a section 70 complaint regarding the actions of the Department in respect to this FOI request (and the pattern of practice it reveals, when assessed against a repeated practice by the

FOIREQ22/00120 309

Department to make Request Consultation decisions within only a few days of the expiry of the processing deadline, contrary to the obligation under the Guidelines for the Department to identify any intention to seek request consultation as soon as is practicable and not to use request consultations as an artificial means to otherwise circumvent the 30 day processing period by impeding timely access).

FOI decision has been extracted and saved on file as key document.

Issues - 1

Issue Description: Processing Request

Is Primary Issue: Yes

Issue Allegation: processing delay

Issue Outcome: s73(e) - frivolous, vexatious, lacking in substance

Actions - 13 (All Completed)

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Nirmaleswaran, Poorvaja	11-Dec-2020	10-Dec-2020
Ownership Reassigned	Nirmaleswaran, Poorvaja	09-Dec-2020	09-Dec-2020

Assigned to 'Nirmaleswaran, Poorvaja' by 'Nirmaleswaran, Poorvaja'

Ownership Reassigned	Nirmaleswaran, Poorvaja	10-Dec-2020	10-Dec-2020
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Reassigned from 'Nirmaleswaran, Poorvaja' to 'FOI - Complaints' by 'Nirmaleswaran, Poorvaja'

File Note	Napper, Shelley	15-Dec-2020	14-Dec-2020
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Thanks Shelley ____ Dear Irene Please find in the Docs tab for your consideration: 1. draft PIs to R, and 2. Draft email to C. Thanks SN (14/12)

File Note	Nicolaou, Irene	19-Jan-2021	11-Feb-2021
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PIs in

File Note	Selvarajah, Avanithah	12-Feb-2021	28-May-2021
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Hi Avi - can you please raise this one at our next team meeting to discuss. Irene 11/5 ____ Hi Irene I took some time to go through this one and have drafted the ITD based only on 73(e). Happy to discuss and weave in 73(b). Thanks AS (10/5) ____ proceed to draft ITD 73(b) and (e)- refer to PI response including as an attachment (double check no confidentiality claim). Irene 11/2

Ownership Reassigned	Nicolaou, Irene	19-Apr-2021	19-Apr-2021
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Reassigned from 'FOI - Complaints' to 'Selvarajah, Avanithah' by 'Nicolaou, Irene'

Ownership Reassigned	Nicolaou, Irene	01-Jun-2021	01-Jun-2021
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Reassigned from 'Selvarajah, Avanithah' to 'Clarke, Jasmin' by 'Nicolaou, Irene'

Await Clearance - Director	Clarke, Jasmin	09-Jun-2021	07-Jun-2021
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Thanks Jasmin please proceed. ____ Hi Irene Revised draft is ready for your review for both docs, i added more detail in the attach A so it shows the complete timeline. Thanks again, JC (7/6)

____ Thanks Jasmin - couple of comments in both thanks Irene. 7/6 ____ Hi Irene Revised draft is ready for your review. Thanks, JC (7/6) ____ Thanks Jasmin please see comments within. Irene 3/6 ____ Hi Irene As discussed on Friday in our team meeting, draft ITD and

FOIREQ22/00120 310

attachment A (R's subs) is ready for your review. I note one comment for your consideration. Thanks, J (2/6)

Await Clearance - Clarke, Jasmin 29-Jun-2021 29-Jun-2021
Director

Hi Jasmin please see comments within - I have fact checked the dept submissions so no need to do that. Once others are addressed please provide clean version to RA for clearance noting 73(e) and no response to ITD. Thanks Irene _____ Hi Irene Revision in tracked ready for your review. I have added the Pls resp tab** and made the changes in the cover letter and draft snapshot. Thanks, JC (28/6) ____ Thanks Jasmin - please see one comment/addition regarding the need for reasoning why it is without substance. Please add the Department's PIs response to e-clearance tabs. Thanks Irene 25/6 _____ Hi Irene Draft closure is ready for your review. I note no response has been received by C. Thanks, JC (22/6)

Await Clearance - Clarke, Jasmin 06-Jul-2021 29-Jun-2021
Director

Thanks Jasmin - just needed to insert 'Acting' - please proceed once accepted. Thanks Irene _____ Hi Irene Draft closure to R is ready for your review. Thanks, JC (29/6)

Notify relevant parties Clarke, Jasmin 30-Jun-2021 29-Jun-2021
of closure

Close Case Clarke, Jasmin 30-Jun-2021 29-Jun-2021

Documents - 37

Title	Date Added	By
Section 70 FOI Act Complaint - Department of Veterans' Affairs - Request Consultation Decision Issued 2 December 2020	07-Dec-2020 2:22 AM	Nirmaleswaran, Poorvaja
s22 Practical Refusal Consultation Notice section 24AB (5).pdf	10-Dec-2020 11:45 AM	Nirmaleswaran, Poorvaja
s22 - Your complaint about an FOI decision by the Department of Veterans' Affairs [SEC=OFFICIAL]	10-Dec-2020 12:31 PM	Nirmaleswaran, Poorvaja
s22 PIs to R.docx	14-Dec-2020 10:52 AM	Napper, Shelley
s22 - FOI complaint - Update [SEC=OFFICIAL]	14-Dec-2020 11:50 AM	Napper, Shelley
s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]	14-Dec-2020 11:58 AM	Napper, Shelley
Automatic reply: s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]	14-Dec-2020 11:58 AM	Napper, Shelley
Re: s22 - FOI complaint - Update [SEC=OFFICIAL]	14-Dec-2020 12:33 PM	Napper, Shelley
RE: s22 - FOI complaint - Update [SEC=OFFICIAL]	16-Dec-2020 7:29 AM	Napper, Shelley
RE: s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]	11-Jan-2021 11:31 AM	Napper, Shelley
RE: s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]	11-Jan-2021 11:38 AM	Napper, Shelley
DVA submissions - s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]	15-Jan-2021 7:31 PM	Napper, Shelley
RE: DVA submissions - s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]	18-Jan-2021 7:29 AM	Napper, Shelley
Automatic reply: DVA submissions - s22	18-Jan-2021 7:29 AM	Napper, Shelley

FOIREQ22/00120 311

s22 - FOI complaint - Preliminary Inquiries [SEC=OFFICIAL]		
s22 Draft ITD.docx	10-May-2021 6:45 PM	Selvarajah, Avanithah
Draft Attachment A .docx	02-Jun-2021 10:49 AM	Clarke, Jasmin
s22 Your complaint about an FOI decision by Department of Veterans' Affairs [SEC=OFFICIAL]	07-Jun-2021 5:31 PM	Clarke, Jasmin
Draft -Closure to C.docx	21-Jun-2021 11:09 AM	Clarke, Jasmin
20210607-s22 Attachment A .pdf	21-Jun-2021 12:13 PM	Clarke, Jasmin
20210607-s22 ITD to C.pdf	21-Jun-2021 12:13 PM	Clarke, Jasmin
Cover letter.docx	21-Jun-2021 12:15 PM	Clarke, Jasmin
Section 70 FOI Act Complaint - Department of Veterans' Affairs - Request Consultation Decision Issued 2 December 2020.msg	21-Jun-2021 12:34 PM	Clarke, Jasmin
s22 - Your complaint about an FOI decision by the Department of Veterans' Affairs SECOFFICIAL.msg	21-Jun-2021 12:36 PM	Clarke, Jasmin
Draft snapshot.docx	22-Jun-2021 10:25 AM	Clarke, Jasmin
DVA Submissions - s22 re FOI s22 .pdf	28-Jun-2021 11:36 AM	Clarke, Jasmin
20201214 s22 PIs to R.pdf	28-Jun-2021 12:12 PM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	28-Jun-2021 3:52 PM	Clarke, Jasmin
[Draft s 73 Closure] s22 and Department of Veteran's Affairs s22 [SEC=OFFICIAL]	28-Jun-2021 4:52 PM	Nicolaou, Irene
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	28-Jun-2021 4:28 PM	Clarke, Jasmin
[Draft s 73 Closure] s22 and Department of Veteran's Affairs s22 [SEC=OFFICIAL]	28-Jun-2021 4:52 PM	Clarke, Jasmin
RE: [Draft s 73 Closure] s22 and Department of Veteran's Affairs s22 [SEC=OFFICIAL]	28-Jun-2021 6:25 PM	Clarke, Jasmin
RE: [Draft s 73 Closure] s22 and Department of Veteran's Affairs s22 [SEC=OFFICIAL]	29-Jun-2021 8:35 AM	Clarke, Jasmin
Complaint closure to R.docx	29-Jun-2021 8:36 AM	Clarke, Jasmin
RE: s22 Your complaint about an FOI decision by Department of Veterans' Affairs [SEC=OFFICIAL]	29-Jun-2021 9:24 AM	Clarke, Jasmin
s22 - Complaints under s 70 of the Freedom of Information Act 1982 [SEC=OFFICIAL]	29-Jun-2021 9:24 AM	Clarke, Jasmin
RE: [Draft s 73 Closure] s22 and Department of Veteran's Affairs s22 [SEC=OFFICIAL]	29-Jun-2021 9:13 AM	Clarke, Jasmin
Automatic reply: s22 - Complaints under s 70 of the Freedom of Information Act 1982 [SEC=OFFICIAL]	29-Jun-2021 9:24 AM	Clarke, Jasmin

Comments - 1

Created	By	Comment
29-Jun-2021 9:28 AM	Clarke, Jasmin	Case Closed by s 47E(d) on 29-Jun-2021 09:28

From: s22
To: FOIDR
Subject: Re: Enquiry [SEC=OFFICIAL]
Date: Friday, 16 April 2021 9:14:47 AM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

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Dear Ms Clarke

I tried to use the smartform, however it is not fit for purpose as it requires me to make a complaint with DVA and to receive the response to that complaint first. Further in the past it has taken over 18 months for DVA to respond to complaints.

Ms Jasmin Clarke of the Office of the Australian Information Commissioner made a decision that the requested information be provided by 18 March 2021, I understand not providing information by the statute date constitutes a refused decision. Further I brought this matter to the attention of Ms Clarke on 18 March.

I wish this to be regarded as a formal complaint, and request the OAIC investigate this complaint as it is the decision of the OAIC that DVA has failed to comply with.

I would like to point out that any person dealing with government agencies is governed by any number of statute time frames and failure to comply results in loss of entitlement, without any ground for appeal, it seems DVA has no such similar regard for statute timeframes, I firmly believe this is a matter that should be brought to the Minister DVA, especially in light of the Veterans and Veterans Families First

Act. <https://www.legislation.gov.au/Details/C2019B00044>

I would also like to request an external review on this matter.

Regards

s22

On Thu, 15 Apr 2021 at 13:42, FOIDR <foidr@oaic.gov.au> wrote:

s22

By email to s22

Dear s22

Thank you for your phone call earlier this morning.

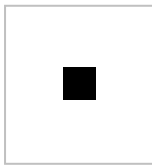
In relation to the status update of your s22. I have

passed this on to the relevant team for their consideration.

I note during our conversation you wished to raise a complaint regarding the Department of Veterans' Affairs. If you wish to proceed you may do so via this smartform [here](#).

In the meantime, for any further queries or updates please contact [xxx](#).

Sincerely



Jasmin Clarke | Assistant Review and Investigation Advisor

Freedom of information

Office of the Australian Information Commissioner

GPO Box 5218 Sydney NSW 2001 | oaic.gov.au



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FOIREQ22/00120 314

s22

Nicolaou, Irene
09-May-2022 11:20 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	16-Apr-2021 12:00 AM
Case Type:	Decline	Received By:	Nirmaleswaran, Poorvaja
How Received:		Registered Date:	28-Apr-2021 3:49 PM
Owned By:	Selvarajah, Avanithah	Registered By:	Selvarajah, Avanithah
		Closed Date:	25-May-2021 10:53 AM
		Closed By:	Selvarajah, Avanithah

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	ITD sent-due 24/5
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	99062
Destruction Due Date:	25-May-2023

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

I tried to use the smartform, however it is not fit for purpose as it requires me to make a complaint with DVA and to receive the response to that complaint first. Further in the past it has taken over 18 months for DVA to respond to complaints.

Ms Jasmin Clarke of the Office of the Australian Information Commissioner made a decision that the requested information be provided by 18 March 2021, I understand not providing information by the statute

FOIREQ22/00120 315

date constitutes a refused decision. Further I brought this matter to the attention of Ms Clarke on 18 March. I wish this to be regarded as a formal complaint, and request the OAIC investigate this complaint as it is the decision of the OAIC that DVA has failed to comply with.

I would like to point out that any person dealing with government agencies is governed by any number of statute time frames and failure to comply results in loss of entitlement, without any ground for appeal, it seems DVA has no such similar regard for statute timeframes, I firmly believe this is a matter that should be brought to the Minister DVA, especially in light of the Veterans and Veterans Families First Act. <https://www.legislation.gov.au/Details/C2019B00044>

Issues - 1

Issue Description: Processing Request

Is Primary Issue: Yes

Issue Allegation: processing delay

Issue Outcome: withdrawn/conciliated

Actions - 16 (All Completed)

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Nirmaleswaran, Poorvaja	30-Apr-2021	28-Apr-2021
Move to Triage basket (FC REG)	Nirmaleswaran, Poorvaja	29-Apr-2021	28-Apr-2021
Allocate to Triage Officer (FC TR)	FOI - Triage	29-Apr-2021	28-Apr-2021, Nirmaleswaran, Poorvaja
Ownership Reassigned	Nirmaleswaran, Poorvaja	28-Apr-2021	28-Apr-2021

Assigned to 'FOI - Triage' by 'Nirmaleswaran, Poorvaja'

Ownership Reassigned	Nirmaleswaran, Poorvaja	28-Apr-2021	28-Apr-2021
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Assigned to 'FOI - Triage' by 'Nirmaleswaran, Poorvaja'

Ownership Reassigned	Nirmaleswaran, Poorvaja	28-Apr-2021	28-Apr-2021
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Assigned to 'Nirmaleswaran, Poorvaja' by 'Nirmaleswaran, Poorvaja'

Conduct Triage (FC TR)	Selvarajah, Avanithah	29-Apr-2021	25-May-2021: Withdrawn
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Ownership Reassigned	Nirmaleswaran, Poorvaja	28-Apr-2021	28-Apr-2021
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Reassigned from 'FOI - Triage' to 'FOI - Complaints' by 'Nirmaleswaran, Poorvaja'

File Note	Selvarajah, Avanithah	06-May-2021	10-May-2021
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Thanks Avi - I have spoken to RA re approach - she agrees with our consideration of the matter (complaint is about them not providing a decision rather than our 15AB decision) - just a couple of comments then please proceed. Irene 10/5 _____ Dear Irene Please see draft ITD. Thanks AS _____ 73(b) - deemed after a s 15AB EOT. Complaint does not appear to relate to the EOT process or decision - rather the non compliance with the statutory due date. better dealt with under IC review function. Avi - pending any alternate views please draft s 73(b) ITD. Thanks Irene 5/5

Ownership Reassigned	Nicolaou, Irene	05-May-2021	05-May-2021
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FOIREQ22/00120 316

Reassigned from 'FOI - Complaints' to 'Selvarajah, Avanithah' by 'Nicolaou, Irene'

Correspondence from complainant	Nicolaou, Irene	12-May-2021	12-May-2021
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Hi Irene Please see email from C Thanks AS 12/5

Phone call - Complainant or Rep	Nicolaou, Irene	13-May-2021	12-May-2021
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Called C to discuss his email and explain my ITD. C advised that he has received his documents so his IC review may not address his complaint regarding the Department's use of EOTs and is therefore eager to have his complaint proceed. I advised him that I appreciate his concerns and he is welcome to provide any submissions which will then be put to the IC for her decision. C asked about review rights if the IC decides not to investigate. I went over his review rights (JR or Commonwealth Ombudsman). C advised he would provide subs as soon as possible but inquired about the time-frame he has been provided and whether he is able to seek extensions. I advised him that we would like to progress matters at hand but he is able to request an extension if he feels that the time provided will not be sufficient. C advised he would send through submissions over the next few days. AS 12/5

Phone call - Complainant or Rep	Selvarajah, Avanithah	25-May-2021	24-May-2021
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Thanks Avi - can you please draft a closure email confirming withdrawal and reasons stated by C. In our discussion you advised that: - I confirm your FOI complaint (CP XXX) is now closed. I note this closure does not effect your IC review MRXXX which remains on foot and the OAIC will correspond with you separately about that matter. Thanks Irene _____ Called C to follow up on the status of his submissions C advised that he would like to withdraw his complaint as he does not have the mental capacity to see it through. Confirmed that C is withdrawing his complaint. C agreed and requested that his reason for withdrawing is included in the closure email to him. AS 24/5

File Note	Selvarajah, Avanithah	25-May-2021	25-May-2021
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Thanks Avi please proceed. Irene _____ Dear Irene Please see draft withdrawal confirmation saved. Thanks AS 24/5

Notify relevant parties of closure	Selvarajah, Avanithah	26-May-2021	25-May-2021
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Close Case	Selvarajah, Avanithah	26-May-2021	25-May-2021
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Documents - 7

Title	Date Added	By
Re: Enquiry [SEC=OFFICIAL]	16-Apr-2021 9:14 AM	Nirmaleswaran, Poorvaja
s22 - Your FOI Complaint About the Department of Veterans' Affairs [SEC=OFFICIAL]	28-Apr-2021 3:54 PM	Nirmaleswaran, Poorvaja
s22 Draft ITD.docx	10-May-2021 12:34 PM	Selvarajah, Avanithah
s22 - Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	10-May-2021 5:34 PM	Selvarajah, Avanithah
Re: s22 - Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	11-May-2021 10:49 AM	Selvarajah, Avanithah
s22 withdrawal confirmation.docx	24-May-2021 5:40 PM	Selvarajah, Avanithah
s22 - Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	25-May-2021 10:52 AM	Selvarajah, Avanithah

FOIREQ22/00120 317

Cross References - 1

Case	Comments
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s22	
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Comments - 1

Created	By	Comment
25-May-2021 10:53 AM	Selvarajah, Avanithah	Case Closed by s 47E(d) on 25-May-2021 10:53

From: FOIDR
To: s22
Subject: s22 - Your FOI Complaint About the Department of Veterans' Affairs (s 22) - Email 1 of 2
 [SEC=OFFICIAL]
Date: Monday, 17 May 2021 5:47:00 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Our reference: s22

Agency reference: s22

s22

Your FOI Complaint About the Department of Veterans' Affairs

Following on from the correspondence below, this is the first of two emails relating to your FOI complaints about the Department of Veterans' Affairs. We acknowledge receipt of your FOI complaint regarding s 22.

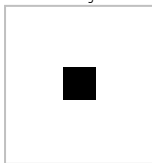
Please note:

- Once your application has been assessed, you will be advised by an investigations and review officer about the next steps in our complaints handling process.
- If your circumstances change, or your request has been resolved, please advise us by email as soon as practicable.
- Information about the way we handle your personal information is available in our [privacy policy](#).

Should you wish to follow up on this matter, please contact the OAIC enquiries line on 1300 363 992 or email xxxxx@xxxx.xxx.xx.

Yours sincerely

Poorvaja Nirmaleswaran



Intake and Early Resolution Team

Freedom of Information
 Office of the Australian Information Commissioner
 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 1300 363 992 | xxxxx@xxxx.xxx.xx



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From: s22
Sent: Tuesday, 4 May 2021 11:00 AM
To: FOIDR <xxxxx@xxxx.xxx.xx>
Subject: Re: s22 - Your enquiry in relation to a deemed access refusal [SEC=OFFICIAL]

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A and B.

On May 4, 2021 at 10:14, <FOIDR> wrote:

Our reference **s22**

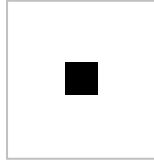
Dear **s22**

Please confirm if you wish proceed with the option **a) and/or b)** for us to undertake next steps:

- a. Complaint about the handling of your FOI request.
- b. Access to FOI decision and documents through IC review.

Yours sincerely

Poorvaja Nirmaleswaran



Intake and Early Resolution Team

Freedom of Information

Office of the Australian Information Commissioner

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[1300 363 992](#) | [xxxxx@xxxx.xxx.xx](#)



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s22

Sent: Wednesday, 28 April 2021 9:08 AM

To: FOIDR <[xxxxx@xxxx.xxx.xx](#)>

Subject: Re: **s22** - Your enquiry in relation to a deemed access refusal [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

No, these have no been received.

I have also not heard from your department about what action you will be taking against dva.

s22

On Apr 26, 2021 at 16:09, <[FOIDR](#)> wrote:

Our reference: **s22**

Dear **s22**

Following on from the correspondence below, we would grateful if you could confirm if you have received a decision in relation to **s22**

If not, do you wish to seek [Information Commissioner review](#)?

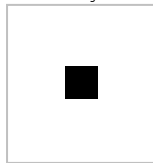
If you would prefer to discuss your options over the phone, please confirm your availabilities and best contact number.

If we do not receive a response by [Friday, 30 April 2021](#) we will proceed to close the enquiry file.

However, it is still open to you to seek IC review.

Yours sincerely

Poorvaja Nirmaleswaran



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FOIDR

Sent: Thursday, 25 March 2021 1:04 PM

To: **s22**

Subject: **s22** - Extension of time under s 15AB - Decision [SEC=OFFICIAL]

Dear **s22**

Thank you for your email.

We acknowledge that your FOI request has not been processed within the extended timeframe.

The purpose of our email was to provide you with information about your options in this instance.

Specifically, as the outcome you seek is the release of the documents, we have provided information about the IC review process. We note you will *not* receive a decision and/or the documents as the outcome of a complaint.

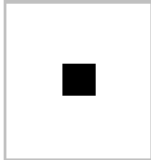
We would be grateful if you could confirm in writing in if you wish seek IC review of s22

If you would prefer to discuss your options over the phone, please confirm your availabilities and best contact number.

We look forward to your response.

Yours sincerely

Poorvaja Nirmaleswaran



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s22

Sent: Thursday, 25 March 2021 9:26 AM

To: FOIDR <foidr@oaic.gov.au>

Subject: Re: s22 - Extension of time under s 15AB - Decision [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I do not understand the emails you have sent.

DVA asked for an extension of time on an FOI request of mine, your office granted an 8 day extension which expired weeks ago. I am attempting to inform your office that DVA did not comply with your decision and I still have not received the documents.

s22

On 2021-03-24 09:45, FOIDR wrote:

Our reference: s22

Agency reference: s22

Dear s22

Thank you for your correspondence below, seeking to lodge a complaint about the Department of Veterans' Affairs (the Department).

I note that you have lodged an FOI request with the Department for access to information under the FOI Act but you have not received a response. Following the grant of the 15AB extension of time, the Department had until **12 March 2021** to provide you with a decision on your request. On 16 March 2021, you advised us that a decision had not been made.

You have indicated that you wish to lodge a complaint about this action and for it to be further investigated. However, please be aware that the Information Commissioner can only make non-binding recommendations as the result of a complaint. Therefore, you will *not* receive a decision and/or the documents as the outcome of a complaint.

If you wish to receive a decision and/or the requested information, the most appropriate mechanism to achieve this is through Information Commissioner review (IC review).

I will provide further information on the IC review and complaint process below:

IC review

If you disagree with an agency's or minister's decision (or their decision becomes deemed access refused), you can ask for a review of the decision. After reviewing a decision, the Information Commissioner must do one of three things:

- set the decision aside and make a fresh decision
- affirm the decision, or
- vary the decision.

An agency or minister can also be ordered to undertake further searches for documents.

FOI complaints

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.

Next steps

Can you please advise by **31 March 2021** the type of assistance you are seeking in this instance.

Yours sincerely

Poorvaja Nirmaleswaran


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s22

Sent: Tuesday, March 16, 2021 9:54 AM

To: Shelley Napper <shelley.napper@oaic.gov.au>

Subject: Re: **s22** - Extension of time under s 15AB - Decision
[SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I would like to lodge a Formal Complaint the DVA have not complied with your decision on this matter, in that, the information HAS NOT been provided.

s22

On Mar 9, 2021 at 07:14, <[Shelley Napper](#)> wrote:

Our reference **s22**

Agency reference: **s22**

s22

Sent by email: **s22**

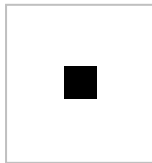
Extension of time under s 15AB

Dear **s22**

I refer to previous correspondence in relation to this matter.

Please find attached my decision of today's date.

Kind regards



Shelley Napper | Assistant Director

Freedom of Information

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GPO [Box 5218 Sydney NSW 2001](#) | [oaic.gov.au](#)

[+61 2 9284 9721](#) | [xxxxxxx.xxxxxx@xxxx.xxx.xx](#)



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Shelley Napper

Sent: Friday, 5 March 2021 11:18 AM

To: **s22**

Subject: RE: **s22** - Your query and Extension of time application by Department of Veterans' Affairs [SEC=OFFICIAL]

Our reference **s22**

Agency **s22**

s22

Sent by email **s22**

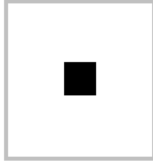
Dear **s22**

I refer to belong remail.

The response date should be **8 March 2021** rather than 8 February 2021 as stated below.

I apologise for any confusion.

Kind regards



Shelley Napper | Assistant Director

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[+61 2 9284 9721](#) | shelley.napper@oaic.gov.au

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Shelley Napper

Sent: Friday, 5 March 2021 11:15 AM

To: s22

Subject: s22 - Your query and Extension of time application by Department of Veterans' Affairs [SEC=OFFICIAL]

Our reference: s22

Agency reference: s22

s22

Sent by email s22

Your enquiry regarding the Department of Veterans' Affairs

Dear s22

On 24 February 2021, you wrote to the OAIC about the Department of Veterans' stating:

Are you aware that DVA are requesting consent from applicants on near every FOI submitted?

I have received similar to the below email on 5 recent FOI requests, and refused consent on each one due to the simple, small, and readily accessible nature of the request.

Could your Office please advise if this is appropriate behaviour by DVA.

The OAIC encourages agencies to seek an agreement to an extension of time under s 15AA of the FOI Act in the first instance when a processing timeframe may not be met and the decision date has not yet passed.

On 18 March 2020, the OAIC issued advice to agencies to assist agencies to meet statutory timeframes during the COVID-19 pandemic. The list of measures to implement included:

- Seeking agreement from the FOI applicant to an extension of time under s 15AA as part of the acknowledgment letter.

You can view the full list of appropriate steps suggested by the OAIC [here](#).

As such it is open to an agency to seek an extension from you.

Extension of time application by Department of Veterans' Affairs

I also write to advise that on 2 March 2021, the Office of the Australian Information Commissioner (the OAIC) received an application from the Department of Veterans' Affairs (the Department) for an extension of time, to process your FOI request dated 1 February 2021.

The Department has applied for an extension of time under s 15AB of the *Freedom of Information Act 1982* (Cth) because your request is considered to be complex.

The Department has advised the OAIC that:

- the search minute resulted in 148 documents of which totalled 2,360 pages of documents which need to be converted to PDF
- converting the documents to pdf is time consuming
- the Department's Info Law team are currently collating all of the documents and converting them accordingly, so as to be able to make a concise and complete decision for the applicant.

The Department has requested an **extension of 16 days to 19 March 2021**. I will take any comments you may have to make into account when deciding the application.

Please respond to this email by **close of business 8 February 2021**. If I do not hear from you by this date, I will proceed to make a decision on the basis of the information provided to me by the Department.

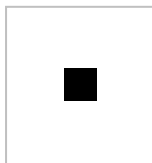
You will be notified of the decision once the matter has been finalised.

Further information about extension of time requests may be found on our website at [Extensions of time](#).

Contact

If you have any questions, please contact me on [\(02\) 9284 9721](tel:(02)92849721) or via email xxxxxxx.xxxxxx@xxxx.xxx.xx. In all correspondence please include reference number at the top of this email.

Kind regards



Shelley Napper | Assistant Director

Freedom of Information

Office of the Australian Information Commissioner

GPO [Box 5218 Sydney NSW 2001](#) | oaic.gov.au

[+61 2 9284 9721](tel:+61292849721) | xxxxxxx.xxxxxx@xxxx.xxx.xx



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FOIREQ22/00120 326

s22

Nicolaou, Irene
09-May-2022 11:19 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	16-Mar-2021 12:00 AM
Case Type:	Investigation	Received By:	Nirmaleswaran, Poorvaja
How Received:		Registered Date:	17-May-2021 5:41 PM
Owned By:	Clarke, Jasmin	Registered By:	Clarke, Jasmin
		Closed Date:	29-Oct-2021 9:12 AM
		Closed By:	Nicolaou, Irene

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	IC review sent
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	[Combined with s22]
Next Action Date:	23-Sep-2021
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	99062
Destruction Due Date:	29-Oct-2023

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

FOI Complaint regarding delay in processing. Related IC review has been X-referenced. This IC review has been withdrawn as DVA managed both FOI requests under one decision.

Issues - 1

Issue Description: Processing Request

FOIREQ22/00120 327

Is Primary Issue: Yes**Issue Comments:** Processing delay**Actions - 13 (All Completed)**

Action	Owner	Due	Completed
Ownership Reassigned	Nirmaleswaran, Poorvaja	17-May-2021	17-May-2021
Assigned to 'Nirmaleswaran, Poorvaja' by 'Nirmaleswaran, Poorvaja'			
Ownership Reassigned	Nirmaleswaran, Poorvaja	18-May-2021	18-May-2021
Reassigned from 'Nirmaleswaran, Poorvaja' to 'FOI - Complaints' by 'Nirmaleswaran, Poorvaja'			
File Note ITD - 73(b)	Clarke, Jasmin	25-May-2021	02-Jun-2021
Ownership Reassigned	Nicolaou, Irene	25-May-2021	25-May-2021
Reassigned from 'FOI - Complaints' to 'Clarke, Jasmin' by 'Nicolaou, Irene'			
Await Clearance - Director	Clarke, Jasmin	02-Jun-2021	02-Jun-2021
Thanks Jasmin - please proceed. Irene 31/5 _____ Hi Irene Thank you for your comments. Revised draft is ready for your review. Thanks, JC (27/5) _____ Thanks Jasmin couple of comments for your consideration. Irene 27/5 _____ Hi Irene Draft ITD and attachment A is ready for your review- ongoing IC review on foot. I note ITD has tracked changes in relation to the background as well. Thanks, JC (26/5)			
Await Clearance - Director	Clarke, Jasmin	24-Jun-2021	17-Jun-2021
Thanks Jasmin - please provide clean copy to RA for clearance. Irene 18/6 _____ Hi Irene Tracked changes ready for your review. Thanks, JC (17/6) _____ Hi Jasmin please consider comments within. Thanks Irene 17/6 _____ Hi Irene Draft combined closure for both complaints s22 is ready for your review. I have combined E/clearance for ease of consideration. I note the FOIA did not provide a response. Thanks, JC (17/6)			
Await Clearance - Director	Clarke, Jasmin	05-Jul-2021	29-Jun-2021
Thanks Jasmin please have a look at my comments and clarifications. Once addressed please send back up to RA. 28/6 _____ Hi Irene Revisions in track ready for your review. Thanks, JC (28/6)			
File Note	Clarke, Jasmin	01-Jul-2021	02-Sep-2021
Thanks Jasmin. Please send back to Rocelle with changes in track. Irene 18/8 _____ Hi Irene Thank you for your guidance, revisions in draft ready for your review. Thanks, JC (17/8) _____ Hi Jas thanks for your time on the call - please amend as discussed. Irene 17/8 _____ Hi Irene Draft closure ready for your review with some changes made following RA's comments. Thanks, JC (17/8) _____ Thanks you Jasmin - couple of suggestions and couple of comments. Please give it a very good proofread then ok to proceed back to RA. Any issues please raise prior. Irene 8/7 _____ Hi Irene I have added & reviewed new submissions. Draft closure is ready for your review. Thanks, JC (8/7) _____ Hi Jasmin - can you please email RA advising that we will need to pull this one back as we have had some further correspondence from the complainant that we need to consider. We then need to look at his subs in email to Tania and if we are minded to still recommend closure we need to update with new subs etc.. Thanks Irene 30/6 _____ Hi Irene Please see internal corro from Tania saved on file in relation to C wishing to withdraw IC review, but proceed with complaint. Thanks, JC (30/6)			

FOIREQ22/00120 328

File Note	Clarke, Jasmin	18-Aug-2021	08-Sep-2021
Date of lodgement corrected from 4/5/21 to 16 March 2021 the date which the original complaint was received by OAIC. (4 May 2021 was the date of confirmation of complaint etc). Irene 17/8			
File Note	Clarke, Jasmin	24-Sep-2021	01-Oct-2021
Department called - they are running a bit late but will provide a response ASAP (23/9)			
File Note	Clarke, Jasmin	28-Sep-2021	27-Sep-2021
Hi Jasmin - I spoke to Sneeha today regarding a separate matter however she mentioned that her Director sent through the s 75 response on Friday. I haven't received a copy (have you?) - if not can you please give her a call and ask that she send it through and CC you s22. Thanks Irene			
Notify relevant parties of closure	Clarke, Jasmin	29-Oct-2021	28-Oct-2021
Close Case	Clarke, Jasmin	29-Oct-2021	29-Oct-2021, Nicolaou, Irene

Documents - 35

Title	Date Added	By
s22 - Your FOI Complaint About the Department of Veterans' Affairs (s22) - Email 1 of 2 [SEC=OFFICIAL]	17-May-2021 5:47 PM	Nirmaleswaran, Poorvaja
Draft ITD template .docx	26-May-2021 9:41 AM	Clarke, Jasmin
Draft Attachment A .docx	26-May-2021 3:45 PM	Clarke, Jasmin
s22 - Your FOI complaints about the Department of Veterans' Affairs	01-Jun-2021 2:35 PM	Clarke, Jasmin
s22 - Your FOI complaints about the Department of Veterans' Affairs [SEC=OFFICIAL]	02-Jun-2021 11:35 AM	Clarke, Jasmin
Draft -Closure to C.docx	16-Jun-2021 12:19 PM	Clarke, Jasmin
Cover letter.docx	16-Jun-2021 12:22 PM	Clarke, Jasmin
s22 - Your FOI Complaint About the Department of Veterans' Affairs (s22) - Email 1 of 2 SECOFFICIAL.msg	16-Jun-2021 1:51 PM	Clarke, Jasmin
20210602-s22 -ITD to C .pdf	16-Jun-2021 1:52 PM	Clarke, Jasmin
20210602-s22 -ITD to C .pdf	16-Jun-2021 2:51 PM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	16-Jun-2021 3:03 PM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	17-Jun-2021 3:38 PM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	28-Jun-2021 11:40 AM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22) [SEC=OFFICIAL]	28-Jun-2021 3:31 PM	Clarke, Jasmin
Complaint closure to R.docx	29-Jun-2021 3:40 PM	Clarke, Jasmin
New FOI complaint- s22 [SEC=OFFICIAL]	30-Jun-2021 12:14 PM	Nirmaleswaran,

FOIREQ22/00120 329

RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	30-Jun-2021 1:21 PM	Poorvaja Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	30-Jun-2021 7:23 PM	Clarke, Jasmin
Re: IC review and complaint- DVA- s22 [SEC=OFFICIAL]	05-Jul-2021 3:33 PM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	12-Jul-2021 9:19 AM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	15-Aug-2021 9:40 AM	Clarke, Jasmin
RE: [For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	18-Aug-2021 1:44 PM	Clarke, Jasmin
Voice Mail (24 seconds)	02-Sep-2021 12:09 PM	Clarke, Jasmin
RE: s22 - FOI Complaint – Request for information SEC=OFFICIAL function is not defined!	27-Sep-2021 11:36 AM	Clarke, Jasmin
s22 - IC submissions 24.09.21(81058034.2).pdf	27-Sep-2021 11:36 AM	Clarke, Jasmin
s22 - Your Freedom of information complaints about the Department of Veterans' Affairs [SEC=OFFICIAL]	29-Oct-2021 9:10 AM	Nicolaou, Irene
Email from R.PNG	27-Sep-2021 11:28 AM	Clarke, Jasmin
[Template] s 86 Shortform - Delay - ATTACHMENT A.docx	01-Oct-2021 2:29 PM	Clarke, Jasmin
20210902 s22 s 75 Investigation Notice to R .pdf	05-Oct-2021 2:12 PM	Clarke, Jasmin
Combined s22 complaints.pdf	05-Oct-2021 2:14 PM	Clarke, Jasmin
R submissions and supporting docs.pdf	12-Oct-2021 12:31 PM	Clarke, Jasmin
s22 - Freedom of information complaints investigation – Notice on completion [SEC=OFFICIAL]	19-Oct-2021 3:42 PM	Napper, Shelley
RE: s22 - Freedom of information complaints investigation – Notice on completion [SEC=OFFICIAL]	20-Oct-2021 7:04 PM	Nicolaou, Irene
[For approval] [Draft s 86 closure to C] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	28-Oct-2021 3:12 PM	Clarke, Jasmin
RE: [For approval] [Draft s 86 closure to C] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	28-Oct-2021 3:18 PM	Clarke, Jasmin

Cross References - 3

Case	Comments
s22	
s22	

FOIREQ22/00120 330

s22

Comments - 1

Created	By	Comment
29-Oct-2021 9:12 AM	Nicolaou, Irene	Case Closed by s 47E(d) on 29-Oct-2021 09:12

From: FOIDR
To: s22
Subject: s22 - Your FOI Complaint About the Department of Veterans' Affairs (s22) - Email 2 of 2
 [SEC=OFFICIAL]
Date: Monday, 17 May 2021 5:51:00 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Our reference: s22

Agency reference: s22

s22

Dear s22

Your FOI Complaint About the Department of Veterans' Affairs

Following on from the correspondence below, this is the second email and relates to your FOI complaint regarding s22.

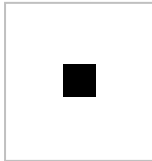
Please note:

- Once your application has been assessed, you will be advised by an investigations and review officer about the next steps in our complaints handling process.
- If your circumstances change, or your request has been resolved, please advise us by email as soon as practicable.
- Information about the way we handle your personal information is available in our [privacy policy](#).

Should you wish to follow up on this matter, please contact the OAIC enquiries line on 1300 363 992 or email xxxxx@xxxx.xxx.xx.

Yours sincerely

Poorvaja Nirmaleswaran



Intake and Early Resolution Team

Freedom of Information
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 GPO Box 5218 Sydney NSW 2001 | oaic.gov.au
 1300 363 992 | xxxxx@xxxx.xxx.xx

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From: s22
Sent: Tuesday, 4 May 2021 11:00 AM
To: FOIDR <xxxxx@xxxx.xxx.xx>
Subject: Re: s22 - Your enquiry in relation to a deemed access refusal [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

A and B.

On May 4, 2021 at 10:14, <[FOIDR](#)> wrote:

Our reference: s22

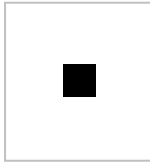
Dear s22

Please confirm if you wish proceed with the option **a) and/or b)** for us to undertake next steps:

- a. Complaint about the handling of your FOI request.
- b. Access to FOI decision and documents through IC review.

Yours sincerely

Poorvaja Nirmaleswaran



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Sent: Wednesday, 28 April 2021 9:08 AM

To: FOIDR <[xxxxx@xxxx.xxx.xx](#)>

Subject: Re: **s22** - Your enquiry in relation to a deemed access refusal [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

No, these have not been received.

I have also not heard from your department about what action you will be taking against dva.

s22

On Apr 26, 2021 at 16:09, <[FOIDR](#)> wrote:

Our reference: **s22**

Dear **s22**

Following on from the correspondence below, we would be grateful if you could confirm if you have received a decision in relation to **s22**

If not, do you wish to seek [Information Commissioner review](#)?

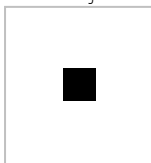
If you would prefer to discuss your options over the phone, please confirm your availabilities and best contact number.

If we do not receive a response by [Friday, 30 April 2021](#) we will proceed to close the enquiry file.

However, it is still open to you to seek IC review.

Yours sincerely

Poorvaja Nirmaleswaran



Intake and Early Resolution Team

Freedom of Information

Office of the Australian Information Commissioner

GPO [Box 5218 Sydney NSW 2001](#) | [oaic.gov.au](#)

[1300 363 992](#) | [xxxxx@xxxx.xxx.xx](#)

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FOIDR

Sent: Thursday, 25 March 2021 1:04 PM

To: **s22**

Subject: **s22** Extension of time under s 15AB - Decision [SEC=OFFICIAL]

Dear **s22**

Thank you for your email.

We acknowledge that your FOI request has not been processed within the extended timeframe. The purpose of our email was to provide you with information about your options in this instance.

Specifically, as the outcome you seek is the release of the documents, we have provided information about the IC review process. We note you will *not* receive a decision and/or the

documents as the outcome of a complaint.

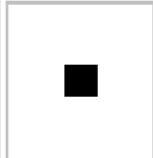
We would be grateful if you could confirm in writing if you wish seek IC review of s22

If you would prefer to discuss your options over the phone, please confirm your availabilities and best contact number.

We look forward to your response.

Yours sincerely

Poorvaja Nirmaleswaran



Intake and Early Resolution Team

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s22

Sent: Thursday, 25 March 2021 9:26 AM

To: FOIDR <foidr@oaic.gov.au>

Subject: Re: s22 - Extension of time under s 15AB - Decision [SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I do not understand the emails you have sent.

DVA asked for an extension of time on an FOI request of mine, your office granted an 8 day extension which expired weeks ago. I am attempting to inform your office that DVA did not comply with your decision and I still have not received the documents.

s22

On 2021-03-24 09:45, FOIDR wrote:

Our reference: s22

Agency reference: s22

Dear s22

Thank you for your correspondence below, seeking to lodge a complaint about the Department of Veterans' Affairs (the Department).

I note that you have lodged an FOI request with the Department for access to information under the FOI Act but you have not received a response. Following the grant of the 15AB extension of time, the Department had until **12 March 2021** to provide you with a decision on your request. On 16 March 2021, you advised us that a decision had not been made.

You have indicated that you wish to lodge a complaint about this action and for it to be further investigated. However, please be aware that the Information Commissioner can only make non-binding recommendations as the result of a complaint. Therefore, you will *not* receive a decision and/or the documents as the outcome of a complaint.

If you wish to receive a decision and/or the requested information, the most appropriate mechanism to achieve this is through Information Commissioner review (IC review).

I will provide further information on the IC review and complaint process below:

IC review

If you disagree with an agency's or minister's decision (or their decision becomes deemed access refused), you can ask for a review of the decision. After reviewing a decision, the Information Commissioner must do one of three things:

- set the decision aside and make a fresh decision
- affirm the decision, or
- vary the decision.

An agency or minister can also be ordered to undertake further searches for documents.

FOI complaints

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.

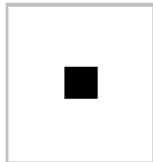
In some cases, the Information Commissioner's investigation of a complaint may lead to the agency addressing the issues that you have complained about. In other cases, the Information Commissioner may make suggestions or recommendations that the agency should implement. The Information Commissioner can only make non-binding recommendations as a result of a complaint. You and the agency will be notified of the outcome of the investigation.

Next steps

Can you please advise by **31 March 2021** the type of assistance you are seeking in this instance.

Yours sincerely

Poorvaja Nirmaleswaran




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s22

Sent: Tuesday, March 16, 2021 9:54 AM

To: Shelley Napper <shelley.napper@oaic.gov.au>

Subject: Re: **s22** - Extension of time under s 15AB - Decision
[SEC=OFFICIAL]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning,

I would like to lodge a Formal Complaint the DVA have not complied with your decision on this matter, in that, the information HAS NOT been provided.

s22

On Mar 9, 2021 at 07:14, <Shelley.Napper> wrote:

Our reference: s22

Agency reference: s22

s22

Sent by email: s22

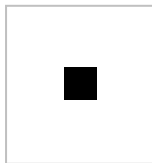
Extension of time under s 15AB

Dear s22

I refer to previous correspondence in relation to this matter.

Please find attached my decision of today's date.

Kind regards



Shelley Napper | Assistant Director

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Shelley Napper

Sent: Friday, 5 March 2021 11:18 AM

To: s22

Subject: RE: s22 - Your query and Extension of time application by Department of Veterans' Affairs [SEC=OFFICIAL]

Our reference: s22

Agency reference: s22

s22

Sent by email: s22

Dear s22

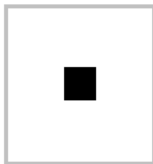
I refer to belong remail.

The response date should be **8 March 2021** rather than 8 February 2021 as stated below.

I apologise for any confusion.

Kind regards

Shelley Napper | Assistant Director



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Shelley Napper

Sent: Friday, 5 March 2021 11:15 AM

To: s22

Subject: s22 - Your query and Extension of time application by Department of Veterans' Affairs [SEC=OFFICIAL]

Our reference: s22

Agency reference: s22

s22

Sent by email s22

Your enquiry regarding the Department of Veterans' Affairs

Dear s22

On 24 February 2021, you wrote to the OAIC about the Department of Veterans' stating:

Are you aware that DVA are requesting consent from applicants on near every FOI submitted?

I have received similar to the below email on 5 recent FOI requests, and refused consent on each one due to the simple, small, and readily accessible nature of the request.

Could your Office please advise if this is appropriate behaviour by DVA.

The OAIC encourages agencies to seek an agreement to an extension of time under s 15AA of the FOI Act in the first instance when a processing timeframe may not be met and the decision date has not yet passed.

On 18 March 2020, the OAIC issued advice to agencies to assist agencies to meet statutory timeframes during the COVID-19 pandemic. The list of measures to implement included:

- Seeking agreement from the FOI applicant to an extension of time under s 15AA as part of the acknowledgment letter.

You can view the full list of appropriate steps suggested by the OAIC [here](#).

As such it is open to an agency to seek an extension from you.

Extension of time application by Department of Veterans' Affairs

I also write to advise that on 2 March 2021, the Office of the Australian Information Commissioner (the OAIC) received an application from the Department of Veterans' Affairs (the Department) for an extension of time, to process your FOI request dated 1 February 2021.

The Department has applied for an extension of time under s 15AB of the *Freedom of Information Act 1982* (Cth) because your request is considered to be complex.

The Department has advised the OAIC that:

- the search minute resulted in 148 documents of which totalled 2,360 pages of documents which need to be converted to PDF
- converting the documents to pdf is time consuming
- the Department's Info Law team are currently collating all of the documents and converting them accordingly, so as to be able to make a concise and complete decision for the applicant.

The Department has requested an **extension of 16 days to 19 March 2021**. I will take any comments you may have to make into account when deciding the application.

Please respond to this email by **close of business 8 February 2021**. If I do not hear from you by this date, I will proceed to make a decision on the basis of the information provided to me by the Department.

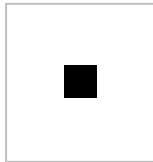
You will be notified of the decision once the matter has been finalised.

Further information about extension of time requests may be found on our website at [Extensions of time](#).

Contact

If you have any questions, please contact me on [\(02\) 9284 9721](tel:(02)92849721) or via email xxxxxxx.xxxxxx@xxxx.xxx.xx. In all correspondence please include reference number at the top of this email.

Kind regards



Shelley Napper | Assistant Director

Freedom of Information

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[+61 2 9284 9721](tel:+61292849721) | xxxxxxx.xxxxxx@xxxx.xxx.xx



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FOIREQ22/00120 339

s22

Nicolaou, Irene
09-May-2022 11:19 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	16-Mar-2021 12:00 AM
Case Type:	Investigation	Received By:	Nirmaleswaran, Poorvaja
How Received:		Registered Date:	17-May-2021 5:48 PM
Owned By:	Clarke, Jasmin	Registered By:	Clarke, Jasmin
		Closed Date:	29-Oct-2021 9:11 AM
		Closed By:	Nicolaou, Irene

Case Details

Stage:	Closed
How Received:	Email
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	IC review sent
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	Closure w FOIC
Next Action Date:	26-Oct-2021
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	99062
Destruction Due Date:	29-Oct-2023

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

FOI handling - deemed access refusal.

Issues - 1

Issue Description: Processing Request
Is Primary Issue: Yes

FOIREQ22/00120 340

Issue Allegation: processing delay**Issue Outcome:** s86 - no recommendations made**Actions - 25 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Nirmaleswaran, Poorvaja	19-May-2021	18-May-2021
Ownership Reassigned	Nirmaleswaran, Poorvaja	17-May-2021	17-May-2021

Assigned to 'Nirmaleswaran, Poorvaja' by 'Nirmaleswaran, Poorvaja'

Move to Triage basket (FC REG)	Nirmaleswaran, Poorvaja	19-May-2021	18-May-2021
Allocate to Triage Officer (FC TR)	Clarke, Jasmin	19-May-2021	28-Oct-2021
Ownership Reassigned	Nirmaleswaran, Poorvaja	18-May-2021	18-May-2021

Assigned to 'FOI - Triage' by 'Nirmaleswaran, Poorvaja'

Ownership Reassigned	Nirmaleswaran, Poorvaja	18-May-2021	18-May-2021
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Reassigned from 'Nirmaleswaran, Poorvaja' to 'FOI - Complaints' by 'Nirmaleswaran, Poorvaja'

File Note ITD - 73(b)	Clarke, Jasmin	25-May-2021	02-Jun-2021
--------------------------	----------------	-------------	-------------

Ownership Reassigned	Nicolaou, Irene	25-May-2021	25-May-2021
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Reassigned from 'FOI - Complaints' to 'Clarke, Jasmin' by 'Nicolaou, Irene'

Await Clearance - Director	Clarke, Jasmin	08-Jun-2021	02-Jun-2021
----------------------------	----------------	-------------	-------------

Thanks Jasmin. Please proceed 1/6 _____. Hi Irene Thank you for clearing s22 the related matter. ITD and attachment A is ready for your review with minor changes to the background wording to reflect the request (s22). Just of note, the date we received the complaint was 16 March 2021 in emails, but in both resolve files it is dated as 4 May 2021 (this date is when it was actually confirmed by A to proceed with complaint/IC reviews). I have adjusted the wording of the background to reflect this for both s22 and s22. Once cleared, i will send as one email as discussed. Thanks, JC (1/6)

File Note	Clarke, Jasmin	01-Jul-2021	30-Jun-2021
-----------	----------------	-------------	-------------

Hi Jasmin I've saved internal correspondence from Tania on the matters s22. She has been contact with s22 in relation to the IC review application. Though this has now been withdrawn, he wants to pursue the complaint. The relevant email and attachments are saved to the file for your consideration. PN: 30/06/2021

File Note	Clarke, Jasmin	18-Aug-2021	08-Sep-2021
-----------	----------------	-------------	-------------

Date of lodgement corrected from 4/5/21 to 16 March 2021 the date which the original complaint was received by OAIC. (4 May 2021 was the date of confirmation of complaint etc). Irene 17/8

File Note	Clarke, Jasmin	01-Sep-2021	02-Sep-2021
-----------	----------------	-------------	-------------

Thanks Jasmin - please proceed pending acceptance of track and addressing comments. Irene 1/9
_____. Hi Irene Thank you for your comments & guidance, revised drafts for both docs is ready for

FOIREQ22/00120 341

your review. Thanks, JC (1/9) _____ Thanks Jasmin appreciate the timely response. Please see comments within and I have also attached a draft s 75 to C notification (please include on XX wrote to you to regarding my proposed recommendation to the IC. On XX you responded providing submissions which have been taken into consideration. etc... _____ Hi Irene Draft s 75 is ready for your review, i note a couple of comments for your consideration. Thanks, JC (31/8) _____ Hi Jasmin The FOIC has assessed this matter as proceeding to investigation. Please draft combined investigation notice (s 75). I have added the template onto the docs tab. Thanks Irene 31/8/21

Phone message - Respondent or Rep Clarke, Jasmin 03-Sep-2021 02-Sep-2021

VM to R called back to answer queries in relation to s 75 email sent this morning. Advised to call back to discuss. JC (2/9)

Phone call - Respondent or Rep Clarke, Jasmin 03-Sep-2021 01-Oct-2021

Spoke with Jess R's interpretation is decision was not deemed as C did not access documents/decision or was unaware they had been provided to him. I advised that the notice provided R the opportunity to outline the details of the alleged delay and provide further detail on the circumstances of providing the decision. Was a little confused between difference of IC review and complaints process. Explained the dif and that both IC reviews were withdrawn and C still wanted to proceed with complaint. Also advised a combined response could be provided and if any confidential subs then to provide us notice prior. Any further questions to contact me JC (2/09)

Phone call - Respondent or Rep Clarke, Jasmin 24-Sep-2021 01-Oct-2021

Department called - they are running a bit late but will provide a response ASAP (23/9)

File Note Clarke, Jasmin 28-Sep-2021 27-Sep-2021

Sent ack to R in relation to subs for s 75 via secure email portal. JC (27/9)

File Note Clarke, Jasmin 07-Oct-2021 19-Oct-2021

Dear Jasmin As discussed, we will need to have a meeting with Irene to discuss next steps. Can you please prepare a very brief timeline like we would do for an EOT matter, setting ut the key processing dates and the decision due dates at each step? Thanks SN (6/10) _____ Hi Shelley Draft s 86 is ready for your review with a couple of comments. I note IN emailed this template and i was unsure if i'm missing another template? or if this is a combined short form template? Clearance/tabs are complete ready to go. Thanks, JC (6/10)

File Note Napper, Shelley 08-Oct-2021 08-Oct-2021, Clarke, Jasmin

Hi Shelley As discussed this morning with IN, draft s 86 and attachment A is ready for your review. Thanks, JC (7/10)

File Note Clarke, Jasmin 11-Oct-2021 12-Oct-2021

Hi Jasmin thank you for the drafts. Please prepare clean copies of the documents for Rocelle's clearance. - Please note a couple of comments in Attachment A for fact checking (please raise if I have gotten anything wrong) - Please leave comment in letter for Rocelle re who to address it to. Please ensure the snapshot is consistent with the tabs. Thanks Irene 12/10 _____ Hi Irene Draft s 86 letter and attachment A is ready for your review. Thanks, JC (12/10) _____ Dear Jasmin Thank you for your work on this. As discussed, please comb Annex A into one document. Please leave comments/tracked changes on the draft docs. Please conduct a final review of all relevant docs and then please send to Irene for review. Happy to discuss. Thanks SN (12/10) _____ Hi Shelley Revised draft s 86 letter and attachment A ready for your review. Thanks, JC (8/10)

FOIREQ22/00120 342

File Note Clarke, Jasmin 18-Oct-2021 19-Oct-2021

Thank you Jas please send back up to Rocelle with track changes so she can see updates. Thanks Irene 15/10 _____ Hi Irene Draft attachment A and 86 letter is ready for your review. I made tracked changes in both so you can see RA's changes and my own. In letter to A- i've left the yellow highlight in for the dates, once approved by FOIC i'll amend. Thanks, JC (15/10)

File Note Clarke, Jasmin 20-Oct-2021 19-Oct-2021, Napper, Shelley

Hi Jasmin You will need to save the attachments to the email to your desktop so you can rename them appropriately/consistently. Please see s22 _____ email of 6/10 for example. Happy to discuss. Thanks SN (19/10) _____ Hi Shelley Draft email to R is ready for your review with attachments. Just wanted to make sure i had everything correct before sending. Thank you, JC (19/10)

Correspondence from respondent Clarke, Jasmin 29-Oct-2021 28-Oct-2021

Comments in - accept findings. We now need to proceed to the 'For Noting' and closure to C process. I will send you an email outlining the process. Thanks Irene

File Note Clarke, Jasmin 29-Oct-2021 28-Oct-2021

Hi Jasmin Thanks for actioning this so quickly. Please see comments/ suggestions in each. If you agree with approach please provide clean attachment (R comments and draft C letter) to the email to FOIC. Please cc me and Rocelle and note that these have been cleared by me. Thanks Irene _____ Hi Irene Draft email to FOIC and C is ready for your review, as well as the draft closure to C with one comment. Thanks, JC (28/10)

Notify relevant parties of closure Clarke, Jasmin 29-Oct-2021 28-Oct-2021

Close Case Clarke, Jasmin 29-Oct-2021 29-Oct-2021, Nicolaou, Irene

Documents - 55

Title	Date Added	By
s22 _____ - Your FOI Complaint About the Department of Veterans' Affairs s22 _____ - Email 2 of 2 [SEC=OFFICIAL]	17-May-2021 5:51 PM	Nirmaleswaran, Poorvaja
Draft ITD template to C .docx	27-May-2021 6:07 PM	Clarke, Jasmin
Draft Attachment A-- .docx	27-May-2021 6:36 PM	Clarke, Jasmin
New FOI complaint- s22 _____ [SEC=OFFICIAL]	30-Jun-2021 12:14 PM	Nirmaleswaran, Poorvaja
working notes	25-Aug-2021 4:40 PM	Hampton, Elizabeth
[TEMPLATE] s 75 Investigation Notice - Delays - Including EH and RA additions - 31082021.docx	31-Aug-2021 8:34 AM	Nicolaou, Irene
[TEMPLATE] s 75 Investigation Notice to Complainant.docx	31-Aug-2021 4:16 PM	Nicolaou, Irene
Combined s22 _____ complaints.pdf	02-Sep-2021 10:22 AM	Clarke, Jasmin
s22 _____ - FOI Complaint - Request for information [SEC=OFFICIAL]	02-Sep-2021 10:35 AM	Clarke, Jasmin
s22 _____ - Your FOI complaints about the Department of Veterans' Affairs - [SEC=OFFICIAL]	02-Sep-2021 10:36 AM	Clarke, Jasmin
Automatic reply: s22 _____ - FOI Complaint - Request for information	02-Sep-2021 10:37 AM	Clarke, Jasmin

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[SEC=OFFICIAL]		
RE: s22 - FOI Complaint – Request for information [SEC=OFFICIAL]	23-Sep-2021 5:18 PM	Clarke, Jasmin
RE: s22 - FOI Complaint – Request for information [SEC=OFFICIAL]	23-Sep-2021 5:33 PM	Clarke, Jasmin
RE: s22 - FOI Complaint – Request for information SEC=OFFICIAL function is not defined!	24-Sep-2021 6:52 PM	Clarke, Jasmin
Email from R.PNG	27-Sep-2021 11:28 AM	Clarke, Jasmin
[Template] s 86 Shortform - Delay - ATTACHMENT A.docx	01-Oct-2021 2:29 PM	Clarke, Jasmin
20210902-s22 s 75 Investigation Notice to R .pdf	05-Oct-2021 2:12 PM	Clarke, Jasmin
Combined s22 complaints.pdf	05-Oct-2021 2:14 PM	Clarke, Jasmin
	05-Oct-2021 3:06 PM	Clarke, Jasmin
- s 86 Notice - Letter to Department.docx	06-Oct-2021 10:25 AM	Clarke, Jasmin
Davis timeline.docx	06-Oct-2021 2:55 PM	Clarke, Jasmin
R submissions and supporting docs.pdf	12-Oct-2021 12:31 PM	Clarke, Jasmin
[For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	12-Oct-2021 3:14 PM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	12-Oct-2021 4:23 PM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	13-Oct-2021 8:30 AM	Clarke, Jasmin
Resolve Administration Access Requirement.docx	13-Oct-2021 12:52 PM	Walsh, Catherine
RE: [For approval] [Draft s 86 notice] s22 the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	14-Oct-2021 3:49 PM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	15-Oct-2021 3:28 PM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	15-Oct-2021 5:16 PM	Clarke, Jasmin
18-10-21-s22 - s 86 Notice - Letter to Department - Copy.docx	18-Oct-2021 8:28 AM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	18-Oct-2021 8:48 AM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	19-Oct-2021 9:35 AM	Clarke, Jasmin
RE: [For approval] [Draft s 86 notice] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL]	19-Oct-2021 10:27 AM	Clarke, Jasmin
18-10-21-s22 s 86 Notice - Letter to Department.pdf	19-Oct-2021 12:44 PM	Nicolaou, Irene

FOIREQ22/00120 344

RE: [For Commissioner approval] FOI Complaint - s 86 notice: s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL])	19-Oct-2021 12:40 PM	Clarke, Jasmin
s22 - Freedom of information complaints investigation – Notice on completion	19-Oct-2021 2:10 PM	Clarke, Jasmin
18-10-21 s22 s 86 Notice - Letter to Department.pdf	19-Oct-2021 3:26 PM	Nicolaou, Irene
s22 - Freedom of information complaints investigation – Notice on completion [SEC=OFFICIAL]	19-Oct-2021 3:42 PM	Napper, Shelley
RE: s22 Freedom of information complaints investigation – Notice on completion [SEC=OFFICIAL]	20-Oct-2021 7:04 PM	Nicolaou, Irene
RE: s22 - Freedom of information complaints investigation – Notice on completion [SEC=OFFICIAL]	28-Oct-2021 8:13 AM	Clarke, Jasmin
Draft email summary.docx	28-Oct-2021 11:34 AM	Clarke, Jasmin
[Template] - s 86 Closure to complainant.docx	28-Oct-2021 11:47 AM	Clarke, Jasmin
s22 - Your Freedom of information complaints about the Department of Veterans' Affairs	28-Oct-2021 11:53 AM	Clarke, Jasmin
[For approval] [Draft closure to C s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL])	28-Oct-2021 12:49 PM	Clarke, Jasmin
[For approval] [Draft s 86 closure to C] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL])	28-Oct-2021 3:12 PM	Clarke, Jasmin
RE: [For approval] [Draft s 86 closure to C] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL])	28-Oct-2021 3:18 PM	Clarke, Jasmin
s22 - Your Freedom of information complaints about the Department of Veterans' Affairs [SEC=OFFICIAL]	28-Oct-2021 5:01 PM	Clarke, Jasmin
s22 - Your Freedom of information complaints about the Department of Veterans' Affairs [SEC=OFFICIAL]	29-Oct-2021 9:10 AM	Nicolaou, Irene
s22 - Your FOI complaints about the Department of Veterans' Affairs [SEC=OFFICIAL]	02-Jun-2021 11:35 AM	Clarke, Jasmin
Draft -Closure to C.docx	16-Jun-2021 12:19 PM	Clarke, Jasmin
Cover letter.docx	16-Jun-2021 12:22 PM	Clarke, Jasmin
s22 - Your FOI Complaint About the Department of Veterans' Affairs s22 - Email 1 of 2 SECOFFICIAL.msg	16-Jun-2021 1:51 PM	Clarke, Jasmin
20210602 s22 -ITD to C .pdf	16-Jun-2021 1:52 PM	Clarke, Jasmin
20210602 s22 -ITD to C .pdf	16-Jun-2021 2:51 PM	Clarke, Jasmin
[For approval] [Draft FOI complaint closure] s22 and the Department of Veterans' Affairs (OAIC ref: s22 [SEC=OFFICIAL])	16-Jun-2021 3:03 PM	Clarke, Jasmin

FOIREQ22/00120 345

Cross References - 2

Case	Comments
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s22	
-----	--

s22	
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Comments - 1

Created	By	Comment
29-Oct-2021 9:11 AM	Nicolaou, Irene	Case Closed by s 47E(d) on 29-Oct-2021 09:11

Getting started

The Office of the Australian Information Commissioner can review a Freedom of Information (FOI) decision made by an Australian Government agency or an Australian Government Minister.

The Office does not review FOI decisions made by State, Territory or local government agencies.

The Office encourages you to apply for an internal review by the agency before lodging a request for review with this Office. Information relating to the internal review process (<https://www.oaic.gov.au/freedom-of-information/reviews/internal-review/>) is available on our website (<https://www.oaic.gov.au/>).

Information relating to the Information Commissioner review process (<https://www.oaic.gov.au/freedom-of-information/reviews/information-commissioner-review-process/>) is available on our website. Part 10 of the FOI Guidelines (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>) (Review by the Information Commissioner) describes the principles that inform the Oaic's approach to Information Commissioner review.

An application for review must be submitted in writing, either via this form, an email, by fax or in a letter. If you have trouble completing this form please send an email to FOIDR@oaic.gov.au or contact our enquiries line on 1300 363 992.

Your details - IC review applicant

If you have contacted the OAIC previously about this or another matter, please provide your previous reference number (eg E11/00001, MR18/00001)

Title

Given name *

Family name *

Preferred contact method (you must provide at least one contact method) *

Email	Phone	Post	Other
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Email address *

Phone (daytime)

Mobile

Post address

Other contact details (eg. fax or international address)

Do you require any assistance to participate in the IC review process?

For example: an interpreter. Please detail below.

Do you have someone you would like to represent you in your review? *

Yes	No
-----	----

Review details

Agency or Minister

Please select the Australian Government agency or Minister that made the decision you want reviewed. If you want more than one decision reviewed, you will need to make a separate application for each decision. *

Australian Government Agency
Minister

Agency information

Please select the Australian Government Agency that made the decision you want reviewed. *

- ☐ Administrative Appeals Tribunal
- ☐ Attorney General's Department
- ☐ Australian Federal Police
- ☐ Australian Securities and Investments Commission
- ☐ Australian Taxation Office
- ☐ Australian Transaction Reports and Analysis Centre
- ☐ Commonwealth Ombudsman
- ☐ Department of Defence
- ☐ Department of Education
- ☐ Department of Jobs and Small Business
- ☐ Department of Foreign Affairs and Trade
- ☐ Department of Health
- ☐ Department of Human Services
- ☐ Department of Home Affairs
- ☐ Department of Prime Minister and Cabinet
- ☐ Department of Social Services
- ☐ Department of the Treasury
- ☒ Department of Veterans' Affairs
- ☐ Other

Previous contact with agency

If the agency has given you a reference number relevant to your FOI request, please provide it here.

NOTE: We do not need to know your fax or phone number, so please do not provide it.

Information Commissioner review details

Have you received a decision? *

☐ Yes

☒ No

There are time limits for lodging a review application. For further information about the time limits for applying (https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/#) please refer to the information available on our website.

When did you make the FOI request? *

When was the decision due? *

Did the agency give you a reference number for your FOI request? *

☐ Yes

☒ No

Did the OIA or the agency contact you about an extension of time in relation to your request? *

☐ Yes

☒ No

Does your Information Commissioner review application relate to other legal proceedings? *

(for example, Administrative Appeals Tribunal, Federal Court, Federal Circuit Court etc.)

☐ Yes

☒ No

What action or result would you like from the Information Commissioner? *

It is not satisfactory for there to have been a delay in the release of my information via FOI. I had to follow this matter up with DVA in March and they apologised advising that the request was lost, although the request was made via email correspondence - how could this request have been lost?

I have since received correspondence from DVA this week that they are processing the matter, however no timeline has been provided and I have been advised instead that there are 600 pages, so they will need additional time to review the documents.

I also have an outstanding matter with DVA and s22 [REDACTED] relating to a significant privacy breach of my information, which I believe the OIA is involved with, however I have not been provided with exact details as to how OIA has been involved or where the privacy breach investigation is up to.

Both of these matters to me highlight the dysfunction of the department and a review should occur as to why there has been a delay in the FOI and no communication about due dates, as well as where the investigation is up to with my privacy breach concerns and whether OIA have been made aware of this and the process occurring.

Supporting documents

To assist us, please provide the following:

- a copy of your original FOI request to the Agency or Minister
- a copy of the decision made on your request if one has been received, and
- any correspondence you have had with the Agency or Minister.

If you are lodging the review for someone else, you should attach any documents which indicate you are authorised to act for that person. You can attach these documents electronically or provide them by post.

You may also attach other relevant documents that support your application.

*Files you attach **must**:*

- be in *.jpg, *.gif, *.png, *.pdf, *.doc, *.docx, *.xls, *.xlsx, *.xlsx format
- be no more than five files
- in total be no larger than 20MB.

Original FOI request and privacy complaint.docx



Email correspondence with DVA.docx



Update on FOI - correspondence.docx



Do you have any paper documents you will be providing to the OAIC? *

Yes

No

Submission

Submitting your application for review

Please review the information you have provided in this form. If you would like to change anything, you can return to the relevant section by using the **Go Back** button.

Once you are ready to submit your form, click the **Submit** button below.

Once you submit your form, you will be taken to a confirmation page. This page will provide a receipt number for your submission, and you will be able to download a copy of your completed form or have a copy sent to an email address of your choice.

Further information about the Information Commissioner review process (<https://www.oaic.gov.au/freedom-of-information/foi-guides/part-10-review-by-the-information-commissioner/>), including about what happens when an Information Commissioner review application is made (<https://www.oaic.gov.au/freedom-of-information/foi-guides/part-10-review-by-the-information-commissioner/#steps-in-the-information-commissioner-review-process>), can be found on our website (<https://www.oaic.gov.au/>).

FOIREQ22/00120 352

s22

Nicolaou, Irene
09-May-2022 11:21 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	25-May-2021 12:00 AM
Case Type:	Investigation	Received By:	Nirmaleswaran, Poovaja
How Received:		Registered Date:	01-Jun-2021 3:33 PM
Owned By:	Nicolaou, Irene	Registered By:	Nicolaou, Irene
		Closed Date:	18-Oct-2021 1:47 PM
		Closed By:	Nicolaou, Irene

Case Details

Stage:	Closed
How Received:	Phone
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	IC review sent
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
Privacy Case Type:	Primary
Assessor Note:	s 86 - no recs
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	99062
Destruction Due Date:	18-Oct-2023

Case Parties - 3

Complainant Client:	s22
Respondent Client:	DVA - Department of Veterans' Affairs
Respondent Contact:	FOI Contact Officer

Summary

Called A to follow up response to proceed emails. A advised he does not wish to proceed with IC review of R's substantive decision, he does not take issue with that. However A does wish to pursue a complaint about the way R handled his FOI request- in particular the time it took to issue a decision on his request.

Issues - 1**Issue Description:** Processing Request

FOIREQ22/00120 353

Is Primary Issue: Yes**Issue Allegation:** processing delay**Issue Outcome:** s86 - no recommendations made**Actions - 13 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	Nirmaleswaran, Poorvaja	03-Jun-2021	01-Jun-2021
Move to Triage basket (FC REG)	FOI - Triage	02-Jun-2021	01-Jun-2021, Nirmaleswaran, Poorvaja
Allocate to Triage Officer (FC TR)	FOI - Triage	02-Jun-2021	10-Jun-2021, Nirmaleswaran, Poorvaja
Ownership Reassigned	Nirmaleswaran, Poorvaja	01-Jun-2021	01-Jun-2021
Assigned to 'FOI - Triage' by 'Nirmaleswaran, Poorvaja'			
Ownership Reassigned	Nirmaleswaran, Poorvaja	10-Jun-2021	10-Jun-2021
Assigned to 'Nirmaleswaran, Poorvaja' by 'Nirmaleswaran, Poorvaja'			
File Note	Nicolaou, Irene	11-Jun-2021	31-Aug-2021
Dear Irene This matter has been registered off the back of a withdrawn IC review. I've just moved it across to complaints. PN: 10/06/2021			
File Note	FOI - Complaints	11-Jun-2021	31-Aug-2021, Nicolaou, Irene
Conduct PIs			
Ownership Reassigned	Nirmaleswaran, Poorvaja	10-Jun-2021	10-Jun-2021
Reassigned from 'FOI - Triage' to 'FOI - Complaints' by 'Nirmaleswaran, Poorvaja'			
Phone call - Respondent or Rep	Nicolaou, Irene	24-Sep-2021	18-Oct-2021
Neveh called s22 requesting an EOT to put it in writing and we would consider. Indicated it would not be a problem.			
Ownership Reassigned	Nicolaou, Irene	23-Sep-2021	23-Sep-2021
Reassigned from 'FOI - Complaints' to 'Nicolaou, Irene' by 'Nicolaou, Irene'			
Phone call - Respondent or Rep	Nicolaou, Irene	13-Oct-2021	12-Oct-2021
Spoke to Hirani (Director) advise s 86 is coming and discussed next steps - she thanked me for the call and will await Notice.			
Notify relevant parties of closure	Nicolaou, Irene	19-Oct-2021	18-Oct-2021
Close Case	Nicolaou, Irene	19-Oct-2021	18-Oct-2021

Documents - 25

Title	Date Added	By
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FOIREQ22/00120 354

FW: s22 - Applicant wishes to withdraw IC review (deemed) and pursue complaint on delay - DVA [SEC=OFFICIAL]	28-May-2021 11:14 AM	Nirmaleswaran, Poorvaja
RE: s22 - Applicant wishes to withdraw IC review (deemed) and pursue complaint on delay - DVA [SEC=OFFICIAL]	01-Jun-2021 3:38 PM	Nirmaleswaran, Poorvaja
s22 - Your FOI Complaint About the Department of Veterans' Affairs s22) [SEC=OFFICIAL]	10-Jun-2021 3:38 PM	Nirmaleswaran, Poorvaja
[TEMPLATE] s 75 Investigation Notice - Delays - Including EH and RA additions - 31082021.docx form-receipt.pdf	31-Aug-2021 8:39 AM	Nicolaou, Irene
s22 - Your FOI Complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	06-Sep-2021 10:20 AM	Nicolaou, Irene
s22 - FOI Complaint - Notice of Investigation [SEC=OFFICIAL]	06-Sep-2021 10:33 AM	Nicolaou, Irene
RE: s22 - FOI Complaint - Notice of Investigation [SEC=OFFICIAL]	06-Sep-2021 10:33 AM	Nicolaou, Irene
RE: s22 - FOI Complaint - Notice of Investigation [SEC=OFFICIAL]	23-Sep-2021 5:14 PM	Nicolaou, Irene
RE: s22 - FOI Complaint - Notice of Investigation [SEC=OFFICIAL]	24-Sep-2021 12:05 PM	Nicolaou, Irene
s22 - s 86 Notice - ATTACHMENT A.docx	01-Oct-2021 1:58 PM	Nicolaou, Irene
RE: s22 - FOI Complaint - Notice of Investigation [SEC=OFFICIAL]	05-Oct-2021 4:06 PM	Nicolaou, Irene
RE: s22 - FOI Complaint - Notice of Investigation [SEC=OFFICIAL]	07-Oct-2021 5:54 PM	Nicolaou, Irene
s22 [SEC=OFFICIAL]	11-Oct-2021 11:49 AM	Nicolaou, Irene
Draft s 86 notice s 22 .docx	11-Oct-2021 1:58 PM	Nicolaou, Irene
s22 - s 86 Notice to Respondent.docx	11-Oct-2021 2:28 PM	Nicolaou, Irene
[Draft s 86 Notice] s22 - Draft s 86 - DVA and s22 [SEC=OFFICIAL]	11-Oct-2021 4:14 PM	Nicolaou, Irene
RE: [FOI Commissioner approval] Section 86 notice - s22 and Department of Veterans' Affairs (OAIC ref no s22) [SEC=OFFICIAL]	12-Oct-2021 1:57 PM	Nicolaou, Irene
s22 - FOI Complaint - Notice on Completion s22 [SEC=OFFICIAL]	12-Oct-2021 3:01 PM	Nicolaou, Irene
s22 - FOI complaint - Notice on completion [SEC=OFFICIAL]	12-Oct-2021 2:51 PM	Nicolaou, Irene
FW: Correspondence Secretary, Department of Veterans' Affairs [SEC=OFFICIAL]	17-Oct-2021 2:43 PM	Nicolaou, Irene
s22 - s 86 Notice Closure to Complainant.docx	18-Oct-2021 9:59 AM	Nicolaou, Irene
[For noting] Section 86 Notice FOI Complaint - Next steps - s22 and DVA s 22 [SEC=OFFICIAL]	18-Oct-2021 11:39 AM	Nicolaou, Irene
RE: [For noting] Section 86 Notice FOI Complaint - Next steps - s22 and DVA - s 22 [SEC=OFFICIAL]	18-Oct-2021 12:26 PM	Nicolaou, Irene
s22 - Your FOI complaint about the Department of Veterans' Affairs [SEC=OFFICIAL]	18-Oct-2021 1:38 PM	Nicolaou, Irene
s22 - FOI complaint - s22	18-Oct-2021 1:45 PM	Nicolaou, Irene

FOIREQ22/00120 355

[SEC=OFFICIAL]

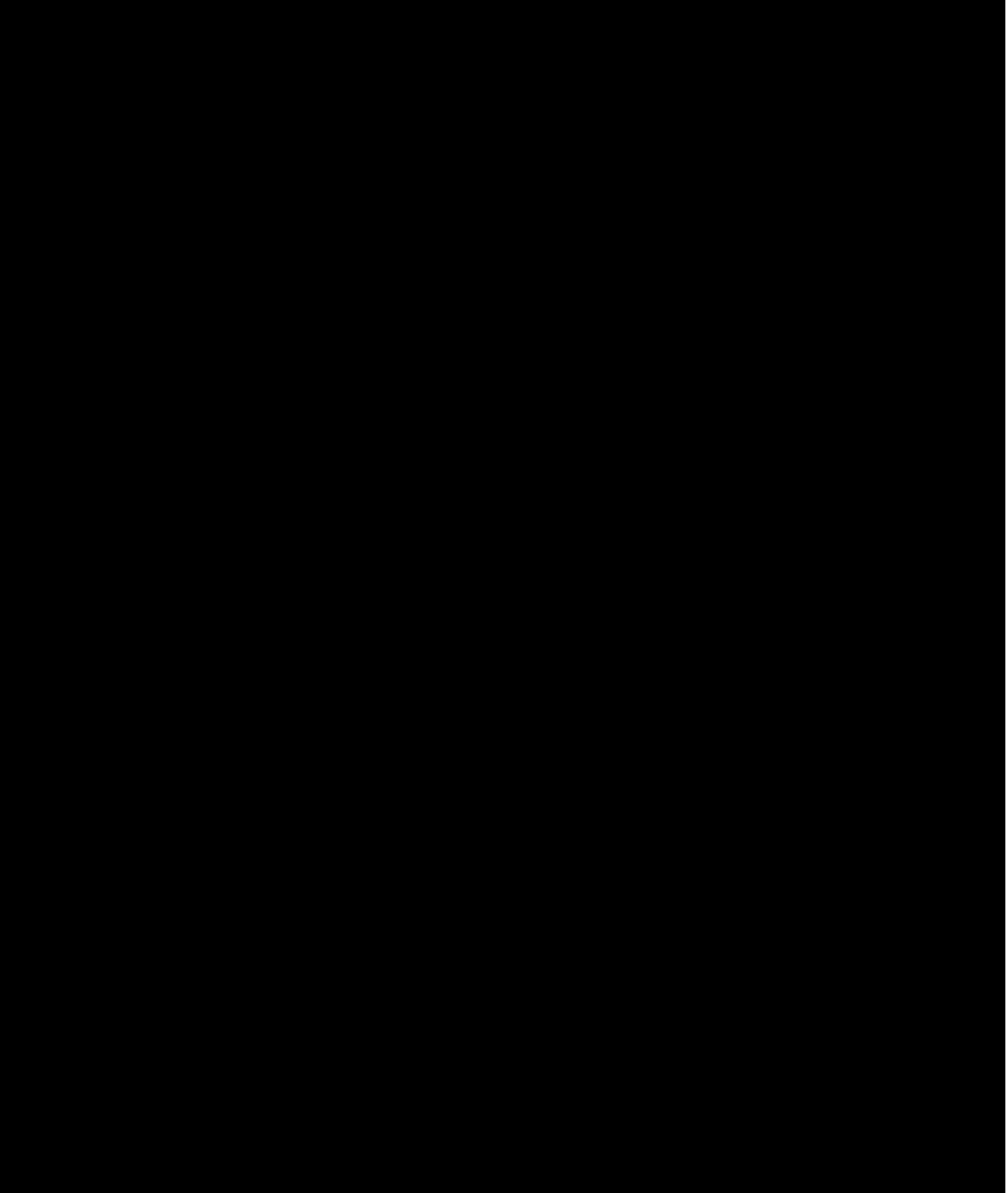
Cross References - 1

Case	Comments
s22	FOI Complaint

Comments - 1

Created	By	Comment
18-Oct-2021 1:47 PM	Nicolaou, Irene	Case Closed by s 47E(d) on 18-Oct-2021 13:47

S 47E(d)



S 47E(d)

Q22 20
S 47E(d)

Getting started

About this form

The Office of the Australian Information Commissioner can investigate complaints about the conduct of Australian Government agencies making decisions under the *Freedom of Information Act 1982* (FOI Act). You can use this form to lodge a complaint.

Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act. Further information about the FOI complaints process (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-11-complaints-and-investigations/>) is available on our website.

The OAIC encourages you to lodge your complaint with the agency, before lodging your complaint with us.

The OAIC does not investigate FOI complaints that relate to Ministers or complaints about State, Territory or local government agencies.

Making a complaint is a separate process from applying for an Information Commissioner review of an FOI decision made by an agency. Further information about Information Commissioner reviews (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>) is available on our website.

The Commissioner's view is that making a complaint is not an appropriate mechanism where IC review is available, unless there is a special reason to undertake an investigation and the matter can be dealt with more appropriately and effectively in that manner. IC review will ordinarily be the more appropriate avenue for a person to seek review of the merits of an FOI decision, particularly an access refusal or access grant decision.

Further information about the difference between FOI complaints and IC reviews (<https://www.oaic.gov.au/freedom-of-information/frequently-asked-questions/what-is-the-difference-between-a-complaint-and-an-application-for-review-of-an-freedom-of-information-decision/>) is available on our website.

When you lodge a complaint with us, we will assess it to determine whether it would be more appropriately handled as an IC review. We will let you know if we decide to treat your complaint as an IC review.

If you have trouble completing this form please send an email to FOIDR@oaic.gov.au or call our enquiries line on 1300 363 992.

Your personal information

We will handle your personal information in accordance with the Australian Privacy Principles.

If you have any questions about the personal information we collect and how we will handle your information, please contact the OAIC or see our privacy policy (<http://www.oaic.gov.au/privacy-policy-summary/>) available on our website.

Before you start

The OAIC uses the Australian Government's SmartForm service, which enables our forms to be lodged online using a personal computer or mobile device. When you save or submit a form using this service, it is encrypted and stored on a secure server located in Australia and controlled by the Department of Industry. Once you have submitted your completed form, we will download and decrypt it. Your form will then be permanently erased from the secure server within 72 hours. You can save the form at any point and return within 3 days to complete it. If you have not submitted your form within 3 days it will be permanently erased from the secure server.

What happens to your application?

The OAIC will assess the information you have provided and decide the appropriate next steps. We will then contact you. You can also contact us in writing, by FOIDR@oaic.gov.au, fax, phone or in person by visiting our office at Level 3, 175 Pitt St, Sydney NSW 2000.

Your details - the complainant

Previous dealings

If you have lodged a complaint or enquiry with the OAIC before, please provide your previous reference number (for example, CP18/00000 or EN18/00000).

s22

Your details

Title

Given name *

Family name *

Name of organisation

Preferred contact method (you must provide at least one contact method) *

☒ Email☐ Phone☐ Post☐ Other

Email address *

Phone (daytime)

Mobile

Address line 1

Address line 2

Suburb

State

Postcode

Other contact details (eg. fax or international address)

Do you require any assistance to participate in the FOI complaint process?

For example: an interpreter. Please detail below.

Your representatives details

Do you have someone you would like to represent you in your company *

Yes

No

Complaint details

Agency information

Please select the Australian Government agency which is the subject of your FOI complaint *

- ☐ Administrative Appeals Tribunal
- ☐ Attorney-General's Department
- ☐ Australian Federal Police
- ☐ Australian Securities and Investments Commission
- ☐ Australian Taxation Office
- ☐ Australian Transaction Reports and Analysis Centre (AUSTRAC)
- ☐ Comcare
- ☐ Department of Defence
- ☐ Department of the Environment and Energy
- ☐ Department of Health
- ☐ Department of Home Affairs
- ☐ Department of Human Services
- ☒ Department of Veterans' Affairs
- ☐ Immigration Assessment Authority
- ☐ National Disability Insurance Agency
- ☐ Other

Previous contact with agency

Please provide any FOI reference number(s) if available

Do not provide tax file numbers or other confidential account-type numbers

s22

Please provide a summary of the current status of the FOI Request that has led to this complaint *

OAIC granted an extension which expired on 27th September. No decision received.

Complaint Details

Have you comp a ned direct y to the re evant agency? *

☒ Yes

☐ No

D d you rece ve a response from the agency? *

☐ Yes

☒ No

You shou d wa t for the agency to respond to your comp a nt before mak ng a comp a nt to us.

You may w sh to make an FOI comp a nt to us f you are unsat sf ed w th the agency's response to your comp a nt or you cons der that the agency has had adequate t me to dea w th your comp a nt but you have not rece ved a response.

P ease contact us at FOIDR@oa c.gov.au or on 1300 363 992 f you wou d ke to d scuss further.

However, f you wou d ke to make a comp a nt at th s t me, p ease cont nue to comp ete the form.

P ease prov de a summary of your comp a nt *

The department has fa led to prov de a dec s on and s not respond ng to ema ls. The date for the dec s on has passed.

The Informat on Comm ss oner can make recommendat ons to the agency that the Comm ss oner be eves the agency ought to mp ement as a resu t of a comp a nt. Informat on about the poss b e outcomes fo ow ng an nvest gat on of an FOI comp a nt (<https://www.oa c.gov.au/freedom-of-nformat on/fo -gu de nes/part-11-comp a nts-and- nvest gat ons/#comp et ng-an- nvest gat on>) can be found on our webs te.

The FOI comp a nt process cannot prov de access to the documents you have requested. The Informat on Comm ss oner rev ew process (<https://www.oa c.gov.au/freedom-of-nformat on/fo -gu de nes/part-10-rev ew-by-the-nformat on-comm ss oner/>) w ord nar y be more appropri ate where the outcome you are seek ng s access to the documents you requested.

What act on or resu t wou d you ke from the Informat on Comm ss oner? *

Requ re the department to prov de the r dec s on.

Submission

Submitting your FOI Complaint to the Information Commissioner

Please review the information contained in this complaint form. If you would like to change anything, you can return to the relevant section by using the **Go Back** button.

When you are ready to submit this form, use the **Submit** button below.

Once you submit your form, you will be taken to a confirmation page. This page will provide a reference code for your submission, and you will be able to download a copy of your completed form or have a copy sent to an email address of your choice.

Further information about the FOI Complaints process (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-11-complaints-and-investigations/>) can be found on our website.

FOIREQ22/00120 366

s22

Nicolaou, Irene
09-May-2022 11:23 AM**Title**

s22 | DVA - Department of Veterans' Affairs

Receipt Details

File Type:	FOI	Received Date:	11-Oct-2021 9:55 AM
Case Type:	Decline	Received By:	Web Queue
How Received:		Registered Date:	11-Oct-2021 9:55 AM
Owned By:	Nicolaou, Irene	Registered By:	Nicolaou, Irene
		Closed Date:	14-Jan-2022 3:11 PM
		Closed By:	Nicolaou, Irene

Case Details

Stage:	Closed
How Received:	Website
Validation:	Not validated
Sensitivity:	Not sensitive
File Security:	OFFICIAL
Agency Reference Number:	s22
Primary Client Group:	Individual
Parent Case Entity Code:	Complaint
Agency FOI Stage:	Initial decision
Respondent Client Group:	Agency
Complexity:	Low
Case Primary Person:	s22
Case Respondent:	DVA - Department of Veterans' Affairs
SmartForm Number:	s22
Is Web Case:	Yes
SmartForm Details:	Previous dealings - If you have lodged a complaint or enquiry with the OAIC before, please provid...
SmartForm XML:	
Web Case Data:	Assessor 73 Note: (b)
Retention Class:	OAIC RA 61986 (D2)
Previous Case Owner ID:	136453
Destruction	14-Jan-2024

FOIREQ22/00120 367

Due Date:

Case Parties - 3

Complainant Client: s22
 Respondent Client: DVA - Department of Veterans' Affairs
 Respondent Contact: FOI Contact Officer

Summary

73(b)

Issues - 1**Issue Description:** Processing Request**Is Primary Issue:** Yes**Issue Allegation:** processing delay**Issue Outcome:** s73(b) - merits review**Actions - 9 (All Completed)**

Action	Owner	Due	Completed
Record case details and attach docs (FC REG)	resolve, resolve	13-Oct-2021	11-Oct-2021, Hanaee, Thomas
Ownership Reassigned	Hanaee, Thomas	11-Oct-2021	11-Oct-2021
Reassigned from 'Web Queue' to 'FOI - Triage' by 'Hanaee, Thomas'			
File Note	Calandra-Zamecnik, Carmela	14-Oct-2021	14-Oct-2021
Hi Carmela Please offer IC review instead of complaint, given that A is seeking a decision in response to his request. Thank you Tania 13/10			
Ownership Reassigned	Strathearn, Tania	13-Oct-2021	13-Oct-2021
Reassigned from 'FOI - Triage' to 'Calandra-Zamecnik, Carmela' by 'Strathearn, Tania'			
File Note	Nicolaou, Irene	26-Oct-2021	07-Jan-2022
Dear Irene, this matter has been moved to Foi complaints, noting that C did not respond to our offer of IC review. CC 25/10			
Ownership Reassigned	Calandra-Zamecnik, Carmela	25-Oct-2021	25-Oct-2021
Reassigned from 'Calandra-Zamecnik, Carmela' to 'FOI - Complaints' by 'Calandra-Zamecnik, Carmela'			
Ownership Reassigned	Nicolaou, Irene	09-Nov-2021	09-Nov-2021
Reassigned from 'FOI - Complaints' to 'Nicolaou, Irene' by 'Nicolaou, Irene'			
Notify relevant parties of closure	Nicolaou, Irene	17-Jan-2022	14-Jan-2022
Close Case	Nicolaou, Irene	17-Jan-2022	14-Jan-2022

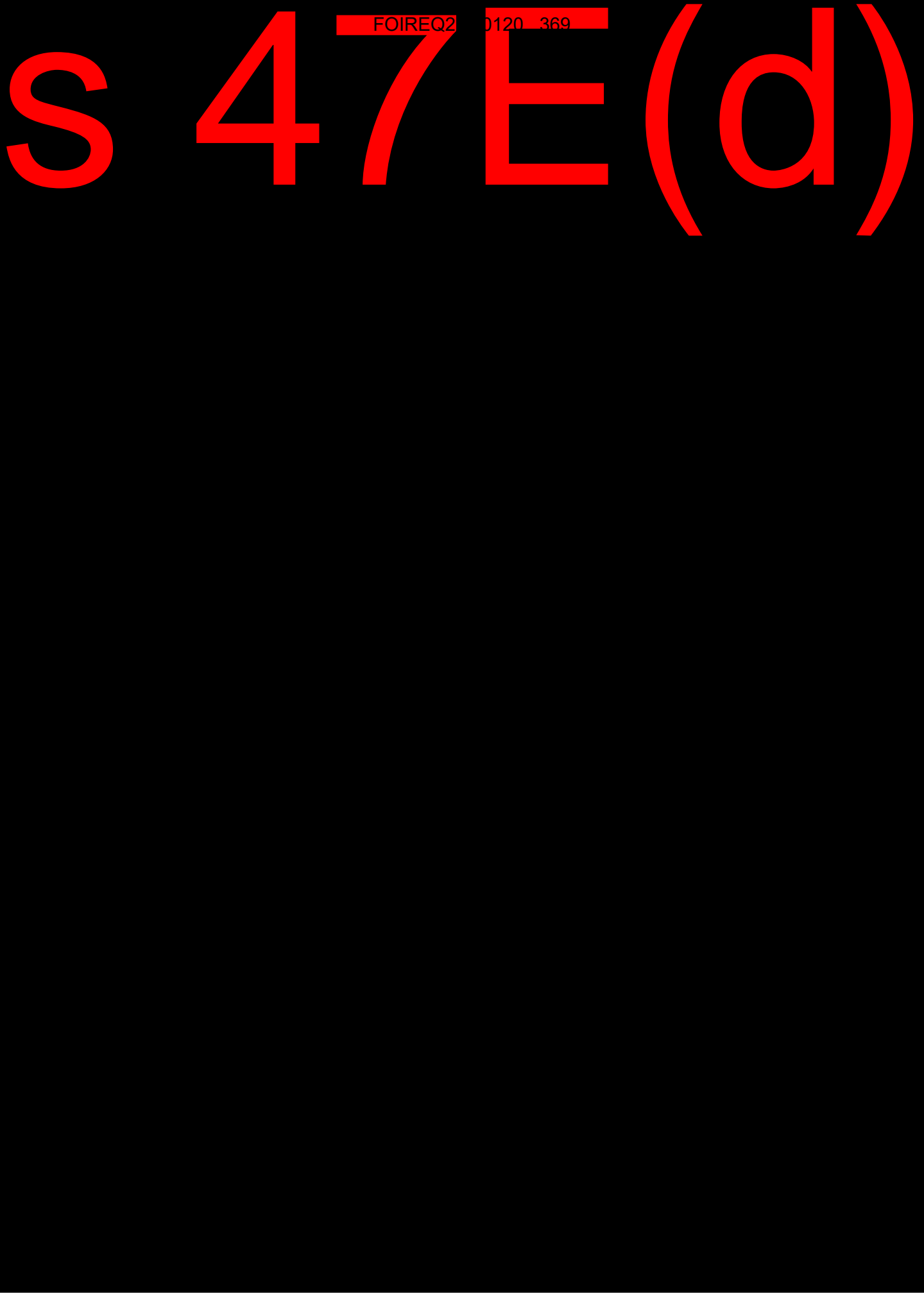
Documents - 10

Title	Date Added	By
form-data.xml	11-Oct-2021 9:55	resolve, resolve

FOIREQ22/00120 368

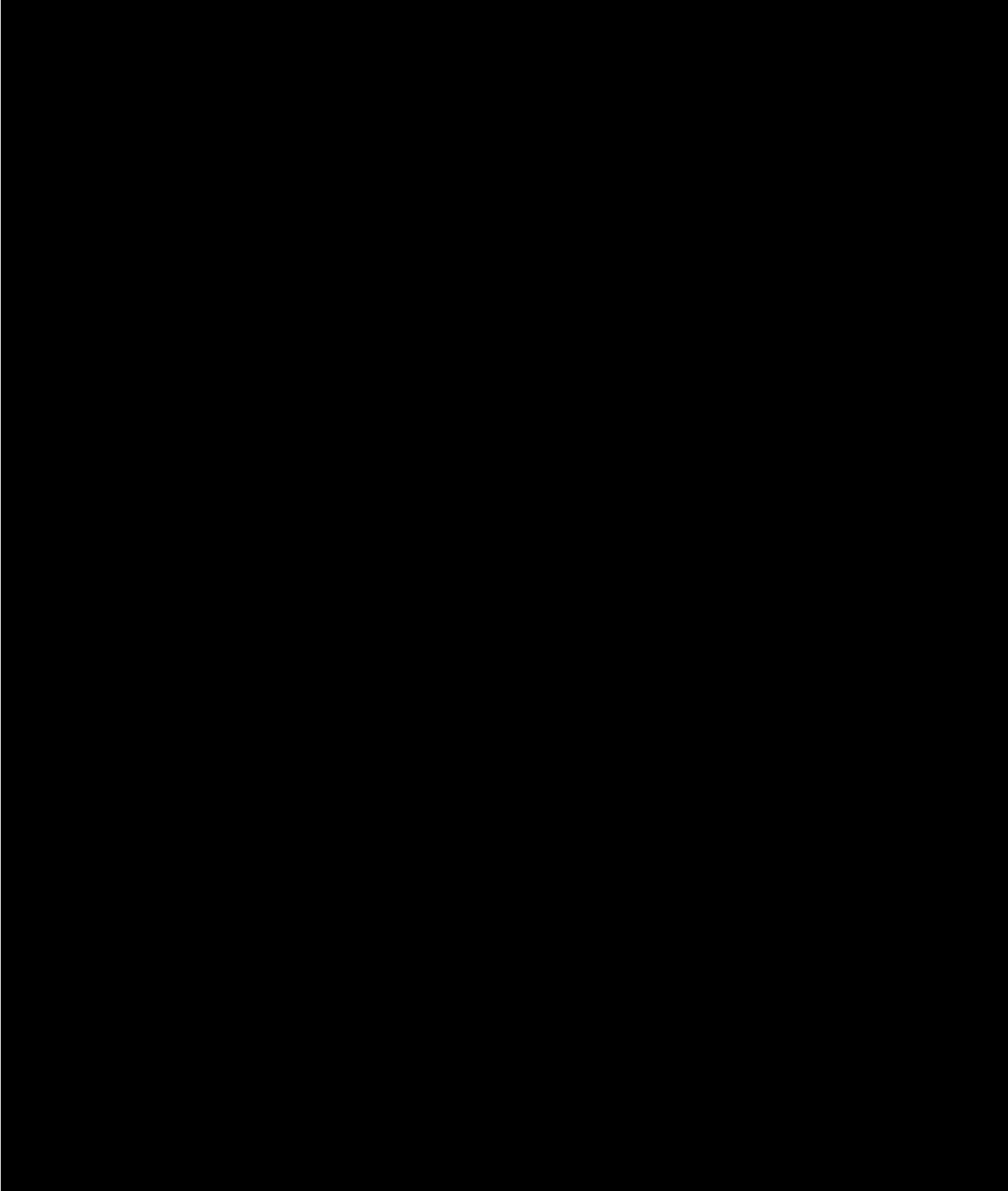
form-receipt.pdf	AM	11-Oct-2021 9:55	resolve, resolve	
s22 - Your Complaint [SEC=OFFICIAL]	AM	14-Oct-2021 3:38	Calandra-Zamecnik, Carmela	
s22 - Your FOI Complaint - Intention to decline to investigate [SEC=OFFICIAL]	PM	09-Nov-2021 1:51	Nicolaou, Irene	
s22 - Closure to complainant 73- b.docx	AM	22-Nov-2021 10:19	Nicolaou, Irene	
Draft s 73(b) Closure) s22 - s22 , s22 DVA - Department of Veterans' Affairs	22-Nov-2021 10 function is not defined! s22 - s22 DVA - Department of Veterans' Affairs [SEC=OFFICIAL]	14-Jan-2022 1:56 PM	Nicolaou, Irene	
s22 Closure of FOI complaint made by s22 [SEC=OFFICIAL]	14-Jan-2022 3:10 PM	Nicolaou, Irene		
s22 - Finalisation of your FOI complaint [SEC=OFFICIAL]	14-Jan-2022 3:06 PM	Nicolaou, Irene		
Cross References - 1				
Case	Comments			
s22				
Comments - 1				
Created	By	Comment		
14-Jan-2022 3:11 PM	Nicolaou, Irene	Case Closed by s 47E(d) on 14-Jan- 2022 15:11		

S 47E(d)



FOIA b(7)(D) 0120-370

S 47E(d)



Q22 120
S 47E(d)

120
2022
S 47E(d)

S 47E(d)



S 47E(d)

