



Our reference: RQ23/00510

Agency reference: FOI 4145

### Concerned Citizen

By email: [foi+request-9690-6a67a84f@righttoknow.org.au](mailto:foi+request-9690-6a67a84f@righttoknow.org.au)

CC: [foi@health.gov.au](mailto:foi@health.gov.au)

## Extension of time under s 15AB

Dear Concerned Citizen

On 6 February 2023, the Department of Health and Aged Care (the Department) applied to the Office of the Australian Information Commissioner (OAIC) for further time to make a decision on your FOI request of 14 December 2022 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

This application was made on the basis that the processing period is insufficient to deal adequately with your FOI request, because it is complex.

The Department previously obtained your agreement under s 15AA of the FOI Act for a 10-day extension of time to 23 January 2023 [OAIC reference: RQ22/04789].

The Department also obtained your agreement under s 15AA of the FOI Act for another 15-day extension of time to 7 February 2023 [OAIC reference: RQ23/00249].

### Decision

As a delegate of the Information Commissioner, I am authorised to make decisions on applications for extensions of time under s 15AB of the FOI Act.

I have decided to grant the Department an extension of time under s 15AB(2) of the FOI Act **to 3 March 2023**. I am satisfied that the Department's application for an extension of time is justified, because the request is complex. My reasons and considerations follow:

- The Department advised that the documents found within the scope of the request contain some information that is technical in nature and a former APS employee is required to be consulted regarding potential sensitivities.
- The Department is experiencing delays due to the consultation process with the former employee and other government agencies as the other agencies have a reduced number of staff working over the holiday period and in the new year.

- The Department has advised that it will continue to actively work on finalising the FOI request and keep you informed of updates.

If the Department does not make a decision by **3 March 2023** you may wish to seek Information Commissioner review of the the Department's deemed refusal of request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#). An application for IC review must be made within 60 days of the Department's decision or deemed decision.

## Contact

If you have any questions about this letter, please contact me via email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au). In all correspondence please include OAIC reference: RQ23/00510.

Yours sincerely



**Avanithah Selvarajah**  
Assistant Review Adviser  
FOI Regulatory Group

14 February 2023

## Review rights

If you disagree with the Office of the Australian Information Commissioner's (OAIC) decision you can apply to the Federal Court of Australia or the Federal Circuit Court for a review of a decision of the Information Commissioner if you think that a decision by the Information Commissioner to grant an extension of time is not legally correct. You can make this application under the *Administrative Decisions (Judicial Review) Act 1977*.

The Court will not review the merits of your case but it may refer the matter back to the Information Commissioner for further consideration if it finds the decision was wrong in law or the Information Commissioner's powers were not exercised properly.

An application for review must be made to the Court within 28 days of the OAIC sending the decision to you. You may wish to seek legal advice as the process can involve fees and costs. Please contact the Federal Court registry in your state or territory for more information, or visit the Federal Court website at <http://www.fedcourt.gov.au/>.

## Further information

Further information about how applications to extend the timeframe to process an FOI request are handled by the OAIC can be found published on our website:

**For FOI applicants:** [How to make an FOI request: Extensions of time](#)

**For agencies and ministers:** [Guidance and advice: Extension of time for processing requests](#)

The OAIC has the power to investigate complaints about an agency's actions under the Freedom of Information Act 1982 (FOI Act). This is a separate process from asking for an Information Commissioner review following a decision made under the FOI Act. Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act, rather than the decision itself.

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

FOI complaints to the OAIC must be made in writing. Our preference is for you to use the [online FOI complaint form](#) if at all possible.

Further information about how to make a complaint can be found published on our website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.