



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ23/00035
Agency reference: FOI 23-22

Ms Dale Webster

By email: foi+request-9763-8326d61e@righttoknow.org.au
CC: Charles.Bailleul@apra.gov.au

Extension of time under s 15AB

Dear Ms Webster

On 4 January 2023, the Australian Prudential Regulation Authority (APRA) applied to the Office of the Australian Information Commissioner (the OAIC) for further time to make a decision on your FOI request of 26 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.

APRA attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. APRA advised that you refused the request for a 30 day extension.

Contact with you

On 24 January 2023, I wrote to you to seek your view on the APRA's application. You responded to my inquiries and provided comments which I have taken into consideration, including that:

When APRA contacted me and asked for an extension it gave no explanation for why it could not complete the work in the legislated timeframe so I refused the request.

Had they supplied the information you have provided today I would have happily agreed to an extension, as I did with another department that told me they had staff on leave.

On the basis of the new information I approve the extension.

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 APRA an extension of time under s 15AB(2) of the FOI Act **to 24 February 2023**. I am satisfied that the APRA's application for an extension of time is justified, because the request is complex. My reasons and considerations follow:

- The FOI request was received on a public holiday during the Christmas shutdown period and the offices re-opened on 3 January 2023.
- The request is complex in nature as it spans many areas within APRA and many essential stakeholders have had planned time off in January.
- Due to many stakeholders being on leave, it will be difficult to conduct all the necessary searches required to finalise the FOI request.
- All stakeholders who are not on leave have completed searches in order to ensure a decision can be finalised as soon as practicable.

If APRA does not make a decision by **24 February 2023** you may wish to seek Information Commissioner review of the APRA'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 Agency's decision or deemed decision.

Contact

If you have any questions about this letter, please contact me via email to foidr@oaic.gov.au. In all correspondence please include OAIC reference: RQ23/00035.

Yours sincerely



Avanithah Selvarajah
Assistant Review Adviser
FOI Regulatory Group

24 January 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/>.