



Our reference: RQ23/01931
Agency reference: 520/22/23

MBV

By email: foi+request-9976-d75ae450@righttoknow.org.au
CC: foi.casemangement@defence.gov.au

Extension of time under s 15AB

Dear FOI Applicant

On 21 April 2023, the Department of Defence (Department) applied for further time to make a decision on your FOI request of 22 February 2023 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 30 day extension of time to 23 April 2023 [OAIC reference: RQ23/01213]. An extension of time to 23 April may be extended to 24 April 2023, that is, the next business day, by operation of s 36(2) of the *Acts Interpretation Act 1901* (Cth).

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 23 May 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 has notified the OAIC that:
 - The request requires informal consultation with several external departments, including the Prime Minister's Office; and
 - Subject matter experts require consultation regarding the sensitivity of the requested matter before a final decision can be issued to the applicant.

- I have considered that granting this extension of time is expected to provide you with a substantive decision by the Department on your request by 23 May 2023, which will be substantially sooner than a decision by Information Commissioner review (IC review). Granting this extension is also expected to reinstate your right to seek an internal review of a substantive decision by the Department and to extend the timeframe for you to apply for IC review of a decision by the Department.

If the Department does not make a decision by 23 May 2023 you may wish to seek IC review of the Department's deemed refusal of request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#).

Contact

If you have any questions about this letter, please contact me on 1300 363 992 or via email at foidr@oaic.gov.au. In all correspondence please include OAIC reference: RQ23/01931.

Yours sincerely



Thomas Hanaee
Assistant Review Adviser
FOI Regulatory Group

3 May 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/>.