



## Decision to grant an extension of time under s 15AB of the *Freedom of Information Act 1982*

Agency	Department of Defence
FOI applicant	A S
Date of decision	15 May 2024
OAIC reference number	RQ24/01767
Agency reference number	820/23/24

### Decision

1. On 13 May 2024, the Department of Defence (the Department) applied to the Information Commissioner under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) for an extension of 14 days to 27 May 2024 to process A S's (the FOI applicant) request of 13 April 2024 (the FOI request).
2. As a delegate of the Information Commissioner, I am authorised to make decisions on extension of time applications under s 15AB(2) of the FOI Act.
3. Under s 15AB(2) of the FOI Act, I have decided to extend the processing period by 14 days to **27 May 2024**. My reasons are outlined below.

### Background

4. On 13 April 2024, the FOI applicant made an FOI request to the Department. The FOI decision was due to be provided to the FOI applicant on 13 May 2024.
5. On 13 May 2024, the Department applied to the Information Commissioner for further time to process the FOI applicant's request under s 15AB(1) on the basis that the processing period is insufficient to adequately deal with the FOI request, because it is complex and/or voluminous. A copy of the Department's reasons is included at **Attachment A**.

## Reasons for decision

6. Subsection 15AB(2) of the FOI Act requires that I consider whether the application is justified on the basis that the processing period referred to in s 15(5)(b) is insufficient for dealing with the request, on the basis that the request is complex or voluminous.
7. In granting this extension of time under s 15AB(2), I have considered the following factors:
  - Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act, to which I must have regard, in particular [3.150] – [3.155]
  - the scope of the FOI request
  - the Department’s reasons for seeking an extension
  - whether an agreement to extend the processing period under s 15AA of the FOI Act has first been attempted or obtained by the Department
  - the work already undertaken, and still required, to finalise the request.
8. On the information before the OAIC, I am satisfied that an extension to the processing period until **27 May 2024** is justified, for the following reasons:
  - Based on the scope of the FOI applicant’s request, I am satisfied that the request is complex, based on the sensitive nature of the documents requested and the requirement to obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved.
  - Based on the Department’s submissions that the FOI applicant’s request captures approximately 100 pages, I am satisfied the request is also voluminous in nature.
9. In granting this extension, I have also considered the work already undertaken by the Department to finalise the request and steps taken by the Department to first attempt to obtain a 15AA agreement from the FOI applicant.
10. The Department must provide the FOI applicant with a decision by **27 May 2024**.
11. If the Department does not provide the FOI applicant a decision by **27 May 2024** the FOI applicant may seek review by the Information Commissioner of the Department’s deemed access refusal decision of **27 May 2024**. Further information on applying for IC review is available on the OAIC website. Any application for IC review would need to be made within 60 days of the Department’s decision or deemed decision. It also remains open to the Department to apply for a further extension of time from the Information Commissioner if considered appropriate.
12. This extension of time matter is now closed. Your review rights are set out below.
13. If you would like to discuss this matter, please contact our office by email at [xxxxx@xxxx.xxx.xx](mailto:xxxxx@xxxx.xxx.xx), quoting reference number RQ24/01767.

Yours sincerely,



**Lakshmi Gopinath**  
Assistant Director  
Freedom of Information Branch  
Office of the Australian Information Commissioner

15 May 2024

**The agency's reasons for requesting an extension of time, as included in the extension of time request form.**

Please provide a timeline setting out the work already completed in order to process this request. Where an extension of time has previously been granted, describe the work that was undertaken during that extended period. \*

On 13 April 2024, the applicant made a formal request to the Department of Defence (Defence) under the FOI Act.

On 15 April 2024, the request was promptly tasked to a line area who could reasonably be expected to hold documents relevant to the scope of the request, and it was identified through preliminary searches that clarification was required from the applicant.

As such, on 15 April 2024 Defence sought clarification from the applicant in relation to the scope of their request and advised that as it was currently written, the scope appeared to be quite broad and reasons for practical refusal may exist.

On 16 April 2024, the applicant provided clarification of their scope and multiple areas of the department were identified as potentially holding documents relevant to the scope.

On 19 April 2024, two additional line areas were tasked with undertaking searches for documents relevant to the scope of the request.

The lead line area of Defence advised that a significant amount of documents, totalling over 100 pages had been identified as potentially falling within scope. It was identified that other areas of Defence may have further documents related to the request and searches were conducted.

On 26 April 2024, further documents were provided for the Decision Maker's assessment.

Throughout the additional processing time, the relevant line areas have undertaken searches and extensive review of the documents in scope and the decision maker has sought advice from multiple subject matter experts within Defence.

While preparing the final decision on access, it was identified that additional time would be required in order to finalise the request. Therefore, on 9 May 2024 Defence wrote to the applicant to seek their agreement to a 14-day extension on time in accordance with section 15AA of the FOI Act. The applicant did not respond to this request.

Thank you for considering our request.

What work is required to finalise the request? \*

In order to finalise the request, the Defence decision maker must consider and mark for redaction all sensitive material identified as falling within the scope of the request as necessary. Following this, internal consultation on matters effecting separate areas within Defence requires finalisation. Once this is completed, the decision maker must make a decision on each document, apply any required redactions, and draft a statement of reasons and document schedule accordingly to ensure an informed and robust decision on access is made.

Why is the request considered complex or voluminous? \*

This request is considered to be both complex and voluminous due to the nature of the request and the requirement of each page of the 100+ document pack to be considered. As there are currently more than 100 pages in scope, the process to review, carefully consider, and make a decision on access on every page is timely.

The request seeks access to all internal and external templates that are currently used by all teams within Defence that release information via the FOI act, Privacy act, APP 12 or other administrative release scheme. As such, consideration must be given to the effect disclosure may have on the internal processes of Defence.

To ensure that a robust decision is made, Defence has been required to conduct reasonable searches of multiple information holdings systems. Searches for these records are conducted by multiple teams who could reasonably be expected to have equity in the request.

Do other agencies or parties have an interest in the request? \*

Interested parties include but are not limited to, the Australian public and the media.

Please describe the measures that would be taken to ensure a decision is made within the period of the requested extension and to keep the applicant informed of the progress of the request \*

To ensure this FOI request is completed within the requested period, relevant personnel within Defence will work together to ensure resources are dedicated to make an informed and robust decision. Defence will strive to release the decision as soon as possible.

## 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 and Family Court of Australia 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/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint> .

## Making a complaint to the Commonwealth Ombudsman

If you believe you have been treated unfairly by the OAIC, you can make a complaint to the Commonwealth Ombudsman (the Ombudsman). The Ombudsman's services are free. The Ombudsman can investigate complaints about the administrative actions of Australian Government agencies to see if you have been treated unfairly.

If the Ombudsman finds your complaint is justified, the Ombudsman can recommend that the OAIC reconsider or change its action or decision or take any other action that the Ombudsman considers is appropriate. You can contact the Ombudsman's office for more information on 1300 362 072 or visit the Commonwealth Ombudsman's website at <http://www.ombudsman.gov.au> .