



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

Agency	Department of Foreign Affairs and Trade
Applicant	Mr John Smith
Decision date	26 August 2024
OAIC reference number	RQ24/03378
Agency reference number	LEX 11155

Decision

1. On 16 August 2024, the Department of Foreign Affairs and Trade (the Agency) applied under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) to the Information Commissioner for an extension of 30 days to 21 September 2024 to process Mr John Smith's (the Applicant) request of 23 June 2024 (the FOI request). This application was made on the basis that the processing period is insufficient to deal adequately with the FOI request because it is complex and/or voluminous.
2. As a delegate of the Information Commissioner, I am authorised to make decisions on extension of time applications made under s 15AB(2) of the FOI Act.
3. On the information before the Information Commissioner, I have decided to decline the Agency's request to extend the processing period. A decision on the Applicant's request therefore was due by 22 August 2024. The Agency is encouraged, in the interest of administrative efficiency, to continue to process the request and release documents administratively if the Applicant has not yet applied for IC review of the deemed decision. My reasons are outlined below.

Background

4. A copy of the Agency's reasons for seeking an extension are included at **Attachment A**.

Reasons for decision

5. 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.

6. In making my decision under s 15AB(2), I have considered the information provided by the Agency and the FOI Guidelines issued by the Information Commissioner under s 93A of the FOI Act, in particular paragraphs [3.150] – [3.157].
7. On the information before the OAIC, I am not satisfied that the application to extend the processing period is justified, for the following reasons:
 - The application provides limited evidence of appropriate work being undertaken by the Agency to process the FOI request to date. A timeline setting out the steps undertaken to process the request was not provided. As such, it is not evident whether the Agency utilised the initial processing period effectively, including the additional time as provided for by the Applicant, and I cannot find that the processing period was insufficient on the basis of complexity or volume.
8. If the Agency did not provide the Applicant a decision by **22 August 2024**, the Applicant may seek review by the Information Commissioner of the Agency’s deemed access refusal decision of **22 August 2024**. Further information on [applying for IC review](#) is available on the OAIC [website](#). Any application for IC review should be made within 60 days of the Agency’s decision or deemed decision. It also remains open to the Agency to apply for a further extension of time from the Information Commissioner if considered appropriate.
9. For further information, the OAIC website provides a resource containing information on [applying for an extensions of time to process freedom of information requests](#).
10. This extension of time matter is now closed. Your review rights are set out below.
11. If you wish to discuss this matter, please contact us by email at FOIDR@oaic.gov.au quoting reference number RQ24/0337.

Yours sincerely

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Andriana De Ieso
Review Adviser
26 August 2024

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

This request has been very complex and voluminous because initially the line area couldnt access the documents so we had to get Cyber Operations to do searches and they took a while to identify the relevant 29 documents. The documents consist of long overlapping email chains (approximately 10 pages each minimum) and to work out which are duplicates has been very time-consuming. Ordinarily we would issue a section 24AB for a request of this length (approximately 300 pages) and complexity but because of the delays we are doing our best to process it but need more time to properly collate the documents.

What work is required to finalise the request? *

We need to complete collating the documents and draft the decision letter.

Why is the request considered complex or voluminous? *

Searching for documents has been time-consuming because the search was conducted by Cyber Operations and it took a while to identify the appropriate search terms. The relevant emails trails are very long, overlapping and confusing so it has and will take additional time to complete collating the documents.

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

No.

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 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> .