



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

Agency	Attorney-General's Department
Applicant	Mr Tom Dang
Decision date	12 November 2024
OAIC reference number	RQ24/04801
Agency reference number	FOI24/446

### Decision

1. On 4 November 2024, the Attorney-General's Department (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 4 December 2024 to process Mr Tom Dang's (the Applicant) request of 5 September 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 4 November 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. The background to this application is summarised in **Attachment A**.
5. A copy of the Agency's reasons for seeking an extension are included at **Attachment B**.

### 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 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].
8. 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. As such, it appears the Agency has not utilised the initial processing period, including the additional time as provided by the Applicant, effectively and I cannot find that the processing period was insufficient on the basis of complexity or volume.
9. In declining this extension, I have also considered:
  - The Agency states the request scope requires revision but has failed to commence a request consultation process with the Applicant (s 24AB)
10. If the Agency did not provide the Applicant a decision by **4 November 2024**, the Applicant may seek review by the Information Commissioner of the Agency’s deemed access refusal decision of **4 November 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.
11. For further information, the OAIC website provides a resource containing information on [applying for an extensions of time to process freedom of information requests](#).
12. This extension of time matter is now closed. Your review rights are set out below.
13. If you wish to discuss this matter, please contact us by email at [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au) quoting reference number RQ24/04801.

Yours sincerely

*A De Ieso*

Andriana De Ieso  
Review Adviser  
Office of the Australian Information Commissioner  
12 November 2024

Background to processing period

Background	Processing period	Due date
FOI request made on 5 September 2024	30 days	5 October 2024
Applicant's agreement to extend the processing period under s 15AA	Extended by 30 days	4 November 2024



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

9 September 2024 - Request for transfer received from Department of the Prime Minister and Cabinet for this request and views regarding transfer sought from director 10 September 2024 - accepted transfer of request from PM&C 11 September 2024 - PM&C sent applicant's original request and copy of notification of transfer to the applicant 13 September 2024 - emailed applicant to confirm transfer of request, revise scope and sought agreement to extend request under s 15AA of the FOI Act 13 September 2024 - applicant responded with agreement to the suggested revised scope 19 September 2024 - followed up with applicant regarding the s 15AA extension request 19 September 2024 - applicant responded with agreement to extend by 30-days under s 15AA 26 September 2024 - notified the OAIC of s 15AA extension 26 September 2024 - notified business area/decision maker of FOI request and requested contact officer and documents - case officer and contact officer assigned 26 September 2024 - emailed decision maker about request and previous FOI requests on this matter 27 September 2024 - emailed applicant to request withdrawal of their request on the basis that the specific information they are seeking was released under previous FOI 4 October 2024 - no response received from applicant - follow up email sent - no response received 11 October 2024 - discussed scope of request with line area 14 October 2024 - line area confirmed that narrowing the request would assist with the processing of the request 15 October 2024 - FOI internal discussion on scope revision 17 October 2024 - emailed applicant regarding further scope revision - no response received from applicant 25 October 2024 - no response received from applicant - discussed next steps with line area 28 October 2024 - further discussion with line area on interpretation of scope and possible documents that may fall in scope of request 1 November 2024 - requested documents which fall in scope of the request from line area 4 November 2024 - applying for s 15AB request from the OAIC.

What work is required to finalise the request? \*

-receive searches, documents and working schedule from line area -assess and mark up documents accordingly -prepare decision package -line area and decision maker to review package -consult with AGO on package -send decision to applicant.



## 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> .