



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

Agency	Services Australia
FOI applicant	Frank N Fearless
Date of Decision	4 November 2024
OAIC reference number	RQ24/04745
Agency reference number	LEX 81846

Decision

1. I refer to the application made by Services Australia (the Agency) under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) for an extension of time to process a request made by Frank N Fearless (the FOI applicant) on 3 October 2024 (the FOI request).
2. As a delegate of the Information Commissioner, I am authorised to make decisions on extensions 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 FOI applicant's request was therefore due by 2 November 2024. My reasons are outlined below.

Background

4. On 3 October 2024, the FOI applicant made an FOI request to the Agency. The FOI decision was due to be provided to the FOI applicant on 2 November 2024.
5. On 31 October 2024, the Agency applied to the Information Commissioner for further time to process the FOI applicant's request under s 15AB(1) of the FOI Act, on the basis that the processing period is insufficient to adequately deal with the FOI request. A copy of the Agency'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 declining to extend the processing period 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 request
 - the Agency'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 Agency
 - the work already undertaken, and still required, to finalise the request
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 FOI applicant's request does not appear complex or voluminous, based on the limited evidence of any technical or practical challenges involved in the processing of the request. Particularly noting, the Agency has failed to provide details of how many documents were captured in the scope of the request which may have indicated volume or complexity.
9. As such, the Agency must have provided the FOI applicant with a decision by 2 November 2024. Noting this date falls on a Saturday, the Agency must notify the applicant of the decision by today, Monday 4 November 2024.
10. If the Agency does not provide the FOI applicant a decision by 4 November 2024, the FOI applicant may seek review by the Information Commissioner of the Agency's deemed access refusal decision of 2 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.
11. It also remains open to the Agency 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 wish to discuss this matter, please contact us by email at FOIDR@oaic.gov.au quoting reference number RQ24/04745.

Yours sincerely



Claire Lynch

Assistant Review Advisor

Freedom of Information Branch

Office of the Australian Information Commissioner

4 November 2024

Attachment A

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

Work required to finalise the request

Currently, the decision is being drafted. Once this is completed, the decision and documents for release will be quality assured. Once this complete, the decision and documents are required to be processed through several levels of clearance prior to notification of decision.

Why is the request considered complex or voluminous?

The documents have required an external consultation with DSS and multiple internal consultations with the business area regarding possible sensitivities. This has delayed processing of the request.

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

The Department of Social Services (DSS) has an interest in the request.

Measures to 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

- During the extension period, the decision and redactions to the documents will be quality assured and finalised.
- The decision and documents will then be progressed through the levels of clearance.
- An email will be sent to the applicant advising the agency is unable to provide a decision by the due date of 4 November 2024 and will provide one by 18 November 2024, or sooner if it is able to do so.

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/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> .