



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

<b>Agency</b>	Australian Federal Police
<b>FOI applicant</b>	Sean (Right to Know)
<b>Date of decision</b>	3 January 2025
<b>OAIC reference number</b>	RQ24/05697
<b>Agency reference number</b>	LEX 3253

### Decision

1. On 16 December 2024, Australian Federal Police (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 6 January 2025 to process Sean (Right to Know)'s (the FOI applicant) request of 23 October 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 6 January 2025. My reasons are outlined below.

### Background

4. On 23 October 2024, the FOI applicant made an FOI request to the Department. The FOI decision was due to be provided to the FOI applicant on 23 October 2024.
5. On 16 December 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. 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 **6 January 2025** is justified, for the following reasons:
  - Based on the scope of the FOI applicant’s request and the Department’s submissions I am satisfied that the request is complex due to the sensitive nature of the documents requested, challenges involved in the search and retrieval of any relevant documents, difficulties incurred in obtaining timely responses from business areas, the requirement to obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved, and the necessity that the necessity for all document redactions to be reviewed by staff at a senior level.
9. In granting this extension, I have also considered the work already undertaken by the Department to finalise the request.
10. The Department must provide the FOI applicant with a decision by 6 January 2025.
11. If the Department does not provide the FOI applicant a decision by 6 January 2025 the FOI applicant may seek review by the Information Commissioner of the Department’s deemed access refusal decision of 6 January 2025. 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 FOIDR@oaic.gov.au, quoting reference number RQ24/05697.

NC

Natalie Crow  
Senior Review Adviser  
FOI Case Management Branch  
Office of the Australian Information Commissioner

3 January 2025

## Attachment A

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

Work on this request has been undertaken on a constant basis since the receipt of the request. Before a section 15AA was agreed to by the applicant, multiple line areas and AFP members were contacted in a request for documents relating to the scope of the request. Due to the nature of the request, it was difficult to decide which areas to approach and who may hold documents. Also considering that the events relevant to the request were finalised ten years ago, some AFP members have since left the organisation and others have moved into other areas. Since the applicant agreed to a section 15AA extension, I have reached out to multiple other line areas and AFP members, including taking several phone calls attempting to clarify the scope of the request as it is evidently technical, sensitive, and it is uncertain who would hold documents. Additionally, it was difficult to reach some members as they were on leave or on an overseas posting, so it took extra time to receive responses from them. After engaging with multiple line areas and AFP members, a bundle of documents were received and compiled. I am now in the process of assessing the necessary redactions and having a senior team member review my mark ups.

There were 60 folios of documents provided in relation to this request. This request is considered complex as it includes protected information, the AFP's interactions with foreign law enforcement agencies, and extensive police methodology that needs to be carefully assessed. This request relates to an international joint investigation among several law enforcement agencies against an online black market site. This is an extremely sensitive matter as disclosure of select information could pose irreversible threats to the AFP and its international partners. Therefore, this request is not necessarily voluminous, but it is rather complex due to its operational and international nature. Given the constant effort involved in processing this request, a further extension of time would allow the appropriate assessment to take place before a decision is notified to the applicant.

This request will be prioritised by the senior team members who are currently reviewing my mark ups. Once completed, I will prioritise this request and endeavour to provide a decision to the applicant on or before 6 January 2025. I will keep the applicant informed and notify them when a decision will be provided shortly. Should the applicant have any questions or concerns, may they feel free to contact [foi@afp.gov.au](mailto:foi@afp.gov.au). We would like to thank the applicant for their patience and cooperation thus far.

## 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> .