



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

<b>Agency</b>	Department of Foreign Affairs and Trade
<b>FOI applicant</b>	Tyler
<b>Date of decision</b>	6 January 2025
<b>OAIC reference number</b>	RQ24/05873
<b>Agency reference number</b>	LEX 11702

### Decision

1. On 18 December 2024, Department of Foreign Affairs and Trade (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 30 days to 23 January 2025 to process 's (the FOI applicant) request of 28 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 30 days to 23 January 2025. My reasons are outlined below.

### Background

4. On 28 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 27 November 2024.
5. On 16 November 2024, the Department obtained an agreement from the FOI applicant under s 15AA of the FOI Act. The FOI decision became due on 11 December 2024.
6. On 29 November 2024, the Department obtained an agreement from the FOI applicant under s 15AA of the FOI Act. The FOI decision became due on 18 December 2024.
7. On 13 December 2024, the Department obtained an agreement from the FOI applicant under s 15AA of the FOI Act. The FOI decision became due on 24 December 2024.
8. On 18 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 and/or voluminous. A copy of the Department's reasons is included at **Attachment A**.

## Reasons for decision

9. 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.
10. 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.
11. On the information before the OAIC, I am satisfied that an extension to the processing period until **23 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, based on the sensitive nature of the documents requested, the jurisdictional challenges involved in the search and retrieval of any relevant documents, the involvement of multiple foreign governments and the requirement to obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved.
12. In granting this extension, I have also considered the work already undertaken by the Department to finalise the request, measures taken by the Department to ensure a decision is made within the extended time period, steps taken by the Department to first obtain a 15AA agreement from the FOI applicant and steps taken by the Department to keep the FOI applicant informed of progress.
13. The Department must provide the FOI applicant with a decision by **23 January 2025**.
14. If the Department does not provide the FOI applicant a decision by **23 January 2025**, the FOI applicant may seek review by the Information Commissioner of the Department’s deemed access refusal decision of 23 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.
15. This extension of time matter is now closed. Your review rights are set out below.

16. 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 RQ24/05873.

Yours sincerely

A handwritten signature in black ink, appearing to read "Lakshmi". The signature is written in a cursive style with a loop at the end.

Review Adviser  
Freedom of Information  
Office of the Australian Information Commissioner

6 January 2025

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

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Please also explain the reasons for the request and why an extension would be justified. Requests for longer extensions of time (more than 30 days) will require greater justification.

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. \*

31 October 2024: Eastern and South-East Europe Branch and Protocol and Events Branch FOI document searches completed. FOI Team advised to task Historical Publications Section. 6 November 2024: DFAT Archives Unit FOI document searches completed. No hard copy files located. Electronic documents identified at Zagreb Post. 15 November 2024: Zagreb Post FOI document searches completed. FOI Team advised to task Vienna UN Post. 20 November 2024: Vienna UN FOI document searches completed. FOI Team advised to task Belgrade Post. 4 December 2024: Belgrade Post FOI document searches completed. 19 December 2024: Multiple internal consultations with line areas and Posts due for completion.

What work is required to finalise the request? \*

Decision of nominated decision maker Notification of decision to DFAT Deputy Secretaries and Foreign Minister's Office Notification of decision to applicant

Why is the request considered complex or voluminous? \*

This matter is complex for the following reasons: - Multiple searches were required in two Branches; DFAT Archives Unit; and three Posts - FOI searches for electronic and hard copy files were required due to the age of documents sought (around 2008) - Changes in jurisdiction for relevant bilateral relationships (around 2008) - Sensitivity of documents sought - e.g s33(a)(iii), s33(b), s42 - In good faith, DFAT's global network followed all leads for documents, which used processing times.

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

Yes - multiple foreign governments.

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 \*

The FOI Team will ensure: - all relevant line areas respond on time - the decision maker responds on time - the applicant is kept informed of progress via email with the caveat that DFAT will officially close for business from 25 December 2024- 1 January 2025 inclusive.

## 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> .