



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

Agency	Department of Home Affairs
FOI applicant	Oliver Smith
Date of decision	25 November 2024
OAIC reference number	RQ24/04987
Agency reference number	FA 24/10/01852

Decision

1. On 15 November 2024, Department of Home Affairs (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 29 December 2024 to process Oliver Smith's (the FOI applicant) request of 30 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 29 December 2024. My reasons are outlined below.

Background

4. On 30 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 29 November 2024.
5. On 15 November 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 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].
8. On the information before the OAIC, I am satisfied that an extension to the processing period until **29 December 2024** 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 and the requirement to obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved.
9. 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 and steps taken by the Department to first obtain a 15AA agreement from the FOI applicant.
10. The Department must provide the FOI applicant with a decision by 29 December 2024.
11. If the Department does not provide the FOI applicant a decision by 29 December 2024 the FOI applicant may seek review by the Information Commissioner of the Department’s deemed access refusal decision of 29 December 2024. 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 xxxxx@xxxx.xxx.xx, quoting reference number RQ24/04987.

Yours sincerely,



Assistant Director (a/g)
Freedom of Information Branch
Office of the Australian Information Commissioner

25 November 2024

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

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. *

• Application received on 30 October 2024 • Application registered and acknowledged on 30 October 2024 • Document searches commenced on 31 October 2024 • Documents retrieved date on 1 November 2024 • Application is currently under assessment • Consultations commenced on 13 November 2024

What work is required to finalise the request? *

FA 24/10/01852 is under active assessment by the Department of Home Affairs. It has been allocated to a decision maker and the documents potentially in scope of the request have been retrieved. The request is complex in nature, containing documents which relate to a large Ministerial Submission relating to the Cyber Security Legislative Package. The Department estimates it will need to assess up to 11 documents to complete this request, and the material is likely to attract multiple exemptions and requires some internal and external consultations with multiple Departmental business areas and other government Departments. Quality Assurance of the documents by a Senior Executive from the responsible business area will also be required, given the complexity and sensitivity of the subject matter. In light of this information, the Department requests a 15AB extension of 30 days to complete the request.

Why is the request considered complex or voluminous? *

The request is considered complex and voluminous for the reasons below: • Requires a significant amount of liaison with business areas and external stakeholders to determine documents relevant to the scope • Extensive reasonable searches were required to action this request and identify relevant documents • 11 documents were identified as being potentially relevant within the scope

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

- Australian Signals Directorate - Department of Defence - Department of Foreign Affairs - Department of Infrastructure, Transport, Regional Development, Communications and the Arts - Attorney-General's Department - National Emergency Management Agency of Australia - Department of Prime Minister and Cabinet

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 Department requests a section 15AB extension of time to complete the request. The additional time provided by the EOT will be used to efficiently, and will assist with the following: • Engage with the applicant about the Ministerial Submission and any delays with the processing • Complete and undertake

Webform WEB-EOT-24-02210

additional searches for documents potentially in scope of the request • Complete consultations with the 8 internal and external stakeholders • Complete assessment of the documents in scope of the request and prepare a decision record and schedule of documents. • Finalise the decision and notify the 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 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> .