



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

Agency	Department of Defence
FOI applicant	Fred N/A
Date of decision	20 January 2025
OAIC reference number	RQ25/00214
Agency reference number	FOI 464/24/25

Decision

1. On 10 January 2025, Department of Defence (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 28 days to 8 February 2025 to process Fred N/A's (the FOI applicant) request of 12 December 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 28 days to **8 February 2025**. My reasons are outlined below.

Background

4. On 12 December 2024, the FOI applicant made an FOI request to the Department. The FOI decision was due to be provided to the FOI applicant on 11 January 2025.
5. On 10 January 2025, 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

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 **8 February 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 range of documents captured by the request, absence of key decision-making personnel during the Christmas shutdown period 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, 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.
10. The Department must provide the FOI applicant with a decision by **8 February 2025**.
11. If the Department does not provide the FOI applicant a decision by **8 February 2025** the FOI applicant may seek review by the Information Commissioner of the Department’s deemed access refusal decision of **8 February 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 RQ25/00214.

Yours sincerely,

A handwritten signature in cursive script that reads "Lakshmi".

Lakshmi
Review Adviser
Freedom of Information
Office of the Australian Information Commissioner

20 January 2025

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. *

On 12 December 2024, the applicant their request for documents under the Freedom of Information Act 1982 (FOI Act) and was promptly tasked to a line area that could reasonably be expected to hold documents. On 13 December 2024, Defence acknowledged the applicants request, and sought a 30-day extension of time under s15AA of the FOI Act due to Defence's reduced staffing period during December and January. The applicant did not respond to this correspondence. Following the tasking of the request to multiple teams that could reasonably be expected to hold documents, extensive searches were undertaken for relevant documents. Unfortunately the search results were broad, and it was identified that in order to locate relevant documents, careful review of a significant amount of material would need reviewing to identify relevance (if any) in the first instance. Due to Defence's reduced activity period, many key Subject Matter Experts (SMEs) were on leave and therefore obtaining advice has been timely. Defence is not permitted to direct staff to work during the stand-down period and to pull staff away from their families. Upon returning from the shutdown period, on 2 January 2025 Defence sent a second email requesting the applicant's agreement to extend the processing time for 30-days. No response was received from the applicant to this follow-up request. Defence continues to review it's records to identify relevant material. Thank you for considering our request.

What work is required to finalise the request? *

In order to ensure a robust decision is made for this request, the decision maker and the FOI team will work with relevant personnel to identify the final documents in scope. Once confirmed, the decision maker will undertake consultation with any concerned parties, before they will be required to consider all advice received from subject matter experts as well as advice received from the external parties. Following receipt of this advice, the decision maker will apply any required redactions over exempt information. Next, the decision maker will finalise their statement of reasons that reflects their decision on access, before providing their clearance during the final stages of processing the request.

Why is the request considered complex or voluminous? *

This request is considered to be complex due to the nature of the request. The request seeks access to "...a list of all Australian Army Corps Trophies and Awards, which have been given out by the various Army Corps, with the associated requirements for achieving said awards and or trophies, a list of the associated names and dates of when these awards were presented to the individuals and background

history, description, images and importance of the award(s) given out by each Army Corps." Due to the subject matter, consideration must be given to Australia's relationships with it's counterparts and the release of material relating to internal processes and functions of Defence. Further, this matter is complex because the Subject Matter Experts (SMEs) are not available at this time during the reduced staffing period and Defence is not permitted to direct staff to work during the stand-down period and to pull staff away from their families. Finally, this matter is complex as if relevant documents are identified, consultation will be required to be undertaken prior to the decision maker making a decision. To ensure that a robust decision is made, Defence has been required to conduct reasonable searches of multiple information holdings systems. Searches for these records are being conducted by multiple teams who could reasonably be expected to have equity in the request.

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

The matter is of interest to the Australian public and as such, interested parties include but are not limited to, relevant Parliamentarians, the media, and counterparts both within Australia and internationally.

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 *

To ensure this FOI request is completed within the requested period, relevant personnel within Defence will work together to ensure resources are dedicated to make an informed and robust decision. Defence has already informed the applicant of the shutdown and reduced staffing period, therefore they are aware that the request is unable to be completed in the current timeframe.

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> .