



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

Agency	Australian Institute of Health and Welfare
Applicant	Nosey Rosey
Decision date	6 January 2025
OAIC reference number	RQ24/05841
Agency reference number	FOI 009 2024

### Decision

1. On 18 December 2024, the Australian Institute of Health and Welfare (the Agency) applied under s 15AB(1) the *Freedom of Information Act 1982* (Cth) (FOI Act) to the Information Commissioner for an extension of 30 days to 12 February 2025 to process Nosey Rosey's (the Applicant) request of 14 December 2024 (the FOI request). This application was made on the basis that the processing period is insufficient to deal adequately with the FOI request because it is complex and/or voluminous.
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 **12 February 2025**. My reasons are outlined below.

### Background

4. The background to this application is summarised in **Attachment A**.
5. A copy of the Agency's reasons for seeking an extension are included at **Attachment B**.

### 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 making my decision under s 15AB(2), I have considered the information provided by the Agency and the FOI Guidelines issued by the Information Commissioner under s 93A of the FOI Act, in particular paragraphs [3.150] – [3.157].

8. On the information before the OAIC, I am satisfied that an extension to the processing period until 12 February 2025 is justified on the basis of complexity, for the following reasons:
  - Based on the Agency’s submissions, I am satisfied that the request is complex, based on the technical nature of the documents requested, the range of documents captured by the request and the requirement to obtain subject matter expertise from relevant business line areas in relation to any documents.
  
9. In granting this further time, I have also considered:
  - The work already undertaken by the Agency to manage the request
  - Steps taken by the Agency to keep the Applicant informed of progress
  
10. The Agency must provide the Applicant with a decision by **12 February 2025**.

If the Agency does not provide the Applicant a decision by **12 February 2025** the Applicant may seek review by the Information Commissioner of the Agency’s deemed access refusal decision of **12 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 Agency’s decision or deemed decision. It also remains open to the Agency to apply for a further extension of time from the Information Commissioner if considered appropriate.
  
11. For further information, the OAIC website provides a resource containing information on [applying for an extensions of time to process freedom of information requests](#).
  
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 RQ24/05841.

Your sincerely

**Sarah Forrester**  
A/g Director  
Office of the Australian Information Commissioner  
6 January 2025

Background to processing period

Background	Processing period	Due date
FOI request made on 14 December 2024	30 days	13 January 2025



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

The request has an extensive scope that extends to multiple types of records relating to data shared by the Department of Veterans' Affairs (DVA) to the Australian Institute of Health and Welfare (AIHW). This includes more general documents such as data sharing agreements, as well as highly technical documents such as ethics committee approvals and file transfer logs. Preliminary searches indicates that the AIHW holds an enduring data collection that was established in 2021 which is updated from time to time, and there have been approximately three bespoke linkage projects that has used this data that would also be within scope of the request. The documents are held by multiple line areas across the AIHW and will require specialist technical expertise to review the content to ensure that releasing documents would not be in breach of the AIHW's secrecy provision, and therefore exempt under the FOI

Act. While I anticipate that I will need to consult with the applicant to reduce the scope, this is unlikely to reduce the complexity. For example the applicant has asked for a representative data sample which I am unlikely to process as an FOI request as this requires data analytics rather than a mere use of computers to extract information into a document, however I expect that the applicant may be satisfied with a list of data variables. I have asked all line areas to provide me with relevant documents by 13 January 2025, which is the current due date for the request. This is a reasonable timeframe for the line areas to responding noting the complexity of the information requested, and the available working days between now and then. While I understand that it is the responsibility of the AIHW to ensure adequate resourcing during times of agency shut down, the information requested is specialist technical information and there are limited resources to be able to undertake this work even when shut down is not an issue.



## 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 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>.