



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

Agency	Australian Taxation Office
FOI applicant	Nosey Rosey
Date of decision	16 January 2025
OAIC reference number	RQ25/00155
Agency reference number	1-155K8PH7

Decision

1. On 8 January 2025, Australian Taxation Office (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 12 February 2025 to process Nosey Rosey's (the FOI applicant) request of 14 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 30 days to **12 February 2025**. My reasons are outlined below.

Background

4. On 14 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 13 January 2024.
5. On 8 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 **12 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, challenges involved in the search and retrieval of any relevant documents, difficulties incurred in obtaining timely responses from business areas or consulted third parties and the requirement to obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved.
 - The Christmas shutdown period which effectively reduced the 30-day processing period by 7 days.
9. While I have considered the FOI applicant's objections made to the Department, when the Department sought an agreement for an extension of time under s 15AA, I am satisfied that this extension of time remains justified for the reasons outlined above.
10. 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.
11. The Department must provide the FOI applicant with a decision by **12 February 2025**.

12. If the Department does not provide the FOI applicant a decision by **12 February 2025** the FOI applicant may seek review by the Information Commissioner of the Department'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 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.
13. This extension of time matter is now closed. Your review rights are set out below.
14. If you would like to discuss this matter, please contact our office by email at FOIDR@oaic.gov.au, quoting reference number RQ25/00155.

Yours sincerely



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

16 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. *

Upon receiving this FOI, a request for reasonable searches of all ATO computer systems and hard copy files was submitted to the ATO business area who manage the ATO's data sharing arrangements (Smarter Data). This business area subsequently advised the ATO decision-maker that due to the nature of the documents being requested, requests for reasonable searches would need to be submitted to two (2) additional business areas, being Individuals and Intermediaries (IAI), and Enterprise Solutions and Technology (EST). After submitting these additional requests for searches, the FOI decision-maker was in consultation with various officers from each of the business areas to determine what was within each of the portfolios and ensuring that reasonable searches were being undertaken to ensure that all information which would be captured by the scope of the request would be located. To date, the FOI decision-maker has received a response from two of the three business areas with documents which may form part of the scope of the request. However, consultations are still underway with the other business area to ensure that all documents within the scope are provided to the FOI decision-maker for review. Additionally, on 8 January 2025, when providing documents one of the business areas brought to the FOI decision-maker's attention that further documents may exist and be in the possession of business area who has not as yet provided any documents. Since, the FOI decision-maker has gone back to ensure that the searches (which are still undergoing) include these additional documents which were brought to the decision-maker's attention. Additionally, due to the nature of the documents, which involve information of another government agency and details on data-sharing arrangements, additional internal consultations have been required within the ATO, and further time is needed to finalise this.

What work is required to finalise the request? *

Consultations with the relevant business areas are still underway to ensure there all documents within the scope of the FOI request, and that all reasonable searches are undertaken in accordance with the ATO's obligations. Once completed, due to the sensitivities of the documents requested, namely protocols and agreements between the ATO and another agency, the FOI decision-maker will be required to undertake additional consultations with the business areas. These consultations will focus mainly on ensuring that

documents released do not contain protected taxpayer information or internal operational information concerning current data-sharing arrangements, noting that the information will also be published to the FOI disclosure log. Moreover, once all documents are collated and a decision to the consultations is received, the FOI decision-maker will then finalise the request and circulate the documents for comments to all ATO SES Band 2 officers for comments. The FOI decision-maker will then consider all the additional information against the FOI Act (where necessary) and make the appropriate changes to the documents, before releasing them to the applicant. We note that we originally sought a shorter extension of time (15 days) from the applicant than we are seeking in this request, as we have progressed with processing this request and our internal consultations, the increasing complexity of the request and possible documents within scope has become apparent to the FOI decision-maker, necessitating additional time than originally sought, to process the request.

Why is the request considered complex or voluminous? *

The request is considered complex due to the sensitivities in releasing information that relates to the data sharing arrangements between the ATO and another government agency. Release of this information without the appropriate level of consultation and escalation can reasonably be expected to prejudice the effectiveness of the ATO in administering the taxation system. This information relates to how the ATO ascertains certain data types and therefore poses a significant risk to the ATO's confidentiality processes.

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

The Department of Veteran Affairs (DVA) has been informed of this request and there may be a requirement to consult with them further in relation to documents in scope and any sensitivities in those documents, as the documents sought by the applicant relate to agreements between the ATO and DVA.

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 *

As detailed above, the FOI decision-maker sought an extension in the first instance from the applicant pursuant to 15AA of the FOI Act, which was refused. The FOI decision-maker expects to be in a position to release a decision to the applicant by 12 February 2025. The additional time sought under this request has taken into account any additional delays which may be faced. The ATO has notified all relevant internal stakeholders that the documents will be circulated for internal consultation and has advised DVA of the FOI request in the event that their input is required on any information to be released. The applicant has been advised that the ATO requires the additional time to ensure that it meets its obligations under the FOI Act to have all reasonable searches undertaken and the ATO is confident that the information released would not unfairly prejudice the administration of the taxation system.

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> .