



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

<b>Agency</b>	Department of Health and Aged Care
<b>FOI applicant</b>	Nosey Rosey
<b>Date of decision</b>	16 January 2025
<b>OAIC reference number</b>	RQ25/00178
<b>Agency reference number</b>	FOI 25-0169 LD

### Decision

1. On 9 January 2025, Department of Health and Aged Care (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 2025.
5. On 9 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 [or 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, the requirement to consult and obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved, etc.].
  - The Christmas shutdown period which effectively reduced the 30-day processing period by 7 days.
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 **12 February 2025**.
11. 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.

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 RQ25/00178.

Yours sincerely,

A handwritten signature in black ink that reads "Lakshmi". The signature is written in a cursive, flowing style.

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 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 will continue searching in scope documents and will consult with affected commonwealth entities as soon as practicable - The department will identify sensitivities as soon as practicable, considering any submissions (if any) - The department will prepare a notice of decision - The decision maker will sign notice of decision - The department will then prepare the decision and issue it to the applicant as soon as practicable - The department will liaise with the applicant, providing regular updates

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. \*

• 16 December 2024 – the department acknowledged receipt of this FOI • 20 December 2024 – FOI team emailed the principal business area requesting to conduct a search for in-scope documents. As per the scope of the request, it will include data over the last ten years. • 6 January 2025 – an extension of time sought from the applicant with the explanation that searches for documents will involve all divisions of the department. • 7 January 2025 – The FOI team had a meeting with the lead business area and discussed documents and strategies to process this FOI. The principal business area advised that this request would require all divisions of the department to conduct reasonable searches in their record-keeping systems for any in-scope documents. • 8 January 2025 – email sent to all divisions within the department to conduct a search for data over the last ten years period and provide documents to the FOI team if identified.

What work is required to finalise the request? \*

- The department will continue searching for documents for the last ten years as requested and consult with business areas and other commonwealth entities relating to documents sensitivities. - Decision maker to assess and review documents sensitivities - Decision maker to make a decision on access to the documents, noting any submissions that may be made by third parties - Notice of decision to be completed - Decision maker to sign notice of decision - Department executive to be notified of the decision on access - Applicant to be issued the decision on access

Why is the request considered complex or voluminous? \*

- The scope of the request is very broad and will involve all divisions within the department conducting reasonable searches of data for over the last ten years to identify any in-scope documents. For some divisions, record keeping system may have changed over the last ten years and they need to search old record keeping system as well to include all in-scope documents as per the request. - Additional process time will allow the department to conduct reasonable searches within the department and consult with third parties on any such documents identified and decision maker adequate decision-making time to ensure all sensitivities within the documents are appropriately identified, and a well-balanced decision is made.

## 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> .