



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

Agency	National Health and Medical Research Council
Applicant	Nosey Rosey
Decision date	29 January 2025
OAIC reference number	RQ25/00427
Agency reference number	FOI2024/25-007

### Decision

1. On 22 January 2025, the National Health and Medical Research Council (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 22 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 **22 February 2025** (noting the decision is to be advised by **24 February 2024** which is the first business day following the due date). My reasons are outlined below.

### Background

4. A copy of the Agency's reasons for seeking an extension are included at **Attachment A**.

### Reasons for decision

5. 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.
6. 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].

7. On the information before the OAIC, I am satisfied that an extension to the processing period until 24 February 2025 is justified on the basis of complexity and/or volume, for the following reasons:
  - Based on the Agency’s submissions, I am satisfied that the request is complex, based on the range of documents captured by the request, the limited number of staff with the required specialist knowledge and the requirement to obtain subject matter expertise from relevant business line areas in relation to any potential sensitivities involved.
8. In granting this further time, I have also considered:
  - The work already undertaken by the Agency to finalise the request.
  - Steps taken by the Agency to keep the Applicant informed of progress.
9. The Agency must provide the Applicant with a decision by **24 February 2025**.

If the Agency does not provide the Applicant a decision by **24 February 2025** the Applicant may seek review by the Information Commissioner of the Agency’s deemed access refusal decision of **24 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.
10. For further information, the OAIC website provides a resource containing information on [applying for an extensions of time to process freedom of information requests](#).
11. This extension of time matter is now closed. Your review rights are set out below.
12. If you would like to discuss this matter, please contact our office by email at FOIDR@oaic.gov.au, quoting reference number RQ25/00427.

Yours sincerely

*A De Ieso*

Andriana De Ieso  
Review Adviser  
Office of the Australian Information Commissioner  
29 January 2025

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

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. \*

- 14 December 2024: FOI request submitted by the applicant (via the 'Right to Know' website). Please note that although the applicant's email was sent to the NHMRC FOI mailbox, it went to the 'Junk Email' folder. This was unexpected, as emails from similar 'Right to Know' addresses have previously been received in the FOI inbox. - 20 December 2024: NHMRC's FOI Unit found the applicant's email in its Junk Email folder (please note that the FOI Unit has subsequently followed up with its IT area about this issue). - 20-24 December 2024: Internal consideration and discussion about the scope of the request, as well as which area/s of NHMRC would be involved in processing. Also, drafting acknowledgement email to applicant. - 24 December 2024: Acknowledgement email sent to applicant, confirming receipt of request and providing general information about processing FOI requests (i.e., timeframe, charges, consultation with third parties and the disclosure log). - 25 December 2024–1 January 2025 (inclusive): NHMRC office is closed over the Christmas and New Year period (i.e., stand down). The staff who process FOI requests were not working during and just after this period, which impacted on the processing timeframe. - 7 January 2025: FOI Unit arranges for a search of NHMRC's records to be conducted in line with the scope of the request and with the relevant areas. - 8–9 January 2025: A search of NHMRC records is conducted in line with the scope using an electronic discovery tool and relevant key search terms. The search identifies a total of 282,608 documents which potentially fall within the scope of the request. NHMRC refines the search results in line with the scope of the request and gets down to 72,381 potentially relevant documents. NHMRC determines that even with this refinement, the number of documents remains large due to the broad scope of the request. - 9–10 January 2025: FOI Unit drafts a Request Consultation letter to the applicant (under s24AB of the FOI Act). - 10 January 2025: Decision Maker approves and signs the Request Consultation letter, and the FOI Unit emails it to the applicant. This letter provides details on NHMRC's search and gives some background/context about NHMRC's role to assist the applicant in considering the scope of their request. - 11 January 2025: Applicant responds to the FOI Unit and asks for guidance on how best to revise the request in a manner that addresses the practical refusal reason, without unnecessarily reducing the scope of the request. - 13–15 January 2025: NHMRC considers the applicant's request for guidance and reviews search results. - 16–17 January 2025: FOI Unit drafts a response to the applicant, obtains internal and Decision Maker review/approval for this response and sends it to the applicant. This response offers the applicant some specific examples of how they may wish to revise the scope of their request. - 19 January 2025: Applicant responds to NHMRC and provides a revised scope. This concludes the Request Consultation period. - 20–22 January 2025: NHMRC resumes processing the request in line with the revised scope. NHMRC also confirms that it cannot process the revised request by the FOI due date of 23 January 2025. An extension request for 30 days is submitted to OAIC under s15AB of the FOI Act.

What work is required to finalise the request? \*

As the applicant revised the scope of their request on 19 January 2025 (under s24AB of the FOI Act), NHMRC has resumed processing it. In line with s24AA(2) of the FOI Act, NHMRC will now need to: - identify, locate and collate the relevant documents - examine these documents - decide whether to grant, refuse or defer access - determine if consultation with third parties is required - make copies of documents - redact exempt material from the documents if required - notify an interim or final decision to the applicant.

Why is the request considered complex or voluminous? \*

In terms of the request being voluminous, initial searches conducted by NHMRC found 282,608 documents which potentially fell within the scope of the request. Even after working to refine the search (by excluding documents that were more easily identified as not meeting the scope), there were still 72,381 documents remaining. Although the applicant has since reduced the scope of their request, NHMRC will need to refine its search in line with this. The complexity of the request is due to its original broad nature, which led to a large number of search results to be initially found (as detailed above). It is also due to the work NHMRC has undertaken to assist the applicant to revise the broad scope of their request (as per paragraph 3.50 of the FOI Guidelines – Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982, as well as guidance provided by OAIC at the 'IC Review Practice Update Webinar', delivered on 26 August 2024 (in terms of engagement and the insights for practical refusals)). Now that the scope has been reduced, it will take time for NHMRC to refine its search and consider any potentially relevant documents. In addition, NHMRC is a small agency of around 220 staff, of which only a small team of officers have specialist knowledge on the relevant subject matter.

## 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> .