



Our reference: RQ21/00461
Agency reference: LEX3065

Mr Peter Timmins

Sent by email: foi+request-6960-da4d3338@righttoknow.org.au

Extension of time under s 15AB

Dear Mr Timmins

On 23 February 2021, the Department of Foreign Affairs and Trade (the Department) applied for further time to make a decision on your FOI request of 7 December 2021 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

This application was made on the basis that the processing period is insufficient to deal adequately with your FOI request, because it is complex.

The statutory timeframe had been suspended under s 31 of the FOI Act.

The Department also obtained your agreement under s 15AA of the FOI Act for a 21-day extension of time to 27 January 2021.

Contact with you

On 24 February 2021, I wrote to you to seek your view on the Department's application. You responded to my inquiries and provided comments which I have taken into consideration. You set out your reasons you believe an extension of time should not be granted. In summary, you objected to the extension of time as:

There is no case on the information you have sent me for the OAIC to grant an extension of time.

Decision

As a delegate of the Information Commissioner, I am authorised to make decisions on applications for extensions of time under s 15AB of the FOI Act.

I have considered the Department's application and have decided to decline an extension.

Based on the information currently before the OAIC, I am not satisfied that the Department had established that the FOI request is sufficiently complex for the purposes of s 15AB of the FOI Act. As such, an extension of time has not been granted.

If the Department did not provide a decision by 23 February 2021, you may wish to seek Information Commissioner review of the Department's deemed refusal of your request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#).

Contact

If you have any questions about this letter, please contact me on (02) 9284 9721 or via email shelley.napper@oaic.gov.au. In all correspondence please include OAIC reference number at the top of this letter.

Yours sincerely



Shelley Napper

Assistant Director

Freedom of Information

4 March 2021

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 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/reviews-and-complaints/make-an-foi-complaint/>.