



Our reference: RQ21/02780
Agency reference: FOI 2707

Ken

Sent by email: foi+request-7567-8491f020@righttoknow.org.au

Extension of time under s 15AB

Dear Ken

On 14 September 2021, the Department of Health (the Department) applied for further time to make a decision on your FOI request of 16 August 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.

Contact with you

On 14 September 2021, I wrote to you to seek your view on the Department's application, requesting a response by 16 September 2021. We have not received a response to those inquiries.

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 decided to grant the Department further time to **15 October 2021** to process your request. My reasons and considerations follow:

- The Department has advised the OAIC that:
 - the request is complex to process as it involves statistics for a specific earlier time period,
 - processing this request will require specialist staff with technical expertise and corporate knowledge, who are currently working on the pandemic, to assist with locating and assessing documents, and

- the additional time requested will ensure careful consideration can be given to this request, commensurate with the substantial public interest in COVID-19 and the sensitivities involved.
- when consulted by the OAIC, you did not object to this extension of time.

Contact

Should you wish to follow up on this matter, please contact the OAIC by email at foidr@oaic.gov.au and quote the reference number at the top of this email.

Yours sincerely



Fernando Espinosa
Assistant Review and Investigation Adviser (Legal)
FOI Regulatory Group

23 September 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/>.