

Freedom of Information Applying for extensions of time

The ACT *Freedom of Information Act 2016* (FOI Act) states that ACT agencies and Ministers may ask the ACT Ombudsman for additional time if the applicant has:

- been asked for additional time, and
- refused the request, and the time to decide the access application has not expired.¹

This form is to be completed by agencies and Ministers when applying to the Ombudsman for an extension of time.

Applying for an extension of time

Agencies and Ministers must decide an access application within 20 working days² unless the timeframe is extended:

- for third party consultation³
- with the applicant's agreement⁴, or
- by the Ombudsman.⁵

At any time before the statutory timeframe expires, the agency or Minister may ask the applicant for additional time to decide the application.⁶ If the applicant refuses the request for additional time, the agency or Minister may apply to the Ombudsman for an extension of time.⁷

For an application for an extension of time to be valid, the following three criteria must be met:⁸

- the agency or Minister has asked the applicant for additional time
- the applicant has refused the request, and
- the time to decide the application has not expired.

¹ Section 42(1).

² Section 40(1).

³ Section 40(2).

⁴ Section 41.

⁵ Section 42.

⁶ Section 41.

⁷ Section 42(1).

⁸ Section 42(1).

Contact us

ombudsman.act.gov.au
1300 362 072

GPO Box 442
Canberra ACT 2601

Reasons for requesting an extension of time

The Ombudsman may grant an extension if it is not reasonably possible for the agency or Minister to deal with the application within the time period because it involves dealing with:⁹

- a large volume of information, or
- complex and potentially conflicting public interest factors.

There are no other grounds on which the Ombudsman may grant an extension of time.¹⁰ The Ombudsman may grant an extension for up to 15 working days, subject to conditions.

When applying to the Ombudsman for an extension of time, agencies and Ministers should provide reasons for seeking an extension.

The reasons should include:

- why the application involves dealing with either ‘a large volume of information’ or ‘complex and potentially conflicting public interest factors’
- any consultation with the applicant for additional processing time
- any work already undertaken in processing the application
- the work required to finalise the application
- a breakdown of how the additional time will be used to finalise the application.

Best practices when applying for an extension of time

Consider the need for an extension early

Agencies and Ministers should consider whether an extension may be needed as soon as possible after receiving the access application. This will ensure that there is plenty of time to, if necessary, consult the applicant on reducing the scope of the request, negotiate an extension of time with the applicant and if that is not possible, apply to the Ombudsman for an extension of time.

Keep the applicant informed

It is best practice for agencies and Ministers to notify the applicant when they are applying to the Ombudsman for an extension of time. This can be done by sending the applicant a copy of the extension of time application.

Release information in stages

Agencies and Ministers should release information in stages where possible and with the agreement of the applicant, so that a request can be processed as quickly as possible. This practice will allow agencies and Ministers to request an extension of time for only the complex documents.

⁹ Section 42(2).

¹⁰ Section 42.

What happens if the statutory timeframe is not met?

If the agency or Minister does not make a decision within the statutory timeframe, including any extension,¹¹ the FOI Act provides that a decision has been made to refuse access to the requested information (deemed decision).¹² The agency or Minister should, however, continue to process the application after a deemed decision has been made.

If the applicant applies for review of the deemed decision, the agency or Minister should continue to process the application until the Ombudsman issues notice that he or she is commencing a review.

Need more information?

See: *Factsheet - Processing times for decision-makers*

Website: ombudsman.act.gov.au/foi

Email: actfoi@ombudsman.gov.au

Phone: 1300 362 072

More information is available at ombudsman.act.gov.au.

This factsheet has been prepared by the Office of the Commonwealth Ombudsman for the purpose of disseminating information free of charge for the benefit of the public. While we have taken all reasonable care to ensure the accuracy of the information, we do not guarantee, and accept no legal liability whatsoever arising from or connected to, the accuracy, reliability, currency or completeness of any information provided. The information is not intended to be, nor should it be relied on as a substitute for legal or other professional advice. Readers should obtain appropriate professional advice relevant to their particular circumstances.

¹¹ Sections 41 and 42.

¹² Section 39.

Application form

Please send the completed form to the Ombudsman at actfoi@ombudsman.gov.au. The Ombudsman aims to decide extension of time applications within five working days.

1. Your details – agency or Minister

Agency or Minister	
Agency or Minister contact person	Name: Email address: Phone: Mobile:
Date access application was received from applicant	
Date access application decision is due (including: reasons, any extended timeframes due to the applicant's agreement)	

2. Applicant's information

You must provide the Ombudsman with the applicant's contact details because the Ombudsman is required to advise the applicant of the period for which an extension is granted.

Applicant name	
Applicant email and/or phone number Have you asked the applicant for additional time? If yes, please attach copies of your relevant correspondence with the applicant	

3. Extension request details

Please explain why it is not possible for you to deal with the access application within the statutory timeframe because it involves dealing with (a) a large volume of information and/or (b) complex and potentially conflicting public interest factors.

<p>Applicant's request</p> <p>[Quote relevant parts or attach the entire request]</p>	
<p>Reason for an extension of time</p>	
<p>Length of extension sought (number of days and completion date)</p> <p>Maximum: 15 working days</p>	
<p>Justification for an extension of time</p> <p>This section may include:</p> <ul style="list-style-type: none"> - Why it is not reasonably possible to deal with the application within the statutory timeframe - The amount of work required to finalise the request - Why an extension would be justified in the circumstances 	
<p>Action taken to progress the application to date</p> <p>[Please provide a timeline of actions taken since the application was received]</p>	
<p>Breakdown of how the extended timeframe would be used to finalise the application</p> <p>[Please provide a timeline of proposed actions along with dates of expected completion]</p>	
<p>Any other information that may assist the Ombudsman with your application for an extension of time</p>	