

OIA request extension notified outside time limit

Legislation	Official Information Act 1982, s 15A
Agency	Ministry of Health
Ombudsman	Mel Smith
Case number(s)	W50877
Date	September 2003

Request for large amount of information relating to tobacco control—extension to time limit for responding to request required—extension notified outside time limit in s 15A—deemed a refusal—no further investigation required as decision on request pending

The requester wrote to the Ministry of Health requesting certain official information relating to the World Health Organisation’s Framework Convention on Tobacco Control and the 12th World Conference on Smoking or Health. There were 18 separate parts to the request.

Seven days after the date of the request, the Ministry responded releasing information in response to one part of the request. With regard to the remainder of the request, the Ministry asked the requester to explain why certain parts of the request were urgent and to prioritise the various parts of the request. The Ministry explained that once it had received this further clarification, it would then be able to indicate the time required and any estimated charge for responding to the request. Four days later the requester e-mailed the Ministry with the order in which his requests were most urgent. Twenty-three days later (34 days after the request was originally received) the Ministry released information in response to five parts of the request and advised that it was extending the time period for responding to four other parts of the request for a further 27 days.

With regard to the outstanding parts of the request, the Ministry advised that it had done a preliminary scope of the request which suggested that it was for a large amount of information that could involve up to 50 days work. The Ministry considered this would be an ‘unreasonable’ and ‘unacceptable’ interference with its ability to carry out core tasks. The Ministry therefore

advised the requester that it needed to do a closer scoping of what was required to respond to these requests. As a result, the Ministry said it needed to extend the time for responding to that part of the request by a further 20 working days.

Upon receipt of the complaint, the Ombudsman first clarified with the Ministry the relevant dates and advice in light of the statutory obligations set out in the OIA. In particular, the Ombudsman referred the Ministry to section 15A of the OIA. This provision states that any notice of an extension of the time limit for responding to an official information request must be given or posted *'within 20 working days after the day on which it is received'*.

The Ombudsman calculated that the Ministry did not post the notice of extension until 27 working days after the day on which the original request was received and 21 working days after the day on which the Ministry received the requester's letter clarifying the priority to be afforded to the various parts of his request.

The Ombudsman also made enquiries into the reasons for the delays in responding to the request.

The Ministry advised that the request involved a significant amount of information. Up to 10,000 pages of information were potentially covered by parts of the request relating to the World Health Organisation's Framework Convention on Tobacco Control alone. The Ministry also advised the Ombudsman that the request was received at a time when staff resources dedicated to tobacco control were fully committed to work on important policy issues. While it sought to meet the request on time, this was not always possible. Finally, the Ministry confirmed that it was still actively processing the request and before it could be in a position to make any final decisions, it would need to assess the amount of staff time that would be involved in reviewing the information and otherwise processing the request. Only then would it be able to decide whether to grant the request and, if so, whether any charge for the supply of information would be appropriate.

It was the Ombudsman's view that the Ministry's extension of the time limit for responding to the request did not comply with section 15A.

Given that the Ministry had failed to notify the requester of its decision within the specified timeframes in the Act, section 28(4) of the OIA provides that this failure shall be deemed to be a refusal to make the information available.

However, it was apparent from the Ombudsman's enquiries that it was not the Ministry's intention to refuse the request at the time it tried to extend the time limit for making a decision. The Ombudsman was satisfied that the request did involve a large quantity of information and that meeting the original time limit would have unreasonably interfered with the other operations of the Ministry. In other words, if the notice of extension had been posted to the requester within the timeframe specified by the Act, the Ombudsman would have been satisfied that the proposed extension of a further 20 working days would have been reasonable.

This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.