



Standing Committee on Justice and Community Safety

Inquiry into Annual and Financial Reports 2021-2022 ANSWER TO QUESTION TAKEN ON NOTICE

Asked by Mr Andrew BRADDOCK MLA on 2 November 2022: Mr David Fintan, Senior Assistant Ombudsman, Program Delivery Branch took on notice the following question(s):

Reference: Hansard [uncorrected] proof transcript 2 November 2022 [PAGE 56]

In relation to:

MR BRADDOCK: With FOI processing times 26 per cent of cases where were processed in the timeframe where the applicant had provided their agreement to extension request, I am trying to get to the bottom of how onerous that process is. Is that just a simple email back and forth?

Mr Fintan: More or less, yes. It is just a simple request, "Are you comfortable with this?" And then we get a response and pass that on to the relevant respondent.

MR BRADDOCK: And is there a defined period of time? Is that an additional 15 working days, is that correct where the applicant provides their agreement?

Mr Fintan: Can I get back to you on that? Let me just double check. I do not want to give you the wrong information.

ACT OMBUDSMAN: The answer to the Member's question is as follows:—

Section 41 of the *Freedom of Information Act 2016* (FOI Act) allows for an agency to ask an applicant for additional time to decide an access application.

The agency may ask for, and the applicant may agree to, up to an additional 12 months to decide an access application from the date of receipt.

The request must be sent before the end of the processing period. If the applicant does not refuse the request within 7 working days, and the agency has not received a review notice, the agency may decide the application before the end of the requested period.

If an agency has asked an applicant for additional time to decide, and the applicant has refused, or if the agency is seeking additional time beyond 12 months to decide an access application, section 42 of the FOI Act provides that an agency may apply to the Ombudsman for additional time to decide.

The time to decide an access application may also be extended for other reasons, including where the agency consults with a relevant third party, for which section 40(2)(a) of the FOI Act provides an additional 15 days.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:



Date: 10/11/22

By the ACT Ombudsman, Mr Iain Anderson