

Authority:

Office of the Australian Information Commissioner

Country/State:

Australia

Case title:

Patrick v Australian Information Commissioner — Delay in IC Reviews

Official citation:

Federal Court of Australia: *Patrick v Australian Information Commissioner (No 2)* \[2023] FCA 530

Full Federal Court of Australia: *Patrick v Australian Information Commissioner* \[2024] FCAFC 93 (11 July 2024)

High Court of Australia: *Patrick v Australian Information Commissioner* \[2024] HCASL 291

Date of decision:

2023–2024

Relevant law:

Federal Court of Australia: *Patrick v Australian Information Commissioner (No 2)* \[2023] FCA 530;

Full Federal Court of Australia: *Patrick v Australian Information Commissioner* \[2024] FCAFC 93 (11 July 2024);

High Court of Australia: *Patrick v Australian Information Commissioner* \[2024] HCASL 291;

Decision:

The Full Federal Court of Australia (FCAFC) dismissed the appeal, finding no unreasonable delay by the Commissioner in undertaking Information Commissioner reviews. The High Court refused special leave to appeal, upholding the FCAFC's interpretation of s 7(1) of the *Administrative Decisions (Judicial Review) Act 1977* (ADJR).

Key words:

Administrative law, unreasonable delay, judicial review, freedom of information, Principles of Right to Information , High profile case;

Case Summary:**1. Facts**

A former Senator had several ongoing applications before the Information Commissioner for review of FOI decisions made by Commonwealth agencies.

The reviews experienced significant delays, and the appellant alleged the Commissioner had unreasonably delayed making decisions.

The primary judge found no unreasonable delay. The appellant appealed to the FCAFC, seeking declarations that his right to Information Commissioner review had been unlawfully delayed.

2. Decision

The FCAFC dismissed the appeal, concluding the primary judge had not erred. It further held that even if error were established, it would not have granted the declarations sought.

The appellant sought special leave to appeal to the High Court. The HCA refused leave, noting no reason to doubt the correctness of the FCAFC's interpretation of s 7(1) of the ADJR Act.

Note (Optional):

ADMINISTRATIVE LAW — whether there had been unreasonable delay by the Commissioner in making a decision in the sense required by s 7(1) of the ADJR Act — whether appellant would have been entitled to declaratory relief if he was prima facie entitled to that relief

Resource:

Link to the resolutions:

Federal Court of Australia: Patrick v Australian Information Commissioner (No 2) [\[2023\] FCA 530](#)

FCAFC: Patrick v Australian Information Commissioner [\[2024\] FCAFC 93](#) (11 July 2024)

HCA: Patrick v Australian Information Commissioner [\[2024\] HCASL 291](#)