



Decision to grant an extension of time under s 15AB of the *Freedom of Information Act 1982*

Agency	National Disability Insurance Agency
FOI applicant	Mr Bob Buckley
Date of decision	20 November 2024
OAIC reference number	RQ24/04915
Agency reference number	FOI 24/25-0332

Decision

1. On 11 November 2024, National Disability Insurance Agency (the Agency) applied to the Information Commissioner under s 15AB(1) of the *Freedom of Information Act 1982* (Cth) (FOI Act) for an extension of 30 days to 10 December 2024 to process Mr Bob Buckley's (the FOI applicant) request of 11 September 2024 (the FOI request).
2. I note the application for an extension of 30 days highlighted that the new due date following a successful s 15AB extension of time would be 11 December 2024. However, the FOI applicant's agreement to an extension of time under s 15AA of the FOI Act was for 30 days to Sunday, 10 November 2024, not Monday, 11 November 2024, as stated by the Agency in their correspondence to the FOI applicant. Noting that this new due date fell on a Sunday, s 36(2) of the *Acts Interpretation Act 1901* (Cth) allows a thing to be done on the next day that is not a Saturday, a Sunday or a holiday. This extends to providing a decision or making an application for an extension of time under the FOI Act. However, this does not provide an additional day to the official processing period. As such the s 15AA extension of time brought the processing period to Sunday, 10 November 2024. If an additional 30 days is to be granted in this application, the new processing period would end on Tuesday, 10 December 2024.
3. As a delegate of the Information Commissioner, I am authorised to make decisions on extension of time applications under s 15AB(2) of the FOI Act.
4. Under s 15AB(2) of the FOI Act, I have decided to extend the processing period by 30 days to **10 December 2024**. My reasons are outlined below.

Background

5. On 11 September 2024, the FOI applicant made an FOI request to the Agency. The FOI decision was due to be provided to the FOI applicant on 11 October 2024.
6. On 27 September 2024, the FOI applicant agreed to an extension of 30 days to 10 November 2024 under s 15AA of the FOI Act.
7. On 11 November 2024, the Agency applied to the Information Commissioner for further time to process the FOI applicant's request under s 15AB(1) on the basis that the processing period is insufficient to adequately deal with the FOI request, because it is complex and voluminous. A copy of the Agency's reasons is included at **Attachment A**.

Reasons for decision

8. Subsection 15AB(2) of the FOI Act requires that I consider whether the application is justified on the basis that the processing period referred to in s 15(5)(b) is insufficient for dealing with the request, on the basis that the request is complex or voluminous.
9. In granting this extension of time under s 15AB(2), I have considered the following factors:
 - Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act, to which I must have regard, in particular [3.150] – [3.155]
 - the Agency's reasons for seeking an extension
 - whether an agreement to extend the processing period under s 15AA of the FOI Act has first been attempted or obtained by the Agency
 - the work already undertaken, and still required, to finalise the request
10. On the information before the OAIC, I am satisfied that an extension to the processing period until **10 December 2024** is justified, for the following reasons:
 - Based on the Agency's submissions, I am satisfied that the request is complex, based on the range of documents captured by the request and the difficulties incurred in obtaining timely responses from multiple business areas.
 - Based on the Agency's submissions that the FOI applicant's request captures approximately 1,746 pages, I am satisfied the request is also voluminous in nature.

11. In granting this extension, I have also considered the work already undertaken by the Agency to finalise the request and the steps taken by the Agency to first obtain a 15AA agreement from the FOI applicant.
12. The Agency must provide the FOI applicant with a decision by **10 December 2024**.
13. If the Agency does not provide the FOI applicant a decision **by 10 December 2024** the FOI applicant may seek review by the Information Commissioner of the Agency's deemed access refusal decision of 10 December 2024.
14. Further information on applying for IC review is available on the OAIC website. Any application for IC review would need to be made within 60 days of the Agency's decision or deemed decision.
15. It also remains open to the Agency to apply for a further extension of time from the Information Commissioner if considered appropriate.
16. This extension of time matter is now closed. Your review rights are set out below.
17. If you would like to discuss this matter, please contact our office by email at FOIDR@oaic.gov.au, quoting reference number RQ24/04915.

Kind regards,



Claire Lynch

Assistant Review Advisor
Freedom of Information Branch
Office of the Australian Information Commissioner

20 November 2024

The agency's reasons for requesting an extension of time, as included in the extension of time request form.

Please also explain the reasons for the request and why an extension would be justified. Requests for longer extensions of time (more than 30 days) will require greater justification.

Please provide a timeline setting out the work already completed in order to process this request. Where an extension of time has previously been granted, describe the work that was undertaken during that extended period. *

Please see attached document for timeline setting out the work already completed.

What work is required to finalise the request? *

Scope - Stage 2 Release The FOI Officers are awaiting access to a document management system to access documents returned by a business area. There are further documents returned by line areas. We need to assess these documents. I note that the documents that are assessed as being within scope of the request would then need to be reviewed for any sensitivities and possible exemptions under the FOI Act. We would also need to consider whether any further consultations were required and carry these out. A decision about disclosure would need to be made on each document, and a decision letter prepared. The FOI Team will work towards issuing a decision as soon as possible within the extended time period should it be granted.

Why is the request considered complex or voluminous? *

Scope - Stage 2 Release The FOI Officers are awaiting access to a document management system to access documents returned by a business area. There are further documents returned by line areas. We need to assess these documents. I note that the documents that are assessed as being within scope of the request would then need to be reviewed for any sensitivities and possible exemptions under the FOI Act. We would also need to consider whether any further consultations were required and carry these out. A decision about disclosure would need to be made on each document, and a decision letter prepared. This being classified as a significant/Tier 3 matter, the final document bundle and decision letter for Stage 1 and Stage 2 releases have to be considered/reviewed by Assistant Director and Director for quality assurance and sensitivities prior for escalation and circulation to the proposed stakeholders in the Agency as necessary. The FOI Team will work towards issuing a decision as soon as possible within the extended time period should it be granted.

Do other agencies or parties have an interest in the request? *

No

Please describe the measures that would be taken to ensure a decision is made within the period of the requested extension and to keep the applicant informed of the progress of the request *

We intend to continue engaging with the applicant and provide regular updates on the progress of the 2 stages. The FOI Team will work towards issuing a decision as soon as possible within the extended time

FOI 24/25-0332

Timeline of work completed and communication with the applicant

Date	Communication with applicant	Work Completed/Work in progress
11 September 2024	The FOI Team received this FOI request from the applicant.	
26 September 2024	<p>Emailed the applicant acknowledging the request and seeking agreement to a 30-day extension of time under section 15AA of the FOI Act.</p> <p>We also sought the applicant's response confirming whether details such as NDIA staff members' surnames and contact details would be irrelevant to their request for access.</p>	
27 September 2024	We received an email response from the applicant advising us about his views in relation to the disclosure of NDIA staff names with respect to the subject matter of the scope. However, the applicant did not confirm whether he agrees to a 30-day extension of time.	
27 September 2024	We sent a follow up email to the applicant seeking confirmation if they agree to the proposed 30-day	
	extension of time, for processing this FOI request, under section 15AA of the FOI Act. If the applicant agrees to this extension, the new due date for this request will be 11 November 2024.	
27 September 2024	Applicant provided an email response agreeing to a 30-day extension of time.	
30 September 2024		Submitted an application to the OAIC for extension of time notification with the agreement of the applicant (s 15AA)
9 October 2024	<p>We sent an email to the applicant seeking clarification of his request because based on our preliminary analysis of the scope of this request, it appeared to be too broad and could potentially include a large number of documents that may be relevant to the request.</p> <p>Therefore, we sought that the applicant consider revising the scope of this request to a specific date range.</p>	<p>We sent search consults to relevant business areas seeking relevant documents for parts 4 and 5 of the request.</p> <p>Microsoft Teams meeting to discuss any barriers at this stage and seek advice from Assistant Director.</p>

		It was identified quite early in processing this request that it would be complex and voluminous.
10 October 2024	The applicant declined our request to revise the scope of the request and has not provided us with a specific date range.	
11 October 2024		We sent a search consult to additional business area seeking relevant documents for parts 4 and 5 of the request.
		Received further information from another business area on material that could potentially be in scope
16 October 2024		We received documents in scope for parts 4 and 5 of the request from two business areas. We commenced collating these documents and preparing the document bundle. Document bundle consists of 380 pages.
24 October 2024		Microsoft Teams meetings with Agency Senior Executive to clarify the nature of documents
		sought and the contexts in which documents were created.
25 October 2024		Microsoft Teams meeting to discuss any barriers at this stage and seek advice from Assistant Director. We sent search consult to relevant business area requesting preliminary searches of email database using search parameters such as keywords and date range. Actioned search consults to further business area(s)/relevant staff who could be expected to identify documents in scope for parts 1, 2 and 3 of the request.
		In the process of assessing documents and reviewing for any sensitivities and possible exemption under the FOI Act and scheduling and making a decision on each document and preparing a decision letter.

26 October 2024		<p>It was identified quite early in processing this request that it would be complex and voluminous. For that reason, we requested and received the applicant's agreement to process it in two stages.</p> <p>We sent an email to the applicant seeking his agreement to our proposal to manage the request in a staged approach as this will assist us to manage our resources more effectively and allow us more time to consider and process the request.</p> <p>Further advised the applicant that if he agrees we will process the FOI request in two stages - address parts 4 and 5 of the request initially; and the remainder of the request subsequently within the next 30 days.</p>
29 October 2024		<p>Email server searches have returned more than 1,746 pages worth of material that could potentially fall within the scope of this request.</p>
31 October 2024		<p>Teams meeting with Agency Senior Executive to clarify the nature of documents sought and the contexts in which documents were created. Also sought advice and views on disclosure of documents.</p> <p>Followed up the meeting by sending an email and documents in scope attached as zip folder to the FOI Team.</p>
2 November 2024	Applicant has emailed us advising that he agrees to the 2-stage approach.	
5 November 2024		<p>Email sent to third party Agency in initiating a courtesy consultation in relation to a document and sought their views on the disclosure of this document under the FOI Act.</p>
11 November 2024		<p>There are more than 1,746 pages worth of material that could potentially fall within the scope of this request. However, to determine this would require scrutiny of the documents by an FOI Officer to assess whether they are in relation</p>

		<p>to the key words and subject matter of the scope. At a conservative estimate of spending two minutes reading each page, this would take an FOI officer more than 58 hours to simply review and collate the documents.</p> <p>24 AB letter sent to the applicant to engage in a request consultation process on the scope of the request, that relates to Stage 2, in order to avoid a section 24AA practical refusal.</p>
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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 and Family Court of Australia 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/your-freedom-of-information-rights/freedom-of-information-complaints/make-an-foi-complaint> .

Making a complaint to the Commonwealth Ombudsman

If you believe you have been treated unfairly by the OAIC, you can make a complaint to the Commonwealth Ombudsman (the Ombudsman). The Ombudsman's services are free. The Ombudsman can investigate complaints about the administrative actions of Australian Government agencies to see if you have been treated unfairly.

If the Ombudsman finds your complaint is justified, the Ombudsman can recommend that the OAIC reconsider or change its action or decision or take any other action that the Ombudsman considers is appropriate. You can contact the Ombudsman's office for more information on 1300 362 072 or visit the Commonwealth Ombudsman's website at <http://www.ombudsman.gov.au>