



Our reference: RQ21/01240
Agency reference: FOI 20/21-0676

Ms Shirley Humphris

Sent by email: foi+request-7264-96875c08@righttoknow.org.au

Extension of time under s 15AB

Dear Ms Humphris

On 13 May 2021, the National Disability Insurance Agency (the NDIA) applied for further time to make a decision on your FOI request of 16 April 2021 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

This application was made on the basis that the processing period is insufficient to deal adequately with your request, because it is complex and voluminous.

Contact with you

On 17 May 2021, my colleague Ms Napper wrote to you to seek your view on the NDIA's application. Ms Napper invited you to provide any comments by 19 May 2021. You have not responded to those inquiries.

Decision

As a delegate of the Information Commissioner, I am authorised to make decisions on applications for extensions of time under s 15AB of the FOI Act.

I have decided to grant the NDIA an extension of time under s 15AB(2) of the FOI Act **to 16 June 2021**. I am satisfied that the NDIA's application for an extension of time is justified, because the request is complex and voluminous.

In coming to this decision I have considered the following factors:

- on 16 April 2021, the NDIA received your FOI request
- the NDIA conducted initial consultations with relevant business areas to establish the work involved in processing the scope of request which seeks access to documents from multiple business areas and is of highly sensitive and complex nature
- the processing of this request involves consultations with several business areas

- the number of documents identified within the scope of this request is yet to be determined, due to the large number of searches being undertaken
- at present, the NDIA FOI team is still liaising with business areas and managers to ensure that searches have accurately captured all documents falling within the scope of this request, and to ensure they carefully consider the potential sensitivities within the documents.
- during the processing of this request, the NDIA was recalled for additional Senate Estimates and was required at multiple hearings of various Joint Standing Committees. This necessitated staff engagement on preparations for these hearings which impacted FOI consultations and searches
- furthermore, the relevant NDIA branch has undergone major structural changes with key staff participating in recruitment processes and training new staff causing delays. Actioning Officers have significantly increased workloads and are working considerable hours to ensure matters are processed within a timely manner, and
- the NDIA has advised that they are also committed to issuing a decision as soon as possible within the extended time period, should it be granted, and to answer any queries you may have in relation to the processing times involved with this matter.

Contact

If you have any questions, please contact me on (02) 9284 9847 or via email jasmin.clarke@oaic.gov.au. Please quote OAIC reference number at the top of this page in all correspondence.

Yours sincerely



Jasmin Clarke

Assistant Review and Investigation Advisor
Freedom of Information

21 May 2021

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 Court 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/reviews-and-complaints/make-an-foi-complaint/>.