



Our reference: RQ21/01617  
Agency reference: FOI 20/21-0803

## Ms Karen Reynolds

Sent by email: [foi+request-7327-4ad64abf@righttoknow.org.au](mailto:foi+request-7327-4ad64abf@righttoknow.org.au)

## Extension of time under s 15AB

Dear Ms Reynolds

On 25 June 2021, the National Disability Insurance Agency (the NDIA) applied for further time to make a decision on your FOI request of 1 June 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.

The NDIA attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. The NDIA did not receive a response from you.

## Contact with you

On 28 June 2021, I wrote to you to seek your view on the NDIA's application. I invited you to provide any comments by 30 June 2021. You have not responded to my 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 2 August 2021**. I am satisfied that the NDIA's application for an extension of time is justified, because the request is complex.

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

- On 1 June 2021, the NDIA received your FOI request.
- The NDIA has advised that recently a large number of FOI requests were received within a short period of time.
- The NDIA considers your request to be complex in nature and are yet to determine whether all documents have been captured within the scope of your request.

- The NDIA further advised that it is still in the process of liaising with multiple business areas and managers to ensure careful consideration of documents captured and potential sensitivities.
- The NDIA has advised that due to staff engagement involving additional senate estimates and multiple Committee hearings, this impacted the NDIA's ability to conduct FOI consultations and searches.
- A further complexity involved the major structural changes with key staff to address and resolve the staffing shortage due to the significantly increased workload.
- In order to make an informed and proper decision, the NDIA requires additional time to continue engaging with relevant business areas to finalise additional searches and finalise the decision.

## Contact

If you have any questions, please contact me on (02) 9284 9847 or via email [jasmin.clarke@oaic.gov.au](mailto: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

1 July 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/>.