



Our reference: RQ21/01661  
Agency reference: FOI 20/21-0799

**Chris Wood**

Sent by email: [foi+request-7356-6720a856@righttoknow.org.au](mailto:foi+request-7356-6720a856@righttoknow.org.au)

**Extension of time under s 15AB**

Dear Chris Wood

On 29 June 2021, the National Disability Insurance Agency (the NDIA) applied for further time to make a decision on your FOI request of 29 May 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 FOI request, because it is complex and voluminous.

**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 July 2021**. I am satisfied that the NDIA's application for an extension of time is justified, because the request is complex and voluminous. My reasons and considerations follow:

- The NDIA has advised that:
  - the request relates to Independent Assessments, a subject which is currently under considerable scrutiny with Parliamentary inquiries, questions on notice, ongoing consultations, current trials, new contracts, multiple media enquiries, and other FOI requests
  - the documents within the scope of this request contain information regarding the operations of the Second Independent Assessment Pilot, which has yet to be finalised
  - the NDIA's Minister has recently announced a pause in the roll out of independent assessments which also impacts this process
  - the request seeks access to documents from multiple business areas of a highly sensitive and complex nature, and involved consultations with several business areas, ELT Staff within NDIA, and the Minister's Office

- 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
- the NDIA has undergone major structural changes with multiple staff departures and key staff participating in recruitment processes and training new staff which has caused delays. Actioning Officers have significantly increased workloads and are working considerable hours to ensure matters are processed within a timely manner, and
- the NDIA is committed to issuing a decision as soon as possible.

## Contact

If you have any questions about this letter, please contact me on (02) 9284 9783 or via email at [rochelle.dunlop@oaic.gov.au](mailto:rochelle.dunlop@oaic.gov.au). In all correspondence, please include the OAIC reference number at the top of this letter.

Yours sincerely



**Rochelle Dunlop**

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/>.