



Our reference: RQ21/02742  
Agency reference: FOI 21/22-0187

**Mr Bob Buckley**

Sent by email: [foi+request-7697-16a91ca1@righttoknow.org.au](mailto:foi+request-7697-16a91ca1@righttoknow.org.au)

## Extension of time under s 15AB

Dear Mr Buckley

On 13 September 2021, the National Disability Insurance Agency (the NDIA) applied for further time to make a decision on your FOI request of 18 August 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.

The NDIA has advised the OAIC that on 10 September 2021, the NDIA sought your agreement to an extension of time under s 15AA of the FOI Act. The NDIA advises that you responded, 'it makes no difference whether I agree or not'. The NDIA has taken your response to indicate that you did not agree to the request.

## Contact with you

On 15 September 2021, I wrote to you to seek your view on the NDIA's application. You responded to my inquiries and provided comments which I have taken into consideration, including that:

... the NDIA keeps much of its business secret from the people who depend on it. It is important that people with disability know what the Agency tells its Minister since we feel some of the advice they provide misinterprets data and misrepresents our community and its representatives. We need to be aware of advice given to the Minister and the Government; we'd like to provide our side of the discussion.

## 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 note your response, however, based on the information currently before the OAIC, I have decided to grant the NDIA an extension of time under s 15AB(2) of the FOI Act **to 18 October 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 the OAIC that:
  - the FOI request is complex in nature and voluminous and seeks access to a large number of documents
  - the NDIA is conducting searches and consultations with staff to identify all relevant documents within scope, and determine whether it needs to further engage with you
  - the information requested is highly likely to contain a number of sensitivities and therefore requires additional time and consultation during the decision making process.
  - COVID-19 lockdowns have impacted on the NDIA's agency operations, and
  - the NDIA will continue to liaise with you and provide you with 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  
FOI Regulatory Group

**20 September 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/>.