



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/00232

Agency reference: FOI 21/22 0720

**Mr Mark A**

By email: [foi+request-8206-49cd6ce2@righttoknow.org.au](mailto:foi+request-8206-49cd6ce2@righttoknow.org.au)

Notification to: [foi@ndis.gov.au](mailto:foi@ndis.gov.au)

## Extension of time under s 15AB

Dear Applicant

On 17 January 2022, the National Disability Insurance Agency (NDIA) applied for further time to make a decision on your FOI request of 17 December 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.

### 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 **31 January 2022**. I am satisfied that the NDIA's application for an extension of time is justified, because the request is complex. My reasons and considerations follow:

- the NDIA has advised that:
  - internal consultations have now been completed and a number of documents identified, work is also being undertaken to review the documents and consider exemptions
  - during the processing of this request, the NDIA had its annual shut down period which impacted on the NDIA's ability to progress this matter due to the agency's limited resources
  - increased workloads in other areas of work have impacted on the FOI consultation process and timeliness of document searches, and
  - additional time is required to provide a decision due to the effects of the current number of COVID-19 cases the agency is facing.

## Contact

If you have any questions, please contact me via return email to [Summen.Sarwar@oaic.gov.au](mailto:Summen.Sarwar@oaic.gov.au). In all correspondence, please quote OAIC reference number at the top of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Summen Sarwar', with a stylized flourish at the end.

**Summen Sarwar**  
**Administrative Assistant (Legal)**  
FOI Regulatory Group

25 January 2022

## 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/>.