



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/03887

Agency reference: LEX 1526 ICM 22/740

**Mr Ace Chapman**

By email: [foi+request-9128-d281efc5@righttoknow.org.au](mailto:foi+request-9128-d281efc5@righttoknow.org.au)

CC: [FOI@ndiscommission.gov.au](mailto:FOI@ndiscommission.gov.au)

## Extension of time under s 15AB

Dear Mr Chapman

On 25 October 2022, the NDIS Quality and Safeguards Commission (NDIS) applied to the Office of the Australian Information Commissioner (OAIC) for further time to make a decision on your FOI request of 14 July 2022, as permitted under the *Freedom of Information Act 1982* (Cth) (the FOI Act). The NDIS has applied for a further 9 days until 11 November 2022.

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 NDIS obtained your agreement under s 15AA of the FOI Act for a 21 day extension of time to 5 September 2022 [OAIC reference: RQ22/02942].

The Office of the Australian Information Commissioner has previously granted the NDIS an extension of time under s 15AB(2) of the FOI Act [OAIC reference: RQ22/03475]. This extended the decision period to 2 November 2022.

I note that on 4 November 2022 you sought an Information Commissioner (IC) review of the NDIS' deemed decision [OAIC reference: MR22/01758].

## 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 NDIS an extension of time under s 15AB(2) of the FOI Act **to 11 November 2022**. I am satisfied that in the circumstances, the NDIS' application for an extension of time of 9 days is justified, because the request is complex and voluminous. My reasons and considerations are below.

The NDIS advise:

- The request is both complex and voluminous due to the high volume of records requiring retrieval and review and possible redaction
- The need to locate records across multiple system platforms and the need to liaise with numerous internal staff due to records being held within overlapping operational areas
- There are challenges associated with significant staff changes
- The majority of records sought deemed to be of a highly sensitive nature require careful consideration and internal management
- There are challenges associated with locating and accessing additional documents identified during the consultation process.

Based on the information currently before the OAIC, I am satisfied that an extension until **11 November 2022** is appropriate in this circumstance, particularly in consideration of the complexity of the request; as well as the active steps taken by the NDIS

to progress your request to the final stages. I consider the additional 9 days represent a reasonable amount of time in this circumstance.

If the NDIS does not make a decision by 11 November 2022, you may wish to seek Information Commissioner review of the NDIS' deemed refusal of request [here](#). Noting that you had already exercised your IC review rights on 4 November 2022 in relation to the NDIS' deemed access refusal decision, I understand this IC review is currently under consideration by our office.

Further information on [applying for IC review](#) is available on the OAIC [website](#).

## Contact

If you have any questions about this letter, please contact me on 1300 363 992 or via email to [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au). In all correspondence please include OAIC reference: RQ22/03887.

Yours sincerely



Karen Tulloch  
Assistant Director  
Investigations & Compliance

10 November 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/>.