



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/03434

Agency reference: 0344 (Torres)

Christina Torres

By email: foi+request-9299-ed72eff5@righttoknow.org.au

CC: National Disability Insurance Agency

By email: foi@ndis.gov.au

Extension of time under s 15AB

Dear Ms Torres

On 23 September 2022, the National Disability Insurance Agency (NDIA) applied to the Office of the Australian Information Commissioner (OAIC) for further time to make a decision on your FOI request of 23 August 2022, as permitted 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.

Contact with you

On 17 October 2022, Noah from our Office, wrote to you to seek your views on the NDIA's application. I invited you to provide any comments however you have not responded to my enquiries.

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 in the circumstances and with the information before me, to grant the NDIA an extension of time under s 15AB(2) of the FOI Act **to 28 October 2022**. 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 request is complex as it has required multiple internal consultations to locate all the documents within scope, and delays for the responses from these areas has made it difficult to collate the required information

- The request is complex due to the complexity of the scope of the request
- The request is complex as the scope of the request requires clarification and additional consultation, particularly as it is one of two received from you on the same day, and both requests require clarification.

Based on the information currently before the OAIC, I am satisfied that an extension until **28 October 2022** is appropriate in this circumstance, particularly in consideration of the complexity of the request; as well as the active steps taken by the NDIA to progress your request to the final stages. I have also considered that you have not provided any objections to the extension.

I consider the additional days represent a reasonable amount of time in this circumstance.

If the NDIA does not make a decision by 28 October 2022 you may wish to seek Information Commissioner review of the NDIA's deemed refusal of request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#). An application for IC review would need to be made within 60 days of the Agency's decision, or deemed decision.

Contact

If you have any questions about this letter, please contact me on (02) 9942 4061 or via email to Karen.Tulloch@oaic.gov.au. In all correspondence please include OAIC reference: RQ22/03434.

Yours sincerely



Karen Tulloch
Assistant Director
Investigations & Compliance

27 October 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/>.