



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ22/05089

Agency reference: FOI 22/23-0589

Josh

By email: foi+request-9419-b6e82ca4@righttoknow.org.au

CC: foi@ndis.gov.au

Extension of time under s 15AB

Dear Josh

On 23 December 2022, the National Disability Insurance Agency (the Agency) applied for further time to make a decision on your FOI request of 1 October 2022 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 Agency previously obtained your agreement under s 15AA of the FOI Act for a 30-day extension of time to 30 November 2022 [OAIC reference: RQ22/03961].

The Office of the Australian Information Commissioner has previously granted the Agency an extension of time under s 15AB(2) of the FOI Act [OAIC reference: RQ22/04377]. This extended the decision period to 30 December 2022.

Contact with you

On 3 January 2023, I wrote to you to seek your view on the Agency's application. You responded to my inquiries and provided comments that I have taken into consideration.

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 Agency an extension of time under s 15AB(2) of the FOI Act to **14 January 2023**. I am satisfied that the Agency's application for an extension of time is justified, because the request is complex and voluminous. My reasons and considerations follow:

Reasons

The Department advises that the scope of the request is complex because it is broad and requires consultation with four different line areas. The request is voluminous, because Agency staff availability has reduced its capacity to process requests in a timely manner.

Based on the information currently before the OAIC, I am satisfied that an extension until **14 January 2023** is appropriate in this circumstance. I consider the additional days to represent a reasonable amount of time to finalise the request, and that by granting the extension your rights to internal review are preserved.

If the Department does not make a decision by **14 January 2023** you may wish to seek Information Commissioner review of the Department's deemed refusal of request [here](#). Further information on [applying for IC review](#) is available on the OAIC [website](#). An application for IC review must 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 via email at foidr@oaic.gov.au. In all correspondence, please include OAIC reference: RQ22/05081.

Yours sincerely

To add Signature:
Right-click and select 'Replace Picture'.

Alistair Boyd

Review Adviser (Legal)
FOI Regulatory Group

9 January 2023

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/>.