

**OAIC - FOI DR**

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**From:** OAIC - FOI DR  
**Sent:** Friday, 28 November 2025 6:14 PM  
**To:** s22 @ndis.gov.au  
**Cc:** ADMIN.OFFICE@ndis.gov.au; foi  
**Subject:** Freedom of information complaint investigation – Notice on completion  
**Attachments:** 251111 NDIA cover letter s86 finalisation.pdf; 251105 s86 NoC Attachment 1 - s22 .pdf; 251105 s86 NoC Attachment 2 - s22 .pdf; 251105 s86 NoC Attachment 3 - s22 .pdf; 251105 s86 NoC Attachment 4 - s22 .pdf; 251105 s86 NoC Attachment 5 - s22 .pdf; 251105 s86 NoC Attachment 6 - s22 .pdf

Our references: s22  
Agency references: s22

**Mr Graeme Head AO**  
Chief Executive Officer  
National Disability Insurance Agency

By email: s22 @ndis.gov.au  
Cc: ADMIN.OFFICE@ndis.gov.au; foi@ndis.gov.au

Dear Mr Head,

Please find attached the Freedom of Information Commissioner’s findings in relation to the investigation of FOI complaints made about the National Disability Insurance Agency (the NDIA), as set out in the cover letter, with Attachments 1- 6 addressing the individual complaints.

Please note that a response is due by **19 December 2025**.

Yours sincerely

s22  
s22  
Director, Reviews and Investigations  
Office of the Australian Information Commissioner  
Sydney | Box 5288 Sydney NSW 2001  
P s22 E s22 @oaic.gov.au





**Australian Government**  
**Office of the Australian Information Commissioner**

Our references: s22 [REDACTED]

Agency references: s22 [REDACTED]

**Graeme Head AO**

Chief Executive Officer  
 National Disability Insurance Agency

By email: s22 [REDACTED]@ndis.gov.au

Cc: [ADMIN.OFFICE@ndis.gov.au](mailto:ADMIN.OFFICE@ndis.gov.au); [foi@ndis.gov.au](mailto:foi@ndis.gov.au)

Dear Mr Head,

**Freedom of information complaint investigation – Notice on completion**

1. I refer to the 6 complaints made about the National Disability Insurance Agency (the NDIA)'s failure to comply with statutory processing timeframes under s 15(5) and disclosure log obligations under s 11C(3) of the *Freedom of Information Act 1982* (the FOI Act).
2. The Office of the Australian Information Commissioner (the OAIC) notified the NDIA of the investigation of these complaints on 15 September 2025. I am writing in accordance with s 86 of the FOI Act to notify you that I have completed my investigation into the complaints and to advise you of the outcome.<sup>1</sup>

**What we think you are doing well**

3. In conducting this investigation, I have identified several areas in which the NDIA is doing well. In particular, I commend the NDIA for:
  - its robust administrative access arrangements to support the release of personal information (including the Participant Information Access scheme)

<sup>1</sup> Section 86 of the FOI Act requires that I give you notice of the investigation results, any recommendations, and the reasons for those results or recommendations.

- its transparent communication with the OAIC about the challenges it has been experiencing in relation to compliance with statutory timeframes under the FOI Act, and
  - the improvement initiatives that the NDIA has been proactively pursuing including the implementation of a dedicated ICT system with better reporting functions, updated guidance for FOI staff, and training packages.
4. However, the NDIA's challenges with statutory timeframes have remained a persistent issue that is evident through the NDIA's FOI statistical reporting, as well as the number of IC reviews sought in relation to the NDIA's deemed refusal decisions, and FOI complaints received by the OAIC about this issue.<sup>2</sup>

### My conclusions

5. As outlined in the attached notices,<sup>3</sup> I have concluded that:
- the NDIA did not comply with s 15(5)(a) of the FOI Act in 3 of the FOI complaints as the NDIA did not acknowledge the complainants' FOI requests within the statutory processing timeframe
  - the NDIA did not comply with s 15(5)(b) of the FOI Act in 5 of the complaints, as the NDIA did not provide the respective complainants with FOI decisions within the relevant statutory processing timeframes
  - in relation to the request for access to documents on the NDIA's disclosure log, while the NDIA's disclosure log does not comply with s 11C(3)(a) or (b) of the FOI Act, it does sufficiently comply with the requirements of s 11C(3)(c) of the FOI Act. Given the documents are not made available for direct download they should therefore be provided within no more than 5 working days. Although the NDIA did provide the document within 5 working days, if a public holiday is taken into account, I encourage the NDIA to consider providing direct access to documents on the website or otherwise providing access as soon as possible<sup>4</sup>
  - the NDIA did not sufficiently utilise or give early consideration to available

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<sup>2</sup> While this investigation relates to 6 FOI complaints, in 2024-25 the OAIC received a total of 31 complaints about the processing of FOI requests.

<sup>3</sup> Listed at **Annexure A**. The individual notices setting these matters are at **Attachment A-1, Attachment A-2, Attachment A-3, Attachment A-4, Attachment A-5, and Attachment A-6**.

<sup>4</sup> The FOI Guidelines at [14.13] and [14.45] provide that when a person asks for a copy of documents described on a disclosure log, the documents should be provided promptly, no later than 5 working days after the request is received.

extension of time provisions to ensure compliance with statutory timeframes in 2024-25

- the NDIA failed to implement systems and processes sufficient to uphold its duties to comply with statutory processing timeframes under the FOI Act.

### Considerations, recommendations, and suggestions

6. My considerations are set out in **Annexure B**. The information provided by the NDIA, including the self-identified areas requiring improvement and annual FOI statistics,<sup>5</sup> indicate broader systematic issues which are also observed in the notable volume of IC review applications received by the OAIC relating to deemed access refusal decisions.
7. The recommendations and suggestions that the NDIA ought to implement by specified dates are outlined at **Annexure C**. These seek to support the work the NDIA has commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly.

### Next steps

8. The NDIA must notify the OAIC as to: (a) whether it accepts the recommendations and suggestions set out in this notice, and (b) any comments it wishes to make, by **19 December 2025**.
9. A copy of the Notice with the NDIA's comments will be provided to each of the complainants pursuant to s 86(4) of the FOI Act. A summary of this Notice and any comments from the NDIA will be published on the OAIC's website.
10. The NDIA must comply with implementation of the recommendations by the specified dates. If the NDIA does not implement the recommendations by the specified dates, I may proceed to issue an implementation notice under s 89 of the FOI Act.<sup>6</sup>
11. If your staff would like to discuss this matter, please contact s22 [REDACTED], Director of Reviews and Investigations, on s22 [REDACTED] or email s22 [REDACTED] [@oaic.gov.au](mailto:s22[REDACTED]@oaic.gov.au).

Yours sincerely

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<sup>5</sup> Published by the OAIC at: [Australian Government freedom of information statistics](#).

<sup>6</sup> The requirement to implement investigation recommendations, including relevant enforcement measures, are explained in the [FOI Guidelines](#) at [11.47] – [11.57].

A handwritten signature in blue ink that reads "Alice Linacre". The signature is written in a cursive, flowing style.

Alice Linacre  
**Freedom of Information Commissioner**  
28 November 2025

**Annexure A: Attachments**

*The complaints that are the subject of these investigations.*

<b>Attachment</b>	<b>OAIC reference</b>	<b>Complainant</b>
A-1	§22	§22
A-2	§22	§22
A-3	§22	§22
A-4	§22	§22
A-5	§22	§22
A-6	§22	§22

## Annexure B: Considerations

In considering whether to make any investigation recommendations, I have had regard to:

- the outcomes sought by the complainants including access to documents the subject of requests, the delay issues to be investigated, and for recommendations to be made to avoid these issues recurring
- the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly, particularly in relation to its decision-making capacity, staffing levels, and guidance materials, and
- whether the issues raised in these complaints were isolated instances. In particular, I have had regard to the NDIA's published FOI statistics which sets out its compliance with the timeframes set out in the FOI Act,<sup>7</sup> as well as other FOI complaints received by the OAIC about the NDIA's failure to comply with statutory processing timeframes. These indicate the NDIA is experiencing broader systemic issues impacting the timeliness of FOI decision-making within the NDIA rather than isolated incidents.

While this investigation has been undertaken in relation to complaints made by 6 individuals, it is apparent from the NDIA's published FOI statistics<sup>8</sup> as well as other FOI complaints received about the NDIA's failure to comply with statutory processing timeframes that were not actively pursued by the OAIC, that these complaints are representative of significant systemic issues relating to the timeliness of FOI decision-making within the NDIA, which is of serious concern.

In particular, the NDIA's compliance with statutory processing timeframes has decreased dramatically since the 2022-23 financial year, only reaching 33% compliance in the 2024-25 financial year. It is also evident from published FOI statistics,<sup>9</sup> that the NDIA's compliance rate also remains significantly lower on average to all other Australian government agencies.<sup>10</sup> I also observe that while

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<sup>7</sup> The NDIA's compliance with statutory processing timeframes was 71% in the 2022-23 financial year, 49% in the 2023-24 financial year, and 33% in the 2024-25 financial year as published on the OAIC's website at [Australian Government freedom of information statistics](#).

<sup>8</sup> As available on the OAIC's website at [Australian Government freedom of information statistics](#), and in the OAIC's [Annual report 2024-25](#) (volume 2, pages 19 – 21).

<sup>9</sup> As available on the OAIC's website at [Australian Government freedom of information statistics](#).

<sup>10</sup> In the 2023-24 financial year, the average rate of compliance with FOI timeframes was 74% for all agencies and 49% for the NDIA. In the 2024-25 financial year, the average rate of compliance with FOI timeframes was 73% for all agencies but 33% for the NDIA.

there has been a significant increase in s 15AA extensions (from 74 notified to the OAIC in 2023-24, to 522 in 2024-25), there has also been a significant decline in the number of ss 15AB and 15AC extension of time requests being sought.

I also note that the NDIA reported 151 s 15AA extensions in 2023-24, but the OAIC only has records of 74 of these. Section 15AA(b) of the FOI Act requires that an agency or Minister notify the OAIC of an agreed extension of time as soon as practicable after the agreement is made. As per [3.73] and [3.256] of our [FOI Guidelines](#), an agreement under s 15AA of the FOI Act is not valid if the OAIC has not been notified of the agreement. Given the substantial proportion of invalid s 15AA agreements obtained during the relevant period, the OAIC considers this would have a related impact on the NDIA's FOI timeliness statistics<sup>11</sup> as reported to the OAIC during the relevant financial year.

Further, the NDIA's compliance with statutory processing timeframes has been subject to 2 previous investigations which were found to be substantiated in findings dated 15 June 2022 and 4 March 2024 respectively.<sup>12</sup> The OAIC made recommendations to the NDIA in relation to one of those complaints, that it accepted. However, based on these complaints and the NDIA's rate of compliance with statutory processing timeframes, the timeliness of FOI decision-making continues to remain a prevalent issue within the NDIA. This is of particular concern given the previous investigations and that a failure to adhere to processing timeframes under the FOI Act is a breach of a statutory regime.

The NDIA's repeated failure to comply with FOI processing timeframes may also have broader privacy implications where FOI applicants are seeking information related to their personal information.<sup>13</sup>

In considering the implementation of my recommendations and suggestions, the NDIA may wish to include targeted questions in its proposed Smartform to applicants about the type of information they are seeking (for example, their own staff personnel records, statistical data, or policy information) to assist with scoping requests and directing them to the appropriate teams. The Smartform may

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<sup>11</sup> As published on our [Australian Government freedom of information statistics](#) webpage.

<sup>12</sup> See [Freedom of information investigation outcomes](#) – Notices on completion dated 15 June 2022 and 4 March 2024.

<sup>13</sup> Noting that the NDIA's FOI statistics indicate that 81% of its FOI requests in 2023-24, and 79% in 2024-25, were for personal information. Under the *Privacy Act 1988* (Cth) (Privacy Act), Australian Privacy Principle 12 requires that APP entities (including Australian government agencies) that hold personal information about an individual, gives the individual access to that information on request, unless it is permitted by law to refuse access. For agencies, APP 12 operates alongside the right of access in the FOI Act.

also be accompanied by an auto-acknowledgment form which would more easily enable the NDIA to comply with s 15(5)(a) of the FOI Act.

### Annexure C: Suggestions and recommendations

Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that I believe it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that I believe the NDIA ought to implement.

These recommendations and suggestions are expected to uplift the NDIA's information access operations and capability in the processing of FOI requests through:

- focusing on areas which require improvement
- enhancing the NDIA's knowledge of decisions, investigation outcomes, and guidance issued by the Information Commissioner
- supporting governance improvements through delivery of revised guidance, procedures, and training, and
- engaging with the NDIA's own initiatives for improvement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
<b>Outcome of Agency initiatives</b>	
1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual: <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff</li> </ul>	<b>30 January 2026</b>

<b>Recommendation</b>	<b>Due date for completion</b>
<p>to conduct an early assessment of whether an extension of time is required</p> <p>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>14</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</p> <p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<p><b>30 January 2026</b></p>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>15</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>16</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>17</sup> and include references to relevant</p>	<p><b>30 January 2026</b></p>

<sup>14</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

<sup>15</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>16</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>17</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<b>Recommendation</b>	<b>Due date for completion</b>
OAIC resources <sup>18</sup> to support FOI processing officers and decision makers.	
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS.<sup>19</sup></p>	<b>30 January 2026</b>
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations</p>	<b>30 January 2026</b>

<sup>18</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<sup>19</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

<b>Recommendation</b>	<b>Due date for completion</b>
under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.	
<b>FOI Statistics</b>	
<b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.	<b>30 January 2026</b>

#### Suggestions made under s 87(d) of the FOI Act

<b>Suggestion</b>	<b>Due date for completion</b>
<b>Practices to uplift capability</b>	
<b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 January 2026
<b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 January 2026
<b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 January 2026

<b>Ongoing learning and review</b>	
<b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 January 2026
<b>5.</b> The NDIA review the OAIC's FOI complaint investigation outcomes <sup>20</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.	Commencing 30 January 2026
<b>Disclosure log</b>	
<b>6.</b> The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.	Commencing 30 January 2026

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<sup>20</sup> See [Freedom of information investigation outcomes](#).



## Attachment A-1

### Freedom of Information complaint investigation - Notice on completion under s 86 of the *Freedom of Information Act 1982*, by Freedom of Information Commissioner, Alice Linacre

<b>Complainant</b>	s22
<b>Respondent</b>	National Disability Insurance Agency
<b>Completion date</b>	28 November 2025
<b>OAIC reference number</b>	s22
<b>Agency reference number</b>	s22

#### Summary of investigation results, recommendations, and suggestions

- On 29 May 2025, s22 (the Complainant) made a complaint under s 70 of the *Freedom of Information Act 1982* (the FOI Act) about the National Disability Insurance Agency (the NDIA), being that the NDIA had failed to comply with statutory processing timeframes under the FOI Act in processing their FOI request.
- On 15 September 2025, the Office of the Australian Information Commissioner (the OAIC) provided a notice to the NDIA under s 75 of the FOI Act advising it of the commencement of an investigation into a cohort of FOI complaints received about similar issues, including this particular complaint, and requested relevant information in response. On 22 October 2025, the NDIA responded to the notice and request for information.
- My conclusions in relation to the issue raised by the Complainant are outlined below.
- My suggestions and recommendations in relation to this cohort of complaints are outlined in **Annexure A**.

## Statement of reasons

### *The matters raised by the Complainant*

5. In their complaint, the Complainant asserted that despite the effluxion of time they had not been provided with documents in response to their FOI request of 14 April 2025.
6. The background to this FOI complaint is set out at **Annexure B**.

### *Legislation and Guidelines*

7. The timeframes for dealing with an FOI request are outlined in s 15(5) of the FOI Act, which provides that:
  - (a) as soon as practicable but in any case not later than 14 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified that the request has been received; and
  - (b) as soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request.
8. Where an agency or Minister fails to notify the applicant of a decision within the statutory processing period, it is taken to have made a decision refusing the request under s 15AC(3) of the FOI Act.
9. The FOI Guidelines also explain that where a refusal decision has been made under s 15AC(3) of the FOI Act, the agency or Minister may still process the request and provide a statement of reasons on the FOI request.<sup>1</sup>

### *The NDIA's submissions*

10. The NDIA has acknowledged that the Complainant's FOI request was subject to a refusal decision under s 15AC on 28 May 2025.
11. A summary of the NDIA's submissions is outlined in **Annexure C**.

## My opinions in relation to the matter

### *My opinions in relation to the complaint raised*

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<sup>1</sup> FOI Guidelines at [3.270].

12. While the Complainant did not raise the issue of a delayed acknowledgement of their FOI request, I nonetheless have identified this as a relevant issue in this investigation.
13. The FOI request subject to this complaint was made on 14 April 2025. Pursuant to s 15(5) of the FOI Act, the NDIA was required to:
  - acknowledge the Complainant's request by 28 April 2025, but it did not do so until 21 May 2025, and
  - provide a decision to the Complainant on the request by 28 May 2025,<sup>2</sup> but it did not do so until 25 July 2025.
14. The NDIA has confirmed that it made a refusal decision pursuant to s 15AC, as it failed to comply with the statutory processing timeframe.
15. It is apparent from the chronology of events provided, that the key contributors to the delays in relation to the Complainant's request, arose from:
  - delays in initiating informal consultation with a third party, noting that the NDIA commenced informal consultation with that third party 28 days after the Complainant's request was made
  - delays in initiating searches consultations with the internal business areas<sup>3</sup> and receiving responses from the relevant business areas, and
  - significant delays in initiating formal consultation with third party bodies. Formal consultation was not commenced until 59 days after the request was made. One of the third parties also required an extension of time which resulted in its consultation response being received after the OAIC had commenced an Information Commissioner review into the access refusal decision.
16. While the Complainant's request did include a 14-day extension of time agreement under s 15AA of the FOI Act, the NDIA should have considered requesting a further extension of time under s 15AA of the FOI Act,<sup>4</sup> particularly given the significant surge in access requests being experienced at that time and the significant consultations undertaken in processing the FOI request. It was also open to the NDIA to request an extension of time from the OAIC.

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<sup>2</sup> Noting the impact of a 14-day s 15AA of the FOI Act.

<sup>3</sup> The first business area consultation took place 42 days after the Complainant's request was made.

<sup>4</sup> Which enables an applicant and agency to extend the processing time by a maximum period of 30 days.

## My conclusions in relation to the matter investigated

17. For these reasons, I am of the view that:

- in relation to the issues raised by the Complainant, the NDIA did not comply with s 15(5) of the FOI Act, as the NDIA did not acknowledge the Complainant's FOI request within 14 days nor provide the Complainant with a decision in response to their FOI request within the relevant statutory processing timeframe, and
- in relation to the issues raised in the wider cohort of complaints, the NDIA did not sufficiently utilise extension of time provisions where appropriate, to ensure compliance with statutory timeframes in the 2024-25 financial year. The NDIA also failed to implement systems and processes sufficient to uphold its duties to comply with statutory processing timeframes under the FOI Act.

## My recommendations and suggestions

18. In deciding whether I make recommendations and suggestions, I have considered:

- the outcome sought by the Complainant, which is for the investigation into the NDIA's failure to honour its statutory obligations under the FOI Act, and for the requested documents to be provided<sup>5</sup>
- the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly particularly in relation to its staffing levels and guidance material, and
- whether the issues raised in these complaints were isolated instances.

19. I have also considered the previous investigations into the NDIA, which were found to be substantiated in findings dated 15 June 2022 and 4 March 2024 respectively.<sup>6</sup> The OAIC made recommendations to the NDIA in relation to one of those complaints, that it accepted. Despite this, the NDIA's compliance with

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<sup>5</sup> While access to documents cannot be facilitated under the FOI complaints process, the Complainant has since received a revised decision in response to the request including access to documents in the related IC review (s22 [REDACTED]).

<sup>6</sup> See [Freedom of information investigation outcomes](#) – Notices on completion dated 15 June 2022 and 4 March 2024.

statutory processing timeframes has significantly declined over the past 4 financial years despite having received fewer FOI requests overall.<sup>7</sup>

20. It is apparent from the NDIA's submissions, as well as its reported FOI statistics,<sup>8</sup> that:
- the NDIA received an increase of approximately 69% in the number of FOI requests received in the 2024-25 financial year (2,331), compared to the previous 2023-24 financial year (1,381)
  - while not reflected in its FOI statistics, the NDIA has advised that the number of administrative access requests for personal information received in the 2023-24 financial year (2,554,006) increased significantly in the 2024-25 year (3,058,531)<sup>9</sup>
  - also not reflected in the FOI statistics is the number of requests made under the Participant Information Access Scheme, which has nearly doubled, with 7,662 requests received in 2023-24 and 13,124 requests received in 2024-25
  - the NDIA's rate of compliance with FOI processing timeframes decreased significantly from 91% in 2021-22, 71% in 2022-23, 49% in 2023-24, and 33% in 2024-25 which it attributes to its workforce transition from majority labour hire to majority permanent staffing, the implementation of a specific ICT system, and the increasing number of access requests
  - in the 2024-25 financial year, the NDIA's rate of compliance with FOI processing timeframes fluctuated, resulting in an overall compliance rate of 33% in the 2024-25 financial year.
21. I acknowledge the steps being taken by the NDIA to address the processing delays, including the 50% increase in resources allocated to the FOI team since June 2025 (from 38 FTE to 73 FTE), allocating additional resources to the early resolution team, the establishment of a critical workforce register to provide additional surge capacity at short notice, and the implementation of an ongoing action plan to address non-compliance with processing timeframes under the FOI Act including the rollout of regular FOI training.

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<sup>7</sup> 91% in 2021-22 (1,884 requests received), 71% in 2022-23 (1,752 requests received), 49% in 2023-24 (1,381 requests received), and 33% in 2024-25 (2,331 requests received).

<sup>8</sup> As available on the OAIC's website at [Australian Government freedom of information statistics](#), and in the OAIC's [2023-34 annual report](#) (Part 5: Appendices).

<sup>9</sup> This excludes access requests made under the

22. I also commend the NDIA for utilising various administrative access arrangements to provide quicker, less formal access to individuals' personal information.
23. However, it is apparent that despite receiving an increase of about 69% in the volume of FOI requests in the 2024-25 financial year, and its timeliness rates reaching a low of 19% in Q3 of the 2024-25 financial year, there has been a significant reduction in the number of extensions of time being sought under s 15AB and 15AC of the FOI Act,<sup>10</sup> despite the significant increase in the number of s 15AA extensions.<sup>11</sup>
24. The NDIA's completed self-assessment tool identifies that:
  - the NDIA does not currently have a Smartform to receive FOI requests, but one is in development
  - its review of its processing manuals and guidelines will consider whether to incorporate references to the FOI guidelines, and
  - training is not conducted on a regular basis.
25. A Smartform may assist the NDIA with timeliness by ensuring that the NDIA receives all relevant information from a FOI applicant at an early stage, enabling quicker processing of the access request. The NDIA should also ensure that its officers can be assisted in their decision-making by NDIA training, process manuals, and policies that refer to OAIC resources such as the FOI Guidelines, the FOI Essentials Toolkit, practice documents, and templates.<sup>12</sup>
26. My suggestions and recommendations are outlined at **Annexure A**.

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<sup>10</sup> 31 sought in 2023-24, whereas there were 13 sought in 2024-25.

<sup>11</sup> From 74 notified to the OAIC in 2023-24, to 522 notified to the OAIC in 2024-25.

<sup>12</sup> See [Freedom of information guidance for government agencies](#).

Yours sincerely,

A handwritten signature in blue ink that reads "Alice Linacre". The signature is written in a cursive, flowing style.

**Alice Linacre**  
Freedom of Information Commissioner  
28 November 2025

### Annexure A: Recommendations and suggestions

Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that the NDIA ought to implement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
<b>Outcome of Agency initiatives</b>	
1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>13</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> </ul>	<b>30 January 2026</b>

<sup>13</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

Recommendation	Due date for completion
<p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<p><b>30 January 2026</b></p>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>14</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>15</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>16</sup> and include references to relevant OAIC resources<sup>17</sup> to support FOI processing officers and decision makers.</p>	<p><b>30 January 2026</b></p>
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the</p>	<p><b>30 January 2025</b></p>

<sup>14</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>15</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>16</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<sup>17</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<b>Recommendation</b>	<b>Due date for completion</b>
IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS. <sup>18</sup>	
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	<b>30 January 2026</b>
<b>FOI Statistics</b>	

<sup>18</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

<b>Recommendation</b>	<b>Due date for completion</b>
<b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.	<b>30 January 2026</b>

### Suggestions made under s 87(d) of the FOI Act

<b>Suggestion</b>	<b>Due date for completion</b>
<b>Practices to uplift capability</b>	
<b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 January 2026
<b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 January 2026
<b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 January 2026
<b>Ongoing learning and review</b>	
<b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 January 2026

<p><b>5.</b> The NDIA review the OAIC’s FOI complaint investigation outcomes<sup>19</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.</p>	<p>Commencing 30 January 2026</p>
<p><b>Disclosure log</b></p>	
<p><b>6.</b> The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.</p>	<p>Commencing 30 January 2026</p>

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<sup>19</sup> See [Freedom of information investigation outcomes](#).

## Annexure B: Key procedural steps

Date	Events
14 April 2025	The Complainant made the FOI request and agreed to a 14-day extension of time.
17 April 2025	The applicant emailed the NDIA seeking an acknowledgement of their request.
13 May 2025 – 29 May 2025	The NDIA informally consulted with a third party.
21 May 2025	The NDIA emailed the applicant an acknowledgment of various FOI requests.
28 May 2025	The NDIA was taken to have made an access refusal decision under s 15AC(3) of the FOI Act.
29 May 2025	The Complainant lodged their FOI complaint.
2 June 2025	The NDIA provided the applicant with an update.
3 June 2025	The OAIC made preliminary inquiries of the NDIA under s 72 of the FOI Act.
23 June 2025	The OAIC made inquiries of the Complainant under s 70(3) of the FOI Act.
12 June 2025 – 16 June 2025	The NDIA undertook formal consultations with third parties.
18 June 2025	The parties were notified of the commencement of an Information Commissioner review (s22 [redacted]).
4 July 2025	The NDIA responded to the OAIC's preliminary inquiries
25 July 2025	The NDIA made a revised decision under s 55G of the FOI Act.
15 August 2025	s22 [redacted] was finalised under s 54W(c) of the FOI Act.
15 September 2025	The OAIC commenced an investigation into the Complainant's FOI complaint under s 75 of the FOI Act and requested information from the NDIA.
22 October 2025	The NDIA provided the information requested by the OAIC.

## Annexure C: The NDIA's submissions

### *Response to Preliminary Inquiries*

On 4 July 2025, the NDIA confirmed that it wished to rely on its preliminary inquiry response provided to the OAIC on 17 June 2025 relating to s22 [REDACTED]. In that response, the NDIA submitted:

- the FOI request was taken to have been refused on 28 May 2025
- the Complainant did not complain to the NDIA directly, other than the request for an acknowledgement on 17 April 2024
- the NDIA provided the Complainant with an update on 2 June 2025 and acknowledged it had failed to meet the statutory processing timeframe
- feedback has been provided to FOI team about regularly updating applicants as a matter progresses
- the NDIA is currently experiencing an increase in FOI requests being received and expects to receive 1,000 more FOI requests than the previous year
- the NDIA is working to improve its processing and address its backlog, and
- the NDIA remains committed to improving its FOI processing and the early resolution of FOI matters.

### *Response to notice of investigation*

In relation to s22 [REDACTED] the NDIA relevantly acknowledged that it failed to process the FOI request within statutory timeframes or to communicate with the applicant about the delay prior to this FOI complaint which arose a result of consultations with various line areas and external parties. The NDIA maintains this matter has been resolved by the provision of a revised decision<sup>20</sup> of 15 August 2025 to the applicant and the finalisation of the related Information Commissioner review.

In relation to its compliance with FOI processing timeframes more broadly, the NDIA submitted:

- it currently supports approximately 740,000 people, noting that at its conception the National Disability Insurance Scheme was only intended to support 410,000 people

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<sup>20</sup> FOI Act s 55G.

- in 2024-25 the NDIA's National Contact Centre responded to over 3 million requests or queries relating to access for personal information across phone calls, email, and webchat, which is an increase from 2.554 million in 2023-24
- the Participant Information Access scheme was created in 2020 to simplify and expedite the processing of routine requests being made under the FOI Act, and the NDIA additionally hopes to implement an additional scheme to access personal information based on the *Privacy Act 1988* (Cth)
- the NDIA recognises that its compliance with statutory timeframe requires attention and has maintained regular communication with the OAIC about the drivers of this including:
  - transitioning from a majority labour hire workforce to a majority permanent staffing workforce
  - implementation of a dedicated case management ICT system
  - continued growth of access requests
- the NDIA's compliance rate with statutory timeframes has declined over the past two financial years:
  - in the 2023-24 financial year the NDIA's compliance rate was:
    - 47% in Q1
    - 53% in Q2
    - 49% to Q3
    - 44% in Q4
  - in the 2024-25 financial year the NDIA's compliance rate was:
    - 43% in Q1
    - 39% in Q2
    - 19% in Q3
    - 31% in Q4
- the number of s 15AA sought by the NDIA and agreed to by FOI applicants over the past two years has increased from:

- 151 sought in 2023-24
- 245 sought in 2024-25<sup>21</sup>
- the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:
  - 18 sought in 2023-24
  - 8 sought in 2024-25<sup>22</sup>
- further drivers of non-compliance with statutory timeframes include:
  - in 2024-25 the NDIA received and finalised the highest volume of FOI matters in its history
  - staff retention challenges in 2023-24 and 2024-25 (noting also the transition in the make-up of the workforce from labour hire to permanent staff)
  - the volume of matters has generated a backlog and is a barrier to completing matters in time
  - it has prioritised progressing to substantive decisions over seeking extensions of time under s 15AC of the FOI Act, where obtaining these extensions of time from the OAIC has traditionally been challenging
- the NDIA has commenced capability building initiatives<sup>23</sup> including:
  - expanding the capacity of the Information Access team from 38 FTE to 73 FTE, noting that the newer staff without prior FOI experience need a higher level of support

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<sup>21</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the NDIA notified the OAIC of:

- 74 s 15AA extensions in 2023-24
- 522 s 15AA extensions in 2024-25.

<sup>22</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:

- 31 sought and 13 granted, in 2023-24
- 13 sought and 5 granted, in 2024-25.

<sup>23</sup> It also provided the OAIC with its Capability and capacity action plan.

- improving triage and early resolution functions including increasing the size of the early resolution team
  - streamlining FOI processes by producing and updating a new suite of standard operating procedures and guidance material as well as authorising an additional 12 FOI decision makers
  - training packages to the FOI team and other staff including training from the Australian Government Solicitor in June 2025 and NDIS Business Systems training. The NDIA is also developing a FOI training page to be launched early 2026
  - improving reporting functions using the dedicated ICT platform (LEX) which has better reporting systems and assists with the proactive disclosure of operational documents with public interest
- the NDIA has also briefed its Board and Minister on its FOI workload, low statutory compliance, and the initiatives it has undertaken to improve its capability, capacity, and output noting that the average handling time of a matter has reduced from 78 days in 2023-24 to 68 days in 2024-25, and
  - the NDIA continues to monitor OAIC complaint outcomes and implement the recommendations, including processes and training targeting the identification of personal information requests as recommended in 2024.

The NDIA also completed the OAIC's self-assessment tool.



## Attachment A-2

## Freedom of Information complaint investigation - Notice on completion under s 86 of the *Freedom of Information Act 1982*, by Freedom of Information Commissioner, Alice Linacre

<b>Complainant</b>	s22
<b>Respondent</b>	National Disability Insurance Agency
<b>Completion date</b>	28 November 2025
<b>OAIC reference number</b>	s22
<b>Agency reference number</b>	s22

### Summary of investigation results, recommendations, and suggestions

1. On 6 July 2025, s22 (the Complainant) made a complaint under s 70 of the *Freedom of Information Act 1982* (the FOI Act), about the National Disability Insurance Agency (the NDIA), being that the NDIA had failed to comply with statutory processing timeframes under the FOI Act in processing their FOI request.
2. On 15 September 2025, the Office of the Australian Information Commissioner (the OAIC) provided a notice to the NDIA under s 75 of the FOI Act advising it of the commencement of an investigation into a cohort of FOI complaints received about similar issues, including this particular complaint, and requested relevant information in response. On 22 October 2025, the NDIA responded to the notice and request for information.
3. My conclusions in relation to the issues raised by the Complainant are outlined below.
4. My suggestions and recommendations in relation to this cohort of complaints are outlined in **Annexure A**.

## Statement of reasons

### *The matters raised by the Complainant*

5. The Complainant has raised the following issues in their complaint:
  - the FOI request was intended to gather information for an Administrative Review Tribunal (ART) matter
  - their FOI request was made on 1 November 2024, but they were not contacted by the NDIA until early December 2024 during which they were advised the request would be finalised soon
  - despite that, the NDIA then contacted the Complainant about an extension of time on 17 December 2024 which they felt obliged to agree to. The Complainant agreed to an extension until 26 January 2025
  - the NDIA did not provide the Complainant with a decision until 7 April 2025, which was after their ART hearing had concluded
  - the delay in processing the FOI request denied the Complainant the opportunity to present all relevant information at their ART hearing, and
  - this delay appears to the Complainant to have been a strategic attempt to withhold relevant material during legal proceedings which breaches the NDIA's obligations under the FOI Act.
6. The background to this FOI complaint is set out at **Annexure B**.

### *Legislation and Guidelines*

7. The timeframes for dealing with an FOI request are outlined in s 15(5) of the FOI Act, which provides that:
  - (a) as soon as practicable but in any case not later than 14 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified that the request has been received; and
  - (b) as soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request.
8. Where an agency or Minister fails to notify the applicant of a decision within the statutory processing period, it is taken to have made a decision refusing the request under s 15AC(3) of the FOI Act.

9. The FOI Guidelines also explain that where a refusal decision has been made under s 15AC(3) of the FOI Act, the agency or Minister may still process the request and provide a statement of reasons on the FOI request.<sup>1</sup>

*The NDIA's submissions*

10. The NDIA submits that the Complainant's initial FOI request of 1 November 2024 was invalid on the basis it did not provide enough information to identify the documents sought.<sup>2</sup> Its submissions provide the following timeline:
- On 26 November 2024, the NDIA contacted the Complainant by phone to seek clarification on the documents sought, and followed up by email to confirm the revised request as discussed with the Complainant, which it acknowledged as a valid request on that day.
  - On 17 December 2025, the NDIA requested a 30 day extension of time from the Complainant under s 15AA, which the Complainant agreed to on the same day.
  - The NDIA issued its decision to the Complainant on 7 April 2025.
11. The NDIA acknowledges that it failed to process the FOI request of 26 November 2024 within the statutory processing timeframes. It attributes this delay to technical difficulties in retrieving relevant documents from a decommissioned share drive, which it submits it explained to the Complainant prior to its decision, and it rejects the assertion that this was a delay tactic intended to impact the Complainant's ART hearing.
12. A summary of the NDIA's submissions is outlined in **Annexure C**.

**My opinions in relation to the matter**

*My opinions in relation to the complaint raised*

13. Based on the NDIA's submissions, the Complainant made a valid FOI request on 26 November 2024. Accordingly, and based on the Complainant's 30 day 15AA extension of time agreement:

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<sup>1</sup> FOI Guidelines at [3.270].

<sup>2</sup> As required by s 15(2)(b) of the FOI Act.

- the NDIA was required to provide a decision to the Complainant on the request by 27 January 2025,<sup>3</sup> pursuant to s 15(5)(b) of the FOI Act, but it did not do so until on 7 April 2025.
14. The NDIA has acknowledged that it made a refusal decision pursuant to s 15AC, as it failed to comply with the statutory processing timeframe.
  15. It is apparent from the chronology of events provided, that the key contributors to the delays in relation to the Complainant's request, arose from:
    - a prolonged delay of 25 days in taking reasonable steps to assist the applicant in making a valid request<sup>4</sup>
    - a 2-week delay involved in initiating search and retrieval requests with relevant business areas, resulting in:
      - the identification of hundreds of documents that were required to be assessed for relevance, and in particular
      - technical complications involved regarding the identification and retrieval of some of the requested documents given they were held on a share drive that had since been decommissioned, requiring historical data recovery by the Cyber Security team.
  16. I acknowledge the efforts made by the NDIA to overcome these technical difficulties, as well as the steps it took to respond to the Complainant's requests for updates on 31 January 2025, 5 February 2025, 21 February 2025, and 31 March 2025.
  17. However, these delays could have been minimised had there been:
    - earlier assistance provided to the Complainant in making a valid request, and
    - prompt initiation of search and retrieval requests, to ensure early identification of challenges involved.
  18. While the NDIA did obtain an extension of time from the Complainant in the first instance under s 15AA of the FOI Act, it should have also considered requesting a further extension/s of time from the OAIC, noting the ongoing

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<sup>3</sup> Noting the impact of a 30 day extension of time under s 15AA of the FOI Act and s 36(2) of the *Acts Interpretation Act 1901* (Cth).

<sup>4</sup> FOI Act s 15(3).

technical complications involved in retrieving the requested documents, which it was aware was impacting on its ability to comply with the statutory processing timeframe.

19. Where an agency has failed to make a decision within the statutory processing timeframe, it should endeavour to proactively keep applicants informed on progress as well as to explore opportunities for faster outcomes for applicants.<sup>5</sup>

### **My conclusions in relation to the matter investigated**

20. For these reasons, I am of the view that:

- in relation to the issues raised by the Complainant, the NDIA did not comply with s 15(5)(b) of the FOI Act, as the NDIA did not provide the Complainant with a decision in response to their FOI request within the relevant statutory processing timeframe, and
- in relation to the issues raised in the wider cohort of complaints, the NDIA did not sufficiently utilise extension of time provisions where appropriate, to ensure compliance with statutory timeframes in the 2024-25 financial year. The NDIA also failed to implement systems and processes sufficient to uphold its duties to comply with statutory processing timeframes under the FOI Act.

### **My recommendations and suggestions**

21. In deciding whether I make recommendations and suggestions, I have considered:

- the outcomes sought by the Complainant, which are that the OAIC investigate the delay and the withholding of documents to make recommendations to ensure this conduct is not repeated
- the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly particularly in relation to its staffing levels and guidance material, and
- whether the issues raised in these complaints were isolated instances.

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<sup>5</sup> See [FOI agency resource Managing increased volume of FOI requests](#).

22. I have also considered the previous investigations into the NDIA which were found to be substantiated in findings dated 15 June 2022 and 4 March 2024 respectively.<sup>6</sup> The OAIC made recommendations to the NDIA in relation to one of those complaints, that it accepted. Despite this, the NDIA's compliance with statutory processing timeframes has significantly declined over the past 4 financial years despite having received fewer FOI requests overall.<sup>7</sup>
23. It is apparent from the NDIA's submissions as well as its reported FOI statistics<sup>8</sup> that:
- the NDIA received an increase of approximately 69% in the number of FOI requests received in the 2024-25 financial year (2,331), compared to the previous 2023-24 financial year (1,381)
  - while not reflected in its FOI statistics, the NDIA has advised that the number of administrative access requests for personal information received in the 2023-24 financial year (2,554,006) increased significantly in the 2024-25 year (3,058,531)
  - also not reflected in the FOI statistics is the number of requests made under the Participant Information Access Scheme, which has nearly doubled, with 7,662 requests received in 2023-24 and 13,124 requests received in 2024-25
  - the NDIA's rate of compliance with FOI processing timeframes decreased significantly from 91% in 2021-22, 71% in 2022-23, 49% in 2023-24, and 33% in 2024-25 which it attributes to its workforce transition from majority labour hire to majority permanent staffing, the implementation of a specific ICT system, and the increasing number of access requests
  - in the 2024-25 financial year, the NDIA's rate of compliance with FOI processing timeframes fluctuated, resulting in an overall compliance rate of 33% in the 2024-25 financial year.
24. I acknowledge the steps being taken by the NDIA to address the processing delays, including the 50% increase in resources allocated to the FOI team since June 2025 (from 38 FTE to 73 FTE), allocating additional resources to the early

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<sup>6</sup> See [Freedom of information investigation outcomes](#) – Notices on completion dated 15 June 2022 and 4 March 2024.

<sup>7</sup> 91% in 2021-22 (1,884 requests received), 71% in 2022-23 (1,752 requests received), 49% in 2023-24 (1,381 requests received), and 33% in 2024-25 (2,331 requests received).

<sup>8</sup> As available on the OAIC's website at [Australian Government freedom of information statistics](#), and in the OAIC's [2023-34 annual report](#) (Part 5: Appendices).

resolution team, the establishment of a critical workforce register to provide additional surge capacity at short notice, and the implementation of an ongoing action plan to address non-compliance with processing timeframes under the FOI Act including the rollout of regular FOI training.

25. I also commend the NDIA for utilising various administrative access arrangements to provide quicker, less formal access to individuals' personal information.
26. However, it is apparent that despite receiving an increase of about 69% in the volume of FOI requests in the 2024-25 financial year, and its timeliness rates reaching a low of 19% in Q3 of the 2024-25 financial year, there has been a significant reduction in the number of extensions of time being sought under s 15AB and 15AC of the FOI Act,<sup>9</sup> despite the significant increase in the number of s 15AA extensions.<sup>10</sup>
27. The NDIA's completed self-assessment tool identifies that:
  - the NDIA does not currently have a Smartform to receive FOI requests, but one is in development
  - its review of its processing manuals and guidelines will consider whether to incorporate references to the FOI guidelines, and
  - training is not conducted on a regular basis.
28. A Smartform may assist the NDIA with timeliness by ensuring that the NDIA receives all relevant information from a FOI applicant at an early stage, enabling quicker processing of the access request. The NDIA should also ensure that its officers can be assisted in their decision-making by NDIA training, process manuals, and policies that refer to OAIC resources such as the FOI Guidelines, the FOI Essentials Toolkit, practice documents, and templates.<sup>11</sup>
29. My suggestions and recommendations are outlined at **Annexure A**.

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<sup>9</sup> 31 sought in 2023-24, whereas there were 13 sought in 2024-25.

<sup>10</sup> From 74 notified to the OAIC in 2023-24, to 522 notified to the OAIC in 2024-25.

<sup>11</sup> See [Freedom of information guidance for government agencies](#).

Yours sincerely,

A handwritten signature in blue ink that reads "Alice Linacre". The signature is written in a cursive style with a large initial 'A'.

**Alice Linacre**  
Freedom of Information Commissioner

28 November 2025

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Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that the NDIA ought to implement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
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1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>12</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> </ul>	<b>30 January 2026</b>

<sup>12</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

Recommendation	Due date for completion
<p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<p><b>30 January 2026</b></p>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>13</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>14</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>15</sup> and include references to relevant OAIC resources<sup>16</sup> to support FOI processing officers and decision makers.</p>	<p><b>30 January 2026</b></p>
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the</p>	<p><b>30 January 2026</b></p>

<sup>13</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>14</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>15</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<sup>16</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<b>Recommendation</b>	<b>Due date for completion</b>
IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS. <sup>17</sup>	
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	<b>30 January 2026</b>
<b>FOI Statistics</b>	

<sup>17</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

<b>Recommendation</b>	<b>Due date for completion</b>
<b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.	<b>30 January 2026</b>

#### Suggestions made under s 87(d) of the FOI Act

<b>Suggestion</b>	<b>Due date for completion</b>
<b>Practices to uplift capability</b>	
<b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 January 2026
<b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 January 2026
<b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 January 2026
<b>Ongoing learning and review</b>	
<b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 January 2026

<p>5. The NDIA review the OAIC’s FOI complaint investigation outcomes<sup>18</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.</p>	<p>Commencing 30 January 2026</p>
<p><b>Disclosure log</b></p>	
<p>6. The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.</p>	<p>Commencing 30 January 2026</p>

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<sup>18</sup> See [Freedom of information investigation outcomes](#).

## Annexure B: Key procedural steps

Date	Events
1 November 2024	The Complainant made their FOI request which the NDIA considered was invalid for not satisfying s 15(2)(b) of the FOI Act.
26 November 2024	The NDIA contacted the Complainant to clarify the scope of the request. The applicant revised their FOI request, and the NDIA considered s 15(2)(b) of the FOI Act was satisfied.
27 November 2024	The NDIA allocated the matter to a decision maker.
13 December 2024	The NDIA began its internal search consultations.
17 December 2024	The NDIA acknowledged the applicant's FOI request and sought an extension of time. The applicant agreed to a 30 day extension of time under s 15AA of the FOI Act.
18 December 2025	The FOI team and Reviews branch discussed issues relating to accessing relevant documents.
20 December 2024	The Data team provided its search results to the FOI team.
10 January 2025	The FOI team and Reviews branch discussed issues regarding access to documents again. The FOI team discussed contacting ICT for assistance.
28 January 2025	The NDIA was taken to have made an access refusal decision. <sup>19</sup> The Complainant sought an update on their request.
30 January 2025	The FOI Team commenced consultations with the Chief Information Officer Division to get advice about recovering the documents.
31 January 2025	The NDIA updated the Complainant and apologised for the delays.
3 – 5 February 2025	The FOI team consulted with Cyber Operations and Records Management about the recovery of the documents.
5 February 2025	The NDIA called the Complainant to clarify the scope of the request and advise of the difficulties in obtaining the documents.
6 – 7 February 2025	The FOI team received consult responses from the Chief Information Officer Division and Cyber Operations.
20 – 21 February 2025	The Complainant sought an update, and the FOI team and Complainant further clarified the scope of the request.
6 – 12 March 2025	The NDIA consulted with a third party.

<sup>19</sup> FOI Act s 15AC(3) noting the impact of s 36(2) of the *Acts Interpretation Act 1901* (Cth).

12 March 2025	The FOI team further consulted with Cyber Operations.
19 – 23 March 2025	The FOI team consulted with the relevant line areas.
25 March 2025	The Complainant sought an update.
7 April 2025	The Complainant was provided with a statement of reasons on their FOI request.

## Annexure C: The NDIA's submissions

### *Response to Preliminary Inquiries*

On 14 July 2025, the NDIA confirmed:

- the Complainant did not make a complaint directly to the NDIA
- the NDIA had apologised to the Complainant during the processing of the request, and the Complainant had confirmed they were willing to wait for the documents by email on 31 January 2025
- the NDIA endeavoured to keep the Complainant updated from 31 January 2025 until the date of the statement of reasons
- the delay was attributable to the difficulties in locating/ accessing the Complainant's documents as the NDIA had moved from personal/shared drives to SharePoint during the timeframe in the FOI request, and
- the NDIA is currently experiencing an increase in FOI requests being received and expects to receive 1,000 more FOI requests than the previous year
- the NDIA is working to improve its processing and address its backlog, and
- the NDIA remains committed to improving its FOI processing and the early resolution of FOI matters.

### *Response to notice of investigation*

In relation to s22 [REDACTED] the NDIA acknowledges that it failed to process the FOI request within the statutory processing timeframe. However, it submits that its communication with the applicant in this matter was transparent.

The NDIA attributed the delays to the fact that the documents being sought had formerly been saved on a shared drive that was decommissioned in 2023, and notes this was explained to the Complainant on 5 and 21 February 2025. It maintains that the delays were due to technical difficulties, not intentionally withholding material to the Complainant.

In relation to its compliance with FOI processing timeframes more broadly, the NDIA submitted:

- it currently supports approximately 740,000 people, noting that at its conception the National Disability Insurance Scheme was only intended to support 410,000 people

- in 2024-25 the NDIA's National Contact Centre responded to over 3 million requests or queries relating to access for personal information across phone calls, email, and webchat, which is an increase from 2.554 million in 2023-24
- the Participant Information Access scheme was created in 2020 to simplify and expedite the processing of routine requests being made under the FOI Act, and the NDIA additionally hopes to implement an additional scheme to access personal information based on the *Privacy Act 1988* (Cth)
- the NDIA recognises that its compliance with statutory timeframe requires attention and has maintained regular communication with the OAIC about the drivers of this including:
  - transitioning from a majority labour hire workforce to a majority permanent staffing workforce
  - implementation of a dedicated case management ICT system
  - continued growth of access requests
- the NDIA's compliance rate with statutory timeframes has declined over the past two financial years:
  - in the 2023-24 financial year the NDIA's compliance rate was:
    - 47% in Q1
    - 53% in Q2
    - 49% to Q3
    - 44% in Q4
  - in the 2024-25 financial year the NDIA's compliance rate was:
    - 43% in Q1
    - 39% in Q2
    - 19% in Q3
    - 31% in Q4
- the number of s 15AA sought by the NDIA and agreed to by FOI applicants over the past two years has increased from:

- 151 sought in 2023-24
- 245 sought in 2024-25<sup>20</sup>
- the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:
  - 18 sought in 2023-24
  - 8 sought in 2024-25<sup>21</sup>
- further drivers of non-compliance with statutory timeframes include:
  - in 2024-25 the NDIA received and finalised the highest volume of FOI matters in its history
  - staff retention challenges in 2023-24 and 2024-25 (noting also the transition in the make-up of the workforce from labour hire to permanent staff)
  - the volume of matters has generated a backlog and is a barrier to completing matters in time
  - it has prioritised progressing to substantive decisions over seeking extensions of time under s 15AC of the FOI Act, where obtaining these extensions of time from the OAIC has traditionally been challenging
- the NDIA has commenced capability building initiatives<sup>22</sup> including:
  - expanding the capacity of the Information Access team from 38 FTE to 73 FTE, noting that the newer staff without prior FOI experience need a higher level of support

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<sup>20</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the NDIA notified the OAIC of:

- 74 s 15AA extensions in 2023-24
- 522 s 15AA extensions in 2024-25.

<sup>21</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:

- 31 sought and 13 granted, in 2023-24
- 13 sought and 5 granted, in 2024-25.

<sup>22</sup> It also provided the OAIC with its Capability and capacity action plan.

- improving triage and early resolution functions including increasing the size of the early resolution team
  - streamlining FOI processes by producing and updating a new suite of standard operating procedures and guidance material as well as authorising an additional 12 FOI decision makers
  - training packages to the FOI team and other staff including training from the Australian Government Solicitor in June 2025 and NDIS Business Systems training. The NDIA is also developing a FOI training page to be launched early 2026
  - improving reporting functions using the dedicated ICT platform (LEX) which has better reporting systems and assists with the proactive disclosure of operational documents with public interest
- the NDIA has also briefed its Board and Minister on its FOI workload, low statutory compliance, and the initiatives it has undertaken to improve its capability, capacity, and output noting that the average handling time of a matter has reduced from 78 days in 2023-24 to 68 days in 2024-25, and
  - the NDIA continues to monitor OAIC complaint outcomes and implement the recommendations, including processes and training targeting the identification of personal information requests as recommended in 2024.

The NDIA also completed the OAIC's self-assessment tool.



### Attachment A-3

## Freedom of Information complaint investigation - Notice on completion under s 86 of the *Freedom of Information Act 1982*, by Freedom of Information Commissioner, Alice Linacre

<b>Complainant</b>	s22
<b>Respondent</b>	National Disability Insurance Agency
<b>Completion date</b>	28 November 2025
<b>OAIC reference number</b>	s22
<b>Agency reference number</b>	s22

### Summary of investigation results, recommendations, and suggestions

1. On 9 July 2025, s22 (the Complainant) made a complaint under s 70 of the *Freedom of Information Act 1982* (the FOI Act), about the National Disability Insurance Agency (the NDIA), being that the NDIA had failed to comply with statutory processing timeframes under the FOI Act in processing their FOI request.
2. On 15 September 2025, the Office of the Australian Information Commissioner (the OAIC) provided a notice to the NDIA under s 75 of the FOI Act advising it of the commencement of an investigation into a cohort of FOI complaints received about similar issues, including this particular complaint, and requested relevant information in response. On 22 October 2025, the NDIA responded to the notice and request for information.
3. My conclusions in relation to the issues raised by the Complainant are outlined below.
4. My suggestions and recommendations in relation to this cohort of complaints are outlined in **Annexure A**.

## Statement of reasons

### *The matters raised by the Complainant*

5. The Complainant has raised the following issues in their complaint:
  - their FOI request was submitted on 31 January 2025 and became a refusal decision on 2 March 2025, and
  - the delay in obtaining documents in response to the request has resulted in stress and obstructed their ability to access their personal information.
6. The background to this FOI complaint is set out at **Annexure B**.

### *Legislation and Guidelines*

7. The timeframes for dealing with an FOI request are outlined in s 15(5) of the FOI Act, which provides that:
  - (a) as soon as practicable but in any case not later than 14 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified that the request has been received; and
  - (b) as soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request.
8. Where an agency or Minister fails to notify the applicant of a decision within the statutory processing period, it is taken to have made a decision refusing the request under s 15AC(3) of the FOI Act.
9. The FOI Guidelines also explain that where a refusal decision has been made under s 15AC(3) of the FOI Act, the agency or Minister may still process the request and provide a statement of reasons on the FOI request.<sup>1</sup>

### *The NDIA's submissions*

10. The NDIA has acknowledged that it failed to process the Complainant's request within the statutory processing timeframes. It attributes the delay to a backlog of FOI requests that had arisen because of a high volume of FOI requests being made. It advised that it was processing the backlog of requests sequentially.

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<sup>1</sup> [FOI Guidelines](#) at [3.270].

11. A summary of the NDIA's submissions is outlined in **Annexure C**.

### **My opinions in relation to the matter**

#### *My opinions in relation to the complaint raised*

12. While the Complainant did not raise the issue of a delayed acknowledgement of their FOI request, I nonetheless have identified this as a relevant issue in this investigation.
13. The FOI request subject to this complaint was made on 31 January 2025. Pursuant to s 15(5) of the FOI Act, the NDIA was required to:
- acknowledge the Complainant's request by 14 February 2025, but it did not do so until 9 July 2025, and
  - provide a decision to the Complainant on the request by 3 March 2025,<sup>2</sup> but it did not do so until 9 July 2025.
14. The NDIA has confirmed that it made a refusal decision pursuant to s 15AC, as it failed to comply with the statutory processing timeframe.
15. It is apparent that the key contributors to the delays in relation to the Complainant's request arose from a lack of sufficient resources to manage the volume of FOI requests on hand which were being processed sequentially.
16. The delays involved in acknowledging and processing the Complainant's FOI request could have been minimised or avoided had there been sufficient resources to ensure the FOI request was acknowledged within the 14-day statutory period and sufficient FOI processing staff capacity to manage the increase of requests being received as well as progress the backlog.<sup>3</sup>
17. In these circumstances, the NDIA should have sought to obtain an extension of time from the complainant under s 15AA of the FOI Act to demonstrate concerted efforts to comply with the statutory processing timeframe.

### **My conclusions in relation to the matter investigated**

18. For these reasons, I am of the view that:

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<sup>2</sup> Noting the impact of s 36(2) of the *Acts Interpretation Act 1901* (Cth).

<sup>3</sup>

- in relation to the issues raised by the Complainant, the NDIA did not comply with s 15(5) of the FOI Act, as the NDIA did not acknowledge the Complainant's FOI request within 14 days nor provide the Complainant with a decision in response to their FOI request within the relevant statutory processing timeframe, and
- in relation to the issues raised in the wider cohort of complaints, the NDIA did not sufficiently utilise extension of time provisions where appropriate, to ensure compliance with statutory timeframes in the 2024-25 financial year. The NDIA also failed to implement systems and processes sufficient to uphold its duties to comply with statutory processing timeframes under the FOI Act.

### My recommendations and suggestions

19. In deciding whether I make recommendations and suggestions, I have considered:
- the outcome sought by the Complainant, which is that the OAIC investigate the delay, ensures the NDIA complies with its obligations under the FOI Act, and the Complainant obtains access to the requested documents<sup>4</sup>
  - the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly particularly in relation to its staffing levels and guidance material, and
  - whether the issues raised in these complaints were isolated instances.
20. I have also considered the previous investigations into the NDIA which were found to be substantiated in findings dated 15 June 2022 and 4 March 2024 respectively.<sup>5</sup> The OAIC made recommendations to the NDIA in relation to one of those complaints, that it accepted. Despite this, the NDIA's compliance with

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<sup>4</sup> While the last outcome cannot be facilitated under the FOI complaints process, the Complainant has not responded to the OAIC's correspondence inviting them to pursue an Information Commissioner review of the refusal decision. However, the NDIA advised the OAIC that a statement of reasons was provided to the Complainant on this request on 9 July 2025.

<sup>5</sup> See [Freedom of information investigation outcomes](#) – Notices on completion dated 15 June 2022 and 4 March 2024.

statutory processing timeframes has significantly declined over the past 4 financial years despite having received fewer FOI requests overall.<sup>6</sup>

21. It is apparent from the NDIA's submissions as well as its reported FOI statistics<sup>7</sup> that:
- the NDIA received an increase of approximately 69% in the number of FOI requests received in the 2024-25 financial year (2,331), compared to the previous 2023-24 financial year (1,381)
  - while not reflected in its FOI statistics, the NDIA has advised that the number of administrative access requests for personal information received in the 2023-24 financial year (2,554,006) increased significantly in the 2024-25 year (3,058,531)
  - also not reflected in the FOI statistics is the number of requests made under the Participant Information Access Scheme, which has nearly doubled, with 7,662 requests received in 2023-24 and 13,124 requests received in 2024-25
  - the NDIA's rate of compliance with FOI processing timeframes decreased significantly from 91% in 2021-22, 71% in 2022-23, 49% in 2023-24, and 33% in 2024-25 which it attributes to its workforce transition from majority labour hire to majority permanent staffing, the implementation of a specific ICT system, and the increasing number of access requests
  - in the 2024-25 financial year, the NDIA's rate of compliance with FOI processing timeframes fluctuated, resulting in an overall compliance rate of 33% in the 2024-25 financial year.
22. I acknowledge the steps being taken by the NDIA to address the processing delays, including the 50% increase in resources allocated to the FOI team since June 2025 (from 38 FTE to 73 FTE), allocating additional resources to the early resolution team, the establishment of a critical workforce register to provide additional surge capacity at short notice, and the implementation of an ongoing action plan to address non-compliance with processing timeframes under the FOI Act including the rollout of regular FOI training.

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<sup>6</sup> 91% in 2021-22 (1,884 requests received), 71% in 2022-23 (1,752 requests received), 49% in 2023-24 (1,381 requests received), and 33% in 2024-25 (2,331 requests received).

<sup>7</sup> As available on the OAIC's website at [Australian Government freedom of information statistics](#), and in the OAIC's [2023-34 annual report](#) (Part 5: Appendices).

23. I also commend the NDIA for utilising various administrative access arrangements to provide quicker, less formal access to individuals' personal information.
24. However, it is apparent that despite receiving an increase of about 69% in the volume of FOI requests in the 2024-25 financial year, and its timeliness rates reaching a low of 19% in Q3 of the 2024-25 financial year, there has been a significant reduction in the number of extensions of time being sought under s 15AB and 15AC of the FOI Act,<sup>8</sup> despite the significant increase in the number of s 15AA extensions.<sup>9</sup>
25. The NDIA's completed self-assessment tool identifies that:
  - the NDIA does not currently have a Smartform to receive FOI requests, but one is in development
  - its review of its processing manuals and guidelines will consider whether to incorporate references to the FOI guidelines, and
  - training is not conducted on a regular basis.
26. A Smartform may assist the NDIA with timeliness by ensuring that the NDIA receives all relevant information from a FOI applicant at an early stage, enabling quicker processing of the access request. The NDIA should also ensure that its officers can be assisted in their decision-making by NDIA training, process manuals, and policies that refer to OAIC resources such as the FOI Guidelines, the FOI Essentials Toolkit, practice documents, and templates.<sup>10</sup>
27. My suggestions and recommendations are outlined at **Annexure A**.

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<sup>8</sup> 31 sought in 2023-24, whereas there were 13 sought in 2024-25.

<sup>9</sup> From 74 notified to the OAIC in 2023-24, to 522 notified to the OAIC in 2024-25.

<sup>10</sup> See [Freedom of information guidance for government agencies](#).

Yours sincerely,

A handwritten signature in blue ink that reads "Alice Linacre". The signature is written in a cursive, flowing style.

**Alice Linacre**  
Freedom of Information Commissioner

28 November 2025

### Annexure A: Recommendations and suggestions

Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that the NDIA ought to implement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
<b>Outcome of Agency initiatives</b>	
1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>11</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> </ul>	<b>30 January 2026</b>

<sup>11</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

Recommendation	Due date for completion
<p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<p><b>30 January 2026</b></p>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>12</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>13</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>14</sup> and include references to relevant OAIC resources<sup>15</sup> to support FOI processing officers and decision makers.</p>	<p><b>30 January 2026</b></p>
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the</p>	<p><b>30 January 2026</b></p>

<sup>12</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>13</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>14</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<sup>15</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<b>Recommendation</b>	<b>Due date for completion</b>
IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS. <sup>16</sup>	
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	<b>30 January 2026</b>
<b>FOI Statistics</b>	

<sup>16</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

<b>Recommendation</b>	<b>Due date for completion</b>
<b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.	<b>30 January 2026</b>

### Suggestions made under s 87(d) of the FOI Act

<b>Suggestion</b>	<b>Due date for completion</b>
<b>Practices to uplift capability</b>	
<b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 January 2026
<b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 January 2026
<b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 January 2026
<b>Ongoing learning and review</b>	
<b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 January 2026

<p><b>5.</b> The NDIA review the OAIC’s FOI complaint investigation outcomes<sup>17</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.</p>	<p>Commencing 30 January 2026</p>
<p><b>Disclosure log</b></p>	
<p><b>6.</b> The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.</p>	<p>Commencing 30 January 2026</p>

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<sup>17</sup> See [Freedom of information investigation outcomes](#).

## Annexure B: Key procedural steps

Date	Events
31 January 2025	The Complainant made the FOI request.
3 March 2025	The NDIA was taken to have made a refusal decision. <sup>18</sup>
4 June 2025	The NDIA's Executive Complaints team sought information about the Complainant's FOI request.
7 July 2025	The FOI request was assigned to a decision maker.
9 July 2025	The NDIA acknowledged the FOI request and apologised for the delays. The Complainant sought an estimate decision date, and the NDIA advised it was being actioned as a priority. A statement of reasons was provided to the Complainant on the same date.

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<sup>18</sup> FOI Act s 15AC(3) noting the impact of s 36(2) of the *Acts Interpretation Act 1901* (Cth).

## Annexure C: The NDIA's submissions

### *Response to Preliminary Inquiries*

In relation to 25 July 2025, the NDIA acknowledged that it had failed to progress the Complainant's request in accordance with the statutory processing timeframes. The NDIA confirmed that:

- the Complainant had lodged a complaint with the NDIA, but the FOI team had not been advised of the outcome
- it apologised provided the Complainant with a decision on the same day the Complainant advised the FOI team of the outcome of the complaint (9 July 2025)
- it has provided feedback to the FOI team about providing regular updates to FOI applicants
- the NDIA is currently experiencing an increase in FOI requests being received and expects to receive 1,000 more FOI requests than the previous year
- the NDIA is working to improve its processing and address its backlog, and
- the NDIA remains committed to improving its FOI processing and the early resolution of FOI matters.

### *Response to notice of investigation*

In relation to s22 [REDACTED] the NDIA acknowledged that it failed to process the Complainant's request within the statutory processing period. It noted that once the matter had been allocated to a decision maker, it was finalised within 2 days. The NDIA explained that on 9 July 2025 it emailed the Complainant to explain the delay was a result of a high volume of FOI requests. It confirmed that the delay arose as a result of a backlog of FOI requests and needing to process those sequentially.

In relation to its compliance with FOI processing timeframes more broadly, the NDIA submitted:

- it currently supports approximately 740,000 people, noting that at its conception the National Disability Insurance Scheme was only intended to support 410,000 people

- in 2024-25 the NDIA's National Contact Centre responded to over 3 million requests or queries relating to access for personal information across phone calls, email, and webchat, which is an increase from 2.554 million in 2023-24
- the Participant Information Access scheme was created in 2020 to simplify and expedite the processing of routine requests being made under the FOI Act, and the NDIA additionally hopes to implement an additional scheme to access personal information based on the *Privacy Act 1988* (Cth)
- the NDIA recognises that its compliance with statutory timeframe requires attention and has maintained regular communication with the OAIC about the drivers of this including:
  - transitioning from a majority labour hire workforce to a majority permanent staffing workforce
  - implementation of a dedicated case management ICT system
  - continued growth of access requests
- the NDIA's compliance rate with statutory timeframes has declined over the past two financial years:
  - in the 2023-24 financial year the NDIA's compliance rate was:
    - 47% in Q1
    - 53% in Q2
    - 49% to Q3
    - 44% in Q4
  - in the 2024-25 financial year the NDIA's compliance rate was:
    - 43% in Q1
    - 39% in Q2
    - 19% in Q3
    - 31% in Q4
- the number of s 15AA sought by the NDIA and agreed to by FOI applicants over the past two years has increased from:

- 151 sought in 2023-24
- 245 sought in 2024-25<sup>19</sup>
- the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:
  - 18 sought in 2023-24
  - 8 sought in 2024-25<sup>20</sup>
- further drivers of non-compliance with statutory timeframes include:
  - in 2024-25 the NDIA received and finalised the highest volume of FOI matters in its history
  - staff retention challenges in 2023-24 and 2024-25 (noting also the transition in the make-up of the workforce from labour hire to permanent staff)
  - the volume of matters has generated a backlog and is a barrier to completing matters in time
  - it has prioritised progressing to substantive decisions over seeking extensions of time under s 15AC of the FOI Act, where obtaining these extensions of time from the OAIC has traditionally been challenging
- the NDIA has commenced capability building initiatives<sup>21</sup> including:
  - expanding the capacity of the Information Access team from 38 FTE to 73 FTE, noting that the newer staff without prior FOI experience need a higher level of support

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<sup>19</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the NDIA notified the OAIC of:

- 74 s 15AA extensions in 2023-24
- 522 s 15AA extensions in 2024-25.

<sup>20</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:

- 31 sought and 13 granted, in 2023-24
- 13 sought and 5 granted, in 2024-25.

<sup>21</sup> It also provided the OAIC with its Capability and capacity action plan.

- improving triage and early resolution functions including increasing the size of the early resolution team
  - streamlining FOI processes by producing and updating a new suite of standard operating procedures and guidance material as well as authorising an additional 12 FOI decision makers
  - training packages to the FOI team and other staff including training from the Australian Government Solicitor in June 2025 and NDIS Business Systems training. The NDIA is also developing a FOI training page to be launched early 2026
  - improving reporting functions using the dedicated ICT platform (LEX) which has better reporting systems and assists with the proactive disclosure of operational documents with public interest
- the NDIA has also briefed its Board and Minister on its FOI workload, low statutory compliance, and the initiatives it has undertaken to improve its capability, capacity, and output noting that the average handling time of a matter has reduced from 78 days in 2023-24 to 68 days in 2024-25, and
  - the NDIA continues to monitor OAIC complaint outcomes and implement the recommendations, including processes and training targeting the identification of personal information requests as recommended in 2024.

The NDIA also completed the OAIC's self-assessment tool.



## Attachment A-4

### Freedom of Information complaint investigation - Notice on completion under s 86 of the *Freedom of Information Act 1982*, by Freedom of Information Commissioner, Alice Linacre

<b>Complainant</b>	s22
<b>Respondent</b>	National Disability Insurance Agency
<b>Completion date</b>	28 November 2025
<b>OAIC reference number</b>	s22
<b>Agency reference number</b>	s22

#### Summary of investigation results, recommendations, and suggestions

1. On 7 August 2025, s22 (the Complainant) made a complaint under s 70 of the *Freedom of Information Act 1982* (the FOI Act), about the National Disability Insurance Agency (the NDIA), being that the NDIA had failed to comply with statutory processing timeframes under the FOI Act in processing their FOI request.
2. On 15 September 2025, the Office of the Australian Information Commissioner (the OAIC) provided a notice to the NDIA under s 75 of the FOI Act advising it of the commencement of an investigation into a cohort of FOI complaints received about similar issues, including this particular complaint, and requested relevant information in response. On 22 October 2025, the NDIA responded to the notice and request for information.
3. My conclusions in relation to the issues raised by the Complainant are outlined below.
4. My suggestions and recommendations in relation to this cohort of complaints are outlined in **Annexure A**.

## Statement of reasons

### *The matters raised by the Complainant*

5. The Complainant has raised the following issues in their complaint:
  - the Complainant felt they were being pressured into accepting the NDIA's request for an extension of time to process the FOI request, and
  - they raised their concern with the NDIA, but its response was to request more time to process their FOI request.
6. The background to this FOI complaint is set out at **Annexure B**.

### *Legislation and Guidelines*

7. The timeframes for dealing with an FOI request are outlined in s 15(5)(b) of the FOI Act, which provides that:
 

[A]s soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request.
8. Where an agency or Minister fails to notify the applicant of a decision within the statutory processing period, it is taken to have made a decision refusing the request under s 15AC(3) of the FOI Act.
9. The FOI Guidelines also explain that where a refusal decision has been made under s 15AC(3) of the FOI Act, the agency or Minister may still process the request and provide a statement of reasons on the FOI request.<sup>1</sup>

### *The NDIA's submissions*

10. The NDIA has acknowledged that it failed to process the Complainant's request within the statutory processing timeframe. It has apologised to the Complainant for the delay and notes that the correspondence sent to the Complainant was a standard template not intended to influence the Complainant to agree to an extension of time.
11. A summary of the NDIA's submissions is outlined in **Annexure C**.

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<sup>1</sup> [FOI Guidelines](#) at [3.270].

## My opinions in relation to the matter

### *My opinions in relation to the complaint raised*

12. The FOI request subject to this complaint was made on 24 July 2025. Pursuant to s 15(5)(b) of the FOI Act, the NDIA was required to provide a decision to the Complainant on the request by 25 August 2025,<sup>2</sup> but it did not do so until 22 September 2025.
13. The NDIA has confirmed that it made a refusal decision pursuant to s 15AC, as it failed to comply with the statutory processing timeframe.
14. It is apparent from the chronology of events provided that the key contributors to the delays in relation to the Complainant's request arose from:
  - a delay by the relevant business area in conducting its searches, and
  - a delay in determining that the Complainant's FOI request was too broad to be processed and consulting with the Complainant to revise the request.
15. The NDIA did give early consideration to the need for an extension of time when it sought a s 15AA extension of time from the Complainant, which the Complainant refused. In these circumstances it was open to the NDIA to request an extension of time from the OAIC so that it was able to facilitate consultation with the Complainant about the scope of the FOI request.
16. However, I also note that productive and reasonable engagement by the Complainant would also aid in supporting the NDIA to comply with statutory processing timeframes moving forward.
17. Nonetheless, where an agency has been unable to obtain an extension of time it should endeavour to provide the FOI applicant with updates in relation to the processing of the request. In this matter, the NDIA did not provide the Complainant with updates about the processing of the request.

## My conclusions in relation to the matter investigated

18. For these reasons, I am of the view that:
  - in relation to the issues raised by the Complainant, the NDIA did not comply with s 15(5)(b) of the FOI Act, as the NDIA did not provide the Complainant

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<sup>2</sup> Noting the impact of s 36(2) of the *Acts Interpretation Act 1901* (Cth).

with a decision in response to their FOI request within the relevant statutory processing timeframe, and

- in relation to the issues raised in the wider cohort of complaints, the NDIA did not sufficiently utilise extension of time provisions where appropriate, to ensure compliance with statutory timeframes in the 2024-25 financial year. The NDIA also failed to implement systems and processes sufficient to uphold its duties to comply with statutory processing timeframes under the FOI Act.

### My recommendations and suggestions

19. In deciding whether I make recommendations and suggestions, I have considered:

- the outcome sought by the Complainant, which is to address their complaint in a manner the OAI considers appropriate
- the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly particularly in relation to its staffing levels and guidance material, and
- whether the issues raised in these complaints were isolated instances.

20. I have also considered the previous investigations into the NDIA which were found to be substantiated in findings dated 15 June 2022 and 4 March 2024 respectively.<sup>3</sup> The OAI made recommendations to the NDIA in relation to one of those complaints, that it accepted. Despite this, the NDIA's compliance with statutory processing timeframes has significantly declined over the past 4 financial years despite having received fewer FOI requests overall.<sup>4</sup>

21. It is apparent from the NDIA's submissions as well as its reported FOI statistics<sup>5</sup> that:

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<sup>3</sup> See [Freedom of information investigation outcomes](#) – Notices on completion dated 15 June 2022 and 4 March 2024.

<sup>4</sup> 91% in 2021-22 (1,884 requests received), 71% in 2022-23 (1,752 requests received), 49% in 2023-24 (1,381 requests received), and 33% in 2024-25 (2,331 requests received).

<sup>5</sup> As available on the OAI's website at [Australian Government freedom of information statistics](#), and in the OAI's [2023-34 annual report](#) (Part 5: Appendices).

- the NDIA received an increase of approximately 69% in the number of FOI requests received in the 2024-25 financial year (2,331), compared to the previous 2023-24 financial year (1,381)
  - while not reflected in its FOI statistics, the NDIA has advised that the number of administrative access requests for personal information received in the 2023-24 financial year (2,554,006) increased significantly in the 2024-25 year (3,058,531)
  - also not reflected in the FOI statistics is the number of requests made under the Participant Information Access Scheme, which has nearly doubled, with 7,662 requests received in 2023-24 and 13,124 requests received in 2024-25
  - the NDIA's rate of compliance with FOI processing timeframes decreased significantly from 91% in 2021-22, 71% in 2022-23, 49% in 2023-24, and 33% in 2024-25 which it attributes to its workforce transition from majority labour hire to majority permanent staffing, the implementation of a specific ICT system, and the increasing number of access requests
  - in the 2024-25 financial year, the NDIA's rate of compliance with FOI processing timeframes fluctuated, resulting in an overall compliance rate of 33% in the 2024-25 financial year.
22. I acknowledge the steps being taken by the NDIA to address the processing delays, including the 50% increase in resources allocated to the FOI team since June 2025 (from 38 FTE to 73 FTE), allocating additional resources to the early resolution team, the establishment of a critical workforce register to provide additional surge capacity at short notice, and the implementation of an ongoing action plan to address non-compliance with processing timeframes under the FOI Act including the rollout of regular FOI training.
23. I also commend the NDIA for utilising various administrative access arrangements to provide quicker, less formal access to individuals' personal information.
24. However, it is apparent that despite receiving an increase of about 69% in the volume of FOI requests in the 2024-25 financial year, and its timeliness rates reaching a low of 19% in Q3 of the 2024-25 financial year, there has been a significant reduction in the number of extensions of time being sought under s

15AB and 15AC of the FOI Act,<sup>6</sup> despite the significant increase in the number of s 15AA extensions.<sup>7</sup>

25. The NDIA's completed self-assessment tool identifies that:
- the NDIA does not currently have a Smartform to receive FOI requests, but one is in development
  - its review of its processing manuals and guidelines will consider whether to incorporate references to the FOI guidelines, and
  - training is not conducted on a regular basis.
26. A Smartform may assist the NDIA with timeliness by ensuring that the NDIA receives all relevant information from a FOI applicant at an early stage, enabling quicker processing of the access request. The NDIA should also ensure that its officers can be assisted in their decision-making by NDIA training, process manuals, and policies that refer to OAIC resources such as the FOI Guidelines, the FOI Essentials Toolkit, practice documents, and templates.<sup>8</sup>
27. My suggestions and recommendations are outlined at **Annexure A**.

Yours sincerely,



**Alice Linacre**  
Freedom of Information Commissioner

28 November 2025

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<sup>6</sup> 31 sought in 2023-24, whereas there were 13 sought in 2024-25.

<sup>7</sup> From 74 notified to the OAIC in 2023-24, to 522 notified to the OAIC in 2024-25.

<sup>8</sup> See [Freedom of information guidance for government agencies](#).

### Annexure A: Recommendations and suggestions

Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that the NDIA ought to implement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
<b>Outcome of Agency initiatives</b>	
1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>9</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> </ul>	<b>30 January 2026</b>

<sup>9</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

<b>Recommendation</b>	<b>Due date for completion</b>
<p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<b>30 January 2026</b>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>10</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>11</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>12</sup> and include references to relevant OAIC resources<sup>13</sup> to support FOI processing officers and decision makers.</p>	<b>30 January 2026</b>
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the</p>	<b>30 January 2026</b>

<sup>10</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>11</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>12</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<sup>13</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<b>Recommendation</b>	<b>Due date for completion</b>
IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS. <sup>14</sup>	
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	<b>30 January 2026</b>
<b>FOI Statistics</b>	

<sup>14</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

<b>Recommendation</b>	<b>Due date for completion</b>
<b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.	<b>30 January 2026</b>

### Suggestions made under s 87(d) of the FOI Act

<b>Suggestion</b>	<b>Due date for completion</b>
<b>Practices to uplift capability</b>	
<b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 January 2026
<b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 January 2026
<b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 January 2026
<b>Ongoing learning and review</b>	
<b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 January 2026

<p><b>5.</b> The NDIA review the OAIC’s FOI complaint investigation outcomes<sup>15</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.</p>	<p>Commencing 30 January 2026</p>
<p><b>Disclosure log</b></p>	
<p><b>6.</b> The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.</p>	<p>Commencing 30 January 2026</p>

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<sup>15</sup> See [Freedom of information investigation outcomes](#).

## Annexure B: Key procedural steps

Date	Events
24 July 2025	The Complainant made the FOI request.
6 August 2025	The NDIA acknowledged the Complainant's request and sought an extension of time. The Complainant refused to agree to an extension. The NDIA initiated its searches consultation.
7 – 15 August 2025	The FOI team consulted with the internal business area undertaking the searches.
25 August 2025	The NDIA was taken to have made a refusal decision. <sup>16</sup>
26 August 2025	The NDIA was notified of the Complainant's complaint to the OAIC.
28 – 29 August 2025	The FOI team continued consulting with the internal business area about searches for documents.
1 September 2025	The internal business area provided the FOI team with the results of its searches.
3 September 2025	The NDIA contacted the applicant to address issues in their complaint and apologised for the delay. The NDIA assigned a decision maker to the Complainant's request.
4 September 2025	The NDIA contacted the applicant to propose a revised FOI request on the basis the request was too large to process.
8 September 2025	The Complainant agreed to revise their FOI request and a further search consult was sent to the relevant business area.
15 September 2025	The internal business area provided the FOI team with the results of its further searches.
22 September 2025	The NDIA provided its statement of reason to the Complainant.

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<sup>16</sup> FOI Act s 15AC(3) noting the impact of s 36(2) of the *Acts Interpretation Act 1901* (Cth).

## Annexure C: The NDIA's submissions

### *Response to Preliminary Inquiries*

On 4 September 2025, the NDIA confirmed that:

- the Complainant did not formally complain to the NDIA, but had expressed dissatisfaction with the NDIA not meeting statutory timeframes when declining to agree to an extension of time
- after being notified of the Complainant's complaint, the NDIA apologised for its delays and explained the request for an extension of time was not intended to be forceful, instead the acknowledgement email was a standard template
- it has provided feedback to the FOI team about providing regular updates to FOI applicants
- the NDIA is currently experiencing an increase in FOI requests being received and expects to receive 1,000 more FOI requests than the previous year
- the NDIA is working to improve its processing and address its backlog, and
- the NDIA remains committed to improving its FOI processing and the early resolution of FOI matters.

### *Response to notice of investigation*

In relation to s22 [REDACTED] the NDIA acknowledged that it did not process the Complainant's FOI request within the statutory processing timeframe. It noted that while a s 15AB extension of time may have assisted in these circumstances. The NDIA noted that it had apologised to the Complainant and would consider this complaint when strengthening its training, resources, templates, and standard operating procedures with its FOI Practice Build.

In relation to its compliance with FOI processing timeframes more broadly, the NDIA submitted:

- it currently supports approximately 740,000 people, noting that at its conception the National Disability Insurance Scheme was only intended to support 410,000 people

- in 2024-25 the NDIA's National Contact Centre responded to over 3 million requests or queries relating to access for personal information across phone calls, email, and webchat, which is an increase from 2.554 million in 2023-24
- the Participant Information Access scheme was created in 2020 to simplify and expedite the processing of routine requests being made under the FOI Act, and the NDIA additionally hopes to implement an additional scheme to access personal information based on the *Privacy Act 1988* (Cth)
- the NDIA recognises that its compliance with statutory timeframe requires attention and has maintained regular communication with the OAIC about the drivers of this including:
  - transitioning from a majority labour hire workforce to a majority permanent staffing workforce
  - implementation of a dedicated case management ICT system
  - continued growth of access requests
- the NDIA's compliance rate with statutory timeframes has declined over the past two financial years:
  - in the 2023-24 financial year the NDIA's compliance rate was:
    - 47% in Q1
    - 53% in Q2
    - 49% to Q3
    - 44% in Q4
  - in the 2024-25 financial year the NDIA's compliance rate was:
    - 43% in Q1
    - 39% in Q2
    - 19% in Q3
    - 31% in Q4
- the number of s 15AA sought by the NDIA and agreed to by FOI applicants over the past two years has increased from:

- 151 sought in 2023-24
- 245 sought in 2024-25<sup>17</sup>
- the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:
  - 18 sought in 2023-24
  - 8 sought in 2024-25<sup>18</sup>
- further drivers of non-compliance with statutory timeframes include:
  - in 2024-25 the NDIA received and finalised the highest volume of FOI matters in its history
  - staff retention challenges in 2023-24 and 2024-25 (noting also the transition in the make-up of the workforce from labour hire to permanent staff)
  - the volume of matters has generated a backlog and is a barrier to completing matters in time
  - it has prioritised progressing to substantive decisions over seeking extensions of time under s 15AC of the FOI Act, where obtaining these extensions of time from the OAIC has traditionally been challenging
- the NDIA has commenced capability building initiatives<sup>19</sup> including:
  - expanding the capacity of the Information Access team from 38 FTE to 73 FTE, noting that the newer staff without prior FOI experience need a higher level of support

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<sup>17</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the NDIA notified the OAIC of:

- 74 s 15AA extensions in 2023-24
- 522 s 15AA extensions in 2024-25.

<sup>18</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:

- 31 sought and 13 granted, in 2023-24
- 13 sought and 5 granted, in 2024-25.

<sup>19</sup> It also provided the OAIC with its Capability and capacity action plan.

- improving triage and early resolution functions including increasing the size of the early resolution team
  - streamlining FOI processes by producing and updating a new suite of standard operating procedures and guidance material as well as authorising an additional 12 FOI decision makers
  - training packages to the FOI team and other staff including training from the Australian Government Solicitor in June 2025 and NDIS Business Systems training. The NDIA is also developing a FOI training page to be launched early 2026
  - improving reporting functions using the dedicated ICT platform (LEX) which has better reporting systems and assists with the proactive disclosure of operational documents with public interest
- the NDIA has also briefed its Board and Minister on its FOI workload, low statutory compliance, and the initiatives it has undertaken to improve its capability, capacity, and output noting that the average handling time of a matter has reduced from 78 days in 2023-24 to 68 days in 2024-25, and
  - the NDIA continues to monitor OAIC complaint outcomes and implement the recommendations, including processes and training targeting the identification of personal information requests as recommended in 2024.

The NDIA also completed the OAIC's self-assessment tool.



## Attachment A-5

### Freedom of Information complaint investigation - Notice on completion under s 86 of the *Freedom of Information Act 1982*, by Freedom of Information Commissioner, Alice Linacre

<b>Complainant</b>	s22
<b>Respondent</b>	National Disability Insurance Agency
<b>Completion date</b>	28 November 2025
<b>OAIC reference number</b>	s22
<b>Agency reference number</b>	s22

#### Summary of investigation results, recommendations, and suggestions

1. On 4 August 2025, s22 (the Complainant) made a complaint under s 70 of the *Freedom of Information Act 1982* (the FOI Act), about the National Disability Insurance Agency (the NDIA), being that the NDIA had failed to comply with statutory processing timeframes under the FOI Act in processing their FOI request.
2. On 15 September 2025, the Office of the Australian Information Commissioner (the OAIC) provided a notice to the NDIA under s 75 of the FOI Act advising it of the commencement of an investigation into a cohort of FOI complaints received about similar issues, including this particular complaint, and requested relevant information in response. On 22 October 2025, the NDIA responded to the notice and request for information.
3. My conclusions in relation to the issues raised by the Complainant are outlined below.
4. My suggestions and recommendations in relation to this cohort of complaints are outlined in **Annexure A**.

## Statement of reasons

### *The matters raised by the Complainant*

5. The Complainant has raised the following issues in their complaint:
- they lodged a FOI request with the NDIA on 4 July 2025, which was acknowledged on 17 July 2025 along with a request for a 30-day extension of time under s 15AA of the FOI Act
  - the Complainant refused to agree to the extension of time but still did not receive a decision within the statutory processing timeframe, and
  - the Complainant considers that there appears to be a pattern of deliberate or a systematic delay as the FOI request related to a matter under consideration at the Administrative Review Tribunal (the ART), the Complainant was discouraged from making a FOI request and instead was urged to wait for ART disclosure or use the Participant Information Access scheme (the PIA scheme),<sup>1</sup> and the NDIA has previously excluded material and delayed access to information relevant to the Complainant's ART matter.
6. The background to this FOI complaint is set out at **Annexure B**.

### *Legislation and Guidelines*

7. The timeframes for dealing with an FOI request are outlined in s 15(5)(b) of the FOI Act, which provides that:
- [A]s soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request.
8. Where an agency or Minister fails to notify the applicant of a decision within the statutory processing period, it is taken to have made a decision refusing the request under s 15AC(3) of the FOI Act.
9. The FOI Guidelines also explain that where a deemed decision has been made, the agency or Minister may still process the request and provide a statement of reasons on the FOI request.<sup>2</sup>

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<sup>1</sup> The Complainant highlighted that neither of those access arrangements attract review rights.

<sup>2</sup> [FOI Guidelines](#) at [3.270].

*The NDIA's submissions*

10. While the NDIA concedes that a decision was not made within the statutory processing timeframe, it maintains that it acknowledged the request within the timeframe, communicated with the Complainant about its delays, and sought a s 15AA extension of time from the Complainant. It submits that the Complainant's request was consistently progressed which demonstrates that the delay was not intentional and did not arise due to any neglect.
11. The NDIA acknowledged that a s 15AB extension of time may have assisted in this matter. However, it notes that it is focussing its resources on the processing of FOI requests as making extension of time requests adds another level of administrative processes and delay.
12. A summary of the NDIA's submissions is outlined in **Annexure C**.

**My opinions in relation to the matter***My opinions in relation to the complaint raised*

13. The FOI request subject to this complaint was made on 4 July 2025. Pursuant to s 15(5)(b) of the FOI Act, the NDIA was required to provide a decision to the Complainant on the request by 4 August 2025, but it did not do so until 22 August 2025.
14. The NDIA has confirmed that it was deemed to have made a refusal decision pursuant to s 15AC, as it failed to comply with the statutory processing timeframe.
15. It is apparent from the chronology of events provided, that the key contributors to the delays in relation to the Complainant's request, arose from:
  - a delay in receiving proof of identity from the Complainant<sup>3</sup>
  - a lack of resources in processing the increased volume of FOI requests, and
  - a delay of 18 days between receiving a searches response from the relevant business area and allocating the matter to a decision maker.
16. The NDIA did give early consideration to the need for an extension of time when it sought a s 15AA extension of time from the Complainant, which the

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<sup>3</sup> This was received 17 days after it had been requested by the NDIA.

Complainant refused. Moreover, I acknowledge that the delay in receiving proof of identity from the Complainant contributed to the overall delay in the NDIA processing the Complainant's request. To this end, I note that productive and reasonable engagement by the Complainant would also aid in supporting the NDIA to comply with statutory processing timeframes moving forward.

17. However, in circumstances where an agency has been unable to agree to an extension of time with a FOI applicant, it should endeavour to provide the FOI applicant with updates in relation to the processing of the request. In this matter, the NDIA did not keep the Complainant sufficiently informed about the processing of their FOI request.

### **My conclusions in relation to the matter investigated**

18. For these reasons, I am of the view that:
  - in relation to the issues raised by the Complainant, the NDIA did not comply with s 15(5)(b) of the FOI Act, as the NDIA did not provide the Complainant with a decision in response to their FOI request within the relevant statutory processing timeframe, and
  - in relation to the issues raised in the wider cohort of complaints, the NDIA did not sufficiently utilise extension of time provisions where appropriate, to ensure compliance with statutory timeframes in the 2024-25 financial year. The NDIA also failed to implement systems and processes sufficient to uphold its duties to comply with statutory processing timeframes under the FOI Act.

### **My recommendations and suggestions**

19. In deciding whether I make recommendations and suggestions, I have considered:
  - the outcome sought by the Complainant, which is that the OAIC investigate the NDIA's handling of the FOI request and consider whether the NDIA is systematically breaching its FOI obligations and misusing the extension of time process
  - the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to improve its compliance with statutory processing timeframes and uplift its information access operations more broadly particularly in relation to its staffing levels and guidance material, and

- whether the issues raised in these complaints were isolated instances.
20. I have also considered that the previous investigations into the NDIA which were found to be substantiated in findings dated 15 June 2022 and 4 March 2024 respectively.<sup>4</sup> The OAIC made recommendations to the NDIA in relation to one of those complaints, that it accepted. Despite this, the NDIA's compliance with statutory processing timeframes has significantly declined over the past 4 financial years despite having received fewer FOI requests overall.<sup>5</sup>
21. It is apparent from the NDIA's submissions as well as its reported FOI statistics<sup>6</sup> that:
- the NDIA received an increase of approximately 69% in the number of FOI requests received in the 2024-25 financial year (2,331), compared to the previous 2023-24 financial year (1,381)
  - while not reflected in its FOI statistics, the NDIA has advised that the number of administrative access requests for personal information received in the 2023-24 financial year (2,554,006) increased significantly in the 2024-25 year (3,058,531)
  - also not reflected in the FOI statistics is the number of requests made under the Participant Information Access Scheme, which has nearly doubled, with 7,662 requests received in 2023-24 and 13,124 requests received in 2024-25
  - the NDIA's rate of compliance with FOI processing timeframes decreased significantly from 91% in 2021-22, 71% in 2022-23, 49% in 2023-24, and 33% in 2024-25 which it attributes to its workforce transition from majority labour hire to majority permanent staffing, the implementation of a specific ICT system, and the increasing number of access requests
  - in the 2024-25 financial year, the NDIA's rate of compliance with FOI processing timeframes fluctuated, resulting in an overall compliance rate of 33% in the 2024-25 financial year.

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<sup>4</sup> See [Freedom of information investigation outcomes](#) – Notices on completion dated 15 June 2022 and 4 March 2024.

<sup>5</sup> 91% in 2021-22 (1,884 requests received), 71% in 2022-23 (1,752 requests received), 49% in 2023-24 (1,381 requests received), and 33% in 2024-25 (2,331 requests received).

<sup>6</sup> As available on the OAIC's website at [Australian Government freedom of information statistics](#), and in the OAIC's [2023-34 annual report](#) (Part 5: Appendices).

22. I acknowledge the steps being taken by the NDIA to address the processing delays, including the 50% increase in resources allocated to the FOI team since June 2025 (from 38 FTE to 73 FTE), allocating additional resources to the early resolution team, the establishment of a critical workforce register to provide additional surge capacity at short notice, and the implementation of an ongoing action plan to address non-compliance with processing timeframes under the FOI Act including the rollout of regular FOI training.
23. I also commend the NDIA for utilising various administrative access arrangements to provide quicker, less formal access to individuals' personal information.
24. However, it is apparent that despite receiving an increase of about 69% in the volume of FOI requests in the 2024-25 financial year, and its timeliness rates reaching a low of 19% in Q3 of the 2024-25 financial year, there has been a significant reduction in the number of extensions of time being sought under s 15AB and 15AC of the FOI Act,<sup>7</sup> despite the significant increase in the number of s 15AA extensions.<sup>8</sup>
25. The NDIA's completed self-assessment tool identifies that:
  - the NDIA does not currently have a Smartform to receive FOI requests, but one is in development
  - its review of its processing manuals and guidelines will consider whether to incorporate references to the FOI guidelines, and
  - training is not conducted on a regular basis.
26. A Smartform may assist the NDIA with timeliness by ensuring that the NDIA receives all relevant information from a FOI applicant at an early stage, enabling quicker processing of the access request. The NDIA should also ensure that its officers can be assisted in their decision-making by NDIA training, process manuals, and policies that refer to OAIC resources such as the FOI Guidelines, the FOI Essentials Toolkit, practice documents, and templates.<sup>9</sup>
27. My suggestions and recommendations are outlined at **Annexure A**.

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<sup>7</sup> 31 sought in 2023-24, whereas there were 13 sought in 2024-25.

<sup>8</sup> From 74 notified to the OAIC in 2023-24, to 522 notified to the OAIC in 2024-25.

<sup>9</sup> See [Freedom of information guidance for government agencies](#).

Yours sincerely,

A handwritten signature in blue ink that reads "Alice Linacre". The signature is written in a cursive style with a large initial 'A'.

**Alice Linacre**  
Freedom of Information Commissioner

28 November 2025

### Annexure A: Recommendations and suggestions

Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that the NDIA ought to implement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
<b>Outcome of Agency initiatives</b>	
1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>10</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> </ul>	<b>30 January 2026</b>

<sup>10</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

<b>Recommendation</b>	<b>Due date for completion</b>
<p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<b>30 January 2026</b>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>11</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>12</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>13</sup> and include references to relevant OAIC resources<sup>14</sup> to support FOI processing officers and decision makers.</p>	<b>30 January 2026</b>
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the</p>	<b>30 January 2026</b>

<sup>11</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>12</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>13</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<sup>14</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<b>Recommendation</b>	<b>Due date for completion</b>
IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS. <sup>15</sup>	
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	<b>30 January 2026</b>
<b>FOI Statistics</b>	

<sup>15</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

<b>Recommendation</b>	<b>Due date for completion</b>
<b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.	<b>30 January 2026</b>

### Suggestions made under s 87(d) of the FOI Act

<b>Suggestion</b>	<b>Due date for completion</b>
<b>Practices to uplift capability</b>	
<b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 January 2026
<b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 January 2026
<b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 January 2026
<b>Ongoing learning and review</b>	
<b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 January 2026

<p><b>5.</b> The NDIA review the OAIC’s FOI complaint investigation outcomes<sup>16</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.</p>	<p>Commencing 30 January 2026</p>
<p><b>Disclosure log</b></p>	
<p><b>6.</b> The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.</p>	<p>Commencing 30 January 2026</p>

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<sup>16</sup> See [Freedom of information investigation outcomes](#).

## Annexure B: Key procedural steps

Date	Events
4 July 2025	The Complainant made the FOI request.
17 July 2025	The NDIA acknowledged the FOI request, sought proof of identity, and sought a 30-day extension of time under s 15AA of the FOI Act. The NDIA also contacted the ART to determine if the Tribunal documents had been provided to the Complainant.
18 July 2025	The FOI team sent a search consultation to the Service Delivery team. The ART also confirmed that the Tribunal documents had been provided the Complainant.
21 July 2025	The Complainant provided proof of identity but refused to agree to the extension of time sought.
25 July 2025	The FOI Team received a response from the Service Delivery team.
4 August 2025	The NDIA was taken to have made a deemed access refusal decision. <sup>17</sup>
7 August 2025	The NDIA was notified of the commencement of an Information Commissioner review (IC review) of the deemed access refusal decision (s22 [REDACTED]).
12 August 2025	The FOI request was assigned to a decision maker.
22 August 2025	The NDIA made a revised decision under s 55G of the FOI Act.
17 September 2025	The IC review matter was finalised (s22 [REDACTED]).

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<sup>17</sup> Noting the impact of s 36(2) of the *Acts Interpretation Act 1954* (Cth).

## Annexure C: The NDIA's submissions

### *Response to Preliminary Inquiries*

On 1 September 2025, the NDIA provided the following response:

- it had acknowledged the Complainant's FOI request within the statutory time-period and immediately consulted with the ART to ensure that it was not processing the same material that had been released to the applicant in the Tribunal documents, but the Complainant confirmed they still wanted that same material released under the FOI Act
- it had requested a s 15AA extension of time while awaiting proof of identity from the applicant
- it responded to the OAIC's preliminary enquiries about the IC review and made a revised decision after receiving those inquiries
- the NDIA is currently experiencing an increase in FOI requests being received and expects to receive 1,000 more FOI requests than the previous year
- the NDIA is working to improve its processing and address its backlog, and
- the NDIA remains committed to improving its FOI processing and the early resolution of FOI matters.

It asserted that as there was an ongoing IC review (s22 [REDACTED]), the complaint matter should be finalised and the issue instead resolved via the IC review. It also confirmed that the Complainant did not directly complain to the NDIA.

### *Response to notice of investigation*

In relation to s22 [REDACTED] the NDIA asserted that its communication with the applicant was transparent. It advised the applicant that their processing times exceeded the 30-day statutory processing period and sought a 30-day extension of time which the applicant refused. The NDIA asserts that the timeline shows the Complainant's FOI request was undertaken regular work which demonstrates that the delays were not the result of 'deliberate or systematic neglect'. The NDIA explained that while an extension of time under s 15AB of the FOI Act may have assisted in keeping the matter in time, it has instead prioritised processing FOI requests as seeking further time adds further delay. It noted that the decision letter apologised to the Complainant for the delay.

In relation to its compliance with FOI processing timeframes more broadly, the NDIA submitted:

- it currently supports approximately 740,000 people, noting that at its conception the National Disability Insurance Scheme was only intended to support 410,000 people
- in 2024-25 the NDIA's National Contact Centre responded to over 3 million requests or queries relating to access for personal information across phone calls, email, and webchat, which is an increase from 2.554 million in 2023-24
- the Participant Information Access scheme was created in 2020 to simplify and expedite the processing of routine requests being made under the FOI Act, and the NDIA additionally hopes to implement an additional scheme to access personal information based on the *Privacy Act 1988* (Cth)
- the NDIA recognises that its compliance with statutory timeframe requires attention and has maintained regular communication with the OAIC about the drivers of this including:
  - transitioning from a majority labour hire workforce to a majority permanent staffing workforce
  - implementation of a dedicated case management ICT system
  - continued growth of access requests
- the NDIA's compliance rate with statutory timeframes has declined over the past two financial years:
  - in the 2023-24 financial year the NDIA's compliance rate was:
    - 47% in Q1
    - 53% in Q2
    - 49% to Q3
    - 44% in Q4
  - in the 2024-25 financial year the NDIA's compliance rate was:
    - 43% in Q1
    - 39% in Q2

- 19% in Q3
  - 31% in Q4
- the number of s 15AA sought by the NDIA and agreed to by FOI applicants over the past two years has increased from:
  - 151 sought in 2023-24
  - 245 sought in 2024-25<sup>18</sup>
- the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:
  - 18 sought in 2023-24
  - 8 sought in 2024-25<sup>19</sup>
- further drivers of non-compliance with statutory timeframes include:
  - in 2024-25 the NDIA received and finalised the highest volume of FOI matters in its history
  - staff retention challenges in 2023-24 and 2024-25 (noting also the transition in the make-up of the workforce from labour hire to permanent staff)
  - the volume of matters has generated a backlog and is a barrier to completing matters in time
  - it has prioritised progressing to substantive decisions over seeking extensions of time under s 15AC of the FOI Act, where obtaining these extensions of time from the OAIC has traditionally been challenging

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<sup>18</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the NDIA notified the OAIC of:

- 74 s 15AA extensions in 2023-24
- 522 s 15AA extensions in 2024-25.

<sup>19</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:

- 31 sought and 13 granted, in 2023-24
- 13 sought and 5 granted, in 2024-25.

- the NDIA has commenced capability building initiatives<sup>20</sup> including:
  - expanding the capacity of the Information Access team from 38 FTE to 73 FTE, noting that the newer staff without prior FOI experience need a higher level of support
  - improving triage and early resolution functions including increasing the size of the early resolution team
  - streamlining FOI processes by producing and updating a new suite of standard operating procedures and guidance material as well as authorising an additional 12 FOI decision makers
  - training packages to the FOI team and other staff including training from the Australian Government Solicitor in June 2025 and NDIS Business Systems training. The NDIA is also developing a FOI training page to be launched early 2026
  - improving reporting functions using the dedicated ICT platform (LEX) which has better reporting systems and assists with the proactive disclosure of operational documents with public interest
- the NDIA has also briefed its Board and Minister on its FOI workload, low statutory compliance, and the initiatives it has undertaken to improve its capability, capacity, and output noting that the average handling time of a matter has reduced from 78 days in 2023-24 to 68 days in 2024-25, and
- the NDIA continues to monitor OAIC complaint outcomes and implement the recommendations, including processes and training targeting the identification of personal information requests as recommended in 2024.

The NDIA also completed the OAIC's self-assessment tool.

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<sup>20</sup> It also provided the OAIC with its Capability and capacity action plan.



## Attachment A-6

### Freedom of Information complaint investigation - Notice on completion under s 86 of the *Freedom of Information Act 1982*, by Freedom of Information Commissioner, Alice Linacre

<b>Complainant</b>	s22
<b>Respondent</b>	National Disability Insurance Agency
<b>Completion date</b>	28 November 2025
<b>OAIC reference number</b>	s22
<b>Agency reference number</b>	s22

#### Summary of investigation results, recommendations, and suggestions

1. On 24 July 2025, s22 (the Complainant) made a complaint under s 70 of the *Freedom of Information Act 1982* (the FOI Act), about the National Disability Insurance Agency (the NDIA), being that the NDIA had failed to comply with its disclosure log obligations and caused delay in releasing information on its disclosure log.
2. On 15 September 2025, the Office of the Australian Information Commissioner (the OAIC) provided a notice to the NDIA under s 75 of the FOI Act advising it of the commencement of an investigation into a cohort of FOI complaints received about similar issues, including this particular complaint, and requested relevant information in response. On 22 October 2025, the NDIA responded to the notice and request for information.
3. My conclusions in relation to the issues raised by the Complainant are outlined below.
4. My suggestions and recommendations in relation to this cohort of complaints are outlined in **Annexure A**.

## Statement of reasons

### *The matters raised by the Complainant*

5. The Complainant has raised the following issues in their complaint:
  - the NDIA's disclosure log entries can only be accessed through a written request the NDIA's FOI team which is contrary to the guidance in [14.7] and [14.12] of the FOI Guidelines
  - the NDIA has conceded that its disclosure log has room for improvement, but it has not rectified its disclosure log to enable the direct download of documents on it, and
  - the proposed improvements should not take a substantial amount of time given the documents on the disclosure log are readily available to the NDIA in releasable form.
6. The background to this FOI complaint is set out at **Annexure B**.

### *Legislation and Guidelines*

7. Section 11C(3) of the FOI Act sets out the requirements of an agency or Minister's disclosure log:
  - (a) making the information available for downloading from the website; or
  - (b) publishing on the website a link to another website, from which the information can be downloaded; or
  - (c) publishing on the website other details of how the information may be obtained.
8. The Information Commissioner's view is that agencies and ministers should seek to make all documents released under the FOI Act available for direct download from the disclosure log (or another website), unless it is not possible to upload documents.<sup>1</sup>
9. Where a request for documents on a disclosure log has been made, the documents should be provided as soon as possible, and no later than within 5 working days.<sup>2</sup>

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<sup>1</sup> FOI Guidelines at [14.7].

<sup>2</sup> FOI Guidelines at [14.13] and [14.45].

### *The NDIA's submissions*

10. The NDIA acknowledges that while the Information Commissioner's preference is for agencies to comply with s 11C(3)(a) or (b) of the FOI Act, the NDIA's disclosure log does comply with the requirements of s 11C(3)(c) of the FOI Act. It asserts that released documents, which are often redacted documents, are difficult to make accessible and the NDIA is looking to address this in the 2025-26 financial year. It noted that at this time its resources are being prioritised towards the processing of FOI requests.
11. The NDIA considers that it responded to the complainant's disclosure log request in a timely manner.
12. A summary of the NDIA's submissions is outlined in **Annexure C**.

### **My opinions in relation to the matter**

#### *My opinions in relation to the complaint raised*

13. The Complainant's complaint raised two issues. The first is the NDIA's compliance with the disclosure log requirements in s 11C(3) of the FOI Act. The second is the complaint about delay in relation to complying with the request. I will address each in turn.
14. While the better practice is for agencies to have documents available for download via link,<sup>3</sup> where that is not possible due to a technical impediment then it is acceptable for an agency to comply with the requirement of s 11C(3)(c) of the FOI Act instead.<sup>4</sup>
15. I have examined the NDIA's disclosure log,<sup>5</sup> and it does comply with the requirements of s 11C(3)(c) of the FOI Act. The NDIA has explained that it currently lacks the technical or administrative ability to provide documents for release directly for download on its Disclosure Log or another website. It has indicated that it intends to build this capacity in the 2025-26 financial year.
16. While the NDIA's disclosure log currently complies with s 11C(3)(c) of the FOI Act, I strongly encourage the NDIA to uplift its technical and administrative capacity to enable its disclosure log material to be downloaded directly. This

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<sup>3</sup> FOI Act s 11C(3)(a) and (b).

<sup>4</sup> [FOI Guidelines](#) at [14.7].

<sup>5</sup> Available at [FOI Disclosure log | NDIS](#).

would be consistent with the objects of the FOI Act by facilitating timely access to government-held information.<sup>6</sup>

17. On the issue of delay, the NDIA considers that it responded to the disclosure log request within the recommended 5 working days,<sup>7</sup> submitting that the request was submitted ‘the day before a long weekend’. While I note that 26 September 2025 was a Victorian public holiday, the NDIA has not explained why it did not communicate the impact of this public holiday on the timeframe involved when it responded to the complainant’s complaint, it is also not apparent that this response was as soon as possible.
18. The NDIA should ensure that disclosure log requests are actioned promptly, both upon receipt the request and upon allocation to a case officer.

### **My conclusions in relation to the matter investigated**

19. For these reasons, I am of the view that in relation to the issues raised by the Complainant about the form of the NDIA’s disclosure log, while the NDIA’s disclosure log does not comply with s 11C(3)(a) or (b) of the FOI Act, it does sufficiently comply with the requirements of s 11C(3)(c) of the FOI Act.
20. While I acknowledge the NDIA’s genuine attempts to respond to the complainant’s Disclosure Log request within this timeframe, the NDIA should be mindful that 5 working days is determined as the outer limit of time that the guidelines specify.<sup>8</sup>

### **My recommendations and suggestions**

21. In deciding whether I make recommendations and suggestions, I have considered:
  - the outcome sought by the Complainant, which is that the OAIC direct the NDIA to update its Disclosure Log within 28 days to ensure that where possible the documents are available via download link
  - the information provided by the NDIA, including self-identified areas for improvement and work that the NDIA has undertaken or commenced to

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<sup>6</sup> [FOI Guidelines](#) at [14.7].

<sup>7</sup> [FOI Guidelines](#) at [14.13] and [14.45].

<sup>8</sup> The [FOI Guidelines](#) at [14.13] and [14.45] provide that when a person asks for a copy of documents described on a disclosure log, the documents should be provided promptly, no later than 5 working days after the request is received.

improve its compliance with statutory processing timeframes and uplift its information access operations more broadly particularly in relation to its staffing levels and guidance material, and

- whether the issues raised in these complaints were isolated instances.
22. In relation to the NDIA's Disclosure log, the NDIA should consider promptly updating its technical and administrative capabilities to enable documents to be downloaded via link. The implementation of such a system would relieve the NDIA of the current resourcing burdens required to manually process each disclosure log request.
23. My suggestions and recommendations are outlined at **Annexure A**.

Yours sincerely,

A handwritten signature in blue ink that reads "Alice Linacre". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**Alice Linacre**  
Freedom of Information Commissioner  
28 November 2025

### Annexure A: Recommendations and suggestions

Section 87 of the FOI Act provides that my investigation results include any suggestions to the NDIA that it ought to implement to improve its processes.

Section 88 of the FOI Act enables me to make investigation recommendations that the NDIA ought to implement.

#### Recommendations made under s 88 of the FOI Act

Recommendation	Due date for completion
<b>Outcome of Agency initiatives</b>	
1. The NDIA provide evidence that its information access Smartform has been implemented.	<b>30 January 2026</b>
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	<b>30 January 2026</b>
<b>Operational Processes and Procedures</b>	
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>9</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> </ul>	<b>30 January 2026</b>

<sup>9</sup> See [Apply for an extension of time to process a freedom of information request](#) for guidance.

<b>Recommendation</b>	<b>Due date for completion</b>
<p>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</p> <p>d) refers to relevant provisions of the FOI Guidelines.</p>	
<p><b>4.</b> The NDIA ensure the FOI processing manual is publicly available on the NDIA’s website, consistent with the requirements of the Information Publication Scheme.</p>	<b>30 January 2026</b>
<p><b>5.</b> The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>10</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>11</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines,<sup>12</sup> and include references to relevant OAIC resources<sup>13</sup> to support FOI processing officers and decision makers.</p>	<b>30 January 2026</b>
<p><b>6.</b> The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS and disclosure log requirements, by developing a process for identifying updates to the</p>	<b>30 January 2026</b>

<sup>10</sup> The OAIC publishes numerous checklists, guidance notes, and other guidance materials that we encourage agencies to use in developing specific training. See our [Freedom of information guidance for government agencies](#).

<sup>11</sup> Authorised officers are responsible for reaching an independent decision and exercising any discretion. See [ARC Best Practice Guide No 1](#), Decision Making: Lawfulness, 2007.

<sup>12</sup> See a summary of version changes to s 93A guidelines here: [Summary of version changes to s93A guidelines](#).

<sup>13</sup> Relevant OAIC resources include: [FOI Essentials for Australian Government agencies and ministers](#), [Freedom of Information processing period calculator](#), and [FOI agency resource Managing increased volume of FOI requests](#).

<b>Recommendation</b>	<b>Due date for completion</b>
IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS. <sup>14</sup>	
<b>Training</b>	
<p><b>7.</b> The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	<b>30 January 2026</b>
<p><b>8.</b> The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	<b>30 January 2026</b>
<p><b>9.</b> The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	<b>30 January 2026</b>
<b>FOI Statistics</b>	

<sup>14</sup> Section 11C of the FOI Act. For more information about complying with this legislated timeframe, including in the context where there may be third-party review, see Part 14 of the FOI Guidelines – in particular: [Making Information publicly available - Time of publication](#).

Recommendation	Due date for completion
<p><b>10.</b> The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.</p>	<p><b>30 January 2026</b></p>

#### Suggestions made under s 87(d) of the FOI Act

Suggestion	Due date for completion
<b>Practices to uplift capability</b>	
<p><b>1.</b> The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.</p>	<p>Commencing 30 January 2026</p>
<p><b>2.</b> The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.</p>	<p>Commencing 30 January 2026</p>
<p><b>3.</b> The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.</p>	<p>Commencing 30 January 2026</p>
<b>Ongoing learning and review</b>	
<p><b>4.</b> The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).</p>	<p>Commencing 30 January 2026</p>

<p><b>5.</b> The NDIA review the OAIC’s FOI complaint investigation outcomes<sup>15</sup> at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.</p>	<p>Commencing 30 January 2026</p>
<p><b>Disclosure log</b></p>	
<p><b>6.</b> The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.</p>	<p>Commencing 30 January 2026</p>

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<sup>15</sup> See [Freedom of information investigation outcomes](#).

## Annexure B: Key procedural steps

Date	Events
10 July 2025	The Complainant's request to the NDIA was received.
18 July 2025	The NDIA responded to this complaint.
24 July 2025	The Complainant made a FOI complaint to the OAIC.
11 August 2025	The NDIA received preliminary inquiries from the OAIC.
27 August 2025	The NDIA provided a response to the OAIC's preliminary inquiries.
25 September 2025	The Complainant made a disclosure log request.
26 – 28 September 2025	There was a long weekend due to a public holiday in Victoria.
29 September 2025	The Disclosure log request was allocated to an officer.
2 October 2025	The Complainant sought an update on their request and the NDIA responded advising the request had been received and registered.
3 October 2025	The NDIA provided the disclosure log documents to the Complainant.
15 October 2025	The OAIC provided the NDIA with the Complainant's further submissions.

## Annexure C: The NDIA's submissions

### *Response to Preliminary Inquiries*

On 27 August 2025, the NDIA confirmed:

- the Complainant did lodge a complaint on 10 July 2025, which the NDIA responded to on 18 July 2025
- its current disclosure log does satisfied, the statutory requirements in the FOI Act, but the NDIA accepts improvements could be made
- the NDIA is currently experiencing an increase in FOI requests being received and expects to receive 1,000 more FOI requests than the previous year. The large volume of requests means that improvements to the NDIA's disclosure log are likely to take time.

### *Response to notice of investigation*

In relation to s22 [REDACTED] the NDIA submitted:

- it concedes that its disclosure log entries cannot be downloaded directly (consistently with [14.7] of the FOI Guidelines), however, while this is a preferred practice, s 11C(3)(c) of the FOI Act does give agencies the option to instead publish the details of how the information may be obtained
- the NDIA's website clearly satisfies the requirements of s 11C(3)(c) of the FOI Act and is consistent with the guidance in [14.6] of the FOI Guidelines
- the NDIA cannot readily publish these documents for download on its disclosure log as it lacks the requisite administrative and Information Technology processes. Given the increased number of FOI requests being received, the NDIA currently lacks the resources to update these processes, and
- the Complainant's disclosure log request was issued before a long weekend and the NDIA provided a response within 5 working days.

In relation to the NDIA's disclosure log obligations generally, the NDIA acknowledged that while the Information Commissioner's preference is for agencies to comply with s 11C(3)(a) or (b) of the FOI Act, the NDIA does comply with the requirements of s 11C(3)(c) of the FOI Act. It asserts that released documents, which are often redacted documents, are difficult to make accessible and the NDIA is looking to address this in

the 2025-26 financial year. It noted that at this time its resources are being prioritised towards the processing of FOI requests.

In relation to its compliance with FOI processing timeframes more broadly, the NDIA submitted:

- it currently supports approximately 740,000 people, noting that at its conception the National Disability Insurance Scheme was only intended to support 410,000 people
- in 2024-25 the NDIA's National Contact Centre responded to over 3 million requests or queries relating to access for personal information across phone calls, email, and webchat, which is an increase from 2.554 million in 2023-24
- the Participant Information Access scheme was created in 2020 to simplify and expedite the processing of routine requests being made under the FOI Act, and the NDIA additionally hopes to implement an additional scheme to access personal information based on the *Privacy Act 1988* (Cth)
- the NDIA recognises that its compliance with statutory timeframe requires attention and has maintained regular communication with the OAIC about the drivers of this including:
  - transitioning from a majority labour hire workforce to a majority permanent staffing workforce
  - implementation of a dedicated case management ICT system
  - continued growth of access requests
- the NDIA's compliance rate with statutory timeframes has declined over the past two financial years:
  - in the 2023-24 financial year the NDIA's compliance rate was:
    - 47% in Q1
    - 53% in Q2
    - 49% to Q3
    - 44% in Q4
  - in the 2024-25 financial year the NDIA's compliance rate was:

- 43% in Q1
  - 39% in Q2
  - 19% in Q3
  - 31% in Q4
- the number of s 15AA sought by the NDIA and agreed to by FOI applicants over the past two years has increased from:
  - 151 sought in 2023-24
  - 245 sought in 2024-25<sup>16</sup>
- the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:
  - 18 sought in 2023-24
  - 8 sought in 2024-25<sup>17</sup>
- further drivers of non-compliance with statutory timeframes include:
  - in 2024-25 the NDIA received and finalised the highest volume of FOI matters in its history
  - staff retention challenges in 2023-24 and 2024-25 (noting also the transition in the make-up of the workforce from labour hire to permanent staff)
  - the volume of matters has generated a backlog and is a barrier to completing matters in time

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<sup>16</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the NDIA notified the OAIC of:

- 74 s 15AA extensions in 2023-24
- 522 s 15AA extensions in 2024-25.

<sup>17</sup> In its submissions the NDIA confirmed that it does not comprehensively track this data. The OAIC's records demonstrate that the number of s 15AB and 15AC extensions sought over the past two years has decreased, from:

- 31 sought and 13 granted, in 2023-24
- 13 sought and 5 granted, in 2024-25.

- it has prioritised progressing to substantive decisions over seeking extensions of time under s 15AC of the FOI Act, where obtaining these extensions of time from the OAIC has traditionally been challenging
- the NDIA has commenced capability building initiatives<sup>18</sup> including:
  - expanding the capacity of the Information Access team from 38 FTE to 73 FTE, noting that the newer staff without prior FOI experience need a higher level of support
  - improving triage and early resolution functions including increasing the size of the early resolution team
  - streamlining FOI processes by producing and updating a new suite of standard operating procedures and guidance material as well as authorising an additional 12 FOI decision makers
  - training packages to the FOI team and other staff including training from the Australian Government Solicitor in June 2025 and NDIS Business Systems training. The NDIA is also developing a FOI training page to be launched early 2026
  - improving reporting functions using the dedicated ICT platform (LEX) which has better reporting systems and assists with the proactive disclosure of operational documents with public interest
- the NDIA has also briefed its Board and Minister on its FOI workload, low statutory compliance, and the initiatives it has undertaken to improve its capability, capacity, and output noting that the average handling time of a matter has reduced from 78 days in 2023-24 to 68 days in 2024-25, and
- the NDIA continues to monitor OAIC complaint outcomes and implement the recommendations, including processes and training targeting the identification of personal information requests as recommended in 2024.

The NDIA also completed the OAIC's self-assessment tool.

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<sup>18</sup> It also provided the OAIC with its Capability and capacity action plan.

s22

**From:** foi <foi@ndis.gov.au>  
**Sent:** Thursday, 18 December 2025 8:18 AM  
**To:** OAIC - FOI DR; s22  
**Cc:** foi  
**Subject:** RE: Freedom of information complaint investigation – Notice on completion  
[SEC=OFFICIAL]  
**Attachments:** s22 Signed response.pdf

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning s22

Please find attached the response from the CEO, Mr Graeme Head.

Regards

s22

s22

Director, Information Access  
Information Access and Privacy Branch  
National Disability Insurance Agency  
W s22 M s22 E s22 @ndis.gov.au

[www.ndis.gov.au](http://www.ndis.gov.au)



The NDIA acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to Elders both past, present and emerging.



s22



GPO Box 700  
Canberra ACT 2601  
1800 800 110

[ndis.gov.au](http://ndis.gov.au)

OAIC references: s22 s22 s22 s22  
s22 s22 Agency references: s22

Ms Alice Linacre  
FOI Commissioner  
Office of the Australian Information Commissioner

By email to: s22 [@oaic.gov.au](mailto:s22@oaic.gov.au)

Dear Ms Linacre

### FOI Complaint Investigation - Notice of completion

I refer to your letter of 28 November 2025, attaching your Complaint Investigation - Notice of completion, with accompanying recommendations and suggestions.

Please see below a table that summarises each of your recommendations and suggestions.

The National Disability Insurance Agency (NDIA) is committed to improving statutory compliance, particularly with respect to participant requests and lifting NDIA capability. I am pleased to acknowledge the alignment between your recommendations and the NDIA's current FOI practice build initiatives and to be able to advise you that several recommendations are completed or already commenced and having a positive impact on the NDIA's compliance to date.

The NDIA will continue to meet with the Office of the Information Commissioner on a regular basis to seek guidance and assistance as it implements the remaining initiatives yet to be completed.

Due to current peak work volumes the NDIA is currently experiencing, and to ensure that the NDIA can maintain the improvement of compliance rates, I request an extension to the implementation of the OAIC's remaining recommendations by 30 June 2026.

If your team would like to discuss this response in further detail, please pass on the contact details of the NDIA's Branch Manager, Information Access and Privacy Fiona Castles  
s22 [@ndis.gov.au](mailto:s22@ndis.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Graeme Head', written over a large, light-colored triangular graphic element.

Graeme Head AO  
Chief Executive Officer  
National Disability Insurance Agency

15 December 2025

OAIC recommendation	OAIC due date	NDIA Response	NDIA commentary
1. The NDIA provide evidence that its information access Smartform has been implemented.	30 Jan 2026	Accepted	NDIA accepts this recommendation and implementation by the due date.
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	30 Jan 2026	Accepted	The NDIA's quarterly data will reflect a significant improvement statutory compliance. The NDIA will also share a more detailed analysis of this with OAIC, demonstrating improved statistical compliance and reduced work on hand prior to the due date.
<p>3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual:</p> <ul style="list-style-type: none"> <li>a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required</li> <li>b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act<sup>14</sup> to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance</li> <li>c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and</li> <li>d) refers to relevant provisions of the FOI Guidelines.</li> </ul>	30 Jan 2026	Accepted, propose that an additional 3 months is required for implementation by 30 April 2026.	NDIA accepts this recommendation and notes that it is in the current FOI Practice Build to create this resource. Additional time is sought given the current high work volumes and focus on improving statutory compliance.
4. The NDIA ensure the FOI processing manual is publicly available on the NDIA's website, consistent with the requirements of the Information Publication Scheme.	30 Jan 26	Accepted, propose that an additional time is required for	As above.

OAIC recommendation	OAIC due date	NDIA Response	NDIA commentary
		implementation by 30 April 2026.	
<p>5. The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,<sup>15</sup> to support decision makers to comply with statutory processing timeframes and make decisions independently.<sup>16</sup> These internal policies should reflect current revisions to Part 3 of the FOI Guidelines and include references to relevant OAIC resources<sup>18</sup> to support FOI processing officers and decision makers.</p>	30 Jan 26	Accepted	<p>Completed.</p> <p>The Information Access and Privacy Branch has developed a new suite of internal SOPs, process guides and templates that are internally published and available to the whole team to support them in their roles. These resources are aligned and embedded into our dedicated training program that is in development.</p>
<p>6. The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS (Information Publication Scheme) and disclosure log requirements, by developing a process for identifying updates to the IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS.</p>	30 Jan 26	Accepted, propose that an additional time is required for implementation by 30 June 2026.	<p>Commenced.</p> <p>The Agency has commenced work to transition to making documents of new decisions directly downloadable on the disclosure log in early 2026. This will provide downloadable copies of suitable FOI requests. The Agency will also commence backdating previous decisions throughout 2026 to make sure they are also available by direct download.</p> <p>The Information and Access Branch will continue to work across the Agency to promote and support proactive release of information in accordance with the IPS.</p>
<p>7. The NDIA ensure that all FOI team staff and other relevant staff (including FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	30 Jan 26	Accepted; propose that an additional time is required for implementation by 30 June 2026.	<p>Partially complete.</p> <p>All existing staff have received comprehensive training to address recommendation 4 and 6. As these recommendations are implemented and further guidance material created; all staff will be trained accordingly.</p>

OAIC recommendation	OAIC due date	NDIA Response	NDIA commentary
8. The NDIA develop or update, and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.	30 Jan 26	Accepted, propose that an additional time is required for implementation by 30 June 2026.	Commenced. The NDIA employs a decentralised model in relation to the management of FOI responses. The Agency consists of 31 divisions across nine groups. A product is currently in development. Additional time is sought given the current high work volumes and the size and span of the Agency to finalise delivering the sessions.
9. The NDIA develop training for all relevant Senior Executive staff about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.	30 Jan 26	Accepted, propose that an additional time is required for implementation by 30 June 2026.	As above.
10. The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact	30 Jan 26	Accepted, propose that an additional 3 months is required for implementation by 30 April 2026	The Agency proposes to review the matters that were recorded "in time" and that had a 15AA agreement. The Agency proposes to post pone reviewing matters that were deemed to have been refused, regardless of the 15AA in the current peak high work volume environment.

OAIC suggestion	OAIC due date	NDIA Response	NDIA commentary
1. The NDIA create a dedicated resourcing pool from across the agency (an FOI surge pool) to provide FOI processing support during peak periods, as well as to assist with higher volumes, or backlogs, to provide improved and more stable capacity to meet FOI processing demands where necessary.	Commencing 30 Jan 26	Completed	The Information Access and Privacy Branch has resourced the team with 35 additional staff in 2025 and is in the process of building structured training packages for FOI and Information Release functions.
2. The NDIA seek to more actively utilise the available extension of time provisions under ss 15AB and 15AC (in appropriate circumstances), to demonstrate increased attempts to comply with the statutory processing timeframe under the FOI Act.	Commencing 30 Jan 26	Accepted	The Agency notes our submission comments made in respect to the OAIC's approach to decisions and consideration of applications.  Decisions to seek an extension under s 15AB or further time s 15AC, will be informed by the prospects of outcome.
3. The NDIA create an auto-acknowledgement to complement its Smartform and ensure compliance with s 15(5)(a) of the FOI Act.	Commencing 30 Jan 26	Accepted	The Agency will consider automation of acknowledgment for web form applications.
4. The NDIA mandate the attendance of at least one staff member from each of its FOI teams to attend the OAIC's online training webinars (as advertised through the OAIC's fortnightly 'ICON' newsletter).	Commencing 30 Jan 26	Accepted	Many staff in the Information Access are subscribed to the newsletter and a coordinated approach to attendance and sharing learning is adopted.
5. The NDIA review the OAIC's FOI complaint investigation outcomes at a minimum of every 12 months, to ensure that any learnings identified through those outcomes are incorporated into training for FOI staff, as well as the FOI processing manual and/or policies and guidance materials that support the processing manual.	Commencing 30 Jan 26	Accepted	The Agency will incorporate this suggestions into the policy, quality assurance and processed being developed over 2026.
6. The NDIA uplift the technical and administrative capability of its Disclosure Log to enable access to the documents in that log via download link.	Commencing 30 January 2026	Accepted	The Agency has commenced work to transition to making documents directly downloadable on the disclosure log.

**From:** CASTLES, Fiona s22 <[redacted]@ndis.gov.au>  
**Sent:** Monday, 19 January 2026 1:07 PM  
**To:** LODGE, Justin s22 <[redacted]@oaic.gov.au>  
**Cc:** s22 <[redacted]> <[redacted]@ndis.gov.au>  
**Subject:** s22 . Freedom of information complaint investigation – Notice on completion [SEC=OFFICIAL]

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear s22 ,

Thank you for meeting with me last week to discuss the NDIA's request for an extension of time for implementing our recommendations in s22 .

As we discussed, to assist your consideration and advice to the Commissioner, I have inserted some additional context and commentary on why the Agency is seeking these extensions. I have used the same table that we submitted with our response so you have all of the information in one place and headed the additional information under 'January 2026 commentary' in a different shade text.

If there is any aspect that you would like to discuss or require more information, please reach out at your convenience.

OAIC recommendation	OAIC due date	NDIA Response	NDIA commentary
1. The NDIA provide evidence that its information access Smartform has been implemented.	30 Jan 2026	Accepted  June 2026 (TBC pending website functionality).	NDIA accepts this recommendation and implementation by the due date.  <b>January 2026 commentary:</b> The Agency has prepared an FOI Webform and sought legal advice on it to ensure that it is compliant with the requirements of the legislation and would be very happy to provide the OAIC with a copy of the design of this form to show our progress on this item. However, in early

OAIC recommendation	OAIC due date	NDIA Response	NDIA commentary
			January 2026 the Information Access and Privacy Branch has been informed that the NDIS website is being redeveloped and there are technical issues with forms, particularly those that require document upload that inhibit them from being implemented on the NDIS website at this time. There are limited resources allocated to this fix, and where there are, it is for prioritised New Framework Planning and not website functionality for corporate functions. The Agency doesn't have a set timeframe when this will be made possible but will continue to monitor and advise OAIC.
2. The NDIA provide an implementation report, including statistical evidence, to demonstrate the effectiveness of the strategies employed under the NDIA's 'FOI Practice Build'.	30 Jan 2026	Accepted  Completed	The NDIA's quarterly data will reflect a significant improvement statutory compliance. The NDIA will also share a more detailed analysis of this with OAIC, demonstrating improved statistical compliance and reduced work on hand prior to the due date.  <b>January 2026 commentary:</b> The Agency has completed this item and submitted to OAIC on 16/01/2026. We are pleased to demonstrate with statistical evidence the success of the Agency's focus on building the FOI function and improved compliance with the FOI Act over the last 6 months.
3. The NDIA review, and update, its FOI processing manual and ensure that, at a minimum, the manual: a) addresses the steps that will be taken to ensure compliance with statutory processing timeframes, including the requirement for staff to conduct an early assessment of whether an extension of time is required b) provides guidance to staff on how and when to utilise the available extensions of time under ss 15AA, 15AB, and 15AC of the FOI Act14 to ensure concerted efforts in complying with statutory processing timeframes, consistent with OAIC guidance c) highlights the importance of keeping applicants informed of progress, and engaging with applicants to explore options for faster outcomes, and d) refers to relevant provisions of the FOI Guidelines.	30 Jan 2026	Accepted, propose that an additional 3 months is required for implementation by 30 April 2026.	NDIA accepts this recommendation and notes that it is in the current FOI Practice Build to create this resource.  <b>January 2026 commentary:</b> We are seeking this additional time to develop and implement a participant-centric FOI processing manual that is fit for purpose of the NDIA. The additional time to sought to ensure that we draft and consult this artefact in alignment with our other planned FOI Practice Build initiatives in 2026. It is our intention that the publishing and implementation of the manual will be aligned with the training packages, SOPs, Guides, internal and external webpages and a range of templates that are concurrently being produced in FOI Practice Build initiatives.  The policy team that will be responsible for developing the new FOI processing manual has been reallocated from other duties in the division to focus on the FOI Practice Build and is working on internal SOPs, Guides, Templates and Work flows that are essential for the success of the FOI team's capability uplift and will be critical for the FOI practice manual.  Additionally, the Agency has the added commitment to ensure that all documents published by the NDIA are accessible and are written in plain English. The Agency will consider accessible formats, easy read formats and all of the associated web pages when finalising this recommendation.
4. The NDIA ensure the FOI processing manual is publicly available on the NDIA's website, consistent with the requirements of the Information Publication Scheme.	30 Jan 26	Accepted, propose that an additional time is required for implementation by 30 April 2026.	As above.  <b>January 2026 commentary:</b> The FOI Practice Manual will be published and made publicly available when it is finalised. The Agency will consider and work across Agency business areas to ensure that it is published in an accessible format, easy read format and all of the associated web pages are aligned and updated in alignment with the manual when finalising this recommendation.
5. The NDIA review, and update (if necessary), internal policies that support the FOI processing manual, including training and guidance materials for FOI decision makers,15 to support decision makers to comply with statutory processing timeframes and make decisions independently.16 These internal policies should reflect current revisions to Part 3 of the FOI Guidelines and include references to relevant OAIC resources18 to support FOI processing officers and decision makers.	30 Jan 26	Accepted  Completed.	Completed.  The Information Access and Privacy Branch has developed a new suite of internal SOPs, process guides and templates that are internally published and available to the whole team to support them in their roles. These resources are aligned and embedded into our dedicated training program that is in development.
6. The NDIA enhance governance arrangements, promote proactive release of information and support compliance with IPS (Information Publication Scheme) and disclosure log requirements, by developing a process for identifying updates to the IPS entries on the NDIA's website, to support proactive release of information in accordance with the IPS.	30 Jan 26	Accepted, propose that an additional time is required for implementation by 30 June 2026.  The Agency will have the disclosure log component commenced by 27th February 2026.	Commenced.  The Agency has commenced work to transition to making documents of new decisions directly downloadable on the disclosure log in early 2026. This will provide downloadable copies of suitable FOI requests. The Agency will also commence backdating previous decisions throughout 2026 to make sure they are also available by direct download.  <b>January 2026 commentary:</b> This is on track to commence in February 2026.  The Information and Access Branch will continue to work across the Agency to promote and support proactive release of information in accordance with the IPS.

OAIC recommendation	OAIC due date	NDIA Response	NDIA commentary
			<p><b>January 2026 commentary:</b> The IAP Branch is underway designing and implementing Agency training packages that will include the IPS to enhance awareness and engagements with the Agency's IPS requirements. The Branch intends on aligning governance arrangements with other functions of the Agency and will require support from various business areas in the Agency whereby delay may be incurred with current transform initiatives. There are also known technical issues and resource constraints in some of these areas.</p>
<p>7. The NDIA ensure that all <b>FOI team staff</b> <del>and other relevant staff</del> (ie. FOI decision makers) have received training in relation to the formal guidance referred to in recommendations (4) and (6), and that new staff joining the FOI Section are trained in relation to this formal FOI guidance within 2 weeks of commencing in the FOI team.</p>	30 Jan 26	<p>Accepted; propose that an additional time is required for implementation by 30 June 2026.</p> <p>Could be 'marked as 'Complete' with minor update of wording, please see proposed revision in purple text for consideration.</p>	<p>Partially complete.</p> <p>All existing staff have received comprehensive training to address recommendation 4 and 6. As these recommendations are implemented and further guidance material created; all staff will be trained accordingly.</p> <p><b>January 2026 commentary:</b> If 'all other relevant staff' could be removed from this recommendation this recommendation could be marked as complete and will be considered an ongoing BAU initiative for the FOI team. Therefore, a request for extension would not be required. 'All other relevant staff' are covered in the Agency's business areas (as per Recommendation 8) and support staff which we are proposing to add to Recommendation 9. All staff will be suitably trained with various training products that the IAP Branch has in development.</p>
<p>8. The NDIA develop or update and deliver, training to all business areas responsible for compliance with general FOI obligations, including IPS obligations, disclosure log requirements, and compliance with search and retrieval requests, including the statutory timeframes and the requirement to take all reasonable steps to find relevant documents under s 24A of the FOI Act. This training should be made broadly available to all staff, and ongoing refresher training completed at regular intervals.</p>	30 Jan 26	<p>Accepted, propose that an additional time is required for implementation by 30 June 2026.</p> <p>30 March 2026,</p>	<p>Commenced.</p> <p>The NDIA employs a decentralised model in relation to the management of FOI responses. The Agency consists of 31 divisions across nine groups. A product is currently in development. Additional time is sought given the current high work volumes and the size and span of the Agency to finalise delivering the sessions.</p> <p><b>January 2026 commentary:</b> The Information Access &amp; Privacy Branch is developing an online training module that will be available Agency wide via its centralised learning ICT platform 'LEAP'. A copy of this product can be provided to OAIC for visibility, and it is highly likely this module will be rolled out ahead of the requested extension. However, the branch must engage with the Agency's national Learning &amp; Development team for this to occur. Their current priorities include New Framework Planning, and this could impact delivery dates. The Agency is comfortable in agreeing to a date of 30 March 2026, on the understanding that there may be a delay beyond the developing branch's immediate control.</p>
<p>9. The NDIA develop training for all relevant Senior Executive staff <del>and their support staff</del> about the NDIA's general obligations under the FOI Act, which specifically addresses the requirements of the Information Publication Scheme under Part II of the FOI Act. This training should be delivered as part of the NDIA's induction process for new staff, and form part of any refresher training for SES employees.</p>	30 Jan 26	<p>Accepted, propose that an additional time is required for implementation by 30 June 2026.</p>	<p>As above</p> <p><b>January 2026 commentary:</b> The Agency has approximately 125 SES level staff and employs a decentralised model in relation to collating documents sought under FOI.</p> <p>A specific product will be developed for SES and their relevant support staff. It will be aligned with the all-staff training product and is due for completion at the end of March 2026. The Agency is happy to provide a copy of that product, once cleared, but note the size of the Agency and number of SES staff means a practical roll out and uptake is more realistically achieved by 30 June 2026.</p> <p>For clarity we have included 'relevant support staff' in this response to allow for Recommendation 7 to be closed.</p>
<p>10. The NDIA assess the impact of the potentially invalid s 15AA agreements on its FOI timeliness statistics as reported to the OAIC during <del>one quarter or a sample set of data</del> in the 2023-24 financial year and report back to the OAIC with adjusted FOI timeliness statistics and an explanation of the identified impact.</p>	30 Jan 26	<p>Accepted, propose that an additional 3 months is required for implementation by 30 April 2026</p>	<p>The Agency proposes to review the matters that were recorded "in time" and that had a 15AA agreement. The Agency proposes to post pone reviewing matters that were deemed to have been refused, regardless of the 15AA in the current peak high work volume environment.</p> <p><b>January 2026 commentary:</b> The IAP Branch could finalise with a shorter extension if OAIC could consider providing the Agency with a data set, or preferably consider requesting a much smaller data sample from within the year to enable us to do a deep dive of this work and to address potential continuous improvement reflections of work done in 23-24. The IAP Branch is very focused on reducing the highest workloads in the Agency's history and is prioritising resources on implementing capability and capacity uplift programs in the FOI Practice Build. Deploying staff without more time available to this work may cause delays in others priority areas. Please see proposed revised wording in purple for your consideration.</p>

Again, I am very happy to discuss any of these items with you in more detail and provide ongoing updates to ensure OAIC is comfortable with our progress.

We look forward to keeping you informed of our progress in building the FOI capability and capacity.

Kind regards, Fiona

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s22

**From:** CASTLES, Fiona <s22@ndis.gov.au>  
**Sent:** Tuesday, 24 February 2026 6:09 PM  
**To:** s22  
**Cc:** s22; s22; s22; s22; s22  
**Subject:** RE: 15AA data- s22. Freedom of information complaint investigation – Notice on completion [SEC=OFFICIAL]

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Hi s22,

Thank you again for sending this through, it has assisted us commence the work on our Recommendation 10.

We are expecting to have this item finalised in the coming weeks. We will email you to provide our findings, potential adjusted timeliness statistics, and our explanation.

I also wanted to let you know that I am commencing leave on Friday, returning 13<sup>th</sup> of April 2026. s22 will be acting in the BM Information Access & Privacy role and will be the point of contact for the OAIC recommendations and associated work during this time.

Please feel free to reach out as required.

Fiona.

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