



Executive brief

Ref: EC25-005297

Request to complete self-assessment of implementation of Ombudsman recommendations

To	Graeme Head AO, Chief Executive Officer
What	To seek your signature on a response to the Commonwealth Ombudsman (Ombudsman) and approval to release NDIA documents, including Executive and Board Risk Committee papers, with self-assessment attached.
Why	To meet statutory obligations under the <i>Ombudsman Act 1976</i> (The Ombudsman Act) and provide the required self-assessment tool by 27 February 2026, demonstrating the NDIA's commitment to transparency and continuous improvement.
Please act by	26 February 2026 as the self-assessment tool is due by no later than 27 February 2026
Executive sponsors	Matthew Swainson, DCEO, Legal, Reviews, Actuarial and Data

Recommendation

That you:

1. Sign the letter to the Commonwealth Ombudsman (Attachment B).

Decision: Signed

2. Approve for the NDIA's proposed response to the Office of the Commonwealth Ombudsman (OCO) request for information (Attachment C) and approve the release of information (Attachment D).

Decision: Approved

Decision comments

Nil

Date: 23 February 2026

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

1. Key reasons for the recommendation

- 1.1. The Ombudsman wrote to you on 3 December 2025 ([Attachment A](#) refers), requesting information under sections 8(3) and 15(4) of the Ombudsman Act in relation to assessing the implementation of recommendations and suggestions from the investigation report [Learning from Merits Review](#).
- 1.2. The letter attached a self-assessment tool for the NDIA to complete and return by 27 February 2026.
- 1.3. It is recommended that you respond to the Ombudsman's request ([Attachment B](#)) including the self-assessment tool ([Attachment C](#)) as well as the required evidence ([Attachment D](#)) to meet statutory obligations under the Ombudsman Act and provide the required self-assessment tool by 27 February.

2. Background

- 2.1. In January 2024, the Office of the Commonwealth Ombudsman commenced an investigation under section 8 of the Ombudsman Act (1976). This investigation examined how agencies engage with the Administrative Review Tribunal (ART) and apply learnings from ART decisions. For this investigation, Comcare, The Department of Home Affairs, the NDIA and Services Australia were requested to provide documentary evidence.
- 2.2. In December 2024, the Ombudsman published the investigation report *Learning from Merits Review*.
- 2.3. The final report acknowledged the positive impact of the Agency's Dispute Resolution Improvement Strategy 2022–2025 which established a framework for embedding ART learnings, improving governance and strengthening continuous improvement processes.
- 2.4. The final report made three recommendations and two suggestions, including one suggestion directed solely to the Department of Home Affairs.
- 2.5. The NDIA has accepted all three recommendations and the one suggestion relevant to the NDIA. Substantial progress has been made, with two recommendations fully implemented. One recommendation and the relevant suggestion remain in progress, largely due to the need to prioritise managing record-high ART lodgements and caseloads throughout 2025, which has required significant operational focus and resourcing.

Recommendation 1- Commit to learning from merits review (Implemented)

- 2.6. The NDIA has fully implemented this recommendation through publication of the Learning from Merits Review statement (July 2025), embedding legal review of all ART decisions, escalation pathways for adverse decisions, and integration of ART insights into governance, risk and performance reporting. This commitment was reinforced through the Dispute Resolution Improvement Strategy (DRIS) 2022–2025 and associated staff guidance.

Recommendation 2- Incorporate ART powers into policies, procedures and training (Implemented)

- 2.7. The NDIA has updated relevant policies, SOPs and staff guidance to reflect ART referral and escalation powers, delivered ART-specific training for all staff handling ART matters, and established ongoing bilateral operational meetings with the ART. Engagement with the Administrative Review Council continues to support alignment with best practice.

Recommendation 3- Incorporate Tribunal outcomes into continuous improvement processes (Partially implemented- expected completion by end of 2026)

- 2.8. The NDIA has embedded ART outcomes into governance, reporting and continuous improvement processes, including decision tracking, monthly decision summaries, structured escalation and reporting through the Appeals Litigation Oversight Committee (ALOC) and other forums, and enhanced themes and trends analysis.
- 2.9. The outstanding component relates to completing LEX/ART case management system upgrades to capture additional early-resolution and withdrawal details. These upgrades will enable more comprehensive reporting and analysis to meet the full intent of the recommendation. Delivery is expected end of Q1 2026–2027, noting progress has been affected by the need to prioritise resourcing toward managing unprecedented ART volumes.

Suggestion 1- Analyse lessons from matters settled or withdrawn after improved explanations (In progress- expected throughout FY 2026–27)

- 2.10. This work is being integrated into the Dispute Resolution Strategy 2026–2030. Planned actions include:
 - a. Upgrading LEX/ART functionality to capture structured early-resolution data (expected Q1 2026–27).
 - b. Developing QA and reporting functions for thematic analysis of settled/withdrawn matters.
 - c. Producing quarterly reports on withdrawal and settlement trends.
 - d. Using insights to strengthen decision transparency, continuous improvement and participant experience.

3. Consultation

- 3.1. Service Delivery were consulted on the self-assessment.

4. Next Steps

- 4.1. The Legal, Reviews and Actuarial Group has completed the self-assessment tool, due 27 February 2026, which provides a comprehensive update on actions taken and commitments going forward, including implementation progress.
- 4.2. Provide the signed response and submit the full response package to the Ombudsman's Office by 27 February 2026.

5. Attachments

Attachment A- Letter from the Commonwealth Ombudsman
Attachment B- CEO Letter to the OCO
Attachment C- Self-assessment Tool -December 2025
Attachment D- Ombudsman Self-Assessment Tool Evidence Register



Executive brief

Ref: EC26-000292

Delegation of Principal Officer Powers – s47F - personal privacy

To Graeme Head AO, Chief Executive Officer

What To seek your agreement as principal officer to take required actions under the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**) in relation to the public interest disclosure referred to as s47F - personal privacy.

Why s47E(d) - certain operations of agencies, s47F - personal privacy

Please act by 4 February 2026

Executive sponsors Matthew Swainson, Deputy CEO
Tom McGregor, Chief Counsel
Liz Jehu, Deputy Chief Counsel

Recommendation

That you:

1. **Agree** to revoke the principal officer instrument of delegated signed by the Acting CEO on 18 November 2025 in relation to s47F - personal privacy (**Attachment A**).
Decision: Agreed
2. **Agree** to delegate your investigative powers and functions as principal officer under the PID Act in relation to s47F - personal privacy to SES Band 2 officer, Daniel Flowers, General Manager (Reviews and Information Release).
Decision: Agreed
3. **Agree** to attach your e-signature to the instrument of delegation at **Attachment B**.
Decision: Agreed
4. **Agree** to Chief Counsel Division seeking an extension of time to investigate s47F - personal privacy from the Commonwealth Ombudsman (**Attachment C**).
Decision: Agreed

Decision comments

No comments

Date: 2 February 2026

1. Key reasons for the recommendation

- 1.1. Under the PID Act, the principal officer (or their delegate) must investigate a disclosure if the disclosure is allocated to the Agency under division 1 of the PID Act (s 47(1)). s47F - personal privacy meets this threshold.
- 1.2. The principal officer may delegate any or all of the principal officer's functions or powers under the PID Act to a public official who belongs to the agency (s 77(1)).
- 1.3. On 18 November 2025, Acting CEO, Scott McNaughton delegated certain principal officer powers and functions to Jodie Stangel, General Manager (Specialised Service Delivery) of the NDIA for the purposes of investigating s47F - personal privacy (**Attachment A**) (reference: EC25-005049).
- 1.4. On 18 December 2025, Chief Counsel Division briefed Ms Stangel (as delegated principal officer) on the background in relation to s47F - personal privacy.

1.5. s47E(d) - certain operations of agencies s42 - legal professional privilege

- 1.6.
- 1.7.
- 1.8.

Recommendation to delegate your investigative powers and functions to another public official who belongs to the NDIA

- 1.9. On this basis, a draft principal officer instrument of delegation has been prepared at **Attachment B**. The practical effect of this recommendation will be to revoke the delegation of Ms Stangel with respect to s47F - personal privacy and delegate your investigative powers and functions as principal officer under the PID Act to Daniel Flowers, General Manager (Reviews and Information Release) of the NDIA in relation to s47F - personal privacy.
- 1.10. The PID Act requires the principal officer to take reasonable steps to provide ongoing training and education to agency officials, including in respect of the performance of functions under the PID Act (s 59(7)(d)).
- 1.11. Chief Counsel Division recommends delegating your investigative powers and functions to Daniel Flowers as he received 'NDIA PID Investigator Training' from Chief Counsel Division on 28 November 2025. Chief Counsel Division has also confirmed that Daniel Flowers is available to be the delegated principal officer for s47F - personal privacy.

Extension of time

- 1.12. An investigation must be completed within 90 days of the day after a disclosure is initially allocated (s 52(1)(a)). This provides a current completion date of 12 February 2026 for s47F - personal privacy.
- 1.13. Due to the reasons above [at 1.5 to 1.8], Chief Counsel Division seeks your approval to seek a 30-day extension of time to investigate s47F - personal privacy from the Commonwealth Ombudsman. This will allow Chief Counsel Division to brief the new delegated principal officer on s47F - personal privacy and sufficient time for the new delegated principal officer to consider the grounds the grounds available to them to investigate (s 47) or not decide not to investigate s47F - personal privacy (s 48). We note that legal advice and the relevant briefing materials have already been prepared to support this decision.
- 1.14. Chief Counsel Division has prepared a Form 3 to the Commonwealth Ombudsman at **Attachment C**.

2. Background

- 2.1. s42 - legal professional privilege, s45 - material disclosed in confidence, s47E(d) - certain operations of agencies, s47F - personal privacy
- 2.2.
- 2.3.
- 2.4.
- 2.5.
- 2.6.

3. Next Steps

- 3.1. Once approved, Chief Counsel Division will work with your office to finalise and affix your signature to the instrument of delegation and will inform the discloser of the new delegated principal officer for s47F - personal privacy.
- 3.2. Chief Counsel Division will provide ongoing advice and support to the delegated principal officer to discharge their obligations under the PID Act.
- 3.3. Once approved, Chief Counsel Division will seek a 30-day extension of time by submitting Form 3 to the Commonwealth Ombudsman (**Attachment C**).

4. Attachments

Attachment A – Principal officer instrument of delegation – s47F - personal privacy (signed 18 November 2025 by Acting CEO)
Attachment B – Principal officer instrument of delegation – s47F - personal privacy
Attachment C – Form 3 – Extension of time to investigate a PID – s47F - personal privacy
Attachment D – Allocation to the NDIA – s47F - personal privacy (14 November 2025)