

9 November 2023

Renee

By email: foi+request-10651-9a3c22b7@righttoknow.org.au

Dear Renee

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 1 September 2023, in which you requested access to documents held by the National Disability Insurance Agency (NDIA), under the *Freedom of Information Act 1982* (FOI Act).

The purpose of this letter is to provide you with a decision on your request.

Scope of your request

You have requested access to the following documents:

...data and documents related to parents with disabilities who are participants in the National Disability Insurance Scheme (NDIS).

Demographic Data:

- *Could you please provide the number of NDIS participants who are parents, broken down by age group and type of disability? Of these parents, how many are partnered, single, or sole parents?*
- *Children with NDIS Plans: I would like to know the number of children of parent participants who also have NDIS plans.*
- *Average Funding: Could you provide the average funding amount allocated to parent participants, further broken down by type of disability and age group?*

Supports for Informal Caregivers: I am interested in any information on supports available to informal caregivers of parent participants.

Special Considerations: Are there any documents outlining special considerations or policies aimed at supporting disabled parents, particularly sole/single disabled parents?

Processing time

On 3 October 2023, you agreed to a 12-day extension of time under section 15AA of the FOI Act, making 13 October 2023 the new date to provide you with a decision on access.

I note this access decision is being released to you after the extended due date and I apologise for the delay. Your right to apply for a review on my decision remains protected (see Attachment B for more information about your rights of review).

Decision on access to documents

I made this decision as an authorised FOI decision maker under section 23(1) of the FOI Act.

With respect to Part 1 of your request, I have decided to refuse your request for access under section 24A of the FOI Act on the basis that the documents do not exist. The reasons for my decision are set out below.

I have identified 2 documents that fall within Part 2 of your request. The documents were identified by consulting with relevant NDIA staff in our Service Guidance and Practice (SG&P) branch and Complex Supports Needs (CSN) branch who could be expected to be able to identify documents within the scope of the request. I have decided to grant partial access to these two documents.

Further, SG&P have advised that there are no documents outlining specific special considerations or policies aimed at supporting disabled parents. However, the following Operational Guidelines are publicly available, and they have not considered as part of my decision. Generally, the same policy and principles would apply in determining support for a participant whether or not they are a parent.

- [What principles do we follow to create your plan? | NDIS](#)
- [Reasonable and necessary supports | NDIS](#)
- [Creating your plan | NDIS](#)
- [Short Term Accommodation or Respite | NDIS](#)
- [Mainstream and community supports | NDIS](#)

In reaching my decision, I took the following into account:

- Your correspondence outlining the scope of your request
- The nature and content of the documents falling within the scope of your request
- The FOI Act
- The FOI Guidelines published under section 93A of the FOI Act
- Consultation with relevant NDIA staff
- The NDIA's operating environment and functions.

Access to edited copies with exempt material deleted (section 22)

I have decided that Document 2 contain material that is conditionally exempt from disclosure under the FOI Act.

In accordance with section 22 of the FOI Act, I have considered whether it is possible to delete the exempt material from the documents and have concluded that it is reasonably practicable to do so. Accordingly, I have prepared an edited copy of the documents with the exempt material removed.

Reasons for decision

Refuse a request for access (section 24A)

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document cannot be found or does not exist.

In processing part 1 of your request, I have considered if it would be reasonable to create a document containing information you have requested as outlined in section 17(1) of the FOI Act. I have concluded that it is not reasonably practicable to do so.

I have made enquiries with NDIA staff in our Analytics Data & Actuarial (ADA) branch who have conducted searches of the Agency's document management systems. These enquiries have revealed that the NDIA is not in possession of documents matching part 1 of your

request. This is because the NDIA's reporting systems do not have data at the level of granularity required to answer your request for information.

Further, ADA determined that compiling information would constitute an unreasonable diversion of resources. The detailed data you have requested is not held within a single repository and significant manual work would have to be undertaken to extract such information. As such, I am satisfied the obligation to create a document under section 17(1) does not apply to your request.

I am satisfied that all reasonable steps have been taken to locate the documents you have requested and that the documents do not exist. I have, therefore, decided to refuse access to part 1 of your request in accordance with section 24A(1)(b)(ii) of the FOI Act.

Certain operations of agencies (section 47E(d))

Section 47E(d) of the FOI Act conditionally exempts a document if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Documents 1 and 2 contain information relating to certain operations of the NDIA, specifically internal guidance given to staff in relation to the quantum of supports to include within a participant's plan in determining the level of supports a participant may require.

The disclosure of this information would reveal methodologies the NDIA uses to assist in determining levels of support provided to NDIS participants, which is to better ensure that participants receive supports that are reasonable and necessary. Any disclosure resulting in the prejudice of the effectiveness of the Agency's operational methods and procedures would, or could reasonably be expected to, result in the need for the Agency to change those methods and procedures to ensure the future effectiveness and sustainability of the Agency and the Scheme.

I am satisfied that the release of this information would potentially result in the public disclosure of internal methodologies that, through improper use, would, or could, lead to a distortion of funding levels that would substantially and adversely affect the integrity of the NDIS and its financial sustainability. Accordingly, I have decided that the relevant information in Documents 1 and 2 is conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations – sections 47E(d)

Section 11A(5) of the FOI Act provides that access to a document covered by a conditional exemption must be provided unless disclosure would be contrary to the public interest.

Irrelevant factors

I have not considered any of the irrelevant factors as set out under section 11B(4) of the FOI Act in making this decision.

Factors favouring disclosure

In favour of disclosure, I have considered the factors outlined in section 11B(3) of the FOI Act, and I have determined that disclosure of the relevant information in Documents 1 and 2 would promote the objects of the FOI Act by providing access to documents held by the government.

Factors against disclosure

Against disclosure, I consider that disclosure of the relevant information in Documents 1 and 2:

- Would not contribute to the publication of information of sufficient public interest to justify the likely harm caused by release

- Would not enhance Australia's representative democracy in the ways described in section 11B(3) of the FOI Act
- Would not inform any debate on a matter of public importance, or promote oversight of public expenditure.

Consideration of harm factors

While there is limited public interest in the disclosure of information conditionally exempt under section 47E(d) of the FOI Act, the harm that would result from disclosure is that it could reasonably be expected to prejudice the ability of the Agency to provide guidance to staff and to decision makers in classifying applicants based on support needs in order to comply with their obligations and make informed decisions in relation to the quantum of funding to add to each reasonable and necessary support, which, in turn, helps to ensure the financial stability and integrity of the NDIS.

Weighing the relevant factors to determine where the public interest lies.

In summary, I am satisfied that the factors against disclosure of the information outweigh the factors in favour of disclosure and that, on balance, it would be contrary to the public interest to release this information to you. Accordingly, I have decided that the relevant information in Documents 1 and 2 is conditionally exempt under section 47E(d) of the FOI Act.

Release of documents

The documents for release, as referred to in the Schedule of Documents at **Attachment A**, are enclosed.

Rights of review

Your rights to seek a review of my decision, or lodge a complaint, are set out at **Attachment C**.

Should you have any enquiries regarding this matter, please do not hesitate to contact me by email at foi@ndis.gov.au.

Yours sincerely



Miriam

Senior Freedom of Information Officer
Parliamentary, Ministerial & FOI Branch
Government Division

Schedule of Documents for FOI 23/24-0256

Document number	Page number	Description	Access Decision
1	1-25	Children at Risk of Requiring Accommodation Outside the Family Home Version: 6.0 (20 June 2023)	PARTIAL ACCESS Exemption claimed: s47E(d) – certain operations of agencies
2	26-59	Children Living in a Formal Voluntary Arrangement Outside their Family Home Version: 9.0 (20 June 2023)	PARTIAL ACCESS Exemption claimed: s47E(d) – certain operations of agencies

Your Review Rights

Internal Review

The FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision, you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the review process, you should clearly outline your grounds for review (that is, the reasons why you disagree with the decision). Applications for internal review can be lodged by email to foi@ndis.gov.au or sent by post to:

Freedom of Information Section
Parliamentary, Ministerial & FOI Branch
Government Division
National Disability Insurance Agency
GPO Box 700
CANBERRA ACT 2601

Review by the Office of the Australian Information Commissioner

The FOI Act also gives you the right to apply to the Office of the Australian Information Commissioner (OAIC) to seek a review of this decision.

If you wish to have the decision reviewed by the OAIC, you may apply for the review, in writing, or by using the online merits review form available on the OAIC's website at www.oaic.gov.au, within 60 days of receipt of this letter.

Applications for review can be lodged with the OAIC in the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218, Sydney NSW 2001
Email: enquiries@oaic.gov.au
Phone: 1300 363 992 (local call charge)

Complaints to the Office of the Australian Information Commissioner or the Commonwealth Ombudsman

You may complain to either the Commonwealth Ombudsman or the OAIC about actions taken by the NDIA in relation to your request. The Ombudsman will consult with the OAIC before investigating a complaint about the handling of an FOI request.

Your complaint to the OAIC can be directed to the contact details identified above. Your complaint to the Ombudsman can be directed to:

Phone: 1300 362 072 (local call charge)
Email: ombudsman@ombudsman.gov.au

Your complaint should be in writing and should set out the grounds on which it is considered that the actions taken in relation to the request should be investigated.