

4 December 2023

Emily Lacey

By email: foi+request-10740-d6b431c0@righttoknow.org.au

Dear Emily Lacey

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 3 November 2023, in which you requested an internal review of the Original Decision made by the National Disability Insurance Agency (NDIA) under the *Freedom of Information Act 1982* (FOI Act) in relation to the request set out in **Attachment A** (FOI 23/24-0416).

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

Your FOI request

On 10 October 2023, you requested access to documents set out in **Attachment A**. In this request you asked for four documents. The NDIA's decision, made on 3 November 2023, provided you with links to websites where the information you requested is publicly available and a copy of the *Practice Guide – Understanding Therapy Supports*. These were identified as relevant to your request. This decision was informed by consultation with NDIA's Service Guidance and Practice branch.

Grounds for review

On 3 November 2023, you requested an internal review as per your email set out in **Attachment B**.

Reasons for review

In your application for internal review, you state that the original decision-maker has not provided the requested or most recent versions of the documents requested.

On that basis, I have treated your request for internal review to relate to the adequacy and currency of the documents provided.

Decision on internal review

I am authorised to make decisions under the FOI Act, including internal review decisions under section 54C of that Act. As an internal review officer, I am not bound in any way by the original decision and am required to make a fresh decision.

I will address each of the points in your Internal Review request separately.

1. You have advised that the link provided for the *Practice Guide – Determine Reasonable and Necessary Supports* was not the most recent version of the document. I confirm that while the link provided in the original request did provide information on reasonable and necessary support, it did not take you direct to the document you requested. I therefore **vary** the original decision to provide a more directly link to the document requested - [Reasonable and necessary supports | NDIS](#). This document is dated 6 October 2023.

2. You have advised that the document *Practice Guide – Disability-Related Health Supports* was not provided. I confirm that while the link provided in the original decision did provide information on Disability-Related Health Supports, it did not take you directly to the document you requested. I therefore **vary** the original decision to provide a more direct link to the document requested - [Disability-related health supports | NDIS](#).

2b. You have also requested the additional documents as part of your review, these being:

- *Practice Guide - Continence Supports*
- *Practice Guide - Diabetic Management Supports*
- *Practice Guide - Dysphagia Supports*
- *Practice Guide - Epilepsy Supports*
- *Practice Guide - Nutrition Supports*
- *Practice Guide - Podiatry and Foot Care Supports*
- *Practice Guide - Respiratory Supports*
- *Practice Guide - Wound and Pressure Care Supports*

I confirm that links to each of these documents, except *Practice Guide – Respiratory Supports*, was provided in the original decision.

I have consulted with the NDIA's Service Guidance and Practice branch regarding the document titled *Practice Guide – Respiratory Supports*. This document is now out of date and not listed in the current version of the document title *Practice Guide - Disability-Related Health Supports*. It is thus not within the scope of your original request. I therefore **affirm** the original decision on this point.

3. You advise that you were not provided with the Standard Operating Procedure documents related to both *Disability-Related Health Supports* and *Therapy Supports*. I confirm that links were provided in the original decision from the current *Disability-Related Health Supports* document dated 29 September 2023. I therefore **affirm** the original decision on this point.

4. You have advised that you believe the response to your request for the document *Practice Guide-Understanding Therapy Supports* is inadequate as it was previously released in a separate Freedom of Information released as listed on the NDIA disclosure log. I confirm that regardless of the fact that this document had been provided in a different FOI request, it is the requested document. I therefore **affirm** the original decision on this point.

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 concerning this matter, please do not hesitate to contact me by email at foi@ndis.gov.au.

Yours sincerely



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

Original request sent on 10 October 2023

"I am requesting access under the Freedom of Information Act 1982 (FOI Act), to the following documents as referred to in "Practice Guide - Determine Reasonable and Necessary Supports" —

- 1. "Practice Guide - Disability-Related Health Supports"*
- 2. "Practice Guide - Understanding Therapy Supports"*

And additionally —

3. The "Standard Operating Procedure" documents related to "Disability-Related Health Supports" and "Therapy Supports"

4. If "V25.0 (updated 2021-01-13)" of "Practice Guide - Determine Reasonable and Necessary Supports" is not the most recent version of this document currently in use, I also request access to the most current version of

Internal Review request received 3 November 2023

Dear National Disability Insurance Agency,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of National Disability Insurance Agency's handling of my FOI request 'Practice Guide Disability-Related Health Supports, Practice Guide Understanding Therapy Supports, and related Standard Operating Procedure documents'.

I can only assume that your response to my request is a desperate attempt to meet the legally mandated deadlines for freedom of information requests without actually releasing any new documents, because you certainly have not provided the documents I have very clearly requested.

Response 1). You have not provided the most recent version of the document titled "Practice Guide - Determine Reasonable and Necessary Supports" as requested (Point 4 of my FOI), and have instead provided a link to the publicly available "Understanding the NDIS - Supports funded by the NDIS - Reasonable and necessary supports" webpage. I don't know how I could have been more clear in my request. I provided you with the documents title AND the version number of the copy I already have in order to confirm whether it was the most recent. Since making my request, I have discovered version 26.0 of this document, which was uploaded as a part of the disability royal commission and can be found at this link:

<https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdisability.royalcommission.gov.au%2Fsystem%2Ffiles%2Fexhibit%2FCTD.8000.0010.1004.pdf&data=05%7C01%7Cfoi%40ndis.gov.au%7C806e2f64055f4c08d7d208dbdc27612f%7Ccd778b65752d454a87c fb9990fe58993%7C1%7C0%7C638345834089033958%7CUnknown%7CTWFPbGZsb3d8e yJWljoimC4wLjAwMDAiLCJQIjoiv2luMzliLCJBtIl6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=uGSAyu1VEG5G9PGB9RfOBCpExD41id4JMx%2BSNL%2BcgFY%3D&reserved=0> . This clearly demonstrates that V25.0 is NOT the most recent, and you should have provided V26.0 (or higher) in your decision. Instead you appear to be pretending the document doesn't even exist. Please provide the correct and most recent document titled "Practice Guide - Determine Reasonable and Necessary Supports".

Response 2). You have not provided the document titled "Practice Guide - Disability-Related Health Supports" as requested (Point 1 of my FOI), and have instead provided a link to the publicly available "Understanding the NDIS - Supports funded by the NDIS - Disability-related health supports" webpage. This is not what was requested. The document I requested titled "Practice Guide - Disability-Related Health Supports" is linked on page 24 under section "16.2 Disability-Related Health Supports" of the Practice Guide "V26.0 2021-01-25 Determine Reasonable and Necessary Supports" (see previous link). Please provide a copy of that document, titled "Practice Guide - Disability-Related Health Supports", which is linked on page 24.

Response 2b). Considering the deliberate lack of transparency in providing the "Practice Guide - Disability-Related Health Supports" as requested, I would now additionally like to request the other documents that have been listed and linked under "16.2 Disability-Related Health Supports" in order to be sure that no relevant documents have been excluded from my request. Quote from "V26.0 2021-01-25 Determine Reasonable and Necessary Supports", page 24-25:

"For further information about specific disability related health supports refer to the relevant practice

guidance:

- Practice Guide - Continence Supports
- Practice Guide - Diabetic Management Supports
- Practice Guide - Dysphagia Supports
- Practice Guide - Epilepsy Supports
- Practice Guide - Nutrition Supports
- Practice Guide - Podiatry and Foot Care Supports
- Practice Guide - Respiratory Supports
- Practice Guide - Wound and Pressure Care Supports"

Response 3). I also requested the Standard Operating Procedure documents related to both "Disability-Related Health Supports" and "Therapy Supports" (Point 1 of my FOI), and you provided links to a number of topics under the publicly available "Our Guidelines - Supports you can access" webpage. I did not request any Our Guidelines documents, I requested the Standard Operating Procedures. You should be able to easily identify these documents in your internal system, as they will contain "Standard Operating Procedure" or "SOP" in the name/title of the document. One such example may be the "Standard Operating Procedure - Determine Reasonable and Necessary Supports" document which is linked on page 28 of "V26.0 2021-01-25 Determine Reasonable and Necessary Supports" (see previous link). Please provide all Standard Operating Procedures which mention or relate to the provision of "Disability-Related Health Supports" and "Therapy Supports".

Response 4).The only document you have provided correctly from my request is "Practice Guide - Understanding Therapy Supports", which I now realise based on the red text marking the documents pages, was already released (FOI 22/23-0633) and listed on your disclosure log on the 12/05/2023. Frankly, this only adds to the obvious conclusion that your inadequate response to my request was an attempt to not release any NEW documents, but only provide access to publicly available information and documents which have ALREADY been processed and determined acceptable for public release via FOI. I think this is quite disgraceful and shows a disregard for your responsibility as a public authority under the FOI Act.

A full history of my FOI request and all correspondence is available on the Internet at this address:

https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Frequest%2Fpractice_guide_disability_relate&data=05%7C01%7Cfoi%40ndis.gov.au%7C806e2f64055f4c08d7d208dbdc27612f%7Ccd778b65752d454a87cfb9990fe58993%7C1%7C0%7C638345834089033958%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=_ZyPxAErzO2129GXvWyE%2FBZo3xFdsTRB0YRM1NbYhfh4%3D&reserved=0

Please provide the documents I have requested, correctly and in full.

Kind regards,

Emily Lacey

Please use this email address for all replies to this request:

foi+request-10740-d6b431c0@righttoknow.org.au

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

<https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.org.au%2Fhelp%2Fofficers&data=05%7C01%7Cfoi%40ndis.gov.au%7C806e2f64055f4c08d7d208dbdc27612f%7Ccd778b65752d454a87cfb9990fe58993%7C1%7C0%7C638345834089033958%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=%2FjW1J94sEWchOWiWuXMXFSMRSuMCLhSWkEC1W%2B8JMSk%3D&reserved=0>

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

Your rights of review

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

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

To assist the OAIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the OAIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

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

Online: www.oaic.gov.au
Post: GPO Box 5218, Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

The OAIC can also be contacted on **1300 363 992**.

The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone **1300 362 072**.