

20 November 2023

Sam

By email: foi+request-10790-08fabf6b@righttoknow.org.au

Dear Sam

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 24 October 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).

Scope of your request

You have requested access to the following documents:

“Noise cancelling headphones seem to be a common item claimed under low cost assistive technology through the NDIS for people with Autism

This time however i was rejected, this was the email received from NDIS

"After consideration of the participant's circumstances and the physio therapists report, delegate is not satisfied this request meets the reasonable and necessary criteria of the NDIS Act 2013 due to not meeting 34(1).(e) and is declined.

Rule 5.1(d) requires that supports which relate to day-to-day living costs, which are not related to a participants' disability support needs, cannot be funded in a plan.

Noise cancellation earphones are an item that average Australians with or without a disability can purchase for daily use. This item is NOT a DISABILITY-SPECIFIC support. Whilst it may used to address sensory issues, NDIS does not fund sensory equipment as there is not enough research or evidence to suggest that this is effective and will reduce the needs of other supports in the future."

Why is it usually approved, but in this case rejected?

Is it up to the individual NDIS worker to interpret the NDIS Act however they want?

How are these decisions made?"

Decision on access to documents

I am authorised to make decisions under section 23(1) of the FOI Act. My decision on your request and the reasons for my decision are set out below.

I have decided to refuse your request for access under section 24A of the FOI Act. The reasons for my decision are set out below.

As mentioned in our previous email, we are only able to provide documents that exist on a NDIS file. Your scope is requesting information only. No documents exist on our system that specifically address the scope of your request.

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

- your correspondence outlining the scope of your request the FOI Act
- the FOI Guidelines published under section 93A of the FOI Act
- consultation with relevant officers of the NDIA
- the NDIA's operating environment and functions.

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.

I have conducted searches of the NDIA's documents management systems and made enquiries with NDIA staff. These enquiries have revealed that the NDIA is not in possession of documents matching the scope of your request. This is because no documents exist on our system that specifically address the scope of 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 your request in accordance with section 24A(1)(b)(ii) of the FOI Act.

Rights of review

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

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

Yours sincerely



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

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