

3 May 2024

Emily Lacey

**By email:** [foi+request-11200-92a5e173@righttoknow.org.au](mailto:foi+request-11200-92a5e173@righttoknow.org.au)

Dear Emily Lacey

### **Freedom of Information request — Notification of Decision**

Thank you for your correspondence of 5 March 2024, 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:

*"The Technical Advisory Branch compiles research on particular diagnoses. This type of document has been released previously as a part of FOI 23/24-0467 and FOI 21/22-1232. I am looking for those sort of documents regarding the following conditions:*

1. *Acquired Brain Injury*
2. *Multiple Sclerosis (MS)*
3. *Clinically Isolated Syndrome (CIS)*
4. *Chiari Malformation (also known as Arnold-Chiari malformation)*
5. *Syringomyelia (also known as a Syrinx)*
6. *Narcolepsy (Type 1 and Type 2)*
7. *Idiopathic Hypersomnia*
8. *Myalgic Encephalomyelitis/Chronic Fatigue Syndrome (ME/CFS)"*

### **Extension of time**

On 28 March 2024, you agreed to a 30-day extension of time under section 15AA of the FOI Act, making 4 May 2024 the new date to provide you with a decision on access.

### **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 identified 1 document, which falls within the scope of your request.

The documents were identified by conducting searches of NDIA's systems, using all reasonable search terms that could return documents relevant to your request, and consulting with relevant NDIA staff who could be expected to be able to identify documents within the scope of the request.

I have decided to grant access to 1 document in full.

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
- relevant case law concerning the operation of the FOI Act
- consultation with relevant NDIA staff

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

I have identified that Document 1 contains material that is irrelevant to your request. The irrelevant material relates to names of NDIA staff which is not relevant to the subject matter of your request.

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

#### **Reasons for decision**

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 consulted with NDIA staff and Business areas. These consults have revealed that the NDIA are not in possession of documents matching parts of your scope. This is because the Technical Advisory Branch does not hold research documents specifically to the below diagnoses:

1. Acquired Brain Injury
2. Multiple Sclerosis (MS)
3. Clinically Isolated Syndrome (CIS)
4. Chiari Malformation (also known as Arnold-Chiari malformation)
5. Syringomyelia (also known as a Syrxinx)
6. Narcolepsy (Type 1 and Type 2)
7. Idiopathic Hypersomnia

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

**Release of document**

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

**Rights of review**

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

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

Yours sincerely



**Nick**

Senior Freedom of Information Officer  
Complaints Management & FOI Branch  
General Counsel Division

## Schedule of Documents for FOI 23/24-1015

Document number	Page number	Description	Access Decision	Comments
1	1-10	Document Title: Myalgic encephalomyelitis / Chronic Fatigue Syndrome	<b>FULL ACCESS</b>	Irrelevant material removed under section 22 of the FOI Act

## 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](mailto:foi@ndis.gov.au) or sent by post to:

Freedom of Information Section  
Complaints Management & FOI Branch  
General Counsel 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](http://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](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Email: [enquiries@oaic.gov.au](mailto: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](mailto: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.