

29 October 2024

David Wright  
Right to Know

By email: [foi+request-11960-0c6ec6a8@righttoknow.org.au](mailto:foi+request-11960-0c6ec6a8@righttoknow.org.au)

Dear David Wright

### Freedom of Information request — Notification of Decision

Thank you for your correspondence of 28 August 2024 (**your correspondence**), seeking access under the *Freedom of Information Act 1982 (FOI Act)* to documents held by the National Disability Insurance Agency (**NDIA**).

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 NDIA's Independent Expert Review Program Evaluation Report (October 2023) states that the average cost for the NDIA in participating in a 2.5 day hearing at the Administrative Appeals Tribunal (AAT) was \$29,899 - being the cost of hearing days only. This equated to an average of \$11,959.60 per hearing day.*

*Please provide the following information for the 2023-2024 financial year, for all AAT matters to which the NDIA was a Respondent:*

- 1. For all AAT matters that went to hearing, the overall average number of days that a matter was at hearing, and the overall average daily cost per matter incurred by the NDIA in participating in those hearings (being the cost of hearing days only).*
- 2. For all AAT matters, including those matters that did not go to hearing, the average total monthly cost per matter incurred by the agency in being a Respondent in these AAT matters (e.g. legal costs, costs associated with the engagement of expert witnesses etc)...*

### Extension of time

On 25 September 2024, you agreed to a 30-day extension of time under section 15AA of the FOI Act, making 27 October 2024 the new date to provide you with a decision on access.

### Expiration of time

As we were not able to complete your application by the legislated due date of 27 October 2024, your application is regarded as a deemed refusal under section 15AC of the FOI Act.

Despite this, I have continued to process your application. I apologise for the delay and confirm that you retain your right to seek external review of this decision. Details are set out in **Attachment B** to this letter.

### **Search efforts**

The NDIA's Legal Practice and Capability Branch searched for and were able to create a document pursuant to section 17 of the FOI Act.

Section 17(1)(c) of the FOI Act provides that an agency can produce a written document containing the requested information, by the use of a computer or other equipment that is ordinarily available for retrieving or collating stored information. We have been able to produce a document containing the information you requested. I have, therefore, treated your request as if it were a request for access to this document in accordance with section 17(1)(c) of the FOI Act.

I have identified one (1) document, which falls within the scope of your request.

### **Decision**

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:

- 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 document falling within the scope of your request
- the FOI Act
- the FOI Guidelines published under section 93A of the FOI Act
- the result of consultation with relevant NDIA staff
- factors relevant to my assessment of whether or not disclosure would be in the public interest

### **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 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



**Patrick (PHO293)**  
Senior Freedom of Information Officer  
Complaints Management & FOI Branch  
General Counsel Division

## Schedule of Documents for FOI 24/25-0253

Document number	Page number	Description	Access Decision	Comments
1	1	Section 17 Document	FULL ACCESS	Document created under section 17 of the FOI Act

**Your review rights**

As this matter was a deemed refusal, internal review of this decision is not an option. However, if you have concern with any aspect of this decision, please contact the NDIA FOI team by email [foi@ndis.gov.au](mailto:foi@ndis.gov.au) or by post:

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 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.