

17 May 2021

Ginger Meany

By email: foi+request-7253-1d762138@righttoknow.org.au

Dear Ginger Meany

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 15 April 2021 in which you requested 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 documents about the National Disability Insurance Scheme (NDIS). Specifically, you requested access to:

“...a copy of the talking points issued to internal NDIA staff regarding the 7 principles used to create plans, and to make sure the scheme is financially sustainable.

1. *Fair for everyone, both today and for future generations*
2. *Fair funding to pursue your goals*
3. *Evidence-based best practice*
4. *Fair early investments*
5. *Fair support across service systems*
6. *Fair supports for your disability needs*
7. *Fair assistance from multiple programs”*

Decision on access to documents

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

I have identified two documents which fall within the scope of your request.

The documents were identified by conducting searches of the NDIA’s systems, using all reasonable search terms that could return documents relevant to your request, and by 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 one document in full; and
- access to one document in part.

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

- 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;
- consultation with relevant NDIA staff; and
- the NDIA's operating environment and functions.

Deliberative processes (section 47C)

Section 47C of the FOI Act conditionally exempts a document if its disclosure would disclose deliberative matter in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of an agency.

A document within the scope of your request contains deliberative matter in the form of opinion, advice and recommendations recorded in the form of a projected budgetary figure.

As provided in the FOI Guidelines, deliberative processes involved in the functions of an agency are its thinking processes.

Where the document contains factual material, I have, to the extent possible, released all of the purely factual material in the document in accordance with the FOI Act.

I am satisfied that the information within the requested document is conditionally exempt under section 47C of the FOI Act.

Public interest considerations – section 47C

Under the FOI Act, access to a document covered by a conditional exemption must be provided unless disclosure would be contrary to the public interest.

After considering the public interest factors outlined in section 11B(3) of the FOI Act, I have determined that disclosure of the material identified as subject to conditional exemptions would promote the objectives of the FOI Act.

However, I consider that, while there is limited public interest in the disclosure of information conditionally exempt under section 47C, the harm that would result from disclosure is that it could reasonably be expected to have a significant adverse effect on the management of the NDIS through skewing, disengagement or other unintended effects arising from the early disclosure of information that may be taken as indicating the future direction of the NDIS prior to any concluded position being reached.

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.

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.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'A' followed by a cursive 'W'.

Ausilia Woodhead

Assistant Director

Parliamentary, Ministerial & FOI Branch

Government Division

Schedule of Documents for FOI 20/21-0659

Document number	Page number	Description	Access Decision
1	1-3	Talking points: Principals we follow to create your plan Dated 04.2021	FULL ACCESS
2	4-5	Talking points: Principals we follow to create your plan Dated 04.2021	PARTIAL ACCESS Exemption claimed: s47C – deliberative processes

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