

Our reference: FOI 20/21-0880



GPO Box 700
Canberra ACT 2601
1800 800 110

ndis.gov.au

13 September 2021

Shirley

By email: foi+request-7482-9470ea91@righttoknow.org.au

Dear Shirley

Freedom of Information request — Notification of Decision

Thank you for your 2 requests of 13 June 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

As per previous correspondence, under section 24(2) of the FOI Act an agency may treat 2 or more requests as a single request if the subject matter is substantially the same; therefore, as previously advised, we have combined your 2 requests into one request.

The scope of this combined request is:

“...a copy of the National Disability Insurance Agency’s risk management strategy approved by the Council of Australian Governments (COAG) (now know as National Cabinet) Disability Reform Council (DRC), cited in NDIA Corporate Plan 2015-19 [1].

... a copy of the National Disability Insurance Agency’s ‘risk management strategy’ approved by the Council of Australian Governments (COAG) (now known as National Cabinet) Disability Reform Council (DRC), cited in NDIA Corporate Plan 2016-21 [1].”

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 2 documents which fall 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 both documents in part.

Delivered by the

National Disability
Insurance Agency

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;
- relevant case law concerning the operation of the FOI Act;
- consultation with relevant NDIA staff;
- factors relevant to my assessment of whether or not disclosure would be in the public interest; and
- the NDIA's operating environment and functions.

Reasons for decisions

Certain operations of agencies (section 47E(d))

Section 47E(d) of the FOI Act conditionally exempts a document if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

The documents within the scope of your request contain information relating to certain operations of the NDIA, specifically, internal review processes related to risk management processes that affect the functions of the NDIA, its operational decision making, and the delivery of services through the National Disability Insurance Scheme (NDIS).

The disclosure of this information would internal reveal review processes the NDIA uses to assist in its operational risk management in relation to specific NDIS programs, as well as the NDIA as an agency.

I am satisfied that the release of this information would result in the public disclosure of internal review processes and information that, through improper use, would, or could, compromise internal decision making or affect business continuity planning that would substantially and adversely affect the integrity of the NDIS.

I am satisfied that the relevant parts of documents 1 and 2 are conditionally exempt under section 47E(d) of the FOI Act.

Public interest considerations – section 47E(d)

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 47E(d), the harm that would result from disclosure is that it could reasonably be expected to:

- hinder the Agency's thinking processes and the ability of Agency decision-makers to comply with their obligations and make informed decisions, which, in turn, helps to ensure the financial stability and integrity of the National Disability Insurance Scheme; and
- prejudice the ability of the Agency to provide guidance and complete reviews on program risks, plan appropriate risk mitigation, and inform the executive in improving decision making, which in turn, helps to ensure the financial stability and integrity of the NDIS.

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



Carolyn

Assistant Director FOI
Parliamentary, Ministerial & FOI Branch
Government Division

Schedule of Documents for FOI 20/21-0880

| Document number | Page number | Description | Access Decision |
|-----------------|-------------|---|--|
| 1 | 1-13 | Risk Management Strategy February 2014 | PARTIAL ACCESS Exemptions claimed: s47E(d) – certain operations of agencies |
| 2 | 14-27 | Risk Management Strategy February 2015 | PARTIAL ACCESS Exemptions claimed: s47E(d) – certain operations of agencies |

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