

31 August 2021

Shirley

By email: foi+request-7590-d777a3e5@righttoknow.org.au

Dear Shirley

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 16 July 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 NDIA’s FOI Policy and Procedure...”

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 3 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.

I have decided to grant access to all 3 documents in part.

I note that public documents are also available that relate to your request. Given these documents are publicly available online, they have not been considered as part of this decision. For your convenience, you can find more information about FOI policies and procedures the NDIA follows at the below addresses:

- [NDIS website – Freedom of Information policy page](#)
- [Freedom of Information Act 1982](#)
- [Office of the Australian Information Commissioner Freedom of Information Guidelines](#)

Please note that these links are current as at the date of decision.

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;

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

I have decided that documents falling within the scope of your request contain material that is exempt from disclosure under the FOI Act. I have also identified that documents falling within the scope of your request contain material that is irrelevant to your request. The irrelevant material relates to identifying information 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 documents and have concluded that it is reasonably practicable to do so. Accordingly, I have prepared an edited copy of the documents with the exempt and irrelevant material removed.

Reasons for decision

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.

Documents within the scope of your request contain information relating to certain operations of the NDIA, specifically internal guidance given to staff in relation to verifying the identity of applicants, internal contact points, and the processes as well as systems used to monitor and manage requests received by the NDIA.

The disclosure of this information would reveal methodologies the NDIA uses to assist in determining how sufficient proof of identity is established and how requests may be monitored and managed using particular systems. Furthermore, disclosing individual contact details may jeopardise the use of internal single points of contact.

I am satisfied that the release of this information would potentially result in the public disclosure of internal methodologies that, through improper use, would, or could, lead to individuals seeking to circumvent identity checks to fraudulently misrepresent themselves. Additionally, system vulnerabilities may be identified in how requests are monitored and managed may lead to bad faith actors seeking to exploit or circumvent particular processes. I am satisfied that this would substantially and adversely affect the integrity of the NDIA's statutory functions in relation to the FOI Act.

I am also satisfied that there is a reasonable likelihood of aggrieved members of the public seeking to gain advantage over others by using internal points of contact in place of the appropriate points of contact and that release of this information could reasonably be expected to have an adverse effect on the proper and efficient conduct of the operations of the Agency, namely the Agency's ability to conduct its operations in a timely and efficient way.

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 provide access to information relating to the applicant. However, I have considered that:

- disclosure of the information would not contribute to the publication of information of sufficient public interest to justify the likely harm caused by release;

- disclosure of the information would not enhance Australia's representative democracy in the ways described in section 11B(3) of the FOI Act; and
- disclosure of the information would not inform any debate on a matter of public importance or promote oversight of public expenditure.

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 prejudice the ability of the NDIA to protect the security and integrity of information released by the NDIA, and undermine the effectiveness of processes in relation to the NDIA's statutory functions.

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



Ausilia Woodhead

Assistant Director - FOI
Parliamentary, Ministerial & FOI Branch
Government Division

Schedule of Documents for FOI 21/22-0045

Document number	Page number	Description	Access Decision	Comments
1	1-8	Standard Operating Procedure – Freedom of Information Processing	PARTIAL ACCESS Exemption claimed: s47E(d) – certain operations of agencies	Irrelevant material removed under section 22 of the FOI Act.
2	9-21	Standard Operation Procedure – Freedom of Information Registration Officer	PARTIAL ACCESS Exemption claimed: s47E(d) – certain operations of agencies	Irrelevant material removed under section 22 of the FOI Act.
3	22-30	Standard Operating Procedure – Freedom of Information Triage	PARTIAL ACCESS Exemption claimed: s47E(d) – certain operations of agencies	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 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