

23 July 2021

Shirley

By email: foi+request-7613-ad84d50f@righttoknow.org.au

Dear Shirley

Regarding your recent requests to the NDIA

Recently you have made a large number of requests to the National Disability Insurance Agency (NDIA) for access to documents under the *Freedom of Information Act 1982* (FOI Act).

Between 8 June and 18 July 2021 you made 69 FOI requests. As you know, we combined some of those requests to make the processing more efficient and we consulted with you about revising the scope of those requests to avoid substantial and unreasonable diversion of NDIA resources from other important work. We will continue to take the steps permitted under the FOI Act to ensure that your requests are processed efficiently without unnecessary diversion of resources, such as consulting with you on nature and scope of your request, seeking extensions of time to process requests, and considering application of charges where appropriate.

The reason for this letter is to suggest that you give closer consideration to the frequency and scope of your access requests before making them. For example, you could consider making fewer requests seeking access to clearly defined groups of documents as an alternative to a large number of requests for access to one or two documents. You could also consider making a small number of requests and waiting for the outcome of those before making follow-up requests for additional documents of interest.

We are happy to work with you through a consultation process to assist you to refine the scope of any request that is unclear or that might involve a significant number of documents. Under section 89K of the FOI Act there is provision for an agency to apply to the Information Commissioner for a declaration that a person is a vexatious applicant. Section 89L provides that a vexatious applicant declaration can be made if:

- the person has repeatedly engaged in access actions that involve an abuse of process;
- the person is engaging in a particular access action that would involve an abuse of process; or
- a particular access action by the person would be manifestly unreasonable.

These provisions provide a balance between conferring a right of access to government documents and ensuring that access requests do not interfere unreasonably with agency operations. In addition it ensures that FOI processing resources are not unfairly taken up by one person to the detriment of others seeking access to agency documents.

The NDIA recognises the important role played by the FOI Act in ensuring access government information and promoting public participation in government processes. However, we also recognise that abuse of the access process can result in agency resources being diverted in a way that is not in the public interest. Where we consider that

an individual is engaging in repeated access requests to the extent that it becomes an abuse of the access process provided under the FOI Act we intend to apply to the Information Commissioner for a vexatious applicant declaration.

If you would like to discuss anything in this letter please contact us at foi@ndis.gov.au . If you would like someone to contact you by telephone to talk about making FOI requests generally or about requests that are currently being processed please let us know the best number to reach you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'AW', is positioned above the printed name and title.

Ausilia Woodhead
Assistant Director
Parliamentary, Ministerial & FOI Branch
Government Division