

Our reference: IR 21/22-007



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2 November 2021

Shirley Humphris

By email: foi+request-7653-8b0b8e84@righttoknow.org.au

Dear Shirley Humphris

Freedom of Information internal review request — Notification of Decision

Thank you for your correspondence of 3 October 2021, in which you requested an internal review of the **Original Decision** for FOI 21/22-0127, made by the National Disability Insurance Agency (NDIA) in relation to your request for information under the *Freedom of Information Act 1982* (FOI Act).

The purpose of this letter is to provide you with a decision on your request for internal review.

Original Decision

On 3 August 2021, you requested access to documents about the NDIS. Specifically, you requested access to:

“...the qualifications of ALL members of the research and evaluation branch. This information would in no way violate privacy to list, for example how many OTs, physios etc. any PhDs and Masters other other [sic] broad qualifications must state the discipline...”

On 2 September 2021, the NDIA notified you of the decision in relation to your FOI request for FOI 21/22-0127.. That decision granted you access to one document in full, which was created under section 17 of the FOI Act.

The document was created 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.

Grounds for review

On 3 October 2021, you requested an internal review of the Original Decision on the following grounds:

“I am writing to confirm a request of an internal review of National Disability Insurance Agency’s handling of my FOI request ‘Qualifications of ALL members of the NDIA research and evaluation branch’.

I did not receive a full answer to my request as the discipline of those with higher qualifications was not answered. Exemplary as an opinion needs to be substantiated. If the additional and related questions remain unanswered I can then put through a new request.”

I have interpreted your request for internal review to be on the grounds that you were not satisfied that the information provided to you as part of the Original Decision adequately addressed all components of your request for information.

Decision on your request for internal review

I am authorised to make decisions under section 23(1) of the FOI Act, including internal review decisions. As an internal review officer, I am not bound in any way by the Original Decision and I am required to make a fresh decision (section 54C(3) of the FOI Act).

I have decided to **affirm** the Original Decision of 2 September 2021.

In making my decision, I have considered the following:

- your correspondence in relation to your original request
- the Original Decision and the content of the document provided
- your grounds for seeking an internal review of the Original Decision
- further consultation with the relevant business areas
- the nature of the document created by the business area
- the FOI Act
- the FOI Guidelines
- the NDIA's operating environment and functions.

Reasons for decisions

On the basis of the above considerations, I have decided to affirm the Original Decision.

I have reviewed the document provided as part of the Original Decision and I made new enquiries with the relevant business areas. These enquiries have revealed that the NDIA is not in possession of an existing document that contains the information you are seeking access to.

Section 17(1) of the FOI Act provides that where the Agency could produce a written document by the use of a computer that is ordinarily available to the agency for retrieving or collating stored information, the agency shall deal with the request as if it were a request for access to that document.

Having considered the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), I am satisfied that the obligation to create a document under section 17(1) of the FOI Act does not apply to your request. This is because the NDIA does not centrally hold the structured data necessary to create a document that contains the information you are seeking. Under section 17(1), the NDIA is not required to create a document by other means, where this information is not already stored or held by the Agency.

However, while we are not obliged to create a document under section 17(1), through consultation with the relevant business areas, we have been able to create a document which satisfies the scope of your request. I have decided to grant access to this document in full.

Release of documents

The document for release, as referred to in the Schedule of Documents at **Attachment A**, is 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 IR 21/22-007

Document number	Page number	Description	Access Decision
1	1	Data relating to higher qualification disciplines of staff working in the Research and Evaluation Branch	FULL ACCESS

Your rights of review

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the OAIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at www.oaic.gov.au, within 60 days of receipt of this letter.

To assist the OAIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the OAIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaints can be lodged with the OAIC in the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218, Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

The OAIC can also be contacted on **1300 363 992**.

The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone **1300 362 072**.