

18 October 2021

Christian

**By email:** [foi+request-7691-cba43862@righttoknow.org.au](mailto:foi+request-7691-cba43862@righttoknow.org.au)

Dear Christian

### **Freedom of Information request — Notification of Decision**

Thank you for your correspondence of 17 August 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:

1. *“...How many people have received less funding in their current plan than in their previous plan (for a 12 month period, not for the duration of a plan that is extended to over 12 months)*
2. *How many people have been exited from the scheme from;*  
*1 August 2019 - 1 August 2020*  
*1 August 2020 - 1 August 2021;*  
*following a review or because the NDIA says they are no longer eligible?*

*Please provide the categories upon which people are being exited from the scheme after first proving eligibility.”*

On 28 September 2021, the Office of the Australian Information Commissioner granted the NDIA an additional 30 days to process your request for information, therefore making 17 October 2021 (or the following business day alike) the new due date to provide a decision on access.

#### **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.

The first part of your request for information seeks access to information relating to NDIS plan budgets dated between 1 August 2019 and 1 August 2021.

While I have decided to grant access to the information the Agency holds in relation to the first part of your request, I have decided to defer access to that information in accordance with section 21(1)(c) of the FOI Act. I will detail this further below.

The second part of your request seeks access to information about Scheme exits. The information relevant to this part of your request was not available in a separate written document at the time of your request. However, we have been able to produce a document containing the information requested. I have therefore treated your request in part, as if it were a request for access in accordance with section 17 of the FOI Act.

I have decided to grant access to that document in full.

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
- the NDIA's operating environment and functions

## **Reasons for decision**

### Part 1 of the request

#### Deferment of access (section 21)

Section 21(1)(c) of the FOI Act provides that an agency may defer the provision of access to the document concerned if the premature release of such document would be contrary to the public interest - until the occurrence of any event after which the release of the document would not be contrary to the public interest.

I have been advised that the subject matter of your request, being NDIS participants plan budgets during the timeframe you have specified is being considered by the Agency's office of the scheme actuary. They have advised me that they are currently undertaking analysis of the data you are requesting with the intention of providing this analysis, as applied to the broader topic of participant plan budgets, in the NDIS Quarterly Report for the first quarter of 2022.

I am satisfied that providing access to the information now would be contrary to public interest as granting access to that information now would, or could, without sufficient context, lead to a distorted public perception of changes to plan budgets that could have a harmful or damaging effect on the public's confidence in the integrity of the NDIS and its financial sustainability.

Having considered the NDIA's obligations under the FOI Act and the public interest considerations outlined above, I have decided to defer access to this document, until such time, in which the NDIA has finalised undertaking this data analysis and is in a position to provide fulsome data and analysis in relation to NDIA plan budgets.

Accordingly, I am satisfied that conditions to defer access to the information you seek in relation to part 1 of your request under section 21(1)(c) of the FOI Act have been met and that access is deferred until publication of the next NDIS Quarterly Report.

## **Release of documents**

The document for release and relevant to Part 2 of your request, 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](mailto:foi@ndis.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rafaela', with a small dot at the end.

**Rafaela**

A/g Assistant Director FOI  
Parliamentary, Ministerial & FOI Branch  
Government Division

**Attachment A**

**Schedule of Documents for FOI 21/22-0181**

<b>Document number</b>	<b>Page number</b>	<b>Description</b>	<b>Access Decision</b>	<b>Comments</b>
1	1	Response to FOI 21/22-0181 – Part 2: Data relating to Scheme exits	<b>FULL ACCESS</b>	Document created under section 17 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](mailto: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](http://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](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Email: [enquiries@oaic.gov.au](mailto: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](mailto: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