

Our reference: FOI 21/22-0201



GPO Box 700  
Canberra ACT 2601  
1800 800 110  
ndis.gov.au

5 October 2021

Michelle O'Brien

By email: [foi+request-7716-cc2d30c6@righttoknow.org.au](mailto:foi+request-7716-cc2d30c6@righttoknow.org.au)

Dear Michelle O'Brien

### Freedom of Information request — Practical refusal

Thank you for your correspondence of 21 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).

#### Scope of your request

You have requested access to documents about the National Disability Insurance Scheme (NDIS). Specifically, you requested access to:

*"...any informations [sic] on policies, procedures, memos, emails, actuarial data that pertain to the idea of primary and secondary [sic] disability's/impairments [sic]. how the idea of primary [sic] and secondary [sic] impairment/disability [sic] came to being a part of the planning meeting structure and how this relates to funding of a participant who has access to the scheme [sic]. I also want to see any emails, policies [sic], procedures and memos that relate to how the NDIA views the funding of primary and secondary [sic] impairments [sic] relates the [sic] the NDIA act."*

On 13 September 2021, we sent you an email advising you that your request does not satisfy section 15(2)(b) of the FOI Act, and asked you to provide further information to enable us to identify the documents you are seeking access to. We did not receive a response.

On 17 September 2021, we sent you an email initiating a request consultation process under section 24AB of the FOI Act. We advised you that we intended to refuse your request on the grounds that your request did not provide enough information about the documents you were seeking access to, and that to process it would be an unreasonable burden on agency resources. We provided you with an opportunity to revise the scope of your request to remove the grounds for a practical refusal.

On 28 September 2021, you revised the scope of your request to the following:

*"I wish to revise my request to the date range of January 2018- December 2020"*

#### Decision on access to documents

I am authorised to make decisions under section 23(1) of the FOI Act. My decision on your request and the reasons for my decision are set out below.

Delivered by the

National Disability  
Insurance Agency

I have decided to refuse your request in accordance with section 24AA(1)(b) of the FOI Act, on the grounds that you have failed to sufficiently identify the documents you are seeking access to.

In reaching my decision, I took into account the following materials:

- your correspondence outlining the scope of your request
- the emails we sent to you on 13 and 17 September 2021, and your revised scope email
- the FOI Act
- the FOI Guidelines
- consultation with relevant NDIA staff
- the NDIA's operating environment and functions.

### **Practical refusal reason**

A practical refusal reason exists in relation to a request for documents if the request does not satisfy the requirement in section 15(2)(b) of the FOI Act.

Following the request consultation process outlined above, I am satisfied that a practical refusal reason still exists in that you did not sufficiently refine the scope of your request to provide enough information for us to identify the documents you are seeking access to. Accordingly, I have decided to refuse your request under section 24(1) of the FOI Act.

It remains open to you to submit further freedom of information requests in the future. However, the Agency recommends that you consider the below prior to making a new request:

- Limiting your request to particular documents or document types
- Providing a smaller period of time that your request relates to
- Identifying a particular issue or event that the request relates to.

Alternatively, you may wish to contact the FOI Team directly on [foi@ndis.gov.au](mailto:foi@ndis.gov.au), or advise a convenient time for us to contact you, to engage assistance in making a fresh request and developing a scope that does not attract a practical refusal reason under section 24AA of the FOI Act.

### **Rights of review**

Your rights to seek a review of my decision, or lodge a complaint, are set out at **Attachment A**.

Should you have any enquiries concerning this matter, please do not hesitate to contact me via email at [foi@ndis.gov.au](mailto:foi@ndis.gov.au).

Yours sincerely



### **Carolyn**

Assistant Director FOI  
Parliamentary, Ministerial and FOI Branch  
Government Division

## 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  
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.