

23 December 2021

By email: foi+request-8132-4d19d035@righttoknow.org.au

Dear Jayne W

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 25 November 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:

*Please provide the following Total amount \$ paid out of NDIS plans in FY 2021
Percentage and \$ of this amount paid by NDIS to unregistered NDIS providers Total
amount of \$ paid out of NDIS plans in FY 2021 for personal care / self care -
standard Percentage and \$ of this amount paid by NDIS to unregistered providers
Total amount of \$ paid out of NDIS plans in FY2021 for high intensity level supports
Percentage and \$ of this amount paid by NDIS to unregistered providers*

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.

In relation to the total amount paid out for NDIS Plans in financial year 2021, this information is publicly available in the Quarter 1 of Year 9 NDIS Quarterly Report (September 2021), which is available at the following link: <https://www.ndis.gov.au/about-us/publications/quarterly-reports>. The relevant information is found on page 96 of the Report. Accordingly, I have not considered this part of your request in my decision.

I have decided to refuse access to the remainder of your request under section 24A of the FOI Act. The reasons for my decision are set out below.

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

- your correspondence outlining the particulars of your request
- the FOI Act
- the FOI Guidelines published under section 93A of the FOI Act
- consultation with relevant officers of the NDIA.

Reasons for decision**Refuse a request for access (section 24A)**

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document cannot be found or does not exist.

I have consulted with NDIA staff who could be expected to identify documents that may fall within the scope of your request. These consultations have revealed that the NDIA is not in possession of documents matching the scope of your request. This is because prior to June 2021, plan managers were not required to obtain the ABN of the provider they were using. Since June 2021, the provider's ABN is collected to determine whether the provider is registered or not. This means that the Agency holds no data on whether the providers were registered or not, prior to June 2021.

In addition, the Agency does not separately record payments for "personal care/self-care" or "high intensity level supports", so we are unable to report on these aspects.

I am satisfied that all reasonable steps have been taken to locate the documents you have requested and that the documents do not exist. I have, therefore, decided to refuse access to your request in accordance with section 24A(1)(b)(ii) 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 by email at foi@ndis.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peter', followed by a horizontal line.**Peter**

Senior Freedom of Information Officer
Parliamentary, Ministerial & 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 or sent by post to:

Freedom of Information Section
Parliamentary, Ministerial & FOI Branch
Government & ILC Programs 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 Division.