



Ms Karen Reynolds

By email: foi+request-8366-04a9f83a@righttoknow.org.au

Dear Ms Reynolds

Freedom of Information (FOI) Request No. (19) 21/22-3

1. I refer to your correspondence received by the NDIS Quality and Safeguards Commission (the NDIS Commission) on 5 February 2022, in which you requested access under the *Freedom of Information Act 1982* (the FOI Act) to:

"... the number of workers on the ndis screening list who have;

- died since 1st Jan, 2020 to today's date

- died of Covid since the same date to today's date."

2. On 22 February 2022, you confirmed that when using the expression "*ndis screening list*" you were referring to the NDIS Worker Screening Database.
3. I am authorised to make decisions under section 23(1) of the FOI Act and my decision regarding your request and the reasons for my decision are set out below.

Decision on access to documents

4. Section 24A(1)(b)(ii) of the FOI Act provides that an agency may 'refuse' a request for access to a document where it is satisfied that the document does not, in fact, exist. That is the situation in this case. I have therefore decided to refuse the request for access to documents under section 24A(1)(b)(ii) of the FOI Act.

5. In reaching my decision, I have taken the following material into account:

- your correspondence dated 5 February 2022 outlining the particulars of your request for information under the FOI Act and your clarifying correspondence of 22 February 2022;
- information and advice from NDIS Commission officers about whether the information sought is held by the NDIS Commission and the searches undertaken by them to locate a document containing that information;
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Reasons for decision

6. An agency or Minister may refuse a request for access to a document under section 24A(1) of the FOI Act if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

- (i) is in the agency's or Minister's possession but cannot be found; or*
- (ii) does not exist.*

7. I have also considered section 17 of the FOI Act which requires an agency to produce a written document containing information that is stored electronically and not in discrete written form where:
 - a. the agency could do so by using a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; and
 - b. it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded.
8. I am satisfied that the NDIS Commission has taken all reasonable steps to determine whether the relevant document including the requested information exists and if so, to find it. I am satisfied that searches conducted by NDIS Commission staff have not located the information (or documents) within the scope of your request and I am satisfied that the document does not exist.
9. I am also satisfied based on advice of NDIS Commission staff that the NDIS Commission does not store the information sought in your request in an electronic format and therefore the NDIS Commission is unable to retrieve that information using a computer or other equipment for retrieving or collating stored information to produce a written document containing the information you seek in your request.
10. The NDIS Commission does not hold the information you are seeking and I note it is not required to collect or store this information.
11. I have therefore decided to refuse your request for access pursuant to section 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.

Rights of review

12. I have set out your rights to seek a review of my decision at **Attachment A**.
13. Should you have any enquiries concerning this matter, please contact the FOI team by email at FOI@ndiscommission.gov.au.

Yours sincerely



Philip Halton
Branch Head Operations, North Central West Region
NDIS Quality and Safeguards Commission

7 March 2022

Your rights of review

Internal review

Section 54 of 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 format is required but it will help the new decision-maker if you clearly state why you consider the decision should be reviewed. Please send your application by post or email as follows:

Post: FOI Coordinator
NDIS Quality and Safeguards Commission
PO Box 210
PENRITH NSW 2750

Email: FOI@ndiscommission.gov.au

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 AIC 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 AIC 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 AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218
SYDNEY NSW 2001

Phone: 1300 363 992 or +61 2 9284 9749 (international)

Email: enquiries@oaic.gov.au

In person: Level 3
175 Pitt Street
SYDNEY NSW 2000