

Our reference: FOI 21/22-1543



GPO Box 700
Canberra ACT 2601
1800 800 110

ndis.gov.au

6 June 2022

SH

By email: foi+request-8864-7dc0bea7@righttoknow.org.au

Dear SH

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 7 May 2022, in which you requested access to documents held by the National Disability Insurance Agency (NDIA), under the *Freedom of Information Act 1982* (FOI Act).

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

Scope of your request

You have requested access to the following documents:

“... the most recent data available on the number of participants and applicants supported by an independent disability advocate during internal reviews and external appeals of reviewable decisions.”

Please provide data on:

1. number of internal reviews conducted in the latest reporting period; 2. number of external appeals conducted in the latest reporting period; 3. of the internal reviews, the number of individuals supported by an independent advocate; and, 4. of the external appeals, the number of individuals supported by an independent advocate.”

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.

I have decided to:

- a. refuse your request for access under section 24A of the FOI Act, and
- b. provide you with a link to a publicly available document which may be considered to be relevant to points 1 and 2 of the scope of your request.

The reasons for my decision are set out below.

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

- your correspondence outlining the scope of your request
- the FOI Act
- the FOI Guidelines published under section 93A of the FOI Act
- consultation with relevant officers of the NDIA
- the NDIA’s operating environment and functions.

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 made enquiries with NDIA staff from relevant line areas who could be expected to be able to identify documents within the scope of your request. These enquiries have revealed that the NDIA is not in possession of any internal documents matching the scope of your request.

In accordance with section 17 of the FOI Act, I have considered whether it would be possible for a new document to be created using the NDIA's computer systems. Having considered the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), I am satisfied the obligation to create a document under section 17(1) does not apply to your request. This is because the relevant line area has advised that the data you have requested access to is not captured within NDIS business systems. This means that the NDIA does not possess the completed data in relation to the number of participants and applicants supported by independent disability advocates either during internal reviews or external appeals. For these reasons, the total amounts are not contained within a document that is currently in the possession of the NDIA, and the completed data is unable to collated into a document under section 17(1).

However, the relevant line area has advised that information and data contained within the latest NDIA Quarterly Report, which is publicly available, may assist you in relation to the kind of information you are seeking in points 1 and 2 of your request.

I am satisfied that all reasonable steps have been taken to locate the information you have requested and that such information does not exist within any internal documents. I have, therefore, decided to refuse access to your request in accordance with section 24A(1)(b)(ii) of the FOI Act.

Publicly available documents

Notwithstanding my decision to refuse your request under section 24A of the FOI Act, I have decided to provide you with a link to a publicly available document that is considered to be relevant to points 1 and 2 in the scope of your request. This publically available document was identified via our consultations with the relevant NDIA line areas. Please find the relevant link in **Attachment A** below.

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



Erin

Senior Freedom of Information Officer
Parliamentary, Ministerial & FOI Branch
Government Division

Schedule of Documents for FOI 21/22-1543

Document number	Description	Access	Comments
1	NDIS Quarterly Report to disability ministers Date: 31 March 2022	PUBLICLY AVAILABLE	Please refer to pages 63 and 65-68 of this document. Publicly available link: Quarterly Reports NDIS – then go to: Report to disability ministers for Q3 of Y9 Full report

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 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.