

Our reference: FOI 21/22-1730



GPO Box 700
Canberra ACT 2601
1800 800 110

ndis.gov.au

4 August 2022

SH

By email: foi+request-8992-9f1cd47f@righttoknow.org.au

Dear SH

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 7 June 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:

...how much money was spent on private law firms representing the Agency in the AAT during the following periods:

- 1. 2013 financial year*
- 2. 2014 financial year*
- 3. 2015 financial year*
- 4. 2016 financial year*
- 5. 2017 financial year*
- 6. 2018 financial year*
- 7. 2019 financial year*
- 8. 2020 financial year*
- 9. 2021 financial year*

Extension of time

On 28 June 2022, you agreed to a 30-day extension of time under section 15AA of the FOI Act, making 6 August 2022 the new date to provide you with a decision on access.

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.

Section 17(1)(c) of the FOI Act provides that an agency can produce a written document containing the requested information, by the use of a computer or other equipment that is ordinarily available for retrieving or collating stored information. We have been able to produce a document containing some of the information you requested. I have, therefore, treated your request as if it were a request for access to this document, in accordance with section 17(1)(c) of the FOI Act.

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

I have decided to refuse access to part of your request under section 24A of the FOI Act.

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

- 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 published under section 93A of the FOI Act
- consultation with relevant NDIA staff
- 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.

The relevant line areas have conducted searches of the NDIA's document management systems and made enquiries with NDIA staff who could be expected to identify documents that fall within the scope of your request. These enquiries have revealed that the NDIA is not in possession of documents matching the 2013-2018 financial years. This is because prior to the 2019 financial year, the Agency was not required to provide a breakdown of spending to separate out the amount spent on private law firms for AAT matters.

I am satisfied that all reasonable steps have been taken to locate the documents you have requested and that the documents cannot be found or does not exist. I have, therefore, decided to refuse access to the 2013-2018 financial years, in accordance with section 24A(1)(b)(ii) of the FOI Act.

Release of documents

The document for release, 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.

Yours sincerely



Carolyn

Assistant Director FOI
Parliamentary, Ministerial & FOI Branch
Government Division

Schedule of Documents for FOI 21/22-1730

Document number	Page number	Description	Access Decision	Comments
1	1	Money Spent on Private Lawyers for AAT Not Dated	FULL ACCESS	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 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.