

Our reference: FOI 22/23-0345



GPO Box 700
Canberra ACT 2601
1800 800 110

ndis.gov.au

24 October 2022

Christina Torres

By email: foi+request-9300-770be9b1@righttoknow.org.au

Dear Christina Torres

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 23 August 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:

Please provide a breakdown of all key decision by their tertiary qualifications, this includes decision makers that hold no formal qualifications.

For clarity, a key decision maker in this request refers to anyone who signs off on a decision relating to a participant.

Extension of time

On 23 September 2022, we applied to the Office of the Australia Information Commissioner (OAIC) for an extension of time under section 15AB of the FOI Act, which if granted, would make the date to provide you with a decision on access 24 October 2022.

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 refuse your request for access 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 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, along with the relevant line areas have conducted searches of the NDIA's documents management systems and made enquiries with NDIA staff. These searches have revealed that the NDIA is not in possession of documents matching the scope of your request.

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. Therefore, in accordance with section 17 of the FOI Act, I have considered whether it would be reasonable for a new document to be created for the purposes of your FOI request. The line areas have advised that in order to obtain the data so that it may be collated into a document, a very high number of consultations would be required to be undertaken. Accordingly, the collection of such data would likely require many hours of work, and would affect the ability of systems and staff to maintain usual operations. In addition, the line areas have advised that the information you are seeking access to contains many sensitivities regarding the personal information of NDIS staff, which would require careful consideration and likely further consultation with relevant line areas and third parties, adding significant processing time to your request.

Paragraph 3.116 of the FOI Guidelines provides that in determining whether processing the request would substantially and unreasonably divert the Agency's resources, I am required to have regard to the resources that would have to be used for the following:

- identifying, locating or collating the documents within the Agency
- examining the documents
- deciding whether to grant, refuse or defer access to a document
- consulting with other parties
- redacting exempt material from the documents
- making a copy or an edited copy of the document
- notifying the decision on the access request.

Paragraphs 3.117 and 3.118 of the FOI Guidelines outlines other factors that may be relevant in deciding if a practical refusal reason exists:

- the staffing resources available to process an FOI request
- the impact that processing a request may have on other work in the Agency
- any reasons you have provided for requesting access.

Having considered the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), I have decided that in accordance with section 17(2) of the FOI Act, the production of a written document containing the information you are seeking would substantially and unreasonably divert the resources of the Agency from its other operations. As such, the Agency is not required to comply with section 17(1) of the FOI Act.

With reference to the above considerations, 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 black ink, appearing to be the name 'Erin', written in a cursive style.

Erin

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 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.