

Our reference: FOI 23/24-1123



GPO Box 700
Canberra ACT 2601
1800 800 110

ndis.gov.au

8 August 2024

Scott Dwyer

By email: foi+request-11324-b274da4b@righttoknow.org.au

Dear Scott Dwyer

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 17 April 2024, 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:

...Latrobe Uni - Department of Psychology and Public Health I am seeking the costings amount the NDIA payed to Latrobe Uni for services in reference to receiving the report dated 7/8/2019 Titled Key Terms For Animals in Disability Assistance Roles , Authored by Dr Tiffani Howell

Timeframe

We have been experiencing processing delays and were not able to provide our decision to you by the due date. Consequently, your application was regarded as a deemed refusal under section 15AC of the FOI Act.

I note this access decision is being released to you after the due date and I apologise for the delay. In the interests of not causing any further delays, I have decided not to apply for an extension to the processing period from the Office of the Australian Information Commissioner (OAIC) under section 15AC of the FOI Act, but I note that you will still have external review rights on this decision.

Search efforts

Searches for documents were conducted by the Chief Financial Officer division and I confirm 2 documents responsive to your application were located.

Third Party Consultation

On 9 July 2024, I advised you that I had decided it was necessary to consult with a third-party who I reasonably believed might have concerns about the disclosure of some of the matter contained within the documents. I also sought your consent to the release of your name as applicant to the third party, however, you did not agree.

I note that I proceeded with the third party consultation without the disclosure of your name.

Result of Third-Party Consultation

On 24 July 2024, I received a response from the third party advising they had no objections to the disclosure of the documents provided for consultation.

Decision on access to documents

I have decided to grant access to 2 documents in part.

I made this decision as an authorised FOI decision maker under section 23(1) 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
- factors relevant to my assessment of whether or not disclosure would be in the public interest

Reasons for decision

Personal privacy (section 47F)

Section 47F of the FOI Act conditionally exempts documents if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

I have identified material in the documents falling within scope of your request which contains personal information of third parties.

Under section 47F(2) of the FOI Act, in determining whether the disclosure of documents would involve unreasonable disclosure of personal information, regard must be had to:

- a. the extent to which the information is well known;
- b. whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- c. the availability of the information from publicly accessible sources; and
- d. any other matters that the agency considers relevant.

Against these criteria, I take the view that:

- a. it is apparent from the information that an individual is identifiable; and
- b. the information referred to above is not readily available from publicly accessible sources

With reference to the assessment above, it would be unreasonable to disclose publicly this personal information and therefore the documents are conditionally exempt under section 47F (1) of the FOI Act.

Business Information (section 47G)

Some documents falling within scope of your request contain information that is conditionally exempt from release under section 47G of the FOI Act.

Section 47G of the FOI Act conditionally exempts a document if its disclosure would disclose information concerning a person in respect of their business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in which the disclosure of the information:

- would or could reasonably be expected to, unreasonably affect that person adversely in respect of their lawful business or professional affairs of that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or
- could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

The information that is conditionally exempt includes sensitive business details of a third party that were provided to the Agency in confidence with an expectation that they would not be disclosed further. I note that the disclosure of this information would unreasonably affect the third party's business affairs, in that it would infringe on confidentiality agreements and could unfairly affect the lawful operations of their business.

I am satisfied that the disclosure of this information could unreasonably and adversely affect the business affairs of a third party and affect any potential or current business relationship with the Agency.

Public interest considerations – section 47F and 47G

Section 11A(5) of the FOI Act provides that access to a document covered by a conditional exemption must be provided unless disclosure would be contrary to the public interest.

In favour of disclosure, I have considered the factors outlined in section 11B(3) of the FOI Act, and I have determined that disclosure of the relevant information in Documents 1 and 2 would promote the objects of the FOI Act by providing access to documents held by the government.

Against disclosure, I consider that disclosure of the relevant information in Documents 1 and 2:

- would not contribute to the publication of information of sufficient public interest to justify the likely harm caused by release
- would not enhance Australia's representative democracy in the ways described in section 11B(3) of the FOI Act
- would not inform any debate on a matter of public importance, or promote oversight of public expenditure.

While there is limited public interest in the disclosure of information conditionally exempt under section 47F and 47G of the FOI Act, the harm that would result from disclosure is that it could reasonably be expected to:

- affect an individual's right to privacy by having their personal information in the public domain
- compromise the business or professional affairs of a third party and interfere with their ability to undertake their lawful business.

In summary, I am satisfied that the factors against disclosure of the information outweigh the factors in favour of disclosure and that, on balance, it would be contrary to the public interest to release this information to you. Accordingly, I have decided that the relevant information in Documents 1 and 2 is exempt under sections 47F and 47G of the FOI Act.

Release of documents

The documents for release, as referred to in the Schedule of Documents at **Attachment A**, are 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

A handwritten signature in cursive script that reads "Wendy".

Wendy (WNN633)

Senior Freedom of Information Officer
Complaints Management & FOI Branch
General Counsel Division

Schedule of Documents for FOI 23/24-1123

Document number	Page number	Description	Access Decision
1	1	La Trobe University Tax Invoice Date: 5 June 2018	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy s47G – business information
2	2	La Trobe University Tax Invoice Date: 30 September 2019	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy s47G – business information

Your review rights

As this matter was a deemed refusal, internal review of this decision is not an option. However, if you have concern with any aspect of this decision, please contact the NDIA FOI team by email foi@ndis.gov.au or by post:

Freedom of Information Section
Complaints Management & FOI Branch
General Counsel Division
National Disability Insurance Agency
GPO Box 700
CANBERRA ACT 2601

Review by the Office of the Australian Information Commissioner

The FOI Act 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.