

25 July 2024

Shirley Humphris

**By email:** [foi+request-11453-bbc8bca8@righttoknow.org.au](mailto:foi+request-11453-bbc8bca8@righttoknow.org.au)

Dear Shirley Humphris

### **Freedom of Information request - Notification of Decision**

Thank you for your correspondence of 26 May 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 notify you of my decision on your application.

#### **Scope of your request**

As per your email of 19 June 2024, you have requested access to the following documents held by the NDIA:

Jan 1<sup>st</sup> 2022 – 26 May 2024 (date of application)

#### **Part 1**

1. *The number of participants who have claimed funding for the purchase of birdseed.*
2. *The number of participants who have claimed funding for the purchase of birdseed for an assistance animal.*
3. *The number of these claims disputed by the NDIA.*
4. *The number of these claims in respect of which a debt was raised by the NDIA.*
5. *The number of these claims that resulted in a change to the management of an NDIS plan.*

#### **Part 2**

1. *The number of participants who have claimed funding for the purchase of a mobile phone.*
2. *The number of these claims disputed by the NDIA.*
3. *The number of these claims accepted by the NDIA as a reasonable and necessary support.*
4. *The number of these claims in respect of which a debt was raised by the NDIA.*
5. *The number of these claims that resulted in a change to the management of an NDIS plan.*

#### **Part 3**

1. *The number of participants who have claimed funding for the purchase of treadmills.*
2. *The number of these claims disputed by the NDIA.*
3. *The number of these claims accepted by the NDIA as a reasonable and necessary support.*
4. *The number of these claims in respect of which a debt was raised by the NDIA.*
5. *The number of these claims that resulted in a change to the management of an NDIS plan.*

#### **Part 4**

1. *The number of participants who have claimed funding for the purchase of TV antennae.*
2. *The number of these claims disputed by the NDIA.*
3. *The number of these claims accepted by the NDIA as a reasonable and necessary support.*
4. *The number of these claims in respect of which a debt was raised by the NDIA.*
5. *The number of these claims that resulted in a change to the management of an NDIS plan.”*

The purpose of this letter is to notify you of my decision on your application.

#### **Extension of time**

On 17 June 2024, you agreed to a 30-day extension of time under section 15AA of the FOI Act. Taking this agreed extension into account, I have recalculated the new due date and advise this is 25 July 2024, not 24 July 2024 as previously noted.

#### **Search efforts**

Searches for documents were conducted by the NDIA's Analytics, Data and Actuarial Division (ADA) and I have been advised that no responsive documents were located.

#### **Decision on access to documents**

In summary, I have decided to refuse access to the information you have requested on the basis that the documents are non-existent or unlocatable pursuant to section 24A of the FOI Act.

I made this decision as an authorised FOI decision maker under section 23(1) of the FOI Act.

A detailed statement of reasons explaining my decision is **Attachment A** to this decision notice.

#### **Additional Information**

I acknowledge your comments in your email dated 18 June 2024, referencing the statements made by John Dardo as not being substantiated when mentioned in Estimates. For your convenience, I have undertaken research and confirm that the approved Question on Notice (QoN) response is due on 25 July 2024, and this will be published on the parliamentary website under the respective committee – being the Senate Community Affairs Legislative Committee - please see link below to assist you with locating this.

[Community Affairs – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au)

#### **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](mailto:foi@ndis.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read "Jennifer". The signature is written in a cursive style with a large, looping initial "J".

**Jennifer**  
Senior Freedom on Information Officer  
Government, Risk & Legal – Complaints Management and FOI  
General Counsel Division

**Statement of Reasons  
FOI Application FOI 23/24-1302**

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**Refused information**

I have refused access to the information you have requested on the basis that the documents are unlocatable or do not exist under section 24A of the FOI Act.

*Relevant law*

Under the FOI Act, a person has a right to be given access to documents of an agency. However, the right of access is subject to limitations, including grounds for refusal of access. Section 24A of the FOI Act states 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.

**Searches for documents**

After reviewing the scope of your FOI application, I determined that I needed to make enquiries to assess whether the documents you requested existed.

On 5 July 2024, ADA advised that there is no structured data to answer your questions. I sought further clarity from ADA as to the meaning of their advice and I was advised the following:

*Whereas structured' data means that we have 'summarisable' data that have a common 'identifier', 'unstructured' data, on the other hand, means we do not have summarisable data. For example, the items listed in your scope are not listed in the support category and so we are not able to summarise these supports using the support line-item code.*

I was further advised that NDIA systems are unable to systematically capture or identify the number of individual participants who claimed the items referenced in your scope. While this information may appear in the receipts uploaded by participants, (noting not all receipts are required to be provided); or by bank account transaction descriptions, to be able to identify these would require an officer or officers to go through each transaction record manually with a key word search. It is important to note that as the agency receives in excess of 400,000 claims a day, this would not be feasible.

**Conclusion**

Based on the information I have received from the subject matter experts, I consider there are reasonable grounds to be satisfied that the documents are unlocatable or do not exist.

I therefore refuse access to the information under section a 24A of the FOI Act on the basis that the information does not exist.

## **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](mailto: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](http://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](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Email: [enquiries@oaic.gov.au](mailto: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](mailto: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