

26 July 2024

Shirley Humphris

**By email:** [foi+request-11569-fe4dc116@righttoknow.org.au](mailto:foi+request-11569-fe4dc116@righttoknow.org.au)

Dear Shirley Humphris

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

Thank you for your correspondence of 26 June 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**

You have requested access to the following documents:

- *“documents showing evidence of claims of cuddle therapy or crystal therapy over the 2023/4 financial year. Please include number of claims if any and cost.”*

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

#### **Search efforts**

Searches for documents were conducted by the NDIA’s Analytics, Data and Actuarial Division (ADA) and 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.

#### **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 of Information Officer  
Government, Risk & Legal – Complaints Management and FOI  
General Counsel Division

**Statement of Reasons  
FOI Application FOI23/24-1395**

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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 with the internal business line area to assess whether the documents you requested existed.

I was advised by ADA that there is no structured data available to be extracted in relation to crystal therapy or cuddle therapy. This is because we are only able to extract data against support line items listed in the NDIS Support Catalogue. For your convenience, I have provided you the link to the pricing arrangements for the NDIS. You will also be able to access additional links to the most current pricing arrangements and pricing limits currently in effect.

[Pricing arrangements | NDIS](#)

I acknowledge that there may be occasions where a receipt references cuddly therapy or crystal therapy. To locate these if they existed would require an officer of the NDIA to manually review each of the 400,000 plus receipts received in a day. I note this is not feasible and is unlikely to be an accurate reflection of spending or claims made.

On the basis of the information received from subject matter experts, and I am satisfied that the information to which you seek access to is not locatable and or does not exist.

*Conclusion*

For these reasons, I consider there are reasonable grounds to be satisfied that the documents do not exist.

I therefore refuse access to the information under section a 24A of the FOI Act on the basis that it 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  
Complaints Management and 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 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