

12 September 2024

Emily Lacey

By email: foi+request-11608-2896f46d@righttoknow.org.au

Dear Emily Lacey

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 2 July 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:

“A list of Technical Advisory Branch "Research Request" document titles was released under FOI 23/24-1189. I am requesting a copy of the following documents from that list:

- 1. Air Conditioning*
- 2. Thermoregulation dysfunction and Seizures*
- 3. Air Conditioning Maintenance Costs*
- 4. Air conditioning and thermoregulation”*

Extension of time

On 28 August 2024, you agreed to a 10-day extension of time under section 15AA of the FOI Act, making 12 September 2024 the new date to provide you with a decision on access.

Search efforts

Searches for documents were conducted by the Technical Advisory Branch (TAB) and 1 document responsive to your application was located. 1 document was also located on the

NDIA FOI disclosure log as being previously released; these documents are being provided as part of an administrative release. I also note that TAB have confirmed some of the documents requested are part of a single document, namely, '*Air conditioning*', '*Air conditioning maintenance costs*', and '*Air conditioning and Thermoregulation*'.

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 grant access to 1 document in part.

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
- 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 a document 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 the names and/or contact details of NDIA staff.

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 is therefore conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations – section 47F

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.

I have not considered any of the irrelevant factors as set out under section 11B(4) of the FOI Act in making this decision.

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 Document 1 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 Document 1:

- 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 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

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 Document 1 is exempt under section 47F 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



Kylie (KJB737)
Senior Freedom of Information Officer
Complaints Management & FOI Branch
General Counsel Division

Schedule of Documents for FOI 24/25-0008

Document number	Page number	Description	Access Decision
1	1-5	Technical Advisory Branch Research Request - Thermoregulation Dysfunction and Seizures	PARTIAL ACCESS Exemption claimed: s47F – personal privacy

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
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 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.