

3 December 2024

Bob Buckley

By email: foi+request-11756-1af0d758@righttoknow.org.au

Dear Bob Buckley

Freedom of Information request — Internal Review Decision

Thank you for your correspondence of 13 September 2024, in which you requested an internal review of the decision for your request FOI 24/25-0103, made 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 for internal review.

Original Decision

On 6 September 2024, you were notified of the NDIA's decision on request for information, at **Attachment B**. The decision informed you that the NDIA does not hold any documentation matching the scope of your request.

In the original decision, documents were unable to be located enacting section 24A of the FOI act.

Internal Review

You have requested an Internal Review on the following grounds:

"I am writing to request an internal review of National Disability Insurance Agency's handling of my FOI request 'NDIA autism stakeholder subcommittee'. Recently, Dr James Morton, founder of AEIOU not-for-profit, included the following as part of his NDIS history (as it relates to autism):

2014

The NDIA engaged an NDIS Stakeholder Reference Group. A series of meetings were conducted, where there was an acknowledged lack of awareness by participants with a background in early childhood of the differences between children with level 3 autism and children with intellectual impairment without autism.

A subgroup, including Professor Sylvia Rodger AM (Autism CRC, replaced by Associate Professor Deb Keen on 20 June 2016 due to health reasons), Joan McKenna Kerr (Autism Association of Western Australia), and Associate Professor James Morton (author of this paper), were elected by the Stakeholder Reference Group to continue to work with the NDIA. This committee never met and is yet to be contacted by the agency.*

Clearly, others have indicated the existence of "an NDIS Stakeholder Reference Group". This clearly predates the internal (and dysfunctional) the Co-design and engagement branch who you contacted. I suggest you need to look deeper into the NDIA's records for the information I requested.

A full history of my FOI request and all correspondence is available on the Internet at this address:

<https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.righttoknow.>

org.au%2Frequest%2Fndia_autism_stakeholder_subcommi&data=05%7C02%7Cfoi%40ndis.gov.au%7C5cfd6afe174040b70b3e08dcd37b5b10%7Ccd778b65752d454a87cfb9990fe58993%7C0%7C0%7C638617773984691975%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikk1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=m5bucAqi%2Fu86NPCX6kgZ0NaQPpp6H4PCvfh85A2HBG0%3D&reserved=0

Relevant consideration

Your request for review questions the totality of documents provided and further requests that you be provided any additional relevant documents that may not have been included in your original decision bundle.

I am authorised to make internal review decisions under section 54C of that Act. As a review officer, I can decide all issues raised by an applicant's FOI request and exercise all the powers available to the original decision maker. I am however, not bound in any way by the Original Decision and am required to make a fresh decision.

Search efforts

Searches for documents were conducted by the following NDIA teams:

- Co-design and Engagement Division
- Children's Taskforce

As a result of these searches, I can confirm that no additional documents were identified relevant to the scope of your request.

Decision on your request for Internal Review

I have reviewed the original decision, and I have decided to affirm the original decision being to refuse access under section 24A of the FOI act.

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.

In making my decision, I have considered the following:

- your correspondence in relation to your original request
- the Original Decision dated 6 September 2024.
- your grounds for seeking an internal review of Original Decision
- the NDIA's operating environment and functions
- the FOI Act
- the FOI Guidelines published under section 93A of the FOI Act

Rights of Review

I have set out your rights to seek a review of my decision at **Attachment A**

If you would like to clarify any aspects of my decision, please do not hesitate to contact me via email as foi@ndis.gov.au.

If there is further information you wish to access, I invite you to make a fresh FOI request outlining the kind of information you wish to access.

If you have any questions in regards to this request, please contact the FOI Team on the above contact details.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Cooper', written in a cursive style.

Cooper (CHH674)
Senior Freedom of Information Officer
Complaints Management and FOI Branch
General Counsel Division

Your rights of review

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