

15 October 2024

Sally R

**By email:** [foi+request-11868-eb8e04a7@righttoknow.org.au](mailto:foi+request-11868-eb8e04a7@righttoknow.org.au)

Dear Sally R

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

Thank you for your correspondence of 10 August 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:

*“Research nursing scope of practice and competencies  
Respiratory supports research for practice guide development  
Care/Supervision hours for a 3.5 yr. old and 2 yr. old.  
Air Conditioning  
Expected abilities and challenges for children under 5  
Air Conditioning Maintenance Costs  
Recreational Supports - Barriers to Participation (People with a disability VS People without a disability)  
Brain Training for ASD  
Ratios of direct support  
Parental responsibility for teenage parents  
Functional development from school-age to late teens  
Uninterrupted power supply  
Melillo method  
Air conditioning and thermoregulation”*

A copy of the following documents have been previously released via the freedom of information disclosure log and have therefore been provided to you as an administrative release via email on **15 October 2024**:

- **FOI 24/25-0145** – ‘Care/Supervision hours for a 3.5 yr. old and 2 yr. old’, ‘Expected abilities and challenges for children under 5’
- **FOI 24/25-0152** - ‘Functional development from school-age to late teens (Middle childhood and adolescent development)’

- **FOI 24/25-0013** – ‘Air-Conditioning’, ‘Air-Conditioning Maintenance Costs’, ‘Air Conditioning Thermoregulation’ and, ‘Recreational supports: barriers to participation (people with a disability vs people without a disability)’

I note that TAPIB have confirmed some of the documents requested are part of a single document, namely, ‘Air conditioning’, ‘Air conditioning maintenance costs’. Details of which documents they relate to have been provided in the schedule of documents at **Attachment A**.

Further, no document was found corresponding to the requested item, ‘Brain Training for ASD Ratios of direct support’ or ‘Uninterrupted Power Supply’. Our records show that this task was withdrawn before a research paper was completed.

### **Extension of time**

On 20 August 2024, you agreed to a 15-day extension of time under section 15AA of the FOI Act, making 24 September 2024 the new date to provide you with a decision on access.

### **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.

### **Search Efforts**

Searches for documents were conducted by the Technical Advisory Branch (TAB) and 5 documents responsive to your application were located. The purpose of these documents was to provide information to assist advisors in the provision of advice to delegates. Please be advised that the documents in their current form may not reflect current processes or understanding of subject matter within TAPIB.

TAPIB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees.

I have decided to grant partial access to 5 documents.

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 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 that relates to the names and contact details of NDIA staff members.

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 Documents 3, 4 and 5 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 3, 4 and 5:

- 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 Documents 3, 4, and 5 is exempt under section 47F 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](mailto:foi@ndis.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to be the initials 'BJL' with a stylized flourish.

**Billie (BLN494)**  
**Senior Freedom of Information Officer**  
Complaints Management & FOI Branch  
General Counsel Division

## Schedule of Documents for FOI 24/25-0189

Document number	Page number	Description	Access Decision	Comments
1	1-3	<i>Definitions of nursing levels (Research nursing scope of practice and competencies)</i>	<b>FULL ACCESS</b>	<ul style="list-style-type: none"> <li>- The purpose of this document was to provide information to assist advisors in the provision of advice to delegates.</li> <li>- May not reflect current processes or understanding of subject matter within TAPIB</li> <li>- TAPIB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees</li> <li>- TAPIB researchers are not delegates</li> </ul>
2	1-3	<i>Nursing Workforce (Research nursing scope of practice and competencies)</i>	<b>FULL ACCESS</b>	<ul style="list-style-type: none"> <li>- The purpose of this document was to provide information to assist advisors in the provision of advice to delegates.</li> <li>- May not reflect current processes or understanding of subject matter within TAPIB</li> <li>- TAPIB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees</li> <li>- TAPIB researchers are not delegates</li> </ul>
3	1-21	<i>Respiratory Support Practice Guidance (Respiratory supports)</i>	<b>PARTIAL ACCESS</b>  Exemption claimed: s47F – personal privacy	<ul style="list-style-type: none"> <li>- The purpose of this document was to provide evidence to inform the development of practice guidance.</li> <li>- May not reflect current processes or understanding of subject matter within TAPIB</li> </ul>

Document number	Page number	Description	Access Decision	Comments
		<i>research for practice guide development)</i>		<ul style="list-style-type: none"> <li>- TAPIB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees</li> <li>- TAPIB researchers are not delegates</li> </ul>
4	1-7	<i>Informal support for adolescent parents (Parental responsibility for teenage parents)</i>	<p><b>PARTIAL ACCESS</b></p> <p>Exemption claimed: s47F – personal privacy</p>	<ul style="list-style-type: none"> <li>- The purpose of this document was to provide information to assist advisors in the provision of advice to delegates.</li> <li>- May not reflect current processes or understanding of subject matter within TAPIB</li> <li>- TAPIB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees</li> <li>- TAPIB researchers are not delegates</li> </ul>
5	1-7	<i>Research Paper - Benefits of foot orthotics for ASD</i>	<p><b>PARTIAL ACCESS</b></p> <p>Exemption claimed: s47F – personal privacy</p>	<ul style="list-style-type: none"> <li>- The purpose of this document was to provide information to assist advisors in the provision of advice to delegates.</li> <li>- May not reflect current processes or understanding of subject matter within TAPIB</li> <li>- TAPIB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees</li> <li>- TAPIB researchers are not delegates</li> </ul>

## **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](mailto: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](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.