

20 December 2024

Gina
Right to Know

By email: foi+request-11914-e071fdf4@righttoknow.org.au

Dear Gina

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 17 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:

*“...Please provide me the following documents from a prior FOI request?
As well as other documents prepared by Redbridge Group that the NDIA has received since July 2023.*

Details about the request:

23/24-0567

15/03/2024

Documents prepared for the NDIA by Redbridge Group between 1 February 2023 and 1 July 2023. Freedom of Information Team of the Agency at foi@ndis.gov.au 2 documents were released in full...

Processing period

On 6 September 2024, we contacted you to request a 30-day extension of time under section 15AA of the FOI Act. I note that we have not received a response.

The original due date for us to provide you with a decision on access was 16 September 2024. I apologise that we did not meet this deadline. We have been experiencing processing delays and were not able to provide you with our decision by the due date. Consequently, we are deemed to have refused your application under section 15AC of the FOI Act. Therefore, internal review of this decision is not an option. However, your right to apply for an external review with the Office of the Australian Information Commissioner remains protected. Please see **Attachment B** for more information about your rights of review.

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 identified 20 documents, which fall within the scope of your request.

The documents were identified by consulting with relevant NDIA staff from Strategic Communications Division who could be expected to conduct searches of NDIA's systems, using all reasonable search terms to identify documents within the scope of your request.

I have decided to:

- grant access to 11 documents in full;
- grant access to 5 documents in part; and
- refuse access to 4 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
- factors relevant to my assessment of whether or not disclosure would be in the public interest
- the NDIA's operating environment and functions.

Access to edited copies with exempt or irrelevant material deleted (section 22)

I have decided that Documents 8, 10, 12 to 14, and 17 to 20, contain material that is exempt from disclosure under the FOI Act.

In accordance with section 22 of the FOI Act, I have considered whether it is possible to delete the exempt material from these documents and have concluded that it is reasonably practicable to do so. Accordingly, I have prepared an edited copy of these documents with the exempt material removed.

Reasons for decision

Personal privacy (section 47F)

Section 47F of the FOI Act states that a document is conditionally exempt if its disclosure under the Act would involve the unreasonable disclosure of personal information about any person.

The term "personal information" is defined as information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether or not the information or opinion is true and whether or not it is recorded in a material form.

I have identified material in Documents 17 to 20 which contains personal information of a third party.

In determining whether the disclosure of that information would be unreasonable, the FOI Act requires that I take account of all the relevant factors, including:

- 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. the affect the release of the personal information could reasonably have on the third party.

Against these criteria, I take the view that:

- a. it is apparent from the information that an individual is identifiable; and
- b. the information contained within the documents is not well known or readily available from publicly accessible sources.

I conclude that it would be unreasonable to disclose publicly this personal information, and it is therefore, conditionally exempt under section 47F of the FOI Act.

Business Information (section 47G)

Section 47G of the FOI Act conditionally exempts a document if its disclosure would disclose information concerning a person in respect of their business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in which the disclosure of the information:

- would or could reasonably be expected to, unreasonably affect that person adversely in respect of their lawful business or professional affairs of that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or
- could reasonably be expected to prejudice the future supply of information to the Commonwealth or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.

Documents 8, 10, 12 to 14, and 17 to 20, falling within scope of your request contain information, such as moderator guides and parts of invoices, which I consider as conditionally exempt from release under section 47G of the FOI Act.

The information that is conditionally exempt includes sensitive business details of a third party that were provided to the Agency in confidence with an expectation that they would not be disclosed further. The third party has contended that the disclosure of this information would unreasonably affect their business affairs, in that it would infringe on confidentiality agreements and could unfairly affect the lawful operations of their business.

Disclosure of the moderator guides could reasonably be expected to harm the business involved, by allowing competitors to gain insight into the methodology and techniques used by said third-party. These documents make explicit and implicit reference to these techniques and would provide an unfair advantage to competitors attempting to adapt them and market them to potential clients.

Disclosure of payment information, specifically pricing structures, could reasonably be expected to harm the business involved by allowing competitors to achieve an unfair advantage when providing or seeking to provide similar services. In relation to research consultancy specifically, the disclosure could potentially undermine the NDIA's ability to achieve value for money when procuring similar services.

I am therefore, satisfied that the disclosure of this information would or could unreasonably affect an organisation or undertaking in respect of its lawful business, commercial or financial affairs and is exempt under 47G(1)(a) of the FOI Act.

Public interest considerations – sections 47F and 47G

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 8, 10, 12 to 14, and 17 to 20 would promote the objects of the FOI Act by providing access to documents held by the government (including all the matters set out in sections 3 and 3A).

Against disclosure, I consider that disclosure of the relevant information in Documents 8, 10, 12 to 14, and 17 to 20:

- 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 promote oversight of public expenditure.

While there is limited public interest in the disclosure of information conditionally exempt under sections 47F and 47G 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 and
- compromise the business or professional affairs of a third party and interfere with their ability to undertake their lawful business.

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 these documents is exempt under sections 47F and 47G 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.

Yours sincerely

A handwritten signature in cursive script that reads "Ramya".

Ramya (RMO 260)
Senior Freedom of Information Officer
Complaints Management & FOI Branch
General Counsel Division

Schedule of Documents for FOI 24/25-0265

Document number	Page number	Description	Access Decision
1	1-30	NDIA Focus Group Research Report Date: March 2023	FULL ACCESS
2	31-53	NDIA - Policy Proposal Testing Focus Group Research Report Date: March 2023	FULL ACCESS
3	54-60	NDIA Communications Research Presentation Date: October 2023	FULL ACCESS
4	61-68	NDIA Communications Research Presentation v1.2 Date: October 2023	FULL ACCESS
5	69-73	NDIA Communications Research – Conclusions and Recommendations Date: September-October 2023	FULL ACCESS
6	74-77	NDIA Communications Research – Conclusions and Recommendations v1 Date: September-October 2023	FULL ACCESS
7	78-80	NDIA Final Messaging Date: October 2023	FULL ACCESS
8	81-84	NDIA Phase 2 Mod Guide v4 Date: Not available	ACCESS REFUSED Exemption claimed: s47G – business information
9	85-122	NDIA Reform Communications Testing: Round Two Focus Group Research Report Date: October 2023	FULL ACCESS

Document number	Page number	Description	Access Decision
10	123-165	NDIA Reform Communications Focus Group Research Report Date: October 2023	PARTIAL ACCESS Exemption claimed: s47G – business information
11	166-201	NDIA Reform Communications Testing: Round Two Focus Group Research Report Date: October 2023	FULL ACCESS
12	202-207	NDIA – Reform Communications PHASE 2 Moderation Guide v1	ACCESS REFUSED Exemption claimed: s47G – business information
13	208-214	NDIA – Reform Testing Moderation Guide v1.4	ACCESS REFUSED Exemption claimed: s47G – business information
14	215	Pathway Diagram v1	ACCESS REFUSED Exemption claimed: s47G – business information
15	216-221	NDIS research Phase 2 Recruitment Specification: Community Issues v1 Date: October 23	FULL ACCESS
16	222-227	NDIS research Phase 2 Recruitment Specification: Community Issues v2 Date: October 23	FULL ACCESS
17	228	Tax Invoice INV-0749 Date: 10 October 2023	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy s47G – business information
18	229	Tax Invoice INV-0750 Date: 12 October 2023	PARTIAL ACCESS

Document number	Page number	Description	Access Decision
			Exemptions claimed: s47F – personal privacy s47G – business information
19	230	Tax Invoice INV-0757 Date: 26 October 2023	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy s47G – business information
20	231	Tax Invoice INV-0779 Date: 2 November 2023	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy s47G – business information