

23 October 2024

Gabriel

By email: [foi+request-11940-8d1503e5@righttoknow.org.au](mailto:foi+request-11940-8d1503e5@righttoknow.org.au)

Dear Gabriel

## Freedom of Information request — Notification of Decision

Thank you for your correspondence of 22 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).

### Scope of your request

You requested access to the following:

*“...any internal NDIS documents which provide guidance on when funding can be provided to assist adult participants attending formal education.”*

### Extension of time

On 18 September 2024, you agreed to a 30-day extension of time under section 15AA of the FOI Act, extending the due date to 23 October 2024 to provide a decision on request.

### Document Search

I have identified 8 documents, which fall within the scope of your request.

The documents were identified by conducting searches of NDIA’s systems, using all reasonable search terms that could return documents relevant to your request, and consulting with NDIA staff who could identify documents within the scope of the request.

### Decision on access to documents

After examining the documents, I have decided to:

- grant access to 7 documents in full
- grant access to 1 document in part

I made this decision as an authorised FOI decision maker under section 23(1) of the FOI Act.

### Reasons for decision

I have decided that some information will not be released as it comprises Information that is conditionally exempt under 47E(d) of the FOI Act, information where disclosure would be contrary to the public interest.

A detailed statement of the reasons for my decision is at **Attachment A**.

**Release of documents**

A schedule of documents for release can be found at **Attachment B**.

**Rights of review**

Your rights to seek a review of my decision, or lodge a complaint, are set out at **Attachment C**.

Should you have any enquiries concerning this matter, please do not hesitate to contact me by email at [fox@xxxx.xxx.xx](mailto:fox@xxxx.xxx.xx)

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. M. J.' with a stylized flourish at the end.**Kate (KIM627)**

Senior Freedom of Information Officer  
Complaints Management & FOI Branch  
General Counsel Division

**Statement of Reasons  
FOI 24-25-0231**

---

Decision

In reaching my decision, I have considered the following:

- 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
- relevant case law concerning the operation of the FOI Act
- consultation with NDIA staff
- factors relevant to whether, or not disclosure would be in the public interest
- the NDIA's operating environment and functions.

Relevant Law

Under the FOI Act, a person has a legally enforceable right to obtain access to a document of an agency, however a decision maker must decide whether access to a conditionally exempt document would, on balance, be contrary to the public interest.

Certain operations of agencies (section 47E(d))

Section 47E(d) of the FOI Act conditionally exempts a document(s) if its disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Document 8 contains information relating to certain operations of the NDIA, specifically: internal guidance to staff on methodologies used to determination levels of support and associated financial amounts to ensure participants receive supports that are reasonable and necessary.

Any disclosure resulting in the prejudice of the effectiveness of the Agency's operational procedures would, or could reasonably be expected to, result in the need for the Agency to change those procedures to maintain the effectiveness and sustainability of the Agency and the Scheme.

I am satisfied that the release of this information would potentially result in the public disclosure of internal methodologies that, through improper use, would, or could, lead to a distortion of funding levels that would substantially and adversely affect the integrity of the NDIS.

Accordingly, I find that disclosure of this information would or could reasonably be expected to have a substantial adverse effect on the operations of the Agency and is therefore conditionally exempt under section 47E(d) of the FOI Act.

### Public interest considerations

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.

#### *Irrelevant factors*

I have examined the irrelevant factors in section 11B(4) of the FOI Act and I am satisfied I have not considered any irrelevant factors in reaching my decision.

#### *Factors favouring disclosure*

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 8 would promote the objects of the FOI Act by providing access to documents held by the government and providing access to information.

#### *Factors weighing against disclosure*

The FOI Act does not list any factors weighing against disclosure. These factors will depend on the circumstances. However, the inclusion of the exemptions and conditional exemptions in the FOI Act recognises that harm may result from the disclosure of some types of documents in certain circumstances.

In favour of non-disclosure, I have determined that disclosure of the information: would not

- contribute to the publication of information of sufficient public interest to justify the likely harm caused by release
- inform debate on a matter of public importance, or
- promote oversight of public expenditure.

#### *On balance*

I am satisfied that disclosure of the information I have redacted from the document would be contrary to the public interest. I therefore conclude that it is exempt from disclosure.

Accordingly, I have decided to release most of the information with the contrary to the public interest information removed pursuant to section 47E(d) of the FOI Act.

## Schedule of Documents for FOI 24/25-0231

Document number	Page number	Description	Access Decision
1	1-17	<b>Our Guidelines - Work and Study v4</b> Date: 20 December 2023	<b>FULL ACCESS</b>
2	18-25	<b>Our Guidelines – Mainstream and Community Supports Overview v1</b> Date: 24 August 2021	<b>FULL ACCESS</b>
3	26-59	<b>Our Guidelines – Mainstream and Community Supports Interfaces v6</b> Date: 2 May 2024	<b>FULL ACCESS</b>
4	60-67	<b>Our Guidelines – Community Connections v2</b> Date: 22 December 2023	<b>FULL ACCESS</b>
5	68-95	<b>Our Guidelines – Including Specific Types of Supports in Plans</b> Date: 15 December 2020	<b>FULL ACCESS</b>
6	96-140	<b>Our Guidelines – Reasonable and Necessary Supports v6</b> Date: 20 December 2023	<b>FULL ACCESS</b>
7	141-154	<b>Knowledge Article - Understand Work and Study Supports v3</b> Date: 8 August 2024	<b>FULL ACCESS</b>
8	155-163	<b>Knowledge Article - Understand Transport Supports v4</b> Date: 19 July 2024	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies

## 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 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 & 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.