

10 October 2024

Bob Buckley

**By email:** [foi+request-11973-75cacd13@righttoknow.org.au](mailto:foi+request-11973-75cacd13@righttoknow.org.au)

Dear Bob Buckley

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

Thank you for your correspondence of 31 August 2024, seeking access under the *Freedom of Information Act 1982* (FOI Act) to documents held by the National Disability Insurance Agency (NDIA).

The purpose of this letter is to notify you of my decision on your application.

### **Scope of your request**

You requested access to the following documents:

- "1. how providers are included in the providers listed on the NDIS Provider Finder in the Behaviour Support registration group (including requirement for or recognition of clinical or professional registration for individual clinicians and information about service quality required);*
- 2. how the NDIS ensures quality or standard of service that each listed/promoted provider on its list delivers to NDIS participants is initially assessed and ensured on an ongoing basis; and*
- 3. records of Behaviour Support providers who have been found to not maintain a sufficient standard or quality of service delivery and what the NDIS did about it in each case..."*

### **Extension of time**

On 24 September 2024, you agreed to a 10-day extension of time under section 15AA of the FOI Act, making **10 October 2024** the new date to provide you with a decision on access.

On 25 September 2024, I notified the Office of the Australia Information Commissioner (OAIC) of this agreement.

### **Search efforts**

Having processed your request, I think your request may have better been placed with the NDIS Quality and Safeguards Commission (the NDIS Commission), as they are responsible for the management of NDIS Providers. I apologise that this was not explored on receipt of your request and that you were not notified sooner.

On receipt of your request, I reached out initially to the NDIA's Media, Marketing and Digital Communication Team who advised that although they manage the front end and upload new data to the NDIS website, they are not responsible for making decisions as to whether providers are registered to provide behaviour supports. These decisions are made by the NDIS Commission.

Your request was forwarded to staff in the NDIA's Analytics Data and Actuarial Division (ADA). ADA advised they did not locate any documents relevant to the scope of your request, however they did provide a response that may be helpful to you. Further reasons for my decision are set out in **Attachment A** to this letter.

**Decision on access to documents**

In summary, I have decided to refuse access to the information you have requested on the basis that the documents are non-existent or cannot be found pursuant to section 24A of the FOI Act.

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

I have provided a detailed statement of the reasons for my decision in Attachment A to this decision notice.

**Rights of review**

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

If you have any enquiries about this matter, please contact me by email at [foi@ndis.gov.au](mailto:foi@ndis.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jennifer', written in a cursive style.

**Jennifer (JFD472)**

Senior Freedom of Information Officer  
Government, Risk & Legal – Complaints Management and FOI  
General Counsel Division

**Statement of Reasons  
FOI Application 24/25-0279**

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**Refused information**

I have refused access to the information you requested under section 24A of the FOI Act on the basis that documents containing such information are unlocatable or do not exist.

*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.

**Searches for documents**

After reviewing the scope of your FOI application and consulting with NDIA's Media, Marketing and Digital Communication Team, I identified the need to make enquiries with the NDIA's ADA Division for documents relevant to the scope of your request.

Regarding item 1 of your scope, ADA confirmed that the list of providers on the NDIS Provider Finder in the Behaviour Support registration group on the NDIA website is sourced from the NDIS Commission. ADA further informed me that the NDIS Commission is responsible for the management of these providers, including any requirements for or recognition of clinical or professional registration for individual clinicians and information about service quality.

Given the management of providers lies with the NDIS Commission, the NDIA does not hold any documents relevant to items regards 2 and 3 of your request. A request to the NDIS Commission may assist you to gain access to the documents you seek.

**Conclusion**

Based on the responses to my internal consultations, I consider there are reasonable grounds to be satisfied that documents containing the information you seek are not held by the Agency. I therefore refuse access to the information under section 24A of the FOI Act.

**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](mailto:foi@ndis.gov.au) or sent by post to:

Freedom of Information Section  
Complaints Management and 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 review within 60 days of receiving this letter.

You can apply to the OAIC for review 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 the NDIA took in relation to your request. The Ombudsman will consult with the OAIC before investigating a complaint about the handling of an FOI request.

You can make a complaint to the OAIC using the contact details identified above, or to the Ombudsman by:

Phone: 1300 362 072 (local call charge)  
Email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

Your complaint should set out the grounds on which you consider the OAIC or the Ombudsman should investigate the NDIA's handling of your FOI request.