



16 October 2024

Ivy

By email: foi+request-12072-572aecbc@righttoknow.org.au

Dear Ivy

Freedom of Information request — Request consultation process

Thank you for your correspondence of 22 September 2024, in which you requested access under the *Freedom of Information Act 1982* (FOI Act) to documents held by the National Disability Insurance Agency (NDIA).

Scope of your request

You have requested access to:

"I would like to request any correspondence between the NDIA, Ministerial department of Bill Shorten, DSS, and AAT / ART regarding finalising disputes prior to the new legislation coming into effect on 3rd October 2024.

Additionally, I would like to see any directives from the NDIA to the AAT regarding the resolution of cases in preparation for implementing the new legislation.

Thirdly, I would like to see any information held by the NDIA on how the new legislation may impact freshly resolved disputes and newly implemented plans as a result of the new legislation."

On 8 October 2024, I emailed you to acknowledge, clarify the scope and seek an extension of time to enable me to provide a decision on your request.

Based on your initial emailed request I proposed a clarification as per below:

I would like to request to the following from 1 January 2024:

- 1. Any correspondence between:*
 - the National Disability Insurance Agency (NDIA) and the Department of Social Services*
 - the NDIA and the office of Minister for the National Disability Insurance Scheme*
 - the NDIA and the Administrative Appeals Tribunal (AAT)**regarding finalising disputes prior to the new legislation coming into effect on 3rd October 2024*
- 2. Any directives from the NDIA to the AAT regarding the resolution of cases in preparation for implementing the new legislation.*

3. *Any information held by the NDIA on how the new legislation may impact freshly resolved disputes and newly implemented plans as a result of the new legislation.*

To date, I have not heard from you as to whether my interpretation of your scope accurately reflects your intention.

Practical refusal - Why I intend to refuse your request

I am authorised to make decisions under section 23(1) of the FOI Act.

I am writing to advise that your request as it is currently worded is too broad and does not provide enough information about the documents you are seeking as is reasonably necessary to allow us to identify them. This is called a 'practical refusal reason' under section 24AA of the FOI Act.

On this basis, I intend to refuse your request. However, before I make a final decision, I am writing to provide you with an opportunity to revise your request. This is called a 'request consultation process' as set out under section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways set out below.

Why I intend to refuse your request

In its current form, your request does not satisfy section 15(2)(b) of the FOI Act, as the terms of your request were too broad, and I was unable to identify the specific documents sought.

Section 15(2)(b) of the FOI Act states "*the request must provide such information as is reasonably necessary to enable a responsible officer of the agency or the minister to identify the document that is requested. Before refusing a request for failing to meet this requirement an agency or minister must undertake a 'request consultation process'*"

Request consultation process

You now have an opportunity to revise your request to enable it to proceed.

Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access.

To revise the scope of your request, you might like to consider proceeding with the clarification I proposed in my earlier correspondence of 8 October or providing an alternative wording.

You have 14 days from the date you receive this letter to contact me and do one of the following:

- a. withdraw your request
- b. make a revised request
- c. indicate that you do not wish to revise the request.

During this period, you are welcome to seek assistance to revise your request. If you revise your request in a way that adequately addresses the practical refusal reason outlined above, we will recommence processing it.

Please note that the time taken to consult with you regarding the scope of your request is not taken into account for the purposes of the timeframe for processing your request.

Extension of Time

In accordance with section 15(5)(b) of the FOI Act, a 30-day statutory period for processing your request commenced from 22 September 2024. This 30-day period expires on 22 October 2024.

The 30-day period can be extended in a number of ways, including with your agreement.

As previously advised, it is currently taking us a little longer than 30 days to process FOI requests. I am therefore seeking your agreement to a 30-day extension of time under section 15AA of the FOI Act. If you agree to this extension, the new due date for us to decide on your request will be 21 November 2024.

If you do not agree and we are unable to process your request within the 30-day period expiring on 22 October 2024, we will be deemed to have refused your request and you will not have a right to seek internal review of that decision. You will, however, retain your right to external review by the Australian Information Commissioner.

You can contact me by email at foi@ndis.gov.au.

Alternatively, you can reply in writing to the following address:

Freedom of Information Section
Parliamentary, Ministerial & FOI Branch
Government Division
National Disability Insurance Agency
GPO Box 700
CANBERRA ACT 2601

If you do not contact me within this period, that is by 30 October 2024, your FOI request will be taken to have been withdrawn under subsection 24AB(7) and will not be dealt with any further.

Please do not hesitate to contact me if you have any questions.

Yours sincerely



Kate

Senior Freedom of Information Officer
Parliamentary, Ministerial & FOI Branch
Government Division