

9 December 2024

Ivy

By email: [foi+request-12072-572aecbc@righttoknow.org.au](mailto:foi+request-12072-572aecbc@righttoknow.org.au)

Dear Ivy

### Freedom of Information request - Notification of Decision

Thank you for your correspondence of 22 September 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.

### Scope of your request

You requested access to the following documents:

*"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."*

I confirm your email dated 19 October 2024 where you confirmed your scope to the following:

*"... 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."*

### Timeframe

The 30-day statutory period for processing your request commenced from 23 September 2024, in accordance with section 15(5)(b) of the FOI Act. The due date for a decision on access was 22 October 2024.

Delivered by the

National Disability  
Insurance Agency

As you have not been provided a decision on access by the due date the matter is classified as a deemed refusal decision under section 15AC of the FOI Act (due to not meeting the decision deadline), as such internal review of this decision is no longer available to you.

I apologise for the delay and confirm you retain your right to seek external review of this decision.

### **Search efforts**

After reviewing the scope of your FOI application, I consulted with the following areas of the NDIA to identify documents relevant to your request:

- Hub Scheme
- Ministerial and Parliamentary
- Administrative Review Tribunal Case Management
- Policy, Evidence and Practice Leadership
- Service Guidance and Practice
- Service Delivery

### **Decision on access to documents**

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

Based on advice from the relevant areas, I consider there are reasonable grounds to be satisfied that documents containing the information you seek do not exist. I therefore refuse access under section 24A of the FOI Act.

### *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.

The following links provide information on the new legislation which you may find useful.

[www.ndis.gov.au/changes-ndis-legislation](http://www.ndis.gov.au/changes-ndis-legislation)

[www.ndis.gov.au/changes-ndis-legislation/summary-legislation-changes](http://www.ndis.gov.au/changes-ndis-legislation/summary-legislation-changes)

### **Rights of review**

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

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

Yours sincerely



**Kate (KIM627)**

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

**Your review rights**

**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.