

5 February 2025

Melissa O'Connell

By email: foi+request-12146-030508fc@righttoknow.org.au

Dear Melissa O'Connell

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 7 October 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:

“This is a freedom of information request for 13 TAB documents from the list

- * Manual therapy to address neuromusculoskeletal function*
- * Effect of manual therapy on neuromusculoskeletal function*
- * NAPA therapy*
- * Osteopathy*
- * Telehealth - Effective Outcomes for the delivery of Speech Pathology*
- * Lokomat therapy*
- * Availability of pools and exercise programs in the community*
- * Cost comparison of Computer and Fitness products*
- * Seizure monitoring devices*
- * Seizure device costs and response dog accuracy*
- * Guide dogs for vision impaired adolescents*
- * Accreditation of assistance animals trainers*
- * Reducing ABA over time”*

Extension of time

On 16 October 2024, you agreed to a 30-day extension of time under section 15AA of the FOI Act, making 6 December 2024 the new date to provide you with a decision on access. I note this time has lapsed and as a result, we are deemed to have refused your request under section 15AC of the Act.

Despite this, I have continued to process your application. I apologise for the delay and confirm that you retain your right to seek external review of this decision.

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.

Searches for documents were conducted by the Technical Advisory Branch (TAB) and 10 documents responsive to your application were located. The purpose of these documents was to provide information to assist advisors in the provision of advice. Please be advised that the documents in their current form may not reflect current processes or understanding of subject matter within TAB.

Further, TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees.

TAB have confirmed that some of the documents you have requested are part of a single document, or been renamed, being:

- 'Effect of manual therapy on neuromusculoskeletal function' is renamed to 'Manual therapy on neuromusculoskeletal function'
- 'Seizure monitoring devices' and 'Seizure device costs and response dog accuracy' have been amalgamated into 'Epilepsy and Seizure Monitoring Systems'
- 'Accreditation of assistance animal trainers' is renamed to 'Accreditation of Assistance Animals'

The document 'Literature Review – Reducing Applied Behaviour Analysis over time', which falls within the scope of your FOI request, has been previously requested under FOI 24/25-0514. This document is publicly available on the NDIA's disclosure log [FOI Disclosure log | NDIS](#). For your convenience, I have also attached a copy of this document from the disclosure log.

I have decided to grant partial access to 10 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
- relevant case law concerning the operation of the FOI Act
- consultation with relevant NDIA staff
- factors relevant to my assessment of whether disclosure would be in the public interest
- the NDIA's operating environment and functions.

Reasons for decision

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

Section 47E(d) of the FOI Act conditionally exempts a document 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.

The disclosure of this information would reveal methodologies the NDIA uses to assist in determining levels of support provided to NDIS participants, which is to better ensure that participants receive supports that are reasonable and necessary. Any disclosure resulting in the prejudice of the effectiveness of the Agency's operational methods and procedures would, or could reasonably be expected to, result in the need for the Agency to change those methods and procedures to ensure the future effectiveness and sustainability of the Agency and the Scheme.

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.

Personal privacy (section 47F)

Section 47F of the FOI Act conditionally exempts a document(s) if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

Document 8 contains information which contains personal information of third parties.

Under section 47F(2) of the FOI Act, in determining whether the disclosure of documents would involve unreasonable disclosure of personal information, regard must be had to:

- 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. any other matters that the agency considers relevant.

Against these criteria, I take the view that:

- it is apparent from the information that an individual is identifiable; and
- the information referred to above is not readily available from publicly accessible sources.

I therefore conclude that it would be unreasonable to disclose publicly this personal information and is therefore conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations – section 47E(d) and 47F

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.

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.

Against disclosure, I consider that disclosure of the relevant information in Document 8:

- 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 inform any debate on a matter of public importance, or promote oversight of public expenditure.

I have not considered any of the irrelevant factors as set out under section 11B(4) of the FOI Act in making this decision.

While there is limited public interest in the disclosure of information conditionally exempt under sections 47E(d) and 47F of the FOI Act, the harm that would result from disclosure is that it could reasonably be expected to:

- prejudice the ability of the Agency to provide guidance to staff and to decision makers in classifying applicants based on support needs in order to comply with their obligations and make informed decisions in relation to the quantum of funding to add to each reasonable and necessary support, which, in turn, helps to ensure the financial stability and integrity of the NDIS
- affect an individual's right to privacy by having their personal information in the public domain

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 Document 8 is exempt under sections 47E and 47F of the FOI Act.

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

Section 22 of the FOI Act allows an Agency to redact information from documents if that information would reasonably be regarded as irrelevant to a request for access.

I have identified that the 10 documents contain material that is irrelevant to your request. The irrelevant material relates to names and contact details of NDIA staff which you consented to remove from the scope of your request.

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

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 blue ink, appearing to be 'Lia', written in a cursive style.

Lia (LML799)

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

Attachment A

Schedule of Documents for FOI 24/25-0473

Doc number	Page number	Description	Access Decision	Comments
1	1-29	<p>Research paper: Manual therapy to address neuromusculoskeletal function</p> <p>Date: 8 August 2023</p>	<p>PARTIAL ACCESS</p> <p>Irrelevant material removed under section 22 of the FOI Act</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
2	30-64	<p>Research request: NAPA therapy</p> <p>Date: 26 November 2020</p>	<p>PARTIAL ACCESS</p> <p>Irrelevant material removed under section 22 of the FOI Act</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
3	65-72	<p>Research paper: Osteopathy</p> <p>Date: 31 October 2023</p>	<p>PARTIAL ACCESS</p> <p>Irrelevant material removed under section 22 of the FOI Act</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
4	73-79	<p>Research request: Delivery of Speech</p>	<p>PARTIAL ACCESS</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist

Doc number	Page number	Description	Access Decision	Comments
		Pathology Support via Telehealth Date: 20 July 2020	Irrelevant material removed under section 22 of the FOI Act	advisors in the provision of advice to delegates. <ul style="list-style-type: none"> • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
5	80-93	Research Paper: Lokomat Therapy and robot assisted gait training Date: 22 October 2022	PARTIAL ACCESS Irrelevant material removed under section 22 of the FOI Act	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
6	94-97	Research request: Availability of hydrotherapy, swimming pool, outside exercise programs and social engagement activities Date: 13 August 2020	PARTIAL ACCESS Irrelevant material removed under section 22 of the FOI Act	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
7	98-100	Research request: Computer and Fitness Price Comparison Date: 29 July 2019	PARTIAL ACCESS Irrelevant material removed under section 22 of the FOI Act	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly

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				<p>available academic research and allied health information – they are employed as APS employees</p> <ul style="list-style-type: none"> • TAB researchers are not delegates
8	101-130	<p>Research request: Epilepsy and Seizure Monitoring Systems</p> <p>Date: December 2019</p>	<p>PARTIAL ACCESS</p> <p>Irrelevant material removed under section 22 of the FOI Act</p> <p>Exemption(s) claimed:</p> <p>s47E(d) – certain operations of agencies s47F – personal privacy</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
9	131-136	<p>Focussed Response: Guide Dogs for Vision Impaired Adolescents</p> <p>Date: 2 May 2023</p>	<p>PARTIAL ACCESS</p> <p>Irrelevant material removed under section 22 of the FOI Act</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates
10	137-153	<p>Research Request: Accreditation of Assistance Animals</p> <p>Date: 5 May 2022</p>	<p>PARTIAL ACCESS</p> <p>Irrelevant material removed under section 22 of the FOI Act</p>	<ul style="list-style-type: none"> • The purpose of this document is to provide information to assist advisors in the provision of advice to delegates. • May not reflect current processes or understanding of subject matter within TAB • TAB research officers conduct literature reviews of publicly available academic research and allied health information – they are employed as APS employees • TAB researchers are not delegates

Your review rights

As this matter was a deemed refusal, internal review of this decision is not an option. However, if you have concern with any aspect of this decision, please contact the NDIA FOI team by email foi@ndis.gov.au or by post:

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 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, 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
Post: GPO Box 5218, Sydney NSW 2001
Email: 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

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.