

21 February 2025

Emily Lacey  
Right to Know

**By email:** [foi+request-12162-0f04077f@righttoknow.org.au](mailto:foi+request-12162-0f04077f@righttoknow.org.au)

Dear Emily Lacey

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

Thank you for your correspondence of 11 November 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:

“...I agree for the surnames and contact details of any staff to be redacted, but please otherwise provide the documents in their entirety.

1. A copy of all internal NDIA "intranet" pages regarding the Technical Advisory Branch (TAB).
2. All documents providing NDIA staff guidance on how to request advice from the TAB.
3. All documents regarding “mandatory referral” to the TAB.
4. All “TAB checklist” documents.
5. All TAB referral/request submission templates and forms.
6. All TAB advice/report templates and forms...”

On the 12 December 2024, you have revised the scope of your request to be for the following documents:

“...1. A copy of the 11 main internal NDIA "intranet" pages regarding the Technical Advisory Branch (TAB).

2. Knowledge Article titled "Create a Technical Advice Case" and Intranet content on Requesting Advice page.

3. "Mandatory Advice Requests" content on Intranet Page, including any linked intranet pages.

4. TAB Checklists on Intranet page.

5. TAB referral/request submission templates and forms.

6. TAB advice/report templates and forms.

7. Knowledge Article titled "Complete the risk matrix for a technical advice case".

8. Knowledge Article titled "Review and action returned technical advice case".

9. Whatever main article or intranet page explains what "TAB Digest" is and how to find/use it..."

### **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.

I have identified 24 documents, which fall within the scope of your request.

These 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 relevant NDIA staff who could be expected to be able to identify documents within the scope of the request.

During the time that your request was being processed, an update was made to the TAPIB intranet site. However, the update did not affect the content, only the layout of the intranet site was updated.

I have decided to:

- grant access to 5 documents in full
- grant access to 13 documents in part
- refuse access to 6 documents in full.

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
- consultation with relevant NDIA staff
- factors relevant to my assessment of whether or not 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.

Documents 1, 4-14, 16,17, 21-24 contains information relating to certain operations of the NDIA, specifically:

Internal guidance given to staff in relation to the quantum of supports to include within a participant's plan in determining the level of supports a participant may require.

The disclosure of this information would reveal methodologies the NDIA uses. 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.

The release of this information could enable providers to manipulate their justifications / recommendations for prescribed supports or levels of support for participants to indicate they are likely to be reasonable and necessary for the NDIS to fund.

Additionally, the release of this information would increase the risk that participants may be inappropriately serviced with supports if providers are manipulating their evidence or reports for participant circumstances or needs, to meet the criteria.

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 and its financial sustainability. Accordingly, I have decided that the relevant information in Documents 1, 4-14, 16,17, 21-24 is 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).

The conditionally exempt material contains references to the names of staff members which have not previously been disclosed to you.

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:

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

With reference to the assessment above, 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.

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

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 within these Documents 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 within these Documents:

- 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.

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 protect established contact points and procedures of the Agency
- prejudice the ability of the Agency to protect the security and integrity of information held in the Agency
- 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 within these Documents is exempt under sections 47E(d) and 47F of the FOI Act.

### **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](mailto:foi@ndis.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'K. M. J.' with a large, stylized flourish at the end.

Kate (KIM627)  
A/g Assistant Director  
Freedom of Information  
Complaints Management & FOI Branch  
General Counsel Division

## Schedule of Documents for FOI 24/25-0515

Document number	Page number	Description	Access Decision	Comments
1	1-8	Knowledge Article – Create a technical advice case  Date: 26 September 2024	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies	
2	9-16	Knowledge Article – complete the risk matrix for a technical advice case  Date: 27 September 2023	<b>FULL RELEASE</b>	
3	17-22	Knowledge Article – Review and action returned technical advice case  Date: 25 September 2023	<b>FULL RELEASE</b>	
4	23-25	TAPIB Home Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	
5	26	TAPIB Assistive Technology Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	

Document number	Page number	Description	Access Decision	Comments
6	27-28	Core, Capacity building and Mainstream Interface Supports Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	
7	29-30	Disability Related Health Supports Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies	
8	31	Home Modifications Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	
9	32-33	Requesting Advice Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies	
10	34-35	Requesting Replacement Supports Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies	
11	36-38	TAPIB Advisors Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	



Document number	Page number	Description	Access Decision	Comments
12	39	TAPIB Digest – Published Advice Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	
13	40-41	Technical Advice & Practice Improvement Branch Services Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies	
14	42	Vehicle Modifications Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47E(d) – certain operations of agencies s47F – personal privacy	
15	43	Site Contents Intranet Page  Date: Not Applicable	<b>PARTIAL ACCESS</b> Exemption claimed: s47F – personal privacy	
16	44-94	Mandatory Advice Requests Confluence Page  Date: Not Applicable	<b>ACCESS REFUSED</b> Exemption claimed: s47E(d) – certain operations of agencies	
17	95-97	TAPIB Digest Confluence Page  Date: Not Applicable	<b>ACCESS REFUSED</b> Exemption claimed: s47E(d) – certain operations of agencies	

Document number	Page number	Description	Access Decision	Comments
18	98-100	S34 (streamlined) – TAPIB Technical Advice Template Date: Not Applicable	<b>FULL ACCESS</b>	
19	101-106	S34 (With Detail) – TAPIB Technical Advice Template Date: Not Applicable	<b>FULL ACCESS</b>	
20	107-112	S24 & S34 – TAPIB Technical Advice Template Date: Not Applicable	<b>FULL ACCESS</b>	
21	113-116	TAB Assistive Technology Checklist Date: Not Applicable	<b>ACCESS REFUSED</b> Exemption claimed: s47E(d) – certain operations of agencies	
22	117-120	TAB Behaviour Support and Restrictive Practice Checklist (No Longer Published) Date: Not Applicable	<b>ACCESS REFUSED</b> Exemption claimed: s47E(d) – certain operations of agencies	
23	121-123	TAB Home Modifications Checklist Date: Not Applicable	<b>ACCESS REFUSED</b> Exemption claimed: s47E(d) – certain operations of agencies	

Document number	Page number	Description	Access Decision	Comments
24	124-126	TAB Vehicle Modifications Checklist  Date: Not Applicable	<p style="text-align: center;"><b>ACCESS REFUSED</b></p> Exemption claimed: s47E(d) – certain operations of agencies	

## **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](mailto: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](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.