

21 February 2025

David Wright

By email: foi+request-12166-da0918ac@righttoknow.org.au

Dear David Wright

Freedom of Information request — Notice of Decision

Thank you for your correspondence of 13 October 2024, seeking access under the *Freedom of Information Act 1982 (FOI Act)* to documents held by the National Disability Insurance Agency (NDIA).

I apologise for the delay in processing your request.

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:

"FOI 23/24-1400, Document 4, pages 40-41 makes reference to 'Yammer groups for NDIS staff relating to ASD', which it describes as follows:

There are two Yammer groups for NDIS staff discussion that some TAT advisors use:

> Autism Spectrum Disorders

> Understanding the Autism Spectrum by Dr Bennett, PHD"

I seek a copy of all information contained in these Yammer groups.

Contact details and surnames of NDIA staff are irrelevant to my request."

On 11 December 2024 you responded to a 24AB request for consultation notice advising that:

"I am happy to limit the request to just posts and comments. Copies of the following do not need to be provided:

Attachments

Audio

Video

Transcripts

Research Papers

Images"

Extension of time

On 28 October 2024, you agreed via email to a 30-day extension of time under section 15AA of the FOI Act, making 12 December 2024 the new date to provide you with a decision on access.

Expiration of time

As we were not able to complete your application by the legislated due date of 12 December 2024, your application is regarded as a deemed refusal under section 15AC of the FOI 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. Details are set out in **Attachment C** to this letter.

Searches conducted

The NDIA's Agency ICT Services conducted searches and located 2 documents relevant to the scope of your request.

Decision

I am the authorised officer pursuant to section 23(1) of the FOI Act to make a decision on this FOI request.

I have decided to:

- Grant access in part to 2 documents in accordance with section 22 – Access to edited copies with exempt or irrelevant matter deleted and 47F – Public interest conditional exemptions – personal privacy.

Section 22 – Access to edited copies with exempt or irrelevant material deleted

Section 22 of the FOI Act permits an agency to prepare and provide an edited copy of a document where the agency has decided to refuse access to an exempt document or that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access.

On 28 October 2024, you confirmed via email that you had no objections to surnames and contact details of NDIS staff being considered irrelevant to the scope of your request.

On 13 February 2025, I contacted you via email to explain concerns we had regarding the safety of NDIA staff members personal privacy, and asked if you were agreeable to us only providing staff members initials and considering the rest of their name irrelevant to your request. You responded on 13 February 2025 stating you have no interest in the names of staff, and were agreeable to us only providing initials.

I have identified both exempt and irrelevant material in 2 documents and am satisfied that it is reasonably practicable to remove this material and release the documents to you in material form.

The decision in relation to each document is detailed in the schedule of documents at **Attachment A**.

A statement of reasons for this decision are set out in **Attachment B**.

Rights of review

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

Should you have any enquiries concerning this matter, please do not hesitate to contact me by email at fox@xxxx.xxx.xx

Yours sincerely



Patrick (PHO293)
Senior Freedom of Information Officer
Complaints Management & FOI Branch
General Counsel Division

Schedule of Documents for FOI 24.25-0587

Document number	Page number	Description	Access Decision	Comments
1	1-28	Yammer Group - autism spectrum disorder Date: 23 December 2024	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy	Irrelevant material removed under section 22 of the FOI Act
2	29-86	Yammer Group - Understanding the autism spectrum by Dr Bennett PhD Date: 23 December 2024	PARTIAL ACCESS Exemptions claimed: s47F – personal privacy	Irrelevant material removed under section 22 of the FOI Act

**Statement of Reasons
FOI 24/25-0587**

REFUSAL UNDER 47FPersonal privacy (section 47F)

Section 47F(1) of the FOI Act states:

A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).

The FOI Act shares the same definition of 'personal information' as the *Privacy Act 1988 (Cth)*. Paragraph 6.123 of the FOI Guidelines provide that:

Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and*
- (b) whether the information or opinion is recorded in material form or not.*

Documents relevant to the scope of your request contain details of personal experiences of staff members.

In my assessment of whether the disclosure of this personal information is unreasonable, I have considered the following factors in accordance with section 47F(2) of the FOI Act:

- (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) the affect the release of the personal information could reasonably have on the third party.*

I found that the specific personal information contained within the documents:

- is not well known
- is in relation to individuals that are not known to be or have been associated with the matters dealt with in the documents
- is not available from publicly available sources
- would have a negative effect on the individuals if released

Accordingly, I am satisfied that the documents are conditionally exempt under section 47F of the FOI Act.

PUBLIC INTEREST FACTORSPublic interest considerations – Section 47F

Section 11A(5) of the FOI Act states:

The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Irrelevant factors

I have examined the irrelevant factors in section 11B(4) of the FOI Act and I am satisfied I have not taken into account any irrelevant factors in reaching my decision.

Factors favouring disclosure

I have considered the factors favouring disclosure as set out in section 11B(3) of the FOI Act. The relevant factors being whether access to the document would:

- (a) *promote the objects of this Act (including all the matters set out in section 3 and 3A);*
- (b) *inform debate on a matter of public importance;*
- (c) *promote effective oversight of public expenditure*

In favour of disclosure, I have considered these factors, and have determined that disclosure of the information in the documents would promote the objects of the FOI Act (including all matters set out in sections 3 and 3A).

This is because providing access to documents held by the NDIA allows for increased scrutiny, discussion, comment, and review of government held information.

I have therefore decided to afford significant weight to this factor in favouring disclosure of the document to you.

Factors weighing against disclosure

The FOI Act does not list any factors weighing against disclosure. These factors will depend on the circumstances. However, the inclusion of the exemptions and conditional exemptions in the FOI Act recognises that harm may result from the disclosure of some types of documents in certain circumstances.

Paragraph 6.233 of the FOI guidelines provides a non-exhaustive list of public interest factors against disclosure. The factors I find relevant to this request are that release of this information could reasonably be expected to prejudice:

- the protection of an individual's right to privacy

While I accept that there is a public interest in allowing scrutiny, discussion, comment and review of information held by the NDIA, there is also a strong public interest in maintaining an individual's right to privacy.

On balance

I am satisfied, based on the above, the public interest factors against disclosure outweigh the factors for disclosure, and that, on balance, it is against the public interest to release the information to you. Accordingly, I find that the information is exempt under sections 47F, 47G and 47E(d) of the FOI Act.

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