

20 February 2025

David Wright

By email: [email](#)

Dear David Wright

Freedom of Information request - Notification of Decision

Thank you for your correspondence of 9 December 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 notify you of my decision on your application.

Scope of your request

You requested access to the following documents:

"There have been several media reports this year referencing "automatic top-up" of NDIS plan or funding payments.

I seek all correspondence between the NDIA and any media outlets/journalists about plan or funding top up payments, which includes the word "automatic":

I also seek all internal NDIA communications regarding the information given to the media outlets/journalists about this matter.

The date range of this request is 1 January 2024 until the present."

The purpose of this letter is to notify you of my decision on your application.

Expiration of time

A 30-day statutory period for processing your request commenced from 10 December 2024, in accordance with section 15(5)(b) of the FOI Act. The due date for a decision on access was 8 January 2025. I note this time has lapsed and as a result we are deemed to have refused your request 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.

Search efforts

Staff in the NDIA's Strategic Communications Branch conducted searches for documents and advised they did not locate any documents relevant to the scope of your request. I have set out the reasons for this outcome in **Attachment A** to this letter.

Decision on access to documents

In summary, I have decided to refuse access to the information you have requested on the basis that the documents are non-existent or unlocatable pursuant to section 24A of the FOI Act.

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

I have provided a detailed statement of the reasons for my decision in Attachment A to this decision notice.

Rights of review

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

If you have any enquiries about this matter, please contact me by email at foi@ndis.gov.au.

Yours sincerely



Kate (KIM627)

A/Assistant Director

Complaints Management and FOI
General Counsel Division

**Statement of Reasons
FOI Application 24.25-0905**

Refused information

I have refused access to the information you requested under section 24A of the FOI Act on the basis that documents containing such information are unlocatable or do not exist.

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.

Searches for documents

After reviewing the scope of your FOI application, I identified the need to make enquiries with the NDIA's Strategic Communications (SC) Branch for documents relevant to the scope of your request. All correspondence between the NDIA and Media outlets are coordinated by the Media Unit, as such a search consultation occurred with this unit.

After a search was conducted regarding the scope of the request, the line area advised that no correspondence between the NDIA and any media outlets existed regarding the term 'automatic top-up'.

Conclusion

Based on the information I received from the line area, I consider there are reasonable grounds to be satisfied that documents containing the information you seek do not exist. I therefore refuse access to the information under section a 24A of the FOI Act on the basis that the information is does not exist.

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
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 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

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.