



19 February 2025

FOI ref: 2025/0026

David Wright

By email: foi+request-12756-c924324e@righttoknow.org.au

Dear Mr Wright,

Notice of Decision for Freedom of Information Request no. 2025/0026

The purpose of this letter is to give you a decision about access to documents that you have requested under the *Freedom of Information Act 1982 (FOI Act)*.

Summary

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

You lodged an FOI request on 21 January 2025 for access to:

'1) The number of ART decisions made by the ART's National Disability Insurance Scheme (NDIS) Division in the three months from 14 October 2024 to 14 January 2025.

2) Of these decisions, the number that were made available by the ART to be published on the Austlii website.'

On 3 February 2025 I wrote to you and advised that since the transition from the Administrative Appeals Tribunal to the Administrative Review Tribunal on 14 October 2024, the structure of the National Disability Insurance Scheme (NDIS) Division has changed. Decisions are now managed within the NDIS Jurisdictional area. I asked you to clarify the scope of your request with consideration to the decisions managed by the then NDIS Division and the now NDIS Jurisdictional area, noting only the *registered service provider* reviews are now managed within another jurisdictional area.

On 4 February 2025 you responded to my email and advised that *essentially my request encompasses any sort of decision that would have previously been managed by the former NDIS Division.*

I have liaised with the Tribunal's Data, Performance and Insights team (Reports team) and the Publication area for documents relevant to your request.

The Tribunal does not hold this information as a discreet document. Instead, this information is contained within the electronic case management database. Section 17 of the FOI Act allows an agency to produce a document where it does not exist in discreet form, using computer equipment available to it in its ordinary operations as long as this work does not substantially and unreasonably divert resources of the agency from its other operations. The Tribunal's

Reporting section was able to produce the numbers and has extracted this information into a document.

- NDIS finalisations by outcome type, 14 October 2024 to 14 January 2025

Decision

I have decided to release this document to you in full and refuse access to part two of your request.

I have taken the following into account in making my decision:

- your FOI request received via email on 21 January 2025
- the FOI Act, specifically sections 24A
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Reasons for decision

Section 24A of the FOI Act provides that, after all reasonable steps have been taken to find the documents, access to documents may be refused if the documents do not exist or cannot be found.

In searching for documents relevant to part two of your request I have consulted with and relied upon the advice of the Tribunal's Reports team and the Publication area. The Reports team have advised that they do not have information in relation to the number of the decisions to be published on the AustLII website.

Due to a system issue, the publication of Tribunal decisions was delayed, however the issue has since been resolved. With this now being resolved, the Tribunal is still undertaking the necessary checks to have decisions published.

I have consulted with the Tribunal's Publication area and have been advised that, since transition to the ART, the Tribunal has been working towards decisions being published that are awaiting publication and that necessary works are being carried out for those being considered for publication. Decisions prior to publishing undergo necessary checks by the relevant registry area for consideration as to their suitability for publication. As decisions are still being considered for publication, there is no extant number available to be provided for part two of your request.

The Tribunal's publication policy provides that substantive decisions relating to NDIS matters are generally published unless the Tribunal Member makes a direction to the effect that the decision, or part of the decision, not be published. As at the time of finalising my decision, a search of AustLII's NDIS published decisions has available 49 documents from 16 October 2024 to 21 January 2025 with further decisions being published up to 17 February 2025. Published decisions are available at: [Published decisions | Administrative Review Tribunal](#).

I am therefore satisfied that the documents do not exist, and I refuse access to the documents under section 24A of the FOI Act.

Your review rights

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions about this decision, please contact me at foi@art.gov.au.

Yours sincerely,

April W

Authorised FOI Officer (APS 6)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act

Information about reviews and complaints under the Freedom of Information Act

What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website found here: [Information Commissioner Review Application form](#).

What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, found here [FOI Complaint Form](#).

Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at www.oaic.gov.au and you can contact the office on 1300 363 992 or by email at enquiries@oaic.gov.au.