

Our reference: FOI 21/22-1311



GPO Box 700
Canberra ACT 2601
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ndis.gov.au

17 May 2022

Karen

By email: foi+request-8656-bf71e9a7@righttoknow.org.au

Dear Karen

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 27 March 2022, 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:

“Can you please provide the amount of unawarded funds from the Information, Linkages and Capacity Building (ILC) grants program for financial years 2017/18, 2018/19, 2019/20 and 2020/21 and the total amount of unawarded ILC grant funds transferred to DSS when the ILC grants program moved from the NDIA to DSS.”

Extension of time

On 26 April 2022, the Office of the Australia Information Commissioner (OAIC) granted us a 21-day extension of time under section 15AB of the FOI Act, making 17 May 2022 the new date to provide you with a decision on access.

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.

The first part of your request seeks access to *the amount of unawarded funds from the Information, Linkages and Capacity Building (ILC) grants program for financial years 2017/18, 2018/19, 2019/20 and 2020/21*. I have consulted with relevant NDIA staff from various line areas within the agency, and they have advised that this information is publicly available.

Grant Awards (GA) are reported on the GrantConnect website, as the result of a grant being awarded by an Australian Government entity. GA must be published on GrantConnect within 21 days of a grant agreement taking effect and this mandatory reporting took effect from December 2017. Additionally, the Community Grants Hub lists all Grant Opportunity Guidelines that list the funding available per round, as well as the funding appropriation for ILC across financial years.

The NDIA’s annual report also lists the appropriation per year for ILC.

Accordingly, the relevant links regarding the publicly available information are below:

- [GrantConnect \(grants.gov.au\)](https://grants.gov.au)
- [Grants | Community Grants Hub](#)
- [Annual Report | NDIS](#)

I am satisfied that the requested information is contained within, and is therefore able to be located via these public links. For this reason, I have not considered the first part of your request as part of my decision.

I have decided to refuse the second part of your request for access under section 24A of the FOI Act. The reasons for my decision are set out below.

In reaching my decision, I took the following into account:

- your correspondence outlining the scope of your request
- the FOI Act
- the FOI Guidelines published under section 93A of the FOI Act
- consultation with relevant officers of the NDIA
- the NDIA's operating environment and functions.

Reasons for decision

Refuse a request for access (section 24A)

Section 24A of the FOI Act provides 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.

The second part of your request seeks access to *the total amount of unawarded ILC grant funds transferred to DSS when the ILC grants program moved from the NDIA to DSS*. I have conducted searches of the NDIA's documents management systems and made enquiries with NDIA staff. These enquiries have revealed that the NDIA is not in possession of documents matching the scope of your request.

In accordance with section 17 of the FOI Act, I have considered whether it would be possible for a new document to be created using the NDIA's computer systems. Having considered the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines), I am satisfied the obligation to create a document under section 17(1) does not apply to your request. This is because the relevant line area has advised that the last grant round of ILC that NDIA was involved in, the Department of Social Services (DSS) became the delegates prior to its conclusion and, therefore, awarded this final round. This means that the NDIA does not possess the completed data in relation to the NDIA's final round, and so the data is incomplete. For these reasons, the total amount is not contained within a document that is currently in the possession of the NDIA, and the completed data is unable to sufficiently collated into a document under section 17(1).

I am satisfied that all reasonable steps have been taken to locate the documents you have requested and that the documents do not exist. I have, therefore, decided to refuse access to the second part of your request in accordance with section 24A(1)(b)(ii) of the FOI Act.

Rights of review

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

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 black ink, appearing to be the name 'Erin', written in a cursive style.

Erin
Senior Freedom of Information
Parliamentary, Ministerial & FOI Branch
Government Division

Your review rights

Internal Review

The FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision, you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the review process, you should clearly outline your grounds for review (that is, the reasons why you disagree with the decision). Applications for internal review can be lodged by email to foi@ndis.gov.au or sent by post to:

Freedom of Information Section
Parliamentary, Ministerial & FOI Branch
Government Division
National Disability Insurance Agency
GPO Box 700
CANBERRA ACT 2601

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 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.