|  |  |
| --- | --- |
| **Subject:** | FOI 19/20-0918, FOI 19/20-0932, FOI 19/20-0941 & FOI 19/20-1047 - Communication - Formal Consultation Notice [SEC=OFFICIAL] |
| **Date:** | Fri, 22 May 2020 04:26:17 +0000 |
| **From:** | foi <foi@ndis.gov.au> |
| **To:** | Bob Buckley (Convenor) <convenor@a4.org.au> |
| **CC:** | foi <foi@ndis.gov.au> |

Dear Mr Buckley

I refer to your below correspondence sent to the National Disability Insurance Agency’s Freedom of Information (FOI) Team.

Further to the below email chain your matters remain invalid under section 15(2)(b) of the FOI Act, as such the FOI Team is formally consulting with you under section 24AB in order to assist you in making your requests valid.

Please do not hesitate to contact the FOI Team at [foi@ndis.gov.au](mailto:foi@ndis.gov.au) should you have any questions or concerns.

Kind regards

**Angus Judd**Assistant Director  
Parliamentary, Ministerial & FOI Branch

Communication and Engagement Division

**National Disability Insurance Agency**

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




**From:** Bob Buckley (Convenor) <convenor@a4.org.au>   
**Sent:** Saturday, 28 March 2020 1:25 PM  
**To:** foi <foi@ndis.gov.au>  
**Subject:** Re: FOI 19/20-0918, FOI 19/20-0932, FOI 19/20-0941 & FOI 19/20-1047 - Communication [SEC=OFFICIAL]

Dear Ms Akers

Thank you for calling me and for your subsequent email (below). Please use this email for correspondence about these matters.

I have several comments about your email.

I am puzzled that another area of the NDIA is telling the Agency's FoI team "what document(s) could satisfy [my] requests". I believe the FoI team should be more expert than "the relevant area" in deciding what *information* (more than documents, depending on your definition) "could" address my request. While there clear is "an Evaluation Report that contains information about ... the IAP", I doubt that it gives the full account of why and how the IAP arose and was conducted, and what was deliberately omitted (and the reasons) from the project. Such information helps stakeholders to understand how the Agency intends to address the needs of NDIS participants. Since there was no ASD stakeholder involvement in planning or evaluating the IAP, this is A4's primary means of understanding the Agency's operation and how the Agency uses funding from the taxpayer.

You asked strongly that I agree to your merging three requests from A4 (me) saying that they are all met by the one report. You suggest that "advice received from the relevant area of the NDIA has indicated that this is report would be the most appropriate document that exists to answer your requests". Please be aware that people in "the relevant area" do not know what I am looking for and that the culture of the Agency is unreasonably secretive. Clearly, one report does not "answer [A4's] request". The Agency simply does not want my organisation to know what it is doing or why.

I indicated that I was happy for you to combine your response to A4's three requests but that the three requests are for different *information*. I agree that the report you refer to may contain information relevant to all three requests, though I suspect it does not address the third request. I said you only need to provide that report once. And that I am happy to receive a combined response to the three requests.

You say "you do not agree to clarify the scope of those requests to the evaluation report itself". As I indicated above, I very much doubt that the report satisfies the request I made. I cannot make that judgement without having seen the report. The three requests are about respectively,

1. a) the needs for the IAP, b) the design of the IAP, and c) outcome reporting ... in other words, information about the planning and preparation.
2. the progress of the IAP ...
3. information about the second "pilot".

You wanted me to *restrict* or limit the scope to a single report. In my view, that is not really best described as "clarify".

I our discussion, you indicated that you had not checked for relevant emails. I believe my request asks for things like emails, briefing papers, meeting minutes and agendas, etc. Also, any EoI and RfT documents would be included.

Also, reference to a second pilot probably means that the first pilot did not answer all the Agency's questions, so it is very unlikely that a report (presumably on the first pilot) answers all A4's (or the Agency's) questions.

Bob Buckley  
Convenor, Autism Aspergers Advocacy Australia (A4)  
website: <http://a4.org.au/>

A4 is the national grassroots organisation advocating for autistic people, their families, carers and associates. A4 is internet based so that Australians anywhere can participate in and contribute to A4's advocacy.

Politicians and bureaucrats are subject to A4's policy on unanswered questions: see <http://a4.org.au/node/1419>.

“The first step in solving any problem is recognising there is one.” Jeff Daniels as Will McEvoy in The Newsroom.

On 26/3/20 10:24 am, foi wrote:

Dear Mr Buckley

Thank you for your time on the phone yesterday to discuss your Freedom of Information requests of 26 January 2020, 30 January 2020 and 17 February 2020.

The purpose of my call was to clarify what your requests sought access to in terms of specific documents held by the NDIA.

**FOI 19/20-0918, FOI 19/20-0932 & FOI 19/20-0941 – Requests seeking access to information about the Independent Assessment Pilot (IAP) – currently invalid under s15(2)(b)**

During our conversation, I informed you of the advice received by the FOI team from the relevant area within the NDIA in relation to what document(s) could satisfy your requests. That is, that the NDIA does hold an Evaluation Report of the IAP that contains information about the implementation, outcomes, conclusions and recommendations that came out of the IAP.

I also sought your agreement to merge the requests relating to the IAP into one, as the advice received from the relevant area of the NDIA has indicated that this is report would be the most appropriate document that exists to answer your requests.

You have advised that do not wish to merge your requests, and you do not agree to clarify the scope of those requests to the evaluation report itself. It is open to you to clarify the scope of these requests to the evaluation report at any time. Should we receive your confirmation to clarify to the evaluation report, your requests will be taken to be valid on the date we receive your confirmation.

Until the FOI team are able to identify the specific documents that you seek access to, your requests are not considered to be valid under section 15(2)(b) of the FOI Act.

However, I will continue to undertake consultation with the relevant area of the NDIA to determine exactly what other documents (if any) are held by the NDIA that would answer your requests. Upon receiving further advice, I will contact you to discuss which documents (if any) out of those identified by the relevant area you wish to seek access to.

**FOI 19/20-1047 – Request seeking access to information about an ECEI review – currently invalid under s15(2)(b)**

During our conversation, I also advised you that the relevant area of the NDIA is unsure what specific review is referred to in your request. I understand that your request was informed by executive correspondence from Ms Chris Faulkner to you received in February 2018.

As discussed, I will continue to consult with this area of the NDIA to identify what review Ms Faulkner was referring to in her correspondence of February 2018. Upon receiving confirmation of the specific review referred to and what documents are held in relation to that review that would answer your request, I will contact you to discuss those identified documents and to clarify the scope of your request to specific documents held by the NDIA. Again, until the FOI team are able to identify those specific documents that you seek access to, your request is not considered to be valid.

Nevertheless, we will continue to assist you in identifying specific documents in order to make your requests valid in accordance with the FOI Act.

We understand the difficulty in articulating what specific documents you seek access to when you do not know what documents are held by the NDIA, and we appreciate your understanding while we endeavour to assist you in identifying those specific documents.

Thank you for your time and assistance, please do not hesitate to contact me at [foi@ndis.gov.au](mailto:foi@ndis.gov.au) if you have any questions or concerns.

Warm regards

**Jennifer Akers**

Freedom of Information Officer

Parliamentary, Ministerial and FOI

Communication and Engagement Division

**National Disability Insurance Agency**

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



\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\* IMPORTANT: This e-mail is for the use of the intended recipient only and may contain information that is confidential, commercially valuable and/or subject to legal or parliamentary privilege. If you are not the intended recipient you are notified that any review, re-transmission, disclosure, dissemination or other use of, or taking of any action in reliance upon, this information is prohibited and may result in severe penalties. If you have received this e-mail in error please notify the sender immediately and delete all electronic and hard copies of this transmission together with any attachments. Please consider the environment before printing this e-mail \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\* IMPORTANT: This e-mail is for the use of the intended recipient only and may contain information that is confidential, commercially valuable and/or subject to legal or parliamentary privilege. If you are not the intended recipient you are notified that any review, re-transmission, disclosure, dissemination or other use of, or taking of any action in reliance upon, this information is prohibited and may result in severe penalties. If you have received this e-mail in error please notify the sender immediately and delete all electronic and hard copies of this transmission together with any attachments. Please consider the environment before printing this e-mail \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*