

24 May 2024

Bob Buckley
Co-convenor
Autism Aspergers Advocacy Australia (A4)

By email: convenor@a4.org.au

Dear Bob Buckley

Freedom of Information request — Notification of Decision

Thank you for your correspondence of 22 August 2023, 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 and I sincerely apologise for the continued and significant delay in processing this matter for you.

Scope of Request

You originally requested access to the following documents:

“all information held in any form about the development, design, approval and review of the NDIA's document titled AAT Case Management Guide Applied Behavioural Analysis (ABA)”

Extension of Time Requests

As we have been experiencing delays in processing FOI matters due to an increased demand on the service, we sought a 30-day extension from you pursuant to s.15AA of the FOI Act on 18 September 2023. We received no response from you about this extension. We also contacted you via phone regarding the request for extension and you confirmed that you did not agree to the extension pursuant to s.15AA of the FOI Act.

On 20 September 2023, we also applied for a 30-day extension of time from the Office of the Australian Information Commissioner (OAIC) under s.15AB to allow us sufficient time to process your request. This request was refused by OAIC on 3 October 2023.

Timeframe

As we were not successful in any extension of time requests, the original due date for your request was 21 September 2023. Due to the abovementioned processing delays, we were not able to provide our decision to you by the due date. Consequently, your application was regarded as a deemed refusal under section 15AC of the FOI Act on 22 September 2023.

As this access decision is being released to you after the due date, you do not have the right to seek an internal review of this decision. However, your right to apply for an external review with the OAIC remains protected. Please see **Attachment B** for more information about your rights of review.

Request Consultation Process and Revised Scope

On 13 October 2023 we engaged with you via a telephone conversation in an attempt to clarify and revise the scope of your request to a more manageable level.

We agreed that any ancillary material and/or publicly facing and available documents used in the development of the AAT Case Management Guide Applied Behavioural Analysis (ABA) could be removed from the scope of the request. Whilst this proved helpful to some extent, it was determined that your request was still too large to process and we commenced the formal request consultation process in accordance with s.24AB of the FOI Act on 27 October 2023.

On 1 November 2023 you responded to this request consultation letter. You agreed to remove duplicate email chains from the scope of your request, however, no further revisions beyond the revised scope you agreed to on 13 October 2023.

Your request has now been processed as the revised scope of:

“all information held in any form about the development, design, approval and review of the NDIA's document titled AAT Case Management Guide Applied Behavioural Analysis (ABA)”

Minus any duplicate email chains as well as any ancillary material and/or publicly facing and available documents used in the development of the AAT Case Management Guide Applied Behavioural Analysis (ABA). This includes any reference material or information used in the development and/or design of the guide.”

Internal Consultations

I conducted intensive consultations with members of the Administrative Appeals Branch (AAB) and ascertained the following information in relation to the development and approval of the AAT Case Management Guide for Applied Behavioural Analysis (ABA) (the guide).

- On 19 October 2022, the leadership group of the AAB (Case Managers) met for a planning day.
- At that meeting it was determined that an in-house (AAB specific) resource to aid Case Managers in understanding the issues, agency position, and commonly cited reference material would be of use.
- A directive was given to an EL2 to commence work on producing such guides. That EL2 had their team produce a template, and some internal work was conducted as to the layout of the guide.
- The EL2 then presented a list of topics for which guides should be produced, and that list was ratified in a further planning day.
- An EL1 was tasked with forming a Working Group which brought together some of the more experienced Case Managers from across all states in order to produce the individual guides.
- The guides were finalised, reviewed, proofread, and edited.
- The guide specific to ABA was reviewed and approved by the Chief Counsel and published as per the date on the final page of the document.

Further, I have also ascertained the following information in relation to the primary purpose of these guides with specific reference to the ABA guide:

- It is a collection of most commonly used internet links to public facing documents such as previous AAT published decisions, guidelines and general reports as well as evidence based medical reports and findings in relation to Autism and/or ABA. This collection may also contain links to relevant internal agency operational guidelines.

- It is a 'living' document and is subject to regular on-going review to ensure the collection of references is maintained and kept up to date as new evidence or guidance emerges and is also reviewed against AAT published decisions.
- It is not meant to be an exhaustive list of all and every reference material for the subject of Autism and/or ABA and Case Managers are also encouraged to undertake their own research and make an individual, evidenced based decision on each matter before them.

I understand the final approved version of the guide specific to ABA was released to you in full on 22 August 2023 as document 10 of FOI request FOI 23/24-0029.

Document Searches

I have identified 5 documents which fall within the scope of your request. These documents were identified as part of my abovementioned consultation with the Administrative Appeals Branch (AAB) as well as conducting searches of NDIA's systems, using all reasonable search terms that could return documents relevant to your request.

Decision on Access to Documents

After examining the documents, I have decided to release the identified 5 documents to you in full.

Access to edited copies with exempt or irrelevant material deleted (section 22)

I have identified that documents 1, 2, 4 and 5 contain material that is irrelevant to your request. The irrelevant material relates to names and contact details of NDIA staff / information which is not relevant to the subject matter of your request.

In accordance with section 22 of the FOI Act, I have considered whether it is possible to delete the exempt and irrelevant material from the documents and have concluded that it is reasonably practicable to do so. Accordingly, I have prepared an edited copy of the documents with the exempt and irrelevant material removed.

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

Release of Documents

The documents for release, as referred to in the Schedule of Documents at **Attachment A**, are attached.

Rights of review

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

Should you wish to revise your request or have any questions in relation to this process, please do not hesitate to contact me by email at foi@ndis.gov.au.

Yours sincerely



Misty L (MIL275)
Assistant Director FOI
Complaints Management & FOI Branch
General Counsel Division

Schedule of Documents for FOI 23/24-0201

Document number	Page number	Description	Access Decision	Comment
1	1	Email chain titled " <i>November HOC papers - AAT Case Management Guides</i> " Date: 7 November 2022	FULL ACCESS	Irrelevant material removed under section 22 of the FOI Act
2	2 - 4	Hearing Oversight Committee Briefing: AAT CM Guides Project Date: 10 November 2022	FULL ACCESS	Irrelevant material removed under section 22 of the FOI Act
3	5	Attachment B to Hearing Oversight Committee Briefing: AAT CM Guides Project - AAT Case Management Guides Topic List Undated	FULL ACCESS	
4	6 - 9	Attachment A to Hearing Oversight Committee Briefing: AAT CM Guides Project - AAT Case Management Guide Applied Behavioural Analysis (ABA) Draft version 0.6 Date: 2 November 2022	FULL ACCESS	Irrelevant material removed under section 22 of the FOI Act
5	10 - 14	Email chain titled " <i>For endorsement: AAT CM guides</i> " Date: 25 October 2023	FULL ACCESS	Irrelevant material removed under section 22 of the FOI Act

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 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 Division.