



Administrative Appeals Tribunal

Our ref: 2015/17

9 November 2015

Mr Paul Miller

Email: Paul.Miller@fwc.gov.au

Dear Mr Miller

Your request under the *Freedom of Information Act 1982*

I am writing to give you a decision about your request of 19 October 2015 for access to documents under the *Freedom of Information Act 1982* (FOI Act).

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

DECISION AND REASONS FOR DECISION

On 19 October 2015 you requested access to transcripts of Tribunal hearings held between 4 and 8 December 2014 in relation to the matter with file number 2013/5737.

A transcript of hearing held on 8 December 2014 has been located which falls within the scope of your request. Hearing listings prior to 8 December 2014 were vacated and no transcript was produced.

I have decided to refuse access to this document. The reasons for my decision are set out below.

Reasons

Section 46 of the FOI Act provides that a document is an exempt document if its public disclosure would be contrary to an order made or direction given by ... a tribunal or other person having the power to take evidence on oath.

Section 40 of the *Administrative Appeals Tribunal Act 1975* gives the Administrative Appeals Tribunal the power to take evidence on oath.

Section 35 of the *Administrative Appeals Tribunal Act 1975* provides that hearings should be in public unless the Tribunal, by order, gives directions otherwise.

A direction, by way of order, has been made under section 35 in respect of applications 2012/1055 and 2013/5012 preventing the disclosure of the names and addresses of the applicant and any witnesses appearing before the Tribunal; of evidence given before the Tribunal; and of documents lodged with or received in evidence by the Tribunal.

It follows that the transcript you request is an exempt document under the FOI Act and I have decided to refuse to release it on that basis.

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner (IC) review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the AAT for an internal review of my decision. The internal review application must be made within 30 days of being notified of this decision.

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner Review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
email: enquiries@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to:
<http://www.oaic.gov.au/freedom-of-information/requesting-a-review>.

If you have any questions about this decision, please contact me on 02 9391 2453 or at foi@aat.gov.au.

Yours sincerely,



Sandra Koller
Director - Legal and Policy