



FAMILY COURT OF AUSTRALIA

National Support Office  
GPO Box 9991 Canberra ACT 2601

21 November 2016

Via email: [foi+request-2211-a1287fe5@righttoknow.org.au](mailto:foi+request-2211-a1287fe5@righttoknow.org.au)

Dear Mr Fairless

This letter is in response to your request of 10 November 2016 under the *Freedom of Information Act 1982* ('the FOI Act') for a review of the original decision made on your FOI request, as described below.

I am authorised by the Chief Executive Officer of the Family Court of Australia to conduct the review set out in this letter.

Your original request was as follows:

From: Ben Fairless <[foi+request-2586-4f1ccceb@righttoknow.org.au](mailto:foi+request-2586-4f1ccceb@righttoknow.org.au)>  
To: FOI requests at Family Court of Australia <[clientfeedback@familycourt.gov.au](mailto:clientfeedback@familycourt.gov.au)>,  
Date: 02/11/2016 09:01 PM  
Subject: Freedom of Information request - FOI Delegations - 2016

Dear Family Court of Australia,

Can I please have a copy of the current FOI Delegations, and any related directions issued in respect of FOI.

I believe this information could be considered "operational information" so I therefore request release under the IPS, or under Administrative Access.

Yours faithfully,

Ben Fairless

There was subsequent correspondence as follows:

From: Ben Fairless <[foi+request-2586-4f1ccceb@righttoknow.org.au](mailto:foi+request-2586-4f1ccceb@righttoknow.org.au)>  
To: FOI requests at Family Court of Australia <[clientfeedback@familycourt.gov.au](mailto:clientfeedback@familycourt.gov.au)>,  
Date: 08/11/2016 07:49 AM  
Subject: Re: Freedom of Information request - FOI Delegations - 2016 [SEC=UNCLASSIFIED]

Dear Family Court of Australia,

If you're authorised by the head of the agency, then there must be a written record of that authorisation. Can you provide me with a copy of all written authorisations by the head of your agency which delegate functions under the FOI Act? Has the FCA issued any guidance notes to its staff (independent of the OAIC GUIDELINES) on FOI Requests?

Yours faithfully,

Ben Fairless



-----Original Message-----

Dear Mr Fairless

I refer to your email below.

I have interpreted your request as one which includes all or any documents held by the Family Court that could be described as a currently viable instrument delegating power to an officer or officers to make decisions through the Freedom of Information Act 1982 (the FOI Act), and all or any documents containing directions issued by court management and covering the current period in relation to management of FOI matters.

As there are no such documents held by the Family Court, as an officer authorised under the Act to make such decisions, I am minded to refuse your request under section 24A of the FOI Act, which provides for refusal where documents cannot be found. I will make this decision unless you can clarify that your request refers to documents of a different nature.

Regards

The Freedom of Information Officer  
The Family Court of Australia

The decision maker then made a decision on 8 November 2016 as follows:

*From:* ClientFeedback/ACT/FamCrt  
*To:* Ben Fairless <foi+request-2586-4f1ccceb@righttoknow.org.au>  
*Date:* 08/11/2016 02:51 PM  
*Subject:* Re: Freedom of Information request - FOI Delegations - 2016 [SEC=UNCLASSIFIED]  
*Sent by:* Meg Foreman

*Dear Mr Fairless*

*I refer to your email below.*

*There is no obligation in the FOI Act for there to be a written authorisation from a staff agency head. Such an arrangement may be made without a written instrument and any staff member in an agency may be called upon by the agency head to perform FOI duties.*

*As there are no such documents as you have requested held by the Family Court, as an officer authorised under the Act to make such decisions, I am refusing your request under section 24A of the FOI Act, which provides for refusal where documents cannot be found.*

*Please find attached your rights of review.*

*Regards*

*The Freedom of Information Officer  
The Family Court of Australia*



You are now seeking an internal review of the original decision made:

From: Ben Fairless <foi+request-2586-4f1ccceb@righttoknow.org.au>  
To: FOI requests at Family Court of Australia <clientfeedback@familycourt.gov.au>,  
Date: 10/11/2016 06:46 PM  
Subject: Internal review of Freedom of Information request - FOI Delegations - 2016

Dear Family Court of Australia,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Family Court of Australia's handling of my FOI request 'FOI Delegations - 2016'.

A person (who's name or position is not provided) has by their own admission stated there is no way to prove their authorisation to make decisions under the FOI Act. If a written authorisation doesn't exist, how can you prove the person was authorised to make a decision?

A full history of my FOI request and all correspondence is available on the Internet at this address:

[https://www.righttoknow.org.au/request/foi\\_delegations\\_2016\\_36](https://www.righttoknow.org.au/request/foi_delegations_2016_36)

Yours faithfully,

Ben Fairless

Firstly, I support the information provided to you on 8 November 2016 in respect of the requirement for written authorisation to conduct FOI matters. There is nothing further that I can add to what has already been provided to you on this matter.

I confirm that the original decision-maker was an authorised decision-maker for the purposes of the FOI Act.

I have taken into consideration the searches that took place and have made my own searches in relation to the Family Court's holdings. I am satisfied that there are no such documents as you requested. That is to say, there are no documents held by the Family Court that are current instruments authorising any staff member to make FOI decisions, nor are there any documents that are directions issued in respect of FOI matters.

My decision in reviewing this matter is to support the original decision made in respect of your FOI request.

Once again, please find attached information on your review rights.

Yours sincerely

Leisha Lister

Executive Officer

Family Court of Australia