



Telephone: (02) 9230 8341
DX 613 SYDNEY

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

Your Ref:
Our Ref: PA2925 – K Hazledine

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

26 November 2018

Ms Karren Hazledine

By email: foi+request-5120-0ab0b9e8@righttoknow.org.au

Dear Ms Hazledine

Freedom of Information Request – SAD 338 of 2016

On 22 November 2018, you sent correspondence to the Commonwealth Attorney-General's Department (**the AGD**) in which you made a request under the *Freedom of Information Act 1982* (**FOI Act**). In that correspondence you requested 'all transcripts and documents in relation to Karren Hazledine v Arthur J Gallagher & Co (AUS) Limited'.

On 26 November 2018, the AGD transferred your request to the Federal Court of Australia (**Federal Court**) pursuant to section 16(1) of the FOI Act.

I am writing to advise you of my decision about your request for access under the FOI Act (**FOI request**) as transferred to the Federal Court on 26 November 2018.

Authority

I am authorised under section 23 of the FOI Act to make decisions on behalf of the Federal Court in relation to all aspects of an FOI request.

Scope of Request

You request access to 'all transcripts and documents in relation to [SAD 338 of 2016] Karren Hazledine v Arthur J Gallagher & Co (AUS) Limited'.

Application of the FOI Act

The FOI Act has a very limited application to the Federal Court (see paragraphs 2.6 – 2.8 of the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act, available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-2-scope-of-application-of-the-freedom-of-information-act>). Although the Federal Court is a 'prescribed authority' for the purposes of the FOI Act (section 5(1)(a)), the only request that can validly be made to it under the FOI Act is to access a 'document of an administrative nature' (section 5).

The High Court of Australia, in *Kline v Official Secretary to the Governor General of Australia & Anor* [2013] HCA 52, considered the meaning of the phrase 'matters of an administrative

nature' and held that it refers to documents that concern the 'management and administration of office resources, such as financial and human resources and information technology' (see [41] with examples at [13]).

Decision

Your request relates to documents that constitute a court file. These are not documents of an administrative nature and are not available under the FOI Act. Access to court documents (e.g. judicial process, affidavits etc) relating to proceedings in the Federal Court are governed by the *Federal Court of Australia Act 1976* and the *Federal Court Rules 2011* and not by the FOI Act.

Requests for judicial documents that constitute a court file may be made pursuant to Division 2.4 of the *Federal Court Rules 2011*. Requests to purchase transcripts can be made to Auscript, the Federal Court's transcript provider.

More information on accessing documents that constitute a court file and purchasing transcripts can be found on the Federal Court's website at <http://www.fedcourt.gov.au/services/access-to-files-and-transcripts/court-documents>.

Accordingly, your request for documents pursuant to the FOI Act is refused.

Review Rights

If you are dissatisfied with my decision, you may apply for an internal review by another officer of the Court or for an external review by the Australian Information Commissioner. If you are considering asking for a review, the Court encourages 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 Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. A request for internal review can be sent to the Court by email at foi@fedcourt.gov.au. Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out within 30 days.

External 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:	www.oaic.gov.au
post:	GPO Box 5218, Sydney NSW 2001
fax:	+61 2 9284 9666
email:	enquiries@oaic.gov.au
in person:	Level 3, 175 Pitt Street, Sydney, NSW 2000

More information about a review by the Australian Information Commissioner is available on the Office of the Australian Information Commissioner website at www.oaic.gov.au/freedom-of-information/foi-reviews.

If you wish to discuss this decision, please contact me by phone on the number shown in the letterhead above or by email at foi@fedcourt.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Mathieson', with a long horizontal flourish extending to the left.

John Mathieson

Deputy Principal Registrar