



**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

17 December 2021

Shaun
Right to Know

By email: foi+request-8162-a8e1189e@righttoknow.org.au

Dear Sir/Madam,

Request under the Freedom of Information Act

I acknowledge receipt of your email to the Federal Court of Australia (the **Court**), dated 6 December 2021, requesting access to documents under the *Freedom of Information Act 1982* (Cth) (**FOI Act**). Specifically, you have requested the following:

i require the internal directive, procedure, training documents (or other documents) that relate to the following:

1. There is no public document or evidence that a man or woman that wishes to prosecute a claim in a common law Court of Record at the Federal Court of Australia venue must pay to prosecute said claim - Only legal entities such as a Natural Person and a Corporation are required to pay for the privilege to be in the Federal Court of Australia, i, require the said payment schedule documents that relate to a man and/or woman.

*2. The Magna Carta (1297) 25 Edw 1 c 29, reads:
"We will sell to no man, and we will not deny or defer to any man, either justice or right"; is there a said internal document that is contrary to said Magna Carta that gives a qualified employee, PUBLIC SERVANT, or other, the right to sell a man (or woman) justice or right?*

Authorised decision-maker

I am authorised under section 23 of the FOI Act to make decisions on behalf of the Court in relation to requests made under the FOI Act.

Decision

I have decided to refuse item (1) of your request for documents on the basis that the FOI Act does not apply to a request for access to material that is publicly available.

I have decided to also refuse item (2) of your request for documents, pursuant to subsection 24A(1) of the FOI Act, because I am satisfied that such documents cannot be found or do not exist.

I have taken the following into account in making my decision:

- your request;
- the FOI Act and relevant case law; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner.

Reasons for Decision

Material that is otherwise publicly available

Although the FOI Act provides a legally enforceable right to obtain access to “a document of an agency” (paragraph 11(1)(a)), under the FOI Act, a document of an agency does not include “material maintained for reference purposes that is otherwise publicly available” (paragraph 4(1)(d)).

Item (1) of your FOI request seeks “payment schedule documents that relate to a man and/or woman”, the payments required “for the privilege to be in the Federal Court of Australia”, or the “document or evidence that a man or woman... must pay to prosecute [their] claim”. In other words, you seek access to the documents which prescribe the fees payable in this Court.

The Court’s website provides details on the prescribed filing and other fees in the Court, which is accessible via the following link: <https://www.fedcourt.gov.au/forms-and-fees/court-fees/fees>. As you can see from the Court’s website, the amount of the fees that are payable depends upon whether the filing party is “a corporation” or “any other case”. The latter of these categories includes fees payable by individuals.

By requesting the fees payable in the Court by a “man and/or woman”, you are requesting information that is already publicly available. Such information is captured by paragraph 4(1)(d) of the FOI Act and therefore falls outside the definition of a “document” under the FOI Act. Item (1) of your request for documents under the FOI Act must be refused on this basis.

Documents that cannot be found or do not exist – paragraph 24A(1)(b)

Subsection 24A(1) of the FOI Act provides:

- (1) *An agency or Minister may refuse a request for access to a document if:*
 - (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency’s or Minister’s possession but cannot be found; or*
 - (ii) *does not exist.*

Item (2) of your FOI request seeks any “internal document that is contrary to [the] Magna Carta” that gives an officer of the Court “the right to sell a man (or woman) justice or right”.

I conducted searches to identify any and all documents falling within the scope of item (2) of your request. These searches involved discussions with Court staff, searches of the Court’s national network drives, and searches of the Court’s records management systems. No documents could be found in answer to item (2) of your request.

I am satisfied that, by conducting these searches, the Court has undertaken all reasonable steps to identify the documents captured by item (2) of your request, and that the documents requested cannot be found or do not exist. I am therefore unable to provide you with any

documents and item (2) of your request must be refused pursuant to subsection 24A(1) of the FOI Act.

Charges

You have not been charged for the processing of your request.

Your Review Rights

If you are dissatisfied with my decision, you may apply for internal review or to the Information Commissioner for review of those decisions. I 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 Federal Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

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 Australia 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 2999, Canberra ACT 2601

in person: Level 3, 175 Pitt Street, Sydney NSW

More information about the Information Commissioner review is available on the Officer of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Yours sincerely,



Rohan Muscat
National Registrar