

Attachment A

DECISION RECORD

Request Details

FOI Request FA 14/08/00321
File Number ADF2014/28056

Scope of request

I would like to request under freedom of information of laws any correspondence between the Immigration Minister Scott Morrison and the Immigration Secretary Martin Bowles, including text messages, emails, briefing notes, internal documents and any form of communication regarding the third hearing of the Australian Human Rights Commission inquiry into children in detention, which took place on 24 July, 2014.

The time frame is from 27 July, 2014 to 7 August, 2014.

Documents in scope

1. Electronic records – email containing 3 pages
2. Document – Opening (draft) statement to AHRCI containing 7 pages

Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records.

Information considered

In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above); and
- The Australian Information Commissioner's guidelines relating to access to documents held by government.

Reasons for decision

I have considered the document within the scope of your request and applied exemptions in part or in full to document as detailed in the Schedule of Documents. You should read the schedule in conjunction with the exemptions below.


Deletion of exempt or irrelevant material under s.22 of the FOI Act

Section 22(2) of the FOI Act provides that, where an agency reaches the view that a document contains exempt information or material that is irrelevant to the request **and** it is possible for the agency to prepare an edited copy of the document with the irrelevant or exempt material deleted, then the agency must prepare such a copy.

This edited copy must be provided to the applicant. Further, the decision maker must advise the applicant in writing that the edited copy of the document has been prepared and of the reason(s) for each of the deletions in the document (s.22(3) of the FOI Act).

Exempt material is deleted pursuant to s.22(1)(a)(i) and irrelevant material is deleted pursuant to s.22(1)(a)(ii) of the FOI Act. The exempt material does not relate to correspondence between the Minister and the Secretary, as it contains the names and details of other individuals not specified in the scope of the request.

The attached Schedule of Documents identifies documents where material has either been deleted as exempt information under the FOI Act or deleted as irrelevant to the scope of the request.

A handwritten signature in black ink, appearing to read 'Steven Hocking', with a stylized, wavy line extending from the end of the signature.

Steven HOCKING

Authorised decision maker

FOI and Privacy Policy Section

Parliamentary & Executive Coordination Branch | Immigration and Border

Protection Portfolio

Telephone (02) 6264 1007

Email foi@immi.gov.au

29 October 2014



Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA 14/08/00321
File Number ADF2014/28056

1. Departmental File: Departmental documents

Folio	Description	Decision	Legislation
1	Email correspondence	Release in part	s.22(1)(a)(ii)
2-8	Opening (draft) statement to AHRCI	Release in full	
9-10	Email correspondence	Release in part	s.22(1)(a)(ii)

Attachment C – Extract of relevant legislation

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
 - (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an *edited copy*) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
 - (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
 - (a) that the edited copy has been prepared; and
 - (b) of the grounds for the deletions; and
 - (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the

regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

s. 22(1)(a)(ii)

From: Martin BOWLES
Sent: Thursday, 31 July 2014 7:35 AM
To: Scott Morrison; s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: Opening statement for AHRC [DLM=For-Official-Use-Only]
Attachments: opening statement AHRC Inquiry into Children in Immigration Detention public hearing 31 July 2014.docx

Minister
FYI
Martin

Sent with Good (www.good.com)

s. 22(1)(a)(ii)

Released by DIBP under the
Freedom of Information Act 1982



Australian Government
Department of Immigration and Border Protection

**Opening statement to the Australian Human Rights Commission Inquiry into
Children in Immigration Detention third public hearing**

Sydney, 31 July 2014

Martin Bowles PSM
Secretary
Department of Immigration and Border Protection

Good afternoon President. Before commencing, we would like to acknowledge that this meeting is being held on the traditional lands of the Gadigal people, and pay our respect to Elders both past and present.

Thank you for the invitation to appear at this third public hearing. As with the first two hearings, the Department is pleased to have the opportunity to deliver an opening statement and to speak with the Commission.

In its opening statement to the first two public hearings, the Department has already spoken in some detail about the range of improvements that have been made to the administration of immigration detention in Australia in the ten years since the previous Inquiry. The department has spoken about improvements to models of governance, case management, service delivery and care – improvements designed to ensure that individuals are treated with dignity and respect and are provided with care and services according to their needs.

The Department has also spoken about its ongoing commitment to a programme of engagement with stakeholders and public scrutiny bodies which ensures continued transparency and accountability of immigration detention in Australia.

people our business

Importantly, the Department remains committed to the ongoing improvement of immigration detention and to ensuring that the accommodation and services provided remain appropriate for individuals and families while they remain in our care.

President, the Department has been heartened by the statements you have made, particularly at the outset of this Inquiry, that you are committed to an evidence-based process and that you are looking to ensure that any claims made to the Inquiry, and by the Inquiry, can be supported in fact. The Department has sought to support you in this respect by engaging closely with members of your staff through the duration of the Inquiry and by providing information and documents to the Commission upon request.

I note with some reservation that, since the time of the second hearing and the Commission's return visit to the Christmas Island facilities earlier this month, there appears to have been a shift away from this approach. Whilst the Commission has already gone on record in the media regarding this visit, I would like to take this opportunity to touch upon a few issues that have been discussed, either directly with the Department in the course of the Commission's visit or in the media over the past few weeks.

I reject claims made in the media in relation to the conditions on Christmas Island. They have been highly emotive claims which offend greatly the skilled professionals, both public servants and service provider staff, who work to deliver high quality care in difficult circumstances.

Chest and gut infections are not pervasive on Christmas Island as claimed. All illnesses are treated with proper and appropriate medical and other support.

The health care services available to detainees on Christmas Island, including women and children, are commensurate with those available in the Australian community. While members of the Commission have sought to question this during the course of the Inquiry, I have not yet seen any evidence to support these claims.

It is concerning to me that, despite the Department's considerable efforts to-date, to remain open, engaged and forthcoming with the Commission, we have seen statements in the media suggesting that the Department has redefined suicide attempts as acts of self harm and that it has been less than honest in terms regarding the public's right to understand the conditions on Christmas Island and the associated impact on detainees. Conversely, it is entirely misleading to redefine some acts of self harm as attempted suicide.

The Department has, and continues to, provide the Commission with the data it has required regarding instances of self harm. You have been provided with the relevant incident reports and, through this, have been provided with appropriate visibility regarding the nature of those instances of self harm. This characterisation is quite disturbing to the many professional staff and service providers who do their best to manage these difficult issues in a highly contested policy space.

For its part, the Department recognises that the challenges in managing self-harm risk are not unique to immigration detention – they are faced in other settings, including in the Australian community. The Department and its service providers seek to manage such instances appropriately and have processes in place to prevent and reduce further incidents.

I would also like to make the point that, as made on numerous occasions during the course of this Inquiry, the Department remains committed to ensuring that the conditions of detention meet the needs of detainees, including families and

children. Through its service providers, the Department delivers programmes and services which meet these needs.

President, I would respectfully suggest that any assessment of the conditions on Christmas Island must continue to make reference to the many improvements and considerable progress that has already been made particularly over the last year, as well as taking account of the further improvements currently at various stages of planning and implementation, designed to further improve the environment and amenities available on Christmas Island.

You were afforded the opportunity to see, as part of your recent visit to Christmas Island, the recent works to establish a learning centre, which includes 10 classrooms, a library, teachers' offices, a multipurpose play area and an assembly area. I am pleased to confirm that classes at the Learning Centre commenced this week after many months of planning and delivery.

Additional works at the Phosphate Hill site include the refurbishment of kitchenettes, which will allow for some additional basic self-catering, the provision of new activities spaces, the installation of a kitchen to be used for programmes and activities and the installation of a gymnasium and recreation equipment including pool and air hockey tables. Refurbishment of accommodation is also in train at Phosphate Hill and planning and design work has commenced to better support family style living and for further recreational spaces.

At the Construction Camp site, a crèche and play centre has been established, with classes already underway and more becoming available in the coming weeks as works are completed. Installation of additional large screen televisions and DVD players is underway and a sewing room is being installed. Plans are being made for the provision of gardens and playgrounds, along with the installation of a teaching kitchen and gymnasium. Basic self-catering options are also being explored for the

Construction Camp site and basic refurbishment of accommodation and amenity areas is occurring in a staged manner.

The improvements to the Christmas Island environment are not limited to infrastructure improvements. The Department has been working steadily to reduce the overall population on Christmas Island which, itself, has resulted in some significant improvements to the amenity of the environment and to the flexibility in which resources are used for the benefit of detainees. At the time of peak numbers in July 2013, there were **1992** children in held immigration detention including **688** children held on Christmas Island. The Department has effected significant changes since this time and the number of children in held detention has now reduced to **659** as at 22 July 2014, with **153** children remaining on Christmas Island. This represents a net reduction of over **530** children on Christmas Island in the past twelve months and a net reduction of **1330** in the number of children in held detention overall.

Indeed, any assessment of immigration detention in Australia must similarly take into account the changing and dynamic nature of the immigration detention programme. It is the Department's ability to respond to change, in a manner that ensures services remain appropriate, that characterises many of the most significant improvements that have been made over the past decade. This is not to say that the Department gets it right all the time – we are on record acknowledging the recent insufficiencies in access to education services on Christmas Island as a case in point. However, where such shortcomings are identified at a particular point-in-time, the Department works diligently toward their resolution, as it has done with the recent establishment and commencement of the learning centre on Christmas Island.

President, the Department accepts that the Commission will receive a range of opinions, assertions and allegations, both from detainees and from other stakeholders and interested parties during the course of its Inquiry.

For its part, the Department continues to offer its full cooperation and support, particularly to the extent that it can offer data and other information which will serve to verify claims made. It is vital that the facts and information provided by the Department are used to contribute to a complete and balanced view of immigration detention, rather than being selectively used to support a particular position.

As is appropriate, the Department will continue to offer a professional and expert service to Government in the administration of its immigration detention programme. All individuals in detention will continue to be provided with proper and appropriate medical care and support.

Finally, I note that at the previous hearing in Melbourne, the Department was asked to provide the average cost of holding an individual in detention on Christmas Island in comparison to that of holding an individual in detention facilities in Darwin. Can I reiterate that the Department is not funded to provide immigration detention services on an average per capita cost basis. Funding is determined based on a Demand Driven Funding Model which takes into account the complexity of the environment as well as the specific needs of the detainees.

I would like to again note, for the record, the Department's position that the accommodation and care of children and families at offshore processing centres does not fall within the scope of the Inquiry and, as such, the Department will not discuss these matters at the public hearing.

I would also like to make brief comment on the report released yesterday by the Australian Churches Refugee Taskforce, entitled *Protecting the Lonely Children*.

The Department takes the protection of children very seriously and is committed to ensuring they are protected from exploitation and abuse. To the extent that the allegations made in the report relate to specific circumstances, I am extremely concerned that the Taskforce has not already provided details to the Department so that these can be urgently investigated and the appropriate protection mechanisms engaged, including a referral to police if appropriate. I have written directly to the Chair of the Taskforce, the Very Reverend Dr Peter Catt, requesting that any specific allegations are put to the Department urgently for this purpose.

I would like to extend my thanks to the Commission and the President for inviting the Department to appear at this hearing and the previous hearings. I look forward to any recommendations of the Inquiry that will assist us in improving the services offered to children in immigration detention within the current legislative and policy framework.

Can I finally thank my staff and service providers for their professionalism and dedication in the delivery of services in this highly contested policy space.

My colleagues and I are happy to respond to your specific questions.

Thank you.

s. 22(1)(a)(ii)

From: Martin BOWLES
Sent: Thursday, 31 July 2014 8:49 AM
To: Scott Morrison
Cc: s. 22(1)(a)(ii)
Subject: RE: Opening statement for AHRC [DLM=For-Official-Use-Only]

No worries

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

From: Scott Morrison
Sent: Thursday, July 31, 2014 08:48 AM AUS Eastern Standard Time
To: Martin BOWLES
Cc: s. 22(1)(a)(ii)
Subject: RE: Opening statement for AHRC [DLM=For-Official-Use-Only]

Excellent statement. It would be helpful to note that the Departments actions are implementing Government policy and the directions we have provided to get children out of detention wherever possible and the Govt has provided the resource support necessary to improve conditions.

From: Martin BOWLES s. 22(1)(a)(ii)
Sent: Thursday, 31 July 2014 7:35 AM
To: MORRISON, Scott; s. 22(1)(a)(ii)
Cc: s. 22(1)(a)(ii)
Subject: Opening statement for AHRC [DLM=For-Official-Use-Only]

Minister
FYI
Martin

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