



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

Request Details

FOI Request FA 14/09/00445

File Number ADF2014/32824

Scope of request

Documents constituting the correspondence sent from the Minister for Immigration to the Department of Immigration and Border Control (the Department), in or around the period 7 September 2013 to 31 October 2013, which instructed or requested the Department and its employees, to make use of the phrase "illegal maritime arrival".

Document in scope

1. Letter – containing 2 folios.

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 am satisfied that I have been provided with all the relevant documents to consider in my decision. I have considered the documents and am satisfied that no exemptions apply. Therefore, I am releasing the relevant document in full.

Steven HOCKING

Assistant Director

FOI & Privacy Policy Section

Parliamentary & Executive Coordination Branch | Immigration and Border
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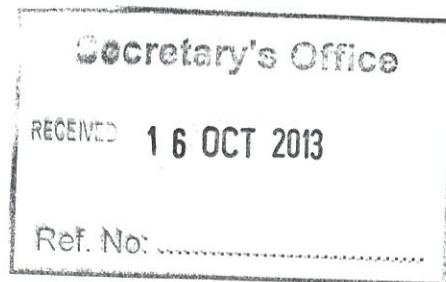
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29 October 2014

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Office of the Hon Scott Morrison MP

Minister for Immigration and Border Protection

Mr Martin Bowles
Secretary
Department of Immigration and Border Protection
Chan Street
Belconnen ACT 2617

Dear Mr Bowles,

I write to clarify the descriptive terminology that I expect to be used by my Department in relation to the following matters.

Illegal Maritime Arrivals

Article 3 of the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime defines the 'smuggling of migrants' as the 'procurement, in order to obtain, directly or indirectly, a financial benefit or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident'. 'Illegal entry' is defined as 'crossing borders without complying with the necessary requirements for legal entry into the receiving state'.

We are engaged in a whole of Government operation to stop people smuggling to Australia. This means preventing illegal entry to Australia, predominantly by sea, as described in this Convention. Accordingly I request that all reference to persons who have or have sought to illegally enter Australia by sea, be referred to by the Department as illegal maritime arrivals or IMAs because this is what we are trying to stop.

For the purpose of making references to the Migration Act you may need, in submissions or other relevant official documents, to provide further clarification by adding the further descriptor of 'IMAs, referred to in the Act as unauthorised maritime arrivals', if you consider this level of specificity is necessary to convey a specific meaning under the Act.

Detainees

All persons held in onshore detention facilities will no longer be referred to as clients, but detainees. Persons in held detention are not there to be provided with a service, they are being detained. They have been placed in detention because they have failed to comply with the processes and legal requirements that we have established regarding their entry or lawful stay in Australia. As a result, they have been detained and should be referred to in this manner. In this context persons held in community detention should be referred to as community detainees.

Transferees

All persons held in offshore processing centres should not be referred to as clients, but continue to be referred to as transferees.

IMAs on Bridging Visas

Consistent with the advice above, IMAs on bridging visas should not be referred to as clients. They should be referred to as IMAs on bridging visas.

I hope this clarifies these matters and I thank you for your assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Scott Morrison', is written over a horizontal red line.

The Hon Scott Morrison MP
Minister for Immigration and Border Protection