Nature of issue: Allegation of breach of duty of care by a Home Affairs Officer received on 6.47F(1)

People involved

Clients in residence determination ("community detention") 6.47F(1)

Community Advocates - not formally authorised to act on behalf of the clients. 6.47F(1)

Departmental Contracted Service Provider under Status Resolution Support Services 6.47F(1)

Department of Home Affairs 6.47F(1) Status Resolution Officers 8.22(1)(a)(b)

Key Facts

- 6.47F(1)

- 6.47F(1) and the Department cannot rely on 6.47F(1).

- 6.47F(1) Status Resolution Officer 8.22(1)(a)(b) contacted 6.47F(1) Protocol requires that the SRO stipulate 6.51F(1)

  The minor child, 6.47F(1), was subsequently placed on the phone call by 6.47F(1) during this conversation without the Department's knowledge. Once it was ascertained that the minor child was on the phone, the SRO attempted to de-escalate the situation. The SRO followed Departmental protocol and did not conduct the conversation in the manner outlined by the complainant.

- 6.47F(1) Status Resolution attempted to contact 6.47F(1) on 28 August 2019 to advise them 6.47F(1) advised that all phones were now diverted to and with the minor child, 6.47F(1) and therefore the Department would be forced to speak with the minor child about any further matters, hence no further contact was made with 6.47F(1) directly on 28 August 2019.

- The Department did not breach duty of care when engaging with the minor 6.47F(1) as 6.47F(1) placed 6.47F(1) on the phone call without the Department's knowledge. Once it was ascertained that the minor child was on the phone the content was de-escalated.
the Department received a termination notice from the landlord of the property at
funded by the Department's Status Resolution Support Service Program.

SRSS Operations and Support Team requested that Status Resolution contact the to confirm the expectation that the are required to relocate to their new property.

Status Resolution Assistant Manager contacted by telephone, in the absence of NSW Status Resolution Officer, informed .

During this telephone conversation the was placed on the phone call without the Department's knowledge. Once identified that the call had been passed onto another person and learned that tried to de-escalate the situation.

After the phone call, then requested . The details of the phone call and what transpired were escalated in writing to the relevant areas, immediately after the event.

Following this phone call, Status Resolution received a call from
were concerns that the officers would be forced to speak with the minor child.

- At 7.17pm, Status Resolution responded to.

- SRSS Program Management contacted.
FYI as I asked what happened with what we sent up the line.

Thanks

FYI – I amended the document slightly.

Brief update:

- [47F](1) The Department will not correspond directly with [47F](1) – all engagement will be through [47F](1)
- [47F](1)

More detailed update and response to the allegations of the status resolution officer breaching duty of care are attached.

Please note, one of the complaints has been copied to [47F](1) – we are preparing for min coro and possible media interest.

Thanks

Senior Director Status Resolution Network, Immigration Integrity and Community Protection
Division Immigration and Settlement Services

P: 221(103)(0)
E: 221(10009)
As expected... Do you have an update?

FAS Wimmer and AS Riviere

Commander Smith is currently travelling with Commissioner, I am forwarding through for your information and action (where necessary).

Kind Regards,

[Signature]

Executive Support Officer to Chief of Staff to the Commissioner
Commander Ministerial & Parliamentary
Australian Border Force

please find attached the appropriate documentation
On [47F(1)] at 7:16 pm [22(1)(b)(1)] wrote:

Sensitive

Dear [47F(1)],

Kind Regards,

[22(1)(b)(1)]

Acting Assistant Director | Status Resolution - Complex Cases
Status Resolution Network | Immigration Integrity and Community Protection Division
Immigration and Settlement Services Group
Department of Home Affairs
Section E: [47E(4)]

Sensitive

From [47F(1)]
Sent: [47F(1)] 4:05 PM
To: [22(1)(b)(1)]
Cc: [22(1)(a)(1)]

Subject: [47F(1)]

Dear all

[47F(1)]
On ..., at 11:45 am, wrote:

URGENT: IN CONFIDENCE

Attention: s. 47F(1)

s. 47F(1)

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

s. 47F(1)
This document may contain 'personal identifiers' and 'personal information' as defined under the Migration Act 1958 or Australian Citizenship Act 2007, and can only be used for purposes under these Acts.

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Unsolicited commercial emails MUST NOT be sent to the originator of this email.
Ok this is for the sake of transparency – see the attached and below. Please don’t take this to heart.

Yes it was our SRO who spoke with the minor, but she was initially talking to the adult and not aware that the call had been transferred to the minor or that the minor was put on speakerphone, hence it was an innocent mistake.

Once it was realised that the call had been transferred to the minor the tone of the conversation was changed.

However the SRO did not state that it was the mother’s mistake.

This is why escalated this to the relevant ISSS areas at the time.

Attached is the most recent email that I sent to in regards to this that explains the SRO's side to the story.

Thanks

[Redacted]

Date: June 22, 2016

To: [Redacted]

Subject: Response to legal required - for your clearance pls - [Redacted] [TLM-Sensitive Personal]

Importance: High

Are you able to assist with this case? We are trying to ascertain who it was that had the referred to conversation with the minor – was it an SRO or a caseworker from ? If it was the SRO, can we please get their side of the story about the conversation.

There have been a lot of emails flying around about this today and it appears they contacted on Friday with the following statements:

[Redacted]
There was also a reference to this conversation in a report by s. 47F(1) which states:

Kind regards,

[Redacted]

Director Operational Coordination
Status Resolution Network | Immigration Integrity and Community Protection
Immigration and Settlement Services Group
Department of Home Affairs
P: 122(1)(b)(i)
Email: 122(1)(b)(i)

Sensitive: Personal

Sent: 2.53 PM
To: 122(1)(b)(i)
Cc: 122(1)(b)(i)
Subject: FW: Response to legal required - for your clearance pls s. 47F(1) [DM=Sensitive Personal]

Importance: High

Sensitive: Personal
Hi

I brought your queries to my attention. We have been quite involved in this case. I can provide you with a response based on the involvement of my team (process), but I think I will need to throw to  and/or  in respect of the alleged discussion between  and a “ABF officer”. I would assume that the officer would either be  or perhaps the service provider. I have included both in this email – they will need to get back to you on that.

I am happy to discuss the below if required.

The bottom line here is that they had received a Termination Notice from the landlord. As a result, a relocation was deemed necessary and preparations were put in place to obtain the Minister’s approval to relocate to suitable accommodation as required under section 197AD of the Migration Act 1958 and the Ministerial guidelines relating to Residence Determinations. The Department does not have any ability to refuse the termination.

When sourcing properties for relocations, as in this case, the general requirements that the Department applies are that the property is safe, secure, in good condition and fit for purpose; that it is within a reasonable distance of services and amenities; the Department does not generally consult with community detainees in relation to their placement.

Regards

From: s. 22(1)(a)(i)
To: s. 22(1)(a)(ii)
Cc: s. 47E(d)
Subject: s. 47F(1)

Yesterday,  with the below query - see pasted below. I picked up the below email in TRIM and it appears the reasons for the move is per your email of 13/8. Could SRSS please give us instructions on how the Dept wishes to respond to the below and anything we would like to say in response to the what the caseworker is claimed to have said to ?

Further, when discussing , the caseworker has said to that it was  mother’s mistake.

Regards
Further, when discussing, the caseworker has said that it was the mother’s mistake. 

Thank you for your assistance.

Kind regards,

From: 47E(d)
Sent: 47F(1)  1:35 PM
To: 47E(d)
Cc: 47F(1)
Subject: - Request for summaries - 47F(1) [DLM=Sensitive-Personal]

Good afternoon 47F(1)

Please see attached Summary as requested, provided by 47F(1).

Kind regards,

From: 47E(d)
Sent: 47F(1)  10:40 AM
To: 47F(1)(0)(8)
Cc: 47E(d)
Subject: RE: - Request for summaries - 47F(1) [DLM=Sensitive-Personal]

As discussed with 47F(1) could you please advise when we might expect to receive 47F(1)

Thank you.

Kind regards,

Referrals, Placements and Submissions Team
Ministerial Intervention ACT
Status Resolution Network | Immigration Integrity and Community Protection Division
Immigration and Settlement Services
Department of Home Affairs
From: S. 47E(d)
Sent: S. 47E(1) 10:14 AM
To: S. 47E(d)
Cc: S. 47E(d)
Subject: S. 47E(d) - Request for DCF summaries - S. 47E(d) family [DML=Sensitive Persons]

Sensitive:Personal

Good morning Team,

Please see attached S. 47E(1)

Kind regards,

S. 22(1)(b)(ii)
Asst Supervisor - S. 47E(1) Detention Health Operations Section
Detention Operations Branch | Immigration Detention Group
Australian Border Force
S. 22(1)(ii)
Group email S. 47E(d)

Sensitive:Personal

From: S. 47E(d)
Sent: S. 47E(1) 2:56 PM
To: S. 47E(d)
Cc: S. 47E(d)
Subject: S. 47E(d) - Request for DCF summaries - S. 47E(d) family

Good afternoon,

We are preparing a residence determination variation submission S. 47E(1)

Kind regards,

S. 22(1)(b)(ii)
Referrals, Placements and Submissions Team
Ministerial Intervention ACT
Status Resolution Network | Immigration Integrity and Community Protection Division
Immigration and Citizenship Services
Department of Home Affairs
For-Official-Use-Only

As mentioned, here is a copy of the running case summary from our team (it's got a lot more information in it than needed for a brief but it's for our own purposes to keep on track of all the correspondence and events and stakeholders), but may be useful for you if you want to pull some information you need for client brief.

Thanks

For-Official-Use-Only

We will continue to update with daily events...

Regards

For-Official-Use-Only
Dear [Name],

Apart from the discussion notes sent by [Date] in the attached email, please note that:

- the SRO has identified [Date] as the person they were speaking with when the call was initiated to discuss [Issue]. At no time has [Date] informed the department that [Date] is passing the phone to [Date] or that the officer was being placed on speaker.

- The SRO strongly denied that [Date] told [Date] that it was their ‘mother’s mistake’.

- Once known or identified that the call have been passed on to someone else, the SRO tried to identify who the responder is and when known it was a minor child tried to de-escalate

Happy to discuss further.

Sincerely,

[Name]

Acting Assistant Director
Status Resolution - Complex Cases
Status Resolution Network | Immigration Integrity and Community Protection Division
Immigration and Settlement Services Group
Department of Home Affairs
The following comments have been received from the . It refers to caseworker, however, claim that they have only spoken to at all times. You advised in your email from Friday night at 6.43pm that the claimed that the dept had accidentally spoken with the minor child. Can you please provide a response to the comments below for us to forward to Legal?

Further, when discussing , the caseworker has said that it was her mother’s mistake .

Thank you.

Kind regards,

Referrals, Placements and Submissions
Ministerial Intervention ACT
Status Resolution Network | Immigration Integrity and Community Protection Division
Immigration and Settlement Services
Department of Home Affairs
Good Afternoon All.

Further to the below, please note that the discussion with [redacted] this afternoon also covered [redacted].

I will send a separate email tomorrow to [redacted] that cover my communication with [redacted]. Note however that I have had a preliminary discussion with [redacted] already and informed her of my conversation with [redacted].

Happy to discuss further.

Regards
UNCLASSIFIED

From: 8 47E(d)
Sent: 8 47F(1)
To: 8 47E(d)
Cc: 8 47E(d)

4:38 PM 8 47E(d)

Subject: RE: 8 47F(1) and family’s 8 47F(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi 8 2213x3x8

I contacted 8 47F(1) stated that:

In the middle of the conversation, as 8 47F(1) transferred the call to 8 47F(1) (I was not aware stated that:

Released by Department of Home Affairs under the Freedom of Information Act 1982
Please note that the call was during.

Regards,

[Signature]

Assistant Manager
Community Status Resolution – Complex Cases Status Resolution Branch
Immigration Integrity and Community Protection Division Immigration and Settlement Services Group
Department of Home Affairs
P: 22(1)11800
E: 22(1)10900
Section E

UNCLASSIFIED

From: 22(1)12000
Sent: 3:14 PM
To: 47(1)
Cc: 47(1)

Subject: RE: 47(1) and family's 47(1) [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good Afternoon,

We will inform all stakeholders of the outcome of our discussion with
UNCLASSIFIED

From: [Redacted]
Sent: 2:44 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: [Redacted] and family's [Redacted] [SEC=UNCLASSIFIED]

UNCLASSIFIED

Thanks [Redacted]

The SRO team will try to contact [Redacted]. The SRO will also advise [Redacted].

---

after the conversation with [Redacted] could your team please reply all to this email to confirm what was advised to [Redacted] in the conversation. will then be able to provide consistent messaging to [Redacted].

Regards [Redacted]

Assistant Manager – SRSS Operations and Support
SRSS Program Management
Status Resolution Branch | Immigration Integrity and Community Protection
Immigration and Settlement Services
Department of Home Affairs [Redacted]
Hi

Following our discussion I talked to

Kind regards,

---

Contract Support Officer

National Immigration Support Services

Hearing or speech impaired? Call me via the National Relay Service on:

I acknowledge Aboriginal and Torres Strait Islander people as the Traditional Owners of this country throughout Australia, and their connection to land and community. I pay my respect to them and their cultures, and to the Elders both past and present.
UNCLASSIFIED

Thanks

As discussed, we both agree that the Department have been more than fair and reasonable with have also confirmed

---

— can you give me a quick call before you speak to so we can brief you on . You may wish to bring this up in the conversation with if you think appropriate. This would be more appropriate to initially come from the SRO rather than .

Regards

Assistant Manager – SRSS Operations and Support
SRSS Program Management
Status Resolution Branch | Immigration Integrity and Community Protection
Immigration and Settlement Services
Department of Home Affairs
P: 2213/09
E: 2211/447
E: 4756/0

UNCLASSIFIED
Hi,

We have discussed all of this with

As you saw in the email trial, the

Kind regards,

Contract Support Officer
National Immigration Support Services

Hearing or speech impaired? Call me via the National Relay Service on:

I acknowledge Aboriginal and Torres Strait Islander people as the Traditional Owners of this country throughout Australia, and their connection to land and community. I pay my respect to them and their cultures, and to the Elders both past and present.

From: 
Sent: 12:32 PM
To:
Hi

Thanks for the email.

You may want to advise and that . Has now advised that ?

Assistant Manager – SRSS Operations and Support
SRSS Program Management
Status Resolution Branch | Immigration Integrity and Community Protection
Immigration and Settlement Services
Department of Home Affairs
P: . E: . E:

Good afternoon,

Following my previous email please be advised that our Program manager just received a phone call from and was advised that

Kind regards,

contact number is :
Hearing or speech impaired? Call me via the National Relay Service on:

I acknowledge Aboriginal and Torres Strait Islander people as the Traditional Owners of this country throughout Australia, and their connection to land and community. I pay my respect to them and their cultures, and to the Elders both past and present.

Good morning,

I hope this email finds you well.

I am writing in regards to

An incidents have been reported about this situation.

Please be advised that there
Please also see the below emails which was sent to our Program Manager by the family:

From:  
Sent: 7:45 AM  
To:  
Cc:  
Subject: Re:

Hi

Warm regards

Hi, at 7:25 am, wrote:

Warm regards

Hi, at 7:17 am, wrote:

Good morning
Warm regards

-----Original Message-----
From:  
Sent: 7:23 PM  
To:  
Cc:  
Subject: Community Detention properties

To whom it may concern
Warm regards

Could you please kindly advise?

Kind regards,

Contract Support Officer
National Immigration Support Services
EXTERNAL STAKEHOLDERS

<table>
<thead>
<tr>
<th>Relationship</th>
<th>Company</th>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
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</thead>
<tbody>
<tr>
<td>SRSS Provider – Case Coordinator</td>
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<td>SRSS Provider – Program Manager</td>
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<td>SRSS Provider Central Office</td>
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AREAS OF HOME AFFAIRS CURRENTLY INVOLVED IN THIS CASE

<table>
<thead>
<tr>
<th>Section</th>
<th>Name</th>
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<tbody>
<tr>
<td>§ 47F(1) Status Resolution Complex Case Team</td>
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<tr>
<td>SRSS Referrals, Submissions and Behaviour Team</td>
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<tr>
<td>SRSS Operations and Support</td>
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<td>Operational Co-ordination</td>
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<td>Ministerial Intervention</td>
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<td>Migration and Citizenship Litigation Branch</td>
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<td>SRSS Program Management</td>
<td></td>
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<tr>
<td>Senior Director Status Resolution</td>
<td></td>
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<tr>
<td>First Assistant Secretary II&amp;CP</td>
<td>Sachi Wimmer</td>
</tr>
<tr>
<td>Assistant Secretary Status Resolution</td>
<td>Greg Baker</td>
</tr>
<tr>
<td>ABF Commissioner</td>
<td>Michael Outram</td>
</tr>
<tr>
<td>Chief of Staff to ABF Commissioner</td>
<td>Tony Smith</td>
</tr>
</tbody>
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called SRO to advise

SRO called Program Manager and then called SRO while

SRO contacted Case Coordinator and she advised that

SRO was informed by from Referrals, Placements and Submissions of, and it was agreed that SRO could provide

SRO advised shortly afterwards, would contact (Chief of Staff to the Commissioner ABF) and would

SRO escalated this matter

The matter was escalated to the Department and advice was given to and it would be escalated appropriately to the Department. SRO also provided with a Form 424A to provide to with advice that they could request the desired information through FOL. was advised to follow their usual protocol for an update and was advised that Program Manager talked with again at 4:50pm and advised that the matter was with the Department, and
SRSS Operations and Support Team requested that the Status Resolution contact to.

the Status Resolution Assistant Manager contacted by telephone, informed of the Department’s expectations.

During this telephone conversation was placed on the phone call without the Department’s knowledge. Once identified that the call had been passed onto another person and learned was on the phone, tried to de-escalate the situation.

Following this phone call, Status Resolution received a call from raised the issue of the Department’s breach of duty of care when engaging with the minor.

At 4:15 PM, an email was received by the Department from.

At 7:54 PM, has sent an email to the ABF Commissioner relating to perceived breach of duty of care by the department, copied in Chief of Staff and from.

The Department was notified at 11.20am that provided the Department with a letter from.
- At 4:45pm, Status Resolution spoke on the phone with.

- At 10:20am, a phone call was received by Status Resolution from.

- At 11:46am, Status Resolution received an email from also cc'd.

- At 2:13pm, notified the Department that.

- At 3:23pm, notified the Department that have left the property.

- At 4:05pm, sent an email to Status resolution cc'ing stating.

- Status Resolution attempted to contact to advise. Some attempts were made by.

- At 7:17pm, Status Resolution responded to.

NSW Community Status Resolution – 29/08/2019
At 11:22am, Status Resolution received a call from and was advised that they have notified .

At 12:03pm, was sent an email to request that be informed that . Copied in to the email were .

At 1:15pm, Status Resolution received a call from and was advised that they have notified .

At 3:36pm, was sent an email to request that be informed that . Copied in to the email were .

At 4:12pm, sent the Department .
Dear [Redacted],

Apart from the discussion notes sent by Sneha in the attached email, please note that:

- the SRO has identified [Redacted] as the person they were speaking with when the call was initiated to discuss the family’s concerns regarding the temporary relocation request. At no time has [Redacted] informed the department that [Redacted] is passing the phone to [Redacted] or that the officer was being placed on speaker [Redacted].
- The SRO [Redacted] that it was their ‘mother’s mistake’.
- Once known or identified that the call have been passed on to someone else, the SRO tried to identify who the responder is and when known it was a minor child tried to de-escalate.

Happy to discuss further.

Sincerely,

[Redacted]

Acting Assistant Director
Status Resolution - Complex Cases
Status Resolution Network | Immigration Integrity and Community Protection Division
Immigration and Settlement Services Group
Department of Home Affairs

For-Official-Use-Only

From: [Redacted]
Sent: 9:31 AM
To: [Redacted]
Cc: [Redacted]
Subject: and family - [Redacted]
Importance: High