



Our ref: DHS/20/06822
Your ref: 8353827

Office of the Chief Executive
Level 8 North
Riverside Building
North Terrace
Adelaide SA 5000

GPO Box 292
Adelaide SA 5001

DX115

Tel: 08 8413 9050
Fax: 08 8413 9002

ABN 11 525 031 744

Ms Nat Cook MP
Member for Hurtle Vale
PO Box 158
WOODCROFT SA 5162

Sent by email: shadowhumanservices@parliament.sa.gov.au

Dear Ms Cook

I refer to your application under the *Freedom of Information Act 1991* (the Act), received by the Department of Human Services (DHS) on 24 June 2020, seeking access to:

Between 1 June 2020 and 24 June 2020, copies of any and all documents (including but not limited to physical, electronic or written briefs, internal discussion papers, minutes, emails, diary entries, text/whatsapp messages and any other correspondence) between the Office of the Minister for Human Services and the Chief Executive of the Department of Human Services.

On 23 July 2020, your office emailed to confirm that the scope on this application was to be narrowed to only documents related to the death of Debra Ann Pearce.

Unfortunately, DHS was unable to make a determination on your application within the 30 days, therefore it is considered to be a 'deemed refusal' under section 19(2)(b) of the Act. However, DHS has continued to process your application outside of this timeframe. Section 19(2)(a) of the Act provides that an agency can release documents outside of the thirty-day timeframe, and this is still taken to be a determination under the Act.

Determination

Nine documents were located that fit within the scope of your request and I have determined as follows:

- three documents are to be released in full
- three documents are to be released in part, and
- access is refused to three documents.

Please find enclosed a copy of the documents released, and a document schedule containing a brief description of each document and determination in summary form.

Released in full

Documents 3, 5 and 6 contain no exempt information and are being released in full.

Released in part

Documents 1 and 7 contain details of an incident related to Debra Pearce, including:

- information relating to the personal affairs of a staff member
- suggestions of improper conduct the truth of which has not been established by judicial process,
- and information concerning Debra Pearce, a person suffering from an impairment.

I consider that the release of this personal information would be unreasonable and have therefore determined it exempt under clauses 6(1), 6(2) and 6(3)(a) of Schedule 1 of the FOI Act.

The personal mobile phone numbers in documents 1, 2, and 7 have been determined exempt under clause 6(1) of Schedule 1 of the FOI Act as I consider the disclosure of this information would be an unreasonable disclosure of personal information.

In accordance with section 20(4) of the Act, I consider that you would wish for access to the remainder of the documents after exempt information is removed, so I am releasing these documents to you in part.

Refused in full

Document 4 is an uncorrected Legislative Council Hansard transcript and documents 8 and 9 contain briefing information for the use of the Minister in Parliament. The release of these documents would infringe the privilege of Parliament and I have determined them to be exempt under clause 17(c) of Schedule 1 of the FOI Act.

Exemption clauses

Clause 6 – Documents affecting personal affairs

- (1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*
 - (2) *A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) the truth of which has not been established by judicial process and the disclosure of which would be unreasonable.*
- (3a) *A document is an exempt document if it contains matter—*
- (a) *consisting of information concerning a person who is presently under the age of 18 years or suffering from mental illness, impairment or infirmity or concerning such a person's family or circumstances, or information of any kind furnished by a person who was under that age or suffering from mental illness, impairment or infirmity when the information was furnished; and*
 - (b) *the disclosure of which would be unreasonable having regard to the need to protect that person's welfare.*

Clause 17 – Documents subject to contempt etc

A document is an exempt document if it contains matter the public disclosure of which would, but for any immunity of the Crown—

- (c) *infringe the privilege of Parliament*

If you are dissatisfied with my determination, you can seek an internal review by writing to the Chief Executive, DHS, as the Principal Officer of the agency. Your request should be sent within 30 days of your receipt of this letter.

In accordance with the requirements of Premier and Cabinet Circular PC045, details of your FOI application, and the documents to which you are given access, will be published on the agency's disclosure log. A copy of PC045 can be found at <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>.

If you have any questions in relation to this matter, please contact Fiona Braendler, Senior FOI Officer, on telephone 8413 9094 or by email at DHSFreedomofInformation@sa.gov.au. If you disagree with publication, you will need to advise the Senior FOI Officer within two weeks of the date of this determination.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Sally McInnes', is written above the typed name.

Sally McInnes
ACCREDITED FOI OFFICER

2 / 9 / 2020

SCHEDULE OF DOCUMENTS – DHS/20/06822

Freedom of information application from Nat Cook MP seeking access to:

Between 1 June 2020 and 24 June 2020, copies of any and all documents (including but not limited to physical, electronic or written briefs, internal discussion papers, minutes, emails, diary entries, text/whatsapp messages and any other correspondence) between the Office of the Minister for Human Services and the Chief Executive of the Department of Human Services related to the death of Debra Ann Pearce.

No	Author	Date	Description of document	Determination	Exemptions
1.	Lois Boswell, Acting Chief Executive, Department of Human Services	12/06/2020	Email - Critical Client Incident - Injury to Accommodation Services Disability Client - Debra Pearce	Released in part	Clause 6(1), 6(2) and 6(3a) – personal affairs
2.	Lois Boswell	17/06/2020	Email – Lines – latest update	Released in part	Clause 6(1) – personal affairs
3.	Janette Hancock, Chief of Staff, Office of Minister Lensink	17/06/2020	Email – Legislative Council Hansard	Released in full	No exempt material
4.		17/06/2020	Attachment 1 – Legislative Council Hansard	Refused in full	Clause 17(c) – Parliamentary privilege
5.	Janette Hancock	18/06/2020	Email – Ministerial Statement – Ms Pearce	Released in full	No exempt material
6.	Janette Hancock	18/06/2020	Email – No subject	Released in full	No exempt material
7.	Lois Boswell	19/06/2020	Briefing - Critical Client Incident - Injury to Accommodation Services Disability Client - Debra Pearce	Released in part	Clause 6(1), 6(2) and 6(3a) – personal affairs
8.	Lois Boswell	22/06/2020	Email – PBN's for next week	Refused in full	Clause 17(c) – Parliamentary privilege
9.	Lois Boswell	18/06/2020	Email – For Parliament	Refused in full	Clause 17(c) – Parliamentary privilege

Braendler, Fiona (DHS)

From: Boswell, Lois (DHS)
Sent: Friday, 12 June 2020 3:37 PM
To: Dodd, Stewart (DHS); Lensink, Michelle (DHS); Hancock, Janette (DHS); Summers, Kim-Sherie (DHS); Maddeford, Selena (DHS); Young, Joe (DHS); Kirkby, Muriel (DHS)
Cc: Cappella, Joe (DHS); Crawford, Rohan (DHS); Srpek, Michelle (DHS)
Subject: RE: Critical Client Incident - Injury to Accommodation Services Disability Client - Debra Pearce

Thank you Stewart

Ms Lois Boswell LLB MAppSci GAICD

Acting Chief Executive

Department of Human Services | Government of South Australia
 Level 8 Riverside Centre, North Terrace, Adelaide SA 5000 |
 GPO Box 292, Adelaide SA 5001
 Ph: (08) 841 54306 Mob : [REDACTED] | lois.boswell@sa.gov.au

I recognise I live and work on Kurna country. I pay my respects to elders past, present and emerging. I acknowledge the long history and enduring connection Aboriginal people have with this land.



From: Dodd, Stewart (DHS)
Sent: Friday, 12 June 2020 3:33 PM
To: Lensink, Michelle (DHS) ; Hancock, Janette (DHS) ; Boswell, Lois (DHS) ; Summers, Kim-Sherie (DHS) ; Maddeford, Selena (DHS) ; Young, Joe (DHS) ; Kirkby, Muriel (DHS)
Cc: Cappella, Joe (DHS) ; Crawford, Rohan (DHS) ; Srpek, Michelle (DHS)
Subject: Critical Client Incident - Injury to Accommodation Services Disability Client - Debra Pearce

The Department for Human Services (DHS), Incident Management Unit (IMU) was advised on 7 May 2020 that on 2 May 2020 a client of Disability Accommodation Services sustained a broken femur. IMU commenced an investigation into the incident. The client passed away on 9 May 2020 due to pneumonia and other health related issues. As a result of the initial investigation into the incident it is now being declared a critical client incident.

Background

[REDACTED]

[REDACTED]

Incident Details

- Date of incident occurred: 2 May 2020
- Date of incident reported to IMU: 7 May 2020
- Location of incident: [REDACTED]

Incident Summary

[REDACTED]

[REDACTED]

On 7 May IMU determined that the incident required investigation. On Saturday 9 May 2020, Ms Pearce passed away due to pneumonia whilst in palliative care in the Lyll McEwin hospital.

[REDACTED] However this investigation is still continuing. As such the incident is now being declared a critical client incident.

Current Safety issues

[REDACTED] There are no other current safety issues.

Coordination requirements

IMU will continue with the investigation.

Critical Incident Manager

Stewart Dodd

Stewart Dodd

Director | Incident Management Unit

Department of Human Services

Mobile ^{Clause 6(1)} [REDACTED]

E: stewart.dodd2@sa.gov.au

www.dhs.sa.gov.au



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Braendler, Fiona (DHS)

From: Boswell, Lois (DHS)
Sent: Wednesday, 17 June 2020 4:35 PM
To: Hancock, Janette (DHS); Stokes, Katrina (DPC)
Subject: FW: lines - latest update

There has been no cover up whatsoever of the death of Ms Pearce, whose family informs us passed away of pneumonia surrounded by her loved ones.

An investigation has been underway since 7 May into concerns that the way Ms Pearce was lifted may not have complied with her care plan.

The Department's incident reporting system, called RiskMan, records all incident reports and all records are preserved within this system.

The Incident Management Unit within DHS is continuing to seek further information to inform its investigation.

Support has been offered to the family who have requested privacy.

There is no police investigation into this incident as there are no allegation of abuse or neglect.

Ms Lois Boswell *LLB MAppSci GAICD*

Acting Chief Executive

Department of Human Services | Government of South Australia
Level 8 Riverside Centre, North Terrace, Adelaide SA 5000 |
GPO Box 292, Adelaide SA 5001
Ph: (08) 841 54306 Mob : [REDACTED] | lois.boswell@sa.gov.au

I recognise I live and work on Kurna country. I pay my respects to elders past, present and emerging. I acknowledge the long history and enduring connection Aboriginal people have with this land.



From: Hofman, Laura (DHS)
Sent: Wednesday, 17 June 2020 4:34 PM
To: Boswell, Lois (DHS) ; Summers, Kim-Sherie (DHS) ; Dodd, Stewart (DHS) ; Young, Joe (DHS) ; Rogers, Nancy (DHS) ; Kirkby, Muriel (DHS)
Subject: RE: lines - latest update

There has been no cover up whatsoever of the death of Ms Pearce, whose family informs us passed away of pneumonia surrounded by her loved ones.

An investigation has been underway since 7 May into concerns that the way Ms Pearce was lifted may not have complied with her care plan.

The Department's incident reporting system, called RiskMan, records all incident reports and all records are preserved within this system.

The Incident Management Unit within DHS is continuing to seek further information to inform its investigation.

Support has been offered to the family who have requested privacy.

There is no police investigation into this incident as there are no allegation of abuse or neglect.

Braendler, Fiona (DHS)

From: Hancock, Janette (DHS)
Sent: Wednesday, 17 June 2020 3:14 PM
To: Boswell, Lois (DHS)
Subject: LEGISLATIVE COUNCIL HANSARD.docx
Attachments: LEGISLATIVE COUNCIL HANSARD.docx; ATT00001.txt

There have been more questions- will send them when we can

Braendler, Fiona (DHS)

From: Hancock, Janette (DHS)
Sent: Thursday, 18 June 2020 12:48 PM
To: Chee, Karen (DHS)
Cc: Boswell, Lois (DHS); DHS:Parliamentary Briefing Notes; Young, Joe (DHS)
Subject: RE: Ministerial Statement - Ms Pearce

Thanks Karen

From: Chee, Karen (DHS)
Sent: Thursday, 18 June 2020 12:47 PM
To: Hancock, Janette (DHS)
Cc: Boswell, Lois (DHS) ; DHS:Parliamentary Briefing Notes ; Young, Joe (DHS)
Subject: Ministerial Statement - Ms Pearce

Hi Janette,

Here's the Ministerial statement re Ms Debra Pearce. Let us know if you need anything else for this.

Just a reminder that if you're submitting this to be published, to remove the Minister's only information please.

Thanks
Karen

Braendler, Fiona (DHS)

From: Hancock, Janette (DHS)
Sent: Thursday, 18 June 2020 10:43 AM
To: Boswell, Lois (DHS)
Cc: Young, Joe (DHS)

In light of the information from this morning, can we please make sure the Ministerial statement addresses these inaccuracies:

Maher: "Those concerns include that her leg was broken after being handled contrary to her individualised care plan, that at least one worker is now suspended but was initially allowed to return to the workplace, that instant-, incident reports may have been altered."

Cook: "I was advised that Debra was turned over in bed and it appeared that balance was lost. A worker-, the worker, only worker present tried to stop Debra from falling out of bed."

Thanks

20TDHS/593



TO: MINISTER FOR HUMAN SERVICES

RE: CRITICAL CLIENT INCIDENT – INJURY TO ACCOMMODATION SERVICES
DISABILITY CLIENT – DEBRA PEARCE.

Decision/action required by:
Reason:

Recommendation	Response
1. That you note the contents of this briefing in relation to a current critical client incident in the Human Services portfolio (Accommodation Services Division).	Approved / Not Approved / <u>Noted</u>
Comments:	 Hon Michelle Lensink MLC 24 / 6 / 2020

DISCUSSION

Background



Incident



Response



On Thursday 7 May 2020, IMU determined that the incident required investigation.

On Saturday 9 May 2020, Ms Pearce passed away due to pneumonia whilst in palliative care in the Lyell McEwin hospital.

The initial IMU investigation has focussed on whether [redacted] has complied with Ms Pearce's support plan. However, this investigation is still continuing. As such the incident was declared a critical client incident on 12 June 2020. [redacted]

Disclosure Considerations

Ms Pearce's next of kin were advised of the incident at the time. No further disclosure considerations are required at this time.

Division	People, Strategy and System Services		
Director Incident Management	Stewart Dodd	<i>Approved by email</i>	19/6/2020
Acting Chief Executive	Lois Boswell		
		19/06/2020
		signature	date

ATTACHMENTS

Nil

Nominated Incident: Manager	Stewart Dodd – Director Incident Management Unit [redacted] / stewart.dodd2@sa.gov.au
Contact Officer:	Stewart Dodd – Director Incident Management Unit [redacted] / stewart.dodd2@sa.gov.au