



DPC20/0771

GPO Box 2343  
Adelaide SA 5001  
DX 56201  
Tel 08 8226 3500  
Fax 08 8226 3535  
[www.dpc.sa.gov.au](http://www.dpc.sa.gov.au)

Ms Nat Cook MP  
Member for Hurtle Vale  
Shop 2/191 Bains Road  
MORPHETT VALE SA 5162

Sent by email: [shadowhumanservices@parliament.sa.gov.au](mailto:shadowhumanservices@parliament.sa.gov.au)

Dear Ms Cook

### Freedom of information application

I refer to your request received by the Office of the Premier seeking access under section 13 of the *Freedom of Information Act 1991* (the Act) to:

*Between 1 June 2020 and 24 June 2020, copies of all email between the Katrina Stokes and the Office of the Minister for Human Services and Department of Human Services relating to the death of Debra Ann Pearce.*

The Department for the Premier and Cabinet (DPC) is responsible for providing determinations on behalf of the Office of the Premier. Under the Act, an agency has 30 days to respond to a freedom of information request. As DPC did not respond to your request within the time frame required, the Department is deemed to have refused you access to all documents relevant to your application. However, I have determined to process the request as if the statutory time frame had been met.

The purpose of this letter is to advise you of my determination.

A total of 10 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 4 documents, copies of which are enclosed;
- I grant you access in part to 5 documents, copies of which are enclosed, and
- I refuse access to 1 document.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

### Documents released in full

Documents 2, 5, 6 and 9

### Documents released in part

Documents 1 and 10

Under clause 4(2)(a)(iii) of Schedule 1 to the Freedom of Information Act 1991 (the Act), a document is exempt if it contains matter the disclosure of which could reasonably be expected to prejudice the effectiveness of any lawful method or procedures for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law. This document contains significant details relating to an incident being investigated by the Department of Human Services (DHS) Incident Management Unit, the release of this information could prejudice the investigation.

In applying the public interest test, I have considered the objects of the Act, which favour release. I acknowledge the strong public interest in the application of appropriate methods for looking after people that are receiving care; however, the release of this information could be expected to jeopardise the proper undertaking of a review into this incident. The public release of this prior to the conclusion of this investigation could significantly impact upon the effective and fair evaluation of the events that occurred. I have therefore determined to exempt this information pursuant to clause 4(2)(a)(iii).

Documents 1, 4, 7 and 8

Sections of these documents contain information relating to the personal affairs of a third party, namely mobile phone numbers and private email addresses. Under clause 6(1) of Schedule 1 to the Act, information is exempt if releasing it would involve the 'unreasonable disclosure of information concerning the personal affairs of any person'. I have considered that the application of clause 6(1) requires two elements, one that the information contains the personal affairs of that person; and secondly that disclosure would be unreasonable and contrary to public interest. I have determined that this information falls within the category of 'personal affairs' as listed under section 4(1) of the Act, thereby meeting the first elements of this clause. Further, I have considered whether the disclosure of this information would be unreasonable. In doing so, I have considered the relevance of this information to the public and the likelihood as to whether the person in question would consent to disclosure. I have concluded that this information was likely obtained in confidence and through measures which would otherwise make it unavailable to the public. I have considered the factors in favour of public interest and determined that these factors are outweighed by the need to maintain personal confidentiality in this instance. Therefore, I have determined that this information meets the requirements of clause 6(1) and is thereby exempt pursuant to this clause.

Documents 1 and 10

These documents contain suggestions of criminal or other improper conduct on the part of a person (living or dead), the truth of which has yet to be established and is currently under investigation. The culpability of the third party that these suggestions have been raised against has not been as yet proven. It is possible that the alleged conduct will be found not to have taken place. As there have been no findings made it, would be unreasonable at this time to disclose the identity of this third party or the circumstances of the incident. I have therefore determined to exempt this information pursuant to clause 6(2) of the Act.

Document 1

Information contained within this document discusses the welfare and circumstances of a person who was, at the time, suffering from an impairment and infirmity. I have determined that as an investigation is currently still active this information should not be disclosed. There is a genuine need to protect the welfare of persons suffering from impairment and infirmity, and at this point in time disclosure of this information

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concerning the individual's circumstances would be unreasonable. I have therefore determined to exempt this information pursuant to clause 6(3)(a) of the Act.

### **Document refused in full**

Document 3

This document is a briefing note prepared specifically for use in Parliament, the disclosure of which would infringe the privilege of Parliament. I have therefore determined to exempt the document in full pursuant to clause 17(c) of Schedule 1 to the Act.

### **Exemptions**

#### **Clause 4 – Documents affecting law enforcement and public safety**

- (2) *A document is an exempt document if it contains matter the disclosure of which—*
- (a) *could reasonably be expected—*
    - (iii) *to prejudice the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law (including any revenue law); or*
  - (b) *would, on balance, be contrary to the public interest.*

#### **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*

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## FOI Disclosure Log

In compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), DPC is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DPC website. A copy of PC045 can be found at the following address: <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars> Please visit the website for further information.

### Right to internal review

If you are aggrieved with this determination, you have a right to apply for internal review under subsection 29(1) of the Act. Pursuant to subsection 29(2), your application must:

- be in writing
- be addressed to the principal officer, and
- be lodged at an office of DPC, or emailed to [DPCFOIUnit@sa.gov.au](mailto:DPCFOIUnit@sa.gov.au) within 30 days after the day on which you receive this letter or within such further time as the principal officer may allow.

If you have any questions in relation to this matter, please contact Damian Gilbert, Freedom of Information Officer, on telephone (08) 8429 5489 or via email at [damian.gilbert@sa.gov.au](mailto:damian.gilbert@sa.gov.au).

Yours sincerely



Eamonn Maloney  
**Accredited Freedom of Information Officer**  
Office of the Chief Executive  
Department of the Premier and Cabinet

#### Attachment(s):

- Schedule of documents
- Documents for release

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**SCHEDULE OF DOCUMENTS—DPC20/0771**

Freedom of information application from Ms Nat Cook MP seeking access to:  
Between 1 June 2020 and 24 June 2020, copies of all email between the Katrina Stokes and the Office of the Minister for Human Services and Department of Human Services relating to the death of Debra Ann Pearce.

No.	Date	Document description	Exemption clauses	Released (part/full/refused)
1.	17/06/2020	Email – Fwd: Critical Client Incident – Injury to Accommodation Services Disability Client	4(2)(iii)(a) – Law enforcement and public safety; 6(1), 6(2) & 6(3)(a) – Personal affairs	Released in part
2.	17/06/2020	Email – Death in Disability Accommodation – updated 15-06	N/A	Released in full
3.		Parliamentary Briefing Note Attachment to document 2	17(c) – Parliamentary privilege	Refused in full
4.	17/06/2020	Email – FW: lines – latest update	6(1) – Personal affairs	Released in part
5.	17/06/2020	Email – RE: RE: Statement from Minister Lensink	N/A	Released in full
6.	17/06/2020	Email – RE: Statement from the family	N/A	Released in full
7.	17/06/2020	Email – Draft comments	6(1) – Personal affairs	Released in part
8.	17/06/2020	Email – Shadow Minister for Human Services Media Release: Whistleblower raises shocking allegations (SA) 17.06.20	6(1) – Personal affairs	Released in part
9.		Media Release Attachment to document 8	N/A	Released in full

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**SCHEDULE OF DOCUMENTS—DPC20/0771**

<b>No.</b>	<b>Date</b>	<b>Document description</b>	<b>Exemption clauses</b>	<b>Released (part/full/refused)</b>
10.	18/06/2020	Email – FW:	4(2)(iii)(a) – Law enforcement and public safety; 6(2) – Personal affairs	Released in part

**Said, Danielle (DPC)**

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**From:** Maddeford, Selena (DHS)  
**Sent:** Wednesday, 17 June 2020 2:35 PM  
**To:** Stokes, Katrina (DPC)  
**Subject:** Fwd: Critical Client Incident - Injury to Accommodation Services Disability Client - Debra Pearce

Begin forwarded message:

**From:** "Boswell, Lois (DHS)" <Lois.Boswell@sa.gov.au>  
**Date:** 12 June 2020 at 3:37:18 pm ACST  
**To:** "Dodd, Stewart (DHS)" <Stewart.Dodd2@sa.gov.au>, "Lensink, Michelle (DHS)" <Michelle.Lensink@sa.gov.au>, "Hancock, Janette (DHS)" <Janette.Hancock@sa.gov.au>, "Summers, Kim-Sherie (DHS)" <Kim-Sherie.Summers@sa.gov.au>, "Maddeford, Selena (DHS)" <Selena.Maddeford@sa.gov.au>, "Young, Joe (DHS)" <Joe.Young@sa.gov.au>, "Kirkby, Muriel (DHS)" <Muriel.Kirkby@sa.gov.au>  
**Cc:** "Cappella, Joe (DHS)" <Joe.Cappella@sa.gov.au>, "Crawford, Rohan (DHS)" <Rohan.Crawford@sa.gov.au>, "Srpek, Michelle (DHS)" <Michelle.Srpek2@sa.gov.au>  
**Subject:** RE: Critical Client Incident - Injury to Accommodation Services Disability Client - Debra Pearce

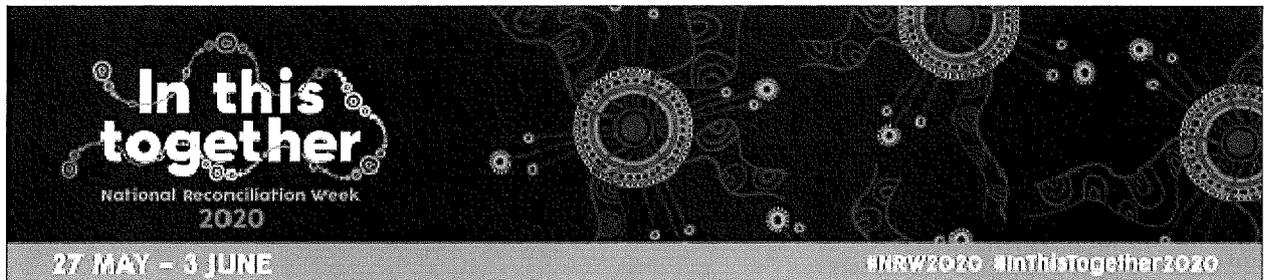
Thank you Stewart

**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: Clause 6(1) [lois.boswell@sa.gov.au](mailto: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) <Stewart.Dodd2@sa.gov.au>  
**Sent:** Friday, 12 June 2020 3:33 PM  
**To:** Lensink, Michelle (DHS) <Michelle.Lensink@sa.gov.au>; Hancock, Janette (DHS) <Janette.Hancock@sa.gov.au>; Boswell, Lois (DHS) <Lois.Boswell@sa.gov.au>; Summers, Kim-Sherie (DHS) <Kim-Sherie.Summers@sa.gov.au>; Maddeford, Selena (DHS) <Selena.Maddeford@sa.gov.au>; Young, Joe (DHS) <Joe.Young@sa.gov.au>; Kirkby, Muriel (DHS) <Muriel.Kirkby@sa.gov.au>

**Cc:** Cappella, Joe (DHS) <Joe.Cappella@sa.gov.au>; Crawford, Rohan (DHS) <Rohan.Crawford@sa.gov.au>; Srpek, Michelle (DHS) <Michelle.Srpek2@sa.gov.au>  
**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

Clause 6(1) & 6(3)(a)

Clauses 4(2)(iii)(a) & (b) & 6(2)

## Incident Details

- Date of incident occurred: 2 May 2020
- Date of incident reported to IMU: 7 May 2020
- Location of incident: Clause 6(1)

## Incident Summary

Clause 4(2)(iii)(a) and (b) & Clause 6(2)

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.

The initial IMU investigation has revealed that Clause 4(2)(iii)(a) & (b) & 6(2) may not have complied with Ms Pearce's support plan. However this investigation is still continuing. As such the incident is now being declared a critical client incident.

## Current Safety issues

4(2)(iii)(a) & (b) & 6(2)

There are no other current safety issues.

**Coordination requirements**

IMU will continue with the investigation.

**Critical Incident Manager**

Stewart Dodd

**Stewart Dodd**

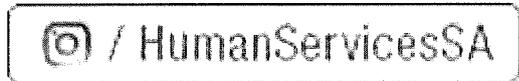
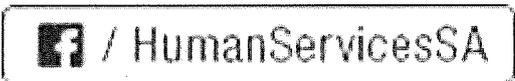
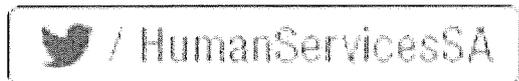
Director | Incident Management Unit

Department of Human Services

Mobile Clause 6(1)

E: [stewart.dodd2@sa.gov.au](mailto:stewart.dodd2@sa.gov.au)

[www.dhs.sa.gov.au](http://www.dhs.sa.gov.au)



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**Said, Danielle (DPC)**

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**From:** Maddeford, Selena (DHS)  
**Sent:** Wednesday, 17 June 2020 3:10 PM  
**To:** Stokes, Katrina (DPC)  
**Subject:** Death in Disability Accommodation - updated 15-06.docx  
**Attachments:** Death in Disability Accommodation - updated 15-06.docx; ATT00001.txt

**Said, Danielle (DPC)**

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**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.

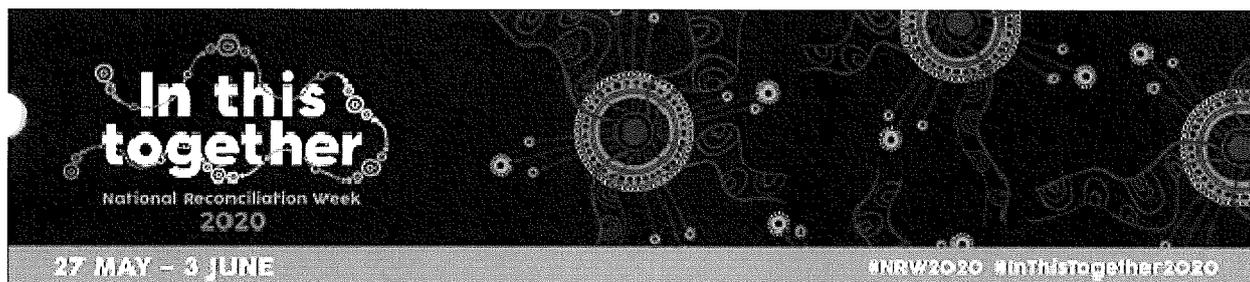
There is no police investigation into this incident as there are no allegation of abuse or neglect.

**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](mailto: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) <Laura.Hofman@sa.gov.au>  
**Sent:** Wednesday, 17 June 2020 4:34 PM  
**To:** Boswell, Lois (DHS) <Lois.Boswell@sa.gov.au>; Summers, Kim-Sherie (DHS) <Kim-Sherie.Summers@sa.gov.au>;  
 Dodd, Stewart (DHS) <Stewart.Dodd2@sa.gov.au>; Young, Joe (DHS) <Joe.Young@sa.gov.au>; Rogers, Nancy (DHS)  
 <Nancy.Rogers@sa.gov.au>; Kirkby, Muriel (DHS) <Muriel.Kirkby@sa.gov.au>  
**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.

**From:** Stokes, Katrina (DPC)  
**Sent:** Wednesday, 17 June 2020 5:38 PM  
**To:** Hofman, Laura (DHS)  
**Subject:** RE: RE: Statement from Minister Lensink

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Thank you Laura

**From:** Hofman, Laura (DHS) <Laura.Hofman@sa.gov.au>  
**Sent:** Wednesday, 17 June 2020 5:37 PM  
**To:** Stokes, Katrina (DPC) <Katrina.Stokes@sa.gov.au>  
**Subject:** RE: RE: Statement from Minister Lensink

To clarify my earlier emails, I have double checked with the Accommodation Services director who spoke to the family and these are their words on the record:

- We are grateful for the care that our sister received.
- We have no concerns with staff at the home and do not want them to be blamed for her death.
- We do not wish for this to be a matter of media interest.

**From:** Hofman, Laura (DHS)  
**Sent:** Wednesday, 17 June 2020 6:29 PM  
**To:** Stokes, Katrina (DPC) <Katrina.Stokes@sa.gov.au>  
**Subject:** RE: RE: Statement from Minister Lensink

If you need something on the record, it would be fine to say that Ms Pearce's family has told the department they are grateful for the care she received and do not wish for her death to be a matter of media interest.

**From:** Hofman, Laura (DHS)  
**Sent:** Wednesday, 17 June 2020 6:26 PM  
**To:** Stokes, Katrina (DPC) <Katrina.Stokes@sa.gov.au>  
**Subject:** RE: RE: Statement from Minister Lensink

Glad to help Kat.

For your background (and fine to pass on to journos on background too), our Accommodation Services director reached out to the family again who said very clearly:

- We are grateful for the care that our sister received.
- We have no concerns with staff at the home and do not want them to be blamed for her death.
- We do not wish for this to be a matter of media interest.

**From:** Stokes, Katrina (DPC)  
**Sent:** Wednesday, 17 June 2020 5:19 PM  
**To:** Hofman, Laura (DHS) <[Laura.Hofman@sa.gov.au](mailto:Laura.Hofman@sa.gov.au)>  
**Subject:** FW: RE: Statement from Minister Lensink

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Good evening Laura,

Below are the final lines, so you know what went back in the end.

Thanks very much with your speedy help today – seriously.

Kat

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**From:** Stokes, Katrina (DPC)  
**Sent:** Wednesday, 17 June 2020 5:15 PM  
**To:** 'Stacey Lee' <[Lee.Stacey@abc.net.au](mailto:Lee.Stacey@abc.net.au)>  
**Subject:** RE: Statement from Minister Lensink

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Hi Stacey,

Please see below.

**Statement from the Minister for Human Services Michelle Lensink:**

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

As per any fall or accident, an investigation is undertaken as per due process.

Support has been offered to the family, who have requested privacy at this time.

**Background:**

This client died of pneumonia.

++ENDS++

**Katrina Stokes**  
Media Advisor  
Office of the Premier of South Australia



**Office of the Premier  
of South Australia**

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Level 15, State Administration Centre, 200 Victoria Square Adelaide  
**E:** [katrina.stokes@sa.gov.au](mailto:katrina.stokes@sa.gov.au) | **W:** [www.premier.sa.gov.au](http://www.premier.sa.gov.au)

**Said, Danielle (DPC)**

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**From:** Stokes, Katrina (DPC)  
**Sent:** Wednesday, 17 June 2020 5:38 PM  
**To:** Stacey Lee; Crouch, Brad  
**Subject:** RE: Statement from the family

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Hi Stacey and Brad,

Here is a statement from the client's family regarding the disability death mentioned in Parliament today:

- We are grateful for the care that our sister received.
- We have no concerns with staff at the home and do not want them to be blamed for her death.
- We do not wish for this to be a matter of media interest.

++ENDS++

**Katrina Stokes**  
Media Advisor  
Office of the Premier of South Australia



**Office of the Premier  
of South Australia**

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Level 15, State Administration Centre, 200 Victoria Square Adelaide  
**E:** [katrina.stokes@sa.gov.au](mailto:katrina.stokes@sa.gov.au) | **W:** [www.premier.sa.gov.au](http://www.premier.sa.gov.au)

**Said, Danielle (DPC)**

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**From:** Clause 6(1)  
**Sent:** Wednesday, 17 June 2020 5:47 PM  
**To:** Lensink, Michelle; Stokes, Katrina (DPC)  
**Subject:** Draft comments

Did the Shadow Minister get consent of the family to discuss this matter in the Parliament? Did he consider the mental health impact of the family being brought into the media spotlight? Until he can prove that he has the consent of the family, I will not proliferate the grief of this family by continuing to discuss it, and I would ask all Members and Members of the media to do the same. I would ask you to consider the ethics of this behaviour. We do not have the right to claim ownership of this tragedy, or to trade in other people's pain.

Said, Danielle (DPC)

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**From:** Hofman, Laura (DHS)  
**Sent:** Wednesday, 17 June 2020 6:30 PM  
**To:** Stokes, Katrina (DPC)  
**Subject:** Shadow Minister for Human Services Media Release: Whistleblower raises shocking allegations (SA) 17.06.20  
**Attachments:** 169X5501.PDF; ATT00001.htm  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Laura Hofman**

A/Manager Public Affairs | Communications and Engagement

Department of Human Services

M: Clause 6(1) E: [laura.hofman@sa.gov.au](mailto:laura.hofman@sa.gov.au)

24 hour media line (08) 8413 9049

[www.dhs.sa.gov.au](http://www.dhs.sa.gov.au)

169X5501

Total number of pages 2

SUPPORT: [politicalalert@cch.com.au](mailto:politicalalert@cch.com.au) or 02 6273 2070. MAILBOX:  
<http://www.cchparliament.com.au>

**NAT COOK MP**  
**Shadow Minister for Human Services**

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**Whistleblower raises shocking allegations  
of new disability death**

Shocking new allegations have emerged of the death of a woman with a disability in state care, raising serious questions and prompting renewed calls for an independent judicial inquiry.

62-year-old Debra Pearce was living in State Government-run disability support accommodation at Pooraka.

Debra's leg was broken while in care after an "incident" on May 1, she was taken to Lyell McEwin Hospital but died of complications in hospital on May 9.

In correspondence, a whistleblower has raised serious questions with the Department of Human Services about why Debra was in the care of only one person on the night her leg was broken.

[Emails and photo here](#)

The correspondence from the whistleblower questioned why the staff member was changing Debra on his own, which was a serious breach of procedure that resulted in her broken leg.

Four other people reside in the Pooraka facility.

These new allegations follow the shocking death of Ann Marie Smith in April. Ms Smith, who had cerebral palsy, died on April 6 from septic shock, multiple organ failure and malnourishment which developed at her Kensington Gardens home.

Her sole support worker did not have a Working with Vulnerable People

clearance at the time of Ms Smith's death but was granted one by the State Government 18 days later, on April 24.

**Quotes attributable to Shadow Minister for Human Services Nat Cook**

These shocking new allegations of the death of a disabled person raise serious questions for Minister Michelle Lensink.

Has this death been thoroughly investigated?

Why was Debra Pearce in the care of only one person?

Was any action taken against the worker involved?

Why was there no response to the concerns raised by the whistleblower?

**Adam Todd 0423 970 839**

**Said, Danielle (DPC)**

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**From:** Hancock, Janette (DHS)  
**Sent:** Thursday, 18 June 2020 8:54 AM  
**To:** Stokes, Katrina (DPC)  
**Subject:** FW:

These were the emails in the MR

Clause 4(2)(iii)(a) & 6(2)

