

## Changes to Secrecy Provisions for Detention Centre Workers

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Aid agency Save the Children has welcomed a move by federal government to clarify its laws around the sharing of information gathered in immigration detention centres by workers.

The Turnbull government has introduced an amendment to Parliament to remove strict secrecy provisions governing Australia's immigration detention system. The move has been described as "a major victory for refugee advocates who challenged the laws in the High Court".

Immigration Minister Peter Dutton introduced amendments to the 2015 Australian Border Force Act that previously threatened detention centre workers with two years in prison if they spoke out about neglect or abuse.

Save the Children's director of policy and international programs Mat Tinkler said the organisation knew from its time on Nauru that "the laws made teachers, child protection workers, and others working in offshore detention centres question their professional judgement as to whether to disclose a serious child rights violation".

"Our understanding is that it is a really important clarification to the laws that will help give people working at the coal face clarity about their ability to disclose matters in the public interest, so we very much welcome it from a Save the Children perspective," Tinkler told Pro Bono News.

Tinkler said his organisation was not directly informed of the legislative changes.

"We were made aware of it via media reports," he said.

"I can't comment on the motivations but I note the reports around the High Court case being brought by health care workers and others, but from our perspective the most important thing is that the clarification is going to occur.

"We saw first hand with what it is like for workers like child protection workers, social workers and teachers. That there was a great deal of confusion around their ability to disclose matters in the public interest and therefore it is truly important to have this certainty going forward.

"[The original act] also had the effect of limiting public debate and reducing transparency of the impacts of detention on children. The federal government is entitled to protect sensitive information gathered by staff and contractors working in detention centres, however the laws were too broad as they stood.

"The change means people charged with protecting vulnerable children will now have the confidence to disclose information they feel is in the public interest, where appropriate."

Dutton introduced the legislation to Parliament on 9 August saying the original Australian Border Force (ABF) Act "prohibited the unauthorised making of a record or disclosure of information. Breach of these requirements is punishable by imprisonment for two years".

"This [amended] bill will clarify part 6 [of the Act] and related provisions to reflect the original intent of the legislation, which is to prevent the unauthorised disclosure of information that could cause harm to the national or public interest," Dutton said.

"The secrecy and disclosure provisions... of the ABF Act were adapted from the model in place for the former Australian Customs and Border Protection Service. However, this model has not kept pace with the developments in the modern border environment."

Dutton said the aim of the measures in the amendment was to ensure that immigration and border protection information was "provided with the necessary level of protection, in a targeted manner, but is also able to be disclosed when it is appropriate to do so".

“As not all information obtained by my department requires protection, the definition of the information to be protected has been refined to include only certain kinds of information, such as that relating to: the security, defence and international relations of Australia; prevention, detection and investigation of offences; protection of public health and safety; or sensitive personal and commercial matters,” he said.

“There must be a balance between the competing interests of transparent, open and accountable government with the necessity of protecting certain information from disclosure which would lead to identifiable harm.

“The bill provides assurances for the Australian public, business, government and foreign partners that sensitive information provided to my department will be appropriately protected, without unnecessarily restricting informed public debate. The retrospective application of the bill (back to the date the Australian Border Force Act was enacted) will provide the necessary certainty that only information which could harm the national or public interest if disclosed is to be protected, and will be regarded as ever having been protected, under the ABF Act.

“This will reassure individuals who may otherwise believe they have committed an offence, in circumstances which would not have amounted to an offence under these amendments.”

In February 2017 the Department of Immigration issued a [statement](#) expressing regret for “any hurt and embarrassment” caused and [paid compensation to the nine Save the Children workers](#).

According to the statement the department acknowledged “that at the time of the removal direction and subsequently, it had no reason to cause doubt to be cast on the SCA employees’ reputation”.

Save the Children Australia CEO Paul Ronalds said at the time they were pleased the “saga” was coming to an end.

“We are pleased that this traumatic and drawn out saga is now coming to an end for some of the most committed people who ever worked on our Nauru program,” Ronalds said.

“These nine people dedicated themselves to educating and protecting some of the world’s most vulnerable children in the toughest of circumstances, and the idea that they would ever fabricate cases of abuse or encourage children to hurt themselves is, and always was, absurd.”



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Lina Caneva has been a journalist for more than 35 years, and Editor of Pro Bono Australia News since it was founded in 2000.