



Senator the Hon Michaelia Cash
Minister for Employment
Minister for Women
Minister Assisting the Prime Minister for the Public Service

Reference: MC17-034412

Senator the Hon Stephen Parry
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear Mr President

**Order of the Senate for the Tabling of Documents Relating to the
Death of a Work for the Dole Participant – Mr Josh Park-Fing**

I refer to Senator Lee Rhiannon's notice of motion dated 21 March 2017, which was agreed by the Senate on 22 March 2017:

The Senate orders that there be laid on the table no later than 4:00 pm on Monday, 27 March 2017 by the Minister for Employment all documents and correspondence relating to the death of a Work for the Dole participant, Josh Park-Fing, including the report prepared by Workplace Health and Safety Queensland into this death.

The incident referred to in the Order is currently the subject of a Queensland workplace health and safety investigation. The Federal Government is continuing to fully cooperate with WHS Queensland. I have recently written to the Queensland Minister for Employment and Industrial Relations, seeking her assurance that the WHS Queensland investigation will be finalised expeditiously, noting the importance of such an investigation being thorough and comprehensive. A copy of this letter is attached.

There are a number of important considerations that must be taken into account when responding to this order. It is important that the Government does not compromise an ongoing investigation or the privacy of those associated with Mr Park-Fing.

First, the Department of Employment advises that responding to this Order involves consideration of a significant number of documents. There is a risk that the release of documents that are also relevant to the Queensland investigation may adversely impact on the relevant Queensland authorities. In responding to the Order, it is important that I do not compromise the WHS Queensland investigation, or any subsequent actions that may be taken by appropriate Queensland authorities. My department has written to WHS Queensland seeking its view on the public release of the relevant documents. A copy of this letter is also attached.

Second, it is likely that certain documents relevant to the order could give rise to claims of public interest immunity. I note the following grounds have previously been accepted by the Senate as legitimate grounds for public interest immunity (refer *Odgers' Australian Senate Practice* 14th Edition, (online edition) p 662–667), and are likely to be relevant in this case:

- prejudice to WHS Queensland's investigation of the death (or prejudice to any subsequent enforcement action by WHS Queensland or otherwise, for example by the Office of the Director of Public Prosecutions (Queensland));
- prejudice to any legal proceedings (in this case legal proceedings relating to the death); or
- damage to the relationship between the Commonwealth and Queensland.


I also advise the Senate that I will need to consider the unreasonable invasion of the privacy of individuals (in particular, family members of the deceased individual which may give rise to an additional Public Interest Immunity claim on this ground (again see *Odgers' Australian Senate Practice*).

Given the deadline by which the Order requires me to respond, and the ongoing nature of the Queensland investigation, it has not been possible to complete these considerations by the due date.

Following advice from WHS Queensland, my department's consideration of relevant material, and consultation with family members, I will be in a position to advise the Senate regarding my response to the Order, taking into account the public interest.

I have provided a copy of this letter to Senator the Hon George Brandis QC, Leader of the Government in the Senate, for his information.

Yours sincerely



Senator the Hon Michaelia Cash

27/3/2017

Encl.



Senator the Hon Michaelia Cash
Minister for Employment
Minister for Women
Minister Assisting the Prime Minister for the Public Service

Reference: MS17-006211

The Hon Grace Grace MP
Minister for Employment and Industrial Relations
Minister for Racing
Minister for Multicultural Affairs
GPO Box 611
BRISBANE QLD 4001

Dear Minister

I am writing to you regarding the investigation being undertaken by Workplace Health and Safety Queensland (WHS Queensland) into the incident that occurred at the Toowoomba Showgrounds on 19 April 2016, when Mr Joshua Park-Fing died.

The Australia Government takes work health and safety matters very seriously and my department has been fully cooperating with the investigation. As it has been almost 12 months since the incident, I am writing to seek your assurance that the WHS Queensland investigation will be finalised expeditiously, noting the importance of such investigations being thorough and comprehensive.

Given the importance of clarity around factors contributing to the death of Mr Park-Fing, my Department has not released its internal investigation into the review of Neato's management of Work for the Dole at this stage.

Should it be necessary, my department remains available to assist the investigation. I look forward to hearing from you regarding the progress of the investigation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michaelia Cash'.

Senator the Hon Michaelia Cash
20/3/2017

c.c: The Hon Ed Husic MP
Shadow Minister for the Digital Economy, Employment Services,
Workforce Participation and the Future of Work



Australian Government
Department of Employment

Simon Blackwood
Deputy Director-General
Office of Industrial Relations
Workplace Health and Safety Queensland

By email: simon.blackwood@justice.qld.gov.au;

Dear Mr Blackwood

Senate Order for Production of Documents regarding the fatality of a Work for the Dole participant – Toowoomba, 19 April 2016

I am writing to you about an Order of the Australian Senate for production of certain documents and correspondence regarding the fatality of a Work for the Dole participant at the Toowoomba Showground on 19 April 2016.

I attach the Notice of Motion the Senate agreed on 22 March 2016. For your reference the Notice reads:

"The Senate orders that there be laid on the table no later than 4:00pm on Monday 27 March 2017 by the Minister for Employment all documents and correspondence relating to the death of a Work for the Dole participant, Josh Park-Fing, including the report prepared by Workplace Health and Safety Queensland into this death."

First, I understand, but ask you to please confirm, that at this stage, there is no report that Workplace Health and Safety Queensland (WHSQ) has finalised into the death.

The Order also requires that our Minister, Senator the Hon Michaelia Cash, table all documents and correspondence relating to the death. The Department has in its possession documents (including correspondence) that potentially relate to the death. Those documents exist because of this Department's responsibilities in managing the Work for the Dole Program. For example, following the death, this Department investigated the approach Neato Employment Services (the jobactive provider that was servicing Mr Park-Fing) takes to managing Work for the Dole activities, and in particular its approach to ensuring the work health and safety of Work for the Dole participants. Our Department has also communicated with the family of Mr Park-Fing and sought and obtained legal advice on matters that relate to the death.

The Minister has indicated her desire to comply with the Order, provided that the release of relevant documents does not improperly harm the public interest. If the Minister complies with the Order by tabling relevant documents, those documents will be on the public record.

You will be aware that our Department continues to cooperate with WHSQ regarding its investigation. You may also be aware that our Minister has written to your Minister, the Queensland Minister for Employment and Industrial Relations, the Hon Grace Grace MP, seeking an assurance that the investigation will be finalised expeditiously, while acknowledging the need for thoroughness and comprehensiveness. I attach a copy of that letter.

While the Minister wishes to comply with the Order as fully as possible, the Minister, and the Department, is conscious that it might not be in the public interest to release documents where that release could:

- prejudice WHSQ's investigation of the death (or prejudice any subsequent enforcement action by WHSQ or otherwise (for example by the Office of the Director of Public Prosecutions (Queensland));
- prejudice any legal proceedings relating to the death; or
- damage the relationship between the Commonwealth and Queensland.

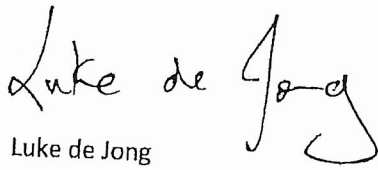
Accordingly, I will be providing you with documents that the Department has identified may fall within scope of the Senate Order, and where the release of those documents could potentially harm the public interest because of a matter I refer to immediately above. These documents are currently being collated, as a priority.

In this context, I seek WHSQ's advice on any concerns WHSQ may have about the public release of any of the documents that I will provide. I appreciate that you will need to consider each piece of information separately. I also appreciate that you may need to consult with your counterparts at the Office of the Director of Public Prosecutions (Queensland) or if relevant with the State Coroner's Office.

If WHSQ is concerned with a public release of some or all of the material I will provide, I ask that you provide details of those concerns so that our Minister may consider what approach to take.

I appreciate that our request raises some potentially complex issues. Accordingly I am available to discuss any aspect of the request with you and/or your responsible staff. I would also appreciate if you or someone from your office could, as soon as is reasonably practicable, acknowledge receipt of this letter.

Yours sincerely

A handwritten signature in black ink that reads "Luke de Jong". The signature is written in a cursive style with a large, sweeping flourish at the end of the word "Jong".

Luke de Jong
General Counsel: Corporate Legal
Department of Employment
Ph: 02 6240 0909
24 March 2017