

Client Name:

Boat ID:

Date of Arrival:

Version 1.4  
when complete)

Tabled Document No 5.

By: Senator Hanson-King  
Date: 26.05.15

**Best Interests Assessment  
for transferring minors<sup>1</sup> to an RPC  
(forming part of the Pre-Transfer Assessment)**

Date of this Assessment: \_\_\_\_\_ 2014

Please note that minors (either accompanied or unaccompanied) are currently only being considered for transfer to the Nauru Offshore Processing Centre.

**Purpose of this form**

All unauthorised maritime arrivals (otherwise known as Illegal Maritime Arrivals (IMAs)) who entered Australia on or after 13 August 2012 are liable to have their protection claims assessed in a designated regional processing country (RPC), including minors.

This assessment will be used to:

- consider whether appropriate support and services are available at the RPC for the minor and confirm that there are no barriers to the minor being transferred to the RPC; or
- recommend that the minor should be reconsidered for transfer at a later date.

The outcome of this assessment will be recorded and considered as part of the Pre-Transfer Assessment.

Australia has an obligation under Article 3 of the Convention on the Rights of the Child to treat the best interests of the child as a primary consideration in all actions concerning children. The obligation is to treat the best interests of the child as a primary consideration, not the only, or the only primary, consideration.

In so far as the requirement under section 198AD of the Migration Act 1958 to take unauthorised maritime arrivals to an RPC extends to unauthorised maritime arrivals who are children, the Australian Government's view is that in making the transfer decision, the best interests of such children are outweighed by other primary considerations, including the need to preserve the integrity of Australia's migration system and the need to discourage children taking, or being taken on, dangerous illegal boat journeys to Australia.

Accordingly, while this assessment considers a range of factors to ensure that care, services and support arrangements are available to meet the needs of the individual child, it does not consider whether the best interests of the child would be served by the individual child being transferred to an RPC.

<sup>1</sup> A minor is a person considered by DIBP to be under 18 years of age.

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### Use of this form

*This form is to be used for all unauthorised maritime arrivals who are under the age of 18 as part of their Pre-Transfer Assessment (PTA). If it is not clear whether an IMA is under 18, please refer this case to the Age Determination team.*

*When completing the form, please ensure that you provide detailed responses in both Part A (information about the minor) and Part B (the Conclusion). These responses will be used to inform the delivery of services to the minor (either accompanied or unaccompanied), or to assess whether specific services recommended for the minor are available.*

*For the purpose of this assessment, an accompanied minor is one who arrives in Australia with a parent or adult relative, who is being considered for transfer to Nauru with the minor.*

*The relative should be 21 years of age or older and have some kind of supervisory/carer responsibility in relation to the minor. A person will be a relative of a minor if there is a connection by blood or marriage. This includes aunts, uncles, siblings, grandparents, cousins of any degree and step/half relations.*

*For the purpose of this assessment, an unaccompanied minor (UAM) is one who arrives in Australia without a parent or an adult relative who is 21 years of age or older and who is available for transfer with the minor.*

*If a minor has relative who has not turned 21 or the relative does not have supervisory/carer responsibility then the minor is to be considered a UAM.*



Australian Government

Department of Immigration and Border Protection

Attachment A

DECISION RECORD

**Request Details**

FOI Request FA14/02/01097

File Number ADF2014/6575

**Scope**

*"Best Interests Assessment document, including any and all associated guidelines and material concerning this document."*

**Documents in scope**

1. Departmental document – Best interests assessment for transferring minors to an RPC  
- containing 7 folios.
2. Departmental document – Guidance for completing best interests assessment  
- containing 1 folio.

**Authority to make decision**

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate departmental records.

**Information considered**

In reaching my decision, I have considered the following:

- The *Freedom of Information Act 1982*;
- Departmental files and/or documents (identified above);
- The Australian Information Commissioner's Guidelines relating to access to documents held by government;
- The Department's FOI Handbook

**Reasons for decision**

I am satisfied that I have been provided with all the relevant documents to consider in my decision. I have considered the documents and am satisfied that no exemptions apply. Therefore, I am releasing the relevant documents in full.

Ashley Smith

Authorised decision maker

FOI and Privacy Policy Section

Ministerial, Executive and External Accountability Branch

Department of Immigration and Border Protection

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Australian Government

Department of Immigration and Border Protection

Attachment B

SCHEDULE OF DOCUMENTS TO DECISION RECORD

FOI Request FA14/02/01097  
File Number ADF2014/6575

1. Departmental File: Best interests assessment for transferring minors to an RPC - containing 7 folios.

Folio	Description	Decision	Legislation
1-7		Released in full	

2. Departmental File: Guidance for completing best interests assessment - containing 1 folio.

Folio	Description	Decision	Legislation
1		Released in full	

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## For Official Use Only

### Guidance for Completing the Best Interests Assessment for Transferring Minors to an RPC

In completing the 'Best Interests Assessment for transferring minors to an RPC' form (which is a part of the Pre-Transfer Assessment), you are asked to consider whether appropriate arrangements, support and services are available at the Offshore Processing Centre (OPC) for the minor (noting that currently minors are only being considered for transfer to the Nauru OPC).

In doing so, please take into account the following information about the provision of services and support arrangements available at the OPC.

#### Arrangements between the Governments of Australia and Nauru

Under the *Memorandum of Understanding Between the Republic of Nauru and the Commonwealth of Australia, Relating to the Transfer To and Assessment of Persons in Nauru, and Related Issues*, signed on 3 August 2013 (the MOU), both governments have undertaken to make special arrangements for vulnerable cases, including unaccompanied minors. The MOU is available at <http://www.dfat.gov.au/issues/people-smuggling-mou.html>. Also, Nauru is a party to the Convention on the Rights of the Child, without reservations.

There is also range of governance arrangements in place to provide advice to the Governments of Australia and Nauru about minors at the OPC, including through the Joint Advisory Committee and its sub-committee on unaccompanied minors and families.

#### Support and Services for Minors

In addition to the range of services that are generally provided for all transferees to Nauru, specific arrangements have been made for minors, including in relation to the provision of accommodation for both minors in family groups and unaccompanied minors.

Save the Children Australia has been contracted to provide child welfare services on Nauru, including in relation to:

- specialist care and support for children and families with children;
- programmes and activities; and
- educational activities.

A range of health and medical services is also provided through the International Health and Medical Services organisation, including access to doctors, nurses, psychologists, psychiatrists and counsellors.

#### Guardianship for Unaccompanied Minors

The Government of Nauru has guardianship arrangements in place for unaccompanied minors who are transferred there. The *Asylum Seekers (Regional Processing) Act 2012* provides that the Nauruan Minister for Justice and Border Control is the guardian of every unaccompanied minor who arrives in Nauru. The Minister has delegated most of his powers and functions as guardian to the Nauru operations manager of Save the Children Australia.

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## PART A

When an interview is conducted to assist in completing any part of the form, please note that:

- o an adult family member or an independent observer must be present in any interview between a DIBP officer and an accompanied minor (including a person who claims to be a minor and has not been assessed by DIBP otherwise); or
- o an independent observer must be present in any interview between a DIBP officer and an UAM (including a person who claims to be a minor and has not been assessed by DIBP otherwise).

### Independent Person:

Name: \_\_\_\_\_ Organisation: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

1. Is the minor being considered for transfer to Nauru a UAM? YES NO

### Biographic Details

2. Name: \_\_\_\_\_  
Family Name \_\_\_\_\_ Given Names \_\_\_\_\_  
BOAT ID: \_\_\_\_\_
3. Gender: Male Female
4. Date of birth: \_\_\_\_\_ Age: \_\_\_\_\_
5. Nationality: \_\_\_\_\_ Ethnicity: \_\_\_\_\_
6. Preferred Language \_\_\_\_\_

### Information about Family Members

7. Does the minor have family members who are also being considered for transfer to the RPC, whether or not they arrived on the same boat as the minor? [If no, proceed to Question 8]

Yes

No

If yes, note:

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Client Name:
Boat ID:
Date of Arrival:

**PART B: CONCLUSION**

*This assessment for minors (tick the appropriate response):*

- ☐ *has not identified any reasons why the minor should not be transferred to the RPC at this time. A summary of the reasons for this assessment and recommendation are:*

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*This outcome was recorded on the PTA for this person on date: \_\_\_\_/\_\_\_\_/20*

OR

- ☐ *has identified reasons why the minor should not be transferred and recommends that transfer be reconsidered at a later time. A summary of the reasons for this assessment and recommendation are:*

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*This outcome was recorded on the PTA for this person on date: \_\_\_\_/\_\_\_\_/20*

**Assessor:**

Name:

Position number:

Signature:

Date:

**Senior Case Manager:**

I agree/do not agree with the assessment made above.

Name:

Position number:

Signature:

Date:

*DIBP Coordinator - The following considerations should be noted with respect to delivering services to the minor at an RPC:*

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Has a PTA and/or a BIA been completed for each family member?

Yes

No

If no, is a PTA or BIA currently being undertaken for all family members?

Yes

No

8. Does the minor have family members who have already been transferred to the RPC?

Yes

No

If yes, note:

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

9. Does the minor have any family residing in Australia ? [Including in an immigration detention facility]

Yes

No

If yes, note:

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

Family Name: \_\_\_\_\_ Boat ID: \_\_\_\_\_ Location: \_\_\_\_\_

Relationship to this minor: \_\_\_\_\_ Date of arrival: \_\_\_\_\_

10. Does this minor have a carer/supervisory role in relation to his/her immediate family members?

Yes

No

If yes, briefly describe: \_\_\_\_\_

**Incident reports**

11. Have there been any reported significant incidents involving any member of this minor's family, or this minor, while in immigration detention?

Yes

No

If yes, briefly describe the incident: \_\_\_\_\_

\_\_\_\_\_