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By email: registry@ohchr.org

Joint Urgent Appeal from Special Procedures

Ref: UA OTH 18/2016

Dear Mr Ghezraoui

We are grateful for this opportunity to respond to your letter dated 1 June 2016, in relation to the conditions of a number of asylum seekers in Nauru.

We have given careful consideration to your request, and have been mindful of the need to provide a detailed response as soon as possible.

We recognise the importance of the questions raised in the letter and the significant human rights issues raised by the allegations.

We note at the outset that many of the allegations identified in your letter do not appear to relate to services provided by Broadspectrum. Broadspectrum does not provide medical care or health services, nor does it determine refugee status, family reunification or where a person will reside while on Nauru. For this reason, Broadspectrum is not in a position to provide the information requested in questions 1, 2 and 4(d) (to the extent that question 4(d) relates to specific allegations relating to asylum seekers) in your letter.

As you may be aware, there are also limitations on Broadspectrum's ability to disclose information with respect to the services it provides at Nauru arising from the operation of the *Australian Border Force Act* (Cth) and contractual obligations of confidence owed by Broadspectrum to the Commonwealth of Australia. We trust that, given your advice that a letter addressing similar matters was issued to the Governments of Nauru and Australia, you will have already received information sufficient to answer questions 1, 2 and 4(d) to your satisfaction.

We have however provided detailed responses to questions 3 and 4 of your letter and have endeavoured to be as comprehensive and transparent as possible in providing those responses. Our response to those questions is set out in pages 2 to 30 of this letter.

It is also important to note that Broadspectrum was acquired by Ferrovial in May 2016, and as a consequence, a period of integration is continuing between Broadspectrum and Ferrovial, including in relation to Broadspectrum's compliance and governance processes.

We would welcome any opportunity to cooperate further with the Working Groups and Special Rapporteurs, and to provide any further information that we are able to provide in order to assist you to fulfil your important mandates.

We now proceed to provide a more detailed response to your questions.

At the end of this letter is an index of all the relevant documents that we have referred to, and a copy of those documents, arranged in accordance with the index, has been provided as an electronic annexure.

Introduction

- 1 Broadspectrum provides services – described as “garrison and welfare services” – to asylum seekers at Nauru and Manus Island Regional Processing Centres (**Centres**) under a contract with the Commonwealth of Australia (the Department of Immigration and Border Protection) (**Contract**). Garrison Services of this kind are commonly provided by Broadspectrum, including in Australia for the Australian Government. Services of this kind are conducted in, and give rise to, challenging circumstances.
- 2 Broadspectrum does not own, operate or manage the Centres in Nauru and Manus Province. The Centres are operated by the Governments of Nauru and Papua New Guinea, respectively. Our role is to provide services to asylum seekers who live in the Centres, in accordance with our contractual obligations.
- 3 Broadspectrum takes a welfare-led approach to the provision of services to asylum seekers who live in the Centres. The services are provided to people who have experienced significant upheaval in their lives, to whom we aim to provide the best support possible in the circumstances.
- 4 We are committed to ensuring that our services are delivered in a manner that is respectful of the human rights of asylum seekers. We are also committed to respecting the human rights of our employees and all other persons who work at or visit the Centres.
- 5 Broadspectrum's services are structured to support the care and well-being of asylum seekers, consistent with their human rights and our welfare led approach. The services offered, adopting that approach, are listed in the table below:

Service	Care and well-being consistent with supporting human rights of asylum seekers
Welfare services	<p>Welfare services include development of a Programmes and Activities Plan to address specific needs of asylum seekers and to support their care and well-being while in the Nauru Centre, including:</p> <ul style="list-style-type: none"> • activity programme areas; • education programme; • religious programme; • recreation programme; • sporting programme; and • excursions. <p>To ensure currency and ongoing needs of asylum seekers are addressed, feedback from asylum seekers is taken into account when developing the programmes and activities for each quarter. See further at paragraphs 97 to 117.</p>
Cleaning	This service includes cleaning accommodation occupied by asylum seekers, if they are not able to clean their accommodation themselves.
Catering	This service includes taking into consideration religious requirements. Also, catering services are delivered to be nutritious as well as culturally appropriate. See further at paragraphs 114 to 116.
Logistical support	The Nauru Centre is an open centre. This means that asylum seekers are free to come and go in the local community at any time of day or night. Broadspectrum assists by providing shuttle bus transportation services. In addition, our logistical services

Service	Care and well-being consistent with supporting human rights of asylum seekers
	support asylum seekers with access to transport to school, programs, activities and excursions as well as medical appointments at the medical clinic.
Environmental services	These services include ensuring that asylum seekers have ongoing access to energy and water resources, as well as promoting their health and safety by implementing and managing environmental and habitat risks of the surrounding environment at the Nauru Centre.
Asset and site maintenance	This service includes procurement, management and maintenance of assets and infrastructure that are fundamental to an asylum seeker's care and well-being while residing at the Nauru Centre. It encompasses infrastructure such as shower and toilet facilities, sporting equipment for recreational use and emergency safety systems.
Security services	These services, which are provided under a subcontract, ensure the safety and well-being of people including asylum seekers in the Nauru Centre, by preventing intoxicated people and weapons from entering the Nauru Centre. See further at paragraphs 89 to 91.

6 The Nauru Centre is an open centre and has been since early 2015. This means that asylum seekers are free to come and go in the local community at any time of day or night. Broadspectrum works to support the free movement of asylum seekers around Nauru by:

- a) thoughtful planning of welfare services, including programs and activities to accommodate and encourage engagement in an open Centre;
- b) offering classes on Nauruan culture and local language, to enhance meaningful and appropriate engagement with the local community;
- c) modification of garrison processes such as catering and security to allow for easy movement in and out of the Centre and to reduce the need to return to the Centre during the day; and
- d) provision of shuttle bus transport to facilitate movement around the island.

7 Having regard to the allegations set out in your letter, it is important to note that:

- a) Broadspectrum does not provide medical care or health services to asylum seekers living in the Centre in Nauru. Medical care and health services (including mental health services) are provided by another service provider, International Health and Medical Services (IHMS), under a contract between IHMS and the Commonwealth of Australia (the Department of Immigration and Border Protection).
- b) Broadspectrum does not determine refugee status, family reunification, or where a person will reside while on Nauru.

- 8 Since Broadspectrum started providing services in the Nauru Centre, we have embraced a culture of continuous improvement, including measures to improve the care and wellbeing of the Centre's residents as a result of using a welfare led approach. Improvements to the Centre driven by Broadspectrum include enhancement of onsite amenities, incorporating asylum seeker feedback into the design and delivery of programs and activities, encouraging activities led by asylum seekers, and development of new educational curricula and vocationally relevant programs.
- 9 We are committed to improving human rights outcomes, to the extent possible within our sphere of influence.
- 10 Broadspectrum has no role in determining or advising on the policies of the Australian or Nauruan Government in relation to immigration and offshore processing of asylum seekers. The Australian policies are contained in Commonwealth legislation, including the *Migration Act 1958* (Cth) and the *Australian Border Force Act 2015* (Cth), which have been enacted by the Commonwealth Parliament. The Nauruan policies are contained in Nauruan legislation, including the *Asylum Seekers (Regional Processing Centre) Act 2012* (Nauru) and the *Immigration Act 2014* (Nauru), which have been enacted by the Nauruan Parliament.
- 11 A period of integration is continuing between Broadspectrum and Ferrovia. During this period, Broadspectrum continues to use the compliance and governance processes described in this letter.

Response to questions 3 and 4

- 12 We are pleased to have the opportunity to provide you with responses to questions 3 and 4 in your letter dated 1 June 2016.
- 13 Question 3 is whether Broadspectrum's staff receive any training on human rights law and humanitarian law standards.
- 14 Question 4 asks how Broadspectrum is meeting its responsibility to respect human rights in a way that complies with international human rights standards. Under this broad heading, question 4 then asks more specifically about (a) Broadspectrum's policy commitment, (b) what Broadspectrum does by way of due diligence, (c) how Broadspectrum tracks the effectiveness of its measures to prevent and mitigate adverse impacts, and (d) what operational-level grievance mechanisms Broadspectrum has established or participated in.
- 15 In the remainder of this letter, we first outline Broadspectrum's obligations to comply with international human rights standards, and the policy framework it has adopted to meet those obligations, and then we specifically answer in more detail the questions posed in your letter.

Broadspectrum's obligations to comply with human rights

- 16** We recognise Broadspectrum's obligations to act, within its sphere of influence, to identify, prevent and mitigate any adverse human rights impacts caused by its operations and secondary impacts caused by the operations of its business partners. This recognition is clearly stated in Broadspectrum's Human Rights Statement.¹
- 17** Before explaining how Broadspectrum meets those obligations, it is important to explain our understanding of the sources of those obligations, and why compliance is important to us (beyond the obvious reason that human rights are self-evidently important and ought to be respected).
- 18** Broadspectrum is not a party to the international treaties that form the body of international law on human rights obligations. Those treaties are entered into by states parties, on which they impose the primary legal obligations to ensure compliance with the standards to which those states parties have agreed.
- 19** However, the actions of a global business like Broadspectrum can have profound impacts on human rights protected by international law. There are now numerous factors that combine to encourage global businesses to adhere to international human rights standards, if they wish to be successful and reputable on the global stage. Examples of these factors are set out in the following paragraphs.
- 20** First, like any other natural or legal person, Broadspectrum is required to comply with the domestic law of the countries that have jurisdiction over it and its operations. For Broadspectrum this includes:
- a) In Australia, the rights contained in the International Bill of Rights and numerous other human rights treaties ratified by Australia are protected by a range of Commonwealth legislation, enacted by the Parliament of Australia (and by the States and Territories, according to the federal division of power) in accordance with the Commonwealth Constitution; and
 - b) In Nauru, Part II of the Constitution of Nauru protects various civil and political rights, and other human rights are protected by a range of Nauruan legislation, enacted by the Parliament of Nauru in accordance with the Constitution of Nauru.
- 21** That domestic legislation contains numerous prohibitions on specified conduct which would adversely impact on human rights. Broadspectrum, and all those conducting work for it, or under contracts with it, are required to comply with the law. However, as Broadspectrum's Code of Business Conduct (the Code) makes clear, employees must "comply with the content and spirit of laws and regulations relevant to their work", seek advice from our Compliance and Governance Group where they are uncertain about the application or interpretation of domestic laws, and co-operate with any internal or external investigation or prosecution in the event of non-compliance.² In addition, the Code requires that "[w]here local law or practice permits a lower standard than set out in [the] Code, [e]mployees must nevertheless comply with the minimum standards set out in the Code."³

¹ BRS Human Rights Statement, 3.

² BRS Code of Business Conduct, 11.

³ BRS Code of Business Conduct, 11.

- 22 Second, as a global corporation, Broadspectrum recognises international guidelines are an important source of standards and expectations about ethical corporate behaviour. For example principles of the United Nations Global Compact, the Universal Declaration of Human Rights, the OECD Guidelines for Multinational Enterprises and the International Labor Organization (ILO) regulations set out clear guidelines directed to ensuring that businesses respect, promote and protect human rights.
- 23 Third, to respect and protect the human right is a key component of the corporate responsibility for business.
- 24 The Code and Human Rights Statement make clear the voluntary commitment by Broadspectrum to this aspect of corporate responsibility. In the Chairman's Report published in our 2015 Annual Report, Ms Smith-Gander explained:
- We are committed to fulfilling our corporate governance obligations and responsibilities in the best interests of the Company and its stakeholders. We reviewed the Company's Code of Business Conduct and a number of our Corporate Governance policies throughout the year to ensure they remain current and reflect good practice.*
- Our refreshed Code of Business Conduct recognises the importance of managing safety, equality and diversity in the business, and introduces a new conduct principle to address the importance of upholding human rights in the delivery of our services.*
- 25 Finally, and critically, Broadspectrum understands that its compliance with international human rights standards – as contained in international treaties and customary law, enacted in domestic legislation, articulated in international guidelines, and given effect by voluntary commitments – impacts on its long-term business interests. Any failure to comply with standards and expectations about human rights compliance can impact on relationships with a variety of stakeholders critical to our business, and can cause damage to Broadspectrum's reputation and brand.
- 26 Thus, although Broadspectrum is not directly bound by the International Bill of Human Rights or other human rights treaties, it recognises that to succeed as a global business it is vital that it respects and upholds internationally recognised human rights using international human rights standards.
- 27 We are committed to addressing human rights compliance by a process of continuous improvement, which should result in progressive realisation of a high standard of compliance throughout all aspects of our global business. This includes collaborating with third party scrutiny bodies who visit and report on the Centre and incorporating their feedback on our service provision into our continuous improvement efforts where possible.

Broadspectrum's framework for human rights compliance

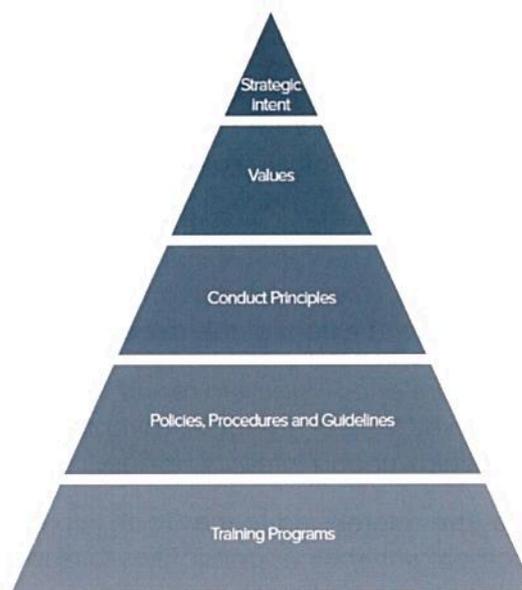
Broadspectrum is committed to respecting human rights

- 28 Broadspectrum is committed to respecting human rights across all its business operations. That commitment is reflected in its Code, as a global standard, supported by relevant statements, policies, procedures, guidelines and training.
- 29 While we have taken considerable care in the design and implementation of our framework for fulfilling our corporate responsibility to respect human rights, we recognise that changes to our business operations, relevant laws and best practice guidance, risk assessments and due diligence processes mean that our statements of principle, policies and guidelines and training will continue to evolve. This is discussed further below under the heading "Future Initiatives".
- 30 Broadspectrum also recognises that sovereign states have the primary duty to protect and uphold human rights under international human rights standards.

- 31 Broadspectrum's commitment to respecting human rights is explicitly stated in the Code and the Human Rights Statement. Both are published on Broadspectrum's website – www.broadspectrum.com.
- 32 It is compulsory for all our staff globally to attend training on the Code and its associated policies and procedures, including the Human Rights Statement.

Broadspectrum's Code of Business Conduct

- 33 The Code provides a framework for understanding and implementing a global minimum standard of behaviour for all Broadspectrum employees, certain individuals and business partners. The purpose of the Code is to ensure that Broadspectrum works safely, behaves ethically, and abides by laws and relevant regulations.
- 34 The global standard is expressed in the following hierarchy:



- 35 The Code promotes specific standards of conduct through four values – Integrity, Collaboration, Challenge and Ingenuity. Within each of these values are Conduct Principles, which set the minimum appropriate standard of behaviour and are supported by policies, programs and training initiatives (including mandatory Code of Business Conduct training) across Broadspectrum's global business.

Value: Integrity

- 36 Broadspectrum's commitment to respecting human rights in conducting its business operations is expressed through the value of Integrity.⁴ This value means doing what is right, and is articulated through the following statements:
- a) Caring for each other's well-being and safety;
 - b) Taking personal responsibility and being accountable;
 - c) Being open, straight-forward and honest; and
 - d) Treating everyone fairly and with respect, and building trusted relationships.

⁴ BRS Code of Business Conduct, 6.

Conduct Principle: Respecting and upholding human rights in business

- 37** Employees' have a responsibility to work safely, behave ethically and abide by laws and regulations with every work decision, task and interaction that supports the right workplace culture and practices. The right work place culture and business practices includes employees' responsibility to conduct business activities in accordance with the Conduct Principle, "*Respecting and upholding human rights in business*" which is founded on Broadspectrum's value of Integrity. This principle recognises that, wherever possible, and within their sphere of influence, corporations should strive to respect human rights by seeking to avoid infringements arising from the conduct of business activities.⁵
- 38** Employees must demonstrate their responsibility to respect and uphold human rights in conducting business activities on behalf of Broadspectrum by complying with a number of policies that set the standard of conduct required by Broadspectrum.
- 39** For example, our employees are required to respect and uphold human rights under the following statements of responsibilities:⁶
- "[Employees] are encouraged to engage with and monitor Business Partners in accordance with the Business Partners Policy and engage with Broadspectrum's Community Engagement Programs";*
- "where applicable, [employees] must perform security and other related services by taking all reasonable steps to avoid the use of force, and if force is used, ensure that it does not exceed what is strictly necessary and is proportionate to the extent of the threat and appropriate to the situation"*
- "[Employees] are encouraged to report any suspected human rights violations to the Executive General Manager Compliance and Group Company Secretary or the Whistleblower and Integrity Hotline."*
- 40** A number of policies are referenced to the Code in order to support our employees to understand and comply with their responsibilities to respect and uphold human rights.⁷ The following documents are particularly relevant:
- a) Human Rights Statement;
 - b) Business Partners Policy;
 - c) Group Procurement Policy;
 - d) Whistleblower Policy; and
 - e) Internal Investigations Policy.

Mandatory reporting of suspected violations

- 41** In accordance with the Code, employees must report any observed or suspected conduct that may be contrary to the Code, unethical or illegal, to any of the following:

⁵ BRS Code of Business Conduct, 8.

⁶ BRS Code of Business Conduct, 8.

⁷ BRS Code of Business Conduct, 8.

- a) their manager/supervisor;
- b) human resources personnel;
- c) the Broadspectrum Compliance and Governance Group by email to codeofconduct@broadspectrum.com;
- d) Broadspectrum's Broadspectrum's Group Executive Legal and Governance (previously titled Executive General Manager, Compliance and Group Company Secretary) via telephone; or
- e) the Whistleblower and Integrity Hotline, via email or telephone to an external provider. This hotline can be used confidentially and anonymously by any employee who, for whatever reason, may be reluctant to openly raise a complaint or concern. This hotline is promoted in the Code, the Broadspectrum website, policies such as the Whistleblower Policy and posters in the Nauru Centre.

Breaches of the Code

- 42** To reflect our commitment to ensuring high standards of conduct across our organisation, Broadspectrum imposes penalties for breaches of the Code or related Broadspectrum policies and procedures. Penalties include disciplinary action, which can result in termination of employment. If a breach of the Code also involves a violation of a law, this may result in criminal prosecution, including against an individual.⁸

Human Rights Statement

- 43** Broadspectrum's Human Rights Statement has been endorsed by our Board. We ask that you read the Human Rights Statement, a copy of which has been provided, and which we have not set out in full in the body of this letter.

- 44** The Human Rights Statement outlines Broadspectrum's commitment to respecting human rights by using International Human Rights Standards as a framework to guide its decision-making and constructive engagement, within its sphere of influence. The International Human Rights Standards used to set standards and expectations in the Human Rights Statement are:⁹

- a) The Universal Declaration of Human Rights, 1948 and the other treaties that together comprise the International Bill of Human Rights – the International Covenant on Civil and Political Rights, the International Covenant on Civil and Political Rights, and the optional protocols to it;
- b) The 10 Principles of the United Nations Global Compact;
- c) The Guiding Principles on Business and Human Rights; and
- d) the ILO Declaration on Fundamental Principles and Rights at Work.

- 45** The Human Rights Statement expressly sets out Broadspectrum's commitment to integrating respect for human rights into its business practices.¹⁰ It recognises that Broadspectrum's business practices engage with human rights in multiple spheres: for example, they can affect the rights of employees and contractors, people to whom services are provided, other people affected by the provision of services, people affected by the business activities of subcontractors, people living in communities where Broadspectrum conducts its business, and people living further away who are affected

⁸ BRS Code of Business Conduct, 7.

⁹ BRS Human Rights Statement, 2.

¹⁰ BRS Human Rights Statement, 3-5.

by the environmental impact of Broadspectrum's business.

- 46** The Human Rights Statement records and evidences Broadspectrum's aspiration to integrate human rights commitments into its business practices in a way that will meaningfully reduce the impacts of its practices on the people in each sphere affected by its business activities. It identifies seven areas of focus:
- a) Health and safety;
 - b) Workplace culture;
 - c) Environment;
 - d) Procurement and supply arrangements;
 - e) Performance and subcontracting of services;
 - f) Local communities; and
 - g) Business partners.
- 47** Under each of these headings, Broadspectrum identifies its relevant commitments and cross-references other relevant policies, procedures or practices. Further, under the heading "Related documents", the Statement refers to related Broadspectrum policies, most of which are hyperlinked for ease of access when the Human Rights Statement is accessed electronically. Policies cross-referenced in the Statement or identified as related documents include:
- a) The Anti-Bribery and Corruption Policy;
 - b) The Business Partners Policy;
 - c) The Code;
 - d) The Equality and Diversity in the Workplace Policy;
 - e) The Group Procurement Policy;
 - f) The Health Safety and Environment Management Policy;
 - g) The Indigenous Relations Policy;
 - h) The Mandatory Safety Rules and;
 - i) The Privacy Policy;
 - j) The Internal Investigations Policy; and
 - k) The Whistleblower Policy.
- 48** Each of these documents is annexed to this letter.
- 49** Broadspectrum's Human Rights Statement has very broad application, extending to all Broadspectrum's employees, officers, directors and individuals working as consultants and contractors and any other party acting as a representative or agent of Broadspectrum. The Human Rights Statement also applies to our subcontractors, suppliers, wholly owned subsidiaries and majority owned operations in all countries where we operate.
- 50** Broadspectrum's commitment to meeting its responsibility to respect human rights is demonstrated through the Board's approval and adoption of these policies. The Board's approval was given as part of our overall compliance and governance framework.
- 51** The Human Rights Statement is not a passive document. It is intended to be enacted within and throughout the Company. Under the heading "Reporting human rights

violations",¹¹ the Statement records that:

Broadspectrum encourages its Employees, suppliers and subcontractors to report any suspected human rights violations and seeks to provide them with a safe and supportive environment in which to make such a report. Broadspectrum takes allegations of human rights breaches seriously and all reported information will be:

- *investigated in accordance with Broadspectrum Internal Investigations Procedure, or when appropriate, by an independent investigator, and*
- *treated in confidence and in accordance with Broadspectrum's Whistleblower Policy.*

52 The Human Rights Statement provides three different avenues for reporting, with options for reporting by telephone, email, fax or mail:

- a) Broadspectrum's Group Executive Legal and Governance (previously titled Executive General Manager Compliance and Group Company Secretary) – postal address, phone and facsimile;
- b) Broadspectrum Governance and Compliance Group – email address;
- c) Whistleblower and Integrity Hotline – email address and telephone numbers for various countries where Broadspectrum has business operations.

¹¹ BRS Human Rights Statement, 5.

- 53** The Human Rights Statement also records Broadspectrum's recognition that the Statement cannot be effective if it is a static document – it is intended to evolve over time in response to developments in Broadspectrum's business activities and operations, input from stakeholders, changes in human rights best practice guidance, risk assessment and due diligence. Under the heading "Review of this statement", the Statement records that:

The Executive General Manager Compliance and Group Company Secretary is responsible for keeping this Statement up to date, and will conduct a formal, annual review of the Statement and Broadspectrum performance against this Statement.

The outcome of these reviews will be reported to the Health Safety, Environment and Community Committee of Broadspectrum, who will make a recommendation to the Board of Directors. The Board is responsible for approving this Statement and any changes to it.

- 54** As a result of the integration process with Ferrovial all Health, Safety, Environment and Community reporting is now directly to the Board. The Human Rights Statement is being updated to reflect this.
- 55** In undertaking this process of review and improvement, Broadspectrum is also mindful of the need for consistency and certainty through time if the Human Rights Statement is to perform its function of setting an expectation that is well-understood and respected throughout the business.

Future initiatives

- 56** Broadspectrum is committed to furthering its respect for human rights in its business operations through an iterative process of improvement. It recognises that best practice for a transnational corporate group or entity now involves the progressive realisation of human rights compliance throughout every impact and consequence of its business. Broadspectrum is in the process of reviewing, and where necessary, updating the policies, procedures and compliance systems that it already has in place to this end. For example, it is currently developing a Human Rights online training module intended to support the practical implementation of the Human Rights Statement.

Whistleblower policy

- 57** Persons who report suspected human rights violations are able to do so confidentially and anonymously in accordance with the Broadspectrum Whistleblower Policy.¹² Broadspectrum recognises that some staff members may prefer to raise complaints and concerns regarding human rights and other sensitive matters without identifying themselves, and we have invested in ensuring that this can occur. The Whistleblower and Integrity Hotline is operated by an external independent service provider (Deloitte), which refers the matter to the Audit Services and Risk Group, which investigates to determine whether there is evidence to support the matter and the action to be taken.¹³ The Whistleblower Policy has been approved by the Board.

¹² BRS Whistleblower Policy, 2.

¹³ BRS Whistleblower Policy, 3.

Internal Investigations policy

- 58** The Internal Investigations Policy sets out the process for internal investigations, roles and responsibilities, including the referral of possible criminal conduct to relevant authorities. The Internal Investigations Policy has been approved by the Board.

Group Procurement Policy

- 59** Broadspectrum's staff are required to comply with the Group Procurement Policy, which requires suppliers to support human rights throughout their entire supply chain to ensure the procurement of legal and ethically sourced goods and services. Suppliers are required to comply with specific procurement requirements, including compliance with all applicable laws and regulations, compliance with the Code, and allowing Broadspectrum to verify compliance and to terminate the arrangement if the supplier fails to comply.¹⁴ The Group Procurement Policy has been approved by the Board.

Business Partners policy

- 60** Under Broadspectrum's Business Partner Policy, our staff are required to conduct due diligence on clients, suppliers, joint-venture and alliance partners, sub-contractors and agents.
- 61** This due diligence covers reputation, ownership, links to government, financial performance, health and safety performance, creditworthiness, governance and personnel policies. Broadspectrum's staff are required to communicate our expectations of business partners by forwarding a copy of the Code to the relevant business partner. The Business Partners Policy requires ongoing monitoring of our business partners' conduct, reporting suspicious or undesirable conduct, and requires approvals for certain payments. The Whistleblower Policy has been approved by the Board.
- 62** Broadspectrum has in place a Business Partners Due Diligence Procedure that makes it mandatory to conduct due diligence using eight risk indicators which includes consideration of human rights. Detailed below are the eight risk indicators:
- a) Corporate risk,
 - b) Government relationship risk,
 - c) Jurisdiction risk,
 - d) Financial risk,
 - e) Industry risk,
 - f) Compliance and Governance risk,
 - g) Market perception/Reputational risk, and
 - h) Legal risk.

The Procedure was developed having regard to the Good Practice Guidelines on Conducting Third Party Due Diligence developed by the World Economic Forum.

¹⁴ BRS Group Procurement Policy, 2-3.

Question 3: Do company staff receive any training on human rights and humanitarian law and standards?

Yes. Broadspectrum provides initial and annual training to all company staff on our human rights standards and expectations.

Company-wide annual training

The Code

- 63** We believe that it is essential for us to deploy training to support staff to understand and comply with their obligations to respect human rights. It is mandatory for all Broadspectrum employees to receive training on the human rights standards that they are expected to respect when undertaking business activities on behalf of Broadspectrum.
- 64** The training on human rights is a Conduct Principle delivered as a component of Code of Business Conduct training (**Code Training**), because it is a global standard in the Code. We approach the delivery of training on human rights standards by including it as part of employees' broader education about our values. The expected standard of employee conduct reflects our belief that respecting human rights standards is both a corporate responsibility and the personal responsibility of individuals when performing business activities on behalf of Broadspectrum.
- 65** Training is currently conducted annually. Training will continue to be delivered either in person or via online modules. Only authorised trainers inducted by the Compliance and Governance Group are permitted to deliver Training. They are observed and managed as part of a "Train the Trainer" Program which is reviewed yearly and involves maintaining a register of authorised trainers. The Compliance and Governance Group conducted a refresher training for authorised trainers for the Nauru Centre this year, to emphasise human rights and workshop experiences that occurred at the Nauru Centre and how they relate to human rights.
- 66** Training was and is also provided to our local employees in Nauru, in a culturally appropriate and meaningful way so as to engage our local employees on our expectations and standards.
- 67** Completion of the Training is mandatory and contemplated as part of performance and development reviews.
- 68** The Code Training includes:
- a) emphasis on the fact that respect for human rights is both a corporate and personal responsibility when performing business activities on behalf of Broadspectrum;
 - b) an explanation of what human rights are;
 - c) examples of how human rights are integrated into business practices;
 - d) a direction that the best way to integrate human rights into business practices is "by respecting, and upholding the human rights of our fellow workers, business partners, stakeholders, and the communities in which we operate"; and
 - e) reference to relevant supporting policies, including the Human Rights Statement, Business Partners Policy, and Group Procurement Policy.
- 69** The content of the Code is reinforced at induction sessions and regular internal communications, and in online training and face-to-face training at least once a year. Relevantly, this includes training specific to Broadspectrum's provision of services at

Nauru.¹⁵ A training calendar is prepared each week to cater for staff who have not undertaken Code Training. The training program is updated on a yearly basis.

The Human Rights Statement

- 70 The content of the Human Rights Statement is reinforced at Broadspectrum induction sessions (attended by all employees and visitors to the Centre), annual mandatory Code Training and targeted training to address emerging issues observed in the business (including via the Whistleblower and Integrity Hotline), the market and in response to legal developments.¹⁶

Training for employees working at Nauru Centre

The Code

- 71 All of Broadspectrum's employees working at the Nauru Centre pursuant to the Contract have completed the annual Code Training. Broadspectrum aims for 100% completion and includes the Training as part of its induction program.
- 72 Training in the Code for employees who work in the Centres has a focus on culture, mutual respect and the principle that every person has inherent value regardless of where they come from or their personal attributes and circumstances. The Training emphasises that human rights compliance is the right thing to do. Human-rights-related concepts are also addressed throughout the Training using practical examples and case studies.

Induction training: respect for asylum seekers

- 73 All Broadspectrum employees and contractors working at the Nauru Centre are required to attend Site Induction training. The induction covers an introduction to the Code, as well as policies and procedures specific to the Contract, including a number of operating procedures known as "Regional Processing Centre Guidelines" (**RPC Guidelines**).¹⁷ Code Training is now undertaken during induction.¹⁸
- 74 The RPC Guidelines have been approved by the Department of Immigration and Border Protection. They include:
- a) Service Provider – Code of Conduct (Organisation);
 - b) Service Provider – Code of Conduct – Employees;
 - c) Service Provider – Interaction with Transferees;
 - d) Service Provider – Child Safeguarding Protocol and Code of Conduct;
 - e) Service Provider – Staff Relationships with Transferees;
 - f) Transferee Communication Access – Telephones and Fax;
 - g) Transferee Communication Access – Computer Room and Internet Usage;
 - h) Transferee Complaints, Compliments and Property Requests; and
 - i) Incident Management – Incident Reporting.

Each of these RPC Guidelines is annexed to this letter.

¹⁵ BRS Code of Business Conduct, 27

¹⁶ BRS Human Rights Statement, 1.

¹⁷ BRS and DIBP RPC Guidelines.

¹⁸ BRS and DIBP RPC Guidelines.

- 75 The induction training for our staff at the Nauru Centre includes a detailed explanation of the standard of conduct required of staff, which, at its most fundamental, requires interactions with asylum seekers to be conducted with respect, care and their well-being foremost in mind. Directions given to employees during induction training concerning the standard of conduct include:¹⁹
- a) to treat asylum seekers with the utmost respect and care;
 - b) to make asylum seekers as comfortable as possible;
 - c) to promote a healthy environment;
 - d) to behave in a manner that respects and promotes the physical and psychological well-being of asylum seekers;
 - e) to behave with honesty and integrity;
 - f) to be fair and reasonable when interacting with asylum seekers;
 - g) to treat all asylum seekers equally;
 - h) to report all incidents and allegations;
 - i) to make use of the Whistleblower & Integrity Hotline (with a toll-free number in Australia and Nauru as well as an email address of an external service provider. Toll free numbers are also available in other countries); and
 - j) that there is zero tolerance for breaches of these directions and other poor behaviour.

76 Employees are also reminded that disciplinary action may be taken for a breach of staff obligations, including a breach of the Code.

77 During induction, employees are provided with a copy of the policies and operational procedures referred to in the Induction Training. Employees are asked to initial each page as an acknowledgment that they have read and understood the policies.

Cultural awareness training

78 Broadspectrum recognises that the ability of employees who work at the Centre to comply with our expectations about respect for human rights will be enhanced by an understanding of the cultural background of the asylum seekers with whom they work. To that end, we provide cultural awareness training for staff at induction training, and on an ongoing basis. This training supports Broadspectrum staff at the Centre to gain some understanding of the differing cultures of the asylum seekers who live at the Centre. Asylum seekers at the Centre come from a range of countries, regions, religions and ethnic groups, all of which contribute to significant differences in cultural sensitivities, language and etiquette, as between different asylum seekers and as between the asylum seekers and our employees.

79 At a practical level, this cultural awareness training is an essential foundation of our ability to deliver culturally sensitive services to asylum seekers within the parameters set by the Contract. This is discussed below at paragraphs 97 to 103.

80 [Not used]

¹⁹ RPC Guidelines – Service Provider – Interaction with Transferees, 1-2, 4-5.

Question 4: How is Broadspectrum meeting its responsibility to respect human rights in a way that complies with international human rights standards?

We are meeting our responsibility to respect human rights in a way that complies with international human rights standards by adopting and implementing the framework described above, and by a process of continuous improvement in our policies, procedures and implementation.

- 81 Broadspectrum has many business activities, and works in a various fields in numerous countries around the world. Given the context of the letter, we have focused our answer to question 4 on how we are meeting our responsibilities to respect human rights in providing services at the Nauru Centre.
- 82 Our commitment to meeting our responsibility in respect of our operations at the Nauru Centre is demonstrated by the seniority of the Broadspectrum executives who have visited that Centre to ensure, among other things, our compliance with our human rights commitments. Since 2014, the Chairman of the Board of Broadspectrum, Managing Director and Chief Executive Officer of Broadspectrum, the Chief Financial Officer, the Operational Chief Executive Officer (Logistics, Construction & Consulting), as well as multiple Non-Executive Board Directors have each visited the Nauru Centre.
- 83 There is a governance framework in place specifically in relation to the Contract, which provides both regular reporting to the senior executives and Board, as well as escalation of issues through a tested reporting framework. This includes the following:
- a) Monthly reporting direct from operational management to the Board of Directors.
 - b) Reporting protocols to address any issues raised. This includes emergency and security, human resources, safety, and welfare issues.
 - c) A report to the Board of Directors (before each Board meeting) on complaints raised through the Whistleblower Hotline.
- 84 In addition to the reporting framework, we also have officers at senior levels of the company engaged with feedback from third party scrutiny bodies such as the Commonwealth Ombudsman.

4(a): Does your company have a policy commitment (approved at the most senior level of the company) that is reflected in its operational policies and procedures?

Yes. Broadspectrum's commitment to respecting human rights in its business operations is reflected in its operational policies and procedures which have been approved by our Board.

Policy commitment approved at the most senior level

- 85 As described above, the Code and the Human Rights Statement, as well as the other policies that support them, have been approved by our Board. The commitment of our Board to the importance of human rights as an essential element of corporate governance obligations and responsibilities can be seen in the Chairman's Report contained in Broadspectrum's most recent Annual Report (see paragraph 24 above).

Recruitment and screening

- 86 It is important to contextualise Broadspectrum's training program described above in answer to question 3.
- 87 This training takes place after Broadspectrum has applied rigorous screening and recruitment procedures that are designed to ensure that it employs only persons of good character, who demonstrate a willingness to adhere to our values. The recruitment and screening process works in the following way:

- a) Broadspectrum utilises its established Recruitment Procedure when recruiting Australian Fly-In-Fly-Out (FIFO) employees at the Nauru Centre. This procedure applies screening requirements through the conduct of interviews and testing, reference checks, psychological assessments, background checks (including Australian Federal Police Checks, Working with Children checks and confirmations of qualifications and any relevant Licenses) and pre-employment medical assessments. We use a third party supplier to conduct the background checks and to provide confidential written reports to Broadspectrum about individuals being considered for employment.
- b) A similar process is used for Nauru local employees, however there are some modifications to accommodate cultural and local factors.
- c) Following the selection process, all offers of employment and written contracts of employment issued by Broadspectrum require individuals to confirm that they will comply with all company policies and procedures, including the Code and the House Rules, which apply to all Broadspectrum employees and clearly set out conduct that is not acceptable in the workplace, and the disciplinary action that will apply if conduct or performance standards are breached. For prospective employees at the Nauru Centre, offers of employment are accompanied by a copy of the RPC Guidelines, and employment contracts include a requirement that employees comply with the RPC Guidelines.
- d) As explained in our answers to question 3, these requirements are further reinforced at Induction Training of new employees, which is conducted as close as possible to a new employee's first day of work with Broadspectrum.
- e) Broadspectrum uses 'probationary periods' (which are set out in our letters of offer) to ensure that we can terminate the employment of any employee who reveals themselves during the initial period of employment to be not of good character, or who engages in behaviour inconsistent with the codes of conduct, policies and guidelines that apply at the Centre. This applies to both local Nauruan employees and Australian FIFO employees.

RPC Guidelines and Codes

- 88** As stated above, employees at the Nauru Centre must also comply with the RPC Guidelines.

Provision of security services

- 89** Wilson Security are contracted by Broadspectrum to provide security services at the Centre.
- 90** Wilson Security's Standard Operating Procedures set out the key policies and procedures relating to the provision of those security services. The Standard Operating Procedures cover a range of scenarios at the Centre, including use of force. The Standard Operating Procedures have been drafted to comply with the Australian Human Rights Commission Human Rights standards for immigration detention 2013, and also encompasses relative Australian Standards, local legislation and independent government and external agency reviews.
- 91** Wilson Security delivers training (both at induction and on an ongoing basis) directed to ensuring that all its staff at Nauru receive ongoing compliance training.

Policies and procedures in place to protect children

- 92** Broadspectrum takes very seriously its obligation to protect children in its care. In addition to complying with the RPC Guidelines titled "Service Provider – Child Safeguarding Protocol and Code of Conduct", Broadspectrum requires staff to:

- a) pass background checks (including Australian Federal Police checks, checks with the Nauru Police Force and Working With Children Checks under domestic legislation);
- b) report suspicions of child abuse, assault, harassment or bullying through the incident reporting process;²⁰
- c) treat all children with respect;
- d) provide an inclusive and safe environment for all children;
- e) encourage children to immediately report concerns or allegations to Broadspectrum. Reports are raised at multi-stakeholder meetings attended by a representative of the Government of Nauru who is responsible for Child Safeguarding and Wellbeing;
- f) ensure that another adult is present when working with children; and
- g) comply with all laws relating to children.

93 Broadspectrum has also engaged with the Nauru Child Protection Services and the Gender Based Violence Counsellor/Specialist and Ministry of Health in Nauru regarding various matters relating to child welfare and protection services, including the undertaking a significant amount of work to update and implement the Service Provider Child Safeguarding and Wellbeing Protocol and Code of Conduct and the Collaborative Assessment and Planning Framework.

94 In addition, representatives of the Government of Nauru RPC Operations Management Team and Nauru Child Protection Services have attended Broadspectrum's Child Safeguarding and Wellbeing training at the Nauru Centre.

Nauru RPC Centre Rules

95 The Nauru RPC Centre Rules,²¹ which are made under the *Asylum Seekers (Regional Processing Centre) Act 2012* (Nauru), require all persons at the Centre to (among other things):

- a) treat others respectfully;
- b) not endanger the safety and welfare of any person;
- c) not bully or harass any person;
- d) not adversely affect the security and good order of the Centre;
- e) not access websites, share, upload or download files or store information containing material that could incite violence, racism, hatred or which may cause offence;
- f) respect the needs of individuals sharing the accommodation area;
- g) request permission before entering into another person's living area;
- h) avoid damage to property, violence, or aggression;
- i) report intimidation or harassment;
- j) reported domestic violence, child abuse, or any assault; and
- k) ensure the safety of children.²²

²⁰ Nauru RPC Centre Rules (Feb 2016), 1-3.

²¹ Nauru RPC Centre Rules (Feb 2016), 1-3.

²² Nauru RPC Centre Rules (Feb 2016), 1-3.

- 96 The RPC Centre Rules state that the criminal law of Nauru will be used to prosecute any criminal acts committed by any person in the Nauru Centre. Further, a breach of the Nauru RPC Centre Rules by our staff may result in disciplinary action including dismissal.²³

Delivery of welfare services

- 97 Broadspectrum's commitment to respecting human rights is embedded in the way services are delivered to residents at the Nauru Centre.

Case management

- 98 Broadspectrum has developed, with assistance from industry experts (such as Multicultural Development Association Ltd (MDA)), a case management framework to deliver welfare services to residents at the Nauru Centre. We have engaged subject matter experts to assist in drafting the Case Management Framework and in providing comprehensive training programs for case managers. This training includes topics such as case management, cultural competencies, torture and trauma and mental health.

Programs and activities

- 99 Broadspectrum provides a range of programs and activities for residents which take into account a number of variables including age, gender, culture, religion, disabilities/special needs, individual interests, resourcing and infrastructure. In order to ensure programs are appropriately tailored, we have implemented a number of feedback mechanisms for residents, including parent-teacher meetings and weekly children and families meetings. There are also transferee-led activities such as 'open mic' poetry night.
- 100 Programs and activities delivered by Broadspectrum to asylum seekers at the Centre includes exercise and sports, education of various kinds, excursions and computer games, discos, children's clubs, creative arts and movies.
- 101 Broadspectrum has developed programs, taking on board solicited feedback from asylum seekers, to assist asylum seekers in developing culturally relevant skills and local competencies. In particular, these seek to provide and enhance cultural awareness and language skills to assist in meaningful engagement in the Nauruan community.

Transition programs from the Nauru Centre to the community

- 102 Broadspectrum runs a program called *Leap to Learning* at the Nauru Centre. This is a transition program for 0 – 3 year olds in preparation for community schooling.
- 103 Broadspectrum runs education programs for residents at the Centre. It also runs life skills programs to help with community engagement. These programs include swimming, fishing, sewing/tailoring and cooking, which can assist residents in engaging in the broader community.

Access to internet and mobile phones

- 104 Asylum seekers' access to internet and mobile phones is governed by several RPC Guidelines: Transferee Communication Access – Telephones & Fax, and Transferee Communication Access – Computer Room and Internet Usage.
- 105 In compliance with these RPC Guidelines, we ensure that all residents have regular access to computer and internet facilities to contribute to autonomy and wellbeing. Residents are required to make a booking to ensure fair and equitable distribution of services. Broadspectrum provides appropriate filtering software and supervision to

²³ Nauru RPC Centre Rules (Feb 2016), 1-3.

restrict access to pornographic or other prohibited sites, personal software, file transfer protocol sites, and prohibited sites in foreign languages. The internet connection bandwidth dedicated to asylum seeker internet access is 10 Mb per second for downloads and 2 Mb per second for uploads.

- 106** Asylum seekers living at the Centre have a right of access to legal advisors by telephone. They may send and receive mail items at their own expense, and may use payphones at their own expense. Incoming calls are passed to residents, or a message can be taken and passed on if they are not available. Personal mobile phones are permitted if they comply with guidelines issued by the Department of Immigration and Border Protection. Restrictions on the use of phones are only applied where there is a threat to the security of others, or in cases of suspected criminal conduct.
- 107** In addition to the regular access to computer and internet facilities provided at the Nauru Centre, asylum seekers are also able to procure mobile phones and ongoing credit through the Nauru Centre Canteen facility. The mobile phone package costs 30 Individual Allowance Points, a replacement mobile phone costs 20 Individual Allowance Points, a replacement sim card 15 Individual Allowance Points and a \$10 recharge card is 10 Individual Allowance Points. Each adult asylum seeker is automatically granted 25 Individual Allowance Points per week and can earn up to an additional 25 Individual Allowance Points per week through participation in structured programs and activities. Over the last few months the three most commonly purchased items in the canteen are, cigarettes, phone credit and confectionary items.
- 108** Although for the reasons already explained (see pages 1 and 2), Broadspectrum is not in a position to respond to the specific complaints detailed in the OHCHR letter, we can confirm that points that are able to be used for purchasing phone cards accrue automatically for all asylum seekers. So although it is certainly the case that additional points can be accrued through the IAP program, all asylum seekers have access to sufficient points to purchase phone cards regardless of participation in programs and activities.

Religious and cultural support

- 109** Broadspectrum staff have cultural liaison officers who have expertise in the culture and language of various sectors of the asylum seeker population. The welfare team at Broadspectrum speak 12 of the 19 native languages of the asylum seeker population, covering 82% of the resident population. Broadspectrum utilises the services of interpreters provided by the Department for the remaining asylum seekers. Many asylum seekers speak English which allows for regular and significant interaction.
- 110** The role of cultural advisors is to collaborate with residents to deliver a range of engaging cultural and religious activities, identify new opportunities, and promote a culture that reflects Broadspectrum's values.
- 111** We prepare and follow a cultural and religious calendar of events and activities. The calendar is developed based on feedback from Centre residents.
- 112** Important examples of our respect for religious beliefs are:
- a) A dedicated space for residents to practise their religion;
 - b) Special procedures for the month of Ramadan (explained in paragraph 0 below); and
 - c) A comprehensive cultural and religious calendar each year, including celebrations and rituals for adherents of Bahá'í, Buddhism, Christianity, Hinduism, Islam, Sikhism (including various sects of these).

- 113** Broadspectrum puts in place special procedures for the month of Ramadan, including:
- a) Starting breakfast at 3:30 am, to allow for the predawn meal before fasting begins (suhoor), distributed by staff at a different time to ordinary meal times;
 - b) Providing a snack to break the fast within 10 minutes from sunset, including fresh dates, fruit juice and fruits (iftar), distributed by staff at a different time to ordinary meal times;
 - c) A midnight supper meal pack, distributed by staff at a different time to ordinary meal times; and
 - d) Rescheduled activities to the evening when residents are more active.
- 114** Broadspectrum's catering of food for residents also reflects its respect for different religious beliefs. For example:
- a) MoMos are provided for the Nepalese residents on significant days; pork is provided to the Vietnamese cohort on significant days; and midnight meals are provided for practising Muslims during Ramadan.
 - b) Food prepared for asylum seekers of Islamic faith is halal, including sourcing produce certified as halal by a recognised food certification organisation, and preventing cross-contamination between halal food preparation areas and any other food preparation areas.

Cultural awareness and community engagement

- 115** Broadspectrum employs a number of refugees as staff within the catering and cleaning teams. These staff have access to all employee services, including training. As at 30 September 2016, 50 refugees were employed by Broadspectrum.
- 116** In addition, refugees have participated in education programs, such as catering courses, to increase their chance of obtaining employment following the grant of refugee status.
- 117** Broadspectrum conducts excursions focused on cultural learning and sharing, as well as a cultural powerpoint sharing activity, where residents can learn about other cultures.

Reviews by third parties

- 118** Broadspectrum's operations on Nauru have been reviewed by a number of independent bodies, including the Commonwealth Immigration Ombudsman, the United Nations High Commissioner for Refugees, and the International Committee of the Red Cross. Broadspectrum engages and cooperates fully with all third parties that visit and review the facilities. Where recommendations are made, and we are notified of the recommendations and given a copy of any relevant report. We seek to work with the appropriate bodies to implement recommendations as appropriate, within our sphere of influence and in the context of the legislative and contractual constraints under which we operate.

Key policies are advertised at the Centre

- 119** Posters about the Code are displayed at the Nauru Centre. The Whistleblower Policy is publicly available on our website and posters outlining its effect are displayed in the Nauru Centre. Posters advertising the Whistleblower & Integrity Hotline are also displayed in areas accessible to staff and residents.

4(b): Please explain what your company is doing to carry out its human rights due diligence in order to identify, prevent, mitigate and account for how it addresses adverse human rights impacts such as those referred in this letter.

The explanation is set out in the following paragraphs.

- 120** Broadspectrum conducts risk reviews and subsequent related due diligence on its own operations to ensure a high level of compliance with its compliance and governance framework which includes the Code. We also meet regularly with the Australian Commonwealth Ombudsman to understand areas of improvement and seek feedback in order to enhance the quality of our service provision.

Enterprise level

Formal annual review of the Human Rights Statement

- 121** In order to ensure the currency of references to laws and key reference documents, and to engage in continuous improvement in a manner which supports compliance with the Code, a formal review is conducted at least annually.
- 122** As a key reference document and in accordance with the Human Rights Statement, the Group Executive Legal and Governance and Group Company Secretary conducts a formal annual review of the Human Rights Statement and Broadspectrum's performance against it.²⁴ The review will now be reported directly to the Board of Directors who are responsible for changing the Human Rights Statement as required.²⁵
- 123** The Code and key reference documents such as the Human Rights Statement are due for annual review in the last quarter of the 2016 calendar year.

Group procurement policy

- 124** Should Broadspectrum identify a potential failure of a supplier to respect human rights in its business operations, our Group Procurement Policy requires us to take steps to verify that supplier's compliance with the procurement standards. If the supplier is found to have breached the procurement standards, we may terminate the supply agreement.²⁶

Internal investigations, Whistleblower protection, Risk Management and Business Partners Due Diligence

- 125** The Human Rights Statement requires that allegations of human rights breaches be investigated in accordance with Broadspectrum's Internal Investigations Policy or (when appropriate) an independent investigator. Allegations are treated in confidence and in accordance with our Whistleblower Policy.²⁷
- 126** As part of its process of risk management, business partners due diligence and allegations raised (as part of Internal Investigations and Whistleblower protection), Broadspectrum seeks to ensure that it identifies any potential failures to respect human rights in its business operations. It does this through various mechanisms that ensure any concerns with respect to human rights compliance are identified and investigated promptly. If a breach is discovered, we immediately take appropriate steps to understand what has occurred and why, to remedy any harm caused, and to prevent future failures arising again.

²⁴ BRS Human Rights Statement, 6.

²⁵ BRS Human Rights Statement, 6.

²⁶ BRS Group Procurement Policy, 2-3.

²⁷ BRS Human Rights Statement, 5.

- 127 We have taken disciplinary action against a number of staff members where we believe that their behaviour has fallen short of the conduct expected of our staff with respect to their treatment of asylum seekers at Nauru. In each instance, our concern has been to ensure compliance with the Code which includes respect for the human rights of asylum seekers at Nauru.

Nauru Centre

Self-auditing and stakeholder engagement

- 128 Broadspectrum undertakes internal audits and compliance checks. It also engages with key stakeholders, including the Department and other third parties in order to understand emerging needs and issues as well as discuss performance.
- 129 More specifically, Broadspectrum:
- a) Reports to the Department under a monthly performance management framework;
 - b) Undertakes monthly reporting requirements in respect of substantiated breaches of the Code;
 - c) Conducts governance meetings as required with the Department's scrutiny team to discuss third party reports including the Commonwealth Ombudsman, International Committee of the Red Cross and the United Nations High Commissioner for Refugees); and
 - d) Participates in a monthly structured governance meeting as well as ad hoc governance meetings with key senior Departmental staff to discuss performance of the contract, as required by the Department.

Due diligence conducted on security services provided by Wilson

- 130 Broadspectrum has conducted a due diligence assessment of services performed by Wilson Security against the Voluntary Principles on Security and Human Rights. This included the identification of specific security risks, the potential for violence, human rights records of staff, the application of the rule of law, conflict analysis and risks associated with transferring lethal or non-lethal equipment. As a result of this process, Broadspectrum formed the view that Wilson Security's Standard Operating Procedures complied with the Voluntary Principles on Security and Human Rights.
- 131 Review of Wilson's Standard Operating Procedures is a continuous process as the Centre changes. These reviews and changes to the Standard Operating Procedures are prompted by, for example, requests by the Department, local government changes to the Centre, reviews by third parties to provide for recommendations arising from those reviews or on request by Broadspectrum to align with a change and/or continuous improvement programs.
- 132 Wilson Security is not currently a member of the International Code of Conduct for Private Security Service Providers (**ICOC**). However, it is in the process of reviewing its position and expects to make a decision about possible future membership of the ICOC this year.

Complaints and requests process for residents

- 133 Broadspectrum manages the complaint and request process in the Nauru Centre to provide asylum seekers with access to a complaints procedure so that issues of concern can be resolved effectively, fairly and efficiently. This process also manages compliments which asylum seekers may wish to make in respect of services provided. Broadspectrum is required under the Contract and under RPC Guideline – Complaints Management, to respond to all complaints within a reasonable time and treat complaints with confidentiality and integrity. It is further measured on its performance

monthly in respect of meeting these deliverables through the Performance Management Framework.

- 134** We allocate complaints to relevant service providers and co-ordinate a response from them as needed. Once a complaint is referred, the service provider is responsible for investigating and responding to the complaint and advising Broadspectrum when it has been actioned or closed. If a complaint is made about the conduct of any Centre staff member, it must also be referred to the Department of Immigration and Border Protection. A complaint or request can be made by any resident in writing and it will be translated.
- 135** Once a complaint is received, it is reviewed to identify major or critical incidents, which must be reported. At all points, the needs of non-English speakers are accommodated and translation support is provided by the Department of Immigration and Border Protection when required.
- 136** This system supports residents in raising issues of concern and also facilitates the submission of specific requests to service providers at the Nauru Centre. The system is designed to support self-agency in the direct submission of requests or notification of issues of concern and to ensure that residents are able to do so confidentially and in any language.
- 137** The key elements of the complaints process are as follows:
- a) a complaint can be made by any resident or other person at the Centre;
 - b) on arrival, asylum seekers are provided with information in relation to the complaints process during induction, and in the Transferee Induction Booklet, which every resident is given in a language they can understand. When they attend induction, transferees are also shown where they may find complaint forms and complaint boxes;
 - c) on receipt, complaints are reviewed by Broadspectrum staff to identify any minor, major or critical incidents that need to be reported via the RPC Guideline for Incident Reporting. The categorisation of the Incident determines the time frame and manner in which an incident needs to be investigated and reports and incident reports are provided to Security Control (which is operated by Wilson Security) to investigate;
 - d) published time frames apply within which complaints must be actioned, investigated, resolved and reported on to transferees;
 - e) the Department of Immigration and Border Protection Director (the Director) must be informed as soon as practicable, and within 12 hours of receipt, of any complaint made by an asylum seeker about the conduct of Departmental Personnel, service provider personnel or third party service providers;
 - f) it is the responsibility of the Director to investigate all allegations against staff, and it is the Department's responsibility to acknowledge to the complainant that the complaint has been received and take whatever steps are deemed necessary, including referring any allegation against staff to Nauruan police;
 - g) where a referral or report to police occurs, the complainant will receive an update to that effect. In such cases, the police would be asked to inform the complainant and the Director of the results of their enquiries. Where the police do not proceed because of lack of evidence, the Director must satisfy him/herself that there has been no wrongdoing before concluding the proceedings;
 - h) the Director may, if deemed appropriate, refer any allegation against staff to the relevant service provider team leader to investigate, in which case the

response would be sent to the team leader, the Director and the investigations officer for filing;

- i) where a complaint is made against a Broadspectrum staff member, our internal disciplinary processes and investigations would continue to apply but would be administered appropriately taking into account any police investigation that might occur;
- j) following an incident, post-incident debriefs are also undertaken and discussed in weekly departmental review meetings held onsite and attended by all service providers. The review is prepared by Wilson Security and it is tabled and discussed in the service provider forum. Lessons learnt from any incident are also discussed and minuted in meetings with appropriate actions allocated to relevant service providers; and
- k) at all points of the process, the needs of non-English speakers are accommodated and translation support is provided when required. It should be noted, however, that many complaints are not written in English, and Broadspectrum relies on the Department-provided interpreters to translate these complaints into English and return them to Broadspectrum to progress.

Incident Management – Incident Reporting Process

- 138** The incident management receipting process is administered by Wilson Security on behalf of Broadspectrum and supports the complaints and requests process. It does this by identifying issues of concern that might not otherwise have been raised by asylum seekers through the complaints and request system.
- 139** Incident reports may capture information or issues of concern disclosed by asylum seekers directly to staff of service providers, including Broadspectrum's subcontracted security staff, Broadspectrum's welfare staff or other service provider personnel including International Health Medical Services (IHMS) or Save the Children (when they worked in the Nauru Centre), via avenues such as case management meetings, direct reports to Client Service Officers (who are Wilson Security staff) or alternatively through observed behaviours or incidents.
- 140** Incident reporting and management occurs as per the RPC Guidelines – Incident Management. All incidents are categorised as critical, major or minor, and incidents are as defined in the RPC Guideline – Incident Management - Incident Reporting and are dealt with as required having regard to the classification of an incident. Where appropriate, incidents (and specific allegations of the kind relevant to this Review) are escalated to the Nauru police and the Australian Department of Immigration and Border Protection.
- 141** Service providers are also responsible for the formal evaluation and review and debrief of any serious incident through a "Post Incident Review", in accordance with the RPC Guideline – Incident Management – Post Incident Review.
- 142** Allegations identified through the incident management procedure are investigated and resolved as follows:
 - a) Wilson Security has a dedicated complaints team, which is responsible for conducting investigations;
 - b) On receipt of a complaint, a decision is made immediately about whether Nauru police involvement is required or deemed appropriate, and notifications are made accordingly. Police from time to time request assistance from Wilson Security in the conduct of investigations (primarily in relation to statement

- taking) and such assistance is provided in accordance with any directions from police.
- c) The typical investigation process includes:
- (i) *an interview or interviews, which are recorded by a member of the team taking notes;*
 - (ii) *preparation of a statement for each interviewee; and*
 - (iii) *completion of an investigation report for all matters referred to the investigations team.*
- d) The Wilson Security complaint team involves four key roles for resolving complaints:
- (i) *Property Officers are responsible for management of property of asylum seekers (which they keep stored for the transferees);*
 - (ii) *Behaviour Officers collect various information and notes relating to asylum seeker behaviour issues: for example, complaints by one asylum seeker about the behaviour of another. Such notes may be signed by the complainant. An informal mediation may also be conducted to resolve these sorts of issues.*
 - (iii) *Investigators are responsible for investigating complaints that involve inappropriate conduct by any Centre staff. In most cases, Wilson Security would only investigate the conduct of Wilson staff but, from time to time, Wilson Security may also take statements regarding allegations against other service providers, where this has been requested by a service provider.*
 - (iv) *Site Access Officers deal with issues relating to loss of identification cards by asylum seekers.*
- e) Minor complaints often get resolved and closed out very early in the investigation process, usually in the initial interviews.
- f) All records in relation to an investigation are captured electronically on a database managed by Wilson Security. Captured records include data regarding the complaint or allegation and supporting evidence and information regarding the resolution of the complaint or allegation. Some hard copy records are also stored in a locked evidence cabinet under the care of Wilson Security, for example where statements that may need to be relied on as evidence are taken and then given to police.

Training

- 143** Broadspectrum considers that training of staff in the Code, and specifically in what it means to respect human rights in conducting business operations, is the most effective method for mitigating the risk of a failure to respect human rights.

4(c) How does the company track the effectiveness of its measures to prevent and mitigate adverse human rights impacts, including through consultation with affected stakeholders?

Broadspectrum has in place systems to track the effectiveness of its measures, with direct oversight by the Board.

Enterprise level

Compliance with Human Rights Statement

144 As referred to in paragraph 122, our Board is provided with the results of the review of compliance with the Human Rights Statement.

Reporting on Whistleblower activity

145 Our Audit Services and Risk Group summarises the activities under our Whistleblower Policy on a quarterly basis, and previously provided this to the Risk, Audit and Compliance Committee. A formal review of the Whistleblower Policy occurs every two years or earlier as a result of changes in law or regulation, and our Board is responsible for approving changes.²⁸ After Ferrovial's acquisition, all Health, Safety, Environmental and Community matters and Risk, Audit and Compliance matters are now reported directly to the Board, so the Board itself will then be responsible for such reviews.

Nauru Centre

Consultation with Asylum Seekers

146 Effective management of the complaints and requests process is one of the key measures in place to track the effectiveness of the implantation of Broadspectrum's policies, procedures and activities directed towards respecting human rights in the conduct of its business operations in Nauru.

147 At the time Broadspectrum commenced providing services to asylum seekers pursuant the Contract, we understood that there had been considerable delays by previous service providers in providing clothing and responding to requests which resulted in asylum seekers experiencing long queues to obtain clothing and other personal items. We also understood that they experienced delays in the items they had requested becoming available.

148 Accordingly, when Broadspectrum's welfare team commenced providing welfare services, they spent time consulting with asylum seekers to identify and understand the issues they had experienced under previous service providers, and developed and implemented a number of enhancements that significantly decreased the time asylum seekers had to wait to receive personal items.

These enhancements included;

- a) extending canteen hours;
- b) developing centrally located kiosks where asylum seekers could trade in old items for new ones (such as shoes, clothing etc); and
- c) these changes resulted in significantly reduced response times and waiting times.

²⁸ BRS Whistleblower Policy, 5.

149 We also developed cultural shopfronts, where members of the welfare team were available to answer questions of asylum seekers and provide an informal forum for asylum seekers to seek out relevant information. This has increased the ability for information flow and provides a culturally appropriate / aware communication channel to transfer and collect information as to the needs and emerging issues of asylum seekers.

150 Broadspectrum also holds Asylum Seeker Consultative Committees in order to identify emerging issues, requirements and requests from asylum seekers. Asylum Seeker Consultative Committees are led by the asylum seekers through their self-nominated cultural leaders. The Asylum Seeker Consultative Committees have assisted Broadspectrum to develop and continue to enhance more meaningful programs, cultural awareness and engagement with asylum seekers. It also allows asylum seekers to have a voice and raise issues as a collective group with Broadspectrum personnel.

151 Broadspectrum also monitors the participation of asylum seekers in programmes and activities on an individual level to understand the level of engagement with each program and to identify and investigate any underlying issues such as chronic nonattendance or program suitability. We monitor participation rates to ensure that we retain programs that are popular and considered valuable by asylum seekers and to adjust or substitute those that are not the subject of positive feedback or engagement.

152 Similarly, Broadspectrum also monitors which canteen items are utilised by asylum seekers to assess the appropriateness of items including those purchased through use of Individual Allowance Points and those which are available for free (such as toiletries). Again, we try and ensure that we continue to supply items that are popular or considered value and to substitute those which are not.

Complaints and requests

153 Broadspectrum also monitors the number and type of complaints, and timeframes for resolution. It does this on a weekly basis. The results of this monitoring are used to identify improvements to services provided to asylum seekers.

154 In addition, Broadspectrum's management of complaints and requests made by asylum seekers is also subject to scrutiny and review. For example:

- (a) Broadspectrum is measured on the timeliness with which it refers complaints to other service providers and also the timelines of complaints closed within timeframes required by the Contract;
- (b) Third parties have audited Broadspectrum's management of complaints, including the Australian Commonwealth Ombudsman;
- (c) Broadspectrum reports on the level of complaints to senior Departmental staff each month at a monthly governance meeting held in Canberra; and
- (d) Broadspectrum reports key information about its management of complaints to Broadspectrum's board on a monthly basis.

Consultation with other stakeholders

155 Broadspectrum also participates in reviews and audits by third party scrutiny bodies. Recommendations that are approved by the Department are formally responded to and coordinated by a designated team. In addition, Broadspectrum meets with the Commonwealth Ombudsman regularly to understand areas for improvement and to seek feedback to enhance service provision.

156 Broadspectrum also reports to the Department on a monthly basis in accordance with its

contractual obligations under the) Performance Management Framework. The Performance Management Framework includes key performance indicators across all aspects of the services provided to Asylum Seekers under the Contract including welfare, maintenance, security and catering.

Incidents

157 The Incident Reporting Framework described in paragraphs 138 to 142 above provides a framework for tracking the effectiveness of measures to respect human rights.

4(d) What operational-level grievance mechanisms has your company established, or participated in, to effectively address the grievances identified above and remediate them directly?

158 Broadspectrum's processes for grievance resolution have been identified above.

159 We provide services to residents at the Nauru Centre in accordance with the Contract. We note that most of the grievances identified in your letter do not appear to relate to services provided by Broadspectrum.

160 For the reasons explained at the start of our letter, we are unable to provide information about the grievance mechanisms we have participated in to address the grievances identified in your letter, or to remediate them.

Yours sincerely



Graeme Hunt

Managing Director and Chief Executive Officer
Broadspectrum Pty Limited

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BRS Code of Business Conduct
BRS Business Partners Policy
BRS Group Procurement Policy
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BRS Internal Investigations Policy
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RPC Guidelines – Transferee Communication Access – Telephones & Fax
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RPC Guidelines – Incident Management – Incident Reporting
RPC Guidelines – Incident Management – Post Incident Review
RPC Guidelines – Complaints Management
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