

## **DIMA RESPONSE TO THE HUMAN RIGHTS COMMISSIONER'S JULY 2000 REVIEW OF CURTIN IRPC**

### **3.1 Information for Detainees**

Australia's refugee status determination process contains various points at which applicants are provided with information about the process and given the opportunity to ask questions about their cases. This includes information from professional migration agents assisting with their applications (as detailed below).

However, as you are aware, the nature of the determination process and the various factors that need to be taken into account in deciding each application, including factors beyond DIMA's control, means that no commitment can be given to an applicant by the Department as to the timeframe within which their case will be finalised, or the likely outcome.

In addition, the Department takes its responsibility to protect the privacy of detainees very seriously. It would be inappropriate to divulge to an applicant— as seems to be requested by one detainee cited in your report — information relating to the circumstances of any other applicant, for example, why that person may be accepted as a refugee while another is not. Any person who is found not to engage Australia's protection obligations has access to a full statement of reasons for the decision and is fully informed in correspondence from the Department of their review rights and how to lodge an appeal.

In regard to the comment (from the Detainees Representative Committee) about the time taken to process claims, significant measures have been introduced to improve the speed and effectiveness of the determination process. The number of trained refugee decision-makers more than doubled in the course of 1999-2000. Additionally, the Department is continually reviewing all its arrangements to ensure that unlawful arrivals are processed quickly, without compromising the rigour and integrity of our inquiries. This has resulted in a significant reduction in the average period in detention before an application for a protection visa is made and in the average period between application and primary decision.

However, a number of factors can delay a final decision on a case. For example, many unauthorised arrivals dispose of their identification and travel documents before arrival. One consequence of this is often the need for further investigation by the Department to help confirm identity, the results of which can be critical in determining whether Australia has protection obligations to the person, and whether they meet character requirements for the grant of a visa. Applicants whose identity can be easily verified have their claims processed more promptly than those who have either no documentation or whose bona fides need to be verified by overseas sources.

IAAAS recipients have the opportunity to lodge a complaint about any aspect of the contract service. Recipients are provided with an Information Sheet which outlines

procedures for complaints which may be lodged with the Department or with the Migration Agents Registration Authority.

### **3.2 Legal Assistance and advice**

Pursuant to sections 256 and 193 of the Migration Act, facilities for obtaining legal assistance are provided upon request for those detainees who have previously not applied for a protection visa or raised claims or provided information which prima facie may engage Australia's protection obligations. I note the report quotes previous correspondence expressing the Commission's views on the matter. The Department maintains its previously stated position, supported by legal advice, that its interpretation of section 256 is consistent with Australia's international obligations.

### **3.3 Other Outside Contacts**

While there were some initial difficulties with the number of phones at Curtin, there are now four public phones for outgoing calls and an additional two phone lines for incoming calls. Fax facilities at the administration office are available to detainees wishing to contact their advisers.

Contrary to the statement in the report, newspapers are available at the IRPC. The "West Australian" is provided daily to the main compound. There is also a newsletter produced fortnightly at the centre in both Arabic and Farsi covering centre activities and cultural issues as well as including a "World News" section.

### **3.4 Children in detention**

DIMA is concerned that children held in immigration detention receive appropriate care. The Australian Government is a signatory to the UN Convention on the Rights of the Child (UNCROC), and is committed to its responsibility for the care of minors. This commitment is evident in the attention that is focussed on the health, welfare and safety of children in detention. The Australian Government is aware of its responsibilities under the UNCROC and does its utmost to ensure that children are treated in accordance with the provisions of the Convention.

The report notes the allegations of sexual abuse in the centre. When these allegations were brought to the attention of both the DIMA and ACM managers the police were immediately contacted. As a result, two detainees have been charged with a number of offences and are in prison awaiting trial. The trial is expected to occur in early 2001. The children have received counselling.

The report lists some of the facilities available to children at the IRPC. As Mr Sidoti was informed at the time of his visit, a large playground had been ordered. This facility has now been erected in the main compound. Furthermore, excursions for the children now occur weekly to the Derby swimming pool and other places of interest in town.

I understand that the information relating to excursions to play volleyball was provided in the course of conversation about implementing the external visit policy. The DIMA manager did not need to be “pressed” to provide this information.

### **3.5 Staffing**

It is significant that detainees did not raise criticisms of staffing. The statement from a former staff member is based on their perception from a particular period and does not reflect the current situation nor the situation at the time of HREOC’s visit in the centre.

ACM has made considerable efforts to develop a positive attitude amongst staff through their training and induction programs including cultural awareness.

### **3.6 Security and Discipline**

The report raises the issue of detainees being called by their numbers rather than names. This practice is only used to ensure there is no misunderstanding due to mispronunciation when calling a detainee to the administration area. Once correctly identified the detainee is then addressed by name. This procedure was fully explained to Mr Sidoti and Dr Crock at the time of their visit. Nonetheless, given HREOC’s concerns over this practice, DIMA followed up the issue with ACM and they have instructed their managers to ensure that all detainees are called by their names and that numbers are a secondary means of confirming identity.

### **3.7 Complaints and Consultation Arrangements**

The Detainee Representative committee is chosen by ACM and DIMA management to ensure fair representation of the different ethnic and cultural groups in the centre as well as both genders. Earlier efforts to establish a committee based on self-selection had resulted in a lack of representatives for some groups which was a matter of concern for not only ACM and DIMA but to some detainees. The reasons for the selection of the committee were fully explained to Mr Sidoti and Dr Crock during their visit.

### **3.8 Accommodation, Food and Clothing**

#### *Ablutions*

DIMA does not agree that the demountable buildings are not well drained. There is some seepage from the buildings. This is because, as explained at the time of the visit, the original ablution facilities were designed around RAAF needs and proved inadequate for the needs of this detainee population who use significantly larger quantities of water than the system was originally designed to handle. However, ACM has an ongoing maintenance program that takes into account these issues. A major refurbishment of the ablution facilities was completed in August 2000. Furthermore, ACM has worked to ensure detainees have information regarding the drainage systems and how they work and this has resulted in a considerable reduction in water usage and damage to the facilities. The Department of Defence has also improved the management of the sewer system.

The ablution blocks are cleaned twice daily. Inspections are carried out daily and a complete maintenance inspection occurs weekly.

#### *Meals*

HREOC's report acknowledges the fact there has been improvement in the provision of culturally appropriate food. This is a demonstration of ACM's responsiveness to views of detainees.

#### *Clothing*

Many detainees bring clothing with them. In the first instance they are encouraged to use their own clothing. Where additional clothing is required this is available to detainees on a needs basis. This includes additional bedclothes if requested.

Clothing for detainees is purchased from a number of sources including local outlets, chain stores and the Red Cross and is provided free of charge to those detainees who need it through the Programs unit. New clothing purchased by ACM includes underwear and specific needs clothing such as maternity wear, footwear and protective clothing for people undertaking tasks around the centre.

Detainees may also order particular items of additional clothing at their own expense. Curtin has a sewing room where detainees make clothes and material is supplied for them to do so. This is not regarded as a substitute for the normal issue of appropriate clothing under the Immigration Detention Standards.

### **3.9 Physical and Mental Health**

Detainees who require it receive essential dental treatment (including fillings) free of charge and in a timely manner. Detainees requiring such treatment are taken to Derby as necessary. In the early days of the facility, essential dental treatment did not include services such as fillings, root canal treatment and cosmetic treatments.

Detainees did have to pay for these services. Services such as fillings and root canal treatment are now provided at Government expense if required by the detainee.

However, there is often a difference in perception as to what is deemed essential which may be the source of complaints in this area. There is, for example, in a recent detainee newsletter a strong message to detainees that they cannot demand extra and elective treatment while at the dentist. The dentist and his staff have been abused and threatened because they do not agree to the additional non-essential work.

Detainees with diagnosed sight problems are provided with glasses free of charge if it is deemed necessary in order for them to function in a normal manner in the centre. Detainees are not, however, provided with new glasses on the basis that a change in the style of frame has been requested.

### **3.10 Education**

Education services for children have been provided from the opening of the centre.

There was one computer at the centre at the time of the visit primarily used by the counsellor/teacher. A second computer arrived the week after the visit for use by detainees.

Department of Immigration and Multicultural Affairs  
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