CHAPTER 2

REPORTS ON THE OPERATION OF ACTS AND PROGRAMS

2.1 Standing Order 25(20) does not provide for consideration of reports on the implementation or operation of acts or programs. The committee is not therefore required to include them in its report on the examination of annual reports. However, the committee chose to examine the following reports which are submitted in accordance with the *Migration Act 1958* (Migration Act):

- Report pursuant to Section 91Y of the Migration Act on Protection Visa Processing Taking More Than 90 days for the period 1 July to 31 October 2009 (published by the Department of Immigration and Citizenship (DIAC));
- Report Pursuant to Section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 July to 31 October 2009 (published by the Refugee Review Tribunal (RRT)).

Protection visa processing taking more than 90 days and refugee reviews taking more than 90 days

2.2 Section 65A of the Migration Act imposes a requirement for the Minister to make a decision on a protection visa application within 90 days of the lodgement of the application. If this target is exceeded, the Secretary of DIAC is required, under section 91Y of the Migration Act, to report on protection visa applications for which decision making has taken over 90 days. Similarly, section 440A requires the RRT to report on reviews not completed within 90 days.

2.3 DIAC and the RRT are required to report every four months, with the latest reports reviewed by the committee covering the period 1 July 2009 to 31 October 2009.

2.4 The committee monitors these periodic reports to the Minister, which are tabled in the Parliament, and considers the timeliness of both decisions on protection visa applications and RRT reviews as, not only beneficial to the applicant, but also a demonstration of the agencies' commitment to improving efficiency. These reports ensure that the processes within the department and tribunal are open and accountable.

Protection visa processing taking more than 90 days

2.5 The table below compares protection visa processing by DIAC taking more than 90 days for the three previous reporting periods:

	1 November 2008 to 28 February 2009	**1 March 2009 to 30 June 2009**	**1 July 2009 to 31 October 2009**
Total number *undecided* outside of 90 day period	324	480	524
Total number *decided* outside of 90 day period	409	488	582
Total number processed outside of 90 day period	**733**	**968**	**1106**
Percentage of total applications processed outside of 90 day period	21%	25%	25%

2.6 The committee was pleased to note that the number of delays attributable to departmental processing delays has fallen since the previous report. The current report identified 308 delays in this category compared to 342 in the previous report.[1]

2.7 The report advised that most of the applications not decided within 90 days due to factors within DIAC's control had sound reasons for deferral. For example, they included:

> …applications requiring DIAC exploration of complex character issues which might warrant visa refusal, and application where it is prudent to await the outcome of serious criminal charges.[2]

1 *Protection Visa Processing Taking More Than 90 Days for the report period 1 July 2009 to 31 October 2009*, Letter of transmittal, p. 2.

2 *Protection Visa Processing Taking More Than 90 Days for the report period 1 July 2009 to 31 October 2009*, Letter of transmittal, p. 2.

2.8 The committee will continue to monitor these reports and hopes to see a decrease in delays and a larger percentage of applications processed within the 90 day processing timeframe.

Refugee Review Tribunal reviews not completed within 90 days

2.9 This table outlines the number of RRT reviews not completed within 90 days for the previous three reporting periods:

	1 November 2008 – 28 February 2009	1 March 2009 to 30 June 2009	1 July 2009 to 31 October 2009
Reviews completed *outside* of 90 days	197 (25%)	287 (31%)	247 (36%)
Reviews completed *within* 90 days	601 (75%)	634 (69%)	448 (64%)
Total	**798**	**921**	**695**

2.10 The committee notes the increasing percentage of reviews being completed outside of 90 days. The committee further notes that the reasons for reviews not being completed within the 90-day timeframe can include factors outside the RRT's control (such as matters relating to the applicant or the legal adviser or matters which relate to third parties).[3]

Senator Trish Crossin
Committee Chair

3 *Report Pursuant to Section 440A of the Migration Act on the Conduct of Refugee Review Tribunal Reviews Not Completed Within 90 Days for the Period 1 July 2009 to 31 October 2009*, Letter of Transmittal.