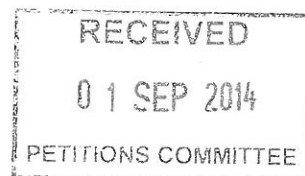




The Hon Scott Morrison MP
Minister for Immigration and Border Protection



Reference: 1405/02279

Dr Dennis Jensen
PO Box 6021, Parliament House
CANBERRA ACT 2600

Dear Dr Jensen

Response to the Standing Committee on Petitions regarding releasing asylum seekers who are the subjects of adverse security assessments into community detention

Thank you for your correspondence of 26 May 2014, regarding a petition that was submitted to the Standing Committee on Petitions requesting the release of asylum seekers who are the subjects of adverse security assessments (ASAs) into community detention. I appreciate the time you have taken to bring this matter to my attention. I apologise for the delay in responding.

The management of asylum seekers who have been issued with adverse security assessments raises a number of complex issues to consider, principal among which is ensuring Australia's national security is balanced with its duty of care to the health and wellbeing of all detainees.

Security assessments are an important part of ensuring the protection of our national security. The Department of Immigration and Border Protection (the department) refers asylum seekers to the Australian Security Intelligence Organisation (ASIO) for security assessment to inform decision-making. When this occurs, ASIO's role is to assess whether it would be consistent with Australia's security for a person to be granted a visa.

ASIO's priority and responsibility is to ensure that Australia's security is not compromised. ASIO issues an ASA where it assesses an individual to be directly or indirectly a risk to security within the meaning of section 4 of the Australian Security Intelligence Organisation Act 1979. Individuals are advised in writing by the department's officers of the outcome of their security assessment. It is the Australian Government's policy to detain asylum seekers who are the subject of ASAs and who have been assessed as being owed protection obligations, pending resolution of their case.

The department is working with other agencies to identify long-term outcomes for individuals issued with an ASA - consistent with Australia's international human rights obligations not to return a person to a country where they face a real risk of irreparable harm. Third country resettlement may be an option for some individuals, particularly when the individual advises the department that they may have family links in a third country. It may also be possible to safely return an individual to their country of origin in some circumstances, particularly if there has been a change in the situation in their home country. Given the complex nature of some individuals' circumstances, it is likely to take some time to resolve their cases.

ASIO is subject to oversight by the Inspector General of Intelligence and Security. The Inspector General of Intelligence and Security is an important accountability mechanism for ASIO which operates independently of the government and has extensive investigatory powers. Any individual can make a complaint to the Inspector General of Intelligence and Security about ASIO, including asylum seekers in immigration detention.

The Independent Reviewer of ASAs, reviews ASAs issued by ASIO to the department in relation to people who remain in immigration detention and have been assessed as being owed protection obligations under international law.

The Independent Reviewer examines the materials used by ASIO, including any submissions made by the applicant in support of their application. The Independent Reviewer provides recommendations to the Director-General of Security and reports these findings to the Attorney-General, the Inspector-General of Intelligence and Security and the Minister for Immigration and Border Protection.

Review applicants are provided with an unclassified written summary of reasons for the decision to issue an ASA, as well as an unclassified version of the Independent Reviewer's report. Information can only be provided that does not prejudice the interests of security. For national security reasons, information that would reveal confidential sources and methodologies must remain protected.

All people in immigration detention are treated with dignity and respect. Detainees, including those with ASAs, have access to a range of health, support and educational services, including programmes and activities, such as, English language classes. Detainees also have access to specialist health care services, including mental health and torture and trauma counselling, which is delivered by qualified, registered and trained health care professionals.

Thank you again for writing on this matter.

Yours sincerely

The Hon Scott Morrison MP

Minister for Immigration and Border Protection

26/8/2014