



1 October 2019

Committee Secretary
Senate & Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 6200

By email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Inquiry into the *Migration Amendment (repairing Medical Transfers) Bill 2019 (Cth)* - Evidence of delay of medical transfers prior to the Medevac legislation

1. The National Justice Project (**NJP**) refers to its joint submission with the Asylum Seeker Resource Centre (**ASRC**) to the Committee dated 14 August 2019 (**Joint Submission**) and the evidence of Mr George Newhouse, Director and Principal Solicitor of NJP, before the Committee on 26 August 2019.
2. During Mr Newhouse's evidence, Senator Griff indicated that he would appreciate receiving evidence of delays in the transfer of refugees from Nauru and Papua New Guinea for medical reasons prior to the introduction of the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 (Cth)* (**Medevac legislation**). The following information is provided in response to that request.
3. NJP has acted for many refugees who experienced delays in transfer after it was recommended by doctors, including government-appointed doctors. As highlighted on page 2 of the Joint Submission:

In February 2019, the ASRC released data on... [the] caseload of critically sick people held in offshore detention [at that time]. The Government's own health records showed that more than half of this cohort were recommended by Government-appointed doctors for transfer for medical treatment, but remain untreated offshore.¹ *Sick people were waiting an average of two years for transfer after treatment recommendations and some waited up to five years, effectively meaning that the Government was ignoring the advice of its own appointed doctors.* [italics added]

4. Our analysis of just eight NJP cases in the table below, is consistent with the ASRC data and highlights the fact that prior to the introduction of the Medevac legislation, the Australian Government:

¹ Helen Davidson, The Guardian 'Australian government ignored refugee transfer advice from its own doctors for up to five years', 7 February 2019, accessible at: <https://www.theguardian.com/australia-news/2019/feb/07/australian-government-ignored-refugee-transfer-advice-from-its-own-doctors-for-up-to-five-years>

- (a) consistently ignored the advice of its own appointed doctors regarding the transfer of refugees from Papua New Guinea and Nauru on medical grounds;
- (b) chose to take no action until lawyers intervened, usually foreshadowing litigation.

Evidence of delays in transfer against medical advice					
	Individual ² and their condition	Date of first medical request/ recommendation for transfer ³	Transfer date to Australia	Period between first transfer request and transfer date	Legal intervention?
1	Young adult male in Nauru with chronic arthritis including in his spine (<i>ankylosing spondylitis</i>)	6 January 2015 ⁴	18 June 2019	More than 4 years and 5 months	Yes
2	Adult male in Nauru with Diabetes Mellitus Type 1 LADA; Major Depressive Disorder; severe and generalised Anxiety Disorder ⁵	9 September 2015	24 October 2018	More than 3 years	Yes
3	Pre-teen male in Nauru with broken radius and ulna; PTSD; depression and anxiety ⁶	5 June 2016	22 October 2018	More than 2 years and 4 months	Yes
4	Adult female in Nauru with major depressive disorder; borderline personality disorder; anxiety disorder; suicide ideation with suicide attempts	5 September 2016	13 August 2018	Approx. 2 years	Yes
5	Adult male in Nauru with ulnar neuropathy and complex regional pain syndrome of the left hand; major depressive disorder ⁷	16 May 2017	1 August 2019	More than 2 years and 2 months	Yes
6 & 7	Brother and sister in Nauru. Brother with Major Depressive Disorder and chronic pain. Sister with depression.	12 January 2015 ⁸	24 October 2018	Almost 4 years	Yes
8	Pre-teen male in Nauru with autistic spectrum disorder; attachment disorder; development disorder; trauma; anxiety disorder; ADHD and more	August 2017	13 August 2018	1 year	Yes

² Age calculated as at date of first medical request/recommendation for transfer.

³ Being the first request or recommendation which was ignored by the Australian government.

⁴ In January 2015 the gentleman was in Villawood IDC to where he had been transferred for review and treatment in September 2014. Against the specialist's recommendation, he was transferred back to Nauru at 4am on 25 September 2015 without notice and without the specialist's treatment recommendations being followed.

⁵ Case #2

⁶ Case #1

⁷ Case #3

⁸ Since December 2015 IHMS provided not less than 30 written notifications to the Department of Home Affairs strongly recommending and formally requesting that the brother and sister be reunited with their Australian based family members on medical grounds.

5. The following case study highlights the delays in medical transfer despite medical professionals' requests and the benefit of the medevac legislation.

Case #3 - Adult male with ulnar neuropathy and pain syndrome of the left hand, together with major depressive disorder

6. Prior to his detention on Manus Island in 2013, a 32 year old male refugee injured his left hand and wrist when they were cut by glass in a motor vehicle accident. He experienced no symptoms until after he arrived on Manus Island.
7. In February 2014 he first presented to IHMS regarding weakness and pain in his left wrist and an abnormal growth on his palm. Upon examination in March 2015 his fifth finger was flexed in a claw like position and he was unable to fully extend it. He was diagnosed with potential Ulnar Tunnel Syndrome to the wrist due to a neural ganglion formed on his old scar. It was noted he would benefit from orthopaedic/surgical review.
8. He was flown to Darwin for surgery which was scheduled for 21 July 2015, but was transferred back to Manus Island before surgery took place.
9. In March 2016 he was still awaiting surgery. An IHMS doctor reported that his condition needed to be dealt with on an urgent basis because timely treatment was critical. He reported that the man had severe and potentially irreversible wasting of the left hand.
10. In January 2017 the refugee finally underwent corrective surgery in Port Moresby. By April 2017 it was evident that the surgery had failed and had led to further deterioration of the functioning in the man's left hand. IHMS staff diagnosed him with a significant reactive depressive episode with possible psychotic features and noted that appropriate treatment for such a volatile situation was not available in Port Moresby. In May 2017 an IHMS psychiatrist recommended transfer to Australia or third country for specialist treatment of his pain and depression.
11. Between May 2017 and June 2017 IHMS medical staff made no less than six requests for the man's transfer to Australia for multidisciplinary evaluation, hand therapy, specialist pain management and psychological/psychiatric support. At times he was disassociating his hand from his own body and was expressing a desire to cut off his hand and kill himself. He went for long periods without food and fluid intake resulting in a 13 kg weight loss. He engaged in self-harm by hitting his head against a concrete wall.
12. The Australian government ignored those repeated transfer requests. He remained on Manus Island. By this time he had lost all functioning and feeling in his left hand and was addicted to tramadol which was originally used to manage his pain. NJP's request to the Minister's representative in March 2019 for urgent attention was ignored.
13. Following the introduction of the Medevac legislation. NJP again wrote to the Minister's representatives in July 2019 requesting the man's transfer to Australia under that legislation. The request was supported by with two independent medical reports. In August 2019 he was transferred to Australia, more than four years after his scheduled surgery in Darwin was abandoned and more than two years after IHMS medical professionals had repeatedly requested is transfer.

Yours sincerely,

George Newhouse | Principal Solicitor

Emma Hearne | Senior Solicitor