

Senate Legal and Constitutional Affairs Committee

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department/Agency: Office of the Commonwealth Ombudsman

Outcome/Program:

Topic: Migration Amendment (Health Care for Asylum Seekers) Bill 2012

Senator: Crossin

Number of pages: 2

Question:

- (1) Can you clarify your view that the Ombudsman does not report publicly? There are reports provided to the parliament that the Ombudsman is mandated to do for people who are held in detention for long periods of time. There are reports dotted throughout the last few years where the Ombudsman has reported on what is happening in the immigration system.

Answer:

The Ombudsman can, and does, publicly report on immigration matters including those arising from the visits to immigration detention centres.

The *Ombudsman Act 1976* provides the authority for the Ombudsman to investigate administrative action and report in such manner as he feels fit. The office has ongoing liaison with the Department of Immigration and Citizenship and this is often the most effective way to provide feedback and pursue issues that arise from our visits to detention centres.

The Ombudsman also publicly reports on matters that arise through the various immigration detention oversight functions. Examples of this publicly available information include:

- The Ombudsman's Annual Report
- Reports on the detention arrangements for each person who remained in detention for two years or more. These are required under s 486O of the *Migration Act 1958* and are tabled in parliament.
- Reports from investigations the Ombudsman may undertake using his own motion power.

Question:

- (2) There has also been some discussion in the course of the inquiry as to where such a Panel would most appropriately be located (see discussion with Professor Triggs at pages 22-23 of the transcript). The committee would appreciate your views on the establishment of an independent expert panel and the appropriateness of locating such a Panel within the Ombudsman's office.

Answer:

The Ombudsman is open to further consideration of the establishment of an independent expert panel located within the Ombudsman's Office to monitor and evaluate the well-being of asylum seekers sent to offshore regional processing centres. There are possible benefits to this proposal depending on its construction. The Ombudsman is established as the oversight body for the immigration detention network and has the legislative power to obtain and protect information. The Office has established relationships with the key stakeholders, such as DIAC, the various detention service providers and community groups servicing detainees. Complaints and issues that arise in relation to detention matters can often cut across a number of areas and there is merit in having an integrated approach to review and oversight. Health and wellbeing matters are usually part of a broader range of issues facing detainees. The independent panel would require appropriate expertise and may need a legislative power to undertake inspections in regional processing centres. The Ombudsman's Office is in the process of determining how its jurisdiction may apply in regional processing centres.