



The Hon Scott Morrison MP
Minister for Immigration and Border Protection

Reference: 1404/00048

The Very Reverend Dr Peter Catt
Australian Churches Refugee Taskforce
209 Gertrude Street
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Dear Rev Dr Catt

Concerns about children held at offshore processing centres

Thank you for your letter of 26 March 2014 regarding children held at Offshore Processing Centres (OPCs). I appreciate the time you have taken to bring this matter to my attention.

In response to the various questions raised, I have been advised that as at 4 April 2014, there were 15 transferees accommodated at the Manus OPC who had personally raised claims they were under the age of 18. In each case, transferees were given the opportunity to provide further information or documentation to support their age related claims.

Following consideration of these cases by the Age Determination Section in Canberra, the Department of Immigration and Border Protection is satisfied that these transferees are more likely than not to be adults.

Due to privacy considerations, the department is unable to provide specific details regarding these individual cases. However, please be assured that any claims raised that bring age into question are investigated by the department without delay.

As at 4 April 2014, there were no outstanding offshore age consideration cases on hand, so no transferees were accommodated separately from the main population due to age related claims. However, in the past, transferees have been accommodated separately following an offshore age consideration process or policy change that resulted in them being viewed as more likely than not to be minors. These transferees were returned to Australia at the earliest possible opportunity following the offshore age consideration process.

Since November 2012, the department has returned four transferees from Manus to Australia following a view they were more likely than not minors. As a formal assessment was made on the basis of identity documents provided whilst they remained on Manus, there was no need for further consideration or process upon their return to Australia. As at 4 April 2014, no transferee has been returned to Australia from Manus for the purpose of undergoing a formal age determination assessment.

In addition to the four cases mentioned above, the department has returned another three transferees from Manus to Australia following a policy change in January 2014 relating to the allocation of default dates of birth applicable to individuals who do not know exactly when they were born. This policy change resulted in the three transferees, who were previously considered to be adults, having their dates of birth reviewed which resulted in them being considered under the age of 18. These three transferees were quickly separated from the main population at the Manus OPC and returned to Australia shortly following the review.

Under the *Immigration Guardianship of Children Act (IGOC) 1946*, I cease to be the guardian of an IGOC minor upon their transfer to an OPC. This arrangement ensures that my guardianship obligations do not interfere with the guardianship laws of another country. Guardianship arrangements are a matter for the governments of Nauru and PNG. The department has been working closely with the Government of Nauru and associated service providers to consider the arrangements that need to be in place to support the transfer of unaccompanied minors, including in relation to access to health and educational services. Save the Children Australia has been contracted to provide specialised services for children at the Nauru OPC.

The arrangements made for the transfer of children to OPCs are intended to ensure compliance with the domestic laws of the relevant country and with the international obligations of those countries. Relevantly, Nauru and Papua New Guinea (PNG) are signatories to the *1989 Convention on the Rights of the Child*, with no reservations. The Memorandum of Understanding signed with Nauru and PNG reaffirm the commitment of both countries to the Refugee Convention. Both countries commit to treat people transferred with dignity and respect in accordance with human rights standards.

Statistical updates on illegal maritime arrivals who have been transferred to OPCs and voluntary returns from OPCs are available at:

http://www.immi.gov.au/media/publications/statistics/asylum/_files/asylum-statistics-aus-jun-qtr-2013.pdf.

and are published weekly at: <http://newsroom.customs.gov.au/channels/operational-updates/releases>.

Thank you for raising your concerns with me.

Yours sincerely

The Hon Scott Morrison MP

Minister for Immigration and Border Protection

19 / 5 / 2014