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RACP Submission to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019

About The Royal Australasian College of Physicians (RACP)

The RACP trains, educates and advocates on behalf of over 17,000 physicians and 8,000 trainee physicians, across Australia and New Zealand. The College represents a broad range of medical specialties including general medicine, paediatrics and child health, cardiology, respiratory medicine, neurology, oncology, public health medicine, occupational and environmental medicine, palliative medicine, sexual health medicine, rehabilitation medicine, geriatric medicine, and addiction medicine. Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients.

Recommendations

The RACP recommends that the *Migration Amendment (Repairing Medical Transfers) Bill 2019* Bill is NOT passed.

The RACP strongly recommends:

- The *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* is NOT repealed.
- The Independent Health Advice Panel (the IHAP) established by the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* continues to provide independent medical review and assessment of requests for medical transfer, refused by the Minister responsible for the administration of this legislation – ("the Minister") on medical grounds, of seriously unwell refugees and asylum seekers who are currently in regional processing countries.
- The IHAP continues to monitor and report on the adequacy of health service provision and conditions for refugees and asylum seekers in regional processing countries.
- A report of the IHAP's activities is tabled by the Minister for Home Affairs in each house of Parliament within 3 sitting days of that House after the report is given to the Minister.

Introduction

The Royal Australasian College of Physicians (RACP) is pleased to provide a submission in response to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the *Migration Amendment (Repairing Medical Transfers) Bill 2019*[1].

The effect of this Bill is to repeal the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* (known as 'Medevac Legislation'[2]). This submission focuses on the positive impact of the Medevac Legislation and argues that the Medevac Legislation should not be repealed.

Our members have firsthand experience of providing healthcare in regional processing countries, assessing refugees and asylum seekers requiring medical transfer to Australia, and treating these patients after their transfer to Australia. They have seen the consequences of prolonged offshore processing and inadequate medical care in the regional processing centres, and delays and failures to transfer seriously unwell refugees and asylum seekers, including children and young people. They have reported inconsistent health information required for medical transfers and repeatedly raised concern about access to appropriate care for refugees and asylum seekers subject to the regional processing arrangements.

The Medevac Legislation

The Medevac Legislation came into effect in March 2019 and has multiple elements. The legislation creates a framework for the transfer of refugees and asylum seekers from regional processing countries to Australia for necessary medical or psychiatric assessment and care, with independent medical oversight where transfers are declined by the Minister, and a process for monitoring and reporting on health services and conditions for refugees and asylum seekers in regional processing countries[3].

The legislation defines 'relevant transitory persons' under s198E(2) - broadly, as people [refugees and asylum seekers] in a regional processing country requiring medical or psychiatric assessment or treatment that is unavailable in the regional processing countries, and also defines clear processes and timelines to initiate and report on transfers of patients for medical or psychiatric care.

The Medevac Legislation also establishes an Independent Health Advice Panel (IHAP) under s199D, including the Chief Medical Officer (CMO)/Surgeon General of the Department of Home Affairs (DHA)/Australian Border Force (ABF), the Commonwealth CMO and at least six other independent medical experts nominated by the medical colleges/peak bodies, including a nominee of the RACP. The IHAP has two main roles: the ability to review decisions made by the Minister (s198F) that transfer from the regional processing countries for medical or psychiatric care is not necessary (on grounds as per s198E(4)(a)); and to

monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them (199A(2)). The IHAP also has the power to obtain information and documents (199D). It is critical that the IHAP is able to perform this oversight function so that the Parliament and the Australian public are appropriately informed, increasing transparency and accountability.

As at 13 August 2019, only the first IHAP report for the period 2 March to 31 March 2019 had been tabled (See Appendix 1). For this report, the only members of the IHAP were the CMOs from the Departments of Home Affairs and Health, and no cases where the Minister had refused a medical transfer had been referred to IHAP.

Based on the best information available and in the absence of the release of the second IHAP report covering the period from 1 April to 30 June 2019, we understand that as at 24 July 2019, the Minister had approved the transfer of 88 patients to Australia from regional processing countries based on medical need[4]. Of the cases referred to the IHAP where transfer had been refused on grounds as per s198E(4)(a) - *where 'the Minister reasonably believes that it is not necessary to remove the person from a regional processing country for appropriate medical or psychiatric assessment or treatment'*, the Panel agreed with the Minister's decision not to transfer individuals on 13 occasions, and disagreed with the Minister's decision (recommending that medical transfer was necessary based on urgent health need) on 8 occasions. There is no evidence that the IHAP is making decisions on anything other than medical grounds, in an independent and impartial manner.

The RACP also notes that medical transfers from the regional processing countries do not result in a substantial burden to the Australian hospital and medical system. There have been 88 medical transfers[5] from offshore regional processing centres approved by the Minister since the Medevac Legislation came into effect in March 2019[1]. In any one year period, there are over 11 million separations (episodes of admitted patient care) in Australia's public and private hospitals[6].

Key issues

1. The Medevac legislation enables independent, transparent oversight of an Australian-contracted health system in the regional processing environment

The Medevac Legislation provides a level of legislated independent oversight, public accountability and clinical governance that has not previously been in place for health services contracted by the Australian Government in the regional processing countries.

The Medevac Legislation provides for independent medical oversight by requiring the IHAP to '*monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them'* (199A(2)). In addition, the IHAP can make recommendations to the Minister on the treatment of individuals and also health systems issues, and the panel is able to travel to regional processing countries to conduct monitoring and assessment, and request information to inform their reporting.

Health services for refugees and asylum seekers in regional processing countries are contracted by the Australian government and provided by International Health and Medical Services (IHMS) in Nauru and Papua New Guinea (PNG, since January 2013), and by Pacific International Hospital in PNG (since May 2018). The Minister's response to the first IHAP report[7] outlines expenditure on offshore contracts - with a total cost of AUD $455.5 million since 2012-13 (Appendix 2, page 14). As these are services that have been contracted by the Australian government to undertake offshore processing, and at significant cost, it is important for the Australian Parliament and public to be assured that appropriate standards of clinical care, including appropriate clinical governance, are in place.

[1] Note: As per Ms Kearney's speech in the House of Representatives on 24 July 2019, 88 evacuations have been approved by the Minister for Home Affairs, and a further eight additional evacuations have been approved by the IHAP panel (total of 96 evacuations).

Reporting by IHAP is available to Parliament and the Australian public in a timely manner - the Minister must provide a summary of the reports prepared by the IHAP to Parliament on a specified quarterly timeline and is required to respond to each report and lay the response before each of the Houses of Parliament within three sitting days after the summary report was tabled in that House. The legislation also requires the Minister to table the reasons for refusal of transfer (198J).

The Queensland Coronial Inquest into the preventable death of Mr Hamid Khazaei[8] asserts that "It is incumbent on the Australian Government to implement sustainable systems for the delivery of health care that meet the requisite standard. Those systems should also be subject to ongoing and independent scrutiny on behalf of the Australian community, which is required to meet the ongoing and considerable costs of the current arrangements."

Other than the IHAP, the RACP is not aware of any other functioning current independent advisory structures to the Department of Home Affairs relating to offshore processing. Previous advisory groups, such as the former Detention Health Advisory Group (DeHAG, 2006-2012) and the Immigration Health Advisory Group (IHAG, 2013) and the previous iteration of the Independent Health Advice Panel (2016-2018), have not been sustained, and have not reported publicly. Other Australian healthcare oversight mechanisms, such as the Australian Health Practitioner Regulation Agency (AHPRA) and Australian health service standards do not have immediate jurisdiction/applicability in the offshore setting, however, as noted by the Queensland Coroner, the "Australian Government retains responsibility for the care of persons who are relocated, for often lengthy periods, to offshore processing countries where standards of health care do not align with those in Australia".[9]

Given the duration of offshore processing (now longer than 6 years for most people in these cohorts), the impact of detention and migration uncertainty on physical and mental health, challenges with oversight mechanisms, and the complexity of offshore health service delivery and cost to the Australian taxpayer, independent monitoring and reporting is essential. The legislated nature of the Medevac provisions ensures greater transparency around medical decision-making and improves oversight and reporting on offshore health systems to the Australian Parliament and public.

2. Medical decisions are often time critical, and should be made by medical professionals

The Medevac Legislation is essential to address delays in and refusals of medically necessary transfers, and to ensure medical decisions are reviewed by medical professionals.

Medical decision-making is often time critical. There is a risk of patient deterioration while awaiting access to tests, investigations and treatment, and delays in care can adversely affect health outcomes. Medical practitioners have a professional duty of care to patients and undertake years of medical training, including, in many cases, further specialist training. It is therefore highly concerning when medical recommendations are overruled by persons without medical expertise.

In the five years prior to 2019, 12 people have died whilst being held in regional processing countries, with at least six as a result of suicide. A Queensland Coronial Inquest report detailed the preventable death of Hamid Khazaei in Manus in September 2014[10] due to severe sepsis. The Coroner found Mr Khazaei would likely have survived if clinical errors had been avoided and a doctor's request for an urgent transfer had not been delayed by immigration officials. An ongoing Queensland Coronial investigation into the death of Omid Masoumali in Nauru in April 2016 has identified that delays in medical transfer contributed to his preventable death because of poor access to health care, with an estimated 90-95% chance of survival had he received a medical evacuation to a major Australian hospital in a timely manner[11].

There are limited public data on the time taken for the Department of Home Affairs to approve medical transfers from the regional processing countries prior to the Medevac Legislation, although available information suggests lengthy delays. Paediatricians accepting care for children transferred from Nauru in late 2018 noted that transfer had frequently been recommended many months prior, with clinical deterioration in the interim, which was life-threatening in multiple cases. In February 2019, the Asylum Seeker Resource Centre released details of 49 de-identified medical cases from Manus and Nauru reporting that 25 people

recommended for medical transfer by IHMS were still awaiting transfer, with the majority having waited two to three years[12].

The Medevac Legislation defines timelines and processes for responding to urgent medical matters, where medical transfer is recommended after review by two doctors. The legislation specifies timeframes for:

i) The Secretary to notify patients who are recommended for medical transfer to the Minister (as soon as practicable)
ii) The Minister to make a decision on the recommendation (within 72 hours)
iii) Security briefings to the Minister (within 72 hours of the Minister being notified)
iv) Review of patients by the IHAP where the Minister does not believe transfer is medically necessary (notified as soon as practicable, review within 72 hours)
v) The Minister to reconsider their decision (within 24 hours of being notified of the IHAP decision).

The timeframes specified within the legislation for review and response compel the Department and the Minister to act so that the patient's health is prioritised, and ensure medical decisions are reviewed by medical professionals.

3. The impact of offshore processing on physical and mental health and monitoring health service provision in this context

The RACP remains deeply concerned at the health status of people subject to offshore processing, given the duration, conditions, and impact of prolonged detention and uncertainty. The Minister's response to the first IHAP report states that there were 493 men on Manus Island and 319 people on Nauru[13] (Appendix 2, page 13). The first IHAP report (prior to external members joining the IHAP) provides information on services but does not include detail on the health status at individual or population level, and the time period covered by the report is not entirely clear (whether the report covers a 4-week period (2-31 March 2019) or the first quarter of 2019) (Appendix 1, page 9).

The RACP notes both hospitalisations and care episodes appear to be high for these cohorts, suggesting substantial ongoing health concerns. While it is unclear from the first IHAP report if the service utilisation statistics refer to the period of 1 January to 31 March or 2 March to 31 March (Appendix 1, page 9), the high rates of service use are concerning. Based on available information across the IHAP report and the Minister's reply:

- 43/319 people on Nauru required hospital admission in the period of the first IHAP report (73 hospitalisations) with a 'high number of mental health admissions' - if this number relates to a 4 week period it is extraordinarily high, if it relates to the first quarter of 2019, and is extrapolated over the year this would still be a rate several times higher than the Australian hospital separations/1000 population.
- There were 5908 appointments for 237 people on Nauru, which would average to six appointments per person per week for a 4-week period, or two appointments per person per week for the first quarter of 2019, and 1981 consultations for the cohort in Manus, which would average to either one appointment per person each week, or each three weeks.

The IHAP First Quarterly Report provides detail on services, reporting that there are reasonable quality primary and secondary care services available in Nauru. The services provided on Manus Island are more limited, with the IHAP First Quarterly Report stating that there is a reasonable range of primary care at the East Longerau Refugee Transit Centre (ELRTC), with some limited secondary services at the Lorengau Hospital. Specialist medical care is not readily available on the island. Further services (including acute inpatient mental health treatment) are available at Pacific International Hospital (PIH), in Port Moresby, however, there is no access to electroconvulsive therapy (ECT) or psychiatric intensive care[14]. The RACP would like further information on:

- clarifying the time period covered by the report
- the health status of the cohorts, including prevalence information, critical incidents, and near miss events
- preventive medical and environmental services, e.g. vaccination, vector and rodent control, provision of safe water and rubbish disposal,
- access to general surgeons, and surgical services

- laboratory diagnostic services,
- medical imaging services,
- health materiel and resupply arrangements,
- blood resupply,
- health leadership and management, clinical governance arrangements,
- communications procedures,
- resuscitation capacity, aeromedical evacuation procedures and staffing.

The RACP looks forward to the second IHAP report and expects that it will provide more comprehensive information, including more detailed information on the health status of these cohorts. The RACP notes that a repeal of the Medevac Legislation will make it much more difficult for the Australian Parliament and public to be able to scrutinise the adequacy of the services that are provided.

4. The medical transfer provisions allow the Minister sufficient scope for refusing transfers on security or criminal grounds

The Medevac Legislation includes strong and appropriate safeguards where there are national security concerns or serious criminal issues, and only applies to refugees and asylum seekers who are considered 'relevant transitory persons' under the legislation, which requires that they be in a regional processing country on the day the relevant section commenced; or born in a regional processing country[15].

Specifically, the legislation includes clear provisions for the Minister to refuse to grant a transfer if:

- the Minister reasonably suspects that the transfer of the person to Australia would be prejudicial to security within the meaning of the Australian Security Intelligence Organisation Act 1979, including because an adverse security assessment in respect of the person is in force under that Act[16]
- the Minister knows that the person has a substantial criminal record (as defined by subsection 501(7) as in force at the commencement of this section) and the Minister reasonably believes the person would expose the Australian community to a serious risk of criminal conduct[17].

The IHAP does not review Ministerial decisions in cases where a medical transfer has been refused on either of these grounds. For cases where IHAP has recommended that a medical transfer be approved contrary to the Minister's initial decision to refuse a transfer on medical grounds, the Minister is empowered by Section 198F (5) to refuse to approve the transfer based on the national security or criminal record grounds outlined above.

These sections provide reassurance to the Australian Parliament and public that the Minister retains the power to refuse entry to Australia by persons who may pose a threat to the Australian community on either national security or criminal grounds.

Conclusion

The Medevac Legislation and (legislated) independent oversight through IHAP are essential given the duration, circumstances, impact and cost of offshore processing arrangements. In essence, the Medevac Legislation allows medical experts to make decisions about healthcare for seriously ill individuals and enables Australian independent medical oversight of a health system contracted by the Australian government, arising as a result of Australian immigration policy. It is critical that the IHAP is able to perform this oversight function so that the Parliament and the Australian public are appropriately informed, and the Medevac Legislation provides a level of oversight, transparency and accountability around offshore arrangements that has not been present previously.

References

[1] Migration Amendment (Repairing Medical Transfers) Bill 2019 (Cth)
[2] Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 (Cth)
[3] Migration Amendment (Repairing Medical Transfers) Bill 2019. Explanatory Memorandum (Cth)
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[12] Asylum Seeker Resource Centre. Medical data released by the ASRC shows people offshore are waiting at least two years for medical transfer. 2019 February 08 [Accessed 2019 August 13]. Available from: https://www.asrc.org.au/2019/02/08/people-waiting-two-years-for-medical-transfer/
[13] Minister Dutton, Minister for Home Affairs. Response to the Independent Health Advice Panel First Quarterly Report (2 – 31 March 2019).
[14] Australian Government, Department of Home Affairs, Independent Health Advice Panel First Quarterly Report
[15] Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 (Cth) [Sections 198D (1)(a) and 198E (2)(a)
[16] Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 (Cth) [Sections 198D (3A) and 198E (4B)]
[17] Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019 (Cth) [Sections 198D (3B) and 198E (4C)]

Appendix 1

Australian Government
Department of Home Affairs

Independent Health Advice Panel First Quarterly Report

Summary Report

Overview

The Independent Health Advice Panel (IHAP; the Panel) was established on 2 March 2019 under subsection 199A of the *Migration Act 1958* (the Act) as amended by the *Home Affairs Legislation Amendment (Miscellaneous Measures)* Act 2019.

As at 31 March 2019, the Panel comprised of:

Member	Role as per s 199B(1)	Date Appointed
Dr Parbodh Gogna (Chair)	Chief Medical Officer of the Department and Surgeon-General of the Australian Border Force	2 March 2019 (through operation of the law)
Professor Brendan Murphy	Commonwealth Chief Medical Officer	2 March 2019 (through operation of the law)

The IHAP has two functions:

1. A general function to monitor, assess and report on the physical and mental health of transitory persons who are in Regional Processing Countries (RPCs) and the standard of health services provided to them (s199A(2)) of the Act – the **monitoring, assessing and reporting function**; and
2. A specific function under s198F of the Act to review a decision by the Minster to refuse to approve a relevant transitory person's transfer to Australia on the ground set out in s198E(4)(a). That is, that the Minister reasonably believes that it is not necessary to remove the person from a RPC for appropriate medical or psychiatric assessment of treatment – the **review function**. No cases had been submitted for review as at 31 March 2019.

Reporting Requirements

As per subsection 199E(1) and (2) of the Act, the Panel must, as soon as practicable after 31 March, 30 June, 30 September and 31 December in each year prepare and give to the Minister a report on its operations during the three month period that ended on that day.

The Minister must cause a summary of each report to be laid before each House of Parliament within three sitting days of that House after the report is given to the Minister.

The IHAP has provided its first Quarterly report for the reporting period 2 – 31 March 2019. The report also provided the Panel's assessment on the physical and mental health conditions of transitory persons in regional processing countries and the standards of health services provided to them, as known to the Panel at 28 June 2019.

The report is structured into two sections.

- Section A. Health Conditions of Transitory Persons in RPCs and Standards of Health Services available to Transitory Persons in RPCs.
- Section B. Operations of the Panel for the first quarter, being the period from 2 March 2019 (i.e. commencement of the IHAP) until 31 March 2019 (i.e. the end of the first quarter). This included a statement on the Department's provision of information and assistance to the IHAP.

Section A. Health conditions of transitory persons in RPCs and standards of health services available to transitory persons in RPCs

To ensure that the members of the Panel had access to the most current information regarding the physical and mental health conditions of transitory persons in Manus and Nauru, the Department:

- On 4 March 2019 facilitated an initial IHAP meeting to provide an overview of health services available to transitory persons in Nauru and Papua New Guinea. This meeting provided an induction briefing regarding living conditions and available health services in each country. This was further detailed in a face to face presentation from relevant senior executives in the Department and the Australian Border Force on 12 June 2019, to specifically discuss health contracts, housing, accommodation, safety and security in the RPCs.
- Provided further information on 26 April 2019 on Health Capability and Capacity in Nauru and Papua New Guinea via the secure GovTEAMS platform.
- Provided detailed statistics regarding the remaining transitory persons population who reside in each regional processing country.
- Provided numbers and reasons for all medical transfers from 1 January 2019 - 31 March 2019.
- Facilitated the Panel's request for data on clinical services provided in the RPCs, clinical reports from the Republic of Nauru Hospital, Taiwan Adventist Hospital, Lorengau Hospital, and the Pacific International Hospital in Port Moresby.
- Facilitated the Panel's request to see the orientation manuals, processing guidelines, clinical governance reports, medication management procedures and the coronial processes held by the Department's contracted health service provider (IHMHS).
- Responded to seven formal notices submitted to the Secretary of the Department on 3 May 2019, to request information under subsection 199D of the Act. This information was made available to the Panel members as quickly as possible and within ten days of the request;
- On 3 May 2019 organised a virtual tour of Pacific International Hospital (PIH), Port Moresby for Panel members;
- On 25 June 2019 facilitated a discussion between Panel members and mental health specialists at PIH Port Moresby to discuss access to critical services.

Members of the Panel (other than the CMO/S-G) noted that they had not personally visited either of the RPCs. The IHAP indicated that they would provide further assessments of the physical and mental health conditions of transitory persons in RPCs, and the standards of health services provided to transitory persons in RPCs, following such visits.

Members of the Panel propose to visit each RPC at their earliest convenience, in consultation with the Department and the respective governments of the RPCs. These visits will promote further understanding and awareness of the physical and mental health conditions of transitory persons, and the health services available to them in each RPC.

The assessments below are made on the basis of information provided to the Panel to date.

IHAP assessment of the physical and mental health conditions of transitory persons in Nauru

During Quarter 1 2019 there were 5908 consultations to 237 persons provided at the Nauru Regional Processing Centre Medical Centre. 2352 consultations were provided at the IHMS Nauru Settlement Medical Centre. The commonest reason for consultation was for psychological reasons. There were a wide range of other conditions treated with no unusual pattern of disease or disability.

There were 73 admissions to 43 individuals at the RPC Medical Centre, the majority were for mental health admissions and ranged from 1-44 days.

There is an electronic medical record with updated immunisation tracking including typhoid.

There were no patterns of disease that were noted to be unusual by the panel, it was noted there was a high number of psychological presentations and mental health admissions for respite or treatment at the RPC Medical Centre.

IHAP assessment of the standards of health services provided to transitory persons in Nauru

Regarding the available services in Nauru, the IHAP believes that there are reasonable quality primary and secondary care service. These are supplemented on a periodic basis by the availability of specialist services namely physiotherapists, optometrists, ophthalmologists, cardiologist/internal physicians, speech and language therapists, gastroenterologist, neurologists, ENT surgeons, orthopaedic surgeons and infectious disease physicians. Special medical care is not reliably available on the island.

In respect of mental health services there are significant numbers of mental health workers but (unlike PNG) there is no access to high quality inpatient psychiatric care in Nauru and patients with severe mental illness and at high risk of suicide should be transferred to a hospital with appropriate inpatient psychiatric care.

IHAP assessment of the physical and mental health conditions of transitory persons in Papua New Guinea

During Quarter 1 2019 there were 1134 primary health consultations, 472 mental health consultations and 375 specialist consultations performed at East Lorengau Refugee Transit Centre (ELRTC) Manus. Visiting specialists in Cardiology, ENT surgery, Dermatology, Orthopaedics, General Surgery, Internal Medicine and Dental also performed consultations.

There were 21 admissions to Lorengau General Hospital for 17 individuals, there were predominately for mental health concerns. Transfers to Port Moresby occurred for a range of medical and mental health concerns.

It was noted during a number of clinical reviews that some individuals had rapid testing that was positive for typhoid, stool and water testing was negative and a community vaccination program was not required, the Panel will continue to monitor. There are no other patterns of disease that were unusual.

IHAP assessment of the standards of health services provided to transitory persons in Papua New Guinea (Port Moresby and Manus Island)

The Panel's view is that these services provide a reasonable range of primary care at the ELRTC with some limited secondary services at the Lorengau Hospital. Specialist medical care is not reliably available on the island. Mental health services on the island consist of psychologist, mental health nurses and a visiting psychiatrist, sufficient only for ambulatory treatment.

The Panel was impressed with the physical facilities and the range of medical and investigative services available at PHI in Port Moresby. The Panel was further impressed with the quality of cultural understanding of the two psychiatrists working a PIH. The IHP was reasonably confident that acute inpatient mental health treatment can be provided at PHI but noted no access to Electroconvulsive therapy (ECT) or psychiatric intensive care.

Section B. Operations of the Panel for the first quarter, being the period from 2 March 2019 (i.e. commencement of the IHAP) until 31 March 2019 (i.e. the end of the first quarter). Including a statement on the Department's provision of information and assistance to the IHAP.

IHAP reviews of Ministerial medical transfer refusals during the reporting period

During the period between 2 and 31 March 2019, the Minister did not make a decision to refuse a transfer to Australia of a relevant transitory person under section 198E of the Act. Therefore, the Panel conducted no reviews and made no recommendations regarding the transfer of any relevant transitory person during this reporting period.

IHAP operations during the reporting period

On 4 March 2019, representatives of the Department conducted an initial meeting with the IHAP. This was attended by the two Commonwealth members – Dr Gogna and Professor Murphy. The meeting discussed key operating procedures and processes such as the use of the secure GovTEAMs platform, confirmed the interim chair, clarified the assistance that would be provided by the Department through the IHAP Secretariat, and clarified policy supporting the operations of the IHAP.

During the meeting, the Panel requested the IHAP Secretariat provide guidance on how to facilitate a direct clinical assessment with a relevant transitory person, if it was required by videoconference or teleconference.

In response to this request, the Panel was advised on 3 April 2019 via the IHAP community on the GovTEAMS platform, and via email, of a direct assistance line to contact the medical services provider on Nauru and to contact the IHAP Secretariat to request contact with the Pacific International Hospital in Papua New Guinea. The IHAP members are able to use these contact avenues in order to seek the providers' assistance to facilitate direct clinical assessments of relevant transitory persons in the RPCs.

IHAP Recommendations

As at 31st March 2019, the IHAP had made no recommendations to the Minister.

Department provision of information and assistance to the IHAP

Under s199D(3) of the Act, the Secretary of the Department must provide appropriate assistance to the Panel for the purpose of ensuring the panel performs its functions and exercises its powers. An IHAP Secretariat team has been established within the Department's Health Division to ensure that the Panel has appropriate administrative support and assistance to perform its functions as required by 199D(4)(b) of the Act.

The IHAP Secretariat has provided the panel with access to records, documents and information relating to the health of transitory persons who are in RPCs via a secure community in the GovTEAMs platform, which is managed by the Department of Finance

This secure GovTEAMS platform allows the IHAP Secretariat to support the operations of the Panel by scheduling, hosting and recording virtual meetings, and facilitating the centralised provision of medical records and other information and documentation to the Panel members to enable them to perform their functions. The secure platform also allows for the creation and editing of clinical assessments for transfer cases with access and visibility to all Panel members in real time.

The IHAP Secretariat provided each Panel member with access to the GovTEAMS platform, and provided assistance and training to the members in setting up and using the platform.

Provision of information to the IHAP during the reporting period

As per subsection 199E(7) of the Act, this report must include a statement on the timeliness of the provision of information and assistance provided to the Panel under subsection 199D.

The IHAP Secretariat developed a notice template for the IHAP to submit formal requests for information to the head of the Department, if they wish, entitled, *Notice to produce documents, records or information under s 199D of the Migration Act (1958).* The IHAP may provide this notice to the Department via email to the IHAP Secretariat, or through the secure GovTEAMS platform.

During the period from 2 to 31 March 2019, no records or documents were formally requested under s199D, relating to the health of transitory persons who are in RPCs.

However (as referenced earlier), on 3 May 2019, the IHAP submitted seven notices to the Secretary of the Department to request information under subsection 199D of the Act. This information was made available to the Panel members as quickly as possible and within ten days of their request (as per the IHAP request).

Medical Transfers to Australia by the Department under Section 198B and 198C of the Migration Act 1958

Section 198B of the Act allows for the transfer of a transitory person from a country or place outside Australia for a temporary purpose, for example medical or psychiatric assessment or treatment, or for the purpose of accompanying a person brought to Australia under s198B(1) or s198C of the Act.

Prior to the passage of the Amending Act, all medical transfers to Australia for transitory persons in regional processing countries occurred with the exercise of powers by an officer under s198B of the Act.

This section continues to be utilised by decision makers in the Department/Australian Border Force to transfer transitory persons in regional processing countries to Australia for appropriate medical assessment and treatment. These decisions continue to be made by the decision maker with input from the Department's contracted health service providers in the RPCs, opinions of Medical Officers of the Commonwealth and senior executives.

Section 198C of the Act provides for the transfer, with their consent, of legacy minors, relevant transitory persons and family members for medical treatment in Australia, as amended by the *Home Affairs Legislation Amendment (Miscellaneous Measures*) Act 2019.

Note: Any transitory person who is brought to Australia for a temporary purpose must be kept in immigration detention whilst in Australia. That immigration detention must continue until the time of removal from Australia or until the Minister determines that immigration detention is no longer required.

The table below provides the number of persons transferred to Australia under these sections during this reporting period.

Classification of transfer	Processing Country	Section of the Act	Number transferred to Australia
Temporary Medical Transfer	PNG	198B	5
	Nauru	198B	11
Accompanying family member	Nauru	198C	9

Appendix 2

THE HON PETER DUTTON MP
MINISTER FOR HOME AFFAIRS

RESPONSE TO THE INDEPENDENT HEALTH ADVICE PANEL FIRST QUARTERLY REPORT (2 - 31 MARCH 2019)

I refer to the summary of the Independent Health Advice Panel (the Panel) report tabled in Parliament on 4 July 2019. The summary report outlines the membership, role and functions of the Panel and the operations of the Panel for the first quarter, being the period from 2 March 2019 (commencement of the Panel) until 31 March 2019 (the end of the first quarter). As it is the Panel's first report, the Panel has also provided an assessment of the physical and mental health conditions of transitory persons in regional processing countries and the standards of health services provided to transitory persons in regional processing countries.

In August and September 2012, the Labor Government established regional processing centres in Nauru and Papua New Guinea (PNG) under memorandum of understanding with respective governments. Under these arrangements the Australian Government supports the governments of Nauru and PNG to provide services to transferees under regional processing arrangements.

As a consequence of the Labor Government's failure to halt the criminal people smugglers synidcates, the population at regional processing countries peaked at 1,353 in PNG and 1,285 in Nauru. I am pleased that due to the Coalition's strong and consistent approach to border protection, under Operation Sovereign Borders, the population at regional processing countries has reduced to 493 on PNG and 319 on Nauru. In addition, the Coalition Government has successfully removed all the children from both PNG and Nauru.

Medical investment in regional processing countries

Since being eleced in September 2013, the Coalition Government has provided significant support to the Governments of Nauru and PNG to ensure transferees are provided with a range of health, welfare and support service arrangements. This has included assisting those Governments to significantly bolster health care in their counties.

Australia continues to support the delivery of health services to transferees under regional processing arrangements through contracted health service providers.

- The Pacific International Hospital (PIH) provides healthcare to transferees in PNG under a Letter of Intent with the Department of Home Affairs (the Department).
- International Health and Medical Services (IHMS) is contracted by the Department to provide healthcare to transferees in Nauru.

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Up until 28 February 2019, the Department has spent $455.5m between 2012-13 and 2018-19, in support of the delivery of health services in Nauru and PNG. This includes the following:

$359.1m for the provision of health services under contract with IHMS, Aspen Medical Services and PIH.

- $44.5m for the establishment and expansion/redevelopment of the Manus Regional Processing Clinic. This includes:
  - An initial investment of $41.9m for the development and establishment of the clinic.
  - Further investment of $2.6m for expansion and redevelopment.
  - This expenditure incurred by the Department has been capitalised in line with Australian Accounting Standards. $51.9m for the following upgrades in Nauru:
    - The medical clinic at the RPC.
    - A portable medical centre.
    - Upgrades at the Republic of Nauru Hospital including:
      - construction of a surgical facility and related facilities including a six-bed inpatient ward, primary and mental health consultation rooms, a new x-ray building, temporary clinic and pathology buildings
      - new pathology and paediatrics buildings, and a new services compound containing a back-up power supply, a waste water treatment plant and water supply tanks.

Nauru

Health services in Nauru include primary healthcare and mental healthcare services. Health services are provided by a range of healthcare professionals including general practitioners, psychiatrists, psychologists, counsellors, dentists, radiographers, pharmacists, mental health nurses and specialists who provide clinical assessment and treatment.

There is also after-hours medical staffing to respond to after-hours medical emergencies. As such, healthcare is available on a 24/7 basis, including emergency care.

Appropriate health specialist can be arranged under the visiting specialist program on a fly-in-fly-out basis.

In addition to the IHMS Clinic at the regional processing centre, and the IHMS run Nauru Settlement Health Clinic, transferees can access health services through the Republic of Nauru Hospital.

As at 30 June 2019, there are 57 contracted health professionals, including 24 mental health professionals providing services to the transferees in Nauru. This is a ratio of approximately one health care professional to every six (6) transferees.

Mental healthcare in Nauru

Mental health care is delivered in a multidisciplinary manner by mental health nurses, clinical team leaders, psychologists, psychiatrists and counsellors including counsellors with torture and trauma counselling expertise.

Limited in-patient mental health services are available at the IHMS Clinic, with facilities designated for the provision of such services under Nauruan legislation.

Additional support for mental health care in Nauru may be provided through separate services requests, where necessary.

Torture and Trauma counselling services in Nauru

IHMS provides torture and trauma counselling services in Nauru, through a subcontract with Overseas Services to Survivors of Torture and Trauma.

Notwithstanding that the Australian Government has removed all children from Nauru; there is capability to provide specific child and adolescent mental health services through a team of professionals with child and adolescent expertise, if required.

Obstetric and Neonatal Services in Nauru

IHMS medical professionals, including a full-time obstetrician and a midwife, provide healthcare to pregnant transferees to support the Republic of Nauru Hospital.

Pregnant women in the community receive primary care at the Nauru Settlement Health Clinic, including obstetric and midwifery services.

The Republic of Nauru Hospital routinely provides birthing services. Obstetric and neonatal care is provided through obstetric and midwifery services with support from the Republic of Nauru Hospital.

IHMS operates an anatomical ultrasound machine at the regional processing centre clinic to conduct morphological scans.

Specialist health services in Nauru

The visiting specialist program in Nauru provides for additional specialist services to be delivered by physiotherapists, optometrists, ophthalmologists, cardiologist/internal physician, speech and language therapists, gastroenterologists, neurologists, Ear Nose and Throat (ENT) surgeons, orthopaedic surgeons and infectious disease physicians as clinically indicated.

I note that the IHAP believes that there are reasonable quality primary and secondary care services available in Nauru which are supplemented on a periodic basis by the availability of specialist services namely physiotherapists, optometrists, ophthalmologists, cardiologist/internal physicians, speech and language therapists, gastroenterologist, neurologists, ENT surgeons, orthopaedic surgeons and infectious disease physicians.

The Australian Government works closely with the Government of Nauru to ensure transferees continue to be provided with a range of health, welfare and support services, including extensive physical and mental healthcare provisions, free accommodation and utilities, allowances and employment services.

Individuals receive primary and mental health care, including specialised torture and trauma counselling services, through the Settlement Health Clinic. Emergency, secondary and tertiary health care is available at the Republic of Nauru Hospital.

I note IHAP's concurrence with the Government that where inpatient psychiatric care is required transferees should be transferred to a hospital with appropriate inpatient psychiatric care.

Like many smaller Pacific nations, Nauru has an established process for referring patients overseas for medical care and treatment, when appropriate services are not available on the island. Under the Nauruan Overseas Medical Referral process.

Transferees needing medical treatment not available in Nauru may be transferred to a third country for assessment or treatment, including Papua New Guinea, Taiwan or Australia.

Papua New Guinea

Health services in PNG include primary healthcare and mental healthcare services. Health services are provided by a range of healthcare professionals including general practitioners, psychiatrists, psychologists, counsellors, dentists, radiographers, pharmacists, mental health nurses and specialists who provide clinical assessment and treatment.

Pacific International Hospital (PIH) provides contracted health services at the general practitioner-led clinic at the East Lorengau Refugee Transit Centre (ELRTC) for all transferees residing in Manus Province.

The ELRTC Clinic operates between 9.00 am to 5.00 pm Monday to Friday, and 9.00 am to 1.00 pm on Saturday.

Health care in ELRTC is delivered by medical officers, primary care nurses, paramedic, laboratory technician, mental health nurses, psychiatrists, radiologist, general nurses and emergency trained medical officers.

After hours treatment is available at the Lorengau General Hospital.

The local pharmacy in Lorengau provides medications with support from the PIH.

Where transferees require treatment not available in Manus Province, the PIH may arrange a temporary medical transfer to Port Moresby for inpatient or outpatient care.

PIH maintain a 24-hour emergency medical evacuation capability.

The PIH provides a medical officer and nurse liaison service to support patients referred to Port Moresby from Manus Province for medical treatment, including specialist services.

The liaison service is available during business hours Monday to Saturday and is designed to manage and co-ordinate follow up appointments with specialists and hospitals in Port Moresby, including mental health specialist services. Residents can also be referred or self-refer to other hospitals in PNG.

Health services available at the Pacific International Hospital in Port Moresby include:

- 24 x 7 Emergency Services
- Neonatal Intensive Care Unit
- Dialysis
- General and Trauma Surgery
- Paediatrics
- Corneal as well as retinal Ophthalmology Surgery
- Digital X-ray, MRI, CT Scan, Ultrasound and Mammography
- Urology
- Internal Medicine
- Eye and ENT care
- Obstetrics and Gynaecology
- Orthopaedics
- Cardiac Catheterisation Laboratory, with full time interventional cardiologist
- Critical Care with seven ICU beds and dedicated full time intensivist

- Neuro Surgery Theatre with all equipment and Operating Microscope (served by visiting surgeons)
- Cardiac Surgery facilities, including a Heart Lung machine (served by visiting surgeons)
- Psychiatric services including an inpatient Mental Health Unit.

On 30 June 2019 there were 29 contracted medical professionals in PNG, including eight (8) mental health professionals providing services to transferees. This is a ratio of one health care professional to every 17 transferees. The recent establishment of an acute care inpatient psychiatric unit at Pacific International Hospital supports mental health of transferees and refugees. This unit commenced accepting patients on 12 April 2019.

Mental healthcare in PNG

PIH provides mental healthcare services.

Mental healthcare services at the ELRTC clinic are provided by mental health nurses, a mental health team leader, a psychiatrist, a psychologist and counsellors.

Transferees who require additional mental health services may be referred to the local hospital or to Port Moresby.

On 30 January 2019, the Department approved PIH to implement an in-patient Mental Health Care Service in Port Moresby.

On 12 April 2019, the new inpatient mental health facility at PIH opened, providing for both voluntary and involuntary admissions. PIH has commenced accepting patients for treatment by the PIH clinical team.

The services being offered in the PNG Mental Health ward include treatment for mood disorders, including major depressive disorder; substance use disorders; post-traumatic stress disorder; conditions related to trauma and trauma related conditions; anxiety disorders such as panic disorder, obsessive-compulsive disorder, and specific phobias; serious mental illness including bipolar disorder, schizophrenia related disorders, and other psychotic disorders.

The inpatient mental health facility comprises four double bedrooms (8 beds); one four bed bay (4 beds); three single bedrooms (3 beds); and an activity room.

The Acute inpatient facility contains: three single bedrooms; one seclusion room; one activity room; and a secured nursing station.

The following staff have been recruited and deployed:

- 1 x Chief Psychiatrist
- 1 x Psychologist
- 1 x Counsellor
- 1 x Ward Manager/Nurse Supervisor
- 6 x Mental Health Nurses
- 1 x Substitute Nurse
- 6 x Nurse Aids
- 2 x Social Workers
- 1 x Occupational Therapist
- 1 x Ward Clerk

Medication management

Self-agency is supported through the ongoing distribution of medications to transferees residing in Manus Province.

The Lorengau pharmacy, the Lorengau Hospital and the PIH in Port Moresby fill prescriptions at no cost.

I note the Panel's view that these services provide a reasonable range of primary care at the ELRTC and some secondary services at the Lorengau Hospital in Manus.

I note the Panel's recognition of the physical facilities, the range of medical and investigative services available, and the quality of cultural understanding of the two psychiatrists working at PIH in Port Moresby. The Panel's confidence that acute inpatient mental health treatment can be provided at PIH is welcome and recognises the significant investments made to ensuring a high standard of health services are provided in PNG.

Quarterly operations of the Panel during the reporting period (2 – 31 March 2019)

I note that during the quarterly reporting period of 2 – 31 March 2019, the Panel consisted of two members, Dr Parbodh Gogna (Chief Medical Officer of the Department of Home Affairs / Surgeon General of the Australian Border Force) and Professor Brendan Murphy (Commonwealth Chief Medical Officer).

I note that during this reporting period, the Panel did not make any recommendations under section 198F of the Act.

During this reporting period, the Department transferred five (5) persons from PNG and 11 transitory persons from Nauru on the recommendation of our contracted medical services providers under section 198B of the Act. In addition to this, nine (9) accompanying family members were temporarily transferred to Australia from Nauru.

PETER DUTTON