

Immigration detention, asylum seekers and refugees program

Workplan 2013-14 (April 2013)

This workplan is intended to cover from April 2013 until the end of the 2013-2014 financial year. If the federal election results in a change of government this plan may need to be reassessed in September 2013.

This program of work consists of three key elements:

1. Ongoing work: general monitoring, engagement and 'reactive' work
2. Issue specific engagement and advocacy
3. Projects for 2013-2014

In practice there is considerable overlap between elements 1 and 2, in that much (but not all) of the engagement on our specific priority issues under element 2 is carried out through our regular engagement mechanisms under element 1. They are included as two elements of work in this workplan to distinguish between our ongoing monitoring and engagement on immigration detention and asylum seeker policy more generally (element 1), and the current priority issues that we are focusing on (element 2).

1 Ongoing work: general monitoring, engagement and 'reactive' work

1.1 Internal work

- Coordination:
 - Fortnightly meeting with President
 - Monthly complaints update with ICS
 - Quarterly meeting with ICS and Legal (re. current priority issues)
- Administrative:
 - Distribution of Commission posters for display in detention facilities
 - Updates to immigration content on AHRC website and Something in Common
 - Correspondence for President, responding to correspondence from advocates and members of public
- Management:
 - Input to Commission Policy Papers
 - Preparation of Senate Estimates briefs
 - Policy Management Group meetings
 - Organise training and counselling for staff doing detention visits (talk to other agencies re. training manuals and sessions, counselling providers, debriefing)
- Input to work across the Commission:
 - Input to treaty reporting processes (CAT, ICCPR, UPR)
 - Review of draft AHRCA reports (in particular draft recommendations)
 - Input to BURR working group
 - Presentations to IPU visiting delegations

1.2 **External monitoring and engagement**

- NGOs / other agencies:
 - Immigration detention coordination monthly teleconference (UNHCR, Red Cross, Ombudsman re. detention visits and key concerns across detention network)
 - NSW Asylum Seeker Interagency meeting every two months (Detention Working Group, plus NGOs working with asylum seekers in community)
 - Immigration media officers' network monthly teleconference (with key NGOs re. upcoming public campaigns / media)
 - High level immigration quarterly meeting (President with Commonwealth Ombudsman and heads of UNHCR, Red Cross and MCASD)
 - Human Rights Council of Australia periodic roundtables on regional processing
 - Periodic liaison with state and territory children's commissioners
- DIAC:
 - Six weekly teleconferences
 - FAS, Status Resolution Services and AS, Detention Operations
 - FAS, Onshore Protection
 - FAS / AS, Community arrangements and children
 - Onshore Protection Consultative Group meetings twice per year
 - President periodic meetings with DIAC Secretary
- Minister's office:
 - President periodic meetings with Minister for Immigration and Citizenship (last one in February; consider two more in 2013)
 - Engagement with Minister's Chief of Staff and/or Adviser on key issues of concern as needed
- Coalition:
 - President to meet with Shadow Minister for Immigration and Citizenship in March 2013; further engagement to be determined after that

1.3 **'Reactive' work**

- Input to President speeches on immigration issues as needed
- Input to media releases and talking points as needed
- Participation in relevant parliamentary inquiries:
 - Submissions
 - Briefing materials for President's appearances
 - Possible media release on submission or on report release
 - Committee report review and follow up as needed
 - Current inquiries: ASIO Bill (possible appearance, report due 20 April), Excision Bill (Bill and amendments in Parliament), Regional Processing Package (report due by end June); PWC inquiry into proposed regional processing centre on Manus Island (April)
 - Possible upcoming inquiries: TPV Bill
- Responding to DIAC requests for comments on draft policies (where capacity allows, which it often does not). Note: DIAC has indicated that it is intending to

develop its own standards for immigration detention. They have indicated a desire for feedback on their draft standards (possibly around mid-2013). This may present an opportunity for human rights to be integrated into DIAC standards. However, taking this work on might require that other work is delayed or dropped. Another alternative might be to consider whether the Legal team has capacity to assist.

2 Issue specific engagement and advocacy

2.1 Screening process and involuntary returns

- Done: Engagement with DIAC in January; President letters to former and current Ministers in January-February
- Gather information from ICS re. current complaints
- Monitor removals to Sri Lanka (and other countries) through confidential weekly statistics from DIAC
- Further engagement with DIAC, Secretary, Minister's office re. any changes made to screening process to address our concerns
- Continue informal engagement with UNHCR (and Red Cross, Ombudsman and HRLC); monitor Ombudsman's investigation into the screening process
- Monitor Government response to UN Special Rapporteur
- Include on agenda for next quarterly high level immigration meeting
- Factsheet for website (distribute via ebulletin and external emails once others are completed)
- Possible President opinion piece or other media engagement once factsheet online (see media release issued re. Geraldton group)
- If no progress made with amending the process and involuntary returns continue in significant numbers, consider further letter to Minister (and possibly cc AG and Foreign Minister)

2.2 Refugees with adverse security assessments

- Done: Number of letters to Minister and AG; number of submissions; 2012 UNHCR Roundtable; 2012 AHRCA report; M47 intervention; addressed in 2011 Curtin report and 2012 Community Arrangements report
- Monitor number of refugees with ASAs, number of children impacted
- Monitor Government response to M47 (via DIAC, David Manne, HRLC)
- Monitor Stone Review process
- Continue engagement with DIAC, Minister's office and Attorney-General to encourage consideration of less restrictive places of detention and community detention, access to AAT review, focus on durable solutions. Started with letter to new Minister and AG in early 2013. Awaiting response to that letter.
- Distribute factsheet via ebulletin and external emails once other fact sheets are completed
- Continue officer level engagement with UNHCR, Ombudsman, Red Cross re. their advocacy on this issue; include on agenda for next quarterly high level immigration meeting
- Further steps to consider (and discuss with Legal where relevant):
 - distribution / media opportunities for release of next AHRCA report

- possible opportunities for direct (behind the scenes) advocacy with DIAC and/or Minister's office on a few individual cases (e.g. those involved in AHRCA reports, cases involving children, cases involving serious self-harm attempts).

2.3 Prolonged detention of persons of interest to AFP

- Done: addressed briefly in 2012 Community Arrangements report; raised in meeting with Minister O'Connor in February
- Update section 501 background paper to include short section on character issues following 2011 legislative changes and new Ministerial Direction
- Gather information from ICS and Legal re. current complaints from POIs (and keep ICS and Legal updated on an info we receive from DIAC)
- Engage with UNHCR, Ombudsman, Red Cross re. their advocacy on this issue (in particular Red Cross research and report)
- Follow up stats requested from DIAC after 20 May teleconference; discuss with Fiona Andrew at next DIAC SRSD teleconference. After that discussion, consider:
 - Engagement with Minister's advisers (Stephen had said he would be happy to discuss with us after DIAC had provided the info we had requested in writing)
 - Letter to Secretary, Minister (cc to AG) if scope of problem is significant enough
- Consider factsheet for Commission website (base on relevant section of 2012 Community Arrangements report plus new info from DIAC)
- Consider meeting with POIs as part of any detention visits we do in 2013-14

2.4 Community arrangements

- Done: 2011 Curtin report (section on alternatives to detention), 2012 Community Arrangements report
- Monitor use of Community Detention and Bridging Visas through DIAC statistics and six weekly teleconferences
- Continue to advocate for use of community arrangements through media engagement and high level meetings with Government and Coalition
- Bridging visas and work rights:
 - Engage with Minister's office and DIAC re. work rights for post 13 August arrivals on bridging visas
 - Distribute factsheet via ebulletin and external emails once other factsheets are completed
 - Consider President opinion piece
 - Monitor Asylum Seeker Resource Centre campaign on work rights (communicate with Jana at ASRC)
- Community arrangements and alternatives to detention – develop factsheet for website based on 2012 report and 2011 section of Curtin report

2.5 Immigration detention standards

- Continue distribution and promotion of the Commission's Immigration Detention Standards wherever relevant / possible.

- Publicise Standards in snapshot report to be released in October 2013.
- Integrate relevant parts of the Immigration Detention Standards into any public reports we produce in 2013-14 (e.g. refer to relevant children's standards in ten year review report of *A Last Resort*).

3 Projects for 2013-2014

- The above sections outline the ongoing monitoring, engagement and advocacy work involved in the immigration detention, asylum seekers and refugees program.
- In addition to this work, it is proposed that the team undertake the following projects in 2013-14. These proposals relate to:
 - Community engagement
 - Public report on the 'state of the system' (onshore and offshore)
 - 10 year review of *A Last Resort*?
- Our current staffing capacity consists of:
 - Acting EL 2 – 3 days per week (management / oversight)
 - EL 1 – 3 days per week
 - APS 6 – approximately half time
 - APS 5 – approximately half time

3.1 Community engagement

Why?

- Meaningful policy and legislative change in this area requires broad public support. There is a significant level of misunderstanding in the community in relation to asylum seekers and refugees.
- One of the key findings of the recent evaluation was that the Commission needs to examine new ways to engage with the broader Australian community about these issues.

What?

- Review information currently on Commission website (AHRC webpages re. immigration detention, asylum seekers and refugees; information in Face the Facts) and on Something in Common.
- Coordinate and collaborate with CET and Communications to:
 - investigate how regularly various parts of our websites (AHRC site and Something in Common) are accessed for immigration information
 - develop new content for Something in Common (e.g. facts aimed at countering key myths, stories, photos, actions)
 - develop a strategy for promoting and distributing our key work products (e.g. media releases, reports, submissions, detention photos) more widely using traditional and new media (e.g. twitter, facebook, updated email lists, you tube etc.)
- Develop a plan for updating information on our AHRC webpages to make it more accessible and engaging, including:
 - reconsidering and updating the information that is provided
 - restructuring the way information is presented
 - more use of photos

- new short factsheets on key issues (adverse assessments, persons of interest, screening process, bridging visas and work rights, alternatives to detention)
 - consideration of a page of key statistics / facts and figures
- Consider President opinion piece on each of above key issues in connection with publication of factsheet (in order: bridging visas and work rights; ASAs; alternatives to detention; screening process; POIs)
- Coordinate with President's media adviser to develop key messages for President's media engagement on immigration issues (which can be periodically updated), including:
 - positive aspects to keep encouraging e.g. use of community detention and bridging visas, increase in humanitarian intake
 - key issues of concern to keep emphasising e.g. indefinite detention in third countries, mandatory and prolonged detention of children
- Engage with key NGOs on opportunities to share appropriate web content or to link to appropriate web content (e.g. Amnesty's Rethink Refugees website, ASRC campaign on work rights)

When?

- An initial period of focused work might take a month or two (May-July 2013), after which it will be a matter of periodic updates as needed.
- Note: While this is included here as a new project proposal, in practice it should be part of our ongoing work. In the past, due to continually heavy workloads we have not been able to dedicate sufficient resources to do anything other than minor updates to the existing content on the AHRC webpages and some minimal content for Something in Common. It is therefore included here to ensure that we dedicate sufficient resources to the strategic planning side of the work.

Who?

- The majority of this work would be done by APS 5 and APS 6 officers, with EL2 oversight as required.

Key challenges / considerations

- Need to ensure we are clear on what our key messages are for different audiences; need to communicate these messages in accessible and appropriate formats through a wide range of traditional and new media.
- This work will have minimal budget implications (unless we decide there is value in having particular work products designed and printed).
- There will be cross-team implications for Communications and CET, but they should not be too onerous.
- Periodic evaluation of this work would be useful, in order to monitor the extent to which our key messages and work products are reaching our target audiences.

3.2 *Annual report on 'the state of the system' (onshore and offshore)*

Why?

- Meaningful policy and legislative change in this area requires broad public and political support. There is a significant level of misunderstanding in the community and amongst some Parliamentarians.
- The Commission provides ongoing commentary on these issues, but often on a technical issue by issue basis, rather than with a broader perspective. It is strategically important to take a broader view from time to time.
- A brief, simply drafted summary of the immigration detention and asylum system and our key concerns and priorities would be useful for general public awareness raising, and would be an advocacy tool for us and NGOs to use in meetings with decision makers and in appropriate international forums.
- With either the current Government or a new Coalition Government it is likely that the transfer to and detention of asylum seekers in third countries is going to continue for years. The Commission has the power to investigate the extent to which the third country processing arrangements are compliant with Australia's international human rights obligations. That power should be leveraged to gather, analyse and publish relevant information that the public and other organisations are not able to access. In this way the Commission can make a significant contribution to increasing transparency and accountability.

What?

- Produce a brief public report on immigration detention and asylum seeker policy that provides a holistic look at the key issues across the system (both onshore and offshore). Identify the key human rights issues at stake, indicate progress in meeting key human rights standards, reference work the Commission has done on key issues over the course of the year, and highlight key issues and work priorities moving forward.
- To the extent possible, measure against key human rights indicators (e.g. freedom of movement, arbitrary detention, prolonged detention, access to health, self-harm statistics, access to education, processing speed, access to durable solutions for recognised refugees).
- The report would probably not include new recommendations, but it might reflect on whether key recommendations made by the Commission (and possibly other key bodies) have been implemented.
- The report would be brief and high level, with links to more substantive and comprehensive work already produced by the Commission. It would be similar in tone to the annual UPR implementation reports (approximately 15 pages).
- The 2013 report would be based on work already conducted (not, for example, on a new series of fact-finding detention visits).
- Consider producing an updated annual report each year around the same time, measuring progress against the same key indicators.

When?

- Do draft structure of public report June. Prepare content of draft report July-August. Finalise draft report after federal election in September.
- Release report in October 2013 (post-election). Consider a public launch event.
- Conduct meetings with key Parliamentarians in October-November 2013.

Who?

- Preparation of report would be mostly done by EL1 with assistance from APS 5 or 6 as needed, and with EL2 oversight.

Key challenges / considerations

- Controlling the scope and size of this project will be the key challenge, along with ensuring that the content is as current as possible when the report is published.
- The result of the federal election may lead to significant policy and/or legislative changes that could require changes to the draft report.
- Consider whether to publish an informal report of the type we have released in the past, or prepare a formal report to be tabled in Parliament.
- Consider whether to engage with DIAC and/or the Minister's office in advance of the report release and whether to give them an opportunity to provide a written response.
- This work would have minimal cross-team implications including for Legal (possible review of some report sections) and Communications and CET (input into media and community engagement surrounding the report).
- This work would have some budget implications, in particular design of the annual report (and printing if it is to be tabled in Parliament) and potentially some travel to Canberra for DIAC / Ministerial engagement.
- We should build in an evaluation component so that we can assess the impact of the report and apply any lessons learned.

3.3 10 year review of A Last Resort?

Why?

- Mid-2014 will mark the ten year anniversary of the release of *A Last Resort?*, the report of the Commission's national inquiry into children in immigration detention. While there have been some significant legal and policy improvements since that time, there are still hundreds of children in detention facilities in Australia (and on Manus Island, PNG). Australia's system continues to fundamentally breach obligations under the CRC.
- The Commission has a firm legal mandate to review and report on Australia's compliance with the CRC. The rights in the CRC encompass both civil and political as well as economic, social and cultural rights.
- There is community expectation that the Commission will continue to work in this area. That expectation has been heightened by the appointment of the Children's Commissioner.
- Focusing on children allows the best opportunity to engage the general public, and to reach bipartisan political agreement on making policy and legal changes to the system of mandatory and indefinite detention.

What?

Monitoring and engagement:

- With DIAC:
 - Discuss ten year review project with key DIAC contacts; seek detailed information on current children's initiatives e.g. on child protection

- MOUs with states, guardianship arrangements for children in the community, changes to IGOC Act etc.
 - Monitor number of children (including UAMs) in immigration detention in Australia, Nauru and/or Manus Island
 - Seek statistics on length of time children are spending in detention facilities prior to Community Detention or Bridging Visas
 - Seek self-harm statistics among children in detention
 - Follow up on DIAC guidelines for best interests analysis; options provided to Minister re. potential changes to guardianship policy
 - Seek information re. guardianship arrangements for any UAMs transferred to Nauru or Manus Island
- With Minister's office:
 - Discuss *A Last Resort?* and ten year review project with Minister's adviser
 - Follow up with letter to Minister to draw attention to key recommendations re. children in detention and Minister's guardianship of UAMs, foreshadow ten year review project (cc to AG)
- Consider further engagement with state and territory children's commissioners and guardians (next meeting in May 2013)
- Engage with key stakeholders (e.g. MCASD, federal-state working group/s on child protection etc) and NGOs e.g. IDC (re. their global campaign to end detention of children), Amnesty, ChilOut, RCOA; coordinate with NGO sector Joint Campaign (which is likely to focus on children)
- Consider one or more expert roundtables on key issues (e.g. alternatives to detention and overseas models, guardianship of unaccompanied minors, child protection)
- Consider trying to speak with some individuals who were detained during the period of *A Last Resort* about the lasting impacts of prolonged detention on families and children; include their stories in the review report and in community engagement work

Detention visits

- Conduct a number of visits to detention facilities housing families with children and UAMs in order to measure progress against key findings and recommendations in *A Last Resort*
- Current facilities housing children include Christmas Island, Darwin, Leonora, Perth IRH, Inverbrackie, Brisbane ITA, Melbourne ITA, Sydney IRH, Pontville, Port Augusta (and Manus Island). We will most likely only have capacity to do up to four visits (depending on the distance and time involved). Top priorities at present would include Christmas Island, Darwin and Leonora. Curtin might also be used for families later in the year.
- Decisions about visits should be taken after coordinating with Ombudsman, Red Cross and UNHCR regarding their visit schedules
- We should engage a consultant psychiatrist with experience working with children and refugees to accompany us on any visits we undertake
- Follow up and engagement with DIAC and Serco after each visit (detailed letter, teleconferences regarding key issues and improvements made in response to our concerns, follow up on individual issues raised with us by detainees during visits)
- Consider whether we have capacity to conduct visits to families with children and/or UAMs in community detention and/or on bridging visas (or whether

materials gathered for our 2012 community arrangements report will be sufficient).

Public report

- Produce a public report containing a ten year review of *A Last Resort?* Measure progress against the key findings and recommendations. This will not be a national inquiry of the size and scope of *A Last Resort?* (which took around three years to investigate and produce). It will be a more focused look at what has or has not improved for children since 2004 in relation to the key findings and recommendations in *A Last Resort?*
- Consider whether we seek to table the report in Parliament (as *A Last Resort* was) and seek a response from Government after tabling; or whether we publish a report online and give DIAC and the Minister's office the chance to provide a written response before publication.
- Consider making four or five key recommendations to the Parliament, in an attempt to build bipartisan support.
- Hold a public event to launch the report.
- Coordinate with key NGOs, state and territory children's commissioners to endorse, promote and distribute the report and its key recommendations.
- Work with CET and Communications to develop a promotion and distribution strategy for the report and a community engagement strategy around the key findings and recommendations.
- Commission President meet with key decision makers (including both government and opposition) to advocate for implementation of its recommendations

When?

- Internal planning with other teams (Children's Rights, Legal, CET, Communications): June-July 2013
- Conduct internal review of *A Last Resort?* to identify key findings and recommendations we are going to measure against in the ten year review; prepare draft structure of review report: July-Aug 2013
- Monitoring and engagement with DIAC, Minister's office and key NGOs: start in June 2013 and continue throughout
- Organisation of and preparation for detention visits: Aug-Oct Sept 2013
- Detention visits: October (post-election) to Feb 2014 (with possible Pontville visit 18 June 2013)
- Interviews with children detained during *A Last Resort* Oct 2013-Feb 2014
- Expert roundtable/s early 2014
- Prepare public report early-mid 2014
- Public report to be released in mid 2014, promotion and distribution strategy
- Follow up advocacy, community engagement, media engagement mid-2014

Who?

- Monitoring and engagement would be done by CRPT EL2 and EL1 officers
- Detention visits would be organised by CRPT EL 1 officer with EL 2 oversight and APS 5/6 logistics assistance
- Detention visits would be conducted by EL2 or EL1 officer from CRPT, along with President (or Children's Commissioner) and a number of other officers as

appropriate for the detention facility in question (including for example, a member of the Children's Rights Team and/or a Legal officer)

- Public report would be prepared by CRPT EL1 officer with EL 2 oversight and assistance from APS 5 and 6 as needed. Officers from other teams who took part in detention visits would provide some input or review of relevant sections of report.

Key challenges / considerations

- This work would have significant budget implications, primarily for travel costs for President / Children's Commissioner and officers to conduct detention visits to several sites (some of which will be remote). Additional costs will include contracting a psychiatrist to conduct visits with us, and designing and printing the public report.
- It is important that we allocate sufficient budget and time for organisation and implementation of some basic training for staff doing detention visits (in advance of any visits) as well as a system of post-visit debriefing and counselling.
- We may need to seek some expert advice on child protection issues. If that cannot be done through the Children's Rights Team or their contacts we may want to consider contracting an expert.
- There would be cross-team implications of this work, potentially including Legal and/or Children's Rights Team officer/s coming on detention visits and reviewing some sections of the public report as well as Communications and CET input into media and community engagement work surrounding the report.