

CHAPTER 1

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

1.1 This chapter summarises some of the matters raised during the committee's consideration of the budget estimates for the Immigration and Border Protection Portfolio for the 2015–16 financial year.

Migration Review Tribunal and Refugee Review Tribunal (MRT-RRT)

1.2 The principal member of the MRT-RRT, Ms Kay Ransome, updated the committee on developments in the organisation's operation and the effect of ongoing reforms. In her opening statement, Ms Ransome provided details regarding the ongoing caseload of the tribunals, statutory reforms which have enabled the fast-tracking of claims, the development of the Immigration Assessment Authority and the implications of the *Tribunals Amalgamation Act 2015*.¹ The *Tribunals Amalgamation Act 2015* integrated the MRT-RRT and the Social Security Appeals Tribunal into the Administrative Appeals Tribunal.

1.3 The committee questioned officials from the MRT-RRT about its current caseload, with specific inquiries regarding the types of visa claims heard, the average overturn rate for decisions and the primary reasons for overturning claims.² Ms Ransome indicated in her opening statement that the tribunal finalised 19,500 cases to date this year, and is on target to reach its yearly target of 21,000.³ The MRT-RRT detailed that at the date of the hearing it had 14,000 active cases, this is where an application was lodged but no final determination had yet been made.⁴

1.4 Officials detailed that the bulk of the caseload currently managed by the tribunals stemmed from student visa refusals, partner visa refusals and temporary work visas.⁵ Officials further explained that the overturn rate across all categories is approximately 30 percent, which is typical of the rate in previous years.⁶

1.5 The committee sought details about the implications of the *Tribunals Amalgamation Act 2015*, which was passed on 13 May 2015. Ms Ransome indicated that work was being undertaken to ensure the tribunal could 'present to the world as a

1 *Committee Hansard*, 25 May 2015, pp 5–6.

2 *Committee Hansard*, 25 May 2015, p. 7.

3 *Committee Hansard*, 25 May 2015, p. 5.

4 *Committee Hansard*, 25 May 2015, p. 5.

5 *Committee Hansard*, 25 May 2015, pp 6–7.

6 *Committee Hansard*, 25 May 2015, p. 7.

single organisation' on 1 July 2015.⁷ The focus of this effort primarily consists of streamlining 'back office' functions, as well as coordinating the operation of various existing registries, so that they may operate as one organisation.⁸ Whilst it was noted that it was unlikely this process would be completed in its entirety by 1 July 2015, the amalgamation was proceeding smoothly.

Australian Border Force (ABF)

1.6 Officials from both the Department of Immigration and Border Protection (DIBP) and the Australian Customs and Border Protection Services (ACBPS) detailed the measures currently being undertaken to establish the Australian Border Force (ABF). The ABF will come into operation on 1 July 2015. The stated purpose of the ABF is to manage the flow of people and goods across Australia's borders in a manner which maximises travel, trade, prosperity and social cohesion, whilst minimising threats to community safety and national security.⁹

1.7 The committee questioned the ACBPS about existing measures and processes which are employed to regulate the movement of several prohibited goods, including asbestos, illegal firearms and illicit substances. The Chief Executive Officer of the ACPBS, Mr Roman Quaedvlieg, detailed that whilst the importation of prohibited goods cannot be prevented in all cases, advanced targeting regimes exist to identify high-risks goods, industries and countries.¹⁰ Mr Quaedvlieg explained that effective customs regulation does not solely rely on greater staffing and funding numbers, but also required the application of better industry engagement, analytics, intelligence queuing and targeted forensic examination.¹¹ In relation to the detection of illicit firearms and drugs the ACPBS has increased its number of consignment inspections, as a means of implementing its 'tackling-crime initiative'.¹²

1.8 The committee inquired into the new funding arrangements for the establishment of the ABF, with a particular focus on new expenditure assigned for additional equipment and training. Mr Quaedvlieg explained that the additional funding would be directed towards investment in mobile technologies and the skills of employees in utilising these. This is designed to increase the capabilities and judgement making ability of staff operating in the field.¹³

7 *Committee Hansard*, 25 May 2015, p. 8.

8 *Committee Hansard*, 25 May 2015, p. 8.

9 *Committee Hansard*, 25 May 2015, p. 47.

10 *Committee Hansard*, 25 May 2015, p. 48.

11 *Committee Hansard*, 25 May 2015, p. 49.

12 *Committee Hansard*, 25 May 2015, pp 52–53.

13 *Committee Hansard*, 25 May 2015, p. 68.

1.9 Mr Quaedvlieg also discussed the rollout of new technology such as SmartGates, which have the capacity to collect biometrics through facial imaging.¹⁴ The utilisation of this technology will enhance customs capabilities, allowing the application of analytics to passenger manifests and assisting in the making of real-time risk assessments.¹⁵

1.10 The committee questioned both officials from the ACBPS and the DIBP on further matters, including incidents within domestic detention centres, the disciplining of staff, the implementation of new measures regarding the disclosure of information, the number of customs officials who are authorised to carry firearms, the regulation of motor vehicle imports and exports, and investigations into matters regarding Ausfreight Global Logistics.¹⁶

Operation Sovereign Borders (OSB)

1.11 The committee questioned officials from the DIBP, the ACBPS and the Joint Agency Taskforce (JATF) about the budgeting and implementation of Operation Sovereign Borders (OSB). Matters discussed included ongoing measures employed to intercept and turn-back Illegal Maritime Arrivals (IMA), the steps being taken to disrupt international people smuggling rings and the cost of conducting OSB.

1.12 The commander of the JATF, Major General Andrew Bottrell, explained in his opening statement that the primary purpose of OSB remained:

ensuring the continued safe conduct of on-water operations to prevent and deny illegal boat arrivals, the implementation of disruption and deterrence activities through transit and source countries to target people smugglers and inform the vulnerable people they would take advantage of, and support to the governments of Nauru and Papua New Guinea as they administer and control their respective processing centres.¹⁷

1.13 Major General Bottrell detailed that since 18 September 2013 there have been no successful arrivals in Australia, with 18 successful turn-backs.¹⁸ Since the additional estimates hearing in February 2015, there had been one turn-back and one take-back.¹⁹ A turn-back refers to a case where a vessel has been safely removed from Australian waters, whilst a take-back involves Australia working with a country of departure to see the safe return of passengers and crew.²⁰

14 *Committee Hansard*, 25 May 2015, p. 68.

15 *Committee Hansard*, 25 May 2015, p. 68.

16 *Committee Hansard*, 25 May 2015, pp 12, 25, 27, 32, 73.

17 *Committee Hansard*, 25 May 2015, p. 74.

18 *Committee Hansard*, 25 May 2015, p. 75.

19 *Committee Hansard*, 25 May 2015, pp 75–76.

20 *Committee Hansard*, 25 May 2015, p. 76.

1.14 The committee questioned officials about whether they had any requests from or engagements with European authorities on the methods employed in OSB, considering recent developments in the Mediterranean. The secretary of the DIBP, Mr Michael Pezzullo, indicated that there had been interest in the methods of deterrence, disruption and multi-agency cooperation which have been utilised in the Australian experience. It was explained that certain commonalities exist in the motivations and operation of international people smuggling syndicates.²¹

1.15 Further questions were raised about the ongoing funding of OSB. It was detailed that portions of OSB funding had been earmarked for measures including investment in enhancing *Ocean Shield's* operational capacity, funding for an anti-people smuggling strategic communications campaign and the provision of return assistance packages.²²

Department of Immigration and Border Protection (DIBP)

Cross-Portfolio, Corporate and General Matters

1.16 The DIBP provided the committee with details regarding cross-portfolio management of the department. Matters discussed included the measures being adopted by the DIBP to ensure the efficient delivery of its services, issues concerning internal management and the steps being taken to invest in new technology.

1.17 The committee questioned the DIBP about how it was to achieve the scheduled savings of \$270.1 million over the next four years²³ Mr Pezzullo indicated that such savings would primarily derive from the consolidation of functions such as IT, legal services, financial services and property arrangements, as well through the efficiencies arising from the greater use of technology.²⁴ It was explained that the consolidation of these functions would be due in large part to the integration of the DIBP and the ACBPS.

1.18 The committee also inquired into matters regarding the department's internal management. This included questions concerning the number of Senior Executive Service (SES) who have left the DIBP and the implications of a new dress code.²⁵ Mr Pezzullo explained that whilst some SES had departed, recruitment processes were ongoing.²⁶ In regards to the departmental dress code, the committee was assured that this was only intended to apply to ordinary professional work wear.²⁷

21 *Committee Hansard*, 25 May 2015, p. 80.

22 *Committee Hansard*, 25 May 2015, pp 51, 86–87, 93.

23 *Committee Hansard*, 25 May 2015, p. 19.

24 *Committee Hansard*, 25 May 2015, pp 19–20.

25 *Committee Hansard*, 25 May 2015, pp 22, 24–25.

26 *Committee Hansard*, 25 May 2015, p. 23

27 *Committee Hansard*, 25 May 2015, p. 25.

1.19 The DIBP was also questioned about further internal matters, including the current amount of funding assigned to its litigation caseload, the introduction of new ICT platforms, enhancement of airport security, the development of e-passports, the rollout of eGates and the enhancement of Townsville airport as an international airport.²⁸

Border Enforcement and Management

1.20 The committee questioned the DIBP on matters relating to its border enforcement policies, including the operation of its onshore and offshore detention facilities. The issues covered included the flow of correspondence to detention centres, allegations regarding sexual abuse, the number of and conditions for children in detention, the numbers of those still currently in detention and the forms of legal assistance available to those IMA's currently being processed.

1.21 The DIBP was questioned about the treatment of correspondence sent by Mr Julian Burnside QC to detainees on Nauru.²⁹ The DIBP explained that these could not be delivered for a number of reasons, including that detainees were no longer located at the centre, a number chose not to receive the correspondence and in some cases the recipient could not be clearly identified.³⁰ The standard process for delivering correspondence is handled by the centre service provider, letters are not directly distributed to the addressee but they are provided an opportunity to come forward and collect any mail.³¹

1.22 The committee questioned DIBP officials about several allegations regarding incidents in detention centres. This included allegations regarding the production of crystal metamphetamine in the Maribyrnong detention facility.³² It was explained that vulnerabilities exist in any system and that measures were being taken to reduce the potential inflow of contraband.³³ Questions were also raised regarding allegations that have arisen from the Royal Commission into Institutional Child Sexual Abuse. Mr Pezzullo indicated that where situation reports are issued these matters are investigated.³⁴ The DIBP also stated that officials were cooperating in relation to historical allegations raised by the royal commission.³⁵

28 *Committee Hansard*, 25 May 2015, pp 35, 36, 37, 38, 39–40.

29 *Committee Hansard*, 26 May 2015, pp 5-11.

30 *Committee Hansard*, 26 May 2015, p. 5.

31 *Committee Hansard*, 26 May 2015, p. 5.

32 *Committee Hansard*, 25 May 2015, p. 59.

33 *Committee Hansard*, 26 May 2015, pp 59–60.

34 *Committee Hansard*, 25 May 2015, p. 12.

35 *Committee Hansard*, 26 May 2015, p. 14.

1.23 The DIBP explained the measures taken with regard to children in detention, stating in relation to cases of extreme risk that:

Obviously, there is a significant amount of work that goes into monitoring and managing the welfare of children, particularly children who are determined to be at risk which involves, obviously, healthcare professionals being brought in to manage and help plan in relation to how we manage those risks in the detention environment. Our intention always is to get children out of detention, if we can. That is what we want to do, is get the children out of detention, particularly children at risk. In cases where we are unable to do that because one of the family members is being held due to an adverse security assessment, for example, and the family do not want to be split up then we have got to manage that within the detention environment.³⁶

1.24 The committee pursued questions regarding measures being implemented to fast-track the legacy caseload of IMA's. Officials explained that fast-tracked procedures apply where an applicant is requested to provide the DIBP with further information or a response to adverse information. It was explained that:

Essentially, if a fast-track applicant is found not to engage Australia's protection obligations, departmental decision makers will apply additional factors to determine if the applicant is an excluded fast-track review applicant. Subsection 5(1) of the Migration Act defines who is an excluded fast-track review applicant. It includes, among other things, persons who have made manifestly unfounded claims for asylum; persons who have presented bogus documents, without a reasonable explanation; and persons who have previously had an application for protection refused in a third country. If found to be an excluded fast-track review applicant, the fast-track applicants case will be finalised and they will not have access to merits review.³⁷

1.25 Officials faced questioning about the numbers of those still currently held in detention facilities. The legacy caseload of those in detention at the time of this hearing was 30,448.³⁸ Mr Pezullo explained that whilst the total number of people in detention had reduced, the average time for processing had increased. It was detailed that:

...the earlier number was smaller because there was a larger group, just in mathematical terms, that was being put through the permanent protection process, and now we are to a group that has more complications associated with it. So the number in detention is smaller, but the average length is increasing.³⁹

36 *Committee Hansard*, 26 May 2015, p. 75.

37 *Committee Hansard*, 26 May 2015, p. 15.

38 *Committee Hansard*, 26 May 2015, p. 31.

39 *Committee Hansard*, 26 May 2015, p. 24.

1.26 Questions were also raised regarding the level of legal assistance afforded to people whose claims are being processed. It was explained that the most assistance comes through the Primary Application Assistance Scheme, which is applicable only in cases of particular vulnerability.⁴⁰ It was explained that:

Last year, on 14 March 2014, the former minister for immigration removed access to the Immigration Advice and Application Assistance Scheme for illegal arrivals. At around the same time the minister also approved the formation of the primary application information services case to assist the most vulnerable illegal arrivals to apply for a protection visa. The service is provided under the pace to vulnerable cases. Essentially they are typically provided by a registered migration agent or lawyer and include that they meet the applicant to explain the agent-client relationship, explain the protection claims process, get claims and documentation to support an application for a protection visa—all the immigration and legal assistance to these vulnerable cases in the IMA legacy caseload.⁴¹

1.27 Further matters which were discussed with the committee included the training standards required for Serco guards, the budget funding allocated for offshore resettlement programs, the number of legal settlement claims made by the DIBP and the circumstances and conditions in which departmental staff operate.⁴² Questions were also raised about regional processing on Nauru; however, this line of questioning was limited by the standing orders, which stipulate a committee shall take care not to inquire into any matters which are being examined by a select committee of the Senate appointed to inquire into such matters.⁴³

Visas and Citizenship Programmes

1.28 The committee raised questions in relation to outcome 2, which seeks to 'support a prosperous and inclusive society through the effective management of the visa and citizenship programmes.'⁴⁴ Matters discussed included newly proposed citizenship laws, the implementation of new visa arrangements, the management of existing working, student and humanitarian visas, and the oversight of visa fraud cases.

1.29 Questions were raised about the government's proposal regarding the revocation of an individual's citizenship in relation to terrorist activities. Departmental officials detailed the existing legal framework regulating the revocation of citizenship, noting that a person's Australian citizenship automatically ceases by operation of law if they are the citizen of another country and serve on the armed forces of a country at

40 *Committee Hansard*, 26 May 2015, p. 36.

41 *Committee Hansard*, 26 May 2015, p. 30.

42 *Committee Hansard*, 26 May 2015, pp 41, 42–43.

43 *Committee Hansard*, 26 May 2015, p. 13.

44 *Committee Hansard*, 26 May 2015, p. 2.

war with Australia. The committee was informed that specific details regarding the current proposal were still under consideration.⁴⁵

1.30 The DIBP also explained the reform measures being implemented to streamline the visa processing system. Information was provided regarding the introduction of the new class of Safe Haven Enterprise Visa (SHEV). This class of visa is a means of granting IMA's a pathway to permanent residency if they commit to living, learning or earning in a regional area of Australia for over three and a half years out of a five year period. Officials detailed that the SHEV scheme was designed to assist with the processing of the IMA legacy caseload.⁴⁶

1.31 The committee inquired into which categories of visa applications were expected to rise. Mr Pezzullo indicated that the DIBP was planning to issue a record five million visas for visitor and temporary residency purposes this year.⁴⁷ The DIBP further elaborated that there had been significant growth in the number of tourist, visitor and student visas.⁴⁸ With the increase in the number of visa's granted, the department's focus had been on monitoring breaches of visa conditions which are also expected to increase as a matter of scale.⁴⁹

1.32 Further questions were asked about the steps being taken by the DIBP in relation to the management of existing working, student and humanitarian visa programmes. The DIBP elaborated on the conditions and oversight applied to 457 working visas, the level of Australia's current humanitarian intake and the measures in place to ensure the integrity of certified education providers under the student visa program.⁵⁰ Specific questions were put to the DIBP about cases where visas were denied due to circumstances of fraud. Departmental officials clarified that in the case of student visas, 771 applications had been refused on the grounds of fraud at the time of the hearing. This was out of a total of 250,000 grants.⁵¹

1.33 Other matters discussed included the amount of funding allocated to combatting human trafficking, the compliance oversight of labour hire organisations, the continued management of settlement programs and the methods of appointment to and operation of the Ministers Council on Asylum Seekers and Detention.⁵²

45 *Committee Hansard*, 26 May 2015, p. 65.

46 *Committee Hansard*, 25 May 2015, p. 21.

47 *Committee Hansard*, 25 May 2015, p. 9.

48 *Committee Hansard*, 25 May 2015, p. 26.

49 *Committee Hansard*, 25 May 2015, p. 10.

50 *Committee Hansard*, 26 May 2015, p. 66.

51 *Committee Hansard*, 26 May 2015, p. 67.

52 *Committee Hansard*, 25 May 2015, pp 16, 27, 44–45, 71.