

For the *Walkley Magazine*, printed in the March 2012 issue, by National Communications Manager Sandi Logan

No gag – but a duty of care

Critics of new guidelines for media entering immigration detention centres aren't seeing the whole picture, says Sandi Logan.

The media has a strong interest in gaining easier access to immigration detention centres, and the Department of Immigration and Citizenship (DIAC) recognises the community's right to know. It's also mindful that denying access to detention facilities can give rise to unfounded allegations and inaccurate reports.

But its recently revised media access policy, available at www.immi.gov.au/media/media-access/, was never meant to be an unrestricted, access-all-areas pass. Rather, it seeks to strike the right balance between two important ideals: freedom of expression and freedom of the press on one hand, and the right to privacy of all people, including immigration detainees. So far there is every indication working journalists and photographers with *The Australian*, *The Daily Telegraph*, *Mount Barker Courier*, *Melbourne Age*, *Neue Zürcher Zeitung*, *SBS TV News*, *ABC News*, *ABC Four Corners*, *Network Seven (Border Security)*, *Seven News*, *Nine News*, and *TEN News* have found the policy practical and workable.

The policy is consistent with those of other agencies with a duty of care to vulnerable people. There are similar controls when the media enters hospitals, schools, aged care hostels or prisons.

Media seeking access to immigration detention facilities have *always* needed to sign on the dotted line. Deeds of agreement between the department and the media date back to 2000, and work on the latest version began in July 2011, at the request of the immigration minister, Chris Bowen. It was launched on October 21, 2011.

The department consulted, on a confidential basis, with a number of senior and experienced journalists and journalism academics before releasing the latest deed of agreement. Feedback varied from positive, to allegations the deed was overly legalistic and restrictive.

However it's important to note this new access policy is simply an update of existing arrangements. Yes, it imposes on the media a set of legal obligations to ensure the department meets its duty of care to protect the privacy of detainees, but importantly, it does not gag how a visit is reported.

The ABC's *Four Corners* was the first to sign the new deed and toured Sydney's high-security Villawood Immigration Detention Centre (IDC) in late October. Since then, we've conducted tours of Maribyrnong IDC, Inverbrackie and Wickham Point IDC. Further facilities will be opened to the media through 2012. The department ensures a spokesman is there to answer questions on-camera.

So far, around 25 journalists, photographers and camera-sound operators have signed the agreement and entered our facilities. While media would of course like unfettered access, feedback from participants so far is that the visits have been far less restrictive than they expected.

The department's position is that it has done what it can to allow media access, while ensuring it still protects the privacy of detainees, which it is required to do under law.

While some members of the media have asserted the access policy is still akin to censorship, we have never made the deed out to be something it is not. This access is about the facilities, their level of amenity and the programs that are offered. It's an opportunity to see daily life across a variety of detention facilities.

The department also tries to protect against *sur place* claims – this is when someone can rely on events subsequent to their departure from their home country to form the basis of, or addendum to, their protection claim. The most common reason for a *sur place* claim is **public identification in the media**. In the department's view, we should not be creating opportunities (through *sur place*) for people to engage Australia's protection obligations when they otherwise might not.

It's true that people in immigration detention are free to telephone media representatives or enter into email conversations with them. However, the argument that because the department allows this, unrestricted access to facilities should be afforded, falls flat.

If someone is speaking on the telephone of their own free will, it is not tantamount to allowing recording devices into a detention facility without controls, which would clearly fall short of the department's duty of care. The department, along with the United Nations High Commissioner for Refugees and other peak bodies, has made consistent representations to media outlets about the risks in identifying asylum seekers [relatives in the countries from which they have fled may face retribution]. We have been ignored.

Australian media outlets are now treating asylum seekers with a different set of rules and standards to other sections of the population. Identifying children in a school environment without parental consent, naming minors, detailing abuse claims or violating medical privacy (particularly in relation to mental health and self-harm incidents) are all issues where the media has traditionally adhered to a level of self-regulation, but when it comes to our clients, is regrettably absent.

This identification is often gratuitous.

Ask yourself this question: "If you were in the department's shoes, and you owed a duty of care, would you offer unrestricted access to immigration detention facilities?" Only the foolhardy would say "yes".

And when you are talking about vulnerable people and a degree of recalcitrance in some quarters of the media, DIAC is not in the business of being foolhardy.

Sandi Logan is the national communications manager at DIAC.

[suggested pull quotes]

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