

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGETS ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(107) Output 1.2: Refugee Humanitarian Entry and Stay

Senator Sherry (L&C 107) asked of the 10% who did not prove refugee claims [for unauthorised boat arrivals who applied for a Protection Visa between July 1999 and June 2002]:

- (1) What was the actual number of people found not to be refugees?
- (2) What were the primary reasons for their claims failing?
- (3) How many were able to show discrimination or threat, not amounting to persecution under Geneva convention - ie enough to make them flee, but not enough to gain the protection in Australia?
- (4) How many had claims of persecution which were not accepted on the basis that situations had changed since they fled - ie Afghans whose claims were based on persecution by the Taliban?
- (5) What countries were the rest of this ten percent from?
- (6) Are these countries that the Department would normally have expected to not be source countries for successful refugee applications?
- (7) How long did it take to assess the rest of these people as failing refugee claims?
- (8) Has the Department been developing any more cost effective ways of ensuring that the handful of non-refugees are sorted from refugees?

Answer:

- (1) As at 30 June 2003, some 900 unauthorised boat arrivals who had applied for a Protection Visa between July 1999 and June 2002 were found not to require Australia's protection at primary decision and following merits review.
- (2)(3) DIMIA systems do not record this information in a reportable form.
& (4)

- (5) The nationalities of those unauthorised boat arrivals who applied for a Protection Visa which has been refused are set out below:

Citizenship
AFGHANISTAN
ALGERIA
BANGLADESH
CHINA, PEOPLES REPUBLIC OF
EGYPT, ARAB REPUBLIC OF
INDIA
INDONESIA
IRAN
IRAQ
JORDAN
KUWAIT
LEBANON
MOROCCO
NEPAL
PAKISTAN (ISLAMIC REPUBLIC)
PALESTINIAN AUTHORITY
PHILIPPINES
SIERRA LEONE
SRI LANKA
STATELESS
SUDAN
SYRIA
TUNISIA
TURKEY
VIETNAM
YEMEN

Source: ICSE data as at 30/6/03.

- (6) The department does not prejudge Protection Visa applicants based on historical approval rates. Each application is considered objectively on its own merits.
- (7) Data as at 30 June 2003 indicates that the average processing time for a primary decision for this group of Protection Visa applicants was some 92 days. This processing time includes delays outside the department's control, such as character and security checking of applicants in other countries.
- (8) In recent years, the department has been constantly reviewing, streamlining and strengthening the Protection Visa process to ensure speedy, cost-effective and rigorous processing of Protection Visa applications made by unauthorised boat arrivals. The key focus has been on identifying and eliminating bottlenecks, streamlining and front-loading procedures whenever possible.

Examples of how procedures have been improved include:

- the commissioning of identity/nationality fraud, language analysis and re-entry/residence checks as early as possible after the individual enters detention;
- integrating security checking work into initial interviews on arrival of the individual in detention;
- establishing streamlined medical checking arrangements as soon as the individual enters detention;
- overhauling arrangements for deployment of Immigration Advice and Application Assistance providers and PV decision-makers to immigration detention facilities ensuring speedy high volume processing of claims;
- providing specialised training and detailed country research to case managers to support speedy and reliable decision-making;
- establishing a boat processing management team in Western Australia and in DIMIA Central Office to oversee all aspects of processing; and
- ensuring sufficient numbers of suitably trained case managers at all times to process boat arrivals as a priority and without delay.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(108) Output 1.2 and 1.3: Refugee and Humanitarian Entry and Stay and Enforcement of Immigration Law

Senator Sherry asked:

Children in Detention

- (1) Can the Minister advise how many of the successful nine out of 10 claims for protection were families with children?
- (2) Was there a differential success rate between people arriving with children and those arriving without children?
- (3) How many court cases is DIMIA currently involved in related to the detention of children?
- (4) What sort of resourcing is being made available within the Department to deal with these cases?
- (5) Is there an upper limit that the Government is prepared to spend defending their decision to keep children in detention?

Answer:

- (1) Available systems information indicates that for unauthorised arrival cases over the period 1999-02, some 2495 persons granted protection visas arrived as families with children.
- (2) Yes. Approval rates for those people arriving without family were marginally lower than for those arriving as part of a family. The difference varies somewhat from year to year but over the years 1999-02, it was in the order of 5%.
- (3) The Department has received 8 applications relating to 20 children (in detention) challenging the lawfulness of their detention.
- (4) The Department is relying on its existing budgetary funds to progress these matters.
- (5) See answer to part (4). DIMIA is able to follow established budgetary processes should additional funds be required.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(109) Output 1.2 and 1.3: Refugee and Humanitarian Entry and Stay and Enforcement of Immigration Law

Senator Sherry asked:

Iranian Asylum Seekers

- a) How many Iranian asylum seekers have been advised of their likely deportation to Iran?
- b) How many Iranian detainees have taken a voluntary package for repatriation? How many have refused?
- c) Has the agreement with the Iranian government been invoked?
- d) Now that Australia has met its side of the bargain and provided the new class of work visas, how many involuntary returns has Iran agreed to?
- e) How many of the Iranians in detention now are of the Sabbean Mandaean sect?
- f) On what grounds have people of the Sabbean Mandaean sect been denied refugee status?
- g) Is there an assessment of the extent of the discrimination they face and how that differs from persecution?
- h) Have other countries provided refugee status to people of the Sabbean Mandaean sect?
- i) Are there any queues for migration or refugee resettlement that people of the Sabbean Mandaean sect can join?
- j) Has the Department consulted with DFAT about the enforceability of the MOU with Iran?
- k) Does DIMIA have a view as to whether the agreements in the MOU amount to the status of a treaty between the two countries? Has this been endorsed by DFAT? If not, what are the elements which make it not a treaty? If so, has it been provided to the Senate's scrutiny of treaties committee?

Answer:

- a) As at 20 November 2003, 117 Iranians had received letters offering them a reintegration package, which is subject to them returning to Iran voluntarily. The letter advises that should they not accept voluntary return within 28 days, plans for their involuntary removal will begin and that they may be removed from Australia as soon as practicable.
- b) As at 20 November 2003, 26 Iranian detainees had accepted the reintegration assistance package. A total of 87 had refused the offer.

c) Yes.

d) Two Iranian nationals have been returned involuntarily to Iran.

e) As at 20 November 2003, there were 55 Iranians who claim to be of Sabeian Mandaean faith in immigration detention in Australia.

f) Departmental systems do not record in a reportable form the numbers of individual applications where visa refusal was attributable to particular claims.

All protection visa applications are decided by the Department on a case-by-case basis in accordance with the provisions of the *Migration Act 1958* and the 1951 United Nations Convention Relating to the Status of Refugees, as amended by the 1967 Refugees Protocol. The Refugees Convention provides, at Article 1A(2), that a “refugee” is a person who:

“...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country...”

Each protection visa application will have its own particular reasons for approval or refusal.

g) The protection visa assessment process includes consideration of whether any claimed discrimination, taken cumulatively, amounts to persecution. If discrimination does not amount to persecution, it does not establish a basis for grant of a protection visa.

In reaching their decisions, Departmental and Refugee Review Tribunal (RRT) decision-makers take into account current country information from independent agencies such as the Department of Foreign Affairs and Trade and the United States State Department.

Broader issues of discrimination, which do not amount to persecution, may raise public interest considerations warranting the use of the non-compellable Ministerial power to substitute for an RRT decision, a decision more favourable to the individual. This is a matter for the Minister should a protection visa refusal be affirmed by the RRT.

h) Countries, including Australia, normally provide their publicly available asylum statistics on the basis of country of origin. This means we can only provide figures by nationality.

Globally dispersed Mandaean associations and their respective publications do not distinguish between former refugees and other migrant categories amongst their membership.

i) Australia has a non-discriminatory immigration policy and any person regardless of race, religion, nationality or other status can apply for entry to Australia, under the Migration or Humanitarian Programs.

Applications for a visa under the Migration or Humanitarian Programs may be lodged at any of Australia's 72 immigration offices, located in 60 countries, around the world (personally or by post or courier).

People outside their country of nationality can seek asylum in the 145 countries that are signatories to either or both the 1951 Convention or 1967 Protocol relating to the status of refugees, or protection through 277 UNHCR branch and field offices around the world.

j) The MOU is in operation and, as noted above, action has already occurred pursuant to it.

k) DIMIA considers the MOU has less than treaty status. This view is endorsed by DFAT. The MOU is not a treaty because it:

- is not intended to be legally binding and is not legally binding under international law; and
- does not incorporate treaty language.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(110) Output 1.2: Refugee and Humanitarian Entry and Stay, 1.3: Enforcement of Immigration Law and 1.5: Offshore Asylum Seeker Management

Senator Sherry asked:

Processing of Refugee Claims

Figures in Department's annual report for 2002-2003 show that 90% of boat arrivals between 1999 and 2002 were refugees.

- (1) Can the department please highlight for the committee how many people arrived and how many have been given protection?
- (2) How many of these were given temporary protection?
- (3) What was the average length of time spent in detention before claims were finalised and protection granted?
- (4) What was the cost of detaining those people who were eventually found to be refugees over this period?
- (5) What was the cost in 2002-03, and estimate for 2003-04, of operating detention centres both here and off-shore?

Answer:

- (1) Departmental records show a total of 9589 persons arrived as onshore unauthorised boat arrivals in the three program years from July 1999 to June 2002. Of these, 8320 (including children born in detention to the PV applicants) were granted a protection visa.
- (2) As at 30 June 2003, a total of 8090 temporary protection visas had been granted to this group of arrivals (which includes their children born in detention).
- (3) The average length of time spent in detention before the decision to grant a protection visa was 182 days. This would include any time spent in detention before application lodgement.
- (4) It is not possible to precisely breakdown costs in the way asked in the question.
- (5) The total cost of operating those IRPCs for the 2002-03 financial year period was \$79.1M (this figure includes operating costs for the Christmas Island

IRPC as this facility has been used for both offshore entry persons and unauthorised boat arrivals).

The budget allocation for operating IRPCs for the 2003-04 financial year is \$62.3M (this figure includes operating costs for the Christmas Island IRPC).

In relation to persons accommodated in the IOM run offshore processing centres in Nauru and Papua New Guinea (Manus Province), the costs in 2002-03 were \$68.2M. The departmental and administered appropriations for Offshore Management of Asylum Seekers for the 2003-04 financial year total \$133.4M which, in the absence of arrivals, should be significantly under-expended.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(111) Output 1.3: Enforcement of Immigration Law

Senator Sherry asked:

In relation to the Kadem Family (who have just agreed to return to Iraq despite ongoing fears of persecution) please give details of the type of documentation they travelled on when they first left the country, and the documentation they travelled on the second time.

Answer:

The Kadem family has only left Australia on one occasion. They travelled on Australian Certificates of Identity, which were endorsed with visas issued by the Vietnamese Consulate.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(112) Output 1.3: Enforcement of Immigration Law

Senator Sherry asked:

Detention Centre Management

1. How many riots have occurred at detention centres since March 1996?
2. How many other serious incidents have been reported over this time?
3. How does this record compare to the previous five years?

Answer:

In order to answer this question a manual examination of many departmental files would be required. This would be a substantial and unreasonable diversion of the department's resources from its normal operation.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 NOVEMBER 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(113) Output 1.3: Enforcement of Immigration Law

Senator Sherry asked:

Vietnamese on Christmas Island

- (1) Is it true that all Vietnamese people on Christmas Island have had their claims refused?
- (2) On what basis?
- (3) Did Minister Ruddock's comments when they first arrived act in any way to pre-judge the decision?

Answer:

- (1) Yes.
- (2) They were found not to be owed protection obligations by Australia under the Refugees Convention and accordingly did not satisfy the criteria for granting of a protection visa.
- (3) Department decision-makers are required under the Migration Act to grant a visa where they are satisfied that the applicant meets the relevant criteria. No directions were given to any of the decision-makers assessing the protection visa applications of this group as to what decision they should make.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(114) Output 1.3: Enforcement of Immigration Law

Senator Sherry asked:

Alternative Detention Facilities:

- (1) Why has the Government made a commitment to providing further alternative detention premises for children and their mothers? What are the reasons for excluding male family members from these alternative programs?
- (2) How many children have been accommodated in alternative accommodation since the announcement in December 2002? How many have remained in high security detention during this time?
- (3) Has there been a formal evaluation made of the success of this trial? Is this publicly available?
- (4) What is the current status of the alternative housing project at Baxter? How many children will be housed here?
- (5) What security measures are in place?
- (6) What are the estimated daily/weekly costs of running this alternative detention model? How many staff will be employed?
- (7) Are there any other plans in train for similar alternative detention models at other locations? Port Hedland?
- (8) Has the Department responded to the Joint Standing Committee report into conditions at detention centres tabled in October 2003? Can we have a copy of the response.

Answer:

- (1) Within the mandatory detention framework and consistent with the *Migration Act 1958*, the Government is continuing to take innovative approaches to alternative places of detention that meet the objectives of having people available for processing and, if required, removal.

Alternative detention arrangements, such as Residential Housing Projects (RHPs), allow women and children to assume greater responsibility over their own lives, while

still remaining formally in detention and available for processing and, if necessary, removal from Australia.

The RHPs were developed to give women and children who are likely to spend not short periods in detention the option of being accommodated in family-style accommodation, while remaining in detention. The success of the trial RHP arrangement at Woomera in which only women and children participated was a strong indicator for providing similar arrangements in other locations.

Any male minor is prima facie eligible for placement in a RHP along with his mother and minor siblings. This is, however, subject to operational issues particular to the detainee and/or the smooth management of the RHP. It is Government policy not to consider adult males for participation at RHPs.

(2) As at 25 November 2003, departmental records indicate that since December 2002 a total of 119 children had been accommodated in alternative detention arrangements.

Place of alternative detention	No of children
Woomera RHP (former residents released)	65
Woomera RHP (returned to IRPC/IDF)	9
Woomera RHP (current residents)	5
Port Augusta RHP (current residents)	11
Port Hedland RHP (current residents)	2
Community alternative detention	27
Total	119

Immigration Detention Facilities (IDFs) are not considered 'high security detention.' On 25 November 2003, there were 84 children accommodated at IDFs.

(3) An evaluation of the Woomera RHP was undertaken by an external consultant in early 2002 and a public version of the report, produced in August 2002, is available on Senator Vanstone's website. The evaluation report concluded that the trial was a success.

(4) At the time the question was asked, the Port Augusta RHP was not yet operational. On 19 November 2003, the first seven detainees, consisting of two adults and five children, moved into the Port Augusta RHP. As at 2 December 2003 there were seven adults and 11 children residing at the RHP. Other eligible detainees will take up residence progressively over the coming weeks.

The Port Augusta RHP has a medium term capacity of around 48 persons (including surge capacity). The number of women and children detainees depends on their eligibility, their volunteering to participate and family composition.

(5) The detention services provider employs staff who are responsible for providing 24 hour care and supervision of residents living at the new Port Augusta RHP.

A sophisticated and deliberately discreet security system has been installed to monitor outdoor areas only. The RHP is surrounded by standard colourbond fencing matching fences of the neighbouring houses. Most of the fencing was pre-existing and in situ.

(6) For a notional 40 places, the estimated running cost for the Port Augusta RHP is \$10 958 per day or \$76 923 per week in the first year.

The contract between DIMIA and the Detention Services Provider is focused on outcomes, not inputs. The department's expectation is that the services provider has sufficient staff (and adjusts staff levels) to manage the needs of detainees at any given time in accordance with the Immigration Detention Standards (IDS). In this context, staff numbers will fluctuate, as will numbers and needs of detainees, and there could be up to 30 staff employed at the Port Augusta RHP – depending on occupancy levels.

(7) A RHP annexed to Port Hedland Immigration Reception and Processing Centre has been operational since 19 September 2003. The Government continues to explore opportunities to establish alternative detention arrangements in the community, including a further RHP as an adjunct to Villawood Immigration Detention Centre.

(8) The Department welcomes the input and views of the Joint Standing Committee on Foreign Affairs, Defence and Trade's (JSCFADT) Human Rights Sub-Committee. The Department has examined the report carefully and is currently preparing a response to the JSCFADT Sub-Committee.

A copy of the Department's response will be made available to the Senate Legal and Constitutional Legislation Committee when it is sent to the JSCFADT Sub-Committee.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(115) Output 1.3: Enforcement of Immigration Law

Senator Sherry asked:

Afghan Asylum Seekers

- (1) How many have returned since the reintegration package for Afghan refugees was announced on 16 December 2002?
- (2) How many people returned under the initial \$2000 package, and how many since then on the lesser amount?
- (3) How many Afghan returnees under the government's reintegration package have left for a neighbouring country?
- (4) Is the government aware of the reasons for this happening, ie reunion with families, fear of persecution?
- (5) Which countries did they go to (and which countries are now shouldering responsibility for their care)?

Answer:

(1) The announcement on 16 December 2002 related to the reintegration assistance package for Afghan Temporary Protection Visa holders. The option to accept this package expired on 30 June 2003. As at 20 November 2003, 32 Afghan Temporary Protection Visa holders have returned under the package. Under another reintegration package offered to detainees in May 2002, 60 Afghans have returned voluntarily with reintegration assistance from onshore detention facilities. A further 389 Afghans have returned voluntarily from the Offshore Processing Centres on Nauru.

(2) The reintegration assistance packages provide reintegration assistance of A\$2,000 for each individual, or up to A\$10,000 for a family. As at 20 November 2003, a total of 32 Afghan Temporary Protection Visa holders, 60 Afghan detainees from onshore detention facilities, and a further 389 Afghan asylum seekers from the Offshore Processing Centres (OPCs) on Nauru have returned under the different packages. There has been no subsequent package with a lower amount.

Asylum seekers located in the OPCs on Nauru who decide not to accept the Australian Government's reintegration package are still eligible for financial

assistance of up to A\$1000 per person from the International Organisation for Migration. To date 12 Afghans have voluntarily returned to Afghanistan from Nauru with this assistance.

(3) Only one Afghan returnee has departed with the reintegration assistance to a country other than Afghanistan. All the other Afghans have returned to Afghanistan. Subsequent movements of returnees are not monitored.

(4) and (5) The individual referred to in the answer to part (3) returned to Turkey for reunion with his family.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(116) Output 1.3: Enforcement of Immigration Law

Senator Sherry asked:

Detention Centre Management

1. Since February 1998 to the present on how many occasions have DIMIA served default notices pursuant to the Detention Services Agreements on Australasian Correctional Services/Australasian Correctional Management (ACS/ACM)? What were the reasons and particular IDCs that the default notices pertained to?
2. Will the Minister now tender:
 - The default notices;
 - ACM/ACS's cure plans in response to the default notices;
 - DIMIA's assessment of ACS/ACM's cure plans;
 - All documents demonstrating DIMIA's monitoring and execution of the defaults notices.
3. In relation to DIMIA's FoI responses to the BRW, does ACM claim that it's business reputation would cause unreasonable harm to its reputation or is this a claim that DIMIA asserts on behalf of ACM?
4. On what date was the Knowledge Enterprises report commissioned by DIMIA on 18 October 2000 on breakouts from the WIRPC and additional incidents provided to (a) DIMIA and specifically (b) the Secretary of DIMIA, William Farmer?
5. What action did DIMIA undertake to assess and implement the findings and recommendations of the Knowledge Enterprises report?
6. What other reports did Knowledge Enterprises undertake for an on behalf of DIMIA? What were the findings and recommendations of those subsequent reports and when were they received by DIMIA?
7. What action did DIMIA undertake to assess and implement the findings and recommendations of these subsequent Knowledge Enterprises report?
8. Will the Minister now tender:

- All the Knowledge Enterprises reports into immigration detention centres from October 2000 onwards;
 - All documents encompassing DIMIA's assessment and implementation of the findings and recommendations of the said Knowledge Enterprises reports.
9. What is the total dollar value of performance-linked fees paid by DIMIA to ACS/ACM since October 1997 to the present?
 10. What are the actual and projected fees paid to ACS/ACM by DIMIA from October 1997 to January 27, 2004?
 11. Has or is DIMIA's monitoring of compliance and execution of the ACS Detention Services Agreement ever been subject to an external and independent review by either external consultants, the ANAO or any other body or person since October 1997 to the present?
 12. On whose insistence are parts of the new detention services contract between Group 4 Falck Global Solutions and the Commonwealth of Australia (DIMIA) deemed to be 'commercial in confidence': Group 4 and/or DIMIA?
 13. What assessments has DIMIA undertaken of the findings, comments and recommendations of the NSW Deputy State Coroner, Carl Milovanovich, into the death at Villawood IDC on 26 September 2001 of Ms Puongtong Simapalee?
 14. Has DIMIA implemented the D/S Coroner's recommendations and comments and how?
 15. Has ACS/ACM and/or any employee of ACM suffered any penalty on the basis of their treatment of Ms Simapalee at Villawood IDC as disclosed in the coronial inquiry into her death?

Answer:

1. It is a matter on the public record that one default notice was issued. The remaining information sought is considered to be commercial-in-confidence.
2. On 16 October, the Minister responded to a Senate Order to produce documents. While acknowledging a requirement and importance for public accountability, a decision was made not to produce the documents relating to the default notice and cure plan. An offer to provide a private briefing to interested Senators was made available and may still be provided. The remaining information sought is considered to be commercial-in-confidence.
3. The Freedom of Information Act requires the Department to consult with interested third parties which may be affected by the release of documents. The decision not to release information was taken by the decision maker under the provisions of the Freedom of Information Act.

4. The report was presented to the Department on or about 23 February 2001. The report was addressed and presented to Ms Philippa Godwin as the officer with overall responsibility for the operation of the detention centres at that time. The date on which the report may have been provided to the Secretary is not documented.
5. The findings and recommendations were discussed and considered within the Department. Since the Minister has declined to table the report, it is not appropriate that those findings and recommendations and actions taken by the Department are now released in this forum. An offer to provide a private briefing has been made in relation to this document and is still available to interested Senators. The remaining information sought is considered to be commercial-in-confidence.
6. The information sought is considered to be commercial-in-confidence. The reports contain information, which have security implications for the operation of the detention centres and/or information of an in-confidence nature. In line with the Minister's decision on the report concerning the findings and recommendations of the report at Question 5, it is not considered appropriate to release this information in this forum.
7. The reports are provided in draft form for consideration by the Department to ensure that the issues have been fully considered and identify whether further consideration needs to be taken into other matters which may have been identified in the preparation of the report.

Once this process has been finalised and where necessary, the report is then discussed with the Detention Service Provider and the report finalised. Depending on the nature of the report, the Department will then assess and implement what action it needs to take in respect of the findings and recommendations.

The information sought is considered to be commercial-in-confidence.

8. The reports by Knowledge Enterprises generally address security issues and or delivery standards provided by the Detention Services Provider. The information sought is considered to be commercial-in-confidence.
9. The information sought is considered to be commercial-in-confidence.
10. The actual fees paid to Australasian Correctional Services Pty Ltd to 2 February 2004 are \$508.5 million. The projected amount to the end of the contract is \$514.1 million.
11. The Australian National Audit Office is currently undertaking a performance audit in accordance with Section 15 of the Auditor-General Act 1997. The objective of the audit is 'To assess the effectiveness of DIMIA's management of the detention centre contracts'.
12. Those clauses of the detention services contract made commercial in confidence are the result of agreements made between the parties during contract

negotiations with Group 4 Falck. In determining those clauses, the criteria for testing whether information should be kept confidential issued by the Department of Finance in February 2003 were adopted and applied.

13. The Department assessed the Deputy State Coroner's findings and recommendations together with the detention services provider. ACM has responded to each of the recommendations. ACM advises that the Detention Services Health Services Operating Manual was reissued in August 2002 prior to the issue of the hearing and Deputy State Coroner's report in which medical procedures were revised, particularly with regard to the treatment of incoming detainees with a serious drug addiction or withdrawal symptoms.

This includes hospital assessment of detainees with similar symptoms of drug withdrawal. Where the hospital deems that the detainee can be adequately cared for outside hospital, then that advice will be followed and treatment would resume at the centre.

The Deputy State Coroner, in his recommendations, stated that evidence at the Inquest suggested that the use of Largactil for drug withdrawal was not appropriate and that immediate steps should be taken to withdraw that drug for that specific use.

ACM has advised that Largactil is not listed as recommended medication management in its Adult Emergency Guidelines and Nursing Protocol No 16, Drug and Alcohol Withdrawal Regimen re-issued in June 2002. However, all medication used in the treatment of detainees is prescribed by an appropriately qualified medical practitioner, based on clinical indications and findings. A medical practitioner will reserve the right to order such medication as they see fit and appropriate in the circumstances of each case.

The Deputy State Coroner's second recommendation was that a directive be issued to all medical staff emphasising that directions given by treating Doctors and or Nursing Staff should be comprehensively noted in the medical dies and a detailed and chronological record must be kept of vital observations.

ACM advises that the Detention Services Health Services Operating Manual was reissued in August 2002. The Manual includes policies to ensure that similar criticisms made in this case of inadequate medical records cannot be made in future.

ACM concurs with the Deputy State Coroner's findings that it is inappropriate for detention officers to take medical observations. ACM advised that this practice is not in place in detention centres. Detention officers do record 'At Risk Watch Logs' in accordance with operating procedures and that these are not medical observations.

14. The Department agrees with these measures and as part of its general contract management, monitors the provision of health services and this includes monitoring detainee health records. These audits are undertaken by appropriately qualified personnel.

15. The information sought is considered to be commercial-in-confidence.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(117) Output 1.5: Offshore Asylum Seeker Management

Senator Sherry asked:

- (1) Please provide updates on the number of people currently in detention centres on Nauru and Manus Island.
- (2) Are reports that one man remained on Manus Island after the detention centre there was officially closed accurate? Where is this man now? Who was responsible for his detention on Manus Island? What has happened to his claim for asylum?
- (3) How many people on Nauru have had their claims fully processed? Of these how many are eligible for protection in Australia? How many are waiting return to another country?
- (4) What is the Department's estimate of how much longer Nauru will be operational as a detention centre?
- (5) Is there any intention to move the remaining detainees to Australian detention centres once their numbers fall below a certain level? If so, what would be considered the point at which maintaining a centre in Nauru is financially unviable?
- (6) How much does it cost to maintain the IDC on Nauru (per day, per week, per month, per year?)

Answer:

- (1) Residents of the Offshore Processing Centre (OPC) in Nauru and PNG are not held in detention, they are accommodated in facilities that are administered by the International Organization for Migration (IOM), and hold special purpose visas issued by either the governments of Nauru or Papua New Guinea (PNG).

Data showing the composition of the centre was tabled during the discussion at Senate Estimates. There are currently 277 persons resident in the OPC in Nauru. Australia does not currently have any of its case-load accommodated at the Manus OPC, but the PNG Government is accommodating one person at this facility.

- (2) Under the Memorandum of Understanding between Australia and Papua New Guinea, the Manus Offshore Processing Centre (OPC) continues to be maintained by the International Organization for Migration (IOM). Under this agreement the PNG authorities may use it to accommodate persons who are in PNG illegally and are awaiting processing, return, or removal.

One asylum seeker, part of the PNG caseload, is currently located at the Manus facility and he is being cared for by IOM. Decisions in relation to his claim for asylum are matters for PNG authorities.

(3) All the remaining residents of the OPC in Nauru have had their claims fully processed. Of these, two are refugees awaiting resettlement. The UNHCR is currently pursuing options for their resettlement. All those who have been assessed as not requiring protection are expected to return to their countries of origin.

The UNHCR has recently announced that it intends to review the cases of some of the Afghan asylum seekers it previously found not to be refugees. The Department is now reviewing the remaining Afghan cases on Nauru to determine which might be affected by the UNHCR's additional information. Those cases will be re-examined as soon as practicable.

(4) The offshore processing centre in Nauru will continue to be maintained to accommodate those persons who arrive unlawfully at an excised offshore place, as long as necessary and with the support and agreement of the Nauruan Government.

Residents are not held in detention but are in Nauru legally on special purpose visas, which specify where these people may be accommodated.

(5) No.

(6) The cost in 2002-03 for operating the Offshore Processing Centre in Nauru was \$45M. These costs include infrastructure and maintenance costs as well as the cost of care for the residents.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(118) Output MRT: Migration Review Tribunal

Senator Sherry asked:

In relation to the financial year 2002-03:

1. How many cases were finalised during the year?
2. What was the breakdown between the different visa programs (skilled/family) dealt with by the Tribunal?
3. How many referrals to the Minister were made to exercise his powers under s351?
4. How many of these resulted in visas being granted?
5. What was the overall budget appropriation for the year?
6. What does this represent in terms of amount per case? How does this compare to previous years?
7. Were there any new and/or emerging themes arising through the year in relation to merit reviews being required for certain visa classes?

Answer:

1. 9,714 cases were finalised by the MRT in 2002-03.
2. The number and percentage of cases finalised across case categories in 2002-03 was as follows:

Visa refusal – Bridging	807	8%
Visa refusal – Visitor	562	6%
Visa refusal – Student	583	6%
Visa refusal – Temp business	1207	12%
Visa refusal – Perm business	277	3%
Visa refusal – Skill linked	633	7%
Visa refusal – Partner	2333	24%
Visa refusal – Family	1162	12%
Cancellation – Student	861	9%
Temp business sponsorship	448	5%
Other	841	9%
Total	9714	

3. The MRT cannot provide a figure for 2002-03 as the MRT did not maintain a central record of referrals of cases to the Department under the Ministerial guidelines in relation to section 351 throughout the entire financial year. The

MRT has subsequently instituted a central record of referrals. Since 17 June 2003, the MRT has referred 5 cases to the Department.

4. Without considerable expenditure of resource effort and advice from DIMIA, the MRT is unable to provide this information.
5. The appropriation as contained in the 2002-03 additional estimates was \$20.379m.
6. The appropriation was based on finalising 9,500 cases at \$2,013 per case, plus provisions and adjustments from previous years. The expenses from ordinary activities in 2002-03 came to \$1,896 per finalised case, compared to \$2,072 in 2001-02 and \$2,131 in 2000-01.
7. Lodgements to the Tribunal continued to increase, though by a much smaller percentage (4%) than in each of the two previous years (11% in 2000–01 and 18% in 2001–02). The most significant changes were a reduction in lodgements in the family visa refusal category (falling from 1,120 cases in 2001-02 to 742 cases in 2002-03), and an increase in lodgements in the student visa cancellation category (increasing from 740 cases in 2001-02 to 964 cases in 2002-03).

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(119) Output RRT: Refugee Review Tribunal

Senator Sherry asked:

In relation to the financial year 2002-03:

1. How many cases were finalised during the year?
2. What was the breakdown between the different visa programs (for temporary or permanent protection visas) dealt with by the Tribunal?
3. How many referrals to the Minister were made to exercise his powers under s417?
4. How many of these resulted in visas being granted?
5. What was the overall budget appropriation for the year?
6. What does this represent in terms of amount per case?

Answer:

1. 6,251 cases were finalised by the RRT in 2002-03.
2. All protection visa applicants within Australia apply for a Class XA visa. There are two subclasses - the Subclass 785 (Temporary Protection) visa and the Subclass 866 (Protection) visa. By law, the Tribunal is required to deal with the application for the Class XA visa, which encompasses both subclasses. Both subclasses contain a criterion requiring Tribunal satisfaction that the applicant is a person to whom Australia has protection obligations under the 1951 UN Convention Relating to the Status of Refugees as amended by the 1967 UN Protocol Relating to the Status of Refugees. This is almost invariably the issue before the Tribunal, and if the Tribunal is so satisfied, the application for a Class XA visa is remitted to the Department for further processing.

The Tribunal is unable without considerable resource effort to provide the breakdown requested as its Case Management System cannot provide statistical reports distinguishing between Subclass 785 and Subclass 866 related matters.

3. The number of section 417 referrals recorded by the RRT for the period 1 July 1999 to 30 June 2003 is 929 and as at 21 November 2003, an additional 273 referrals were recorded during the current financial year.
4. Without considerable expenditure of resource effort and advice from DIMIA, the RRT is unable to provide this information.

5. The appropriation as contained in the 2002-03 additional estimates was \$18.728m.
6. The appropriation was based on finalising 5,600 cases at \$3,419 per case, plus provisions and adjustments from previous years. This was expected to result in an operating deficit, reducing accumulated cash reserves. The expenses from ordinary activities in 2002-03 came to \$3,362 per finalised case.

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 4 November 2003

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(120) Output RRT: Refugee Review Tribunal

Senator Sherry asked:

Reassessment of TPV cases by the RRT:

1. Has the RRT started processing any merits reviews for people whose Temporary Protection Visas have expired?
2. What has been the outcome of cases heard to date?
3. How many such cases does the RRT estimate it will hear this year? By how much will this increase the current expected caseload?
4. Will the RRT revenue increase due to these extra cases?
5. Does the RRT see it as efficient for their members to be hearing each of these cases individually?

Answer:

1. Yes.
2. As at 21 November 2003, the Tribunal had finalised decisions in 6 cases relating to applications for further protection visas by former holders of Temporary Protection Visas (TPV). The outcomes in those finalised cases were 2 decisions to affirm the primary decisions not to grant a protection visa and 4 decisions to set aside the primary decisions.
3. It is difficult to provide reliable estimates, as any estimate provided is dependent upon the nature and timing of DIMIA outcomes. Although DIMIA has indicated there is a total of 3,800 former TPV holders seeking further protection visas, it is not clear how many of these will be processed and finalised by DIMIA this financial year or how this might be reflected in review applications to the RRT. It should also be noted that a review application to the RRT might include more than one individual applicant about whom DIMIA has made a decision. The RRT is only receiving approximately 80 such applications per month at the moment but it is anticipated that this will soon rise to 200 applications monthly, and perhaps beyond that, so that up to 1,750 review applications by former TPV holders seeking further protection visas might be received in the current financial year.

It should be noted that the underlying rate of other review applications has been falling so that it is anticipated that the total number of review applications this financial year is unlikely to exceed the 4,859 received in the previous financial year. At the current rate of decision finalisations by the Tribunal (6,251 in

2002-03), it is expected that the number of cases 'on hand' (including cases with members at various stages of processing) will fall further from 3,684 at the end of the last financial year (down from 5,076 at the end of the 2001-02 financial year) to below the present figure of 2,560 as at 31 October 2003.

4. The RRT's funding is based on a purchasing agreement with the Department of Finance and Administration, which provides a basis for adjusting funding with reference to the number of cases finalised. The possibility of the RRT handling applications from former TPV holders has been taken into account in financial planning for 2003-04.
5. The present statutory scheme is based on the individual assessment of each case and under the *Migration Act 1958*, the RRT must be constituted by a single member for the purposes of a particular review (s.421). The nature of the claims made by applicants lends itself to the consideration of the individual circumstances in each particular case by a single Member who has sole responsibility for the review outcome in that case.