



Australian Government

Department of Home Affairs

Mr Jason Wood MP
Chair
Joint Standing Committee on Migration
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Chair,

Correction of Evidence

On Wednesday 27 June 2018 I gave evidence before the Joint Standing Committee on Migration (the Committee), at the public hearing for the inquiry into the *Efficacy of current regulation of Australian migration agents*.

As recorded on Page 8 of the proof Hansard, the evidence given was "There is a draft that's on our website at present". The correct information is "There is an issues paper with draft inclusions on our website at present". This information refers to revising the Code of Conduct for registered migration agents.

As recorded on Page 9 of the proof Hansard, the evidence given was "there were approximately 27 recommendations made". The correct information is "there were 24 recommendations made."

A copy of the relevant Hansard pages have been attached for the Committee's reference.

Yours sincerely



Lesley Dalton
Regional Director NSW/ACT
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Department of Home Affairs

July 2018

other activity that we happen to have undertaken, in which case we would either seek to cancel the ETA or undertake some other compliance action. But we have to become aware of it, because we're not out there. It's through our field compliance activities or through allegations.

I would just say that the Malaysian government is quite invested in trying to stop this behaviour as well. We actually have pretty good dialogue with them, because they know that this is not a good outcome for them and for their citizens either. We've done a lot of work through our post, which is in country, and we've also done a lot of work with our intelligence colleagues to identify some profiles for things that we know, through our analysis of the data, where we think that applications might be the most risky applications, and they're stopped from going through the system, in a light-touch way, and they're elevated out for a closer look.

CHAIR: Could you take on notice the increase over the last three years in how many people apply for a protection visa? The other reason I was told was that it's basically that in Australia the wages are a lot higher—

Ms Dacey: Correct.

CHAIR: compared to Malaysia. Do they receive benefits if they apply for a protection visa?

Ms Dacey: I'm not an expert, but I think that's right. I will take that on notice, though.

CHAIR: Just take that on notice. The other aspect is how much it's costing the taxpayer when it comes to the appeals process. I believe they can go to administrative appeals—

Ms Dacey: They can.

CHAIR: federal or district court. Can they take it to the High Court too?

Ms Dacey: I don't know. We'll get you that advice.

CHAIR: Has the minister got any say if he makes a direction, or, because a protection order is in place, does it have to go through the system?

Ms Dacey: Once a protection claim is made, a process is quite properly underway, but I'm not an expert on that.

CHAIR: I understand, and that's why I'd like you to take it on notice. Does anyone have a follow-up question?

Mr NEUMANN: In paragraph 3.1.7 you talk about the Chris Kendall review and strengthening the disciplinary powers and the framework in relation to the code of conduct. Are you saying you're making progress there? Have you got a copy of the code of conduct you're working on at the moment, or have you got a draft that the committee can have a look at?

Ms Dalton: Yes. **There is a draft that's on our website at present.** We've undertaken quite an extensive review. We gone to all of our stakeholders. We've still got one more stakeholder group to consult. We've gone out to every state and talked to migration agents about the current code. We've talked to similar professions—legal practitioners. We've also spoken to our five country partners, particularly the Canadians and the New Zealanders, who have similar regulatory bodies such as the OMARA. The final piece is to talk to the community about that, and that is currently underway. We are working on a trajectory. The moment when lawyers are removed from the system, the new code of conduct goes into place for those who remain.

Mr NEUMANN: Do you have an estimated date for that?

Mr Burke: It's subject to the passage of the legislation. The commencement date is 18 November, 2018. That is subject to the bill that is currently before—

Ms Dalton: Yes, it's currently before the Senate.

Mr NEUMANN: In the paragraph I was referring to, you talk about strengthening the framework under which disciplinary action can be taken. How are you strengthening the framework in the code of conduct? Are you enhancing the powers or your capacity to sanction or penalise? What are you doing?

Ms Dalton: We undertook a review of all the complaints that we have where a sanction activity has been undertaken in the past. We looked at how the code related to that sanction activity and whether there was capacity to make the code more efficient. The code has a lot of repetition throughout and we have constant feedback from agents who say it's not in a great order. We are looking to reorder and remove the repetition and also strengthen the areas where we see a lot of complaints. Our complaint decision might run to about 80 pages because we have to dissect the present relevant area of the code in minute detail, whereas, if we had broader wording, we could address what is unethical practice by an agent within that decision.

Mr NEUMANN: Chris Kendall's review is over 200 pages long and it's not just about taking lawyers out of the system; he recommends a whole range of things.

Ms Dalton: Correct.

Mr NEUMANN: Are you working through that process beyond the code of conduct? How does that impact on the terms of reference of this inquiry?

Ms Dalton: There were approximately 27 recommendations made. There's an attachment to our submission that relates to those recommendations. Of the recommendations that government decided to adopt, we have implemented all except three. One is the code of conduct, another is the removal of lawyers and the third is the capstone exam, which is just about to be—

Mr NEUMANN: Undertaken.

Ms Dalton: Yes. It will happen this coming month.

Mr NEUMANN: Good. That's excellent.

CHAIR: Thank you very much. We'll close it there. Thank you very much for your attendance here today. If the committee has any further questions, they will be put to you in writing. You'll be sent a copy of the transcript of your evidence and you'll have an opportunity to request corrections to transcription errors.

Resolved that these proceedings be published.

Committee adjourned at 10:48



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As recorded on page 8 of the proof Hansard of that public hearing, a reference was made by the Committee to legislation currently before Parliament that removes lawyers from the migration agent regulation system. I stated that the commencement date of that legislation is 18 November 2018, however the correct commencement date is 19 November 2018.

A copy of the Hansard page has been attached for your reference.

Yours sincerely,

Michael Burke

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12 July 2018