

**QUESTION TAKEN ON NOTICE – LEGAL AND CONSTITUTIONAL AFFAIRS
REFERENCES COMMITTEE**

**INQUIRY INTO AUSTRALIA’S AGREEMENT WITH MALAYSIA IN RELATION TO
ASYLUM SEEKERS: 23 SEPTEMBER 2011**

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(QON 20)

Senator Hanson Young (L&CA 49) asked:

Can the committee have a copy of those? [internal departmental policy documents and guidelines on the pre-removal process]

Answer:

The “*Pre-Removal Assessment Process for Transfers to a Third Country for Processing*” guidelines are at Attachment A.

Pre-Removal Assessment Process for Transfers to a Third Country for Processing

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1. Application of the Guidelines

These guidelines apply to all persons arriving in Australia as offshore entry persons who are to be transferred to a third country for processing consistent with the Minister's direction to the Secretary of the Department not to process any asylum claims in relation to offshore entry persons who are intercepted or arrive directly in Australia after 25 July 2011. Consistent with this direction, there will be no broad exemption from transfer for defined groups. However, an assessment of individual circumstances will be undertaken to ensure both fitness to travel and compliance with Australia's international obligations prior to a person's removal from Australia.

The purpose of the Pre-Removal Assessment is to:

- identify protection claims, if any, against the third country which may engage Australia's *non-refoulement* obligations under the *International Covenant on Civil and Political Rights* (ICCPR) and its *Second Optional Protocol aiming at the abolition of the death penalty*, the *Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* (CAT), the *1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees* (the Refugees Convention) and the *Convention on the Rights of the Child* (CROC) and which may mean it is not appropriate to remove the person to the third country; and
- identify vulnerabilities and heightened risks, if any, relevant to all potential transferees but particularly relevant to unaccompanied children.
 - If vulnerabilities or heightened risks are identified consideration will need to be given to what support services are available in the third country to address these issues.
- confirm fitness to travel.

The Pre-Removal Assessment considers these issues and identifies whether there are any impediments to removal to the third country and if so, whether removal should proceed at that time or at some identified later time or at all. The final decision on removal is made through the Removal Availability Assessment, which is signed by the Delegate (the Global Manager Status Resolution for South and West of Australia).

These guidelines explain the Pre-Removal Assessment process and provide guidance to Pre-Removal Assessment officers in assessing the issues identified above.

At this stage, the only third country available for transfer from Australia for processing is Malaysia.

2. Biodata and personal circumstances interview

The biodata and personal circumstances interview and identifies relevant details, such as name, date of birth, family, country of origin, religion etc. While there is an expectation that, consistent with the Government policy to remove people from Australia quickly, people will be interviewed as soon as possible on arrival at Christmas Island, interview timing should be flexible to take into account the time of day and the condition of the person. The Biodata Officer asks the person these questions through a relevant interpreter.

Relevant to these guidelines, during the biodata and personal circumstances interview, the Biodata Officer also asks the person:

Which countries did you transit on your way to Australia? Are there any reasons why you are not able to be removed to a country other than your home country? If yes, can you please provide specific details of these reasons?

After recording the answer to this question, the Biodata Officer subsequently informs the person:

You are liable to removal to a third country and this country is [country name]. Are there any reasons why you are not able to be removed to [country name]? If yes, can you please provide specific details of these reasons?

The Biodata Officer should take into account the specific situation of minors who have not reached a sufficient degree of maturity to make it possible to explain their circumstances or claims in the same way as an adult during the bio-data and personal circumstances interview.

The Biodata Officer records this information and provides a copy of every response to the Pre-Removal Assessment Coordination Officer, who assists in the coordination of the triage process.

3. Triage process

The Pre-Removal Assessment Team Leader will consider all responses to the questions asked at the biodata and personal circumstances interview and identify cases which raise no impediments to removal to the third country. The Pre-Removal Assessment Team Leader will also identify those cases that present vulnerabilities or other circumstances which do not impact on removal and do not need a further interview but may require appropriate support services in the third country.

The triage process and Pre-Removal Assessment interviews may commence immediately following the biodata and personal circumstances interview but this will depend on the time of the boat arrival, the availability of rooms for interviews and the availability of interpreters.

The Pre-Removal Assessment Team Leader will consider the responses provided at the biodata and personal circumstances interview and the fitness to travel assessment and identify the following types of cases as being suitable for immediate transfer without further assessment required:

1. People who do not raise any protection claims against the country to which they will be removed and who do not present any vulnerabilities or other circumstances; or
2. People who do not raise any protection claims against the country to which they will be removed or present any vulnerabilities or other circumstances that will not delay removal as appropriate arrangements are in place in country and which do not require an interview.

After triaging the above cohorts as suitable for removal, the Pre-Removal Assessment Team Leader should consider those other cases that require a further interview to assess any identified or presented vulnerabilities or other circumstances.

4. Pre – Removal Assessment Interview

Protection issues are identified at the Biodata and personal circumstances interview

A further interview, with a relevant interpreter present, is required for people who have raised protection claims against the country to which they will be removed. However, where a person has made protection claims based on general claims against a country rather than claims that are specific to the person, an interview may not be necessary if it is clear that there is not a real risk to the person. In such cases, the claims may be able to be addressed through reference to country information.

Vulnerabilities are identified at the Biodata and personal circumstances interview

Where specific vulnerabilities are identified at the biodata and personal circumstance interview, a further interview is required to assess whether arrangements or services are required immediately, prior to transfer, during the transfer, or upon arrival in the third country for these people and to determine whether these arrangements or services are available, especially in the third country.

Minors

All minors will have a best interests of the child determination. For the purposes of these Guidelines, unaccompanied minors means minors traveling without a parent or without a relative over the age of 21. Unaccompanied minors and minors traveling with a relative who is over the age of 21 and is not their parent, should be referred for a further interview for this assessment to be undertaken. In relation to a minor traveling with a relative who is over the age of 21 but is not their parent, the Pre-Removal Assessment interview should evaluate the quality and durability of the relationship between the child and caregiver to decide whether they should be treated as if they were an unaccompanied minor.

Generally, under the *Immigration (Guardian of Children) Act 1946* (IGOC Act), the Minister for Immigration and Citizenship is the guardian for non-citizen children who are:

- under 18 years old at the time of arrival in Australia;
- intend to become permanent residents of Australia;
- do not enter in the charge of, or for the purposes of living in Australia under the care of, a parent; a relative who has turned 21; or an intending adoptive parent.

If the Minister is the guardian of a child he has a responsibility to provide for the child's basic needs, including food, housing, health, education and protection from harm. The policies, programs and services established by the Government ensure that all minors, including unaccompanied minors who the Minister is the guardian of, have their welfare and needs cared for whilst in immigration detention.

The Pre-Removal Assessment Process for Transfers to a Third Country for Processing is distinct from the Minister's guardianship responsibilities under the IGOC Act. Consistent with this, the Pre-Removal Assessment Process for Transfers to a Third Country for Processing should not be conducted by anyone who also exercises the Minister's delegated guardianship powers under the IGOC Act.

Existing arrangements for unaccompanied minors in detention will continue to apply to unaccompanied minors subject to transfer to a third country for processing. This includes the independent observer role provided by a service provider, currently Life Without Barriers.

An independent observer is required to attend interviews with unaccompanied minors:

- To observe the interaction between the interpreter and the child or young person, and advise the interviewer of any concerns.
- To observe the conduct of the interview /examination / assessment and the demeanour and presentation of the child or young person; and to draw to the attention of the interviewer any concerns about the emotional and physical state of the child or young person.
- To provide a reassuring and friendly presence for the child or young person.
- To ensure each process is adequately explained and understood by the child or young person.
- To be attentive to non-verbal cues of the young person that indicates a need to take a break.
- To be attentive to signs that the young person may benefit from trauma counselling and provide this advice to DIAC.

Further information on the considerations to be taken into account when assessing the claims of a child, are referred to at 7.1 below.

General

The Pre-Removal Assessment Team Leader should base his/her assessment on all of the information available on the person, regardless of whether the person has articulated a specific concern or issue. Sections 6 and 7 of this document provide further information on how to identify clients who present protection claims, vulnerabilities and/or heightened risks.

Individual members within the one family group should be identified and, in other than exceptional circumstances, recommendations relating to removal should be made consistently across the family group i.e. if one family member is not considered available for immediate removal to the third country, the family group should also not be considered available for immediate removal to that country. The family group, as a minimum, consists of the spouse and minor children. On a case-by-case basis, the Pre-Removal Assessment Team Leader will consider whether there are other persons in the family group. For example, other dependants such as aged parents would normally be considered as a part of the family group if they are living in the same household.

The Pre-Removal Assessment Coordination Officer monitors the progress of a person/family group through the Pre-Removal Assessment process.

5. Relevant documents for Pre-Removal Assessment process

- Any arrangement or memorandum of understanding (MOU) or other document reflecting the understandings between the Government of Australia and the Government of the third country regarding the transfer;
- Protection/non-refoulement guidance for Pre-Removal Assessment officers;
- Relevant Country Information pack;
- Pre-Removal Assessment template;
- Biodata and Personal Circumstances Interview;
- The Onshore Protection Interim Procedures Advice on Assessing International Obligations;
- Fitness to Travel Assessment; and
- Documents on services available in the third country.

6. Identification and Assessment of Protection claims against the Country to which the person will be removed

This section only provides a brief overview of the relevant considerations, the Pre-Removal Assessment Officer should refer to the Onshore Protection Interim Procedures Advice on Assessing International Obligations to determine whether Australia's international *non-refoulement* obligations are engaged in relation to the person's removal.

Under the CAT, ICCPR and CROC, Australia has *non-refoulement* obligations not to remove a person (including a child under 18 years of age) to a place where there are substantial grounds for believing that there is a 'real' risk that the person would face harm by way of arbitrary deprivation of life; application of the death penalty; torture, or cruel, inhuman or degrading treatment or punishment. Under the Refugees Convention, Australia has an obligation not to remove a refugee to a place where his or her life or freedom would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion. These obligations also means that the person cannot be removed to a country if there is real risk that they would be subsequently removed to another country where they would face such harm.

Where a person makes protection claims against the country to which the person will be removed, a further interview will generally be necessary to assess the claims and consider relevant country information.

However, where a person has made protection claims based on general claims against a country rather than claims that are specific to the person, an interview may not be necessary if it is clear that there is not a real risk to the person. In such cases, the claims may be able to be addressed through reference to country information.

Where a person raises specific protection claims against the country to which the person will be removed or otherwise presents features or a profile (for instance, membership of a particular social group/ethnicity/religion), the Pre-Removal Assessment Officer should assess relevant facts that may help to determine whether the person is at risk of harm in the country to which the person will be removed. This assessment will not include a consideration of any claims against the person's home country.

Pre-Removal Assessment Officers should be aware that this is an assessment of prospective risk. While past mistreatment may be used as evidence of future risk, there is no requirement that a person must have experienced mistreatment in the past. Below are the sorts of questions the Pre-Removal Assessment Officer should consider:

- Is the person from a group/ethnicity/religion which country information suggests may be at risk of harm in the country to which the person will be removed?
- Are the claims a result of the client's personal experience or are they a result of membership of a group/ethnicity/religion etc. If so, how strong or active is their membership to that group?
- Are there any distinguishing features of the person or the person's background that may result in adverse attention? For example their ethnicity, religious or other affiliation, family membership, or gender.
- What mistreatment, if any, have they been subject to? Who mistreated them? When did the mistreatment occur? Where did the mistreatment occur? Is the mistreatment consistent with information on the third country?
- How likely is it that they will be subject to mistreatment in the future?
 - What are current law enforcement processes/practices in the country?
 - Are there assurances or processes in place which decrease the likelihood?
- Has the person been convicted of any criminal offences? What were the circumstances? Does this put them at increased risk of harm in the country to which the person will be removed?

When interviewing a minor, the Pre-Removal Assessment Officer should take into account the specific situation of minors who have not reached a sufficient degree of maturity to make it possible to explain their circumstances or claims in the same way as an adult.

In assessing whether protection claims raised against the country to which the person will be removed are such that removal to that country would be inappropriate, the Pre-Removal Assessment Officer should consider the likelihood of the person being subject to harm which would engage Australia's *non-refoulement* obligations.

This assessment involves considering the following:

1. What are the relevant claims and the relevant harm?
2. Does the 'harm' constitute:
 - A real risk to their right to life (including being arbitrarily killed) under the ICCPR;
 - Death penalty under the ICCPR and Second Optional Protocol;
 - Torture under CAT;
 - Torture, cruel, inhuman or degrading treatment under ICCPR; or
 - A threat to the person's life or freedom on account of his race, religion, nationality, membership of a particular social group or political opinion under the Refugees Convention.
3. Are there substantial grounds for believing there is a real risk that the individual will face the harm identified above if removed to the third country?

Pre-Removal Assessment Officers should consider in detail any arrangement, MOU or other understanding between the Government of Australia and the government of the third country as to whether it includes provisions which may reduce the risk of harm or remove it altogether.

Pre-Removal Assessment Officers should also take into account how the undertakings in the arrangement, MOU or other understanding between the Government of Australia and the government of the third country are operating in practice as to whether the risk of harm is reduced or removed.

7. Identification and Assessment of Vulnerabilities

The following vulnerabilities should be identified through the triage process, noting that a person may present a number of vulnerabilities and/or heightened risks:

- Minors (people under the age of 18);
- Vulnerability as a result of health issues
 - Victims of torture and trauma
 - Persons with a mental illness
 - Persons with a serious health condition
 - Persons with a serious disability
- Single Women/Women at risk;
- Victims of trafficking;
- Elderly people; and
- Other exceptional humanitarian grounds.

7.1 Minors – including a best interests of the child assessment

- **Minor who is traveling with a parent**
- **Minor who is traveling without a parent but with a relative over the age of 21**
- **Unaccompanied minors**

In all cases, an assessment as to the best interests of the child should be undertaken. For children traveling with a parent, this assessment will be done on the basis of the biodata and personal circumstances interview, unless there are other exceptional circumstances in the case which suggest the minor remaining in the care and custody of the parent may not be in his/her best interests.

This section only provides a brief overview of the best interests of the child assessment. The Pre-Removal Assessment Officer should refer to the Onshore Protection Interim Procedures Advice on Assessing International Obligations for further detailed material.

A minor is a person under the age of 18. All minors are to be identified as ‘vulnerable’ due to their age and general inability to protect themselves. Where a person claims to be a minor and there are doubts as to the validity of this claim, an age determination assessment will be conducted, with reference to relevant guidance and policy documents.

When the minor is traveling as part of a family group, the circumstances of the family group should be considered in conjunction with the minor’s situation.

The Pre-Removal Assessment Officer should take into account the specific situation of minors who have not reached a sufficient degree of maturity to make it possible to explain their circumstances or claims in the same way as an adult during the further Pre-Removal Assessment interview.

Pre-Removal Assessment officers should consider the following issues for all minors:

- How old is the minor? Note that the younger the age, the more support will be required.
- Does the minor have any specific needs or requirements which should be considered?
- Does the minor have family links in Australia? Which family members are in Australia? What are their circumstances? The family members of unaccompanied minors should be identified.

Where a minor is traveling without a parent but with a relative over the age of 21, Pre-Removal Assessment Officers should consider:

- What is the relationship between the minor and the relative?
- Is this person an appropriate carer for the minor? Give careful consideration to the quality and long term durability of the relationship, shared language, ethnicity, religion etc.
- The views of the child and the views of the relative, taking into account the age and maturity of the child.
- The family environment.

Unaccompanied minors are particularly vulnerable. Where it is established that a minor is unaccompanied, Pre-Removal Assessment Officers should consider:

- The views of the child, taking into account the age and maturity of the child.
- The short, medium and longer term protection, developmental, psychosocial and other needs of the child.
- The existence of special procedures to deal with the special needs of unaccompanied minors in the proposed country of removal, including appropriate accommodation, guardianship arrangements, the availability of any tracing arrangements and the likely availability of solutions for unaccompanied minors.

Article 3 of the Convention on the Rights of the Child (CROC) states that:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration

The best interests of the child must be a primary consideration, it is not **the** primary consideration. It does not have absolute priority over other considerations and countervailing considerations may outweigh the best interests of the child.

As a matter of general policy, the Department considers that the interests of the child are generally best met when the child remains with his or her parents unless there are other exceptional circumstances in the case which suggest that it would not be in the minors best interests to remain in the care and custody of their parent(s).

Article 9(1) of the CROC states that:

States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review, determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.

Article 10 of the CROC states that:

(1) In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

(2) A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognised in the present Convention.

Further information on available support services in the third country is provided in supporting documentation.

7.2 Vulnerability as a result of health issues

- **Victims of torture and trauma**
- **Persons with a mental illness**
- **Persons with a serious health condition**
- **Persons with a serious disability**

The Fitness to Travel assessment is conducted by International Health and Medical Services (IHMS) and may identify medical conditions, mental and physical disabilities, mental illness and/or victims of torture and trauma. If any of these issues are identified in the fitness to travel assessment, the IHMS medical professional would consider these issues and identify them clearly in the assessment. Where issues are identified, the Pre-Removal Assessment Team Leader will consider whether a further interview with a Pre-Removal Assessment Officer is required to identify whether appropriate support is available in the third country and to consider his/her personal circumstances.

Where a further interview is required, the Pre-Removal Assessment Officer will consider the person's personal circumstances:

- Does the person have a care person or guardian who is traveling with them? Is the care person or guardian necessary to support the person?
- Does the person's condition affect their ability to understand the process and their capacity to present their claims?

The Pre-Removal Assessment Officer will consider the availability of relevant support services in the third country:

- What treatment or assistance is available in the third country? Is this sufficient and/or appropriate?
- Does the person require further assessment on arrival in the third country, for instance from a general practitioner, specialist, psychologist, or social worker?

Further information on available support services in third country is provided in supporting documentation.

Where the Pre-Removal Assessment Officer has information before them indicating that a person may be a victim of torture and trauma, may have a mental illness, serious health condition or a serious disability, and this was not identified in the fitness to travel assessment, a further health assessment should be sought to determine whether this impacts the person's fitness to travel and to identify whether appropriate support is available in the third country.

7.3 Single women/women at risk

'Women at risk' are considered to be women who do not have the protection of a male relative or are at risk of victimisation and harm because of their gender. Female headed households, single mothers, abandoned or single women should be identified and, where appropriate services are available in the third country, do not generally require a further interview with the Pre-Removal Assessment Officer. In determining whether appropriate services are available in the third country, the Pre-Removal Assessment Officer should consider:

- Is the woman a member of group/ethnicity/religion that would make them more vulnerable?
- Does the woman have any other specific needs that need to be addressed?
- Will the woman be exposed to sexual or gender based violence?
- Does the woman require additional health and/or other support?
- Will the woman be in a position to access support services in the third country?
- Will the woman be secure in the third country?

Further information on available support services in third country is provided in supporting documentation.

7.4 Victims of Trafficking

If the Pre-Removal Assessment Officer considers that the person is a victim of trafficking, s/he should contact the Director of People Trafficking Prevention & Support Section in the Department of Immigration and Citizenship and cc people.trafficking@immi.gov.au. In accordance with protocol, the Department will refer suspected victims of trafficking to the Australian Federal Police for investigation.

7.5 Elderly people

Pre-Removal Assessment Officers should also consider whether there are any other particular characteristics of a client that suggest that the client's removal may raise concern. If these are identified, assessment officers should discuss the issues with the team leader. For instance, if the person is elderly, will their age place them in a more vulnerable position on arrival in the third country or throughout the physical removal process?

7.6 Other exceptional humanitarian grounds

The Pre-Removal Assessment Officer should consider

- Are there any exceptional humanitarian reasons why the person may not be suitable for removal to the third country, either at this time or at any time?

8. Separated Families

Under Articles 17 and 23 of the International Covenant on Civil and Political Rights (ICCPR), Australia is obliged to not interfere arbitrarily with the family and to protect the family as the natural and fundamental group unit of society. Australia's obligations under CROC, as outlined in 7.1 above, are also relevant.

Australia currently provides opportunities for family reunification through both the Family and the offshore Refugee and Humanitarian Visa Streams. However, nothing in the ICCPR, the Refugees Convention or other international human rights instruments provides a substantive right to family reunification or imposes a positive obligation on Australia to facilitate family reunification in its territory for families who have become separated outside Australia.

Failure to reunify a family will not be arbitrary or in breach Australia's international obligations if it is reasonable in the circumstances and is for a legitimate purpose within the framework of the ICCPR.

People, including minors, who are subject to transfer to a third country may have family members in Australia who arrived at an earlier time. Regardless of any identified vulnerabilities, the separation of a family will be a relevant consideration in determining whether there are any barriers to removal. The following issues should be considered:

- Who are the family members in Australia and what is their relationship with the people subject to removal to a third country? How close is the relationship with the family members in Australia? Are they extended family members or immediate family?
- Where are the family members located in Australia? Are they in the community? Are they in immigration detention? If so, where are they in the immigration detention network?
- What is the status of family members in Australia - have they made protection claims? If so, what stage of the assessment process are they at? Have they been security assessed? Are there any other relevant factors to consider, such as, is the family member a person of interest to AFP? Are they visa holders and/or permanent residents or Australian citizens?
- The status of other family members in Australia, the closeness of the family relationships and the nature of the contact;
- Whether the separation occurred outside Australia;
- Whether the removal of a person will result in the break up of a family unit, particularly where their family life has been established for a long time;
- Where a child or spouse of the prospective transferee is an Australian citizen or permanent resident and there would be difficulties (financial, practical, etc) for the Australian citizen or permanent resident to relocate and/or maintain contact; and
- Where it is in the best interests of the child not to be transferred to a third country (as outlined 7.1).

9. Consideration of CMAL status or security screening outcomes

The Border Operations Centre (BOC) initiates Central Movement Alert List (CMAL) status

resolution and provides results to the Pre-Removal Assessment Team. The Pre-Removal Assessment Officer should consider the CMAL status and recommend whether this presents a barrier to removal.

Where appropriate, the BOC will refer details to the External Security Agency for confirmation of a real match and advise the results to the Pre-Removal Assessment Team. The Pre-Removal Assessment officer will consider whether a confirmed match presents a barrier to removal.

10. Finalisation of the Pre-Removal Assessment

Pre-Removal Assessment Officers provide their assessments to the Pre-Removal Assessment Coordination Officer who refers the assessment to the Pre-Removal Assessment Team.

The Pre-Removal Assessment Team Leader considers the recommendations made in the Pre-Removal Assessment. If further information is required, the Pre-Removal Assessment Team Leader may request further information from the Pre-Removal Assessment Officer, the client, the BOC, IHMS, Country Research Section in National Office, or from another relevant person. If no further information is required, the Pre-Removal Assessment Team Leader finalises Pre-Removal Assessment and makes one of the following recommendations:

1. There are no impediments to removal. The Pre-Removal Assessment Team Leader notifies the Christmas Island (CI) Director of Transfer Operations. The CI Director of Removal Operations provides this list to third country officials and Post.
2. There are impediments to immediate removal but removal can proceed subject to relevant actions being undertaken prior to removal in the future. The Pre-Removal Assessment Team Leader notifies the CI Director of Transfer Operations. If removal is likely to occur within 28 days, the Removals Team will manage the person until they become available for removal. Removals will engage the case management team after 28 days to manage the person.
3. There are longer term impediments to removal. Note – before an assessment is finalized in this way, the Team Leader should consult with the Director of the International Obligations and Intervention Support Section, cc international.obligations@immi.gov.au. The Pre-Removal Assessment Team Leader notifies the CI Director of Transfer Operations and copies the relevant Removals Officer, Case Management (includes Complex Case Resolution Section), International Obligations and Intervention Support Section and Regional Cooperation Branch. Overall management responsibility will be with CI Director of Transfer Operations. The CI Director of Transfer Operations will contact the Offshore Operations team in National Office.

Where vulnerabilities, and/or the need for support services in the third country, have been identified the Pre-Removal Team Leader is to indicate with the recommendations that there is a need for UNHCR and/or IOM to be notified of the client's circumstances, subject to the need for the person's consent if he/she is to be identified.

The outcome of the Pre-Removal Assessment is recorded by the Pre-Removal Assessment Coordination officer in the Portal, and a copy is saved to TRIM on the relevant client file.

11. Management of people who are not removed to a third country

Offshore entry people who arrive after 25 July 2011 but who are not subject to removal to a third

country may fall into two categories:

1. People who Australia identifies as not appropriate to remove to the third country; and
2. People who the third country may choose not to accept

People who are not removed to a third country will have their circumstances and situation monitored by a case manager. If people are not transferred immediately and further factors need to be considered it will be important to resolve issues as soon as possible to avoid prolonged uncertainty.

For unaccompanied minors who are not removed to a third country, the IGO Act and Minister's guardianship will continue to apply. Otherwise, IGO Act provisions and the Minister's guardianship cease to apply when the unaccompanied minor is removed from Australia permanently.

12. Additional information not previously considered

A supplementary Pre-Removal Assessment may be required when:

- A person raises new and/or additional protection claims against the third country which have not been considered before;
- A new health assessment is done which raises new vulnerabilities which have not been considered before; or
- Any new information or change in circumstances becomes known which raises any of the issues identified in these guidelines.

A request for a supplementary Pre-Removal Assessment should be made through discussion with the Pre-Removal Assessment Team Leader.

Staff on Christmas Island who interact with persons subject to removal to the third country should be made aware of the circumstances in which there may be a need for a supplementary Pre-Removal Assessment and the process for requesting one.

13. Reporting/Portal management

Biodata and outcomes of processes for people subject to removal to a third country will be recorded in the Portal. For Pre-Removal Assessments, the key information for the Pre-Removal Assessment Coordination Officer to record in the Portal is whether any protection claims or vulnerabilities were identified and the final recommendation of the Team Leader. Outcomes of health, CMAL and other security checks will be recorded through other processes. Reporting will be available on these records.

14. Roles

Pre-Removal Assessment Team Leader – Applies these Guidelines to identify cases suitable for immediate transfer to the third country and cases that will require management by the Department. Triages cases and determines whether an additional interview is required. Makes the final assessment in relation to the Pre-Removal Assessment and recommends whether there are impediments to removal for each case.

Pre-Removal Assessment Coordination Officer – Assists the Pre-Removal Assessment Team by monitoring progress of people through the Pre-Removal Assessment process.

Pre-Removal Assessment Officers – Interview people who raise impediments to removal, assess *non-refoulement* claims, consider support services available in the third country and recommends whether there are impediments to removal on this basis.

International Health and Medical Services (IHMS) – IHMS conducts the medical assessment and advises of regarding the person's fitness to travel.

Health Liaison Officer – Liaises between IHMS staff and the Pre-Removal Assessment Team to follow up any queries.

CI Director of Transfer Operations – is the chief coordination role for Christmas Island removals under the Arrangement. This person is the key contact on Christmas Island for Post, National Office, authorities from the third country, UNHCR and IOM.

Biodata Officer – conducts the biodata and personal circumstances interview in which protection claims and/or circumstances that the Department wants to consider may be identified. Provides a copy of the biodata and personal circumstances interview response to the Pre-Removal Assessment Team Leader and the Pre-Removal Assessment Coordination officer.

Border Operations Centre (BOC) – initiates Central Movement Alert List (CMAL) status resolution and provides results to the Pre-Removal Assessment Team Leader. Where appropriate, the BOC will refer details of a person to the Australian Security Intelligence Organisation.

Case Manager – Engages with the client and opens the Case Management service in the CCMDs portal only when removal can not be effected within 28 days of arrival at Christmas Island.

15. Oversight

There are a number of bodies that provide oversight of Departmental business. As exists currently, the United Nations High Commissioner for Refugees (UNHCR) will undertake a monitoring role consistent with its mandate under the *1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees* (the Refugees Convention). Further, the Ombudsman and the Australian Human Rights Commission maintain oversight roles consistent with their existing and established roles and responsibilities.

If a person who is in immigration detention and is the subject of these arrangements wishes to contact a lawyer or a migration agent they will be provided with the opportunity to do so.