

## QUESTION TAKEN ON NOTICE

### BUDGET ESTIMATES HEARING: 28 MAY 2009

#### IMMIGRATION AND CITIZENSHIP PORTFOLIO

#### **(49) Program 2.1: Refugee and Humanitarian Assistance**

Senator Fierravanti-Wells (L&CA 63) asked:

In relation to the Proust report on ministerial intervention, is there somewhere that those recommendations that the government intends to implement have been correlated? Provide the recommendations and the measures that have been taken. Which recommendations will be implemented and which ones will not?

*Answer:*

See below for correlation of recommendations and measures taken.

**Recommendation 1:** *That the Department commence immediately the practice of providing a recommendation on each file going to the Minister for decision.*

Measures taken:

The recommendation has been implemented.

**Recommendation 2:** *To improve transparency and confidence in the current arrangements, the Department should be asked to implement the relevant recommendations of the [Senate Select Committee on Ministerial Discretion in Migration Matters] Report. These include Recommendations 1,2,6,8 and 9.*

Aspects of this recommendation have been implemented and others are being progressed.

**Recommendation 3:** *That all delegable powers, currently exercised by the Minister, be delegated, either to the department or to the relevant tribunal. (Section 34 of the Australian Citizenship Act 2007 could remain with the Minister for now...)*

Measures taken:

The recommendation has been partially implemented and is being progressed.

**Recommendation 4:** *That the Minister consider recommendation 21 (a committee to assist with reviewing files and making recommendations) from the Senate Select Committee Report to assist his workload and decision making in the next 6 months or so. That this committee be asked to recommend timelines for the handling and processing of files in this area.*

Measures taken:

This recommendation has not been accepted.

**Recommendation 5:** *That Parliament amends the Migration and Citizenship Acts to delegate almost all discretions, currently exercised personally by the Minister, either to the Department or to the Migration Review Tribunal or to the Refugee Review Tribunal. The use of these discretions should be subject to Parliamentary and Ombudsman review and to judicial review where appropriate.*

Measures taken:

This recommendation has been partially implemented and is being further progressed. The Government has announced the introduction of complementary protection which will provide a direct visa pathway for people to whom Australia has a non-refoulement obligation. In addition, the Minister has asked the Department to explore options for bringing other cohorts of the current Ministerial intervention caseload back within the regulatory visa framework, where appropriate and feasible. As an interim measure the Minister has written to the Tribunals to encourage them to refer to him cases that they consider warrant consideration against his public interest powers.

**Recommendation 6:** *If it is determined to retain some Ministerial discretion in this area, then it should only be on a one off basis, and subject to strict guidelines. These would include matters where, for example, Australian citizenship is to be revoked, or where national security matters are raised.*

Measures taken:

The recommendation has been partially implemented and is being further progressed. The Minister's Guidelines have been amended to make clearer that the Minister generally does not wish to consider a repeat request. New templates have been introduced which seek to provide a holistic presentation of all aspects of a case in the first request for intervention. Further changes to the Guidelines are anticipated as recommendation 5 is progressed.