

## QUESTION TAKEN ON NOTICE

**SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005**

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

### **(96) Output 1.3: Enforcement of Immigration Law**

Senator Kirk asked:

According to the Refugee Advocacy Service of South Australia (RASSA), lawyers from RASSA continue to have difficulties accessing clients in detention centres due to the obstructive nature of DIMIA officials. For example, RASSA lawyers are not allowed entry into the compounds where detainees reside. This means they have no access to detainees who are ill.

Please explain why lawyers are not allowed inside compounds?

*Answer:*

Detainees have access to legal representation on request, as required by section 256 of the *Migration Act 1958* ("the Act"). Interview rooms in which confidential advice can be given and received are made available, where possible, for lawyers to meet with their clients. DIMIA guidelines for access to Immigration Detention Facilities (IDFs) also specify that lawyers may provide advice to detainees by telephone or videoconferencing. In all cases, lawyers are permitted to have access to their detainee clients in an environment where confidential information can be given and received on both sides.

Visits from lawyers do not generally take place in detainee accommodation areas. Instead, they take place in the visiting area, or in interview rooms as discussed above. The reason for this is that DIMIA owes a duty of care to all persons within the premises of an IDF, whether those persons are detainees or visitors, and must ensure their safety while on the premises to the greatest extent possible. For this reason, DIMIA does not permit visits to take place in areas that cannot be secured, and where the risk of harm occurring to an individual is therefore much greater. Furthermore, dedicated interview rooms provide a better environment for giving and receiving confidential advice, as the detainee and his or her lawyer are much less likely to be interrupted by Detention Services Provider (DSP) officers or other detainees.

In most cases, if a detainee is ill and unable to attend a particular appointment, he or she will be permitted to reschedule that appointment with their lawyer. They may also choose to contact their lawyer by phone or videoconference.

In exceptional circumstances, a lawyer may be permitted to visit their client in the detainee's accommodation or in the medical area. Such requests will be considered on a case by case basis, and will be granted or refused consistently with the safety and good order of the relevant IDF.