

## QUESTION TAKEN ON NOTICE

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

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

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

Senator Kirk asked:

Lawyers may only visit clients once they sign an authority. Those people unable to do this – for example those with a mental illness – may never get assistance. What is DIMIA doing to ensure that all detainees, including those with a mental illness, are aware of their legal rights and have access to lawyers?

*Answer:*

Upon arrival at an immigration detention facility detainees are informed, as part of the induction process, of their right to receive visits from their legal representatives, contact them by phone and to receive and send material to them via fax or post. Lawyers are not permitted entry to an Immigration Detention Facility (IDF) unless they have a written authority to act from their client.

DIMIA recognises that some detainees may not be able to comprehend the advice provided to them, for example those suffering a mental illness or intellectual disability.

Detention Services Officers (DSOs) based at IDFs are trained to recognise signs of mental illness or intellectual disability. A detainee suspected of suffering such medical problems will be referred by DSOs to a qualified mental health practitioner, who will make a formal diagnosis. The medical practitioner may, if he or she considers the detainee to be suffering from a psychiatric illness or intellectual disability, seek to have a guardian appointed to the detainee, under the relevant State or Territory mental health legislation. The guardian, once appointed, has the power to seek legal advice on behalf of the detainee.

If such a detainee has family members with them in detention, the detainee's family members may also seek legal advice on the detainee's behalf. It would not normally be necessary for a family member to be formally appointed as a guardian in such circumstances.