

QUESTION TAKEN ON NOTICE:

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 17 OCTOBER 2011

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(SE11/0412) Program 5.1: Settlement services for migrants and refugees

Senator Cash asked:

Please detail the lines of responsibility for Unaccompanied Humanitarian Minors (UHMs) after they are in the care of the supervising agency. Who maintains overall responsibility for the safety and welfare of these children?

Answer:

The *Immigration (Guardianship of Children) Act 1946* (IGOC Act) provides that the Minister for Immigration and Citizenship is guardian of certain non-citizen children who are under 18 and do not have a parent, or close relative over the age of 21, to care for them in Australia. This includes some unaccompanied humanitarian minors (UHMs).

Section 6 of the IGOC Act expressly provides that the Minister as guardian shall have the 'same rights, powers, duties, obligations and liabilities as a natural guardian of the child'. As the natural guardian is the child's parents, the guardian is considered to have the same obligations as a parent.

The Minister can delegate certain powers and functions under the IGOC Act, but retains overall responsibility for UHMs covered by the IGOC Act, regardless of any delegation.

The guardian and delegated guardians are not obliged to attend to UHMs personally. That is, they can place UHMs into the care of others to provide for their day to day welfare. Currently, UHMs may be placed either with carers in the community, or in the care of a contracted service provider.

Where UHMs are placed with carers in the community, the carers are responsible for the UHMs' day to day care and wellbeing. In these cases, the Minister's guardianship responsibilities are delegated to state child welfare agencies, which oversee the provision of care, provide support to carers and UHMs, and make decisions in relation to critical matters, such as significant medical treatment, interstate and overseas travel, and some educational matters.

In the case of UHMs that are in the care of a contracted service provider, day to day care is provided by a live-in carer who is supported by other provider staff. Critical decisions, such as those described above, are referred for consideration to the delegated guardian who, in these instances, is an officer of DIAC.