SUBMISSIONS TO THE INQUIRY INTO THE ADMINISTRATION AND OPERATION OF THE MIGRATION ACT 1958

PREPARED BY CATHOLIC MIGRANT CENTRE

INTRODUCTION

The Catholic Migrant Centre (CMC) is a non-profit organisation located in Perth. The Centre's Migration Program employs two solicitors/ migration agents who provide immigration advice and assistance to asylum seekers, refugees and other disadvantaged migrants. Our clients include asylum seekers held in immigration detention. The Principal Migration Advisor, Marg Le Sueur, has worked at CMC for 3 and a half years.

In these submissions we wish to bring to your attention some of our most pressing concerns with respect to the administration and operation of Migration law in Australia.

Our submissions are provided under the following headings:

Issues concerning asylum seekers in detention

- Call for an end to the current system of mandatory detention for asylum seekers
- Providing for the needs of asylum seekers released into the community
- Delay in processing certain bridging visa applications by detainees

Issues concerning asylum seekers in the community

- Delay/ arbitrariness in processing applications
- Failure to give notice that a decision will be made or to interview applicant
- Poor quality of DIMIA decisions
- Delay in issuing visas once granted

Issues concerning refugees and family reunion

- The need to accommodate different cultural attitudes concerning the constitution of family
- The requirement for DNA testing

Cancellation of permanent resident visas on character grounds

- Power to cancel permanent visas on character grounds should be limited
- Time limit for responding to notice of intention to cancel

ISSUES CONCERNING ASYLUM SEEKERS IN DETENTION

CALL FOR AN END TO THE CURRENT SYSTEM OF MANDATORY DETENTION FOR ASYLUM SEEKERS

Asylum seekers who arrive in Australia without prior authorisation are currently detained whilst their applications for protection visas are processed. Despite DIMIA, the RRT and the Federal Court all acknowledging that priority must be given to the processing of applications and appeals by those in detention, detainees continue to languish in detention centres for years whilst their applications are processed and appeal rights pursued.

The devastating effects of prolonged detention and the high cost to the Australian community have been well documented. We add our voice to those of numerous lawyers, migration agents, health professionals, asylum seekers and members of the public who have witnessed and spoken out against the tragedy of migration detention. There is no doubt that the detention of asylum seekers who have generally suffered severe trauma in their country of origin:

a) Is an affront to human dignity;
b) Results in, or compounds, mental health problems;
c) Inhibits the successful integration of refugees into the Australian community;
d) Costs a fortune;
e) Impedes the ability of lawyers and migration agents to properly represent asylum seekers (because of lack of access, cost of access and mental health problems suffered by detainees) with in turn results in less successful claims and longer periods in detention for asylum seekers;

The only realistic solution to the problem of prolonged detention is to release asylum seekers into the community whilst their applications (including appeals) are being processed.

We support the call for migration detention, as it exists today, to be abolished and for a new system to be introduced which minimises the time any man, woman or child seeking asylum in Australia can be held in detention. We emphasise the need to end the long term detention of all asylum seekers including men (who form the majority of asylum seekers).

Migration detention, like incarceration for criminal offences, should be viewed as an option of last resort.

We acknowledge that a short period of migration detention for unlawful arrivals may be necessary to enable security and health checks to be carried out. However we would suggest that this period of detention should be subject to stringent limitations.

Recommendations

1. Migration detention of unauthorised arrivals who seek asylum be limited to a specific period of days (we suggest 45), after which a detainee should have the right to have their ongoing detention reviewed by a judicial body. The onus of proof should be on DIMIA to demonstrate that the ongoing detention of an asylum seeker is necessary in all the circumstances with due weight being given to the fact that the right to liberty is one of the most fundamental of all human rights.
2. During their initial and limited period of detention, asylum seekers be detained in 'detention centres' located in capital cities to improve the chances of asylum seekers accessing independent legal/ migration advice.

PROVIDING FOR THE NEEDS OF ASYLUM SEEKERS RELEASED INTO THE COMMUNITY

Any move to allow asylum seekers to live within the community whilst their protection visa applications are processed must be accompanied by a comprehensive plan as to how asylum seekers will be supported within the community. Provision needs to be made for their accommodation, work rights, access to Centrelink payments and medical care. In addition, special services targeted at the specific needs of asylum seekers, should be provided. These include settlement services (education about how to live, shop, work etc in Australia), English language courses and mental health services such as counselling.

Currently, when a detainee is released into the community on a bridging visa[1], with the exception of the newly created Removal Pending Bridging Visa, which is only available to certain long-term detainees, the Australian government makes no provision for the basic needs of that person (accommodation, income, medical care etc). The bridging visa holder is entirely reliant upon the Australian community and charity for his or her day to day survival. This situation is clearly unacceptable and, as the number of asylum seekers living within the community increases, the situation becomes more and more dire.

The provision of adequate support for asylum seekers should be the responsibility of government. It is totally inappropriate to expect the community and charities to provide for the most basic and fundamental needs of asylum seekers in the community. If more asylum seekers are to be released into the community it is imperative that government takes on the responsibility for provision of essential services (we consider all services described above (first paragraph of this section) as essential).

Recommendations

1. The Australian government and DIMIA take immediate steps to ensure that the basic needs of asylum seekers currently living within the community are provided

[1] There are a limited number of circumstances in which a detainee can be released from detention on a bridging visa including circumstances related to mental health or marriage to an Australian.

for at government expense. All asylum seekers (subject to means testing) require accommodation, financial support and access to medical care in order to survive. The responsibility for provision of these basics should rest with government, not charity.

2. If legislative changes are to be made to enable more (or all) asylum seekers to live within the Australian community whilst their applications are processed, the government and DIMIA ensure that systems are in place (before detainees are released) to provide essential services to asylum seekers.

DELAY IN PROCESSING CERTAIN BRIDGING VISA APPLICATIONS BY DETAINEES

Generally bridging visa applications must be determined within strict time limits imposed by Migration legislation. However we wish to bring to your attention one particular scenario where strict time limits can be (and are) avoided by DIMIA. This scenario concerns detainees who apply for a bridging visa E (subclass 051) upon the basis of their marriage to an Australian citizen.

A bridging visa E (subclass 051) application must be determined within 28 days of the application being assessed as valid. In most cases, an application will be valid once DIMIA is satisfied that a few minimum requirements (such as using the correct forms) are satisfied. However in accordance with migration legislation an application for a bridging visa E on spouse grounds will only be valid once DIMIA has determined that the marriage is genuine and continuing.

In a number of recent applications by our clients a for bridging visa based upon marriage to an Australian, DIMIA took more than 4 months to make a determination with respect to the genuineness of the relationship. This makes a farce out of the usual 28 day time limit for determining bridging visa E (051) applications.

<u>Recommendation</u>

1. The Migration regulations with respect to bridging visa E (subclass 051) be amended to require that, where an application is based upon a spousal relationship with an Australian (sub-regulation 051.220(10)(c)), DIMIA be required to make a determination as to whether that relationship is genuine and continuing (sub-regulation 051.220(10)(d)) within 28 days of the application being lodged.

ISSUES CONCERNING ASYLUM SEEKERS IN THE COMMUNITY

Not all asylum seekers in Australia are detained during the processing of their protection visa applications. Those protection visa applicants who meet certain criteria (including having arrived lawfully in Australia and holding a substantive visa at the time of lodging

their protection visa application) are allowed to remain within the community whilst their protection visa applications are processed.

For the purposes of the submissions below, we use the term 'asylum seekers within the community' to refer to people who arrived in Australia lawfully and lodged protection visa applications. We are not referring to detainees released on bridging visas or Temporary Protection visa holders.

DELAY/ ARBITRARINESS IN PROCESSING APPLICATIONS

In our experience DIMIA can take anywhere between a few weeks and several years to make a primary decision with respect to a protection visa application by a person living within the community. We have no way of knowing when DIMIA will make a decision with respect to an application and, from our perspective, the length of time DIMIA takes to process an application is entirely arbitrary (we address problems relating to this arbitrariness below under the heading 'Failure to give notice ….').

In general, we believe that DIMIA takes an unreasonable length of time to process protection visa applications by people within the community. One of our clients waited more than three and a half years for a primary decision on her protection visa application. Whilst this was the worst case of delay we have seen, in our experience most asylum seekers in the community can expect to wait at least a year for a primary decision.

The problem of delay in processing applications at first instance is compounded by the fact that, in our experience, DIMIA rejects most applications. As such, many asylum seekers are forced to seek review by the RRT in order to obtain a positive decision. The total process from visa application to grant (without any judicial appeal) generally takes about 18 months – 2 years (the client referred to in the paragraph above waited four and a half years to obtain her visa).

The impact of the delay in processing protection visa applications can be devastating, despite the fact that the applicant is in the community and not in immigration detention. All genuine asylum seekers live in fear of being returned to a country where they have a well founded fear of persecution. It is impossible for an asylum seeker to regain a sense of security and mental well being or to 'get on with life' until such time as he or she is granted a permanent protection visa.

Delay in processing applications also means a delay in family reunion for those asylum seekers who are separated from family. Some of our asylum seeker clients have left family in very difficult circumstances and their inability to assist their families or sponsor them to Australia (until they have a protection visa) is a cause of great distress.

In addition, some asylum seekers in the community are not allowed to work (work rights are only available to those who arrived legally and applied for a protection visa within 45 days whilst still holding a substantive visa). As processing time drags on, many

individuals suffer from boredom, depression and a loss of self esteem because they are unable to participate in society through work.

Catholic Migrant Centre has also assisted a small number of asylum seekers in the community who were not eligible to work and who did not receive any government financial assistance including assistance through the Asylum Seeker Assistance scheme administered by the Red Cross. These individuals relied solely on charity for their day to day needs. Their circumstances of extreme poverty and dependence were/ are difficult to endure.

We submit that it is unacceptable for asylum seekers to wait years for their applications to be determined whilst living in the difficult circumstances we have described above.

Recommendations:

1. Introduction of a legislative requirement that all protection visa applications be determined at primary level within a specified time period from the date of application (we would suggest 6 months).
2. If no such legislative requirement is introduced, at the very least guidelines indicating an appropriate time period for the primary determination of a protection visa application should be published. This would offer applicants some basis upon which to complain if their application is not determined within the time period specified in the guidelines.
3. Guidelines indicating an appropriate time period for a decision on an application for review of a decision to refuse a protection visa by the Refugee Review Tribunal be published (we would suggest 6 months).
4. DIMIA and the RRT employ adequate numbers of staff to ensure that protection visa applications/ applications for review are processed in accordance with the legislative requirements or guidelines referred to above.

FAILURE TO GIVE NOTICE THAT A DECISION WILL BE MADE OR TO INTERVIEW APPLICANT

An unfortunate situation has arisen with respect to a small number of our clients where DIMIA has made a decision to refuse protection visa applications without all of the relevant evidence before them. A number of factors have contributed:

1. The arbitrariness of the length of time taken by DIMIA to process an application (weeks – years) means that advisors have no idea when a decision is likely to be made on a particular case – making it very difficult to know which cases should be prioritised or when final submissions/ evidence should be forwarded to DIMIA (gathering evidence is often an ongoing process). The introduction of a time limit for making a decision (as recommended above) would help remedy this situation.

2. In most cases, DIMIA interviews the applicant - thus providing notice that the processing of an application is progressing. However DIMIA is not required to interview the applicant and, in the unfortunate cases mentioned above, no interviews were held.
3. There is also no requirement that DIMIA give notice of an intention to make a decision. In the unfortunate cases mentioned above, DIMIA was aware that each applicant was represented and that further evidence may be available, but 'sprung' their decisions on our clients without notice and without making any request for final submissions/ evidence to be provided.
4. There is a limited requirement for DIMIA to provide notice of, and an opportunity to respond to, 'adverse information' as defined in legislation. However this does not translate to an obligation to provide notice of reasons for a proposed negative decision.

The 'springing' of decisions on applicants without interview or notice is indicative of a lack of good faith on behalf of DIMIA. Whilst it is true that it is up to the applicant to make their own case, it is also true that those processing protection visa applications should work within the spirit of the Refugees Convention and Migration Law which aim to ensure that refugees are not returned to countries where they have a well founded fear of persecution. A 'fair go' requires, at the very least, that an applicant be given warning that a decision is to be made on their case without interview so that they have a chance to put forward any further evidence/ submissions. We submit that a fair and ethical approach to determining protection visa applications also requires that each applicant is interviewed and given the opportunity to answer the decision makers concerns about their case.

Almost all of our clients (with one exception) who were rejected by DIMIA without interviews were later found to be genuine refugees.

<u>Recommendations</u>

1. DIMIA be required to interview all protection visa applicants.
2. If no such requirement to interview is introduced, DIMIA be required to give the applicant at least 2 weeks notice of the intention to make a negative decision with respect to an application. In addition DIMIA provide a summary of its reasons for its intention to make a negative decision and the applicant be given the opportunity to respond.
3. DIMIA officers ensure that they process applications in the spirit of the Refugees Convention and Migration Law, one purpose of which is to protect refugees from refoulement.

POOR QUALITY OF DIMIA DECISIONS

We have serious concerns about the quality of decisions made by DIMIA with respect to protection visa applications. In our experience DIMIA rejects a very high proportion of applications; the reasoning provided in written decisions is often deficient; and a large proportion of DIMIA's decisions are over-turned on review.

In the past few years CMC has made numerous protection visa applications on behalf of clients. We have recently received our first (and only) positive decision by DIMIA at primary level. With the exception of that one decision, DIMIA has rejected all of our protection visa applications. However the vast majority of our clients have successfully obtained protection visas on review.

The disparity between DIMIA decisions and Refugee Review Tribunal decisions is illustrated by the results achieved by one of our migration agents who specialised in representing asylum seekers within the community. In her time at CMC this migration agent completed five applications for review by the RRT of DIMIA decisions to refuse asylum seekers in the community protection visas. In all five cases the DIMIA decision was over-turned.

Our experience in representing protection visa applicants leads us to hypothesise that:

1. DIMIA officers are deficient in their understanding of Migration and Refugee Law;
2. There is a culture or attitude within DIMIA which results in a bias towards the rejection of applications.

If there is a general failure on the part of DIMIA to properly assess protection visa applicants' claims, the Refugee Review Tribunal becomes, by default, the primary decision maker. Given that there is no right to merits review from the RRT (only a limited right to appeal errors of law) the applicant effectively has only one opportunity to prove their case on the merits when the clear intention of Migration legislation is that there be two opportunities for an application to be assessed on its merits (a primary decision and a review).

We do not believe it is useful to add another layer of merits review to the system. Rather we believe that a concerted effort should be made to ensure that DIMIA officers are in a position to properly assess claims in accordance with the law. We believe that the standard of decision making by DIMIA can and should be improved.

Some ways in which DIMIA might increase its capacity for quality decision making include:

1. Providing officers with thorough and extensive training in Migration and Refugee Law; interviewing skills; the manner in which evidence (including country information) should be used in assessment of a claim; and cultural difference.

2. Introducing a system whereby teams of case officers work under the supervision of a person with legal training/ detailed knowledge of migration law/ a lot of experience in assessing protection visa claims. That person would be available to assist case officers throughout the assessment process and should read and critique all decisions before they are finalised.
3. Promoting a culture of respect for Migration and Refugee law and asylum seekers (ie decision makers should be at least as eager to protect refugees from being refouled as they are to ensure that non-refugees are not granted asylum.)

DELAY IN ISSUING VISAS ONCE GRANTED

After the RRT makes a positive determination with respect to an applicant's protection visa application, the application is remitted to DIMIA for final processing. In our experience it often takes DIMIA an unreasonably long time to issue a visa once an applicant has provided all necessary documentation including a police clearance and health checks.

It is not unusual for a client to wait over 4 months for a visa to be issued after providing all necessary documentation. Whilst this may not sound like a long time, given the clients' circumstances we submit the delay was unreasonable. Like some other asylum seekers in the community, they are forced to survive on charity, unable to work and unable to begin the process of reuniting with their families who are often also refugees in difficult circumstances.

DIMIA often cites external security checks as being the reason for a delay in issuing visas. However conversations between CMC and ASIO cast doubts on the validity of this claim.

<u>Recommendations</u>

1. DIMIA policy should state (in publicly available guidelines) that, once an applicant has provided the necessary documentation, a protection visa should be issued as soon as possible.
2. DIMIA should request security checks at the earliest possible opportunity (ie once an applicant provides the necessary documents.)
3. Any agency asked to undertake security checks should do so as a matter of priority.

ISSUES CONCERNING REFUGEES and FAMILY REUNION

THE NEED TO ACCOMMODATE DIFFERENT CULTURAL ATTITUDES CONCERNING THE CONSTITUTION OF FAMILY

Australia recognises the importance of family to individuals and society and therefore encourages refugees to sponsor their family members to join them in Australia. Provision is made under various refugee visas (see sub-classes 200-204) for refugees in Australia to sponsor members of their immediate family (spouse and dependent children, or if the sponsor is a child – parents.) Refugees can also sponsor their family under other visa categories falling within the Family Stream.

Unfortunately migration legislation does not make adequate provision for cultural differences in the way family is constituted in different parts of the world. Migration legislation prioritises the nuclear family (spouse and children) whilst in other cultures relationships/ obligations between adults and their parents or between an adult male and a widowed sister in law (for example) may be considered of equal importance. Many of the refugees we advise are distressed that they cannot sponsor relatives to whom they have important cultural obligations because these relatives do not meet the requirements of any visa category.

The story of one of our clients from Afghanistan illustrates our point. Our client was the eldest son of his mother, a widow. As such, he had primary responsibility for the safety, care and financial support of his mother. He lived with his mother and his wife until he was forced to leave Afghanistan. His wife remained with his mother. Although our client's mother also had a number of daughters, these women were married and resided with their husbands. Culturally, it would be inappropriate for the mother to go to her daughters for support. We advised this client that he could sponsor his wife to Australia (immediate family member of refugee or spouse visa) but that his mother was not eligible for any visa. She could not be sponsored as a parent because she did not meet the balance of family test – ie she had daughters in Afghanistan. Our client was distraught saying that he could not sponsor his wife to Australia if his mother could not also come. He could not abandon his mother – his responsibilities to her were paramount.

The distress refugees feel at being separated from, and unable to fulfil their obligations to, close relatives does result in mental health problems and does impede the ability of refugees to begin new, happy and successful lives in Australia. Acknowledging the importance of different family relationships to different cultures and assisting families to reunite will benefit both individual refugees and society as a whole.

We are not in a position to formulate specific recommendations with respect to this issue at this time. However some possible improvements (each requiring further consideration and research) may include:

1. The amendment of the definition of 'Member of the Immediate Family' (Regulation 1.12AA) to include persons to whom the sponsor has particular responsibilities in accordance with the sponsor's culture; who usually reside with the sponsor; and to whom the sponsor provides support. Other requirements may be that the sponsor is the most appropriate person to provide support to the applicant and/or that no other person is able to support the applicant in their home country.

2. The amendment of law pertaining to sub-class 115 Remaining Relative Visa to remove the requirement that neither the remaining relative *nor their spouse* have any near relatives. Under the proposed amendment an Australian would be able to sponsor their remaining relative (a close overseas relative with no other 'overseas near relatives') despite the fact that the remaining relative has a spouse with overseas near relatives.

THE REQUIREMENT FOR DNA TESTING

A serious problem encountered by many of our refugee clients who wish to sponsor family to Australia (particularly from Africa) is DIMIA's frequent request for DNA testing to prove family relationships. Documents to prove relationships (such as birth and death certificates) are not available to a large proportion of African applicants. In the absence of such documents (or where DIMIA deems documents provided 'unreliable') it appears to be almost standard practice for DIMIA to now request DNA testing of all applicants.

The cost of DNA testing is exorbitant and well beyond the means of the vast majority of applicants from Africa as well as their sponsors in Australia. The cost varies from case to case (depending on location and the particular test required) however it is normal for the cost to be in excess of $1000 per applicant. Where an applicant/ sponsor cannot meet this cost an application will be refused (the 'request' for DNA testing is in reality a 'requirement').

We are currently assisting a husband and wife to sponsor 6 orphan relatives (all siblings) from Africa. This couple has demonstrated a strong commitment to the 6 orphans and want desperately to be able to provide the children with proper care and support. However DIMIA's request for all 6 children to be DNA tested at a total cost of over $6000 is beyond the means of the sponsors, themselves newly arrived refugees. We asked DIMIA if they would consider randomly testing 2 of the 6 children and, if those children proved to have the requisite relationship, assume that the other 4 also satisfy requirements. DIMIA refused our suggestion and insists all 6 children must be tested.

A further difficulty related to DNA testing is that applicants must often travel considerable distances to obtain a test. This is of particular concern where the applicant is a child and the area through which they have to travel is unsafe.

We believe DIMIA should look upon DNA testing as an option of last resort. Possible alternatives to DNA testing are listed below under our recommendations.

<u>Recommendations</u>

1. Where relationships cannot be proven by official documents such as birth and death certificates, DIMIA officers should request applicants to provide alternative forms of evidence of relationship including:

a. Statutory declarations of people within the Australian community who are aware of the relationship between applicants/ sponsors;
b. Official statements from people within the applicant's country who are aware of the relationship between applicants/ sponsors;
c. Evidence of an ongoing relationship between the sponsor and applicant such as receipts for money sent or correspondence;
d. Interviews with the applicant/ sponsor/ other community members;
e. Details of the relationship as recorded on official forms such as immigration applications (prior to the current application) or Refugee/ UN papers.

2. DNA tests should be requested only as a last resort.
3. Where a number of applicants are included in the one application and all assert the same relationship to the sponsor, DIMIA should request DNA testing from one or two randomly selected applicants only.
4. Where DNA testing does not disprove a relationship asserted by the applicant (DNA testing can never definitively prove a relationship), the cost of DNA testing be refunded by DIMIA.

CANCELLATION OF PERMANENT RESIDENT VISAS ON CHARACTER GROUNDS

POWER TO CANCEL PERMANENT VISAS ON CHARACTER GROUNDS SHOULD BE LIMITED

Under sections 501, 501A, 501B and 501F of the Migration Act a permanent visa can be cancelled, and the visa holder deported, on 'character' grounds. Essentially this power is directed at cancelling the visas of Australian permanent residents who have committed criminal offences.

In recent years we have noted a spate of 'Notices of Intention to Cancel Visas on Character Grounds'. It would appear that DIMIA is reviewing the criminal records of all permanent residents and that a notice is issued whenever a criminal history of any substance is detected.

Such is the scope of the cancellation powers on character grounds that a Notice of Intention to Cancel a Visa may be issued even where:

An offence was committed in the distant pass
The offence was relatively minor
The visa holder was brought up in Australia
The visa holder has an Australian citizen spouse and Australian citizen children.

An example in point concerned a senior Australian who was brought to Australia as a child migrant and placed in institutional care. He has lived his whole life in Australia. During the 1980s he was convicted of a number of minor, mainly alcohol related offences for which he at one stage served approximately 12 months in prison. Since that time there

have been no concerns about his behaviour. The man was well liked and well respected within the community. We were outraged when he received a Notice of Intention to Cancel his visa. This man's visa was not ultimately cancelled. However, the Notice caused considerable strain on the man in question. Furthermore, in order to ensure that this man's visa was not cancelled, CMC migration program staff, already stretched to the limit, were required to spend at least 15 hours, preparing submissions etc.

In our submission, the scope of the power to cancel a visa on character grounds is too broad and has resulted in Notices of Intention to Cancel being given to permanent residents who should never have had to deal with the stress of demonstrating that they should be allowed to remain in Australia.

We also fear that the broad scope of the power to cancel a visa on character grounds may lead to permanent residents being deported in circumstances which are unwarranted and unjust.

We are not in a position to formulate specific recommendations, but the types of limits we envisage include:

a) Cancellation on the basis of criminal record should be limited to cases where the visa holder is currently serving a term of imprisonment, or the criminal record demonstrates that an offence, or the requisite degree of seriousness, has been committed within the last 5 years
b) Visa holders who have lived in Australia for more than 10 years, not including any period of over 2 years spent in prison, should not have their visas cancelled as a result of criminal offences.
c) A visa holder who came to Australia as a child under the age of 18 and who has been in Australia for 2 years or more, should not have their visa cancelled as a result of criminal offences.

TIME LIMIT FOR RESPONDING TO NOTICE OF INTENTION TO CANCEL

The onus of proving that a visa holder meets the character test or should not be deported from Australia rests with the visa holder. However a person served with a notice of intention to cancel their visa on character grounds has only 14 days to provide any written or oral arguments/ evidence to DIMIA (s501D). This time limit cannot be extended.

Fourteen days is clearly an insufficient amount of time for a visa holder to prepare their submissions on an issue as important as cancellation of their permanent residence. Adequate time is needed for the visa holder to (among other things):

- Obtain representation (if desired);
- Obtaining a copy of their file, under FOI, who have 30 days to process an application;
- Obtain letters of support from employers/ social or religious groups/ other community members;
- Address the circumstances of offences;

- Address their current circumstances within the Australian community;
- Address why return to another country might cause difficulties

Recommendation

1. Section 501D of the Migration Act be amended to allow 28 days, after the receipt of the files from DIMIA for a visa holder to provide written argument/ evidence to DIMIA.
2. Section 501D be amended to give DIMIA the discretion to provide an extension of time for the provision of written arguments/ evidence.

Yours faithfully,

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