



CASE for Refugees
ABN 90 649 933 494

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Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

8 August 2005

Dear Committee Secretary

INQUIRY INTO THE ADMINISTRATION AND OPERATION OF THE MIGRATION ACT 1958

We provide this submission to the Inquiry into the Administration and Operation of the Migration Act 1958 on behalf of CASE (Centre for Advocacy, Support and Education) for Refugees, in respect of the first term of reference. This submission is endorsed by the Board of CASE for Refugees, and we thank the Committee for granting our request for an extension of time (to COB 8 August 2005) within which to provide this submission.

Background

CASE (Centre for Advocacy, Support and Education) for Refugees is a community legal centre that was established in 2002 when it became apparent that temporary protection visa ("TPV") holders would not have any government-funded assistance in relation to their applications for further protection. CASE for Refugees has assisted over 600 TPV holders in Western Australia in respect of their applications for further protection. We do not receive any government funding, and the majority of our service delivery is undertaken by volunteers. We currently receive funding from the United Nations Voluntary Fund for Victims of Torture, The Myer Foundation, and The Public Purposes Trust, which enables the employment of myself as part-time Solicitor/Project manager, a part-time migration agent, and a part-time office manager.

Submissions

In respect of the first term of reference (A) we make the following submissions with particular reference to the processing and assessment of visa applications;



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(1) there have been significant delays by the Department of Immigration and Indigenous Affairs (DIMIA) in considering, and determining applications for further protection by TPV holders, with the effect that many applicants remain on a TPV well beyond the original 36 months for which it was originally granted.

The delays can be categorised in 4 ways:

(i) routine and lengthy delays in DIMIA's responses to requests for relevant documents from applicants' files pursuant to Freedom of Information;
(ii) delays in DIMIA interviewing applicants;
(iii) delays in receiving a determination from DIMIA following the DIMIA interview,
(iv) delays in the issuing of a visa following a positive determination by the Refugee Review Tribunal (RRT). In some part the delays in the issuing of a visa can be attributed to the delays in the obtaining of security assessments from ASIO. Despite advice received from the Inspector-General of Intelligence regarding an increase in resource allocation to enable faster processing of security assessments applicants in Western Australia are continuing to experience significant delays.

These delays have existed despite the fact that the caseload (of further protection visa applications by TPV holders) was known 3 years in advance.

These delays have compounded and resulted in the majority of all TPV holders waiting for long periods before they have received a determination of their application for further protection from DIMIA. This has impacted adversely on the health and well-being of applicants, and whilst as a legal centre we are not qualified to make professional assessments in this regard, we are faced on a daily basis with clients whose distress is palpable. In particular clients are distressed about the impact of these delays on family reunification. Often their families are in precarious circumstances overseas, whether in their country of origin, or a neighbouring country.

(2) an overwhelming majority of negative decisions made by DIMIA have been set aside by the Refugee Review Tribunal ("RRT").

The stress caused by a negative DIMIA decision and the further delay in proceeding to the RRT only exacerbates the adverse effects on the health and well being of applicants referred to in (1) above. The fact that most negative decisions are set aside in itself suggests systemic flaws in the procedures used by DIMIA to reach decisions on applications for further protection. However, we do not have the resources to undertake a proper analysis of the high set aside of DIMIA decisions by the RRT.

We are currently undertaking a thorough review of all of our client files in order to provide to the Inquiry substantiating documentation in respect of the complaints outlined in (1) above. This review is being undertaken by our volunteers, and is not presently available for provision to the Inquiry. We will provide this to the Inquiry as



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soon as it becomes available. We welcome the opportunity to speak to the Inquiry in respect of this submission.

Yours sincerely

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