Appendix B: CASE STUDIES

CASE STUDY 1: Failure to appoint a specialist where a Bridging Visa application is made.

1. This case is of a man who developed conversion blindness in detention and applied for a bridging visa.

2. In September 2001 Mr. A* held in Curtin IRPC, developed double vision then triple vision during a hunger strike and then lost sight in both eyes. Five months later he is sent for tests in Perth and on 22 February 2002 Neurologist at Royal Perth Hospital writes to Dr [redacted] stating that a CT scan shows no physical cause for blindness, that blindness is result of "stressful situation he finds himself in".

3. 6 months later on 8 August 2002, Mr. A* is taken to Perth for tests on his throat, he also sees Dr Peter Morton a Psychiatrist at Perth Hospital. Dr Morton confirms diagnoses of conversion disorder and recommends hospitalisation.(A conversion disorder is a disorder where psychological distress is so extreme that it effects physical functions, it is not that the person imagine or feigns physical illness it is real physical illness). The recommendation is ignored and Mr. A* is returned to detention.

4. On 17 October 2002 at the request of an advocate, Dr Derrick Silove, Psychiatrist at Liverpool Hospital NSW, writes a report/ case note audit based on Mr. A's* medical file, he confirms the diagnoses of conversion disorder and recommends release from detention stating that the chance of recovery from a conversion disorder diminishes the longer it goes untreated and the longer he remains in detention.

5. In December 2002 Mr. A* submits an application for a bridging visa (Class WE) pursuant to sub-regulation 2.20 (9) (c) (Eligible non-citizen, has health need due to which can not properly be cared for in a detention environment). The Application includes medical reports and psychiatrists' reports stating he cannot be cared for in detention and his condition seems to be caused by and will worsen in detention. The application explicitly requests the department to appoint a specialist to assess eligibility under 2.20 (9) (c).

6. In January 2003 the Department notify his Migration Agent that the Bridging Visa application is invalid because a doctor appointed by immigration has not certified that he can not be properly cared for etc. The department did not appoint a specialist. The department sought the opinion of the treating GP who apparently said that Mr. A* could be properly cared for in a detention environment.

7. On 14th February 2003 Dr. Louise Newman Psychiatrist, conducts an assessment of Mr. A* at Baxter IRPC and confirms diagnoses of conversion disorder caused by detention experience and recommends release into the community, the report also states Mr. A* can not be cared for in a detention environment.

8. On 20th June 2003 Mr. A's* Barrister filed an application by way of draft order nisi in the High Court claiming implied duty in legislation that the department appoint a specialist to assess special health need for a bridging visa, seeking orders that the department appoint a specialist. In July 2003, Advocate Naleya Everson contacted Steve Davies (first assistant Secretary unauthorised arrivals DIMIA) and Paris Aristotle IDAG to push for the appointment of a specialist, Steve Davies informed her that the MSI's are ambiguous and are under review (MUST appoint a specialist ambiguous?).

9. After recommendation from Paris Aristotle from IDAG the department indicate they may appoint a specialist. On 6th August 2003 Dr. Louise Newman's report was faxed to DIMIA and ACM on by a Migration agent. Later in August 2003, a new application for a bridging visa was submitted to DIMIA, formerly requesting the appointment of a specialist and attaching the judgement in *VQAS* v *Minister* which held that the department MUST appoint a specialist. In August 2003 DIMIA appointed a specialist, Dr. Howard Gorton. Dr. Howard Gorton certified that Mr. A* had a special need due to which he could not be properly cared for in a detention environment.

10. On 12 September 2003 Mr. A's* application for Special Leave to the High Court in relation to his protection visa was dismissed and he therefore no longer met the requirement for the grant of a bridging visa that he had proceeding ongoing.

11. According to the assessment of psychiatrist Dr Peter Morton in August 2002 that Mr. A* had a conversion disorder and needed hospitalisation (and most likely prior to that date as he had not prior seen a psychiatrist but had developed the disorder 12 months earlier), Mr. A* was eligible and in need of a bridging visa in August 2002. Later assessments by psychiatrists confirmed this, he even made a bridging visa application in December 2002 with all the reports attached, but it was not until a year later in September 2003 and two years since he first developed the condition, that the department finally appointed a specialist, who of course along with all the other specialists who had assessed him, stated he could not be cared for in detention.

CASE STUDY 2: Failing to appoint a specialist where many recommendations are made that a family be released on bridging visas.

1. This case is of the B* family, a Father, Mother and Son who became increasingly psychologically unwell as a result of detention, they were detained for over three years, all three family members developed major psychiatric disorders. Family and youth services, a number of ACM organised assessments and the Human Rights and Equal Opportunity Commission all recommended that the family be given a bridging visa. The family were finally released around the beginning of 2004, though a Migration Agent had prepared a bridging visa application in December 2003, the

family had by then become so paranoid that they believed it was an attempt to get them to return to Iran so they did not sign the necessary papers.

2. Below are some of the recommendations made about the family:

3. 23rd July 2002, Dr. P Bakhtiarian (Fellow in Child Psychiatry) and Con Paleogogos (Senior Clinical Psychiatrist) Department of Psychological Medicine Women and Children's Hospital Adelaide:

   "We recommend that Child B and his family be removed from the detention centre as a matter of urgency."*

4. Sometime 2002, Family and Youth Services SA:

   "It is recommended that this child and at least one parent be released from detention – on a bridging visa- in order to facilitate this child's ability to be engaged by a counsellor or therapist."

5. 19th August 2002, Dr. Jon Jureidini (Psychiatrist) Head of Department of Psychological Medicine Women and Children's Hospital Adelaide:

   "I therefore unreservedly concur with Dr Backtiarian and Mr Paleologos' recommendation of removal of the whole family from the detention centre. I have consulted with Professor Norman James who had previously assessed the Child B's father and he concurs with this recommendation."*

6. 24th October 2002, Recommendations to DIMIA (detailed in a report dated 11th January 2003 by [redacted], Mental health Nurse, [redacted]

   "It was recommended to DIMIA that the family would only be able to improve their functioning outside eof the detention centre environment."

7. 3rd December 2002, Dr Ozdowski (Commissioner) Human right and Equal Opportunity Commission:

   "...the statement is clearly saying that the family needs to be out of detention in order that the Psychological and psychiatric problems could be addressed..."

   "...the letter makes it plain as day, does it not, that a senior psychiatrist has said that continued detention increases the risk of self harming behaviour, that the son and his family be removed from that environment because, amongst other things that very environment is contributing to those mental problems. It is clear as day from that document, isn't it?"

   "This is a medical and psychiatric emergency."

8. 9th January 2003, [redacted] Acting Regional Director, Child And Adolescent Mental Health Services:

"Child B remains depressed with symptoms of PTSD. He remains at high risk of suicide and the centre is clearly unable to provide the appropriate supports to ensure his safety. I therefore recommend hospitalisation for urgent psychiatric review and intervention."*

"Parvis also requires urgent psychiatric review and treatment by adult mental health services."

9. 18th February 2003, Dr. Jon Jureideni (Psychiatrist) Head of Department of Psychological Medicine Women and Children's Hospital Adelaide:

"This left the only possible therapeutic option as the removal of the family as a whole and their placement in some kind of community setting as previously recommended to DIMIA."

"The seriousness of the family's condition makes some timely resolution imperative."

21st May 2003, Dr. Jon Jureideni (Psychiatrist) Head of Department of Psychological Medicine Women and Children's Hospital Adelaide:

"As Amanda (ACM employed psychologist) pointed out, all ACM and visiting mental health staff (both from SA and elsewhere) have been unanimous in their agreement that this family can not be appropriately treated within the detention environment. Each member of the family suffers from severe psychiatric disturbance sufficient to warrant consideration of impatient admission. We can find no evidence to change our opinion that Child B should be separated from his parents. Thus, unless the family are removed from the detention environment they can not be regarded as being able to benefit from any mental health intervention. A result of the continued position on DIMIA's behalf that part or all of the family needs to remain in detention has the direct effect of denying them any significant mental health intervention."*

10. 29th August 2003, Dr. Jon Jureideni (Psychiatrist) Head of Department of Psychological Medicine Women and Children's Hospital Adelaide:

"I continue to bear witness to the disintegration of this child and his family. I have no intervention useful to them while they remain in the detention environment."

11. 30th October 2003, Dr. Jon Jureideni (Psychiatrist) Head of Department of Psychological Medicine Women and Children's Hospital Adelaide:

"Once again let me state the need for urgent psychiatric treatment that can not occur within the detention environment. Failure to do so carries enormous risks."

12. Conclusion: At all times during the continued detention of this family, the department had the option available to them to organise for the family to be given a bridging visa, either pursuant to the regulations or by recommendation to the Minister to exercise the discretionary power pursuant to s417 of the act. Further the department were operating community detention for families in Melbourne with the Hotham Mission for at least the last year that the family remained in detention and could have arranged such an option for this family. This case is an example of one of the many situations where the Migration Act gives options, which would not involve serious psychological harm and human rights abuse, but the department chooses the option that does.