DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS

Deputy Secretary

Senator Joe Ludwig
Chair
Select Committee on Ministerial Discretion
in Migration Matters
Parliament House
CANBERRA ACT 2600

Dear Senator Ludwig

Inquiry into Ministerial Discretion in Migration matters

Thank you for your letter of 28 October 2003, advising me of the Committee's intention to table a report by the end of February 2004 and seeking this Department's continuing cooperation in providing information to assist the Committee's inquiry.

The Department is continuing to assign considerable resources to responding to the Committee's requests for information in as thorough a manner as possible. I note that in separate correspondence the Secretariat has outlined its understanding of the questions still to be answered, and has asked the Department to provide those by noon on 12/11/03. This includes all the questions taken on notice at the hearing on 23/9, as well as a number of written questions on notice submitted to the Department.

I have enclosed the answers to those questions submitted prior to the public hearing on 23 September i.e. the remaining question taken on notice at the public hearing on 5 September as well as the 2 questions emailed to Andrew Endrey on 16 September (now referred to as set O). We are also working to provide answers to the remaining questions, including another group of questions submitted on 29 October, by 12 November as requested. However, if there is any indication that we will not be able to meet this deadline for any of the questions we will advise the Secretariat as soon as possible.

You also refer to your particular interest in your "request for documentation demonstrating (the) Department's processes in handling ministerial intervention requests made at the public hearing on 23/9/03". While this is one of the questions included in the group to be answered by 12 November, I understand that you are keen to have some indication of the Department's views on this as soon as possible.

DIMIA

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I have considered the request carefully, but must advise that the provision of personal files presents considerable difficulties.

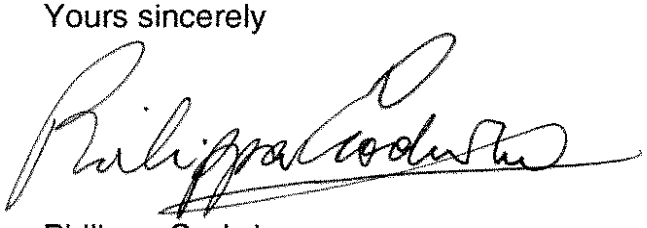
First, there are significant workload implications. The Department has examined the resource implications of providing case files in all cases where Mr Kisrwani and Ms Le made requests for intervention, as you requested at the public hearing on 23 September, 2003. Once the files have been obtained, it is estimated that it would take in the order of 120 person days to prepare the files for the Committee's perusal. This estimate is based on a total of 75 cases, averaging 2 files per case (approximately 150 files) and 150 folios (or pages) per file. We estimate that each file will require 6 hours work for identification of, and consultation in relation to, any privacy and other potential public interest immunity or legal issues, file preparation copying and file management.

Secondly, apart from the workload implications, the Department has some broader concerns about the provision of files. I have not been able to identify any precedent for a request of this nature. The files relate to individuals who are not themselves the subject of the Inquiry. As with all visa applicants the subjects of the files were assured that the personal details they provided to the Department in relation to their applications would not be used or disclosed except for certain purposes, which do not include the purpose now proposed. There is a point of principle as to whether it is fair to breach the legitimate expectation of the individual concerned about how their personal information would be dealt with by the Department.

In view of the very significant workload and other issues that this request raises, I do not believe the provision of the individual case files is appropriate. However, I recognise that the Committee is keen to fully understand the department's processes in handling ministerial intervention requests and has sought the Department's co-operation in the provision of case studies. To assist the Committee, the Department is proposing to construct a series of case studies taken from a sample of actual files. The case studies would be anonymous - that is, they would not name the individual applicant(s) or anyone else referred to in the file - but would trace, folio by folio, the processing of the case to the point of Ministerial intervention. So that the Committee can see what such a case study would look like, we are proposing to provide 2 or 3 case studies to the Secretariat as soon as possible.

I assure you that the Department is continuing to make every effort to provide information that will most usefully assist the Committee. Should you wish to do so, I would be pleased to discuss any of these matters with you and/or the Secretariat. I can be contacted on 62642522.

Yours sincerely



Philippa Godwin

31 October 2003

O Additional questions

Question O1

In addition to the approval rates for the top ten sponsors in each group, can the Department provide the dates on which approval was granted? Can the Department provide the files for these cases?

Answer

The tables at Attachment A provide details of visa grant dates for each of the top 10 parliamentarians and individuals/community groups.

The Committee also asked about files at the hearing on 23 September 2003. Ms Godwin's letter dated 31 October 2003 to Senator Ludwig sets out the Department's views regarding the provision of files.

Question O2

An article in the Mercury of 6 September 2003 quotes a spokesman for Mr Ruddock as saying that: "the Refugee Review Tribunal often referred cases to the Minister at the request of the applicant, without assessing whether it had grounds for success". Can the Department clarify this remark, in particular whether the Refugee Review Tribunal can and does, under the Migration Act, refer cases to the Minister without first assessing whether they have grounds for success?

Answer

This issue was covered in some depth by members of the MRT/RRT at their evidence to the Committee on 22 September 2003 – see Hansard pp14-18.

The respective tribunals refer cases to the Department, in accordance with the Minister's Guidelines, where there may be issues or circumstances that require close consideration. In some instances, this may involve only a pro forma covering sheet.

QUESTION TAKEN ON NOTICE

SENATE SELECT COMMITTEE ON MINISTERIAL DISCRETION IN MIGRATION MATTERS

Senator Wong asked (Hansard page 81) – is it possible for the Department to provide information as to how many scheduled cases in a year on which the Minister requested a full submission?

Answer:

The Department's computer systems do not capture this information. However, information relating to the last three financial years has been compiled through a manual search of departmental hard copy schedules. While in recent years copies of the schedules referred to the Minister have been held in the MIU that prepared them, this has not always been the practice. In some instances, the schedules were placed on individual case files and are therefore unable to be located. As a result, to identify and analyse the outcome of all schedules prior to 2000/01 would require manual interrogation of the files in every case where a request was made by or on behalf of a person.

Table 1: Number of submissions requested by Minister after receipt of a schedule

Financial Year	s351[1]	s417
2000/01	16	25
2001/02	3	6
2002/03	30	25

Data Source: Manual interrogation of schedules referred to the Minister.
[1] A number of s351 schedules over this period were retained only on the individual client/s file.

Table O1-1 Visa grant dates for Top Ten Parliamentarians

Parliamentarian Name	Financial Year	Visa Grant Date (Cases)	Parliamentarian Name	Financial Year	Visa Grant Date (Cases)
Ferguson, Laurie	00/01	27/07/00	Bartlett, Andrew	99/00	15/05/00
		1/12/00		00/01	4/09/00
		2/01/01			6/09/00
		2/01/01			11/10/00
		14/04/01			11/01/01
		20/06/01			24/01/01
	01/02	15/01/02			18/06/01
		17/05/02		01/02	14/09/01
		3/06/02			29/05/02
		26/06/02			30/05/02
	02/03	4/09/02		02/03	12/11/02
		3/12/02			25/03/03
		14/01/03			21/04/03
		5/02/03		03/04	14/08/03
		13/03/03	Murphy, John	00/01	27/07/00
		12/05/03		01/02	12/11/01
		26/05/03			3/12/01
	03/04	14/08/03		02/03	13/03/03
		29/08/03			23/04/03
Price, Roger	00/01	7/06/01	Abbott, Tony	00/01	21/06/01
		19/06/01		01/02	10/09/01
	01/02	14/09/01			29/05/02
		14/09/01		02/03	1/11/02
		3/01/02			15/04/03
		3/06/02		03/04	14/08/03
	02/03	7/11/02	McLeay, Leo	99/00	17/02/00
		12/11/02			15/05/00
		21/04/03		00/01	27/07/00
		23/06/03			7/03/01
	03/04	30/07/03		01/02	14/09/01
		26/08/03			28/09/01
Mossfield, Frank	00/01	6/09/00			12/03/02
		2/01/01		02/03	17/09/02
	01/02	18/09/01			27/01/03
		8/11/01			5/03/03
		30/12/01			26/06/03
	02/03	27/01/03	Sciacca, Con	00/01	31/07/00
		21/04/03			21/08/00
		21/04/03			5/02/01
	03/04	3/07/03			14/05/01

Parliamentarian Name	Financial Year	Visa Grant Date (Cases)
Sciacca, Con		23/05/01
		20/06/01
	01/02	30/05/02
	02/03	4/09/02
		9/09/02
		1/11/02
		9/04/03
		6/05/03
Albanese, Anthony	00/01	21/08/00
		31/01/01
		6/04/01
	01/02	14/09/01
		13/05/02
		21/05/02
		21/05/02
	02/03	3/12/02
		27/01/03
		12/05/03
	03/04	20/08/03
Byrne, Anthony	00/01	31/01/01
		23/05/01
	01/02	22/07/01
		8/08/01
		12/03/02
		30/05/02
		4/06/02
	02/03	15/05/03
	03/04	9/07/03
		30/07/03
		30/07/03

Note 1: The figures above are based on manual interrogation of available data from PCMS, crosschecked by manual interrogation of the ICSE.

Table O1-2 Visa grant dates for Top Ten Individuals / Organisations

Individual/Org Name	Financial Year	Visa Grant Date (Cases)	Individual/Org Name	Financial Year	Visa Grant Date (Cases)
Amnesty International Australia	99/00	19/01/00	Karim's Travel Agency	02/03	9/09/02
		15/05/00			17/09/02
	00/01	11/07/00			15/10/02
		12/10/00			1/11/02
		12/01/01			21/11/02
		2/05/01			12/02/03
	01/02	1/08/01			20/02/03
		12/11/01			25/02/03
	02/03	12/11/02			5/03/03
		25/02/03			12/05/03
	03/04	14/08/03	Sisters Of Mercy	98/99	10/06/99
Marion Le Consultancy	99/00	12/05/00		99/00	6/10/99
	01/02	12/11/01			20/10/99
		30/12/01		00/01	5/01/01
	02/03	19/12/02			5/01/01
		10/01/03			12/01/01
		1/04/03			24/05/01
L Hogarth Refugee Council	00/01	1/11/00		01/02	8/11/01
	02/03	12/11/02			24/04/02
		27/05/03		02/03	17/01/03
	03/04	20/08/03			27/01/03
Karim's Travel Agency	99/00	13/04/00	Sisters Of Charity	02/03	27/01/03
		19/06/00	Alamdar, Gail	02/03	12/11/02
	00/01	14/12/00	Hotham Mission	00/01	5/01/01
	01/02	24/01/02		02/03	13/11/02
		29/05/02		03/04	20/08/03
		4/06/02			
		20/06/02			

Note 1: The figures above are based on manual interrogation of available data from PCMS, crosschecked by manual interrogation of the ICSE.

Note 2: The two remaining Top Ten individuals/organisations, the Fijian Australian Community Council and Maryellen Flynn, are not listed in this table as none of the cases they represented resulted in an intervention.