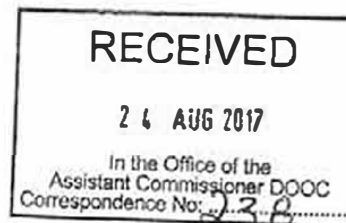




Australian Government
Department of Immigration
and Border Protection



Australian
BORDER FORCE



MINUTE

To: Assistant Commissioner, Detention & Offshore Operations Command

Cc: First Assistant Secretary, Children Community and Settlement
First Assistant Secretary, Detention Services
First Assistant Secretary, International Division
Assistant Secretary, Regional Processing Taskforce
Assistant Secretary, Health Strategy and Planning
Senior Legal Officer, AAT & Removals Injunctions
Special Counsel, Office of Special Counsel
Deputy Commissioner, ABF Support

Date: 21 August 2017

ONGOING ISSUES IN THE OVERSEAS MEDICAL REFERRAL PROCESS OF THE REPUBLIC OF NAURU HOSPITAL

Timing

By 28 August 2017

Purpose

To:

1. To alert you to reports of ongoing issues in the Overseas Medical Referral (OMR) Process of the Republic of Nauru Hospital.
2. To seek your support of the engagement of the Australian High Commissioner in Nauru to resolve this either by providing advice to us on strategy in dealing with the RON Department of Health or making representations to the Government of Nauru if required.

Issues

OMR Process and cases

3. Concerns about OMR delays have been raised by International Health and Medical Services (IHMS) Medical Directors to the Department at the Complex Case Review Committee meetings chaired by Dr Paul Douglas. On the 4 August 2017, Dr Douglas summarised the problem in a

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Minute, Nauru Overseas Medical Referral process (Attachment A). Dr Douglas suggested Department of Foreign Affairs and Trade (DFAT) engagement.

4. s. 33(a)(iii)




Background

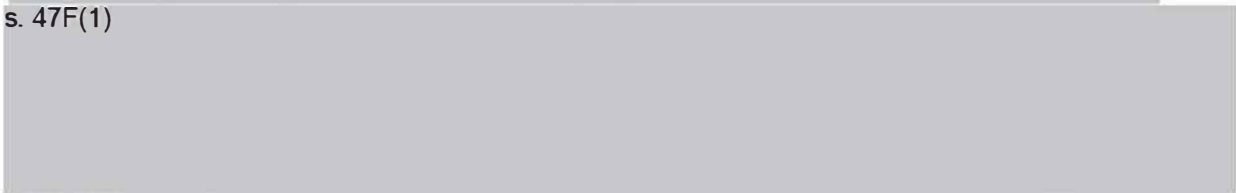
5. s. 33(a)(iii)



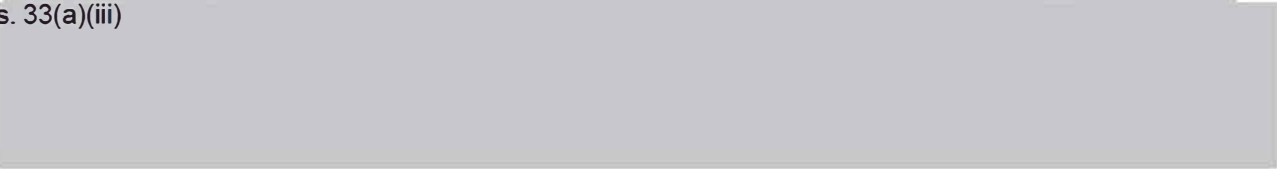
6. s. 33(a)(iii)



7. s. 47F(1)



s. 33(a)(iii)



s. 47F(1)



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s. 47F(1)

RONH Capacity

8. Previously the RONH OMR process generally supported elective referrals to Pacific International Hospital. s. 33(a)(iii)
s. 33(a)(iii)
9. Since February 2017 there have been instances where the RON Hospital has taken a very literal interpretation of local equivalence, or reported that it had significant capacity to perform intervention, that could not be verified.
10. During the year IHMS staff have developed relationships with current RONH staff and at times (eg in May) reported progress in getting cases approved. They also hosted the RONH Medical Director to give a presentation on the OMR process for their staff. IHMS has assisted the RONH in good saramaritan acts, due to staffing or skill gaps at that hospital, supporting the relationship.
11. s. 33(a)(ii)
12. The RON Health Department has committed to obtaining Australian Council for Health Care Standards accreditation for its services. ACHS has a module for overseas hospitals in situations such as Nauru. Informal comments from Nauru health officials is that such accreditation will take about 4 years for them to complete.
13. s. 33(a)(iii)
14. s. 33(a)(iii)

Termination of Pregnancy

15. Briefings and submissions have been prepared on this topic in the past and can be provided if requested.
16. Currently Termination of Pregnancy Is provided to asylum seeker and refugee women in Nauru, facilitated by Australia.
17. s. 33(a)(iii)
18. Previous HSPD advice is that if policy is ever changed the current policy should apply to those who are already pregnant at the time of the change.

Engagement of DFAT

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19. A minute suggesting DFAT involvement has been prepared by our Health Policy Branch (Attachment A)
20. In addition last week I spoke to High Commissioner John Donnelly by phone. If provided the details of cases, the High Commissioner could assist. s. 33(a)(iii)
21. High Commissioner Donnelly often provides informal assistance to DIBP Officials, but if he considered it to be helpful for him to be directly involved, he could be asked to assist with the resolution of these matters.
22. AS Leonie Nowland is in Nauru this week and could be asked to discuss these matters directly with High Commissioner, and also other staff.
23. It is understood that there are many issues to be considered in the Nauru – Australia dialogue at this time. Resolving these issues effectively may help prevent these health issues clouding other broader discussions for future planning.
24. Noting the broad picture that the Department needs to manage, I seek your endorsement for the strategy of High Commissioner engagement described in this Minute.

Consultation

25. Assistant Secretary, Health Policy and Performance and the IHMS Medical Directors have been consulted in development of this Minute.

Recommendation

1. That you note the reports of ongoing issues in the OMR process of the Republic of Nauru Hospital

Noted / Please Discuss

2. Support to engage with the High Commission to resolve concerns with OMR delays

Agreed / Not Agreed

John Brayley

John Brayley
First Assistant Secretary
Health Services and Policy
7 August 2017

Kingsley Woodford-Smith
Assistant Commissioner
Detention Offshore Operations Command

28 August 2017

John, I think this should be managed internally through HSPD as it is an internal issue. I will support it.

28/8/17

Contact Officer: s. 22(1)(a)(ii)

Phone: s. 22(1)(a)(ii)

Attachments:

Attachment A: Minute, Nauru Overseas Medical Referral process

Attachment B: Letter from CMO to s. 47F(1) regarding s. 47F(1)



Australian Government
Department of Immigration
and Border Protection



Australian
BORDER FORCE

MINUTE

To: Assistant Secretary, Pacific and Transnational Issues

Through: A/g Director, Health Performance and Assurance

Cc: Superintendent, Offshore Health Operations

Director, Health Services Contract Management

Nauru Overseas Medical Referral process

Timing

As soon as possible to ensure that effective processes are in place to support medical treatment of refugees on Nauru.

Purpose

To provide you with an overview of the current Nauru Overseas Medical Referral (OMR) process and to seek your assistance to improve the OMR process through discussions with DFAT's Pacific Bilateral and New Zealand Branch and the Australian High Commission in Nauru.

Background

1. The Department of Immigration and Border Protection (the Department) is committed to collaborating with the Government of Nauru (GoN) to ensure that appropriate health services are provided to refugees, asylum seekers and our stakeholders.
2. In the case of refugees, health care is the responsibility of the host country (GoN), however, the Department has been active in capacity building of health services and infrastructure so the GoN can meet these health needs. The Department's contracted health services provider, International Health and Medical Services (IHMS), deliver clinics and other services on behalf of the host government to meet capability and capacity gaps.
3. Refugee medical cases that cannot be treated on Nauru are escalated to an OMR Committee which is administered by the GoN officials and clinicians, including the Republic of Nauru Hospital (RoN) Heads of Surgery, Internal Medicine, Obstetrics and Gynaecology, Paediatrics, Emergency, Psychiatry, the Director Public Health and the Nursing Matron. The OMR Committee will only endorse an OMR for care that cannot be delivered in Nauru.
4. The Department provides funding and support to refugees who are subject to an OMR.

Issues

5. On 25 July 2017, the Department's Clinical Advisory Team (CAT), Offshore Health Operations Section and IHMS convened a meeting to discuss the limitations and persistent issues in GoN OMR process.

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6. s. 33(a)(iii)

Way forward

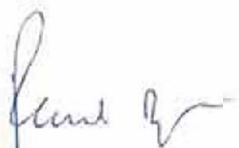
7. On 25 July 2017, IHMS suggested that they could approach the RoN to embed a temporary IHMS employee to immediately support the OMR administrative processes in the short-term, however, noting that the GoN is a sovereign State, we are seeking your assistance in raising this issue sensitively through your counterparts at DFAT.

Consultation

8. Offshore Health Operations Section has been consulted in the development of this minute. It should be noted that Offshore Health Operations Section has engaged with Health Contracts regarding the support IHMS could provide to RoN.

Recommendation

It is recommended that you *agree* to raise the OMR capacity issue with DFAT to see if it is possible to implement better administrative processes at the RoN.



Agreed/Please Discuss

Dr Paul Douglas
Assistant Secretary
Health Policy and Performance Division

3 August 2017

Anthony Seebach
Assistant Secretary
Pacific and Transnational Issues

August 2017

Contact Officer: s. 22(1)(a)(ii)

Phone: s. 22(1)(a)(ii)

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Australian Government
Department of Immigration
and Border Protection

16 August 2017

s. 47F(1)

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Australian Government

Department of Immigration and Border Protection



Support Group

Date: 13/12/2017

Deputy Commissioner Correspondence No: 529-006

Cc: FAS, Health Services Policy Division

On 14 November 2017 Health Services Policy Division provided the Deputy Commissioner the Minute 'Overview of the Overseas Medical Referral (OMR) Process'. On 8 December 2017. The Deputy Commissioner has requested changes to the Attachment 'Chronology of medical transfer process for regional processing countries'.

Response

The Minute attachment 'Chronology of medical transfer process for Regional Processing Countries' has been re-formatted and additional information included. By naming Taiwan the classification of the Minute and attachment has changed to protected.

Author:	s. 22(1)(a)(ii) A/g Assistant Director, s. 22(1)(a)(ii)
SES Clearance:	Elizabeth Hampton, FAS, Health Services Policy Division s. 22(1)(a)(ii) Leonie Nowland, AS Health Strategy & Planning s. 22(1)(a)(ii)
Through:	Deputy Secretary
Consultation:	International Division
Copied to:	AS, Pacific and Transnational Issues Branch

Attachment A (Original tasking)	Scanned Minute Attachment: Chronology of medical transfer process for Regional Processing Countries with DC comments.
Attachment B	Revised Minute Attachment: Chronology of medical transfer process for Regional Processing Countries

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Chronology of medical transfer process for Regional Processing Countries	
Date	
24 June 2015	Secretary Directive stating "unless there are compelling medical reasons, supported by second opinions, to do with life and death situations, or situations involving the risk of life time injury or disability, transfers to Australia should be avoided as a general rule and should in any event become increasingly rare."
July 2015	<p>OMR process (previously a process used to determine whether the Nauruan health budget would fund the overseas health treatment of one of its citizens) expanded beyond Nauruan citizens to include refugees, with first patient transferred from Nauru to POM on 30 July 2015.</p> <p>Unlike the process for Nauruan citizens, where approval to transfer to another country is approved by the OMR for a refugee, the Australian government pays associated costs.</p>
29 April 2016	Secretary Directive stating "the aim should be to avoid to the maximum extent possible such transference to Australia...This Instruction is to be overridden only if and when there is a reasonable apprehension that inaction would result in an immediate threat to life, or the occasioning of permanent debilitating injury."
May 2016	Clinical Case Review Committee (CCRC) established in Detention Health Services Branch. The purpose of the CCRC was to undertake a joint review with IHMS of Requests for Medical Movement (RMM) to ensure appropriate and prospective clinical management and timeliness of response from IHMS.
May 2016	Legislative amendments to Nauru's Crimes Act passed referencing termination of pregnancies (can be performed lawfully in Nauru if the elements of a "lawful medical procedure" are met under s63(1) of the Crimes Act 2016 (Nauru)). Despite the legislative changes, to the Department's knowledge no termination of pregnancies have been performed in Nauru.
June 2016	Process Mapping undertaken by ABF to clarify procedure of medical transfers for Refugees and Transferees from Regional Processing Countries.
2 November 2016	Formation of the Transitory Person Committee (TPC) with role to discuss complex cases where a Request for Medical Movement (RMM) has been received by ABF, recommending transfer to Australia. Chaired by FAS Children Community and Settlement Services Division and consisting of core members from FAS Detention and Offshore Ops Command, FAS Detention Services Division, and CMO/SG Health Services Policy Division.
September 2017	<p>Letter from FAS Hampton sent 28 September 2017 to the Government of Nauru's Minister Scotty seeking to exclude requests for termination of pregnancy for refugees from the OMR process, given the strong religious and cultural aversion to terminations in Nauru.</p> <p>Memorandum of Understanding (MOU) between the Government of Australia and Taiwanese authorities providing medical treatment for certain people residing in regional processing countries is signed (12 September 2017).</p>
11 October 2017	DiBP wrote to Taiwan, formally nominating Nauru as a regional processing country under the MOU from which Taiwan may receive medical transfers. Papua New Guinea has not been nominated for inclusion under the MOU.
January 2018	Transfer of first group of individuals to Taiwan for medical treatment likely to occur.

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Australian Government
**Department of Immigration
 and Border Protection**

MINUTE

To: Secretary
Through: Deputy Commissioner, Support Group
Cc: First Assistant Secretary, Health Services and Policy Division
 Assistant Secretary, Health Strategy and Planning Branch
Date: 10 November 2017

OVERVIEW OF THE OVERSEAS MEDICAL REFERRAL (OMR) PROCESS

Purpose

To:

1. Provide you with an overview of the Overseas Medical Referral (OMR) Process.

Background

2. The Overseas Medical Referral (OMR) process is used by the Government of Nauru (GoN) and managed by the Republic of Nauru Hospital (RoNH).
 - a. The OMR committee approves Nauruan citizens to access health care overseas when the required treatment is not available on Nauru. This is funded from the GoN health budget.
 - b. Patients not approved by the OMR committee or requesting elective surgery (which requires Doctor referral only) may opt to self-fund the offshore transfer and treatment.
3. The OMR committee comprises a core group of regular attendees, however all RoNH practitioners and treating specialists hold committee membership and are invited to present cases as required. The OMR committee principal attendees are:

s. 47F(1)



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4. On determination of refugee status, refugees come under the care of the local health system in Nauru. IHMS provides supplementary health services to refugees through the RoNH Settlement Clinic, including access to a GP, obstetrics services and patient referrals for RoNH specialists. Mental health consultations for refugees are conducted at Regional Processing Centre 1 and torture and trauma counselling is held in a community-based setting. In general, refugees are encouraged to seek emergency and specialist health care through the RoNH.
5. In July 2015, in response to the progress of Refugee Status Determinations resulting in many transferees being considered to be refugees, and consistent with GoN responsibilities to refugees, the OMR process began to be used to facilitate overseas medical treatment for refugees.
6. Unlike OMR-approved travel which is funded from the Nauruan health budget, funding for overseas medical treatment for refugees approved through the OMR process is provided by the Australian government. Further, the Australian government arranges treating specialists and destinations, transfer logistics and patient supports.
7. The OMR process does not apply to Papua New Guinea (PNG). Requests for medical transfer to third country or Australia for a refugee or transferee residing in PNG is done by IHMS generating a Request for Medical Movement (RMM).
8. A chronology of the medical transfer process for Regional Processing Countries is at Attachment A.

Issues

9. The RoNH reports that the OMR committee convenes weekly and by exception as required. The majority of the work of the OMR committee relates to Nauruan citizens, however it also discusses refugee cases that are tabled.
 - a) Refugee access to the OMR process is through a referral to the RoNH by IHMS. The RoNH will identify a specialist to review the patient. If the specialist determines that the patient requires treatment that is not available in Nauru, the specialist prepares a case report and presents this to the OMR committee (timeframe for this is unknown).
 - b) Neither IHMS nor the ABF are advised when refugee cases will be tabled for discussion.
10. The OMR committee decides whether to approve the overseas treatment, or not approve the treatment. For Nauruans, a favourable decision means that the Nauruan health budget will fund the patient's travel and treatment overseas. If a Nauruan patient receives a non-favourable decision, any travel for treatment that they undertake must be self-funded or reimbursed through the patient's health insurance, if they hold a policy.
11. After a refugee case is considered by the OMR committee, the documented decision of the committee will be provided to the ABF and/ or IHMS. The timeframe for communicating the committee's decision is not specified and variable.
12. If an OMR for a refugee is approved, the Offshore Health Operations Section in the ABF will coordinate departmental consideration for transfer and treatment. The decision regarding the transfer of a refugee from Nauru to country other than Australia for medical treatment is taken by the Commander Offshore Operational Coordination. Clinical recommendations for transfer to Australia are considered by the Transitory Person's Committee.
13. Once the transfer is approved and the treatment destination and timeframes are known, the ABF will seek further GoN approval for the movement of the patient from Secretary of Multicultural Affairs (MA). Secretary MA approval is also sought for any medical returns to Nauru.

- a) Where an OMR is not approved and this is not consistent with the medical advice provided by IHMS (and validated by the Department's Clinical Advice Team), the next step usually involves IHMS, the Department's Chief Medical Officer and Nauru-based ABF staff intervening to seek further advice or request an updated assessment from the RoNH.
- b) s. 33(a)(iii)
14. Refugees may present to either IHMS or the RoNH in a medical emergency. Dependant on the nature of the emergency and location of the refugee, IHMS and RoNH will confer to decide whether the patient is to be treated in situ at the RPC or be transferred to the RoNH for admission and management.
- a) If transferred, the RoNH treating physician/specialist will review the patient and determine whether urgent offshore treatment is required. Where transfer is required, RoNH will ask IHMS and ABF to commence logistics for emergency care. The RoNH OMR committee will convene by exception and provide documentation to ABF and IHMS approving the OMR. ABF receives this document prior to uplift.
15. The OMR committee has a secretariat which documents its decisions; an agenda is prepared for each meeting of the committee, however this not available to non-members as it is likely to feature names of local Nauruans which make up the bulk of the patients considered. We are not aware of how cases are prioritised for tabling at the committee.
16. The attached *Chronology of medical transfer process for Regional Processing Countries*, shows that the ABF has been adhering to the OMR process since July 2015. The GoN considers that refugees should be treated similarly to Nauruan citizens and those refugees and the Australian government must respect their sovereignty and the administration of its government.
17. The most significant change to the OMR process was the introduction of OMR Certification (the formal documentation and signature of the OMR Committee decision to provide approval or non-approval which is then provided to ABF and IHMS), by the RoNH from January 2017 which is administratively onerous for the RoNH staff but brings a higher level of governance and legal oversight to medical transfers.
- a) The timeframe for an OMR decision is unknown however it has been up to two weeks post-meeting. ABF has actively sought to be compliant with the OMR process and its iterations as they have become known.

Terminations of Pregnancy

18. s. 33(a)(iii)
19. In November 2016 the Nauruan parliament passed legislation to permit a woman to have a TOP in certain limited circumstances, such as if the child was the result of incest or rape, or had a genetic abnormality that was inconstant with life. Medical practitioners who performed TOPs in contravention of this law were criminally liable.
20. In November 2016 a Bill to amend the Nauruan Crimes Act to decriminalise TOPs for asylum seekers and refugees was tabled in Parliament and unanimously defeated. Consequently, for refugees, transferees and persons not owed protection, TOPs are only legally permitted in the same circumstances as for Nauruan women. To our knowledge, no legal TOPs have been performed in Nauru.

21. However, in recognition of the sovereignty of Nauru and its responsibilities for the care and welfare of refugees, in July 2017 the Department agreed that medical transfers for refugees would only be considered by the Department where a request is received from the GoN. This meant that from July 2017, TOPs must be approved by the OMR committee before transfer to Australia would be facilitated.

22. s. 33(a)(iii)

23. In October 2017 DIBP and the Australian High Commission in Nauru were informed by the Nauru Health Minister that the GoN Cabinet agreed to remove TOPs for refugees from OMR consideration. This means that the GoN will not be compromised through the consideration and possible approval of a transfer to another country for a medical procedure that is not permitted by domestic law.

24. s. 47E(d)

Consultation

25. Health Policy and Performance Branch, International Division, Detention Health Operations, and Offshore Operational Coordination was consulted in the preparation of this Minute.

Recommendation

It is recommended that you:

Note the information provided on OMR processes relevant to the transfer of transferees and refugees for medical treatment.

[Noted / Please Discuss]



Elizabeth Hampton

First Assistant Secretary

Health Services and Policy Division

s. 22(1)(a)(ii)

14 November 2017

Michael Pezzullo

Secretary

November 2017

Contact Officer: s. 22(1)(a)(ii)

Phone: s. 22(1)(a)(ii)

Attachments:

Attachment A: Chronology of medical transfer process for Regional Processing Countries

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Chronology of medical transfer process for Regional Processing Countries

24 June 2015	July 2015	29 April 2016	May 2016	June 2016	November 2016	January 2017	s. 47E(d)	12 September 2017
Secretary Directive stating "unless there are compelling medical reasons, supported by second opinions, to do with life and death situations, or situations involving the risk of life time injury or disability, transfers to Australia should be avoided as a general rule and should in any even become increasingly rare."	Overseas Medical Referral (OMR) process established with first patient transfer from Nauru to POM on 30 July 2015.	Secretary Directive stating "the aim should be to avoid to the maximum extent possible such transference to Australia... This Instruction is to be overridden only if and when there is a reasonable apprehension that inaction would result in an immediate threat to life, or the occasioning of permanent debilitating injury."	Clinical Case Review Committee (CCRC) established in Detention Health Services Branch. The purpose of the CCRC was to undertake a joint review with IHMS of Requests for Medical Movement (RMM) to ensure appropriate and prospective clinical management and timeliness of response from IHMS.	Process Mapping undertaken by ABF to clarify procedure of medical transfers for Refugees and Transferees from Regional Processing Countries.	Formation of the Transitory Person Committee (TPC) Chaired by FAS Children Community and Settlement Services Division consisting of Brand 1 and above representatives from four Divisions TPC role: discuss complex cases where a RMM has been received by A&I, recommending transfer to Australia.	The Director of Medical Services at RoN Hospital introduced a hardcopy certification process for the OMR. While administratively onerous, this is considered by RoN Hospital to add a higher level of governance and legality.		Memorandum of Understanding (MOU) between the Government of Australia and relevant third-party country providing medical treatment for certain people residing in regional processing countries is signed.