

s22(1)(a)(ii)

From: Cindy BRISCOE <Cindy.Briscoe@border.gov.au>
Sent: Wednesday, 11 May 2016 8:47 AM
To: QUAEDVLIIEG Roman
Subject: FW: DRAFT - ESTABLISHMENT OF A TRANSITORY PERSONS COMPLEX CASE REVIEW COMMITTEE [SEC=PROTECTED]
Attachments: DRAFT Transitory Persons Complex Case Review Committee.pdf; DRAFT Transitory Persons Complex Case Review Committee.docx
Categories: Reply Required

Commissioner

This is the Minute I spoke about yesterday. It is first draft for your feedback. If it accords with our discussion on Saturday I propose to pass on to Cheryl-Anne to take the pen on the final and consult with her colleagues.

The attachments are the same but the first is PDF and easier to read on device.

Regards
Cindy

Cindy Briscoe
Deputy Commissioner
Support
Australian Border Force
Phone: s22(1)(a)(ii)
Mob: s22(1)(a)(ii)

-----Original Message-----

From: s22(1)(a)(ii)
Sent: Tuesday, May 10, 2016 06:34 PM AUS Eastern Standard Time
To: Cindy BRISCOE
Subject: DRAFT - ESTABLISHMENT OF A TRANSITORY PERSONS COMPLEX CASE REVIEW COMMITTEE [SEC=PROTECTED]

PROTECTED

s22(1)(a)(ii)

Executive Officer to Cindy Briscoe
Deputy Commissioner | Support Group
Australian Border Force
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MINUTE

To: Secretary
Through: Commissioner, ABF

**ESTABLISHMENT OF A TRANSITORY PERSONS COMPLEX CASE
 REVIEW COMMITTEE**

Timing:

Please endorse by 13 May 2016, to allow for Secretariat function to be established and for Committee meetings to begin without delay.

Purpose

To:

1. Seek your approval to establish a committee to review complex cases from Nauru and Manus where there has been initiation of action invoking transfer to Australia of an individual and their subsequent detention under the *Migration Act 1958*. This includes cases recommended for transfer as a transitory person, and cases already in Australia as transitory persons who are subject to return to Nauru or Manus.

Background:

2. The transfer of people from Nauru and Manus is a complex matter. ^{s47E(d)} [Redacted]

3. ^{s33(a)(iii)} [Redacted]

^{s33(a)(iii)} [Redacted]

4. This clause has been used as the basis for Minister to Minister arrangements for the transfer of certain individuals to receive medical treatment in Australia. Over time, this clause has become relied upon to facilitate the transfer of transferees and refugees who pose a health of security risk.

5. ^{s33(a)(iii)} [Redacted]

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s33(a)(iii)



6. The current process which can result in the transfer of people from Nauru or Manus to Australia as transitory persons commences with a Referral for Medical Movement from the contracted service provider, IHMS.
7. This recommendation is provided to the Detention Health Branch who assess the referral and generally seek further medical advice from the Surgeon General, prior to seeking final approval from the delegate (First Assistant Secretary, Detention Services Division).
 - The Health Services Branch added a step to their consideration of RMM's to ensure that advice was provided by the service provider on what additional services are required to treat the patient, that are not otherwise not available in Nauru or Port Moresby.
8. s47E(d)
9. Following a review in May 2015 of the number and purpose of transfers, a range of changes were made to operational policy and medical facilities on Nauru. This included changes to the policy on accompanying family members such that accompanying family members were not automatically transferred with a patient, rather considered on a case by case basis by the First Assistant Secretary, Children, Community and Settlement Services Division.
10. Other changes included additional facilities and technologies such as a CT scanner, implementation of a multidisciplinary mental health team and a visiting specialist programme that provides consultation and surgical services to transferees, refugees and local Nauruan's that are otherwise unavailable. An obstetrician and midwife were added to the IHMS medical team. Further, IHMS commenced operation of an anatomical ultrasounds machine at the RPC to conduct morphological scans.
11. In addition, services were negotiated with Port Moresby International Hospital in Port Moresby in July 2015 as a destination for a range of services, including obstetrics, not otherwise available in Port Moresby. This includes more complex surgical operations, advanced diagnostic imaging, complex obstetrics and some mental health care provision.
12. The result of these initiatives has seen a significant decline in the number of medical transfers from Nauru and Manus to Australia, as demonstrated below:

| | Transfers in 2014/15 year | Transfers in 2015/16 year (to 26 April 2016) | Percent decrease |
|--------------------|---------------------------|--|------------------|
| Manus to Australia | 130 | 7 | 94.6% |
| Nauru to Australia | 410 | 35 | 91.4% |
| Total | 540 | 42 | 92.2% |

Issues:

13. Despite the work done to reduce the instance of transfer to Australia for medical care, the cases we continue to see are unique and complex (physical health, mental health and child protection all combined) and there exists a high likelihood that they will become the subject of legal proceedings.

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14. The other factor that is more apparent in recent cases is a denial of treatment from patients or their family members, which is often perceived by individuals as a mechanism to receive medical treatment in Australia.
15. Given this, a stronger governance process is needed which ensures all elements are considered and documented as the basis for advice to the decision maker.
16. I propose that a *Transitory Persons Complex Case Review Committee* be established to undertake a documented review of these complex cases on a daily basis or as required, considering the medical, legal, diplomatic, policy and financial implications of medical transfers to Australia.
17. The committee would provide formal advice to the decision maker on the management of cases and where appropriate, recommendations on transfer to Australia.

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18. This committee would initially meet on a daily basis with the Chair of the committee, leading a triage process to determine which cases should be managed by the committee.
19. I propose the committee would be chaired by First Assistant Secretary, Child, Community and Settlement Services Division. Membership of this committee would include:
 - FAS Detention Services Division
 - FAS Legal Division
 - FAS International Division
 - Surgeon General/CMO
 - Assistant Commissioner Compliance and Detention Division¹

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20. The Committee would be supported by a secretariat function that would track the case under the management of the committee and would bring forward new complex cases for consideration. The secretariat would record and disseminate as appropriate, the latest status of individuals and any actions arising in relation to the management of complex cases.
21. If you approve the establishment of this committee, I will provide further advice on the committee's terms of reference, as well as a proposal on how the Committee, through me, will provide you with regular updates on progress made.

Consultation:

22. Consultation has occurred with:
 - FAS Detention Services Division
 - FAS Legal Division
 - FAS International Division
 - Surgeon General/CMO
 - FAS Children, Community and Settlement Support Division

¹ Upon establishment of this Division.

Recommendation

It is recommended that you:

Approve the establishment of the *Transitory Persons Complex Case Review Committee* as outlined above.

Approved / Not Approved

Cindy Briscoe
Deputy Commissioner
Support Group
02 s22(1)(a)(ii) [redacted]
..... / / 2016

Michael Pezzullo
Secretary
..... / / 2015

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s47E(d) [redacted]

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