



**THE HON DAVID COLEMAN MP  
MINISTER FOR IMMIGRATION, CITIZENSHIP AND  
MULTICULTURAL AFFAIRS**

Ref No: MS19-000736

Dr Antonio Di Dio

s47F

Dear Dr Di Dio

As you know, Tony Bartone, President of the Australian Medical Association, has nominated you as a member of the Independent Health Advice Panel. I would like formally appoint you as a member of the Panel.

The objective of the Panel is to monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them. As a member of the Panel you will provide independent clinical assurance on any decisions made by me to refuse a medical transfer of an individual from a regional processing country to Australia. You will also contribute to a quarterly report to me of the Panel's overall findings.

Your appointment is for a minimum term of three years.

Please confirm in writing your acceptance of this role to Ms Agnieszka Holland, acting First Assistant Secretary, Health Services, Policy and Child Wellbeing Division, by Wednesday 6 March 2019 at s22(1)(a)(ii)

Should you accept, Ms Holland will contact you to discuss the administrative support arrangements for your role and the Panel, and any comments you may have in regard to the terms and conditions of appointment included herewith.

Thank you for your commitment to the Panel and I look forward to working with you.

Yours sincerely

David Coleman

6 / 3 / 2019

## INDEPENDENT HEALTH ADVICE PANEL

### TERMS AND CONDITIONS OF APPOINTMENT

#### 1. Role

Under the *Migration Act 1958* (the Act), as amended by the Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019, the Independent Health Advice Panel (the **panel**) has two functions:

- A general function to monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them (s 199A(2)).
- A specific function under s 198F to review a decision by the Minister to refuse to approve a relevant transitory person's transfer to Australia on the ground set out in s 198E(4)(a) (the Minister reasonably believes that it is not necessary to remove the person from a regional processing country for appropriate medical or psychiatric assessment or treatment).

#### 2. Term

The Minister appoints each member of the panel for a term of 3 years from the commencement of the instrument of appointment for that member.

#### 3. Remuneration

Remuneration is not payable in respect of a person's membership of the panel.

#### 4. Business support

The Secretary of the Department will ensure that the panel has appropriate administrative support and assistance in performing its statutory functions.

In particular, the Department has established an IHAP secretariat role (the **Secretariat**) and the panel will have capacity to consult with the Department to determine the scope and extent of the Secretariat's administrative support and assistance.

#### 5. Resignation/Termination

Members may indicate to the Minister that they wish to cease their duties by giving written notice to the Minister. Upon receiving such notice, the Minister will formally terminate the relevant Member's appointment.

The Minister may also terminate or suspend a member's appointment.

#### 6. Assistance with administrative law challenges

The costs of defending administrative law challenges are paid by the Commonwealth.

#### 7. Indemnification for other legal matters

Under *Appendix E* of the *Legal Services Directions 2017*, the Commonwealth provides support to certain officials who are the subject of a claim of legal liability or subject to legal proceedings alleging legal liability.

#### 8. Summary of relevant legislation

As Commonwealth statutory office holders, members of the panel have obligations under, or are otherwise subject to, various pieces of legislation. A summary of the key legislation below. However, this summary is not comprehensive and is not a substitute for legal advice.

Panel members will need to comply with relevant legal obligations in performing their statutory functions and handling official information. Members should be particularly aware of restrictions on the use and disclosure of information. The Secretariat will be available to provide or obtain legal assistance for issues relating to the use and disclosure of information relating to the statutory functions of the Panel.

**a) *Migration Act 1958***

Members must comply with relevant provisions in Part 4A of the *Migration Act 1958* (Cth) (the **Migration Act**), which govern the use and disclosure of personal and other information.

In particular, where members are in possession of identifying information (as defined in s 336A), they must only access, disclose, modify or impair and destroy the identifying information in accordance with the provisions of Part 4A.

Under s 336E(1), it is an offence for a person (including members) to cause the disclosure of identifying information where that disclosure is not a permitted disclosure.

The penalty for dealing with identifying information in a manner that is not permitted by Part 4A of the Migration Act is imprisonment for 2 years, or 120 penalty units, or both under ss 336C(1), 336G, 336H and 336K(1).

**b) *Privacy Act 1988***

The collection, use and disclosure of any personal information (including sensitive information) by members of the panel must be in accordance with the requirements of the Australian Privacy Principles (**APPs**) that are set out in Schedule 1 to the *Privacy Act 1988* (Cth). The APPs impose additional obligations regarding the collection use and disclosure of sensitive information (which includes health information).

**c) *Criminal Code***

Members will be Commonwealth officers for the purposes of Part 5.6 of the Criminal Code, which sets out offences relating to the secrecy of information, including:

- The communication or other dealing with inherently harmful information, which relevantly includes security classified information (s 122.1).
- The communication or other dealing with information that causes harm to Australia's interests (s 122.2), which means to (see s 121.1(1)):
  - interfere with or prejudice the prevention, detection, investigation, prosecution or punishment of a criminal offence against a law of the Commonwealth
  - interfere with or prejudice the performance of certain functions of the Australian Federal Police
  - harm or prejudice Australia's international relations in relation to information that was communicated in confidence by a foreign country or international organisation to the Commonwealth
  - harm or prejudice the health or safety of the Australian public or a section of the Australian public, or
  - harm or prejudice the security or defence of Australia.
- Unauthorised disclosure of information, in circumstances where a person is under a duty not to disclose the information that arises under a law of the Commonwealth.

Certain defences apply to these offences, including (s 122.5):

- Where a person was exercising a power, or performing a function or duty in the person's capacity as a public official, or the person communicated, removed, held or otherwise

dealt with the information in accordance with an arrangement or agreement to which the Commonwealth or a Commonwealth entity is party and which allows for the exchange of information.

- The information had already been communicated or made available to the public with the authority of the Commonwealth.
- The person communicated the information, or removed, held or otherwise dealt with the information for the purpose, or primary purpose (as relevant) of:
  - communicating it to certain integrity agencies for the purpose of the integrity agency exercising a power, or performing a function or duty
  - communicating it in accordance with the *Public Interest Disclosure Act 2013* (Cth) or the *Freedom of Information Act 1982* (Cth)
  - reporting, to an appropriate agency of the Commonwealth, a State or a Territory, a criminal offence, or alleged criminal offence against a law of the Commonwealth; or maladministration relating to certain matters
  - communicating it to a court or tribunal (whether or not as a result of a requirement), and
  - obtaining or providing, in good faith, legal advice in relation to an offence covered by Pt 5 of the Criminal Code, or the application of any right, privilege, immunity or defence (whether or not under Pt 5) in relation to such an offence.

**d) Public Governance, Performance and Accountability Act 2013**

Members will be subject to the general duties of officials under the *Public Governance, Performance and Accountability Act 2013* (the **PGPA Act**). These include:

- Duty of care and diligence (s 25), which requires an official to exercise their powers, perform their functions and discharge their duties with the degree of care and diligence that a reasonable person would exercise if the person:
  - were an official of a Commonwealth entity in the Commonwealth entity's circumstances, and
  - occupied the position held by, and had the same responsibilities within the Commonwealth entity as, the official.
- Duty to act honestly, in good faith and for a proper purpose (s 26), which requires an official to exercise their powers, perform their functions and discharge their duties honestly, in good faith and for a proper purpose.
- Duty in relation to use of position (s 27), which provides that an official must not use their position to gain, or seek to gain, a benefit or an advantage or themselves or any other person; or cause, or seek to cause, detriment to the entity, the Commonwealth or any other person.
- Duty in relation to the use of information (s 28), which provides that a person who obtains information because they are an official must not improperly use that information to gain, or seek to gain, a benefit or an advantage or themselves or any other person; or cause, or seek to cause, detriment to the entity, the Commonwealth or any other person.
- Duty to disclose interests (s 29), which requires an official who has a material personal interest that relates to the affairs of their entity to disclose details of the interest. Interests must be disclosed, either orally or in writing, to each other appointed member,

at a meeting of the appointed members of the body (see s 16A of the *Public Governance, Performance and Accountability Rule 2014*).

**e) *Work Health and Safety Act 2011***

Members will have duties as workers under the *Work Health and Safety Act 2011* (Cth) (s 28), including taking reasonable care and complying with reasonable instructions.

**f) *Freedom of Information Act 1982***

The panel is subject to the requirements of the *Freedom of Information Act 1982* (Cth) (**FOI Act**). If a request for access to a document of the panel is made, the request must be processed in accordance with the FOI Act.

**g) *Archives Act 1983***

Records of the Panel will be 'Commonwealth records'. Members must deal with these records in accordance with the *Archives Act 1983* (Cth). The penalty for unauthorised dealing with Commonwealth records is 20 penalty units under s 24. The penalty for unauthorised alteration of certain Commonwealth records is 20 penalty units under s 26.

**h) *Ombudsman Act 1976***

The Commonwealth Ombudsman has jurisdiction under the *Ombudsman Act 1976* (Cth) to investigate action taken by the Panel in performing its functions. The penalty for failing to cooperate with an Ombudsman investigation without reasonable excuse is imprisonment for 3 months or 10 penalty units (s 36).

The Ombudsman does not have the power to overturn decisions, but rather makes recommendations. Where recommendations are not acted upon, the Ombudsman's report may be tabled in Parliament.





**THE HON DAVID COLEMAN MP  
MINISTER FOR IMMIGRATION, CITIZENSHIP AND  
MULTICULTURAL AFFAIRS**

Ref No: MS19-000839

Associate Professor Susan <sup>s47F</sup> Moloney

<sup>s47F</sup>

Dear Associate Professor Moloney

As you know, Mr Patrick Tobin, Director of the Royal Australasian College of Physicians, has nominated you as a member of the Independent Health Advice Panel. I would like formally appoint you as a member of the Panel.

The objective of the Panel is to monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them. As a member of the Panel you will provide independent clinical assurance on any decisions made by me to refuse a medical transfer of an individual from a regional processing country to Australia. You will also contribute to a quarterly report to me of the Panel's overall findings.

Your appointment is for a minimum term of three years.

Please confirm in writing your acceptance of this role to Ms Agnieszka Holland, Acting First Assistant Secretary, Health Services, Policy and Child Wellbeing Division, by Tuesday 12 March 2019 at <sup>s22(1)(a)(ii)</sup> Should you accept, Ms Holland will contact you to discuss the administrative support arrangements for your role and the Panel, and any comments you may have in regard to the terms and conditions of appointment included herewith.

Thank you for your commitment to the Panel and I look forward to working with you.

Yours sincerely

A handwritten signature in black ink, appearing to be 'DC' with a flourish.

David Coleman

// 13 / 2019

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**THE HON DAVID COLEMAN MP  
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MULTICULTURAL AFFAIRS**

Ref No: MS19-000839

Associate Professor Neeraj <sup>s47F</sup> Gill

<sup>s47F</sup>

Dear Associate Professor Gill

As you know, Mr Andrew Peters, Chief Executive Officer of the Royal Australian and New Zealand College of Psychiatrists, has nominated you as a member of the Independent Health Advice Panel. I would like formally appoint you as a member of the Panel.

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Yours sincerely

David Coleman

13 / 3 / 2019

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

## INDEPENDENT HEALTH ADVICE PANEL

### TERMS AND CONDITIONS OF APPOINTMENT

#### 1. Role

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Ref No: MS19-000856

Mr Guy <sup>s47F</sup> Coffey  
<sup>s47F</sup>

Dear Mr Coffey

As you know, Mr Frances Mirabelli, Chief Executive Officer of the Australian Psychological Society, has nominated you as a member of the Independent Health Advice Panel. I would like formally appoint you as a member of the Panel.

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- A general function to monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them (s 199A(2)).
- A specific function under s 198F to review a decision by the Minister to refuse to approve a relevant transitory person's transfer to Australia on the ground set out in s 198E(4)(a) (the Minister reasonably believes that it is not necessary to remove the person from a regional processing country for appropriate medical or psychiatric assessment or treatment).

#### 2. Term

The Minister appoints each member of the panel for a term of 3 years from the commencement of the instrument of appointment for that member.

#### 3. Remuneration

Remuneration is not payable in respect of a person's membership of the panel.

#### 4. Business support

The Secretary of the Department will ensure that the panel has appropriate administrative support and assistance in performing its statutory functions.

In particular, the Department has established an IHAP secretariat role (the **Secretariat**) and the panel will have capacity to consult with the Department to determine the scope and extent of the Secretariat's administrative support and assistance.

#### 5. Resignation/Termination

Members may indicate to the Minister that they wish to cease their duties by giving written notice to the Minister. Upon receiving such notice, the Minister will formally terminate the relevant Member's appointment.

The Minister may also terminate or suspend a member's appointment.

#### 6. Assistance with administrative law challenges

The costs of defending administrative law challenges are paid by the Commonwealth.

#### 7. Indemnification for other legal matters

Under *Appendix E* of the *Legal Services Directions 2017*, the Commonwealth provides support to certain officials who are the subject of a claim of legal liability or subject to legal proceedings alleging legal liability.

#### 8. Summary of relevant legislation

As Commonwealth statutory office holders, members of the panel have obligations under, or are otherwise subject to, various pieces of legislation. A summary of the key legislation below. However, this summary is not comprehensive and is not a substitute for legal advice.



Panel members will need to comply with relevant legal obligations in performing their statutory functions and handling official information. Members should be particularly aware of restrictions on the use and disclosure of information. The Secretariat will be available to provide or obtain legal assistance for issues relating to the use and disclosure of information relating to the statutory functions of the Panel.

**a) Migration Act 1958**

Members must comply with relevant provisions in Part 4A of the *Migration Act 1958* (Cth) (the **Migration Act**), which govern the use and disclosure of personal and other information.

In particular, where members are in possession of identifying information (as defined in s 336A), they must only access, disclose, modify or impair and destroy the identifying information in accordance with the provisions of Part 4A.

Under s 336E(1), it is an offence for a person (including members) to cause the disclosure of identifying information where that disclosure is not a permitted disclosure.

The penalty for dealing with identifying information in a manner that is not permitted by Part 4A of the Migration Act is imprisonment for 2 years, or 120 penalty units, or both under ss 336C(1), 336G, 336H and 336K(1).

**b) Privacy Act 1988**

The collection, use and disclosure of any personal information (including sensitive information) by members of the panel must be in accordance with the requirements of the Australian Privacy Principles (**APPs**) that are set out in Schedule 1 to the *Privacy Act 1988* (Cth). The APPs impose additional obligations regarding the collection use and disclosure of sensitive information (which includes health information).

**c) Criminal Code**

Members will be Commonwealth officers for the purposes of Part 5.6 of the Criminal Code, which sets out offences relating to the secrecy of information, including:

- The communication or other dealing with inherently harmful information, which relevantly includes security classified information (s 122.1).
- The communication or other dealing with information that causes harm to Australia's interests (s 122.2), which means to (see s 121.1(1)):
  - interfere with or prejudice the prevention, detection, investigation, prosecution or punishment of a criminal offence against a law of the Commonwealth
  - interfere with or prejudice the performance of certain functions of the Australian Federal Police
  - harm or prejudice Australia's international relations in relation to information that was communicated in confidence by a foreign country or international organisation to the Commonwealth
  - harm or prejudice the health or safety of the Australian public or a section of the Australian public, or
  - harm or prejudice the security or defence of Australia.
- Unauthorised disclosure of information, in circumstances where a person is under a duty not to disclose the information that arises under a law of the Commonwealth.

Certain defences apply to these offences, including (s 122.5):

- Where a person was exercising a power, or performing a function or duty in the person's capacity as a public official, or the person communicated, removed, held or otherwise



dealt with the information in accordance with an arrangement or agreement to which the Commonwealth or a Commonwealth entity is party and which allows for the exchange of information.

- The information had already been communicated or made available to the public with the authority of the Commonwealth.
- The person communicated the information, or removed, held or otherwise dealt with the information for the purpose, or primary purpose (as relevant) of:
  - communicating it to certain integrity agencies for the purpose of the integrity agency exercising a power, or performing a function or duty
  - communicating it in accordance with the *Public Interest Disclosure Act 2013* (Cth) or the *Freedom of Information Act 1982* (Cth)
  - reporting, to an appropriate agency of the Commonwealth, a State or a Territory, a criminal offence, or alleged criminal offence against a law of the Commonwealth; or maladministration relating to certain matters
  - communicating it to a court or tribunal (whether or not as a result of a requirement), and
  - obtaining or providing, in good faith, legal advice in relation to an offence covered by Pt 5 of the Criminal Code, or the application of any right, privilege, immunity or defence (whether or not under Pt 5) in relation to such an offence.

**d) *Public Governance, Performance and Accountability Act 2013***

Members will be subject to the general duties of officials under the *Public Governance, Performance and Accountability Act 2013* (the **PGPA Act**). These include:

- Duty of care and diligence (s 25), which requires an official to exercise their powers, perform their functions and discharge their duties with the degree of care and diligence that a reasonable person would exercise if the person:
  - were an official of a Commonwealth entity in the Commonwealth entity's circumstances, and
  - occupied the position held by, and had the same responsibilities within the Commonwealth entity as, the official.
- Duty to act honestly, in good faith and for a proper purpose (s 26), which requires an official to exercise their powers, perform their functions and discharge their duties honestly, in good faith and for a proper purpose.
- Duty in relation to use of position (s 27), which provides that an official must not use their position to gain, or seek to gain, a benefit or an advantage or themselves or any other person; or cause, or seek to cause, detriment to the entity, the Commonwealth or any other person.
- Duty in relation to the use of information (s 28), which provides that a person who obtains information because they are an official must not improperly use that information to gain, or seek to gain, a benefit or an advantage or themselves or any other person; or cause, or seek to cause, detriment to the entity, the Commonwealth or any other person.
- Duty to disclose interests (s 29), which requires an official who has a material personal interest that relates to the affairs of their entity to disclose details of the interest. Interests must be disclosed, either orally or in writing, to each other appointed member,

at a meeting of the appointed members of the body (see s 16A of the *Public Governance, Performance and Accountability Rule 2014*).

**e) *Work Health and Safety Act 2011***

Members will have duties as workers under the *Work Health and Safety Act 2011* (Cth) (s 28), including taking reasonable care and complying with reasonable instructions.

**f) *Freedom of Information Act 1982***

The panel is subject to the requirements of the *Freedom of Information Act 1982* (Cth) (**FOI Act**). If a request for access to a document of the panel is made, the request must be processed in accordance with the FOI Act.

**g) *Archives Act 1983***

Records of the Panel will be 'Commonwealth records'. Members must deal with these records in accordance with the *Archives Act 1983* (Cth). The penalty for unauthorised dealing with Commonwealth records is 20 penalty units under s 24. The penalty for unauthorised alteration of certain Commonwealth records is 20 penalty units under s 26.

**h) *Ombudsman Act 1976***

The Commonwealth Ombudsman has jurisdiction under the *Ombudsman Act 1976* (Cth) to investigate action taken by the Panel in performing its functions. The penalty for failing to cooperate with an Ombudsman investigation without reasonable excuse is imprisonment for 3 months or 10 penalty units (s 36).

The Ombudsman does not have the power to overturn decisions, but rather makes recommendations. Where recommendations are not acted upon, the Ombudsman's report may be tabled in Parliament.



**THE HON DAVID COLEMAN MP  
MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT  
SERVICES AND MULTICULTURAL AFFAIRS**

Ref No: MS19-001408

Associate Professor Michael Douglas

s47F

Dear Associate Professor Douglas,

As you know, the Board of the Australian College of Rural and Remote Medicine (ACRRM) has nominated you as a member of the Independent Health Advice Panel. I would like to formally appoint you as a member of the Panel.

The objective of the Panel is to monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them. As a member of the Panel you will provide independent clinical assurance on any decisions made by me to refuse a medical transfer of an individual from a regional processing country to Australia. You will also contribute to a quarterly report to me of the Panel's overall findings.

Your appointment is for a minimum term of three years.

Please confirm your acceptance of this role by Friday 21 June 2019 to Mr Stephen Hayward, First Assistant Secretary, Health Services, Policy and Child Wellbeing Division, by email to s22(1)(a)(ii). Should you accept, Mr Hayward will contact you to discuss the administrative support arrangements for your role and the Panel, and any comments you may have in regard to the terms and conditions of appointment included herewith.

Thank you for your commitment to the Panel and I look forward to working with you.

Yours sincerely

David Coleman

14/6/2019

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

## INDEPENDENT HEALTH ADVICE PANEL

### TERMS AND CONDITIONS OF APPOINTMENT

#### 1. Role

Under the *Migration Act 1958* (the Act), as amended by the Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019, the Independent Health Advice Panel (the panel) has two functions:

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