



Australian Government
Department of Immigration and Border Protection

Submission

For decision

PDMS Ref. Number MB15-004417

To Minister for Immigration and Border Protection

Subject Allegation of systemic sexual assaults on transferee and refugee women in Nauru

Timing A brief on this issue was requested by 15 July 2015

Recommendations

That you:

1. note the background and relevant issues relating to claims made by **s. 47F** that gang rapes are a regular occurrence on Nauru

noted / please discuss

Minister for Immigration and Border Protection

Signature.....

Date: 29.07/2015

Received

28 JUL 2015

Minister for Immigration
and Border Protection

Para 17

s. 47F*has been discharged
& as you are aware, is the
subject of litigation.*Released by the Department of Home Affairs
under the Freedom of Information Act 1982

Minister's/Assistant Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance ☐ Highly relevant ☐ Significantly relevant ☐ Not relevant	Length ☐ Too long ☐ Right length ☐ Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key issues

- On 13 July 2015 s. 47F s. 47F
s. 47F, forwarded an email to you raising her concerns about numerous allegations of gang rapes and 'systematic' assaults on transferee and refugee women in Nauru.
- s. 47F refers specifically to the alleged gang rape of a s. 47F refugee in Nauru in May 2015, and to a female transferee (nationality not stated) allegedly gang raped two weeks after the alleged assault on the s. 47F refugee. s. 47F had previously raised the allegations pertaining to the s. 47F refugee in an email to you dated 15 June 2015.
- s. 47F has made additional claims that many refugee women in the Nauruan community and transferee women in the Regional Processing Centre (RPC) feel unsafe, live in unsecured accommodation and are too intimidated to report incidents of assault.
- On 15 July 2015 s. 47F sent a further email to you claiming she had received a further two complaints of sexual assault of female refugees in Nauru. s. 47F claims that neither had been reported to the police because of a lack of confidence in any follow up, and cultural shame. It was alleged that s. 47F
- According to portfolio systems, during the period 12 September 2012, to 30 June 2015, there were a total of 18 alleged sexual assaults reported by adult transferees. These alleged assaults occurred either in the RPC or while the transferee was taking part in Open Centre arrangements.
- Portfolio systems also record a total of six alleged sexual assaults against refugees during the period 1 May 2014 to 30 June 2015.
- The only reported allegation of gang rape was made in s. 47F s. 47F
s. 47F This refugee had previously made an allegation of sexual assault on s. 47F but had not alleged gang rape at the time of this initial allegation.

8. Two s. 47F women – one a transferee and one a refugee – have both made separate allegations of sexual assault which were reported to the Nauru Police Force (NPF), although neither woman reported gang rape. s. 47F s. 47F

s. 47F s. 47F s. 47F
s. 47F Senator Hanson-Young wrote to you on 8 April 2015, in relation to the s. 47F refugee, and stated that the woman had been gang raped.

9. The Australian Border Force (ABF) is further aware of an incident report dated 30 March 2015, of a s. 47F while walking to the grocery store. The department is not aware of any claim of sexual assault which took place during this incident.

10. The Government of Nauru (GoN) and the ABF take any allegation of illegal or inappropriate behaviour in the Nauru community or in the RPC very seriously. The department works very closely with the GoN and the NPF towards resolution of all incidents.

11. Refugees are encouraged to report incidents to police and engage emergency services as needed. Due to the nature of settlement, Service Providers may not be aware of every incident that occurs in the community, and there have also been instances where for a number of reasons a refugee or transferee has chosen not to report an alleged incident to the relevant authorities.

Background

Alleged sexual assault of s. 47F refugee s. 47F

12. In her email of 13 July 2015, s. 47F has referred to a s. 47F whom she alleges was subjected to gang rape by two to three men, s. 47F
s. 47F The assault is alleged to have occurred in May 2015. s. 47F claims that the woman was too afraid to report the assault to the NPF. s. 47F further claims that s. 47F

s. 47F
She claims that in the last week the refugee s. 47F
s. 47F

13. The ABF believes that s. 47F is referring to the case of s. 47F

s. 47F

14. A further incident report dated 8 June 2015 was provided to the ABF outlining that s. 47F

s. 47F

15. In an update to this incident on 9 June 2015, s. 47F told her Case Manager that s. 47F

s. 47F

16. On 14 June 2015, s. 47F, s. 47F, s. 47F

s. 47F

17. On 29 June 2015, an incident report was provided to the Australian Federal Police (AFP) outlining that s. 47F

s. 47F

18. s. 47F has spoken to the AFP and expressed her willingness to provide a police report. The matter is being referred to the NPF to consider and advise whether they wish the AFP to investigate on their behalf.

19. Case Management spoke to s. 47F regarding the option of voluntary resettlement in Cambodia. She declined this option and stated that she wished to be permanently re-settled outside of both Nauru and Cambodia.

Alleged sexual assault of female s. 47F transferee s. 47F

20. In her email of 13 July 2015, s. 47F also refers to another female allegedly (nationality not stated) s. 47F gang raped s. 47F s. 47F

21. This may refer to an incident involving a female s. 47F transferee s. 47F

s. 47F
s. 47F

was

referred to the RoN Hospital for a medical assessment and subsequently to the IHMS Clinic at the RPC and has received ongoing care and support. The allegation of sexual assault was referred to the NPF for investigation. The incident report refers to one assailant, allegedly a Nauruan, and not to an allegation of gang rape.

Alleged sexual assault of female s. 47F refugee s. 47F and claims of gang rape made by Senator Hanson-Young

22. On 9 April 2015 s. 47F reported to her Case Manager that on

s. 47F

23. The incident was reported to the NPF and s. 47F Case Manager has engaged with her in relation to referral to IHMS mental health services and Torture and Trauma Counselling.

24. Senator Hanson-Young wrote to you about this incident on 8 April 2015. Senator Hanson-Young stated in her correspondence that the woman involved had been gang raped.

s. 47F on a female s. 47F refugee

25. On 30 March 2015, s. 47F was taken to the RoN Hospital and given a tetanus injection.

Safety of refugee and transferee women in the Nauru community and in RPC

26. The ABF takes the issue of illegal or inappropriate behaviour in the Nauru community or the RPC very seriously.

27. In the event of an alleged assault at the Nauru RPC, including sexual assault and incidents involving children, alleged victims are provided with medical treatment and mental health support, and are placed in an appropriate setting within the facility and the matter is referred to the NPF by contracted service providers.

28. For incidents involving refugees in the Nauruan community, alleged victims are assisted by Connect Settlement Services to report the assault directly to the NPF and seek appropriate medical and mental health care from the IHMS Settlement Clinic or the RoN Hospital.

29. Matters referred to the NPF are investigated in line with their procedures. Where the NPF believes the allegation is substantiated, charges may be laid and the offender prosecuted in accordance with Nauruan law.

30. Two AFP officers are currently deployed to Nauru on a long-term basis to work with the NPF in an advisory capacity. The Portfolio agreed to fund the deployment of four additional officers for four weeks from May to June 2015 to provide support, mentoring and training to the NPF including in basic investigations and first response to sexual assault, child abuse and associated crimes. The AFP has recently deployed an additional AFP advisor to continue to provide workplace mentoring and capacity development in sexual assault and child abuse investigations for a period of six months.

Consultation – internal/external

The IHMS Settlement Clinic Manager Nauru, Nauru Co-ordination Section and Status Resolution and Detention Operations East BITA Operations have been consulted in the preparation of this brief.

Sensitivities

This brief contains sensitive personal and medical information.

Authorising Officer

Cleared by:



Cheryl-anne Moy
First Assistant Secretary Children, Community and Settlement Division

Date: 16-7-15

Ph: s. 47E(d)

Contact Officer Kingsley Woodford-Smith, Commander, Regional Processing and Settlement Branch,
Ph: s. 47E(d)

Through Cindy Briscoe, Deputy Commissioner Support Group

CC Assistant Minister for Immigration and Border Protection
Secretary
Commissioner
Deputy Secretaries/Deputy Commissioners



Australian Government
Department of Immigration and Border Protection

Submission

For information

PDMS Ref. Number MS15-001312

To Assistant Minister for Immigration and Border Protection

Subject Moss Review

Timing N/A – for information

Recommendations *(Mandatory Field)*

That you:

1. Note the Moss report (attached) Noted/please discuss
2. Note the attached action plan in response to
recommendations arising from the Moss Review Noted / please discuss
3. Note the media pack (attached)

Assistant Minister for Immigration and Border Protection

Signature.....

Date:...../...../2015

Assistant Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance ☐ Highly relevant ☐ Significantly relevant ☐ Not relevant	Length ☐ Too long ☐ Right length ☐ Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. The Secretary received the Moss Review Report from Mr Moss on 9 February 2015. A copy of the full report is attached ([Attachment A](#)). **Please note that this is not a redacted version and contains the identity of a number of transferees who do not wish their identity to be disclosed.**
2. The full report with redactions to protect the identity of people interviewed by Mr Moss was provided to the public on 20 March 2015 through the departmental web site.
3. The Department has accepted all 19 recommendations. A number will require significant engagement with the Government of Nauru given issues of sovereignty are involved. Some will require the co-operation and assistance of the Australian Federal Police (AFP) and the Attorney-General's Department (AGD).
4. The Department has developed an action plan addressing specific deliverables required to satisfy the accepted recommendations ([Attachment B](#)).
5. The findings of the Review are expected to receive significant scrutiny by the media and interest groups, particularly in relation to the safety of unaccompanied female transferees and minors. A media handling and overall communication strategy is attached.
6. Discussion has commenced with the AFP and AGD as to their involvement in giving effect to recommendations relevant to them.

Background

In a press release on Friday 3 October 2014, Minister Morrison announced that the then Acting Secretary, Mr Mark Cormack, had commissioned Mr Philip Moss (former Integrity Commissioner, Australian Commission for Law Enforcement Integrity (ACLEI)) to conduct an independent investigation into allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru (the Review). The Terms of Reference for the Review were made available on the department's website.

The allegations that had been raised included:

- issues relating to the conduct and behaviour of staff employed by contracted service providers;
- claims of sexual and other physical assault of transferees;
- orchestration and facilitation of transferees to engage in non-compliant or harmful behaviour and protest actions potentially endangering the safety and security of all persons at the centre; and
- misuse and unauthorised disclosure of sensitive and confidential information, including to undermine the proper management of the centre.

On 9 February 2015 Mr Philip Moss provided the Secretary of Immigration and Border Protection (DIBP) his final report, 'Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru.'

During the Review Mr Moss spoke with a variety of people, some of whom expressed concern for their safety should their identity become known. This has been an important consideration in deciding the extent to which the contents of the Report are released.

Consultation – internal/external

N/A

Consultation – Secretary/CEO

N/A

Client service implications

The release of the Report has the potential to raise security and public order issues at the Centre.

Sensitivities

The Report has been released into the public domain and there is likely to be intense scrutiny and criticism of the Department, the Nauruan Government and the service providers' management of the Centre. The focus of the scrutiny is likely to be the safety of female transferees and minors.

The Nauruan Government's reaction to the Review's findings requires sensitive management as the report discloses that most of the sexual assault and harassment has come from Nauruan security staff.

The Review findings may also have contract management implications and negatively impact the relationships between the Department and service providers. This could include the Department and its current and former service providers being parties to future civil proceedings which may flow from the Review findings.

A lawyer representing a former employee of Save the Children has foreshadowed litigation against Save the Children and the Department in relation to the circumstances surrounding that individual's removal from Nauru. The extent to which the Department would be a part to any proceedings would depend on how any claim is framed.

Financial/systems/legislation/deregulation implications

Nil

Attachments *(Ensure copies of all submissions, correspondence and any attachments referred to in this submission are attached)*

Attachment A Moss Report

Attachment B Action Plan

Attachment C Media pack

Authorising Officer
Jan Dorrington First Assistant Secretary Integrity, Security and Assurance Division Immigration and Border Protection Portfolio 26/02/2015 Ph: S. 47E(d)

Contact Officer Stephen Hayward, Assistant Secretary, Risk and Assurance Branch, Ph: S. 47E(d)

Through

CC CEO ACBPS
Deputy Secretary, Immigration Status Resolution Group (ISRG)
First Assistant Secretary, Compliance Operation & Detention | ISRG
First Assistant Secretary, Infrastructure and Services | ISRG
General Counsel

**Review into recent allegations relating to
conditions and circumstances at the Regional
Processing Centre in Nauru**

FINAL REPORT

CONTENTS

Executive Summary	p.3
Recommendations	p.9
Part 1: The Review	
Terms of Reference	p.12
Background to the Review	p.14
Methodology	p.15
Visits to Nauru	p.17
Referral to relevant authorities	p.18
Part 2: Background information	
Brief history of the Nauru Regional Processing Centre	p.20
Management of the Centre	p.21
Part 3: Sexual and other physical assault	
Sexual exploitation in exchange for access to showers and other amenities	p.23
Rape and threats of rape	p.25
Indecent assault and sexual harassment	p.28
Trading of cigarettes and marijuana for sexual favours	p.32
Physical assault of transferees by contract service provider staff members	p.35
Lip stitching and self-harm by minors	p.36
Sexual and other physical assault of minors	p.36
Conclusions	p.42
Part 4: Conduct and behaviour of contract service provider staff members	
Orchestration and facilitation of protest activity	p.52
Coaching and encouragement of self-harm	p.56
Fabrication of allegations	p.57
Misuse and unauthorised disclosure of sensitive and confidential information	p.58
Other conduct and behaviour issues	p.60
Removal of Save the Children staff members from providing services in Nauru	p.62
Conclusions	p.69
Part 5: Other issues relating to the security, good order and management of the Centre	
Nauruan leadership	p.73
Greater cooperation between contract service providers and the Department	p.75
Enhanced policing	p.76
Strengthening the intelligence capability	p.80
Treatment of local staff and shaping of perceptions of Nauru	p.83
Building the capacity of the Nauruan workforce	p.84
The protocol to manage protests and other activity at the Centre	p.85

Executive Summary

Background

1. On 3 October 2014, the then Minister for Immigration and Border Protection, the Hon Scott Morrison MP (the then Minister), announced a Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru. The allegations were reported in letters, which Senator Sarah Hanson-Young wrote to the then Minister, and in media articles.
2. Following consideration of the Terms of Reference, the Review identified two main aspects for investigation. They were:
 - claims of sexual and other physical assault of transferees; and
 - conduct and behaviour of staff members employed by contract service providers.
3. The Review looked separately at these two aspects noting the links between them since some allegations of sexual and other physical assault relate to the conduct and behaviour of contract service provider staff members.
4. The Review relied on interviews with transferees, contract service provider staff members, Departmental (Department of Immigration and Border Protection) officers, Australian Federal Police (AFP) officers and Nauruan officials and perusal of documents and submissions. Transferees were given with the opportunity to provide written information in their own language to the Review.
5. The Review's Terms of Reference state that "[a]ny material obtained by the Review that may be of assistance to relevant authorities in managing actual or possible criminal charges or activity will be made available to relevant authorities". Information about incidents, which the Review considered required further investigation, was provided to the Department with a recommendation that it be referred to the relevant authorities. Such referrals are noted throughout this report.
6. The Review travelled twice to Nauru. During the second visit, a child protection practitioner from the Australian Capital Territory Community Services Directorate accompanied the Review team.

Sexual and other physical assault of transferees

7. The Review considered the allegation that "*on occasions women have been forced to expose themselves to sexual exploitation in exchange for access to showers and other facilities*" and concludes that it is likely to be based on one particular incident, which the transferee related to four Save the Children staff members, who all reported it, and also to Senator Hanson-Young.
8. The Review is aware of two specific allegations of rape of two adult female transferees occurring at the Centre. One allegation had already been reported to the Nauruan Police Force. The other allegation, according to the transferee concerned, was made only to the

Review and involved a contract service provider staff member. The transferee requested that, for family and cultural reasons, the Review not reveal her identity or refer the matter to the authorities.

9. The Review also became aware of allegations of indecent assault, sexual harassment and physical assault occurring in the Centre. Some of these allegations had been reported and the relevant authorities are investigating or have investigated. Contract service provider staff members are/were the subject of some of these allegations.
10. In relation *"access to cigarettes being traded for sexual favours"*, the Review concludes that this allegation appears to relate to a time when cigarettes were not openly available in the Centre. The Review was unable to obtain any specific information to substantiate this allegation.
11. In relation to the allegation *"Nauruan guards have been trading marijuana with detainees in exchange for sexual favours"*, the Review concludes that this activity is possibly occurring. The Review was unable to obtain many specific details because transferees were not prepared to provide them. The details obtained about transferees who allegedly deal in marijuana were provided to the Department for referral to the appropriate authorities.
12. The Review concludes that many transferees are apprehensive about their personal safety and have concerns about their privacy in the Centre. Some transferees expressed their apprehension about other transferees and some about contract service provider staff members. Several married couple transferees raised concerns about their privacy. The perception of a lack of personal safety and privacy is heightened by high density accommodation in un-air-conditioned, soft walled tents in a tropical climate.
13. Ensuring that transferees are and feel safe is important and requires consideration of such factors as infrastructure, policing and staffing.
14. The Review concludes that the training and supervision of contract service provider staff members, particularly locally engaged Nauruans, needs to be improved and should focus on the personal safety and privacy of transferees.
15. The Review considers that all decisions about facilities and infrastructure should be made with the personal safety and privacy of the transferees as a prime consideration. The Review encourages the Government of Nauru and the Department to ensure factors are considered in any decision-making, particularly as the Centre transitions to an open facility in early 2015.
16. Some allegations of sexual and other physical assault of transferees have been formally reported and others, disclosed only to the Review, had not been formally reported. The Review concludes that there is a level of under-reporting by transferees of sexual and other physical assault.
17. This under-reporting is generally for family or cultural reasons. Transferees also told the

Review that they were concerned that making a complaint could result in a negative impact on the resolution of their asylum claims. In some cases, transferees told the Review that they had not reported particular incidents because they had lost confidence that anything would be done about their complaints.

18. Despite this lack of confidence, the Review concludes that, when formal reports or complaints have been made, contract service providers, in the most part, have acted appropriately in dealing with them and have, when required, referred matters to the Nauruan Police Force. In some instances, the lack of timeliness in reporting and referral or inadequate or inconsistent information has hampered the ability of contract service providers and/or the Nauruan Police Force to investigate. This situation is particularly true in relation to allegations relating to sexual assault.
19. The Review concludes that the arrangements for identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the Centre could be improved. For instance, there are limited resources for sexual assault to be investigated by Nauruan authorities. Work also needs to be done at the Centre to improve the existing arrangements.
20. The Review became aware of claims that some allegations of abuse have been fabricated or exaggerated by transferees. The Review cannot discount this possibility. The transferees who were interviewed were generally credible and their accounts convincing. Yet, the Review could not establish the veracity of allegations. For this reason, information about some reported incidents was sent to the Department for referral to the relevant authorities for further investigation.
21. The protection of minors in the Centre is of the highest importance. The Review found that, in relation to this group, there were both reported and unreported allegations of sexual and other physical assault. When the Review obtained information that would assist relevant authorities to investigate these allegations, it was provided to the Department.

Conduct and behaviour of contract service providers

22. The Review received allegations from transferees about misconduct by staff members of contract service providers. When the Review obtained such information, it was provided to the Department for referral to the relevant authorities.
23. The Review notes that all contract service providers have been prepared to take disciplinary action against staff members, when appropriate. The Review acknowledges that contract service provider staff members work in challenging circumstances and in the majority are dedicated employees who behave professionally.
24. In relation to whether any contract service provider staff member facilitated protest activity, encouraged self-harm or fabricated and manipulated allegations about sexual and other physical assault, the Review obtained information from Wilson Security intelligence reports,

interviews and other material. None of this information indicated conclusively to the Review that particular contract service provider staff members engaged in these activities.

25. Given the AFP's current investigation, the Review does not draw any conclusion in relation to the misuse or unauthorised disclosure of sensitive and confidential information by contract service provider staff members. Any relevant information which the Review obtained was provided to the Department to assist the AFP's investigation.

Removal of the Save the Children staff members from providing services in Nauru

26. The Review notes the explanations which senior Departmental officers gave about their motivation to remove ten Save the Children Australia (Save the Children) staff members from providing services in Nauru. Senior Departmental officers were concerned about the protest activity which followed the Ministerial announcement on 25 September 2014 regarding temporary protection visas. The senior Departmental officers read the signs as they saw them based on their previous experience and their responsibility for the safety of transferees and the effective implementation of Government policy.
27. Noting, however, that the intelligence information relied upon by the Department, in Wilson Security's view, required further investigation, the Review considers that a better course of action would have been to direct Save the Children to remove the ten employees from delivering services, thereby alleviating any immediate threat, and conduct further investigation. Save the Children could have been afforded the opportunity to address the concerns raised against its staff members and Wilson Security could have been given additional time to gather more evidence.
28. The Review notes that it has not obtained any information which substantiates the alleged misconduct in relation to the Save the Children staff members. Noting the current AFP investigation, the Review concludes that the Department should review its decision to remove the Save the Children staff members. The Department's review of its decision may include providing Save the Children with the information it relied on.

A more integrated approach

29. The Review suggests that the Centre, which is a Nauruan facility, would operate more effectively if there were greater partnership and integration between the Nauruan operations managers and the Department and its contract service providers.
30. The Review recognises the effort which the Department and its contract service providers are making to ensure that Nauruan requirements and expectations are met. As the Centre evolves, the Department must maintain this focus, particularly at the middle and senior levels of management.
31. The Department needs to provide effective coordination and adopt a lead role in ensuring that contract service providers work effectively together. This role needs to be played not only at the Centre in Nauru, but also at the head office level.

32. By appointing, in September 2014, a Senior Executive Service officer in Nauru, the Department has the basis to ensure that contract service providers achieve a more joined-up approach in the Centre. The Department needs to develop its function beyond mere contract management. This enhanced coordination role needs to be performed jointly with the Nauruan operations managers.
33. Inherent in a more integrated approach would be improved training and supervision of all contract service provider staff members. From the information which transferees provided to the Review, the supervision provided to the Transfield Services and Wilson Security staff members, particularly locally engaged Nauruans, needs to be enhanced.
34. The Nauruan Police Force has an important role at the Centre. Consistent with the need for the Nauruan operations managers to be more involved, the Nauruan Police Force needs to be increasingly engaged. To achieve this outcome, the relationship between Transfield Services / Wilson Security on one hand and the Nauruan Police Force on the other hand needs to be more structured. The Review acknowledges that, in an ever evolving and developing context, there needs to be balance between best practice and what can be practically achieved.
35. The Review notes the need for the Nauruan Police Force to have increased visibility at the Centre. Currently, the Nauruan Police Force is seen there by conducting investigations and by undertaking walk-throughs. This later activity needs to be extended into the sphere of community policing. In doing so, the Nauruan Police Force would appear at the Centre without Wilson Security in attendance. The perception among transferees, and others, is that, at the Centre, the two organisations are inseparable and indeed that the Nauruan Police Force is subordinate.
36. Transferees need the opportunity to develop understanding of, and trust in, the Nauruan law enforcement and criminal justice system. If the Nauruan Police Force were to have a more independent presence at the Centre, such understanding and trust could be developed.
37. A strong intelligence capability within the Centre is important. The Review acknowledges the existing intelligence capability in the Centre through the intelligence unit operated by Wilson Security.
38. As with other aspects of the management and operation of the Centre, the intelligence capability would benefit from a more joined-up approach. The Review considers that effective engagement of the Nauruan Police Force is lacking in the current intelligence arrangements in the Centre.
39. Attention needs to be paid to: the way in which local Nauruan staff are regarded and treated, to more structured education programs and positive messaging about Nauruan society; and to improved training and supervision of local Nauruan staff members employed by contract service providers.

40. Building the capability of the contract service providers' Nauruan workforce would assist in the operation and management of the Centre.
41. Finally, the Review notes the AFP's submission which suggests that a protocol be established between the Nauruan Police Force, the Nauruan Department of Justice and Border Control and Transfield Services and Wilson Security. The purpose of the proposed protocol is to provide an operations interaction in response to incidents at the Centre. The AFP notes that the implementation of the draft protocol would not only enhance the current arrangements for managing critical events, but also provide more clarity and direction in the day to day roles and responsibilities of all stakeholders.

In-confidence Copy Number 4

Recommendations

RECOMMENDATION 1: The Department and the Nauruan Government take into account the personal safety and privacy of transferees when making decisions about facilities and infrastructure at the Centre.

RECOMMENDATION 2: Contract service providers review their guidelines relating to sexual harassment and sexual relationships to ensure that staff members understand what behaviour is acceptable in the context of a Centre with a diversity of cultures.

RECOMMENDATION 3: The Department give consideration to how it could support the Government of Nauru to enhance forensic services to investigate, record and prosecute incidents of sexual and other physical assault in the Centre.

RECOMMENDATION 4: Nauruan Government officials and the Department review and enhance the existing policy framework for identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the Centre. All staff members working at the Centre (Nauruan, Departmental and contract service provider) must understand the framework and their responsibilities under it.

RECOMMENDATION 5: The Department liaise with the Government of Nauru to ensure that child protection issues are reflected in the work currently being done on the Nauruan criminal code.

RECOMMENDATION 6: The Department and the contract service providers continue to work with the Nauruan Government to ensure that a robust child protection framework is developed.

RECOMMENDATION 7: All contract service providers review their existing policies in relation to social media to ensure that their staff members have a clear understanding of their obligations concerning its use.

RECOMMENDATION 8: The Department review contract provisions and other guidelines to ensure that the obligation on contract service providers to report any data loss is explicit.

RECOMMENDATION 9: Noting the current AFP investigation, the Department review its decision which required Save the Children to remove ten of its staff members from providing services in Nauru and in so doing consider the staff members individually. The review would include providing:

- a. Save the Children with the information the Department relied on; and
- b. the opportunity for Save the Children to address the allegations concerning its staff members.

In the event that the decision in relation to any of the ten Save the Children staff members is reversed, the Department make representations to the Government of Nauru about the Nauruan removal order and its consequences.

RECOMMENDATION 10: The Department ensure that Nauruan operation and management of the Centre is enhanced through a more joined-up approach between the Nauruan operations managers and the contract service providers.

RECOMMENDATION 11: Greater cooperation between the contract service providers be encouraged, including through the Department:

- a. ensuring that contract service provider staff members have a clear understanding of each other's roles and responsibilities;
- b. reviewing the range of meetings at the Centre to ensure that information is shared effectively; and
- c. taking a more proactive role to ensure that contract service providers are working cooperatively together and are responsive to each other.

RECOMMENDATION 12: The Department ensure that the relationship between Transfield Services/Wilson Security and the Nauruan Police Force becomes more structured and is based on cooperative and consistent interaction.

RECOMMENDATION 13: The Department consider the feasibility of assisting the Nauruan Police Force to increase its effectiveness through the appointment, on a limited term basis, of an AFP officer with executive authority.

RECOMMENDATION 14: The Nauruan Police Force have greater visibility in the Centre based on community policing and explore ways to include transferees and refugee settlers in community policing and law enforcement roles.

RECOMMENDATION 15: The Department ensure that there is a more joined-up approach between the Wilson Security intelligence unit and the Nauruan Police Force.

RECOMMENDATION 16: The Department work with the Nauruan Government to extend the Nauruan Police Force Community Liaison Officers Program to the Centre.

RECOMMENDATION 17: The Department and contract service providers review and enhance existing efforts to ensure that Nauruan staff members are treated with respect and that there is courteous regard shown for the Republic of Nauru. This requirement could be enhanced through:

- a. the induction programs for all non-Nauruan contract service provider staff members about Nauruan culture and Nauruan society be delivered by Nauruans;
- b. establishment of a framework to deliver positive messaging about Nauru;
- c. the Department taking the lead with its contract service providers to assist Nauruan authorities to continue to find ways to introduce transferees and Nauruans to each other's cultures and traditions.

RECOMMENDATION 18: The Department work with Nauruan authorities and contract service providers to develop new strategies and training programs to build the capacity of the contract service providers' Nauruan workforces.

RECOMMENDATION 19: The Department consider the draft protocol suggested by the AFP for protest and incident management to assess whether it adds value to existing emergency management plans.

In-confidence Copy Number 4

PART 1:	THE REVIEW
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Terms of Reference

A number of allegations have been made recently regarding conditions and circumstances at the Regional Processing Centre in Nauru (also known as 'the Centre'). These allegations include issues relating to the conduct and behaviour of staff employed by contracted service providers, claims of sexual and other physical assault of transferees, the orchestration and facilitation of transferees to engage in non-compliant or harmful behaviour and protest actions potentially endangering the safety and security of all persons at the centre, and the misuse and unauthorised disclosure of sensitive and confidential information, including to undermine the proper management of the centre.

The purpose of this Review is to provide a complete and accurate account of the circumstances, to determine the substance (if any) of the allegations and to provide recommendations to relevant authorities to strengthen arrangements at the Regional Processing Centre in Nauru.

The Acting Secretary of the Department of Immigration and Border Protection has initiated a Review to investigate and report on the key issues, in particular:

- to determine exactly what the facts are;
- to ensure that those facts are available to any authorities for any action required as a result;
- to ensure that the department is provided with clear recommendations on any improvements that can be made to support the Republic of Nauru with the ongoing management of the Regional Processing Centre in Nauru.

Consistent with the Memorandum of Understanding between The Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru and related issues (dated 3 August 2013), the security, good order and management of the centre, including the care and welfare of persons residing in the centre, remain the responsibility of the sovereign Government of Nauru.

In relation to service providers, the scope of this Review is limited to an examination of those service providers and staff engaged by the Commonwealth of Australia for the purposes of providing services of any kind at the Regional Processing Centre in Nauru. Should it become apparent in the course of the Review that there is information of concern in relation to service providers engaged by the Republic of Nauru, this information will be provided to the Government of Nauru.

The Government of Nauru has indicated its full support for the Review. The Review will involve, but is not limited to, assessing:

- the accuracy of the allegations;
- the adequacy of arrangements identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the centre;
- the conduct and behaviour of service providers and their staff at the centre;

- the adequacy and secure management of information by service providers and their staff;
- the extent of any prior indicators or intelligence that would have assisted in the prevention of unsatisfactory professional conduct and/or professional misconduct by service providers and their staff;
- breaches of security, including information security;
- the clarity of roles and responsibilities, including the adequacy of training and supervision of service provider staff;
- the ability of service providers to appropriately and professionally manage protest and other activity within the centre;
- any other issues deemed necessary by the Secretary of the Department of Immigration and Border Protection.

Any material obtained by the Review that may be of assistance to relevant authorities in managing actual or possible criminal charges or activity will be made available to relevant authorities.

The Review may make recommendations to strengthen relevant arrangements relating to the provision of services at the centre, and the conduct of service providers and staff.

The Review is to commence immediately and report to the Secretary of the Department of Immigration and Border Protection by the end of the year, or other such dates as may be negotiated, with a progress report to be provided by approximately mid-November 2014.

Background to the Review

- 1.1 On 25 September 2014, the then Minister announced the re-introduction of temporary protection visas to resolve the status of Illegal Maritime Arrivals in Australia who were found to invoke Australia's protection obligations. Transferees in Nauru would, however, remain subject to regional processing arrangements and would not be eligible for a temporary protection visa and resettlement in Australia. Protest activity by transferees at the Centre followed the Ministerial announcement.
- 1.2 In announcing the Review on 3 October 2014, the then Minister referred to recent serious allegations that had been made regarding sexual abuse of transferees. These allegations were reported in letters, which Senator Sarah Hanson-Young wrote to the then Minister on 26 September 2014 and 30 September 2014, and in media articles.
- 1.3 In correspondence dated 26 September 2014, Senator Hanson-Young referred to allegations that *"on occasions women have been forced to expose themselves to sexual exploitation in exchange for access to showers and other amenities"*. Senator Hanson-Young's letter also stated *"[t]here are further reports that access to cigarettes is being traded for sexual favours. I am extremely alarmed that the reports also involve children and young girls"*.¹
- 1.4 In correspondence to the then Minister dated 30 September 2014, Senator Hanson-Young referred to more information coming to her attention in *"recent days"*. This additional information was:
- *I have heard from multiple sources that children as young as 8 years old have been involved in lip stitching and other forms of self-harm following the introduction of last week's legislation.*
 - *Accusations of a rape taking place inside the centre and a young female detainee being threatened with rape upon her resettlement in the Nauruan community.*
 - *Accusations that Nauruan guards have been trading marijuana with detainees in exchange for sexual favours.*
 - *Accusations that a guard previously employed at the centre forced children to engage in sexual activity in front of him and that this guard has since been removed from working inside the family camp.*²
- 1.5 Some of the allegations of sexual and other physical assault of transferees³ which were reported in the media, mirrored those referred to in Senator Hanson-Young's correspondence. There were also some additional allegations reported in the media (see Attachment A).

¹ L253 - Letter from Senator Hanson-Young, 26 September 2014

² L254 - Letter from Senator Hanson-Young, 30 September 2014

³ The Review refers to asylum seekers at the Regional Processing Centre in Nauru as transferees.

- 1.6 At a media conference on 3 October 2014, the then Minister said that he had been provided with reports indicating that contract service provider staff members at the Regional Processing Centre at Nauru (the Centre) had allegedly engaged in a broader campaign with external advocates to seek to cast doubt on the Government's border protection policies. This reporting included allegations of:
- orchestration and facilitation to engage in non-compliant or harmful behaviour and protest activities, including the tactical use of children in those protests;
 - coaching and encouragement of self-harm;
 - fabrication of allegations as part of a campaign to seek to undermine operations and support for the offshore processing policy of the government; and
 - misuse and unauthorised disclosure of sensitive and confidential information.
- 1.7 The then Minister advised that the Department of Immigration and Border Protection (the Department) had invoked a provision under the service provider contract to direct Save the Children Australia (Save the Children) to remove ten of its staff members from delivering services in Nauru. The Department gave this notice on 2 October 2014.
- 1.8 On 2 October 2014, the Department referred to the AFP material about incidents concerning the unauthorised disclosure of information by a specific Save the Children staff member. *The Daily Telegraph* reported that the AFP had been asked to investigate, under section 70 of the *Crimes Act 1914*, alleged misuse by staff members of Save the Children of privileged information.
- 1.9 The next day, 3 October 2014, Mr Simon Benson, reporting in *The Daily Telegraph* (and other News Limited publications), cited an intelligence report provided to the Department stating that some Save the Children staff members "had been involved in a propaganda campaign to 'manufacture' conditions to embarrass the Abbott government"⁴.
- 1.10 The intelligence report was subsequently identified as having been compiled and distributed by the Wilson Security intelligence unit, and entitled "*Save the Children Staff on Nauru*". The report was dated 30 September 2014 and has not been officially released.⁵

Methodology

- 1.11 Following consideration of the Terms of Reference and the background information noted above, the Review identified two main aspects for investigation. They were:
- claims of sexual and other physical assault of transferees; and
 - conduct and behaviour of staff members employed by contract service providers.
- 1.12 The Review looked separately at these two aspects noting the links between them since some allegations of sexual and other physical assault relate to the conduct and behaviour of contract service provider staff members.

⁴ *Claims of abuse on island go overboard*, *The Daily Telegraph*, 3 October 2014

⁵ R248 - 30.9.2014 - Transfield intelligence report - allegations regarding Save the Children

- 1.13 The second aspect to the Review includes the reported allegations of: orchestration and facilitation of transferees to engage in non-compliant or harmful behaviour and protest actions potentially endangering the safety and security of all persons at the Centre; and the misuse and unauthorised disclosure of sensitive and confidential information to undermine the proper management of the Centre.
- 1.14 The Review covered the period between July 2013 and October 2014, as well as incidents occurring and reported during the course of the Review.
- 1.15 At the Review's invitation, the following persons or organisations made one or more submissions:
- Save the Children;
 - Transfield Services and its sub-contractor Wilson Security;
 - the AFP;
 - International Health and Medical Services (IHMS) and its sub-contractor Overseas Services to Survivors of Torture and Trauma (OSSTT); and
 - Senator Hanson-Young.
- 1.16 In addition, the Review received a number of other submissions. For the most part, these submissions were not relevant to the Review's Terms of Reference.
- 1.17 The Review also requested and obtained documentation and other information from:
- the Nauruan Police Force;
 - the Department of Immigration and Border Protection;
 - Save the Children;
 - Transfield Services;
 - Wilson Security;
 - IHMS; and
 - Senator Hanson-Young.
- 1.18 The Review interviewed staff members from the Department, Save the Children (including nine of the ten staff members who were the subject of the removal notice), IHMS, Transfield Services and Wilson Security. These interviews took place in Australia and Nauru. The Review met with the relevant Nauruan Minister and government officials and with the AFP. The Review also interviewed transferees currently living in the Centre. In total, the Review conducted 114 interviews, with the majority being recorded and transcribed.
- 1.19 The Review received, and acknowledges, the co-operation of the Nauruan Government, Departmental officers, the AFP and the contract service providers and their staff members in responding to requests for documentation and other information. The Review also acknowledges the transferees who participated in interviews.
- 1.20 The Review considered previous reviews relating to regional processing and, in particular, the recommendations which those Reviews made.

Visits to Nauru: 25 October – 1 November 2014 and 12 – 19 November 2014

- 1.21 The Review travelled twice to Nauru. During the second visit, a child protection practitioner from the Australian Capital Territory Community Services Directorate, s. 47F travelled with the Review team.
- 1.22 Before the first visit, transferees were told about the Review's Terms of Reference. The Review's first interaction with transferees was in group meetings, which were held by language group with interpreters present. At the group meetings, children were not present because the Review intended to deal separately with issues relating to minors. Nine group meetings were held in the Centre, with between five and ten transferees representing all language groups in attendance.
- 1.23 The Review spoke with transferees about the conduct and behaviour of contract service provider staff members at the Centre, allegations of sexual and other physical assault, orchestration and facilitation to engage in non-compliant or harmful behaviour and protest actions, coaching and encouragement of self-harm and misuse and unauthorised disclosure of sensitive and confidential information.
- 1.24 Generally speaking, transferees were prepared to discuss these topics. During the group meetings, some transferees asked to meet individually with the Review. Later, other persons came forward to request individual interviews. Due to the numbers, the Review team screened those requests for interview.
- 1.25 The Review received a strong response from the Iranian, Farsi speaking, cohort of transferees. The Review made every effort to ensure that it was available to all ethnic and language groups at the Centre.
- 1.26 At the Review's request, the Department distributed Centre feedback forms.⁶ These forms gave transferees the opportunity to provide written information in their own language to the Review.
- 1.27 The feedback forms, which the Review received, helped the Review to identify transferees it might interview individually. The Review received 316 feedback forms during the first visit and 36 during the second visit. The Review interviewed 22 transferees as a result of receiving feedback forms.
- 1.28 The Review arranged translation, when necessary, of the feedback forms and identified the issues being raised. Issues not relevant to the Review were referred to the appropriate authorities.
- 1.29 During the second visit, the Review continued its interviews with individual transferees. Assisted by the child protection practitioner, the Review interviewed several minors who

⁶ Feedback forms are a proforma available at the Centre for transferees to make comment, raise a concern or lodge a complaint.

were 15 and 16 years of age. The Review also interviewed some parents of children⁷ who were between five and eight years of age.

- 1.30 During the visits, the Review met with the Nauruan Minister for Justice, the Hon. David Adeang MP. The Review also met with senior Nauruan Government officials, including: the Secretary of the Nauruan Department of Justice and Border Control, Mr Lionel Aingimea; the Solicitor General, Mr Graham Leung; and the Director of the Nauruan Police Force, Commissioner Corey Caleb.
- 1.31 The Review met the Australian High Commissioner, His Excellency Martin Quinn, and the Senior Adviser to the Nauruan Police Force, AFP Superintendent [REDACTED] s. 47F.

Referral to relevant authorities

- 1.32 The Terms of Reference require the Review to provide any material obtained that may be of assistance in managing actual or possible criminal charges or activity to relevant authorities. The Review took the approach of providing the Department with such material as soon as practicable so that the Department could refer it to the relevant authorities.
- 1.33 On 25 November 2014, the Review provided the Department with information concerning allegations that four local staff members—identified by first name only (and not conclusively), and two unidentified, local staff members—had acted inappropriately in relation to minors. The alleged conduct came to light when five minors told the Review that various security staff members had: offered them marijuana; offered them marijuana in return for sexual favours; committed an assault; offered to obtain items in return for sexual favours; and been on duty while under the influence of alcohol. The minors provided this information on the condition their identities not be revealed. They said to the Review that they had not told their family about the alleged incidents.
- 1.34 On 27 November 2014, the Review team forwarded to the Department a number of feedback forms. These feedback forms raised issues relating to threats of self-harm or other vulnerability concerning individual transferees. Other issues raised in the feedback forms, not directly related to the Terms of Reference, such as requests for medical attention or concerns about living conditions, were also referred to the Department for follow-up with the relevant contract service provider.
- 1.35 On 10 December 2014, the Review provided the Department with information concerning another ten allegations which the Review considered needed to be brought to the attention of contract service providers at the Centre or the Nauruan Police Force. Of the ten allegations, two related to children. Five allegations involved possible sexual misconduct by contract service provider staff members: one allegation was a physical assault by a named contract service provider staff member; and two allegations related to possible criminal activity within the Centre.

⁷ The Review refers to any transferee less than 18 years of age as a child or as a minor.

- 1.36 Also on 10 December 2014, the Review provided the Department with some limited information which the Review had obtained on the misuse and unauthorised disclosure of sensitive and confidential information. The Review suggested that the Department pass this information to the AFP. Following consultation with the Secretary of the Department and the AFP, the Review decided to curtail its focus on this aspect of the Terms of Reference in order to avoid possible duplication of investigative effort and interference with an AFP investigation. This topic is mentioned again later in this report.
- 1.37 On 15 December 2014, the Review provided the Department with information for referral to the appropriate authorities about the unauthorised disclosure of a sensitive Wilson Security intelligence document.
- 1.38 The Review did not obtain any other information which it considered needed to be referred. However, the Review did ask the Nauruan Police Force about the progress of an investigation into the alleged rape of a transferee. This matter is discussed later in this report.

PART 2:	BACKGROUND INFORMATION
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Brief history of the Nauru Regional Processing Centre

- 2.1 On 13 August 2012, the Australian Government announced that asylum seekers who had arrived illegally in Australia on or after 13 August 2012 would be transferred to a regional country where their claims for asylum would be processed. Transferees determined as having refugee status could apply for settlement in Australia.
- 2.2 The Australian Government signed a Memorandum of Understanding (MOU) with the Government of Nauru on 29 August 2012 to establish a regional processing centre (RPC). The transfer of asylum seekers to Nauru commenced on 13 September 2012.
- 2.3 The policy changed on 19 July 2013, when the Australian Government announced a new Regional Resettlement Arrangement with Papua New Guinea, and then with Nauru. Consequently, all illegal arrivals in Australia would be transferred to a RPC. Transferees determined as refugees could not apply for settlement in Australia.
- 2.4 On 3 August 2013, the Australian Government signed a MOU with the Government of Nauru. The MOU is entitled *Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the Transfer to and Assessment of Persons in Nauru, and Related Issues*.
- 2.5 The MOU expanded the previous offshore processing arrangements to include the settlement in Nauru of transferees who were determined as having refugee status.
- 2.6 In support of the MOU, administrative arrangements were signed on 11 April 2014. These arrangements provided guidance for the transfer of asylum seekers to Nauru, management of the Centre and refugee status determination.
- 2.7 The Centre has facilities and services for transferees who are single adult males or single adult females, transferees with family members or transferee couples without children. As of 30 September 2014, there were no unaccompanied minors in the Centre. Nearly all of them had been determined as having refugee status and are living in the Nauruan community. Two minors whose refugee status is yet to be determined, also moved into the Nauruan community. In Nauru, unaccompanied minors are under the guardianship of the Nauruan Minister for Justice.
- 2.8 The Centre consists of three separate areas known as RPC 1, RPC 2 and RPC 3. RPC 1 provides staff accommodation, facilities (administration, medical and education) and short-term supported accommodation for transferees. RPC 2 accommodates single adult males and RPC 3 accommodates families, single women and couples without children.
- 2.9 The accommodation and some other facilities in both RPC 2 and RPC 3 consist of vinyl 10 x 12 metre canvas marquees. In RPC 2, each marquee can accommodate 40 transferees in dormitory style configuration with bunk beds. In RPC 3, each marquee has the capacity for

up to 22 transferees depending on the needs of family groups. Marquees for families with children under 4 years of age are fitted with air-conditioning and hand washing facilities.

- 2.10 Since the Centre was established, various transferee protests have occurred from time to time. These protests have usually coincided with significant Australian Government policy announcements. On 19 July 2013, protest activity turned into a riot. As a result, many of the buildings and other infrastructure at RPC 1 at that time, was destroyed. The extent of the loss was estimated to be over \$60 million. As a consequence, the Centre was rebuilt and RPC 2 and RPC 3 were constructed for their present purposes.
- 2.11 The events of 19 July 2013 provide relevant background in relation to the response to subsequent protests at the Centre.

Management of the Centre

- 2.12 The Centre is a Nauruan facility and refugee status termination is a Nauruan function. The Secretary of the Nauruan Department of Justice and Border Control, with the support of the Department, and its contract service providers, is responsible for the management of the Centre in accordance with the MOU.
- 2.13 Under the administrative arrangements, the Government of Nauru has appointed three Nauruan operations managers. These managers are responsible for RPC 1, RPC 2 and RPC 3 respectively and are assisted by Nauruan deputy managers. They are located at their respective RPCs.
- 2.14 The Department currently has 20 identified positions in Nauru. The senior Departmental position for all matters relating to the Centre is the Assistant Secretary, Nauru Operations. This position was established in September 2014 and reflects the need for a senior Departmental person to engage with the Government of Nauru and contract service providers in their day to day running of the Centre.
- 2.15 At the Centre, there are a number of contract service providers (contracted to the Department) and their sub-contractors. They include:
- Transfield Services;
 - Wilson Security (sub-contracted to Transfield Services);
 - International Health and Medical Services (IHMS);
 - Save the Children Australia;
 - Overseas Services to Survivors of Torture and Trauma (OSSTT) (sub-contracted to IHMS);
 - Canstruct (which provides construction services).
- 2.16 There are also other contract service providers. For example, to meet its threshold of local staff employment, Wilson Security subcontracts to local security providers, Sterling Security and Protective Security Services.

- 2.17 Transfield Services provides support services, known as garrison services, relating to the Centre's operation, which includes escort and security services provided by Wilson Security. IHMS provides medical services (general practitioners, psychiatrists and psychologists and mental health nurses) and torture and trauma counselling (through OSSTT).
- 2.18 Transfield Services provides welfare services for the single adult males accommodated in RPC 2. Save the Children provides welfare and educational services for single adult females, families, children and couples without children in RPC 3. Transfield Services is not responsible for providing any welfare services in RPC 3.
- 2.19 Transfield Services and Wilson Security are required to engage specific minimum levels of local Nauruan personnel and sub-contractors. Their contracts mandate them to use local service providers and staff members as far as possible in all main service areas including security.
- 2.20 Information about incidents at the Centre is communicated through incident reports, information reports and a formal complaints process.
- 2.21 Contract service provider staff members who have witnessed, or become aware of an event (classified as minor, major or critical) are required to submit an incident report in writing. Such reports may be oral in the first instance. Reports must be made within a prescribed time frame. Transfield Services told the Review that all stakeholders, including the Government of Nauru, may receive major and critical incident reports as relevant to the incident that has occurred.
- 2.22 Contract service provider staff members must prepare an information report about a situation or issue which may be of interest and/or require follow up action, but does not necessarily involve a specific incident. Information reports are referred to relevant stakeholders.
- 2.23 There is a complaints process through which transferees can raise any concern. The aim is to promote early resolution. Complaints are received by the welfare service provider (Transfield Services in RPC 2 and Save the Children in RPC 3) who refer them to the relevant contract service provider for investigation and response. In the case of complaints about contract service provider staff members, the complaint must be referred to the Department for it to refer and/or investigate.

PART 3:	SEXUAL AND OTHER PHYSICAL ASSAULT
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- 3.1 The “recent allegations” mentioned in the Review’s Terms of Reference originated either in the media or from Senator Hanson-Young’s correspondence to the then Minister. In some cases, what was reported was the same or similar. A number of themes emerged, namely:
- sexual exploitation in exchange for access to showers and other amenities;
 - rape and threats of rape;
 - trading of cigarettes and marijuana for sexual favours;
 - indecent assault and sexual harassment;
 - physical assault of transferees by service provider staff;
 - lip stitching and self-harm by minors; and
 - assault of minors.

Sexual exploitation in exchange for access to showers and other amenities

- 3.2 The Review notes that when there have been water shortages in Nauru water supply in the Centre has been restricted. The water supply has since been upgraded in the Centre.
- 3.3 On 26 September 2014, Save the Children staff members, [S. 47F] and [S. 47F]⁸ were asked by [S. 47F] to sit with the transferee who was visibly upset. According to the information report, which [S. 47F] and [S. 47F] made on 28 September 2014, the transferee “talked about several situations, some from Christmas Island and some from RPC 3.” The transferee told them that she had asked for a longer shower, to which the “male security person” agreed on the condition he could “...view a boy or a girl having a shower”.⁹
- 3.4 On 29 September 2014, the transferee repeated her allegation to Save the Children staff members, [S. 47F] and [S. 47F], although in the information report submitted by [S. 47F] and [S. 47F] there was no mention of the request to see a child having a shower. That information report says:

During a discussion yesterday (29/9/2014) with [S. 47F] she disclosed that she asked a Nauruan Wilson Security guard if she could have 2 minutes extra in the shower to wash her son’s hair. The guard replied that for her to have this request, she would have to show him her naked body”.¹¹

- 3.5 On 2 October 2014, two Wilson Security investigators interviewed the transferee. According to the Wilson Security investigation report, the transferee stated that “about four months ago, whilst she was in the female shower block, a local Nauruan male security guard turned off the water. She had not completed her showering and asked for more time. The guard

⁸ [S. 47F] and [S. 47F] were among the ten Save the Children staff members who were identified in October 2014 to be removed from delivering services in Nauru.

⁹ R2949 - [S. 47F] - Save the Children Information Report re [S. 47F]

¹⁰ [S. 47F] and [S. 47F] were also among the ten Save the Children staff members.

¹¹ R2943 - [S. 47F] - Save the Children Information Report re [S. 47F]

*allegedly said to her in reply 'Show me your body and I'll give you more time'. The transferee did not comply with this request.*¹²

- 3.6 On 2 October 2014, Wilson Security investigators obtained a signed witness statement from s. 47F. In that document, s. 47F stated that the transferee had told her; *"The two minutes showers are not enough. We requested for four minute showers but the security guard said on one condition that if could see your kid's naked body".* s. 47F also stated that the transferee had told s. 47F that, on 25 September 2014, she (the transferee) had telephoned Senator Hanson-Young about her concerns.¹³
- 3.7 The Review interviewed the transferee and also the Save the Children staff members who had submitted the incident reports.
- 3.8 In her interview with the Review, the transferee described the incident. The transferee said that she could not identify the contract service provider staff member and did not say that the security guard has asked to see a child showering. She told the Review that:

*I was dressed. My s. 47F was in the shower by s. 47F. So, s. 47F had put the shampoo in s. 47F hair and once the two minutes was up, s. 47F hadn't washed out the shampoo and it was burning s. 47F eyes. So, I went to the officer and I said, 'Is it possible for you to turn the shower on so s. 47F can wash the shampoo out of his hair? It's stinging s. 47F eyes.' And he said that, 'If you want me to turn it on for another two minutes, just take off your clothes, show me your body and then I will turn that on for you'.*¹⁴

- 3.9 The Review interviewed the Save the Children staff members who submitted the information reports (s. 47F and s. 47F). s. 47F told the Review what the transferee had recounted. *"[t]here had been times where she was wanted to wash her s. 47F hair or have two extra minutes in the shower for herself and a guard had said to her that to do that she had to show her body to him, her naked body to him".*¹⁵
- 3.10 s. 47F told the Review:

[The transferee] was talking about this phone call she made to Sarah Hanson-Young. She then told me what the main thing that she was talking to Sarah Hanson-Young about, and that was that she had requested a four-minute shower instead of a two-minute shower. She asked a security guard this. She said he granted that request upon condition that he be allowed to view a boy or girl having a shower. And it's at that point, because children were involved, that I felt very uneasy. I knew that as a

¹² R2942 - 2.10.2014 - Investigation Progress Report re s. 47F, at p.2

¹³ S3013 - s. 47F - Statement by s. 47F

¹⁴ T130 - s. 47F - Interview - s. 47F at p.4

¹⁵ T2120 - s. 47F - Interview - s. 47F Save the Children, at p.13

*duty of care I had to report that. Doesn't mean I agreed with it. It doesn't mean it was an allegation. It means I have to report that, or I'm going to lose my job ...*¹⁶

- 3.11 [S. 47F] said that the transferee told her that "[the transferee] said she wanted to wash – she wanted to have extra two minutes to wash her [S. 47F] hair, and she said the guard said if you want extra two minutes then we want to watch you have a shower naked".¹⁷
- 3.12 According to the Wilson Security investigation report dated 2 October 2014, the Nauruan Police Force was notified.¹⁸ Transfield Services also informed the Review that Wilson Security had referred a series of allegations, which this female transferee had made, including the specific instance of alleged sexual exploitation in exchange for a longer shower, to the Nauruan Police Force.
- 3.13 In group interviews, transferees told the Review about similar incidents occurring regularly when female transferees (adults and children) were in the showers. None of the accounts relayed in the group interviews was first-hand and there were few specific details. Transferees in some of the group interviews told the Review that this form of sexual exploitation had been a "regular occurrence from the beginning", although no specific details were provided.
- 3.14 The Review was unable to obtain any specific or first-hand information or find any incident/information reports or complaints or to otherwise substantiate the allegations related to the previous paragraph.

Rape and threats of rape

Rape

- 3.15 The Review is aware of two specific allegations of rape of two adult female transferees occurring at the Centre. One allegation had already been reported to the Nauruan Police Force. The other allegation, according to the transferee concerned, was made only to the Review and involved a contract service provider staff member.

Allegation 1

- 3.16 The first allegation involved a female adult transferee ([S. 47F]). In an incident report dated 24 August 2014, the transferee alleged to a Transfield Services cultural advisor that approximately one month before, she was raped by a male transferee. The incident report recorded the transferee as saying that the rape had occurred in her tent and she named the person of interest ([S. 47F]). The incident report stated that the victim wanted to keep the

¹⁶ T2547 - 2 [S. 47F] - Interview - [S. 47F] - Save the Children, at p.20

¹⁷ T65 - [S. 47F] - Interview - [S. 47F] - Save the Children, at p.25

¹⁸ The referral to the Nauruan Police Force in relation to [S. 47F] related to a series of allegations [S. 47F]

matter quiet for fear of retaliation from other transferees and had asked for the matter not to be referred to the police.¹⁹

- 3.17 Subsequently, on 25 August 2014, the transferee changed her mind and asked that police investigate.
- 3.18 Transfield Services told the Review (on 30 October 2014), that, in accordance with the requirements of the Centre's guidelines and rules, Wilson Security informed the relevant agencies, including the Nauruan Police Force. The Director (Commissioner) of Nauruan Police Force then referred the allegation to the Domestic Violence Unit for investigation. Nauruan Police Force officers interviewed the transferee a few days later.
- 3.19 On s. 47F, the Nauruan Government granted refugee status to the alleged perpetrator and he was settled in the Nauruan community. On 24 September 2014, the Nauruan Police Force informed the transferee that there was insufficient evidence to make an arrest. On 15 October 2014, the Nauruan Police Force advised Wilson Security of its recommendation to the Prosecutions Office that the case be closed.
- 3.20 The Review team interviewed the transferee on s. 47F. s. 33(a)(iii) the Nauruan Police Force reconsidered the case and reopened it. On 31 October 2014, s. 33(a)(iii), the Nauruan Police Force re-interviewed the alleged victim. The Nauruan Police Force investigation continues.
- 3.21 The Review notes that, although the transferee had reported the incident almost a month after it happened, Wilson Security and the Nauruan Police Force had commenced an investigation in a timely manner.
- 3.22 The Review notes that the female adult transferee has access to psychological support from IHMS and is not pregnant as was reported in the media.²⁰
- 3.23 This case appears to be the one referred to in *The Canberra Times* article, "Asylum seeker alleges she was raped twice in family compound in Nauru".²¹ The Review notes that the female transferee has alleged one instance of rape.
- 3.24 As to *The Canberra Times*, article which reported that the Department immediately gave the alleged perpetrator a visa as a cover-up, the Review can find no information to substantiate that claim.

Allegation 2

- 3.25 The second allegation was made to the Review on s. 47F. A female transferee alleged that in s. 47F she was raped by a contract service provider staff member. For cultural and family reasons, she has not reported the rape.

¹⁹ R3003 - s. 47F - Incident Report - Sexual Assault-rape - s. 47F

²⁰ Female asylum seeker allegedly fell pregnant after being raped on Nauru, *The Guardian*, 28 November 2014

²¹ Asylum Seeker alleged she was raped in family compound in Nauru, *The Canberra Times*, 28 November 2014

s. 47F

- 3.26 The transferee requested that, for family and cultural reasons, the Review not reveal her identity or refer her matter to the relevant authorities.

Threat of rape

- 3.27 As to threat of rape, the Review was provided with information about two incidents.

- 3.28 The first incident was mentioned in *The Guardian* on 13 August 2014. *The Guardian* reported that an anonymous submission by Save the Children staff members to the Australian Human Rights Commission (AHRC) *Inquiry into Children in Detention* had highlighted the case of a young female at risk of a “serious sexual assault” after “several adult males were overheard making plans” to attack her. The article said that the transferee was moved, with her family from RPC 3, to different housing, but was then moved back within a “few weeks”.²²

- 3.29 The Review was unable to find any information that directly related to what had been reported. Through contract service provider documentation, the Review became aware of an allegation that a group of transferees had threatened to rape a mother and/or the minor male child.²³ The transferee and her family were granted refugee status on s. 47F. In the light of this information, the Review did not pursue the matter further.

- 3.30 The second incident was reported to the Review on 10 November 2014 by Senator Hanson-Young’s office. A female transferee (s. 47F) had made contact to allege that she had received an anonymous letter threatening her with gang-rape. This transferee had spoken with the Review s. 47F.

- 3.31 On s. 47F, the Review interviewed the transferee who said that s. 47F. The transferee told the Review that she had destroyed the piece of paper. When asked whether she had made a complaint, the transferee said “So I’m done with

²² “Child asylum seekers’ rights on Nauru ‘systematically violated’, inquiry told.” *The Guardian*, 13 August 2014

²³ E2800 - 21.11.2014 - Additional information from Transfield Services

putting in complaints because I think that they're useless. (...) And I know that whatever I say might be held against me, or make my case more complicated".²⁴

- 3.32 As to allegation, which Senator Hanson-Young reported, about a "young female detainee being threatened with rape upon her resettlement in Nauru", the Review obtained no information which substantiated this claim.

Indecent assault and sexual harassment

IHMS staff members

- 3.33 Female transferees told the Review about two allegations involving indecent assault by IHMS employees.

- 3.34 The first allegation involved a female transferee [REDACTED] s. 47F [REDACTED]. The transferee did not report this incident, saying that she was too shocked to talk about it.

- 3.35 On [REDACTED] s. 47F [REDACTED], the Review interviewed the transferee who alleged that [REDACTED] s. 47F [REDACTED].

- 3.36 On 10 December 2014, the Review referred this allegation to the Department with a recommendation that the matter be investigated.

- 3.37 The second allegation [REDACTED] s. 47F [REDACTED].

- 3.38 The alleged incident occurred on [REDACTED] s. 47F [REDACTED]. The transferee made a complaint on [REDACTED] s. 47F [REDACTED] which Wilson Security investigated. The matter was then referred to the Nauruan Police Force on 13 October 2014 for investigation. The complaint was also referred to IHMS.²⁶

- 3.39 [REDACTED] s. 47F [REDACTED], told the Review that she had spoken with the transferee who could not identify [REDACTED] s. 47F [REDACTED].²⁷ The Review interviewed the transferee, but no additional information came to light.

²⁴ T290 - [REDACTED] s. 47F [REDACTED] Interview - [REDACTED] s. 47F [REDACTED], at pp.9, 10, 14

²⁵ T129 - [REDACTED] s. 47F [REDACTED] Interview - [REDACTED] s. 47F [REDACTED], at pp.1, 2, 4

²⁶ T131 - [REDACTED] s. 47F [REDACTED] Interview - [REDACTED] s. 47F [REDACTED], at pp.32-33

²⁷ T131 - [REDACTED] s. 47F [REDACTED] Interview - [REDACTED] s. 47F [REDACTED] at p.33

- 3.40 This incident was reported in *The Saturday Paper* on 15 November 2014 under the headline, *Fear and abuse: the Nauru letters*.²⁸ The transferee had written to the newspaper about the alleged incident. The Review obtained a copy of the letter from both the transferee and from [s. 47F] of the Asylum Seeker Resource Centre.

Wilson Security staff members

- 3.41 The same article in *The Saturday Paper* (mentioned above) reported another allegation which involved locally engaged contract service provider staff members employed by Wilson Security. *The Saturday Paper* reported having received a written account from a transferee. The Review was also given a copy of the letter by the transferee and [s. 47F].
- 3.42 The allegation was that, on [s. 47F], while waiting for the Centre shuttle bus, two female transferees were subjected to indecent exposure and lewd gestures by a Wilson Security staff member.
- 3.43 The Review interviewed the two female transferees, [s. 47F] who claimed they had made a written complaint on the evening of the incident. When they did not receive a response, a Save the Children case manager submitted a second complaint on their behalf, about two months later.²⁹ A Wilson Security behavioural team investigated the second complaint. The investigators showed the transferees photographs of Wilson Security staff members. The transferees told the Review that there was no photograph of the Wilson Security staff member concerned was among them.
- 3.44 Wilson Security decided that there was not enough information to pursue the matter further. Although Wilson Security had no record of the first complaint, the Transfield Services complaints logbook shows that a complaint was received on 14 August 2014.³⁰
- 3.45 On 10 December 2014, the Review provided this information to the Department with a recommendation that Transfield Services review the matter.
- 3.46 In a [s. 47F], a transferee who did not want to be identified, alleged that [s. 47F]
[redacted]
[redacted] These advances included such statements as "I really like your top and I really like your breasts" and "I want to see you naked, and I want to touch you". He also allegedly started touching her. The transferee added "I haven't reported because incidents like this happen very frequently."³¹
- 3.47 On 10 December 2014, the Review provided this information to the Department with a recommendation that Transfield Services review the matter.

²⁸ *Fear and abuse: the Nauru letters, The Saturday Paper*, 15 November 2014

²⁹ R2947 - [s. 47F] - Save the Children Information Report [s. 47F]

³⁰ S2946 - 24.10.2014 - Copy of Appendix 1 - Summary of Allegations – Transfield Services

³¹ T133 - [s. 47F] - Interview - [s. 47F], at pp. 9-10

3.48 On 30 September 2014, Save the Children staff members, s. 47F and s. 47F Barbosa, submitted an information report. In that report, the Save the Children staff members stated a female transferee (s. 47F) had told them that a contract service provider staff member had requested the female transferee's friend join him and his partner in a sexual relationship once she is residing in the Nauruan community.³²

3.49 In response, Wilson Security investigated and produced a report dated 2 October 2014. The report noted:

Whilst she was with her friend (s. 47F) they were approached by two Nauruan security guards s. 47F

...³³

3.50 On s. 47F, Wilson Security investigators also spoke to the female transferee concerned, who stated: s. 47F

³⁴

3.51 On s. 47F, the Review interviewed the female transferee (s. 47F) mentioned in the paragraph above. She stated:

So the topic of conversation was about an improper sexual proposition made by the Nauruan officers. (...) s. 47F

3.52 The Wilson Security investigation report states that this matter, together with other matters, had been referred to the Nauruan Police Force.³⁶ The Review notes this referral was recorded in a Transfield Services schedule, dated 13 November 2014.

3.53 An information report, which a Save the Children staff member, made on 31 October 2014, recorded a female transferee (s. 47F) as stating that s. 47F

³² R2943 - 2 s. 47F - Save the Children Information Report, re s. 47F. This information report also contains the allegations made by s. 47F s. 47F

³³ R2942 - 2.10.2014 - Investigation Progress Report re s. 47F at p.2

³⁴ E2909 - s. 47F - Statement - s. 47F pp.234390 - 234394

³⁵ T290 - s. 47F - Interview - s. 47F, at p.11

³⁶ The referral to the Nauruan Police Force related to a series of allegations including indecent assault s. 47F

s. 47F

s. 47F

3.54 Wilson Security referred the matter to the Nauruan Police Force. This referral is also confirmed by a schedule dated 13 November 2014 which Transfield Services provided to the Review.

3.55 On s. 47F, a female transferee (s. 47F) told the Review that:

*There is a...[female] Wilson Security officer, that when women exit the shower, she touches them or offers them or requests sexual favours. Some of the girls have complained about this situation. The way that she has expressed her wishes, they have complained about her.*³⁸

3.56 The Review was unable to locate any incident or information reports, complaints or other details from any other source, about this allegation.

3.57 Some female transferees told the Review about requests from Nauruans employed by contract service providers to form relationships once the transferees had settled in the Nauruan community. These transferees said that they regarded these requests as sexual harassment.

3.58 On s. 47F, a female transferee, together with another female transferee (s. 47F), told the Review team that:

s. 47F

*Once you come out into the community, we can get together.*³⁹

3.59 The transferees provided the Review with the first name of the contract service provider staff member. On 10 December 2014, the Review referred this allegation to the Department for further investigation.

3.60 On 22 October 2014, Save the Children staff member, s. 47F, told the Review that a female transferee said she didn't feel safe in the camp. According to s. 47F, the transferee said that "it started when the authorities said about clients going into the community, and ever since then the attitude of the Nauruan security officers has changed, the Nauruan security officers approaching clients and saying things like it'd be nice when you go out we can meet and have a relationship, come and sit on my lap, and are talking to them as though they plan or are thinking that the women will be available to them or to anybody

³⁷ R2950 - s. 47F - Save the Children Information Report re s. 47F

³⁸ T143 - 3 Interview - s. 47F, at p.9

³⁹ T133 - 3 Interview - s. 47F, at p.26

⁴⁰ s. 47F is one of the 10 Save the Children staff members

when they get into the community on Nauru".⁴¹ There was no information available to the Review to substantiate this disclosure, although a number of female transferees made comments in similar terms and expressed apprehension about their personal safety.

- 3.61 On [REDACTED] S. 47F, a female transferee, who does not want her identity to be revealed, alleged that a Wilson Security staff member, [REDACTED] S. 47F has a sexual interest in her, [REDACTED] S. 47F
[REDACTED]
[REDACTED]"
- 3.62 During an interview on [REDACTED] S. 47F, the female transferee told the Review that [REDACTED] S. 47F
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] 42
- 3.63 On 10 December 2014, the Review referred this matter to the Department with a recommendation that Wilson Security assesses this allegation with a view to investigating it.
- 3.64 When in Nauru, the Review received other accounts of alleged sexual harassment. These accounts were generally not reported and did not result in any information that could be referred for investigation.
- 3.65 A female adult transferee [REDACTED] S. 47F) told the Review on [REDACTED] S. 47F, that a guard had allegedly offered to give her friend chewing gum and a lollypop if she allowed him to see her naked.⁴³
- 3.66 On [REDACTED] S. 47F, two female transferees ([REDACTED] S. 47F and [REDACTED] S. 47F) recounted separately that a Nauruan driver and his assistant turned the vehicle's headlights off, drove slowly and propositioned them with an offer of cigarettes and chewing gum.⁴⁴

Trading of cigarettes and marijuana for sexual favours

- 3.67 Reports of allegations concerning *“access to cigarettes being traded for sexual favours”* and *“Nauruan guards ...trading marijuana with detainees in exchange for sexual favours”* were considered by the Review.
- 3.68 According to a Transfield Services schedule, three transferees (s. 47F) about an alleged trade of cigarettes and marijuana for sexual favours. Transfield Services and Wilson Security advised the Review that these matters had been referred to the Nauruan Police Force.

⁴¹ T2550 - s. 47F - Interview - s. 47F - Save the Children, at p.32

⁴² T133 – Interview – s. 47F, at p.32

⁴³ T2791 - Interview - s. 47F, at p.8

⁴⁴ T2832 - [REDACTED] s. 47F [REDACTED], at pp.3-4

- 3.69 The Review spoke with transferees about the trade in cigarettes for sexual favours. The transferees were able to provide only limited information and the occurrences reported possibly happened some time ago when cigarettes were prohibited in the Centre. The Review heard that, due to a change in Centre rules, cigarettes are now freely available to transferees. The Review was told that trade in cigarettes occurs because transferees can obtain them more cheaply than Nauruans. As a result, some transferees use cigarettes as a commodity in exchange for other items and for sale outside the Centre.
- 3.70 On s. 47F, the Review interviewed a female transferee (s. 47F) who stated that "[For] one year they've been addicted to this drug [marijuana]. Before, they used to say that because they couldn't obtain cigarettes, they used to tell them, 'Take off your clothes so we can touch you, and then we will give you the cigarettes.'" ⁴⁵
- 3.71 In response to a question, which the Review asked, about how long this situation had existed, the transferee replied: "About four months ago for the marijuana cases, but about 11 months ago about the cigarettes cases (...)." ⁴⁶
- 3.72 On s. 47F, the Review spoke with a group of s. 47F. One transferee said that "one of my friends told them that we need cigarettes and the Nauruan officer said, 'Tell your friend to take her clothes off and I will provide the cigarettes.' That guy s. 47F - entered my room at night time and he kissed me on the lips and he threw the cigarettes at me" ⁴⁷.
- 3.73 As to marijuana, the Review was unable to obtain many specific details. Information which transferees provided to the Review and Wilson Security intelligence reporting indicated that there is a trade in marijuana in the Centre and that sexual favours being exchanged for marijuana is possibly occurring.
- 3.74 A transferee (s. 47F) told the Review:
- Because they [some transferees] are suffering great depression here, and they feel relieved when they smoke the marijuana. The officers have made them addicted for their own reasons, but they feel more at peace by smoking the marijuana. Because the women do not get paid here, so what they need to obtain, they only have to offer sexual-- fulfil the requests of the men.* ⁴⁸
- 3.75 The same transferee said that "There are s. 47F women that are addicted to it, and also they don't want the marijuana and the alcohol to be stopped for them, so they're not coming out to disclose the information [to the Review]". ⁴⁹

⁴⁵ T143 - s. 47F Interview - s. 47F, at pp.2-3
⁴⁶ T143 - s. 47F Interview - s. 47F, at pp.2-3
⁴⁷ T133 - s. 47F Interview - s. 47F, at p.25
⁴⁸ T143 - s. 47F Interview - s. 47F, at pp.2-3
⁴⁹ T143 - s. 47F Interview - s. 47F, at p.3

3.76 In a group interview on [REDACTED] s. 47F [REDACTED] told the Review about the number of female transferees who were involved in sexual relations for marijuana, one female transferee said: *"It's one of those things that we would not even disclose to even each other whoever smokes it. Because we know that person who gives it to me, it's like a hidden thing that we don't disclose the information to even our best friends. Because it's like receiving...as in it's like marijuana is like receiving tranquilizer. We don't tell who supplied you."*⁵⁰

3.77 In an interview on [REDACTED] s. 47F [REDACTED], a minor female (s. 47F [REDACTED] referring to a Nauruan contract service provider staff member, told the Review:

The first few times I thought that, because I was not familiar with the environment, so I thought that they were doing it out of friendship and they were not expecting anything in return. [REDACTED] s. 47F [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1151

3.78 As noted (at paragraph 1.35), the Review referred this matter to the Department.

3.79 While the transferees would generally not reveal details relating to marijuana supply and use, the Review brought information to the Department's attention for referral to relevant authorities.

3.80 The Review became aware of an intelligence focus, now complete, into the trafficking of contraband and illicit sexual activity, Operation Aranda. The Wilson Security report states that:

*Operation Aranda was initiated on 6 June 2014 following reports of contraband use, including marijuana, within RPC 3. According to investigators, early in the collection phase it became apparent that organised prostitution was occurring in relation to the trading of contraband. Due to prostitution being a criminal offence in Nauru and also its potential negative media and political impacts, the decision was made to extend the scope of operation Aranda to include prostitution under its aegis.*⁵²

3.81 The Review notes the findings of Operation Aranda that *"...a number of female Asylum Seekers ... participate in providing sexual favours for personal gain"* but also notes that *"There have been no reports or complaints in relation to females being coerced or harassed in this, however a certain amount of cultural coercion may be present and should not be dismissed as a possibility"*.⁵³

⁵⁰ T133 - [REDACTED] s. 47F - Interview - [REDACTED] s. 47F [REDACTED], at p.22

⁵¹ T2789 - [REDACTED] s. 47F - Interview - [REDACTED] s. 47F [REDACTED], at p.8

⁵² Operation Aranda - Update Brief, Transfield Services, 8 October 2014

⁵³ Operation Aranda - Finalisation Brief, Transfield Services, 19 October 2014

- 3.82 The Review also notes that the activity which Operation Aranda uncovered was generally between transferees; although [REDACTED] s. 47F told the Review that Wilson Security was aware of allegations that some contract service provider staff members may have been involved, but nothing could be substantiated.
- 3.83 The Review understands that some engagement with the Nauruan Police Force in relation to Operation Aranda has occurred.

Physical assault of transferees by contract service provider staff members

- 3.84 Two specific incidents of physical assault of adult transferees by contract service provider staff members were brought to the Review's attention.
- 3.85 In relation to the first incident, a female transferee [REDACTED] s. 47F alleged that an assault took place in [REDACTED] s. 47F or [REDACTED] s. 47F. The incident was described in terms of a number of Wilson Security [REDACTED] s. 47F members entering a tent and the transferee's friend yelling "they are killing me".
- 3.86 While trying to reach her friend, the transferee alleged that a Wilson Security staff member, [REDACTED] s. 47F [REDACTED]') pushed, kicked and punched her. [REDACTED] s. 47F [REDACTED]
[REDACTED]
[REDACTED]
- 3.87 [REDACTED] s. 47F [REDACTED]
[REDACTED]
- 3.88 According to the transferee, Wilson Security did not take her complaint about [REDACTED] s. 47F behaviour seriously, or act on her request for a police investigation. [REDACTED] s. 47F [REDACTED]
[REDACTED]⁵⁴
- 3.89 On 10 December 2014, the Review provided this information to the Department with a recommendation that Transfield Services investigate the handling of this incident. Transfield Services has advised the Review that it is reviewing this matter.
- 3.90 A second physical assault allegation was brought to the attention of the Review. The incident involved a male transferee [REDACTED] s. 47F [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵⁵ The Review did not investigate this allegation further because it is known to the Nauruan Police Force.

⁵⁴ T2748 - [REDACTED] s. 47F - Interview - [REDACTED] s. 47F, at p.15

⁵⁵ R1652 - 23.7.2014 - Minor Assault on stakeholder - [REDACTED] s. 47F

Lip stitching and self-harm by minors

- 3.91 The Review sought information about minors engaging in self-harm. The allegation as reported by Senator Hanson-Young was *"from multiple sources that children as young as eight years old have been involved in lip stitching or other forms of self-harm"*.⁵⁶
- 3.92 IHMS provided the Review with a schedule of the self-harm incidents that occurred at the Centre between October 2013 and October 2014. During this period, 17 minors are recorded as having engaged in self-harm. The incidents ranged from an attempted hanging by a 16-year-old to the infliction of minor lacerations. The youngest child recorded as having self-harmed was an 11-year-old who ingested a metal bolt and a rock.
- 3.93 Ten of the 17 self-harm incidents occurred during the 25-27 September 2014 period, immediately following the Ministerial announcement of 25 September 2014. These self-harm incidents included three cases of lip stitching by minors aged between 16 and 17 years, six incidents of minor wounds predominately to left forearms (the youngest by a 14-year-old) and one incident involving a 15-year-old who ingested washing detergent. The Review obtained no information about lip stitching by minors younger than 16 years of age.⁵⁷
- 3.94 One of the minors, who had engaged in lip stitching, told the Review that a local Wilson Security staff member had provided the needle he used. The transferee told the Review: *"I got it from the Nauruan guards. You can get it from them."*⁵⁸
- 3.95 In addition to the self-harm incidents detailed in the IHMS schedule, the transferee father of a [s. 47F] described to the Review how [s. 47F] placed plastic ties around [s. 47F] neck. These items are used to link fencing and tents and the Review observed that they are left lying around the Centre.⁵⁹ The Review found no information to indicate that this incident was ever reported.

Sexual and other physical assault of minors

Sexual assault of minors

- 3.96 Claims of physical and sexual abuse of minors have appeared in the media and were also referred to by Senator Hanson-Young in her correspondence to the then Minister.
- 3.97 The Review became aware that, between 8 September 2013 and 30 October 2014, there were a number of formally reported allegations of sexual and other physical assault involving minors.
- 3.98 On [s. 47F], an alleged sexual assault of a male minor by a contract service

⁵⁶ L254 - Letter from Senator Hanson-Young, 30 September 2014

⁵⁷ R2132 - 22.10.2014 - IHMS table - Nauru OPC Self Harm cases 1 Oct 2013 to 15 Oct 2014

⁵⁸ T2793 - [s. 47F] - Interview - [s. 47F]

⁵⁹ T2738 - [s. 47F] - Interview - [s. 47F], at pp.2-4

provider staff member was reported.⁶⁰ (S. 47F) The victim and his family did not want to press charges because they were satisfied with the actions taken by Wilson Security and the Nauruan Police Force.⁶¹ The locally engaged staff member was dismissed. This incident was reported in *The Guardian* on Friday, 6 June 2014 with a headline, "Nauru cleaner sexually assaulted asylum seeker boy."⁶²

3.99 On (S. 47F), a Wilson Security staff member reported the alleged sexual assault of a male minor (S. 47F) by two male adult transferees. The staff member identified the alleged offenders (S. 47F and S. 47F). As a precaution, the alleged offenders, were relocated to RPC 2 pending further investigation.⁶³

3.100 On (S. 47F), the victim of the above alleged incident advised Wilson Security, in the presence of a Save the Children staff member, of an allegation that another male minor transferee (S. 47F) had been sexually assaulted by a male adult transferee.⁶⁴ The victim was identified by photograph, as was the alleged perpetrator (S. 47F). As a precaution, the alleged offender was relocated (S. 47F).

3.101 The Review was advised that the above matters were referred to the Nauruan Police Force.

3.102 On (S. 47F), during a consultation with IHMS, a (S. 47F) alleged that (S. 47F) was sexually assaulted by an older male minor transferee.⁶⁵ Transfield Services advised the Review that the matter had been referred to the Nauru Police Force. (S. 47F)

3.103 On (S. 47F), a female minor told the Review about the alleged rape of a female minor by a Nauruan contract service provider staff member.

*One of my underage friends has been raped, not for marijuana or not in exchange for anything. She's been raped but she's not [disclosing]. She doesn't want to come and talk about it because she's so afraid that her parents will find out. Her nationality is (S. 47F).*⁶⁶

3.104 The minor indicated that she had spoken with the alleged victim of the assault.

(S. 47F)

⁶⁷

3.105 Given the alleged victim's reported reluctance to come forward, the Review was unable to

⁶⁰ R1264 - 19.11.2013 - (S. 47F) - Incident report

⁶¹ Ibid.

⁶² Nauru cleaner 'sexually assaulted' asylum seeker boy, *The Guardian*, 6 June 2014

⁶³ R1380 - 6.2.2014 - SitRep #4 - Cat 2 - Nauru OPC - Allegation of Sexual Assault

⁶⁴ Ibid.

⁶⁵ R2531 - (S. 47F) - Sitrep (S. 47F) Sexual Assault 12.10.2014

⁶⁶ T2789 - (S. 47F) - Interview - (S. 47F) - at p.14

⁶⁷ T2789 - (S. 47F) - Interview - (S. 47F) - at p.16

investigate this allegation further.

- 3.106 In a feedback form provided to the Department, a transferee (S. 47F) alleged that a Nauruan security officer had inappropriately touched his (S. 47F). On 19 January 2015, the Review provided this information to the Department with the recommendation that Transfield Services/Wilson Security assess this information and give it to the Nauruan Police Force.⁶⁸

Sexual harassment of minors

- 3.107 The Review became aware of two cases of alleged sexual harassment of minors by contract service provider staff members. Both cases have been formally reported.
- 3.108 On 20 March 2014, a locally engaged security staff member allegedly sexually harassed a female minor (S. 47F).⁶⁹
- 3.109 On (S. 47F) two female minor transferees, (S. 47F) and (S. 47F) one of whom was the alleged victim of the above (S. 47F) incident, reported to a Save the Children staff member that an unknown locally engaged security staff member had sexually harassed them.⁷⁰ The alleged victims were not able to identify the alleged perpetrator and separately advised Wilson Security that they did not wish to make a complaint. One of the alleged victims advised Wilson Security that she did not know why the Save the Children staff member submitted the report.⁷¹
- 3.110 In addition, transferees told the Review of three further instances of alleged sexual harassment and assault of minors by contract service provider staff members. These allegations involved:
- a named Wilson Security staff member (S. 47F) who, while on duty, was under the influence of alcohol and sexually harassed a minor;
 - an unnamed Wilson Security staff member who attempted to sexually assault a minor (S. 47F) and
 - a named Wilson Security staff member (S. 47F) who asked a minor (S. 47F) for sexual favours.
- 3.111 The Review provided these three allegations to the Department with a recommendation that they be investigated.

Sexualised behaviour of minors

- 3.112 In her correspondence to the then Minister, Senator Hanson-Young reported the allegation that "a guard previously employed at the Centre forced children to engage in sexual activity

⁶⁸ Feedback form 349 - S. 47F

⁶⁹ R2661 - Nauru Sexual Assault Sitreps

⁷⁰ E2375 - 24.10.2014 - Response from Transfield re Request for Information

⁷¹ Ibid.

*in front of him and that this guard has since been removed from working inside the family camp*⁷². The Review did not find any information to support this claim.

3.113 The Review became aware of several cases of inappropriate sexual behaviour by minors.

- On [S. 47F], it was alleged that a male minor [S. 47F] was engaged in a consensual sexual relationship with a slightly older adult female transferee.⁷³ Transfield Services decided that no offence was committed and Nauru Police Force intervention was not sought.
- Three cases involved engaging in sexual acts with one another. On 1 May 2014, two female transferees reported sexual acts between two unidentified male minors.⁷⁴
- On [S. 47F], a female minor reportedly asked other minors to engage in a sexual manner.⁷⁵
- On [S. 47F], a female transferee reported to a Save the Children staff member that minor transferees were engaged in inappropriate sexual behaviour towards each other.⁷⁶
- On [S. 47F], a minor transferee [S. 47F] was reportedly exhibiting sexualised behaviour.⁷⁷

3.114 One of these incidents was brought to the attention of the Review. In May or June 2014, three female transferees [S. 47F] [S. 47F] and [S. 47F] told a Transfield Services [S. 47F] and a Save the Children staff member that four male children (aged from 10 to 13 years) had engaged in sexualised behaviour [S. 47F]. The Save the Children staff member submitted a written incident report which identified the witnesses and the [S. 47F]. The Save the Children staff member subsequently told a Save the Children colleague that Wilson Security had not provided any follow-up. The colleague informed the Review about the reported lack of follow-up.⁷⁸

3.115 When the Review asked about the incident, Transfield Services advised that a report had been compiled (on 3 May 2014), one of the children [S. 47F] had been placed on continual observation and the matter referred to Save the Children. Transfield Services advised also that *"we do not have any information to suggest that any Wilson Security officers witnessed the behaviour and allowed it to continue or were involved in the identification of the asylum seekers"*.⁷⁹

3.116 Since it was unclear what follow-up did occur, the Review recommended to the Department, in a letter dated 10 December 2014, that Transfield Services review the investigation to ensure that all necessary action is/has been taken.

⁷² L254 - Letter from Senator Hanson-Young, 30 September 2014

⁷³ R2999 - Attachment to E2998 - allegations of assault by transferee including [S. 47F] at p.2 and p20

⁷⁴ E2800 - 21.11.2014 - Additional information from Transfield

⁷⁵ R2357 - 16.10.2014 - Wilson report - Allegations of Sexual Assault 8.9.13 - 30.9.2014, at item 1

⁷⁶ E2844 - 1.12.2014 - Follow up questions for Wilson Security re 30 September Intel Report

⁷⁷ R2094 - 8.10.2014 - Annex 1a to Transfield Analysis of Support Documentation - Save the Children reporting

⁷⁸ R2951 - 30.4.2014 - Save the Children Information Report re minors [S. 47F], at pp.560-565;

and T2122 - [S. 47F] - Interview - [S. 47F] - Save the Children, at p.24

⁷⁹ S2911 - [S. 47F] - Submission to Mr Moss - Transfield Services - intelligence management plan

- 3.117 This incident was one of the cases referred to in the anonymous submission made by current and former Save the Children staff members to the AHRC Inquiry and also reported by *The Guardian* on 13 August 2014.⁸⁰
- 3.118 The issue of sexualised behaviour was raised several times with the Review. While not within the Terms of Reference, the Review notes the reports about the sexualised behaviour of some children in the Centre.
- 3.119 The Review notes that despite the welfare and education programs designed to assist and support individuals and families, sexualised behaviours in children have reportedly occurred at the Centre. When observed, these behaviours are reported and contract service provider staff members are available to respond with professional intervention.

Physical assault of minors

- 3.120 The Review became aware of a number of incidents of alleged physical assault of minors by contract service provider staff members. Two of these cases were brought to the direct attention of the Review.
- 3.121 On [S. 47F], a [S. 47F]-year old boy, [S. 47F], reportedly threw a rock at a Wilson Security staff member who allegedly chased the child, caught him by the hair and dragged him along the ground. Save the Children staff member, [S. 47F], who had been told the details from the child's parents, reported the incident to the Review.⁸²
- 3.122 On [S. 47F], the Review interviewed the [S. 47F] father, [S. 47F], who confirmed that the Wilson Security staff member had grabbed [S. 47F] by the hair, yelled at [S. 47F] and pulled [S. 47F] by the collar along the ground. The father said that he made a complaint and had heard nothing back. According to the father, the child was "so traumatised by the incident that [S. 47F] has nightmares and is terrified of security staff".⁸³
- 3.123 Wilson Security investigated the incident. According to a Transfield Services schedule, dated 24 October 2014, the investigation resulted in the matter being resolved and closed.⁸⁴ Yet the father told the Review that he has not been contacted regarding the outcome.
- 3.124 On 10 December 2014, the Review provided this information to the Department, with a recommendation that the matter be reviewed, a response provided to the family and an assessment made of the child for any treatment he may need.
- 3.125 This incident was referred to in an article in *The Guardian* on 24 April 2014 with the headline

⁸⁰"Child asylum seekers' rights on Nauru 'systematically violated', inquiry told", *The Guardian*, 13 August 2014

⁸¹[S. 47F] was among the ten Save the Children staff members.

⁸²T2741 - [S. 47F] - Interview - [S. 47F], at p.6; and

S2952 - [S. 47F] - Statement by [S. 47F], Save the Children, further to T2545, at p.1

⁸³T2741 - [S. 47F] - Interview - [S. 47F], at pp.5-6

⁸⁴S2946 - [S. 47F] - Copy of appendix 1 - Summary of allegations - Transfield Services

*"Nauru guards accused of assaulting children in detention camp".*⁸⁵

- 3.126 In the same article, *The Guardian* also referred to an incident on 27 March 2014, when a Save the Children staff member saw a Wilson Security staff member chasing a female minor in the recreation area inside the Centre and *"hit her on the back of the head"*.
- 3.127 Two Save the Children staff members made a complaint alleging that they had witnessed a contract service provider staff member assault a four-year old female minor (S. 47F) by hitting her on the back of the head and causing her to fall.⁸⁶ When the matter was referred to the Nauruan Police Force, the alleged victim and her father were unable to provide any information or confirm injuries.
- 3.128 The Review interviewed the father who raised various concerns about the psychological welfare of his children (not just the child concerned), but did not mention this incident.⁸⁷
- 3.129 An allegation of attempted assault was also reported in the submission by current and former Save the Children staff members to the AHRC Inquiry and reported in *The Guardian*. *The Guardian* reported that, in March 2014, a group of school children were subjected to an *"attempted assault"* by a Centre bus driver with a cricket bat.⁸⁸
- 3.130 The Review interviewed a female minor (S. 47F) who said that this incident occurred around March 2014 while one of her friends was in the bus.⁸⁹
- 3.131 The Review heard that the bus driver was taking a busload of school-aged children from RPC 1 to RPC 3. Upset by the noise they were making, the bus driver pulled the bus over, took a wooden cricket bat which he pointed at a 16-year-old minor. The bus driver reportedly said: *"Get off the bus. Could you shut up, how many times do I have to tell you to shut up?"* The bus driver was replaced with another driver.⁹⁰
- 3.132 A 16-year-old minor (S. 47F) described how, in October 2014, during a dispute on the soccer pitch, Wilson Security staff members (S. 47F) wrestled him and his friend to the ground. The minor sustained bruising on his back that he showed to the Review team. He said that this kind of treatment occurs on a regular basis. *"...because it happens very often, that whenever there is an incident or an argument or the situation is out of control, this is the treatment that we get"*.⁹¹

⁸⁵ *Nauru guards accused of assaulting children in detention camp*, *The Guardian*, 24 April 2014

⁸⁶ T2544 - S. 47F - Interview - S. 47F - Save the Children, at p.19

⁸⁷ T2738 - S. 47F - Interview - S. 47F, at pp.5-11

⁸⁸ *"Child asylum seekers' rights on Nauru 'systematically violated', inquiry told"*, *The Guardian*, 13 August 2014

⁸⁹ T2742 - S. 47F - Interview - S. 47F, at p.5

⁹⁰ R2963 - 2.0 Review of incident reports, information, at p.1

⁹¹ T2736 - S. 47F - interview - Y S. 47F, at p.4

- 3.133 The minor made a complaint, but withdrew it when Wilson Security came to investigate. When the Review asked why he withdrew the complaint he responded *"nothing happens and we do not trust them"*.⁹²

Conclusions

- 3.134 The Review cannot be sure that it has become aware of every incident of sexual and other physical assault. For family and cultural reasons, some incidents are not reported. Yet, as has been observed by a contract service provider staff member, usually information flows freely about incidents and situations in the Centre.

Allegations of rape

- 3.135 The Review became aware of three allegations of rape (two female adults and one female minor), one which the Nauruan Police Force is investigating and two which the victims do not want to pursue by making a complaint. These allegations are concerning. They are also concerning because the victims do not feel able to bring forward these allegations to the relevant authorities.

Indecent assault, sexual harassment and physical assault

- 3.136 The Review was also made aware of allegations of indecent assault, sexual harassment and physical assault occurring in the Centre. Proper response and investigation is required at all times and for them to be investigated by the relevant authorities. In most cases, it will be the Nauruan Police Force. As noted already, the Review has made available any material it has obtained.
- 3.137 In relation to the allegations of sexual harassment, the Review found that sexual harassment of female transferees by contract service provider staff members has occurred. In a few circumstances, the Review notes that transferees had reported certain behaviours, for instance, physical contact while greeting or compliments like "you are beautiful" as misconduct or sexually inappropriate behaviour or threats. This perception may arise because these behaviours are not culturally acceptable or appropriate to the transferee. As such, contract service provider staff members should be adequately trained to conduct themselves having regard to the cultural expectations and perceptions of transferees.

Sexual exploitation

- 3.138 In relation to the allegation *"on occasions women have been forced to expose them to sexual exploitation in exchange for access to showers and other facilities"*, the Review concludes that this allegation is probably based on one incident which the transferee related to four Save the Children staff members who all reported it in accordance with Centre guidelines. Separately, the transferee also reported the incident to Senator Hanson-Young.

⁹² ibid

Trading of cigarettes and marijuana for sexual favours

3.139 In relation to the allegation concerning cigarettes and marijuana, the Review concludes that *"access to cigarettes being traded for sexual favours"* appears to relate to a time when cigarettes were not openly available in the Centre. The Review was unable to obtain any specific information to substantiate this allegation.

3.140 In relation to the allegation *"Nauruan guards have been trading marijuana with detainees in exchange for sexual favours"*, the Review concludes, this activity is possibly occurring. The Review was unable to obtain many specific details because transferees were not prepared to provide them. The details obtained about transferees who allegedly deal in marijuana, have been provided to the Department for referral to the appropriate authorities.

Personal safety and privacy of transferees

3.141 The Review concludes that many transferees are apprehensive about their personal safety and have concerns about their privacy in the Centre. These concerns were raised repeatedly with the Review both in interviews and in the feedback forms. Some transferees expressed their apprehension about other transferees and some expressed concerns about contract service provider staff members. Several married couple transferees raised concerns about their privacy. The feeling about the lack of personal safety and privacy is heightened by high density accommodation in non-air-conditioned, soft walled tents in a tropical climate.

3.142 The following examples were provided to the Review in relation to concerns about personal safety and privacy related to contract service provider staff members:

- *One night I was going back to my room. I went to the bathroom and on the way back, I noticed that one of the Nauruan officers was standing right in front of our tent. He called me and he summoned me to just get closer to him and it was absolutely clear that he was even drunk or on drugs because he could not keep his balance properly.⁹³ Then he suddenly grabbed my arm and he said, "You are so sexy and you're so beautiful." Then I was so petrified that I just pulled my arm and I ran into my tent. Then ever since, whenever he sees me he addresses me as Sexy Lady.⁹⁴*
- *During the day, it was so hot in the tent that we were almost naked. We just had our underwear. I was lying on the bed studying some English, and there was a blue curtain that I had tucked under the fans to secure it, but after some time I noticed that someone was looking at me and watching me. I noticed that the curtain was drawn and two of the officers were looking at me and watching me.⁹⁵*

⁹³ The Review understands that water bottles are no longer able to be brought into the Centre in order to prevent alcohol being available within the Centre.

⁹⁴ T293 - s. 47F - Interview - s. 47F, at p.11

⁹⁵ T297 - s. 47F - Interview - s. 47F, at p.7

- *Sometimes they [Nauruan guards] stay over a bit longer, to just look at the girls and put us through more misery.*⁹⁶

- 3.143 The Review concludes that the supervision of contract service provider staff members particularly at RPC 3 needs to focus on the personal safety and privacy of transferees.
- 3.144 The Review notes that some transferees had difficulty in identifying contract service provider staff members and suggests that clearer identification would be appropriate.
- 3.145 Ensuring the transferees are, and feel safe is important. It requires consideration of such factors as infrastructure, policing and staffing. Policing and staffing are discussed later in the Report.
- 3.146 The Terms of Reference do not require specific consideration of the Centre's facilities and infrastructure. However, the Review considers that all decisions about facilities and infrastructure should be made with the personal safety and privacy of transferees as a prime consideration. The Review encourages the Government of Nauru and the Department to ensure these considerations are factored in to any decision-making.
- 3.147 The Review notes the significant personal safety and privacy issues that tented accommodation presents.

*...the parts of the tent were open at night. I always had suspicions that someone from at the back of the fences is watching my room. Until last night I came and I was taking my clothes off, and the light was on and they were watching me from outside. And then when I turned the light off and went to bed, I felt like something has been caught in the fan. I thought that it might be some sort of insect or something. Someone was using a stick to kind of part the tent and I hanged my towel there, but they we're trying to move the towel and move the tent so they could see inside.*⁹⁷

- 3.148 Transferee couples reported that the lack of privacy was affecting their relationships.

*We've been married for s. 47F years and I don't feel right to tell you that but we've been living together for s. 47F years back in s. 47F. We had a lot of hard time, but we had a good relationship with other. Since this incident happened s. 47F we don't feel safe here anymore and since that incident happened, we really didn't have a relationship with each other, like a husband and wife, because my wife is really scared.*⁹⁸

- 3.149 The Review notes that lack of privacy may be a factor in the sexualised behaviour of some children in the Centre through their observing adult sexual activity.
- 3.150 The Review encourages the Government of Nauru and the Department to consider any alternative accommodation options.

⁹⁶ T293 - s. 47F - Interview - s. 47F, at pp.4-5

⁹⁷ T2832 - s. 47F - Interview - s. 47F, at p.1

⁹⁸ T137 - s. 47F - Interview I52 s. 47F) & s. 47F), at p.1

- 3.151 Adequate lighting and the use of CCTV may also enhance the personal safety and privacy of transferees. The Review encourages the Government of Nauru and the Department to consider both these measures as part of its infrastructure planning.
- 3.152 The personal safety and privacy of transferees will need due consideration as the Centre transitions to an open centre model in early 2015.

RECOMMENDATION 1: The Department and the Nauruan Government take into account the personal safety and privacy of transferees when making decisions about facilities and infrastructure at the Centre.

- 3.153 The personal safety and privacy of transferees must be assured. The Review notes that there is nothing explicit in the service provider contracts or guidelines relating to sexual harassment. The Review notes also that there must be no ambiguity in the minds of transferees or contract service provider staff members that any sexual contact between a contract service provider staff member and a transferee will lead to disciplinary action against the staff member concerned.
- 3.154 The Department has issued a guideline to all contract service providers and their staff members that deals with the issue of relationships with transferees. Relevantly, the guideline states *"All service provider staff must maintain professionalism in all dealings with transferees and remain aware of the limits or boundaries of their relationships. Economic, personal or sexual relationships between service provider staff and a transferee are unacceptable. This applies to both current and former transferees."*⁹⁹
- 3.155 The Department advised the Review that when allegations or evidence of inappropriate relationships have emerged contract service providers have acted and in cases when an inappropriate relationship has been proven, the staff member involved have been dismissed. The contract service providers also have their own corporate code of conduct, site rules and guidelines.¹⁰⁰
- 3.156 Transferees must also understand that sexual relationships with and sexual harassment by contract service provider staff members will not be tolerated. They must understand that such behaviour should be reported and that contract service providers will take appropriate action. A clear understanding amongst transferees may assist to address any issues of lack of confidence in dealing with complaints and under-reporting. The Review suggests that the Nauruan operations managers, the Department and contract service providers review the information provided to transferees about sexual harassment.

⁹⁹ P3012 - 11.6.2013 - RPC Guidelines - Service Provider Staff Relationships with Transferees

¹⁰⁰ E3011 - 31.12.2014 - **s. 47F** - Guidelines re Service Provider staff relationships with transferees

RECOMMENDATION 2: Contract service providers review their guidelines relating to sexual harassment and sexual relationships to ensure that staff members understand what behaviour is acceptable in the context of a Centre with a diversity of cultures.

Reporting and complaints

- 3.157 Some incidents of sexual and other physical assault of transferees have been formally reported and others, disclosed just to the Review, had not been formally reported. The Review concludes that there is a level of under-reporting by transferees of sexual and other physical assault.
- 3.158 This under-reporting is generally for family and cultural reasons. Some transferees told the Review that they were also concerned that raising such complaints could negatively impact on the resolution of their asylum claims. In some cases, transferees told the Review that they had not reported particular incidents because they had lost confidence that anything would be done about their complaints.
- 3.159 Both transferees and some contract service provider staff members raised concerns about the complaints process. Many transferees commented to the Review that they receive little feedback about complaints. This situation contributes to a lack of confidence in the complaints process.
- 3.160 Despite this reported lack of confidence, the Review concludes that, when formal reports or complaints have been made, contract service providers, in the most part, have acted appropriately in dealing with them and have, when required, referred matters to the Nauruan Police Force. In some instances, the lack of timeliness in reporting and referral or inadequate and inconsistent information has hampered the ability of contract service providers and/or the Nauruan Police Force to investigate. This situation is particularly true in relation to allegations relating to sexual assault.
- 3.161 The Review considers that community policing of the Centre is a missing element. Introducing it would enhance the present arrangements. This enhancement would also help to address the doubt raised in a number of instances, which the Review has referred to the Department, about the ability of Wilson Security to investigate its own staff members. This report later deals with the topic of community policing.

Dealing with sexual and other physical assault

- 3.162 The Review is aware that the Nauruan authorities have a limited capacity to investigate, record and prosecute incidents of sexual and other physical assault in the Centre and in Nauru.
- 3.163 In its submission to the Review, IHMS suggested that improvements could be made to enhance forensic services to investigate, record and prosecute incidents of sexual assault in the Centre and Nauru. This suggestion includes the availability of sexual assault kits and trained forensic personnel and arrangements to preserve continuity of evidence. These

services are presently outside the scope of the Republic of Nauru Hospital, IHMS and the Nauruan Police Force. The Review supports IHMS's suggestion.

- 3.164 The November 2013 *Force Protection Review* recommended "Ongoing assistance to Government of Nauru on the review of the Nauruan Criminal Code 1921".¹⁰¹ The Department advised the Review that this work has commenced and that the Australian Attorney-General's Department is providing assistance to the Government of Nauru. Offences against the person including assault and sexual offences form part of the review of the Nauruan Criminal Code.
- 3.165 The Review concludes that any support that the Department can give Nauru to improve its ability to deal with sexual and physical assault would be of significant benefit to transferees.

RECOMMENDATION 3: The Department give consideration to how it could support the Government of Nauru to enhance forensic services to investigate, record and prosecute incidents of sexual and other physical assault in the Centre.

- 3.166 The Review is aware that each of the contract service providers has processes and procedures to manage complaints and report on incidents. What is not evident to the Review is the joined-up approach needed among contract service providers to ensure that allegations of sexual and other physical assaults can be dealt with in the most effective way possible.
- 3.167 In his review into allegations of sexual assault at the Manus Regional Processing Centre, Mr Robert Cornall made the following recommendation:

*The Department should establish a clear and well understood policy for dealing with any future allegations of sexual assault at the Manus RPC (which takes account of the best interests of the victim and the Papua and New Guinea criminal law) and appropriate operational procedures to implement that policy (including preventive strategies and staff training).*¹⁰²

- 3.168 The Review supports this recommendation as it applies to the Centre.

RECOMMENDATION 4: Nauruan Government officials and the Department review and enhance the existing policy framework for identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the Centre. All staff members working at the Centre (Nauruan, Departmental and contract service provider) must understand the framework and their responsibilities under it.

¹⁰¹ OR2961 - Force Protection Review Recommendation Table, Recommendation 11 at p.3

¹⁰² OR2957 - 30.9.2013 - Cornall Report 1 - Manus RPC Sexual and other serious Assaults, Recommendation 2 at p.7

Fabrication of allegations

- 3.169 The Review became aware of a claim that some allegations of abuse have been fabricated or exaggerated. The claim was that some female transferees were overheard discussing strategies to discredit contract service provider staff members. The reported intention was to present Nauru as being unsafe for female transferees. The Review was unable to obtain any additional information about this claim.
- 3.170 There were claims that cameras had been smuggled into the Centre and that security staff members were being “set up” to fabricate evidence that would be provided to the Review.¹⁰³ The Review did not receive any photographs from transferees or obtain any information about cameras being brought into the Centre. The Review became aware of at least one camera in RPC 3.
- 3.171 On 28 September 2014, the Wilson Security Intelligence Unit in Brisbane issued a Security intelligence report entitled “*Protests at NRPC*”. It rated the information as F6 (Reliability cannot be judged: Truth cannot be judged). The intelligence report relates to transferee protest action at RPC 3. Amongst other things, this intelligence report concluded that asylum seekers will attempt to embarrass staff members with accusations of cultural insensitivity, force changes in staff posture, by having individuals removed from their post, bring children to the front of any situation to slow staff reactions, and make accusations of sexual misconduct by staff.¹⁰⁴
- 3.172 The Review cannot discount the possibility that some claims made by transferees may have been fabricated or exaggerated. The transferees interviewed were generally credible and their accounts convincing. The Review cannot establish the veracity of the allegations. For this reason, some reported incidents were sent to the Department for referral to the relevant authorities for further investigation.
- 3.173 Despite the large number of interviews conducted and the feedback forms received, the Review notes that some of the most serious allegations emanate from a relatively small number of female transferees. The Review makes this note for completeness and draws no conclusion from it. Establishing the truth of each individual allegation is a matter for the relevant authorities. As has been noted, many female transferees are apprehensive about their personal safety and have concerns about their privacy.
- 3.174 The Review also notes that some transferees [REDACTED] s. 47F [REDACTED] were identified by Operation Aranda as being involved in trafficking of contraband and illicit sexual activity. While the Review does not discount their accounts based solely that basis, it is noted as adding to the complexity of the situation. An example is the case of female transferee (s. 47F [REDACTED] s. 47F [REDACTED] [REDACTED] s. 47F [REDACTED] [REDACTED]

¹⁰³ R248 - 30.9.2014 - Transfield intelligence report, *Allegations regarding SCA*, at p.2

¹⁰⁴ R2109 - 8.10.2014 - Annex M to Transfield Analysis of Support Documentation - SYINT Protests at NRPC

s. 47F . The transferee was unable to provide any specific details and a promised written account was never provided to the Review.¹⁰⁵ As such, the Review was unable to investigate this allegation any further.

- 3.175 In some cases, when claims cannot be substantiated, the intention behind the complaint may not be malicious. The Review became aware that some of the alleged victims have experienced elsewhere torture, trauma and sexual abuse which may make them susceptible to reliving past trauma through current events. Such events could otherwise be commonplace, but may trigger suppressed memories or cause hyper-vigilance. These factors may lead to distortion of facts or denial of actual abuse.
- 3.176 The Review found no information to support any suggestion that transferees, in particular minors, were being coached by any contract service provider staff members to make false allegations. This issue is discussed in greater detail in Part 4.

Child protection

- 3.177 The protection of minors in the Centre is of the highest importance. An article in *The Guardian* "Nauru detention: serious health risks to children revealed in confidential report", published on 30 May 2014, quoted from a report produced by five independent clinical experts:

*There is no clear child protection framework for children inside the centre and it is unclear what child protection checks are undertaken for Nauruan staff. This, according to the report, "places them [asylum seeker children] at significant risk of sexual abuse."*¹⁰⁶

- 3.178 When asked to comment on the child protection framework at the Centre, the Department provided the following response:

The Department does not agree that there is no clear child protection framework at the Nauru Offshore Processing Centre (OPC). Service providers contracted to provide specialised services for children at the Nauru OPC – delivered by Save the Children Australia (SCA) – are responsible for child protection and welfare. SCA has established a range of processes and policies at the OPC in relation to child protection matters. SCA employs officers with child protection and child safeguarding responsibilities who provide care management services to meet the welfare needs of children. SCA has also developed an overarching Child Safeguarding Protocol and Code of Conduct, aimed to provide a child safe environment at all times at the OPC.

In addition, when a specific incident occurs, all relevant stakeholders are involved where required and/or appropriate, including Nauruan Government officials, police, staff and other service providers - particularly medical professionals – to ensure an integrated, multi-disciplinary approach is taken. Specific details or allegations of abuse (sexual, physical, emotional or neglect) or exploitation against children at the

¹⁰⁵ T290 - s. 47F - Interview - s. 47F, at p.14ff

¹⁰⁶ *Nauru detention: serious health risks to children revealed in confidential report, The Guardian, 30 May 2014*

*Nauru OPC are also referred to the Government of Nauru, the police, the Department and the relevant service provider(s) as a matter of urgency.*¹⁰⁷

- 3.179 Children at risk assessments were recommended by the Force Protection Review in November 2013¹⁰⁸. Following the recommendation, the Department amended the contracts to require all contract service provider staff members to complete a working with children awareness program aimed at improving understanding of risks, abuse indicators and what actions to take.
- 3.180 While the Government of Nauru does not have legislation requiring pre-employment screening, such as working with children checks (as Australian State/Territory jurisdictions do), the Save the Children *Child Safeguarding Protocol* and *Code of Conduct* are aimed at all staff members and contract service providers. These documents operate as part of the Centre's guidelines to reduce the risk of harm to children
- 3.181 The Protocol is followed by all contract service providers and the Code and the Child Safe Incident Reporting Process must be signed by all contract service provider staff members.
- 3.182 As noted previously, the Government of Nauru is revising its criminal code with the assistance of the Australian Attorney-General's Department. The Review recommends that the Department liaise with the Government of Nauru to ensure that child protection issues are reflected in the work being done on the Nauruan criminal code.

RECOMMENDATION 5: The Department liaise with the Government of Nauru to ensure that child protection issues are reflected in the work currently being done on the Nauruan criminal code.

- 3.183 A concern was raised with the Review that some contract service provider staff members involved in dealing with children are not appropriately trained and, as such, professional boundaries were sometimes blurred.¹⁰⁹
- 3.184 IHMS expressed its concern to the Review about the ability to implement immediate action to remove minor transferees from harm.¹¹⁰ [REDACTED] s. 47F [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- 3.185 Despite the protocols already in place at the Centre, the Review notes the absence of a specific child protection framework or mandatory reporting requirement of all abuse allegations involving minors under Nauruan law. As such, the Review notes that, once the

¹⁰⁷ E3004 - 19.12.2014 - [REDACTED] s. 47F - information on child protection - DIBP. The Review notes the terms offshore processing centre (OPC) and regional processing centre (RPC) are used interchangeably by Departmental staff

¹⁰⁸ OR2961 - Force Protection Review Recommendation Table, Recommendation 12 at p.4

¹⁰⁹ This was raised, for example, in the interview with [REDACTED] s. 47F of Save the Children (T2122 - 15.10.2014 - Interview - [REDACTED] s. 47F - Save the Children, at p.28)

¹¹⁰ T2821 - [REDACTED] s. 47F - Interview - [REDACTED] s. 47F, at pp.4-5

avenues in the Centre have been exhausted, issues involving child protection may not be escalated or actioned appropriately or in a timely manner and that there is limited expertise to conduct investigations into child protection issues. The Review notes also that the absence of relevant protections under Nauruan law is not a criticism of Save the Children. Save the Children provides support to all stakeholders including the Nauruan government in relation to child protection matters.

- 3.186 The Review also notes the Department's view that the child protection arrangements in place at the Centre are appropriate for the circumstances and context under the auspices of Save the Children, recognising that there are very limited resources available outside the Centre to support a different approach.
- 3.187 The Review notes that, in November 2014, the Government of Nauru appointed an adviser to its Domestic Violence Taskforce. The Domestic Violence Taskforce also has access to the expertise of a psychologist and a lawyer. Collaboration which is occurring between Save the Children, IHMS and the Domestic Violence Taskforce will assist in dealing with cases of children at risk, not only at the Centre, but also for the time when transferees resettle in the Nauruan community as refugees. The Review welcomes this recent development.
- 3.188 The Review acknowledges that the Government of Nauru, the Department, and the contract service providers are committed to ensuring the safety of the children in the Centre. The Department advises that its newly-formed Child Protection Section has been established to develop *"child safe cultures and build best practice approaches to the prevention of child abuse ... and has recently commenced training for departmental officials on child-centred practice and child protection, including to staff being deployed to the Nauru OPC"*.¹¹¹ The Review acknowledges the measures that have already been put in place.

RECOMMENDATION 6: The Department and the contract service providers continue to work with the Nauruan Government to ensure that a robust child protection framework is developed.

¹¹¹ E3004 - 19.12.2014 - s. 47F - information on child protection - DIBP