

**Report to the Minister for Immigration and Citizenship
on the Appropriate Use of Ministerial Powers under the Migration and
Citizenship Acts and Migration Regulations**

Elizabeth Proust
31 January 2008

The Minister for Immigration and Citizenship
Parliament House
Canberra

Dear Minister,

You asked me to review Ministerial Discretions under the Migration and Citizenship Acts and Migration Regulations.

In undertaking this task, I have spoken to 2 former Ministers for Immigration, various stakeholders, Departmental officers and staff in your office. I have also read the 2004 Senate Select Committee Report on Ministerial Discretion in Migration Matters, together with the relevant Acts and Regulations.

I came to this task with a background in public administration and public policy, but with no background in immigration matters. Hopefully this has allowed me to consider the issues raised by the terms of reference with fresh eyes.

While the time available for this review has been relatively short, it is clear to me that the current situation by which you (and your predecessors) are required to review many thousands of cases each year is not appropriate either in public policy or workload terms.

I have made recommendations for changes, some of which can be done quickly; others will require legislative changes and will necessarily be longer term.

Elizabeth Proust

Terms of Reference

External Advice on the Appropriate Use of Ministerial Powers under the Migration and Citizenship Acts and Migration Regulations

Provide advice to the Minister for Immigration and Citizenship on:

- appropriate arrangements for giving effect to his personal powers under the Migration and Citizenship Acts;
- appropriate arrangements for dealing with delegable powers under the Migration and Citizenship Acts or Migration Regulations that, in the past, have been exercised by the Minister personally; and
- potential short and longer term directions for change.

In formulating advice, consider the extent to which:

- the Minister for Immigration and Citizenship should continue to be making personal decisions under the Migration and Citizenship Acts and Migration Regulations; and
- whether alternative arrangements could be pursued for matters historically considered by the Minister personally.

In addition:

- take account of current and likely workload trends, risks and community and stakeholder expectations; and
- seek a variety of views, for example from former Ministers, Minister's office staff, stakeholders and the department.

Advice should be provided to the Minister for Immigration and Citizenship by 31 January 2008.

Introduction

The most recent, and relevant, discussion of the issues which relate to Ministerial discretion in immigration matters can be found in the Senate Select Committee on Ministerial Discretion in Migration Matters Report (“the Report”) published in March 2004. I think that this Report canvasses the issues well. The then Government did not agree with the recommendations of that Committee, and Government members produced their own recommendations (as did Senator Bartlett, of the Australian Democrats).

I am told by the Department of Immigration and Citizenship (“the Department”) that the recommendations of the Select Committee have not been implemented. The Department has “given effect to some of the recommendations, or parts of them, for example by introducing enhanced statistics and reporting mechanisms and developing quality control and assurance programs for s417 Ministerial intervention. The Department is also planning to improve its published information on the Ministerial intervention processes.”¹

It is surprising that so little use has been made of the Report because many of the recommendations are common sense ones which would alleviate the current workload issues. However, while workload is an important consideration, the more relevant issues are those which go to the question of the role a Minister should play in the Australian system, and to questions of public policy.

Ministerial Responsibilities in Immigration – a brief outline

People I spoke to in the course of this review acknowledged that the immigration portfolio is the only one where a Minister is expected to exercise such personal discretions. These discretions were inserted into the Migration Act in 1989. They were intended to provide a “safety valve”² for difficult cases that were outside the statutory visa criteria. Under several sections of the Act, the Minister is able to substitute a more favourable decision than one handed down by a tribunal. These discretions are non-compellable, non-reviewable and non-delegable. They must be exercised personally by the Minister.

Chapter 4 of the Report outlines the development of the Minister's discretions over the time from 1989 to 2003. It is clear from this outline, that Ministers in the period from 1989 to about 1996 intended that the use of the discretion would be very limited and mostly confined to circumstances not foreseeable in 1989.

It is difficult to say whether, almost 20 years ago, the likelihood of an increased workload was foreseeable. On figures provided to me by the Department, over 4000 requests were received by the Department for Ministerial intervention for the 2006 – 2007 financial year. Evidence given to the Select Committee revealed the extent of the increases: the then Minister, Mr. Philip Ruddock, intervened on 2513 occasions from 1996 to October 2003, compared to Senator Bolkus's 311 in 3 years, and Mr. Gerry Hand's 81 in 2 years.³

At that time, the Department told the Committee that there were 3 main reasons for the increase:

- The Government had chosen to deal with onshore visa applications on a case by case basis rather than by establishing special visa categories.
- As more cases have gone to the courts and tribunals, more applications have been made to the Minister by unsuccessful applicants.
- There is greater public awareness of the Minister's discretions.

More importantly, at a time when other departments (eg, Social Security) were going in the opposite position, it is also difficult to see why personal discretions were vested in the Minister for Immigration rather than in a tribunal or the courts.

It seems that there is a lack of trust in the judicial system, and arguably the public service, to get migration issues right. To use an analogy, we do not expect the Attorney-General to exercise a discretion to make a different, more favourable decision, after the courts have imposed a fine on a person. The Ministers responsible for social security and taxation do not intervene in their portfolios in similar ways, nor does there seem to be an expectation that they will. While an argument has been put to me that the Minister for Immigration deals with crucial human rights issues such as the very right to remain in this country, you could make similar arguments about the crucial nature of the right to pensions, taxation relief, and many legal matters.

I believe that Ministers should deal with issues of broad public policy in their portfolios, and with longer term issues, as well as undertaking the role of monitoring their Departments to ensure that the advice they receive is timely, relevant and in line with government policy. There is an expectation that Ministers will strike a balance between strategic issues and more immediate day to day issues. In the Immigration portfolio, questions such as “what is the role of migration in developing the country?”, “how does Australia compete in the global market for scarce skills?”, “what is the role of family reunion?”, “are the immigration policies being administered effectively?” are ones for the Government and the Minister. Such strategic questions should occupy the Minister’s time and energy rather than a very large number of individual cases.

I think that there would be considerable community surprise at the very detailed level of decision making currently required of the Minister for Immigration. I had the opportunity to review a sample of files which have been sent to the Minister in recent times. I was struck by 2 things: the voluminous nature of the files (this is not surprising given the issues that the Minister is expected to review) and the absence of recommendations made by the Department to the Minister.

The fact that these Ministerial discretions cannot be delegated is no reason for the Department to refrain from making recommendations. In the short term, this would speed up the processing of files. The Minister is, of course, free to ignore these recommendations. I will return to this issue shortly in making more medium and long term recommendations.

Recommendation 1

That the Department commence immediately the practice of providing a recommendation on each file going to the Minister for decision.

There are a number of arguments given in favour of retaining Ministerial discretion. A full outline of the arguments, for and against, can be found in Chapter 9 of the Report. These include the “safety valve” argument mentioned above (p 4). Other arguments include the need for some

discretion to be built in to a system which is highly codified and which cannot cover all issues which will arise over time in migration and refugee cases. Almost all submissions to the Senate Select Committee argued for discretionary powers to remain with the Minister, although a number argued for the reduction in their numbers, and for more transparency in their use. The Report states that it was the Parliament itself, not the then Minister, which insisted on the discretion vesting with the Minister.⁴

It is also argued that discretions (however small in number) should remain with the Minister because of the difficulty of framing regulations which give fair outcomes in refugee and migrations cases. It is also argued that the responsibility for migration decisions is a political one and therefore should remain with the Minister. In addition, it is clear that there is (or perhaps was) a desire to limit how much influence the courts will have in this area.

Arguments against the Minister having these powers include public policy ones which see the Minister having the legislative and policy powers, but not powers over individual cases. The Report did express partial agreement with the concern expressed that the system, by which Ministers could only make more favourable decisions than the courts, may mean that those whose cases were not reviewed, could be denied natural justice.⁵

Other arguments against include the possibility that a Minister may be unduly influenced by particular ethnic and community groups, and that there is no transparency in the current system as it is not easy to determine why discretion has been exercised in some cases, but not in others. Additionally, I would argue, given that there have been 7 Ministers in about 20 years, the chance of quite varied decision making and even inconsistency must be high.

Recommendation 2

To improve transparency and confidence in the current arrangements, the Department should be asked to implement the relevant recommendations of the Report. These include recommendations 1, 2, 6, 8 and 9.

(Note: I have set out the recommendations in full at Appendix A to this review)

Other Short term Issues

In addition to non-delegable powers, over time Ministers have decided to exercise other powers personally, rather than relying on the Department or the judicial system. These include sections 33(2), 33(9), 501(1) and 501(2) of the Migration Act 1958, a number of sub clauses in the Migration Regulations 1994, sections 34 and 36 of the Australian Citizenship Act 2007, and sections 4AA and 11 of the Immigration (Guardianship of Children) Act 1946.

Again, this displays a lack of confidence in the judicial system, and in the Department, and it is not readily obvious that there are good public policy reasons for this to happen. I understand that the new Minister has already delegated a number of delegable discretions.

It was put to me by Departmental officers that section 34 of the Australian Citizenship Act 2007 should be an exception and should remain with the Minister. This section deals with the revocation of Australian citizenship, granted, for example, after false representations, or where prior criminal behaviour subsequently comes to light. There were only 4 such cases last year.

Recommendation 3

That all delegable powers, currently exercised by the Minister, be delegated, either to the department or to the relevant tribunal. (Section 34 of the Australian Citizenship Act 2007 could remain with the Minister for now. I will revert to this when I discuss longer term issues.)

I have been told that, with the election period, and the arrival of a new Minister, a number of cases are awaiting decisions. The following figures give some sense of the size of the current numbers of files awaiting decision: as at 25 January 2008, 1771 cases (involving 2510 people) under sections 417 and 501J are either being processed or are awaiting decision. A further 246 cases (310 people) under section 48B and 507 cases (778 people) under section 351 are also pending.⁶

Both the Senate Select Committee and several people interviewed in the course of this review addressed the question of whether an independent committee could assist the Minister in the exercise of his discretion.⁷ I would support this, but as a short term measure only.

The Minister could enlist the support of an independent committee to provide advice on the Department's submissions and to recommend which ones he should intervene in. Such a committee could be comprised of, for example a retired judge and retired tribunal members. While one or more should have migration experience, the more relevant experience is legal experience to assist in the decision making process. Longer term measures, addressed below, would make it less likely that such a body would be required. This should assist in the process of expediting the number of cases being processed currently and awaiting decisions. They could also be asked to propose timelines for various processes. While I was only able to examine a sample of cases, there was an apparent absence of agreed timelines. While it would not be possible to have rigid rules because of the complexity of much of this area, a range of targeted timelines should be possible and should be introduced.

Recommendation 4

That the Minister consider recommendation 21 (a committee to assist with reviewing files and making recommendations) from the Senate Select Committee Report to assist his workload and decision making in the next 6 months or so. That this committee be asked to recommend timelines for the handling and processing of files in this area.

To summarise, in the short term, I believe that the Minister should now delegate his personal powers where he is able to, and begin the planning for longer term changes to the Migration and Citizenship Acts and Migration Regulations.

Longer term Issues

My initial view when I began to examine issues relating to the use of ministerial discretions was that I could not see the case for any discretions to remain with the Minister. However, no-one I spoke to was of this view. Many thought that the number and use of discretions could be reduced but that the system required its retention in some form. As has already been mentioned (p7 above), it was Parliament which insisted on the concept of ministerial discretions, rather than the Minister of the day. If, as seems likely, there is still strong bi-partisan support for the idea, it may prove difficult to remove it altogether.

Australia is a signatory to a number of International Conventions, including the Convention Against Torture, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child. Under various sections of the Migration Act, it is the Minister who considers whether a case before him triggers any of Australia's international obligations when deciding whether to exercise his personal discretion.

I am attracted to the submission made to the Senate Select Committee by the Refugee Council⁸. In refugee cases, Australia lacks a visa category for people who fall outside the criteria for the grant of refugee status and their cases are decided, on a case by case basis, by the Minister. For example, people who are stateless, fleeing countries where there is civil war and those likely to be tortured if they were to return to their countries, require the Minister to use his discretion.

The Refugee Council argued that a system of complementary protection should be introduced for these people. Under such a system, there would be a single administrative process that would first consider whether a person is a refugee, and then, if the answer is no, assess whether there are grounds for complementary protection. In summary, this would require initial assessment by the Department. If the application was refused, it would go to the Refugee Review Tribunal. Both the Department and the Tribunal would have the power to recommend the grant of complementary protection. Only if the Tribunal refused, would there be a request to the Minister.

This proposal has the advantage of transparency, efficiency, accountability and, for the applicant, gives more certainty and reduces the time involved in the processing. For the Minister, it would be a significant reduction in workload.

Outside this area, and with the possible exception of section 34 of the Citizenship Act referred to above (p 8) I believe that the use of Ministerial discretion should be significantly reduced, and going forward, should be of very limited use. All future proposed changes should begin with the assumption that decisions will be made by a court, the relevant tribunal, or the Department, with a very strong case needing to be made for Ministerial intervention. If future proposals begin with a case against Ministerial intervention, it is very unlikely that there should be another growth in cases requiring a Minister to intervene.

For reasons already outlined (transparency, good decision making, consistency) it follows that I believe that, in the medium term, the Minister should delegate almost all personal discretions. If this is accepted, then the next question is “where should these powers then reside?”

Option 1

The Department currently exercises a large number of delegated powers and some of the current personal discretions could be delegated there. The Department staff has the skills and experience to enable this to occur, subject to the usual safeguards such as Parliamentary and Commonwealth Ombudsman scrutiny, as well as judicial review. This could be reinforced by also implementing some of the other recommendations of the Report (including recommendation 3 on the role of the Ombudsman).

A number of people I spoke to lacked confidence in the ability of the Department to carry out these tasks. The absence of recommendations on submissions sent to the Minister by the Department (referred to above, p6) may indicate a lack of self confidence in the Department’s own decision making ability. This would not be surprising, given that, in the past, some Ministers have effectively removed from the Department many decision making powers and have engaged in a surprising level of very detailed analysis of cases, which is unique in my public sector experience.

It may well be that there are deeper cultural issues at play here. My time in the Department was too brief to do anything but raise this as a potential issue. After a number of years of detailed decision making by Ministers, it would not be surprising if the Department no longer felt confident in making some of the decisions involved in the area of Ministerial discretions. Having reviewed the files as I have mentioned, I am very aware that the issues are complex and difficult. A number of observers have used the term “playing God” to refer to the problems, and certainly many of the cases require at least the wisdom of Solomon, if not God.

A number of external reviews of the Department have raised concerns about issues relating to culture. The Palmer Inquiry of 2005 referred to cultural problems in the compliance and detention areas and also to issues of inadequate training, poor systems and quality assurance problems⁹. A more recent report by the Commonwealth Ombudsman in June 2007¹⁰ referred to the challenge of engendering a strong culture of accountability and professionalism. These issues, which I know are being addressed within the Department, go to the issue of community and Government confidence in the Department assuming more direct accountability for discretions currently exercised by the Minister.

If there are deeper cultural issues at play, then it will take time, changes to the way the Department operates, and perhaps some people changes before a level of confidence in the Department returns. However, people are experienced, and demonstrate a strong commitment to migration issues. I would delegate many of the current Ministerial discretions to the Department. This would be done simultaneously with the production of guidelines requiring the Department to produce for the Minister statements on the use of these discretions which should also be tabled in Parliament. The usual safeguards of Parliamentary and Ombudsman review would, of course, apply.

Option 2

The alternative to placing Ministerial discretions in the Department is to permit further judicial review. There are already 2 tribunals which deal with these issues: the Migration Review Tribunal and the Refugee Review Tribunal (“the tribunals”). If there are concerns about the quality of decisions, or about the appointment process to these bodies (I heard some

mention of both issues but I am not in a position to comment on this), then action should be taken to address the problems. It might be that a new body could be added in this area, but my pragmatic view is that effort should be directed at improving what is there now. In the current budgetary situation, it would be difficult to argue for another tribunal or body when effort could be put into improving the status quo.

Recommendation 5

That Parliament amends the Migration and Citizenship Acts to delegate almost all discretions, currently exercised personally by the Minister, either to the Department or to the Migration Review Tribunal or to the Refugee Review Tribunal. The use of these discretions should be subject to Parliamentary and Ombudsman review and to judicial review where appropriate.

(I have not had sufficient time to decide which should go where, nor do I have the detailed knowledge required, but routine decisions should be delegated to the Department subject to guidelines published by the Minister and updated and reviewed annually.)

Whichever course is chosen, standards should be set, and published to establish appropriate timelines for the passage of the applications through the Department and tribunals.

If some personal discretions remain with the Minister, my recommendation is that a once only application should be available to any applicant, and subject to tight guidelines. The current arrangement where multiple applications can be made should be ended.

Recommendation 6

If it is determined to retain some Ministerial discretion in this area, then it should only be available on a one off basis, and subject to strict guidelines. These would include matters where, for example, Australian citizenship is to be revoked, or where national security matters are raised.

Other Issues

Towards the end of my review, the Department demonstrated a new data modelling tool which is currently being refined and tested. It will apply to compliance, case management and detention matters. It is hoped to extend this subsequently to include visas. I mention it here because it has the potential to provide better analysis and information on many of the issues mentioned in this review. In addition, it also has the potential to give guidance on the areas to which resources can be directed to assist with better case management. Properly used, it will allow focus on earlier intervention in migration and refugee issues which will alleviate many of the issues identified in this review and further reduce the pressure for Ministerial intervention.

Appendix A

Senate Select Committee on Ministerial Discretion in Migration Matters

Recommendations

Recommendation 1

The Committee recommends that the minister require DIMIA [as the Department was then known] to establish procedures for collecting and publishing statistical data on the use and operation of the ministerial discretion powers, (including but not limited to):

- the number of cases referred to the minister for consideration in schedule and submission format respectively;
- reasons for the exercise of the discretion, as required by the legislation;
- numbers of cases on humanitarian grounds (for example, those meeting Australia's international obligations) and on non-humanitarian grounds (for example, close ties;
- the nationality of those granted intervention;
- numbers of requests received; and
- the number of cases referred by the merits review tribunals and the outcome of these referrals. (para 3.54)

Recommendation 2

The Committee recommends that DIMIA establish a procedure of routine auditing of its internal submission process. The audits should address areas previously identified by the Commonwealth Ombudsman, namely identifying ways to improve departmental processes for handling cases, ensuring that claims are processed in a timely way and case officers consider all of the available material relevant to each case. (para 4.67)

Recommendation 3

The Committee recommends that the Commonwealth Ombudsman carry out an annual audit of the consistency of DIMIA's application of the ministerial and administrative guidelines on the operation of the minister's discretionary powers. The audit should include a sample of cases to determine whether the criteria set out in the guidelines are being applied and to identify any inconsistency in the approach of different case officers. (para 4.70)

Recommendation 4

The Committee recommends that the MRT and the RRT standardise their procedures for identifying and notifying DIMIA of cases raising humanitarian and compassionate considerations. (para 4.84)

Recommendation 5

The Committee recommends that the MRT and the RRT keep statistical records of cases referred to DIMIA, the grounds for referral and the outcome of such referrals. (para 4.85)

Recommendation 6

The Committee recommends that DIMIA create an information sheet in appropriate language that clearly explains the ministerial guidelines and the application process for ministerial intervention. The Committee recommends that the new information sheet be accompanied by an application form, also to be created by the department. Both the information sheet and application form are to be readily and publicly accessible on the department's website and in hard copy. (para 5.9)

Recommendation 7

The Committee recommends that coverage of the Immigration Application Advice and Assistance (IAAAS) scheme be extended to enable applicants for ministerial intervention to obtain an appropriate level of professional legal assistance. Extending the covering of IAAAS should assist in reducing the level of risk of exploitation of applicants by unscrupulous migration agents. (para 5.12)

Recommendation 8

The Committee recommends:

- That DIMIA inform persons when a representation for the exercise of ministerial discretion is made on their behalf by a third party;
- That each applicant for ministerial intervention be shown a draft of any submission to be placed before the minister to enable the applicant to comment on the information contained in the submission. This consultative process should be carried out within a tight but reasonable time frame to avoid any unnecessary delay; and
- That each applicant be given a copy of reasons for an unfavourable decision on a first request for ministerial intervention. (para 5.18)

Recommendation 9

The Committee recommends that DIMIA take steps to formalise the application process for ministerial intervention to overcome problems surrounding the current process for granting bridging visas, namely:

- processing times that can take up to several weeks;
- applicants not knowing when they should apply for a bridging visa; and
- applicants being ineligible for a bridging visa because an unsolicited letter or inadequate case was presented to the minister, often without the applicant's knowledge. (para 5.35)

Recommendation 10

The Committee recommends that all applicants for the exercise of ministerial discretion should be eligible for visas that attract work rights, up to the time of the outcome of their first application. Children who are seeking asylum should have access to social security and health care throughout the processing period of any applications for ministerial discretion and all asylum seekers should have access to health care at least until the outcome of a first application for ministerial discretion. (para 5.44)

Recommendation 11

The Committee recommends that DIMIA consider legislative changes that would enable ministerial intervention to be available in certain circumstances where there is a compelling reason why a merits review tribunal decision was not obtained. (para 5.53)

Recommendation 12

The Committee recommends that the Migration Act be amended so that, except in cases under section 417 that raise concerns about personal safety of applicants and their families, all statements tabled in Parliament under sections 351 and 417 identify any representatives and organisations that made a request on behalf of applicant in a given case. (para 6.71)

Recommendation 13

The Committee recommends that DIMIA and MARA disseminate information sheets aimed at vulnerable communities that explain the regulations on charging fees for migration advice, the restrictions that apply to non-registered agents and the complaints process. The information should also explain that the complaints process does not expose the complainant to risk. (para 6.74)

Recommendation 14

The Committee recommends that the Migration Agents Taskforce should expand its operations to target unscrupulous operators that are exploiting clients through charging exorbitant fees, giving misleading advice and other forms of misconduct. (para 6.75)

Recommendation 15

The Committee recommends that the minister ensure all statements tabled in parliament under sections 351 and 417 provide sufficient information to allow parliament to scrutinise the use of powers. This should include the minister's reasons for believing intervention in a given case to be in the public interest as required by the legislation. Statements should also include an indication of how the case was brought to the minister's attention – by an approach from the visa applicant, by a representative on behalf of the visa applicant, on the suggestion of a tribunal, at the initiative of an officer of the department or in some other way. (para 7.53)

Recommendation 16

The Committee recommends that the Migration Act be amended so that the minister is required to include the name of persons granted ministerial intervention under section 351 in the statement tabled in parliament unless there is a compelling reason to protect the identity of that person. (para 7.54)

Recommendation 17

The Committee recommends that the minister should make changes to the migration regulations where possible to enable circumstances commonly dealt with using the ministerial intervention power to be dealt with using the normal migration application and decision making process. This would ensure that ministerial intervention is used (mainly) as a last resort for exceptional or unforeseen cases. (para 7.71)

Recommendation 18

The Committee recommends that DIMIA establish a process for recording the reasons for the immigration minister's use of the section 417 intervention powers. This process should be consistent with Recommendation 15 about the level of information to be provided in the minister's tabling statements to parliament. This new method of recording should enable the department to identify cases where Australia's international obligations under the CAT, CROC and ICCPR [conventions] were the grounds for the minister exercising the discretionary power. (para 8.29)

Recommendation 19

The Committee recommends that the government give consideration to adopting a system on complementary protection to ensure that Australia no longer relies solely on the minister's discretionary powers to meet its non-refoulement obligations under the CAT, CROC and ICCPR. (para 8.82)

Recommendation 20

The Committee recommends that the ministerial intervention powers are retained as the ultimate safety net in the migration system, provided that steps are taken to improve the transparency and accountability of their operation in line with the findings and other recommendations of this report. (para 9.73)

Recommendation 21

The Committee recommends that the government consider establishing an independent committee to make recommendations to the minister on all cases where ministerial intervention is considered. This recommendation should be non-binding, but a minister should indicate in the statement tabled in parliament whether a decision by the committee is in line with the committee's recommendation. (para 9.77)

Appendix B

People Interviewed during the Course of this Review

Senator Robert Ray, former Minister for Immigration, 1998 - 1990

Mr. Nick Bolkus, former Minister for Immigration, 1993 – 1996

Mr. Paris Aristotle, Director of Foundation House, since 1987.

Mr. David Manne, Co-ordinator of the Refugee & Immigration Legal Centre, since 2001.

Staff of the Department

Mr. Andrew Metcalfe, Secretary

Mr. Peter Hughes, Deputy Secretary

Mr. Chris Hodges, Legal Division

Other senior personnel, including Robert Illingworth, Lynne, Gillam, Kate Pope, Yole Daniels, Robyn Bicket, John Matthews

Minister's Office

Mr. Michael Boyle, Chief of Staff

Ms. Arja Keski-Nummi

-
- ¹ Note from the Department (John Matthews) 23 January 2008
² Senate Select Committee Report on Migration Matters ("SSCR") March 2004, p161
³ SSCR, p149
⁴ SSCR, p159-160
⁵ SSCR, p160
⁶ Statistics provided by the Department on 29 January 2008
⁷ SSCR, recommendation 21, p164
⁸ Submission to SSCR by the Refugee Council of Australia, "Complementary Protection: the way ahead" April 2004
⁹ Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau: Report. July 2005
¹⁰ Department of Immigration and Citizenship: Report into Referred Immigration Cases: Data Problems. June 2007