

NOTES OF MELBOURNE MRT-RRT COMMUNITY LIAISON MEETING

3.30pm, 22 April 2009 - Level 13, Members Meeting Room
460 Lonsdale Street Melbourne

Present: Mary Urquhart, RRT Deputy Principal Member; Rebecca Eckard, Refugee Council of Aust; Gunter Eitzner, MIA Victoria; Belmar Salas Miguel, The Victorian Bar; Stuart Webb, Vic Legal Aid, Human Rights & Civil Law; Dorota Siarkewicz, Assistant Ombudsman; Charlie Powles, Refugee & Immigration Legal Centre; Viviana Barrio, A/g Director Refugee & Humanitarian Branch, DIAC Vic; Laura Helm, Law Institute of Victoria; Jessie Taylor, Chair Refugee Law Reform Committee; Carina Ford, Migration Law Committee; Bonnie Allan, Commonwealth Ombudsman's Office; Linda Kirk, Senior Member MRT-RRT Melbourne; Peter Murphy, Senior Member MRT-RRT Melbourne; Hilary Lovibond, District Registrar, MRT-RRT Melbourne.

Chair: Mary Urquhart, RRT Deputy Principal Member

Minutes: Antoinette Brydon, Executive Officer

1. Welcome

The RRT Deputy Principal Member, Mary Urquhart welcomed the participants to the community liaison meeting in Melbourne, and noted that the purpose of these meetings is to:

- facilitate the distribution and exchange of information in relation to the Tribunals' processes and caseload;
- provide updates on relevant legislative developments as well as procedural and corporate developments within the Tribunals; and
- provide the opportunity of placing on the meeting agenda items for discussion which have arisen specifically out of business dealings with the Tribunals or that relate to the Tribunals' operations in general.

2. Apologies

The RRT Deputy Principal Member noted that apologies had been received from: Paris Aristotle, Victoria Foundation for the Survivors of Torture, Greg Kelly, State Director DIAC SA, Bill Thomas, CASE for Refugees, Boniface Town, President of MIA VIC, Sean Leyden, Director, Refugee & Humanitarian Branch, DIAC VIC, Sonia Vignejevic, Spectrum Migrant Resource Centre; Bogdana Poljak, Spectrum Migrant Resource Centre; Maria Billington, Asylum Seekers Resource Centre.

3. Notes of previous meeting and business arising

The last meeting was held on 22 October 2008. The notes of the meeting were circulated and are available on the Tribunals' website at <http://www.mrt-rt.gov.au/liaison.asp>. The notes were accepted as a true and correct record of that meeting.

The RRT Deputy Principal Member ran through the business arising from the last meeting. She noted that at the last meeting, stakeholders expressed an interest in receiving copies of notes of a presentation to Members by Dr Ian Freckelton SC. The RRT Deputy Principal Member reported that the Joint Management Board decided, as a matter of policy, it was generally inappropriate to make available to external bodies presentations/papers prepared by external presenters for the use of Tribunal Members as part of their training sessions or seminars. There were a number of concerns, including that materials could be misinterpreted, there could be infringements of presenters' copyright and a potential increase in costs for the Tribunals.

The RRT Deputy Principal Member reported that the Tribunals are in the process of drafting guidelines on protocols for practitioners. Draft guidelines will be circulated to stakeholders for comments in due course.

The RRT Deputy Principal Member noted that at the last meeting, Mr Stuart Webb asked whether decision records would be faxed or posted under the new notification arrangements (following the removal of the handing down regime), and that observing that the current practice did not seem to be entirely consistent, he asked on what basis it is decided to use fax or post. The RRT Deputy Principal Member reported that the VIC District Registrar had reminded all staff to be consistent and to fax decision records to practitioners where facsimile numbers are supplied.

4. Executive Report

The RRT Deputy Principal Member highlighted some of the Tribunals' key achievements and developments since the group last met.

Member appointments and recruitment

The RRT Deputy Principal Member reported that in January 2009 the Governor-General appointed Linda Kirk, Peter Murphy, Giles Short, Amanda MacDonald and Dr Irene O'Connell as Senior Members for terms of five years. She noted that in recent months the Government has initiated a recruitment round for Members, indicating that interviews with short-listed candidates were being held during March and April 2009.

Public access to country research responses

The RRT Deputy Principal Member advised that the first batch of RRT country research materials was made available on the Tribunals' website on Thursday, 12 February 2009. This material covers 10 countries - China, India, Malaysia, Bangladesh, Indonesia, Lebanon, Sri Lanka, South Korea, Pakistan and Vietnam - which are currently the major source countries for RRT cases. Research on further countries will be published in the near future and all research materials will be regularly updated.

The published research has been carefully edited to protect the privacy and identity of individual applicants. Member details have also been removed. It is intended that research undertaken in the past three years will be published online. As new research is added to the website, older and out of date material will be archived, so that the research readily available to the public is the most recent and current.

The RRT Deputy Principal Member invited members to provide suggestions for any improvements and enhancements to the information posted on the new web page.

Feedback can be sent to Research.Feedback@mrt-rrt.gov.au.

Publication of Tribunal decisions

The RRT Deputy Principal Member reported that in response to feedback from its stakeholders, the Tribunals have decided, with effect from 1 December 2008, to publish 40% of MRT and RRT decisions to improve transparency and accountability.

In 2007-08 approximately 485 RRT decisions and 1,123 MRT decisions were published (approximately 40 RRT and 94 MRT decisions per month). Publishing 40% of decisions will increase the number of decisions published to approximately 900 RRT decisions and 2,500 MRT decisions per year (approximately 75 RRT and 208 MRT decisions per month). From December 2008 to February 2009 at least 40% of all MRT substantive decisions and 40% of RRT substantive decisions have been published. In addition, a proportion of 'no jurisdiction decisions' have been published.

During discussion, Ms Carina Ford expressed her gratitude to the Tribunals for this initiative.

90 day report

The RRT Deputy Principal Member advised that the Principal Member's Report on RRT reviews not completed within 90 days covering the period July 2008 to October 2008 was tabled in Parliament on 4 February 2009. It showed the average processing time for RRT reviews finalised during the reporting period was 82 days and 75% of reviews were decided within 90 days.

Annual report 2007- 08

The RRT Deputy Principal Member referred to the Tribunals' Annual Report for 2007-08 indicating that it was tabled in Parliament on Friday, 7 November 2008 and is accessible from the Tribunals' website.

Guidelines on Ministerial intervention

The RRT Deputy Principal Member explained that in light of the Ministerial guidelines issued in December 2008 in relation to referrals for Ministerial intervention, the Principal Member recently issued a new Tribunal guideline reflecting the arrangements set out in the Minister's guideline. The Tribunal guideline is now available on our website at <http://www.mrt-rrt.gov.au/news.asp>.

In discussion, Mr Charlie Powles noted that practitioners are not aware that a matter has been referred for Ministerial Intervention, even though it may be mentioned in the comments of a decision. He asked if practitioners could be somehow informed. Questions were asked about the process and the specific timelines for referrals. The VIC District Registrar clarified that when Tribunal decisions are finalised the referral letter goes to the relevant Ministerial Intervention Unit the next day.

National Members' Conference 2009

The RRT Deputy Principal Member advised that a National Members' Conference will be held in September 2009. The Conference will run from the evening of

Wednesday, 9 September to the afternoon of Friday, 11 September at Craigieburn in Bowral, NSW.

Additional Budget Estimates

The RRT Deputy Principal Member reported that the Tribunals appeared before the Senate Legal and Constitutional Legislation Committee on 24 February 2009 at Additional Budget Estimates hearings to give evidence. A transcript of the hearing is now available at www.aph.gov.au.

Deposits in designated securities

The RRT Deputy Principal Member advised that following advice that the South Australian Government Financing Authority was accepting new investments from applicants in relation to the \$100,000 capital investment scheme, the Tribunals have agreed arrangements with the Department whereby applicants before the Tribunals can be given the opportunity to make a complying investment.

The capital investment scheme relates to now closed visa subclasses and is not expected to be available indefinitely. She explained that for this reason, arrangements are being made to constitute all 100 or so unconstituted cases across the visa subclasses in which the basis of refusal was the points test. An investment in a designated security will be an issue in some but not all of these cases, depending on the points which can be awarded for other qualifications, and whether the applicant is able and willing to invest \$100,000.

Stakeholder Engagement Plan

The RRT Deputy Principal Member advised that the Tribunals' Joint Management Board recently endorsed the development of a Stakeholder Engagement Plan to support improved stakeholder engagement on a national level as part of the Government's policy for better access to justice. This will include consultations with the community and stakeholders, and a review of the Tribunals' client service charter.

The RRT Deputy Principal Member indicated that as part of the Tribunals' outreach activities for 2009, she and other Members will be available to address different forums about the roles of the Tribunals. She invited committee members to contact herself or the Principal Member in relation to any presentations they may wish to pursue.

Guidance on Vulnerable Persons and Expert Opinion

The RRT Deputy Principal Member referred to the recently circulated draft guidance paper on vulnerable persons and the draft guidelines on expert evidence. She observed that the draft guidelines on expert evidence would be helpful for Members, migration agents and for medical experts preparing reports. She noted that courts and several other tribunals have practice notes or guidelines on the preparation of such reports.

The RRT Deputy Principal Member remarked that the Tribunals have received some positive feedback and suggestions from various Committee members and others in relation to both documents and that the comments be will consider along with other responses before finalisation.

Member Professional Development

The RRT Deputy Principal Member stated that professional development and training is essential to the delivery of quality reviews and the Tribunals have made a substantial investment in learning and professional development activities. She explained that all Members are expected to participate in development and training activities on a regular basis and undertake development and training identified in performance appraisal processes. She reported that Members had benefited from a variety of in-house professional development sessions since last meeting including:

- Legal Section - Schedule 5A Workshop
- Legal Section - New General Skilled Migrant Visas
- Legal Jurisdictional Error

Members also benefited from sessions provided by external presenters including:

- Mr Paul White, Senior Protection Officer from the UNCHR gave a presentation on Issues of Citizenship Certificates & Statelessness; and
- Dr. Michelle Foster, who gave a presentation on expanding/developing conceptions of the Convention Grounds.

External relations

The RRT Deputy Principal Member highlighted some of the Tribunals' recent contacts with like organisations both within Australia and overseas including the 8th World Conference of the International Association of Refugee Law Judges – (IARLJ) in Cape Town, South Africa held in January this year. She reported that several Members of the Tribunal attended the conference including Senior Member Irene O'Connell and Members Luke Hardy, Catherine Carney, Pip Warne, Lisa Ward, Paul Fisher, Dominic Lennon, and Suzanne Leal.

The RRT Deputy Principal Member reported that the Principal Member attended the third CPD Immigration Law Conference 2009 held in Melbourne and gave a presentation on "Effective Advocacy before the Tribunals".

On 12-14 March, Senior Member Linda Kirk and Perth Member Lisa Ward attended the "Use of Interpreters in Courts and Tribunals" in Fremantle, WA.

5. Caseloads and statistics

The RRT Deputy Principal Member referred to the MRT and RRT caseload report for April 2009 (see Attachment 1). Senior Member Linda Kirk provided an overview of the MRT caseload and Senior Member Peter Murphy provided an overview of the RRT caseload.

6. Précis Subscription

The RRT Deputy Principal Member reported that Précis, the MRT-RRT bulletin, is published 11 times per year. She noted that currently each new issue of Précis is published to the website usually on the first Monday of the month of publication. At present the MRT-RRT website does not support an online subscription service. She advised that arising from the need to better manage application forms and research on

the website, the Tribunal is currently in the process of implementing a new Subscription Services database for the website. This service will allow individuals to register and be notified by email when new content is added.

In discussion, Mr Charlie Powles asked for reasons why a decision which had been included in Précis would not be published. The RRT Deputy Principal Member advised that the Tribunal was attempting to provide a cross section of decisions from across the board.

7. Other Business

The RRT Deputy Principal Member dealt with the agenda items proposed by Ms Carina Ford in relation to the percentage of decisions which are now published and in what visa categories decisions are not published in the Executive report.

The RRT Deputy Principal Member dealt with the agenda item requested by Mr Stuart Webb in relation to Ministerial Intervention in the Executive report.

Mr Charlie Powles enquired as to the processes that were followed when serious jurisdictional errors were identified. He gave an example of a spouse visa case where the Federal Court made disapproving comments on the decision made by a Tribunal Member.

In response, the RRT Deputy Principal Member outlined a number of approaches to professional development including the process undertaken with Member appraisals, the provision of further training if required and the availability of a service for passing decisions through Legal Services Section. She noted that any regular pattern of instances of jurisdictional error would become obvious to the Senior Member in whose group such a member was allocated. She explained that a new annual Member Appraisal system was recently introduced where such information is collated and used to assess the Member's performance.

8. Date of Next Meeting

The RRT Deputy Principal Member thanked the committee members for attending, submitting agenda items and for contributing to the discussion. She closed the meeting at 5pm. The next meeting will be on a Wednesday in October 2009, on a date to be advised.

MRT-RRT Caseload Report 31 March 2009

Summary of lodgements, decisions and cases on hand

MRT													
Reg	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Lodgements													
NSW	329	280	324	398	417	351	268	374	420				3,161
VIC	240	206	274	290	263	263	209	207	311				2,263
Total	569	486	598	688	680	614	477	581	731				5,424
Decisions													
NSW	245	309	349	302	268	242	249	219	211				2,394
VIC	233	228	241	243	204	223	146	149	276				1,943
Total	478	537	590	545	472	465	395	368	487				4,337
Active													
NSW	2,678	2,650	2,626	2,726	2,879	2,988	3,009	3,163	3,374				3,374
VIC	2,055	2,032	2,064	2,107	2,162	2,202	2,263	2,322	2,355				2,355
Total	4,733	4,682	4,690	4,833	5,041	5,190	5,272	5,485	5,729				5,729

The MRT clearance rate in March was 67% (50% in NSW and 89% in Victoria). The clearance rate for the year-to-date is 80% (76% in NSW and 86% in Victoria).

RRT													
Reg	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Lodgements													
NSW	155	131	207	207	189	222	146	144	189				1,590
VIC	38	39	36	50	43	56	36	49	55				402
Total	193	170	243	257	232	278	182	193	244				1,992
Decisions													
NSW	163	137	165	159	145	172	169	153	213				1,476
VIC	35	17	35	32	40	36	29	54	46				324
Total	198	154	200	191	185	208	198	207	259				1,800
Active													
NSW	404	399	442	490	534	584	559	547	519				519
VIC	139	160	160	178	181	201	210	208	221				221
Total	543	559	602	668	715	785	769	755	740				740

The RRT clearance rate in March was 106% (113% in NSW and 84% in Victoria). The clearance rate for the year-to-date is 90% (93% in NSW and 81% in Victoria).