

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE DEPARTMENT OF IMMIGRATION AND CITIZENSHIP**

**AND**

**THE MIGRATION REVIEW TRIBUNAL -**

**REFUGEE REVIEW TRIBUNAL**

This is a Memorandum of Understanding (MOU) between the **Department of Immigration and Citizenship (DIAC)** and the **Migration Review Tribunal (MRT) - Refugee Review Tribunal (RRT)** (the Tribunals).

## **PREAMBLE**

This MOU sets out the processes which will be followed to facilitate the Agencies' legislative obligations towards each other and effective operational liaison.

### **1. PURPOSE**

#### 1.1 Recognising:

- the independence and role of the Tribunals to provide independent merits review of migration (non-Humanitarian and Humanitarian) decisions made by officers of DIAC acting as delegates of the Minister for Immigration and Citizenship (the Minister)
- that the Tribunals are required to provide mechanisms of review that are fair, just, economical, informal and quick
- the importance of open communication and discussion between DIAC and the Tribunals (the Agencies) on matters of mutual interest and significance relating to their respective decision making
- the Government's commitment to the continued identification and pursuit of administrative efficiency measures in the operations of the Agencies.

1.2 the Agencies have agreed to enter into this Memorandum of Understanding (MOU) to provide a framework that facilitates the Agencies' legislative obligations towards each other and effective operational liaison.

### **2. THIS MOU**

2.1 This MOU records the agreement between the Secretary of DIAC ('Secretary') and the Principal Member of the Tribunals ('Principal Member') in respect of:

- liaison arrangements between the Agencies
- information exchange arrangements between the Agencies
- financial and business continuity arrangements between the Agencies.

2.2 This MOU is not intended to and does not create binding legal obligations on the Agencies and each party has the right to vary its terms at any time by agreement following consultation with the other party. Changes or amendments to this MOU, shall be given effect by an exchange of letters between the Secretary and the Principal Member. Changes or amendments to the Schedules shall be given effect by an exchange of letters between the Assistant Secretary, Governance and Audit Branch and the Registrar.

### *Commencement and term of this MOU*

2.3 This MOU will come into effect on the date on which it is signed by the persons indicated in clause 2.1. It shall expire 3 years from that date, unless extended by agreement between the Agencies.

### *Disputes under this MOU*

2.4 The Agencies shall attempt to settle by negotiation any dispute in relation to this MOU. The agreed negotiation shall include, where the resolution of disputes at the workplace level has been unsuccessful, the referral of the dispute to the Chief Lawyer, Governance and Legal Division (DIAC), and the Registrar of the Tribunals. In the event that these officers are unable to resolve the dispute within 21 days, they shall refer the matter to the Secretary and the Principal Member.

### *Scope of this MOU*

2.5 This MOU covers arrangements for the provision of Services to the Tribunals regarding Liaison arrangements between the Agencies.

2.6 DIAC and the Tribunals acknowledge that this MOU is solely for the purpose of facilitating the provision of Services.

2.7 This MOU includes:

- Schedule 1: DIAC obligations
- Schedule 2: Tribunal obligations
- Appendix 1: Agency contacts

## **3. LIAISON**

### *Liaison contact responsibilities*

3.1 Primary responsibility for liaison between the Agencies is with the Chief Lawyer, Governance and Legal Division and the Registrar. The specific liaison arrangements are also detailed in **Appendix 1**. However this does not prevent direct contact, where necessary or appropriate, between officers of the Agencies outside this list.

3.2 The Contact List at **Appendix 1** will be updated on a quarterly basis by the Governance and Tribunals Section and the Registrar and distributed electronically to Tribunal and DIAC (Governance and Audit Branch) officers named therein. References in **Schedule 1** to any Section within DIAC mean a functional area with DIAC. References in the **Schedule 2** to any Section or Team within the Tribunals mean a functional area within the Tribunals. In the event of any reorganisation of functions or functional areas during the life of this MOU, the provisions of the relevant clauses within this MOU will become the responsibility of the functional area deemed most appropriate by the Tribunals and DIAC.

### *National Liaison Meetings*

3.3 Meetings shall be held every six months between senior representatives of the Agencies, to provide for formal interaction at an Executive level between the Agencies and to:

- discuss matters of common interest to both Agencies;
- exchange information on any issues, activities or developments in the Agencies caseloads or areas of portfolio responsibility, relevant to each other's operations.

### *Community Liaison*

3.4 The Agencies attend various consultative meetings hosted by Non Governmental Organisations (NGOs) and will forward to the appropriate primary contacts listed in **Appendix 1**, any significant feedback from NGOs that relates to the operations or portfolio areas of responsibility of the other Agency.

## **4. LEGISLATIVE OBLIGATIONS, POWER AND DUTIES REGARDING INFORMATION EXCHANGE**

4.1 The Agencies shall take all reasonable measures to ensure that all information of the other agency in its possession or control is protected against loss and unauthorised access, use, modification or disclosure.

4.2 The Agencies agree to promptly notify the other Agency of any loss or unauthorised access, use, modification or disclosure of such information, including violations and breaches and the steps taken to address these.

4.3 Various provisions of the *Migration Act 1958* (the Act) require or enable the Agencies to provide each other with certain information. The Agencies understand that they shall provide information to each other in accordance with these legislative requirements in a manner that protects the confidentiality of the information and maximises the efficiency of the Agencies' operations.

4.4 Provision of information and exchange of data should be facilitated by electronic means wherever possible. The Agencies commit to a continuing process of business improvement to more effectively use information technologies and electronic communication.

### *Caseload Information*

4.5 The agencies agree to inform each other of information about patterns of fraud and fraudulent activity which may relate to the consideration of cases, or to possible fraud by employers and other sponsors.

4.6 The department and the Tribunals will explore the practicality of using electronic means to convey Tribunal decisions to posts, state and territory offices and relevant areas of the department's National Office.

## **5. AGENCY INFORMATION SHARING AND SUPPORT**

5.1 The Agencies recognise that the efficient and timely movement of case documents between them is an important element of operational efficiency. DIAC may seek to have DIAC case documents returned to DIAC during the course of a review by the Tribunals, to enable the processing of bridging visa applications or other matters. The Agencies shall co-operate on the timely supply and movement of case documents.

5.2 It is recognised that administrative arrangements in relation to case documents have been or will be agreed from time to time between National Office, the local State/Territory DIAC offices and the Tribunals' Registries. This MOU enables such agreements to exist and be developed.

5.3 The Minister or DIAC may be provided with access, electronically or otherwise, to information held by the Tribunals, including case statistics, decision records, the status of cases, hearing dates and applicant details. DIAC officers undertaking enquiries, dealing with other visa applications or preparing submissions may arrange to inspect or be provided with a copy of relevant Tribunal and DIAC files in the possession of the Tribunals. The Agencies recognise that disclosure of confidential information for a purpose under the Act is provided for in sections 377 and 439 of the Act.

5.4 The Tribunals shall provide MRT and RRT hearing schedules to DIAC on request.

5.5 The Agencies shall provide each other with opportunities to deliver training and information sessions on matters of mutual interest and significance. Each Agency shall bear its own costs of providing financial information, training, service or assistance, except where a cost is agreed under this MOU or a related local agreement.

5.6 The Agencies will exchange information as appropriate to facilitate communication and hearing arrangements in relation to applicants in immigration detention, and in relation to applicants in respect of whom there are health, well-being and safety concerns.

### *Expedited Consideration*

5.7 DIAC may request in writing the Tribunals to expedite consideration of urgent or compassionate cases. The Tribunals shall respond to such requests within their available resources and priorities.

### *Secretary's Submissions*

5.8 The DIAC Secretary may make submissions at any stage of the review process, to the Registrar, on issues arising in relation to a particular decision under review (subsections 358(2) and 423(2) of the Act), or in relation to a particular caseload or a general issue.

5.9 The Tribunals may invite the Secretary to make a submission in relation to a particular case or a particular caseload (subsections 359(2) and 424(2) of the Act).

### *Confidentiality of information*

5.10 In providing and receiving both national and non-national security information, the Agencies shall treat such information in accordance with the requirements of the Commonwealth Protective Security Policy Framework and in accordance with the provisions of the Act.

5.11 Each Party is subject to statutory obligations of confidentiality and secrecy, which govern the disclosure of information. Information may be exchanged between the Parties if the relevant statutory provisions that govern the disclosure of information by the disclosing Party permit the disclosure. The Parties will abide by their obligations to comply with relevant Commonwealth privacy legislation and policies, including the *Privacy Act 1988*, the *Freedom of Information Act 1982*, and directions and guidelines from the Federal Privacy Commissioner and Information Commissioner.

### *Commercial-In-Confidence Information*

5.12 The Agencies agree that where information has been provided to an Agency by an individual or an organisation on a 'commercial-in-confidence' basis and that information is also provided to the other Agency under the relevant provisions of the Act, it will be handled by all Agencies on that commercial-in-confidence basis.

### *Certified Information*

5.13 Where DIAC gives the Tribunals information that is subject to a certificate or notice under sections 375A, 376 or 438 of the Act, the Tribunals shall ensure that the information is handled in accordance with the Act. As far as possible, any certificate or notice should identify the specific information that is covered (e.g. the identity of an informant), rather than referring to entire documents. DIAC will exercise care in identifying all documents where the information may be set out or referred to.

5.14 The Agencies recognise that DIAC shall not provide the Tribunals with information covered by sections 375 and 437 of the Act.

### *FOI Requests*

5.15 The Agencies shall work co-operatively to respond to FOI applications lodged in respect of DIAC's and the Tribunals' files, and as far as possible within the statutory timeframes for the requests.

5.16 Where this involves the transfer of an FOI request, the transferring agency shall notify in writing both the person who made the FOI request and the receiving agency of the transfer and provide the files to the other agency within two working days.

### *Migration agent integrity measures*

5.17 DIAC and the Tribunals shall work cooperatively to actively follow up any inappropriate migration agent activity that comes to their attention.

### *Legislative change proposals*

5.18 Where legislative change proposals may impact upon caseloads before the Tribunals, or the operation of the Tribunals, the agencies agree that DIAC will seek comments from the Tribunals on such proposals and any resulting draft legislation.

### *Litigation concerning Tribunal decisions*

5.19 The agencies agree that where the Minister is considering withdrawing from litigation relating to a MRT or RRT decision, DIAC will seek comments from the Tribunals on the proposed withdrawal in advance of any consent orders being agreed in the circumstances set out in Schedule 1 (clause 3.10) and Schedule 2 (clause 3.14).

## **6. OTHER INFORMATION EXCHANGE ARRANGEMENTS**

### *Ministerial Briefs, Ministerial Correspondence, Questions on Notice and Question Time Briefs*

6.1 The Agencies agree to cooperate in the preparation of Ministerial briefs, Ministerial correspondence and responses to Questions on Notice and Question Time Briefs on relevant policies and operational issues.

6.2 The Agencies shall co-operate to ensure that their respective 90-day reports are co-ordinated to provide for joint tabling in Parliament as far as practicable.

### *Tribunal Member Recruitment*

6.3 DIAC and the Tribunals will work cooperatively to facilitate Member recruitment rounds consistent with the APSC guidelines *Merit-based Selection of APS Agency Heads and APS Statutory Office Holders*. Further detail is contained in Schedules 1 and 2.

## **7. COMPLIANCE WITH LEGAL SERVICES DIRECTIONS**

7.1 The Agencies agree, given the role of the Tribunals to conduct independent merits reviews, that consultation between the Agencies is not required concerning legal advice sought by the Tribunals in relation to the conduct of a routine review or particular reviews. (Refer to Legal Services Directions 2005, Schedule 1 clause 10.4.)

7.2 The Agencies agree that where the Tribunals obtain legal advice on the interpretation of the Act and Regulations, consultation will only be required where the advice is obtained from an external legal source and in the following circumstances:

- (a) the advice relates to a provision that has not been considered by the courts, is contrary to existing policy or could raise new policy issues in respect of the Act or Regulations
- (b) the matter could create a precedent
- (c) a potential weakness in the Act or Regulations is identified, or
- (d) the advice is not otherwise of a routine nature.

7.3 The Agencies agree that consultation in relation to legal advice obtained in clause 7.2 will involve the Tribunal providing DIAC with:

- (a) a reasonable opportunity to consult on the proposal to seek advice
- (b) a copy of the request for advice
- (c) a reasonable opportunity to consult prior to the advice being finalised, and
- (d) a copy of the final advice.

## **8. QUALITY ASSURANCE OF AGENCIES DECISIONS**

8.1 DIAC and the Tribunals will regularly review their processes to ensure decisions continue to be made effectively, efficiently and lawfully, and agree to further develop advisory arrangements for issues or concerns related to the quality of decision-making.

## **9. INFORMATION AND COMMUNICATION TECHNOLOGY**

### *Information and communication technology systems integration*

9.1 The Agencies are committed to connectivity between their information and communication technology (ICT) systems. In order to enhance systems connectivity, the Agencies shall consult with each other in relation to all new proposed ICT systems and arrangements that will impact on the Agencies' portfolio responsibilities.

9.2 The Agencies will consult with each other on any systems outages, maintenance and other changes as necessary. The Agencies will provide each other with timely advice on any relevant likely disruptions to ICT systems or services.

9.3 The Agencies understand that in establishing new ICT systems, including integrated systems, the Agencies will work to ensure that the integrity and confidentiality of data is maintained and that access to ICT systems is granted within the Agencies strictly on a need-to-know basis and in accordance with the Act and Regulations.

### *Information technology security*

9.4 Information and Communication Technology systems of DIAC and the Tribunals shall be administered in accordance with the Australian Government Information Security Manual (ISM) and in accordance with the Agencies' respective Information Technology Security policies.

9.5 The Agencies shall ensure that secure communications between the Agencies, including exchange of data and access to systems, requires provision of a secure data communications link. The speed and reliability of this link is essential to the operations of the Agencies.

9.6 Risk management principles shall be applied in the administration of ICT Security and a system security plan shall be put in place by DIAC and the Tribunals for any new systems that are developed.

## **10. THE AGENCIES' FRAUD CONTROL AND BUSINESS CONTINUITY ARRANGEMENTS**

### *Fraud Control*

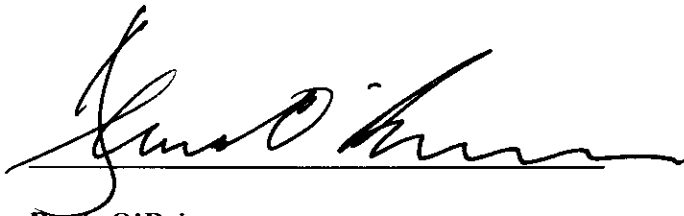
10.1 The Agencies shall act to detect and prevent fraud in accordance with the Act and their respective fraud control plans.

### *Business Continuity Arrangements*

10.2 The MOU is based on the assumption of the Agencies' businesses continuing uninterrupted. However, the Agencies acknowledge that it is possible that an event could impede or disrupt business operations or objectives.

10.3 In the event of a power outage (or a business continuity event) that disrupts the operations of any or all of the Agencies, the Agencies shall co-operate to assist to recover and continue operations.

**SIGNED for and on the behalf of the Migration Review Tribunal-Refugee  
Review Tribunal by:**



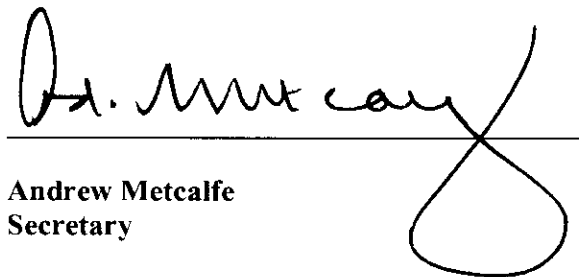
**Denis O'Brien  
Principal Member**

**In the Presence of:**

[WITNESS] Aliana Zajmi

DATE: 2/5/11

**SIGNED for and on the behalf of the Department of Immigration and  
Citizenship by:**



**Andrew Metcalfe  
Secretary**

**In the Presence of:**

[WITNESS] K. Madzarak

DATE: 15/4/11

## **SCHEDULE 1 - DEPARTMENT OF IMMIGRATION AND CITIZENSHIP OBLIGATIONS**

### **A. Description of Services**

Under this MOU, DIAC will provide, on request, certain services and support to the MRT and RRT.

#### **1. LIAISON**

1.1 As a general rule, DIAC officers should not make informal requests to the Tribunals to remake their decisions. This MOU together with the PAM 3: Merits Review - Review by the MRT - Guide for primary decision makers provides specific guidance for DIAC staff to clarify the circumstances in which approaches can be made to Tribunals and the issues that can properly be raised in such approaches.

##### *Consultation on Legislative, Policy and Operational Issues*

1.2 The Governance and Tribunals Section shall facilitate consultation with the Tribunals where proposed legislative or policy changes or initiatives are likely to impact on the Tribunals' structures or operations.

#### **2. LEGISLATIVE OBLIGATIONS, POWERS AND DUTIES REGARDING INFORMATION EXCHANGE**

##### *Caseload Information*

2.1 DIAC will provide the Tribunals with caseload information and other information or developments that have implications for the Tribunals' caseloads. This includes providing caseload statistics on request.

2.2 DIAC will develop a systematic process which brings Tribunal decisions to the early attention of relevant departmental decision makers, policy staff and legal staff to enable them to make an informed decision, within the specified appeal period, as to whether an appeal should be pursued.

2.3 DIAC will consider developing a monitoring mechanism which actively oversees progress with the implementation of Tribunal decisions, to ensure they are not lost in administrative drift.

#### **3. AGENCY INFORMATION SHARING AND SUPPORT**

3.1 The Governance and Tribunals Section will facilitate the administration in relation to the movement of case documents between Agencies during the course of a review (refer to clause 5.2 in MOU).

3.2 In respect of applications for review made to the Tribunals, DIAC will provide the Tribunals with all documents in DIAC's control or possession that are considered by the Secretary or their delegate to be relevant to the particular review (subsections

352(4) and 418(3), subject to sections 375, 375A, 376, 437 and 438 of the Act). This includes third party information considered relevant by the Secretary or their delegate.

3.3 DIAC may, during the course of the review, forward material to the Tribunals for linking to DIAC case documents.

3.4 DIAC will deliver or provide relevant training or information sessions to Tribunal staff. Where agreed the Tribunals will meet the associated costs of delivering these sessions (refer to clause 5.5 in the MOU).

3.5 DIAC's Policy Instructions Reform, Rules and Legend Section shall provide training to Tribunal members and staff in relation to LEGEND.

3.6 DIAC's Country Research Section shall provide training to Tribunal members and staff in relation to CISNET as required.

3.7 DIAC's ICSE Helpdesk shall provide support and ongoing access to ICSE and ICSE Offspring to authorised Tribunal staff while these legacy systems are in operation and for the duration of any transition period.

3.8 IT Support shall provide support for CSP,GVP and Movement Records to authorised Tribunal staff when these systems replace the legacy systems listed in clause 3.7, and for the duration of any transition period.

#### *Migration agent integrity measures*

3.9 The Migration Agents Section will:

- (a) forward to the Registrar regular updates as soon as practicable on any action taken by the Office of the Migration Agents Registration Authority (OMARA) to sanction a migration agent; and
- (b) provide updates on investigations in respect of any agent referred to the OMARA by the Tribunals, on request. DIAC may request that certain updates be kept confidential.

#### *Consultations concerning Litigation*

3.10 Consultations are currently being trialled between the agencies concerning cases involving possible:

- s.359A errors and s.424A errors;
- s.359AA errors and s.424AA errors; and
- failure to consider a claim.

These will continue to be monitored and reviewed as necessary. The agencies acknowledge that there are some instances where prior consultation will not be possible, such as where DIAC has to make a quick decision in Court.

## **4. OTHER INFORMATION EXCHANGE ARRANGEMENTS**

### *Document examination*

4.1 DIAC's Document Examination Section shall provide document examination services for the purposes of exploring authenticity of any document presented in the course of a case, whether for identity, travel, family relationship, visa claims or other purposes.

### *Country Information*

4.2 DIAC's Country Research Section shall provide the Tribunals with ongoing access to CISNET and provide to the Tribunals' Country Advice and Information Section any other relevant country research products or information.

### *Ministerial briefs, Ministerial correspondence, Questions on Notice and Question Time Briefs*

4.3 DIAC shall forward requests for information and input in the preparation of Ministerial briefs and responses to Questions on Notice and Question Time Briefs on relevant policies and operational issues for responses to the Registrar. (refer to clause 6.1 in the MOU).

### *Tribunal Member Recruitment*

4.4 DIAC shall undertake the following tasks in relation to Tribunal Member Recruitment:

- prepare the recruitment brief from the Secretary to the Minister;
- approve the text of all selection documents and advertisements with the Tribunals;
- settle the Selection Advisory Committee (SAC);
- agree on shortlisting arrangements proposed by the Tribunals;
- advise applicants who are not shortlisted;
- support the Chair of the SAC to consider and settle the shortlisting and interview questions;
- provide executive support to the Chair in completing the SAC report;
- prepare papers and arrange consideration of proposed appointments for the Minister, Cabinet and Federal Executive Council; and
- notify successful and unsuccessful applicants by letter following interview

### *Media Contact*

4.5 DIAC shall notify the Registrar, where appropriate, of media-related issues of relevance to the Tribunals' operations.

## **5. INFORMATION AND COMMUNICATION TECHNOLOGY**

### *Information technology systems*

5.1 DIAC shall consult the Tribunals regarding the continuing development of DIAC systems used by the Tribunals where relevant. The Tribunals shall be invited to participate in any technical and user working groups affecting such systems.

### *Departmental systems*

5.2 DIAC shall provide technical support to the Tribunals to correctly authorise Tribunals' staff to access LEGEND, CISNET, CSP, ICSE, ICSE Offspring and Movement Records while these systems remain operational, and to CSP and GVP when these systems become available to Tribunal staff.

5.3 DIAC shall arrange to maintain speedy and reliable data communications link between the Agencies. Any issues with the link should be reported to the Corporate Infrastructure Contract Management Section.

### *SAP*

5.4 DIAC shall provide ongoing access to SAP for use as the Tribunals' financial management information system. DIAC maintains the SAP Procedures Manual and is responsible for the development of SAP system enhancements. SAP change management protocols that apply to DIAC shall be applied to the Tribunals where relevant.

5.5 Corporate Treasury Section shall reconcile the RRT's Administrative Receipts Clearing Account in SAP, load the Tribunal's electronic bank statements and process daily payment runs on a fee-free basis.

## **6. FINANCIAL ARRANGEMENTS FOR THE TRIBUNALS**

6.1 DIAC shall collect the annual SAP charge from the Tribunals' Business Services Section.

### *RRT post-decision fee*

6.2 DIAC's Financial Services Section through the Debt Unit shall administer the collection of the RRT post-decision fee on behalf of the RRT and do all things necessary to ensure compliance with the *Financial Management and Accountability Act 1997*.

6.3 DIAC's Chief Executive Instruction on Debt Management and DIAC's related Procedures Advice Manual 3 (PAM3) (Visa applicants with debts to the Commonwealth (PAM 3:PIC 4004)) shall apply for the purposes of debt management and associated administration of the RRT-post decision fee.

6.4 On a quarterly basis, DIAC's Financial Services Section through the Debt Unit shall submit to the Tribunals' Assistant Director, Finance:

- (i) an itemised invoice in respect of this service
- (ii) an invoice in respect of the Merchant Services Fees paid by DIAC on behalf of the RRT for all RRT post-decision fees paid by credit card
- (iii) an up-to-date report on RRT post-decision fees paid and outstanding at the end of that quarter.

## **SCHEDULE 2 - MIGRATION REVIEW TRIBUNAL AND THE REFUGEE REVIEW TRIBUNAL OBLIGATIONS**

### **A. Description of Services**

Under this MOU, the MRT and RRT will provide, on request, certain services and support to DIAC.

#### **1. LIAISON**

*Consultation on Legislative, Policy and Operational Issues*

1.1 The Tribunals shall consult with DIAC in respect of significant policy and operational proposals and issues that the Tribunals submit for Ministerial consideration.

#### **2. LEGISLATIVE OBLIGATIONS, POWERS AND DUTIES REGARDING INFORMATION EXCHANGE**

*Caseload Information*

2.1 The Tribunals agree to provide DIAC with relevant caseload information and other information or developments that have implications for DIAC's caseload. This includes providing caseload statistics on request.

#### **3. AGENCY INFORMATION SHARING AND SUPPORT**

3.1 Tribunal officers may liaise with DIAC through the officers listed in **Appendix 1** on a range of matters.

3.2 The Tribunals shall refer any issue arising in relation to a review which may require further investigation by DIAC to the Director, Migration Project Support Section (MRT cases) or the Director, Protection Policy Section (RRT cases).

3.3 The Tribunals shall identify all requests for access to case documents that relate to a third party and detail the reasons these documents are relevant to the case under review. Where DIAC queries the relevance of a request or case documents related to third parties, a summons or written evidence of consent will be provided to DIAC.

3.4 The Tribunals are required to provide DIAC with copies of decisions and further evidence or other material on which findings were based (sections 368 and 430) and to notify DIAC of:

- the lodgement of applications for review (sections 352 and 418 of the Act)
- the identity of migration agents providing immigration assistance (section 332G of the Act)

3.5 The Tribunals will provide digital recordings of hearings for decided cases to DIAC on request pending the development of systems to support the transfer of recordings electronically.

3.6 In cases where the MRT is considering the possible exercise of a waiver of requirements in relation to health criteria in Schedule 4 to the Migration Regulations, the MRT shall give consideration to inviting the Secretary to make a submission on whether the grant of a visa would be likely to result in an undue cost to the Australian community, or likely to result in undue prejudice to access to health care or community services. These invitations should be sent to the Director, Health Strategies and Co-ordination Section in DIAC.

3.7 The Tribunals will send requests to deliver or provide training or information sessions to the Governance and Tribunals Section. Where agreed the Tribunals will meet all reasonable associated costs of delivering these sessions (refer to clause 5.5 in the MOU).

3.8 The Tribunals will meet all reasonable associated costs for training provided to Tribunal Members in relation to LEGEND.

3.9 The Tribunals will meet all reasonable associated costs for training provided to Tribunal Members in relation to CISNET.

#### *Certified information*

3.10 Where the Tribunals form the view that the Minister's certification in a particular case should be revisited or that uncertified information on the DIAC file should be reconsidered with a view to certification, the relevant District Registrar shall consult with the Director or delegated officers in the Migration Project Support Section (in the case of the MRT), or the Director or delegated officers in the Protection Policy Section (in the case of the RRT).

#### *Referral of cases for possible Ministerial intervention*

3.11 In accordance with any agreed procedures, the Tribunals shall notify DIAC (ACT Regional Office, in relation to MRT matters, or the relevant NSW or Victoria Ministerial Intervention Unit in relation to RRT matters) of those cases considered by a Tribunal member to exhibit features or circumstances which might be referred to the Minister for their consideration of the exercise of their public interest powers under sections 345, 351, 391, 417, 454 and 501J of the Act.

#### *Migration agent integrity measures*

3.12 Information provided to the Tribunals by migration agents in accordance with section 312B of the Act shall be forwarded to DIAC's Migration Agents Section by the Tribunals in accordance with section 332G of the Act on request.

3.13 The Tribunals shall regularly update the Migration Agents Section as soon as practicable on:

- complaints made by the Tribunals to the OMARA.
- any concerns held by the Tribunals regarding persons providing immigration assistance.

### *Consultations concerning Litigation*

3.14 Consultations are currently being trialled between the agencies concerning cases involving possible:

- s.359A errors and s.424A errors;
- s.359AA errors and s.424AA errors;-and
- failure to consider a claim.

These will continue to be monitored and reviewed as necessary. The agencies acknowledge that there are some instances where prior consultation will not be possible, such as where DIAC has to make a quick decision in Court.

## **4. OTHER INFORMATION EXCHANGE ARRANGEMENTS**

### *Document examination*

4.1 The Tribunals may refer requests for examination of potentially fraudulent documents to DIAC's Document Examination Section.

### *Country Information*

4.2 The Tribunals' Country Advice and Information Services Section undertakes to provide DIAC's Country Research Section (CRS) with a relevant selection of substantive country information products on a monthly basis for inclusion on CISNET.

### *Ministerial Briefs, Ministerial Correspondence, Questions on Notice and Question Time Briefs*

4.3 The Registrar shall respond to requests for information and input in the preparation of Ministerial briefs and responses to Questions on Notice and Question Time Briefs on relevant policies and operational issues in a timely manner (refer to clause 6.2 in the MOU).

4.4 The Tribunals will respond directly to ministerial correspondence when referred by DIAC on the basis that the response is solely reliant on Tribunal input.

### *Tribunal Member Recruitment*

4.5 The Tribunals shall undertake the following tasks in relation to Tribunal Member recruitment:

- arrange and pay for advertising and availability of selection documents on the MRT-RRT website;
- provide a contact officer for further enquiries and for selection documents;
- engage a service provider to receive applications;
- prepare schedules and copy applications;
- engage and pay for shortlisting;
- schedule interviews in consultation with SAC members;
- prepare interview folders and arrange travel for SAC members;
- engage and pay for scribe facilities;

- undertake any reference, security and health checks of applicants; and
- cover the costs associated with facilitating these recruitment rounds including:
  - advertising
  - travel, accommodation and travel allowance for panel and scribe
  - travel and accommodation for applicants where required
  - scribe services
  - outsourcing of application process
  - cost associated with shortlisting; and
  - stipends for SAC members.

#### *Media Contact*

4.6 In accordance with the Tribunals' media contact protocol, the Tribunals shall contact the Director, Media Section, National Communication's Branch, DIAC, and advise the details of media contact in relation to any significant issues or high profile cases of interest to the Government, to DIAC or to the Tribunals.

### **5. THE TRIBUNALS' FINANCIAL ARRANGEMENTS**

5.1 The Tribunals shall comply with deadlines set from time to time by the Department of Finance and Deregulation (DoFD) and DIAC in respect of those functions that demand a Portfolio level response (e.g. Portfolio Budget Statements and Budget Submissions).

5.2 The Tribunals shall provide to DIAC's Chief Financial Officer a copy of the Tribunals' monthly financial reports.

5.3 The Tribunals will meet the costs associated with printing the RRT's 90-day report.

#### *RRT post-decision fee*

5.4 The Tribunals agree to inform the Financial Services section through the Debt Unit once a week of the details of those clients for whom the RRT post-decision fee has become payable

5.5 The Tribunals' Assistant Director, Finance and DIAC's Financial Services through the Debt Unit shall liaise to respond to case-specific complaints received regarding the imposition of the RRT post-decision fee.

5.6 The Tribunals shall refer any telephone enquiries received about the RRT post-decision fee to the relevant number in the DIAC Debt Unit (**Appendix 1** refers), which is provided in the RRT notification of decision letter.

**APPENDIX 1: AGENCY CONTACTS (March 2011)**

**Liaison Contact List**

<b>General liaison</b>	<b>Position</b>	<b>Current Occupant</b>
DIAC	Assistant Secretary, Governance and Audit Branch	Chris Hodges
MRT-RRT	Registrar, Principal Registry	Colin Plowman
<b>MRT matters</b>		
DIAC	Assistant Secretary, Regulatory Strategy and Special Projects Branch	Susan Murray
MRT-RRT	Registrar, Principal Registry	Colin Plowman
<b>RRT matters</b>		
DIAC	Assistant Secretary, Onshore Protection	Julia Niblett
MRT-RRT	Registrar, Principal Registry	Colin Plowman
<b>File transfers and case documents - Melbourne</b>		
DIAC	Director, Governance and Tribunals Section	Annemie Pretorius
MRT-RRT	District Registrar, Victoria	Rachel Smith
<b>File transfers and case documents - Sydney</b>		
DIAC	Director, Governance and Tribunals Section	Annemie Pretorius
MRT-RRT	District Registrar, NSW	Geraldine Macklin
<b>Document examination and handwriting analysis</b>		
DIAC	Director, Document Examination Section	Katy Skinner
<b>Medical examinations</b>		
DIAC	Global Health	John Sargent
MRT-RRT	District Registrar, NSW District Registrar, Victoria	Geraldine Macklin, Rachel Smith
<b>Training for MRT-RRT staff</b>		
DIAC	Director, Governance and Tribunals Section	Annemie Pretorius
MRT-RRT	District Registrar, NSW District Registrar, Victoria	Geraldine Macklin Rachel Smith