



Australian Government
Department of Home Affairs

Submission

For decision
PDMS Ref. Number: MS24-001185
Date of Clearance: 02/09/2024

To **Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security**

Subject **Claim of Public Interest Immunity on questions from the Senate Standing Committee on Legal and Constitutional Affairs over material related to assisted voluntary returns**

Timing ***At your earliest convenience, noting SQoNs were due to be tabled on 1 August 2024***

Recommendations

That you:

- | | |
|---|---------------------|
| 1. claim public interest immunity in response to questions from the committee for information relating to details of assisted voluntary returns (AVRs) of transferees from Nauru, including country of origin and associated reintegration assistance. Three questions on notice (QoNs) asked for this information (Attachment A refers). | agreed / not agreed |
| 2. sign the letter at Attachment B to the Chair of the Senate Legal and Constitutional Affairs Legislation Committee claiming public interest immunity in respect to answering these questions. | signed / not signed |

Minister's Comments

Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security

Signature.....

Date:...../...../2024

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Key Issues

1. On 28 May 2024 during Budget Senate Estimates, Senator Shoebridge asked the following questions regarding individuals transferred to Nauru since September 2023, who expressed interest in voluntarily returning to their country of origin and engaged with the assisted voluntary return (AVR) program. This public interest immunity claim will be used to address all of the following questions, due to their similarity:
 - a. ‘What were the payments made, and to which countries where the people returned?’ and ‘Has anyone been returned to Afghanistan?’ (SQ24-001112)
 - b. ‘Of this cohort [*people returned to their country of origin*]: What are their countries of origin?’ (SQ24-001658)
 - c. ‘Provide the following details regarding people seeking asylum who were transferred to Nauru since September 2023: There have been reports in the media (ABC article 20 May) that Chinese nationals currently detained on Nauru have been offered resettlement packages valuing \$US5,100 (about \$7,600) per person and a return ticket if they agreed to go back to China. Was this offered to any men who have expressed their intent to seek asylum in Australia?’ (SQ24-001673)
2. There is a basis to make a public interest immunity (PII) claim on the ground that the disclosure may reasonably be expected to damage Australia’s international relations.

s. 33(a)(iii)

3. There is also a basis to make a PII claim on the ground that the disclosure would, or might reasonably be expected to, damage Australia’s national security. **s. 33(a)(i)**

[Redacted]

4. A letter to the Chair of the Committee has been prepared for your signature (**Attachment B**) outlining the Government’s PII claim.

Background

5. An AVR is considered a durable migration option as mandated by the United Nations High Commission for Refugees. AVRs are challenging to implement and can include sensitive diplomatic negotiations with relevant return countries.

Assisted voluntary return - countries of origin and return countries

6. The AVR information requested includes identifying the countries of origin and citizenship for transferees, whether they are returned to their country of origin, and what countries transferees have been returned to. **s. 33(a)(i), s. 33(a)(iii)**

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s. 33(a)(i), s. 33(a)(iii)

7.

s. 33(a)(iii)

8.

s. 33(a)(iii)

s. 33(a)(i)

9.

s. 33(a)(i)

10.

Con

- 11. The Secretary, Associate Secretary Immigration and the ABF Commissioner were not consulted on this submission.
- 12. The Legal Group was consulted on this PII claim.

Risks and Sensitivities

13.

s. 33(a)(i), s. 33(a)(ii)

14. If the Senate committee concludes that the statement does not sufficiently justify the withholding of the information, the Senate committee may report the matter to the Senate for further consideration.

S. 47C(1)

Attachments

Attachment A Senate Estimates Questions

Attachment B Letter to Chair of the Senate Legal and Constitutional Affairs Legislation Committee

Authorising Officer
Cleared by: Joe Feld A/g First Assistant Secretary Regional Processing Taskforce Date: 2 September 2024 Mob: s. 22(1)(a)(ii)

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Through GM Immigration Operations

CC Associate Secretary Immigration
Commander Joint Agency Taskforce – Operation Sovereign Borders (CIATF OSB)

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