



AASW

**Australian Association
of Social Workers**

*Submission to the Senate Standing
Committees on Legal and Constitutional
Affairs*

*Re: Serious allegations of abuse, self-harm and neglect of
asylum seekers in relation to the Nauru Regional
Processing Centre, and any like allegations in relation to
the Manus Regional Processing Centre*

November 2016

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Introduction

Who we are

The Australian Association of Social Workers (AASW) is the professional body representing more than 10,000 social workers throughout Australia.

We set the benchmark for professional education and practice in social work and have a strong voice on matters of social inclusion, social justice, human rights and issues that impact upon the quality of life of all Australians.

The social work profession

Social work is a tertiary-qualified profession recognised nationally and internationally that supports individuals, families, groups and communities to improve their wellbeing. Principles of social justice, human rights, collective responsibility and respect for diversity are central to the profession and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledge. Social workers consider the relationship between biological, psychological, social, cultural and spiritual factors and how they impact on a person's health, wellbeing and development. Accordingly, social workers maintain a dual focus in both assisting with and improving human wellbeing and identifying and addressing any external issues (known as systemic or structural issues) that may have a negative impact, such as inequality, injustice and discrimination.

Increasing numbers of social workers work with refugees and asylum seekers in various settings and in a range of roles including direct case work, community work, advocacy, management and policy. Therefore, we welcome the opportunity to provide submission to this inquiry.

The AASW's position on offshore detention

The AASW believes that current government's policies in relation to asylum seekers and offshore processing both infringe basic human rights and interfere with the ability of social workers to offer appropriate professional assistance. As a signatory to the relevant United Nations treaties, including the United Nations Convention relating to the Status of Refugees, it is the responsibility of the Australian Government to apply the principles of these treaties in responding to the situation of people who seek asylum within Australia, and to those who have been accorded refugee status. The Australian Government has a responsibility to uphold the human rights of asylum seekers and refugees including the right:

- to not to be subjected to arbitrary detention, torture, or cruel, inhuman or degrading treatment or punishment and if held in detention, only for the minimum period required to establish security and health status screening
- to challenge in court the legality of their detention
- not to be sent back to a country where their life or freedom would be threatened, and
- to work, housing, education, and physical and mental health care.

It is the position of the AASW that the current Australian Government's policies amount to systematic discrimination against already vulnerable people. Many of whom have suffered serious trauma and are merely exercising their rights under international law to seek sanctuary from fear and oppression for themselves and their families. In this respect Australia is currently failing in its obligations to asylum seekers and refugees. The AASW calls for the Australian Government to fully uphold its international obligations to asylum seekers and refugees and to treat all refugees and asylum seekers equally and fairly.

Numerous reports have highlighted the alarming health and wellbeing impacts of offshore processing centres on asylum seekers, especially children¹. It is the view of the AASW that any period of immigration detention is potentially harmful. This is based on the understanding that children and adults arrive in immigration detention with a burden of stress, trauma, disadvantage and marginalisation reflecting the circumstances that caused their families to flee their countries of origin in the first place. This burden makes people extremely vulnerable to the environmental and systemic stresses of the detention setting. There is significant evidence to suggest that current immigration detention settings are harmful, not appropriate for children and do not meet asylum seekers' needs in terms of health, wellbeing and development². The AASW has and will continue calling on the government to close offshore detention centres.

Our response

Our response builds on our previous submissions to the committee, and focuses specifically on term of reference f. The effect of Part 6 of the Australian Border Force Act 2015.

1.1 The AASW is concerned that the ambiguous definitions of exempted professionals within the recent amendments to the secrecy and disclosure provisions of the Border Force Act 2015³, as they may limit professionals' ability to confidently disclose information in relation to abuse in immigration detention centres. Specifically, the amended insertion of 'health practitioner' does not explicitly clarify the exemption or coverage of social workers. Social workers are professionally, ethically and morally committed to advocating for the human rights of the people for whom they work. While we welcome the amendments, this lack of clarity in the legislation not only undermines, but is also potentially in breach of a social workers duty of care.

1.2 Social workers in immigration detention centres provide social and health support in a complex institutional environment. Social workers have an ethical and professional obligation to support individuals as well as uphold standards of care. The standards of treatment and welfare of asylum seekers have been subject to multiple official reports of abuses, such as the Human Rights Commission's The Forgotten Children: National Inquiry into Children in Immigration Detention and the 2015 International Health and Medical Services (IHMS) quarterly report that identified the alarming mental health of adults and children generated by detention settings. Therefore, clarity in relation to this amendment is fundamental.

1.3 Ambiguity in relation to roles and the potential to disclose are contrary to social workers' ethical and professional obligations. Social workers have played a central role in raising awareness of the abuse and neglect of children at the Regional Processing Centre on Nauru, something that under this legislation could still lead to jail. We urge the government to resolve this confusion and include social workers in the list of health practitioners.

1.4 We would also like to draw the commission's attention to the fact that teachers and lawyers are not covered by the amendments, and therefore may still be prosecuted for disclosing information about the conditions and treatment of asylum seekers in immigration detention.

Submitted for and on behalf of the Australian Association of Social Workers Ltd

¹ <https://www.amnesty.org.au/island-of-despair-nauru-refugee-report-2016/>

² <http://idcoalition.org/wp-content/uploads/2012/03/Captured-Childhood-FINAL-June-2012.pdf>

³ <https://www.border.gov.au/AccessandAccountability/Documents/determination-workers-c.pdf>



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