



Department of Immigration and Multicultural Affairs
Office of the Secretary

Professor Alice Tay
President
Human Rights and Equal Opportunities Commission
GPO Box 5218
SYDNEY NSW 1042

Dear Professor Tay

Thank you for your report of 6 November 2000 concerning the Commission's July 2000 review of Curtin IRPC. I would like to make some general comments about the report, before addressing in detail the comments the Commission makes regarding the provision of services at Curtin. Those detailed comments are in the attachment to this letter.

The Department of Immigration and Multicultural Affairs (DIMA) recognises the important role of the Human Rights and Equal Opportunity Commission (HREOC) as an independent body in scrutinising the operations of the Immigration Detention Centres and the Immigration Reception and Processing Centres. DIMA welcomes visits by the Commission to its detention centres and the comments it provides on the operations.

The HREOC report on the Curtin Immigration Reception and Processing Centre (IRPC) makes a number of comments on the treatment of detainees and conditions observed by the former Human Rights Commissioner, Mr Chris Sidoti, while at the IRPC in late July 2000. The report states in its opening pages that HREOC compared the treatment and conditions at the IRPC with the international minimum human rights standards, summarised in HREOC's Immigration Detention Guidelines. The report further states that the Immigration Detention Guidelines collate relevant international minimum standards and set out the minimum requirements that have to be met in order that Australia be seen to be acting in accordance with its international human rights obligations. In essence, the report assesses conditions at the Curtin IRPC against HREOC's Immigration Detention Guidelines. However, the Government has not endorsed the Immigration Detention Guidelines.

Immigration detention management and services are governed by the Immigration Detention Standards (IDS) developed by DIMA, in consultation with the Commonwealth Ombudsman's Office. DIMA advised the former Human Rights Commissioner, Mr Sidoti, in November 1999 that the IDS, which form part of DIMA's



contractual agreement with ACM, meet Australia's international obligations in relation to core human rights principles.

The report in its introduction also implies that there was difficulty in gaining access to the IRPC. I understand that dates of the visit had to be changed because the DIMA Business Manager and ACM Manager had commitments in Court on the day initially scheduled for the visit. HREOC recognised the importance of their presence during their visit. The date was therefore moved by one day, from 28 July to 29 July. There was not, as the report appears to imply, any obfuscation on DIMA's part. Indeed, if there was any delay it was due to the exchange of correspondence clarifying Dr Crock's role in accompanying Mr Sidoti.

The report does outline many areas where there have been improvements to the centre since it was recommissioned. As the report acknowledges, Curtin IRPC was recommissioned in an environment of extraordinary pressure as the department sought, in a very limited timeframe, to meet its obligations under Australian law to detain unauthorised arrivals. While the facilities and programs at the centre are currently of an acceptable standard I expect that improvements will continue to be made.

Finally, the report includes the issue of interpretation of s256 of the Migration Act (1958) which is not specific to the operations of Curtin IRPC. DIMA's legal advice does not agree with the interpretation provided by the Commission. This is a core policy issue which goes beyond the specific circumstances of the Curtin IRPC. It is an issue that has been discussed on several occasions in the past by this Department and the Commission, and one on which the Government and the Department have an established position based on legal advice.

As I have noted, the Department welcomes comments on the operations of detention centres. Indeed we have drawn on them, and will continue to draw on them to assist in the continuous improvement of the facilities and operations.

I add a final comment. You note in your letter your intention to post the report on your website. It would seem appropriate to include this reply also so that interested people may have access to both our perspectives.

Yours sincerely

W.J. Farmer
December 2000