

**Review into recent allegations relating to  
conditions and circumstances at the Regional  
Processing Centre in Nauru**

**FINAL REPORT**

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## Executive Summary

### *Background*

1. On 3 October 2014, the then Minister for Immigration and Border Protection, the Hon Scott Morrison MP (the then Minister), announced a Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru. The allegations were reported in letters, which Senator Sarah Hanson-Young wrote to the then Minister, and in media articles.
2. Following consideration of the Terms of Reference, the Review identified two main aspects for investigation. They were:
  - claims of sexual and other physical assault of transferees; and
  - conduct and behaviour of staff members employed by contract service providers.
3. The Review looked separately at these two aspects noting the links between them since some allegations of sexual and other physical assault relate to the conduct and behaviour of contract service provider staff members.
4. The Review relied on interviews with transferees, contract service provider staff members, Departmental (Department of Immigration and Border Protection) officers, Australian Federal Police (AFP) officers and Nauruan officials and perusal of documents and submissions. Transferees were given with the opportunity to provide written information in their own language to the Review.
5. The Review's Terms of Reference state that "*[a]ny material obtained by the Review that may be of assistance to relevant authorities in managing actual or possible criminal charges or activity will be made available to relevant authorities*". Information about incidents, which the Review considered required further investigation, was provided to the Department with a recommendation that the information be referred to the relevant authorities. Such referrals are noted throughout this report.
6. The Review travelled twice to Nauru. During the second visit, a child protection practitioner from the Australian Capital Territory Community Services Directorate accompanied the Review team.

### *Sexual and other physical assault of transferees*

7. The Review considered the allegation that "*on occasions women have been forced to expose themselves to sexual exploitation in exchange for access to showers and other facilities*" and concludes that it is likely to be based on one particular incident, which the transferee related to four Save the Children staff members, who all reported it in accordance with Centre guidelines. Separately the transferee reported the incident to Senator Hanson-Young.
8. The Review became aware of two specific allegations of rape of two adult female transferees occurring at the Centre. One allegation had already been reported to the Nauruan Police Force. The other allegation, according to the transferee concerned, was

made only to the Review and involved a contract service provider staff member. The transferee requested that, for family and cultural reasons, the Review not reveal her identity or refer the matter to the relevant authorities.

9. The Review also became aware of allegations of indecent assault, sexual harassment and physical assault occurring in the Centre. Some of these allegations had been reported and the relevant authorities are investigating or have investigated. Contract service provider staff members are/were the subject of some of these allegations.
10. In relation "*access to cigarettes being traded for sexual favours*", the Review concludes that this allegation appears to relate to a time when cigarettes were not openly available in the Centre. The Review was unable to obtain any specific information to substantiate this allegation.
11. In relation to the allegation "*Nauruan guards have been trading marijuana with detainees in exchange for sexual favours*", the Review concludes that this activity is possibly occurring. The Review was unable to obtain many specific details because transferees were not prepared to provide them. The details obtained about transferees who allegedly deal in marijuana were provided to the Department for referral to the relevant authorities.
12. The Review concludes that many transferees are apprehensive about their personal safety and have concerns about their privacy in the Centre. Some transferees expressed their apprehension about other transferees and some about contract service provider staff members. Several married couple transferees raised concerns about their privacy. The perception of a lack of personal safety and privacy is heightened by high density accommodation in mostly un-air-conditioned, soft-walled marquees in a tropical climate.
13. The Review also concludes that ensuring transferees are, and feel, safe is important and requires consideration of such factors as infrastructure, policing and staffing.
14. The Review further concludes that the training and supervision of contract service provider staff members, particularly locally engaged Nauruans, need to be improved and should focus on the personal safety and privacy of transferees.
15. The Review considers that all decisions about facilities and infrastructure should be made with the personal safety and privacy of the transferees as a prime consideration. The Review encourages the Government of Nauru and the Department to ensure that these factors are considered in any decision-making, particularly as the Centre transitions to an open facility in early 2015.
16. Some allegations of sexual and other physical assault of transferees have been formally reported and others, disclosed only to the Review, had not been formally reported. The Review concludes that there is a level of under-reporting by transferees of sexual and other physical assault.
17. This under-reporting is generally for family or cultural reasons. Transferees also told the

Review that they were concerned that making a complaint could result in a negative impact on the resolution of their asylum claims. In some cases, transferees told the Review that they had not reported particular incidents because they had lost confidence that anything would be done about their complaints.

18. Despite this lack of confidence, the Review concludes that, when formal reports or complaints have been made, contract service providers, in the most part, have acted appropriately in dealing with them and have, when required, referred matters to the Nauruan Police Force. In some instances, the lack of timeliness in reporting and referral or inadequate or inconsistent information have hampered the ability of contract service providers and/or the Nauruan Police Force to investigate. This situation is particularly true in relation to allegations relating to sexual assault.
19. The Review concludes that the arrangements for identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the Centre could be improved. For instance, there are limited resources for sexual assault to be investigated by Nauruan authorities. Work also needs to be done to improve the existing arrangements at the Centre.
20. The Review became aware of claims that some allegations of abuse have been fabricated or exaggerated by transferees. The Review cannot discount this possibility. The transferees who were interviewed were generally credible and their accounts convincing. Yet, the Review could not establish the veracity of allegations. For this reason, information about some reported incidents was sent to the Department for referral to the relevant authorities for further investigation.
21. The protection of minors in the Centre is of the highest importance and priority. The Review found that, in relation to this group, there were both reported and unreported allegations of sexual and other physical assault. When the Review obtained information that would assist relevant authorities to investigate these allegations, it was provided to the Department.

#### *Conduct and behaviour of contract service providers*

22. The Review received allegations from transferees about misconduct by staff members of contract service providers. When the Review obtained such information, it was provided to the Department for referral to the relevant authorities.
23. The Review notes that all contract service providers have been prepared to take disciplinary action against staff members, when appropriate. The Review acknowledges that contract service provider staff members work in challenging circumstances and in the majority are dedicated employees who behave professionally.
24. In relation to whether any contract service provider staff member facilitated protest activity, encouraged self-harm or fabricated and manipulated allegations about sexual and other physical assault, the Review obtained information from Wilson Security intelligence reports,

interviews and other material. None of this information indicated conclusively to the Review that particular contract service provider staff members had engaged in these activities.

25. Given the AFP's current investigation, the Review does not draw any conclusion in relation to the misuse or unauthorised disclosure of sensitive and confidential information by contract service provider staff members. The limited information which the Review obtained was provided to the Department to assist the AFP's investigation.

*Removal of the Save the Children staff members from providing services in Nauru*

26. The Review notes the explanations which senior Departmental officers gave for acting to remove the Save the Children Australia (Save the Children) staff members from providing services to transferees in Nauru. Senior Departmental officers were concerned about the protest activity which followed the Ministerial announcement on 25 September 2014 regarding temporary protection visas. The senior Departmental officers read the signs as they saw them based on their previous experience and their responsibility for the safety of transferees and the implementation of Government policy.
27. Noting, however, that the intelligence information relied upon by the Department, in Wilson Security's view, required further investigation, the Review considers that a better course of action would have been to direct Save the Children to remove the ten employees, thereby alleviating any immediate threat, and conduct an investigation. Save the Children should have been afforded the opportunity to address the concerns raised about its staff members and Wilson Security could also have been given additional time to collect more information.
28. The Review notes that it has not obtained any information which substantiates the alleged misconduct in relation to the Save the Children staff members. Noting the current AFP investigation, the Review concludes that the Department should review its decision to have the Save the Children staff members removed. The Department's review of its decision would include providing Save the Children with the information it relied on.

*A more integrated approach*

29. The Review suggests that the Centre, which is a Nauruan facility, would operate more effectively if there were greater partnership and integration between the Nauruan operations managers and the Department and its contract service providers.
30. The Review recognises the effort which the Department and its contract service providers are making to ensure that Nauruan requirements and expectations are met. As the Centre evolves, the Department must maintain this focus, particularly at the middle and senior levels of management.
31. The Department needs to provide effective coordination and adopt a lead role in ensuring that contract service providers work effectively together. This role needs to be played not only at the Centre in Nauru, but also at the head office level.

32. By appointing, in September 2014, a Senior Executive Service officer in Nauru, the Department has the basis to ensure that contract service providers achieve a more joined-up approach in the Centre. The Department needs to develop its function beyond mere contract management. This enhanced coordination role needs to be performed jointly with the Nauruan operations managers.
33. Inherent in a more integrated approach would be improved training and supervision of all contract service provider staff members. From the information which transferees provided to the Review, the supervision provided to the Transfield Services and Wilson Security staff members, particularly locally engaged Nauruans, needs to be enhanced.
34. The Nauruan Police Force has an important role at the Centre. Consistent with the need for the Nauruan operations managers to be more involved, the Nauruan Police Force needs to be increasingly engaged. To achieve this outcome, the relationship between Transfield Services / Wilson Security on one hand and the Nauruan Police Force on the other hand needs to be more structured. The Review acknowledges that, in an ever evolving and developing context, there needs to be balance between best practice and what can be practically achieved.
35. The Review notes the need for the Nauruan Police Force to have increased visibility at the Centre in a community policing role. Currently, the Nauruan Police Force is seen there when conducting investigations and undertaking walk-throughs. This later activity needs to be extended into the sphere of community policing. In doing so, the Nauruan Police Force would appear at the Centre without Wilson Security in attendance. The perception among transferees, and others, is that, at the Centre, the two organisations are inseparable and that the Nauruan Police Force is subordinate.
36. Transferees need the opportunity to develop understanding of, and trust in, the Nauruan law enforcement and criminal justice system. A regular Nauruan Police Force presence at the Centre with the potential, thereby, for trust and understanding to be developed could become a positive and important factor in asylum seekers' transition from being transferees to refugee settlers.
37. A strong intelligence capability within the Centre is important. The Review acknowledges the existing intelligence capability in the Centre through the intelligence unit operated by Wilson Security.
38. As with other aspects of the operation and management of the Centre, the intelligence capability would benefit from a more joined-up approach. The Review considers that the effective engagement of the Nauruan Police Force is lacking currently in the intelligence arrangements in the Centre.
39. Attention needs to be paid to: the way in which local Nauruan staff are regarded and treated; more structured education programs and positive messaging about Nauruan society; and improved training and supervision of local Nauruan staff members employed by contract service providers.

40. Building the capability of the contract service providers' Nauruan workforce would assist in the operation and management of the Centre.
  
41. Finally, the Review notes the AFP's submission which suggests that a protocol be established between the Nauruan Police Force, the Nauruan Department of Justice and Border Control and Transfield Services and Wilson Security. The purpose of the proposed protocol is to provide an improved operations interaction in response to incidents in the Centre. The AFP notes that the implementation of the draft protocol would not only enhance the current arrangements for managing critical events, but also provide more clarity and direction in the day-to-day roles and responsibilities of all stakeholders.



## Recommendations

**RECOMMENDATION 1:** The Department and the Nauruan Government take into account the personal safety and privacy of transferees when making decisions about facilities and infrastructure at the Centre.

**RECOMMENDATION 2:** Contract service providers review their guidelines relating to sexual harassment and sexual relationships to ensure that staff members understand what behaviour is acceptable in the context of a Centre with a diversity of cultures.

**RECOMMENDATION 3:** The Department give consideration to how it could support the Government of Nauru to enhance forensic services to investigate, record and prosecute incidents of sexual and other physical assault in the Centre.

**RECOMMENDATION 4:** Nauruan Government officials and the Department review and enhance the existing policy framework for identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the Centre. All staff members working at the Centre (Nauruan, Departmental and contract service provider) must understand the framework and their responsibilities under it.

**RECOMMENDATION 5:** The Department liaise with the Government of Nauru to ensure that child protection issues are reflected in the work currently being done on the Nauruan criminal code.

**RECOMMENDATION 6:** The Department and the contract service providers continue to work with the Nauruan Government to ensure that a robust child protection framework is developed.

**RECOMMENDATION 7:** All contract service providers review their existing policies in relation to social media to ensure that their staff members have a clear understanding of their obligations concerning its use.

**RECOMMENDATION 8:** The Department review contract provisions and other guidelines to ensure that the obligation on contract service providers to report any data loss is explicit.

**RECOMMENDATION 9:** Noting the current AFP investigation, the Department review its decision which required Save the Children to remove ten of its staff members from providing services in Nauru and in so doing consider the staff members individually. The review would include providing:

- a. Save the Children with the information the Department relied on; and
- b. the opportunity for Save the Children to address the allegations concerning its staff members.

In the event that the decision in relation to any of the ten Save the Children staff members is reversed, the Department make representations to the Government of Nauru about the Nauruan removal order and its consequences.

**RECOMMENDATION 10:** The Department ensure that Nauruan operation and management of the Centre is enhanced through a more joined-up approach between the Nauruan operations managers and the contract service providers.

**RECOMMENDATION 11:** Greater cooperation between the contract service providers be encouraged, including through the Department:

- a. ensuring that contract service provider staff members have a clear understanding of each other's roles and responsibilities;
- b. reviewing the range of meetings at the Centre to ensure that information is shared effectively; and
- c. taking a more proactive role to ensure that contract service providers are working cooperatively together and are responsive to each other.

**RECOMMENDATION 12:** The Department ensure that the relationship between Transfield Services/Wilson Security and the Nauruan Police Force becomes more structured and is based on cooperative and consistent interaction.

**RECOMMENDATION 13:** The Department consider the feasibility of assisting the Nauruan Police Force to increase its effectiveness through the appointment, on a limited term basis, of an AFP officer with executive authority.

**RECOMMENDATION 14:** The Nauruan Police Force have greater visibility in the Centre based on community policing and explore ways to include transferees and refugee settlers in community policing and law enforcement roles.

**RECOMMENDATION 15:** The Department ensure that there is a more joined-up approach between the Wilson Security intelligence unit and the Nauruan Police Force.

**RECOMMENDATION 16:** The Department work with the Nauruan Government to extend the Nauruan Police Force Community Liaison Officers Program to the Centre.

**RECOMMENDATION 17:** The Department and contract service providers review and enhance existing efforts to ensure that Nauruan staff members are treated with respect and that there is courteous regard shown for the Republic of Nauru. This requirement could be enhanced through:

- a. the induction programs for all non-Nauruan contract service provider staff members about Nauruan culture and Nauruan society be delivered by Nauruans;
- b. establishment of a framework to deliver positive messaging about Nauru;
- c. the Department taking the lead with its contract service providers to assist Nauruan authorities to continue to find ways to introduce transferees and Nauruans to each other's cultures and traditions.

**RECOMMENDATION 18:** The Department work with Nauruan authorities and contract service providers to develop new strategies and training programs to build the capacity of the contract service providers' Nauruan workforces.

**RECOMMENDATION 19:** The Department consider the draft protocol suggested by the AFP for protest and incident management to assess whether it adds value to existing emergency management plans.

### Terms of Reference

A number of allegations have been made recently regarding conditions and circumstances at the Regional Processing Centre in Nauru (also known as 'the Centre'). These allegations include issues relating to the conduct and behaviour of staff employed by contracted service providers, claims of sexual and other physical assault of transferees, the orchestration and facilitation of transferees to engage in non-compliant or harmful behaviour and protest actions potentially endangering the safety and security of all persons at the centre, and the misuse and unauthorised disclosure of sensitive and confidential information, including to undermine the proper management of the centre.

The purpose of this Review is to provide a complete and accurate account of the circumstances, to determine the substance (if any) of the allegations and to provide recommendations to relevant authorities to strengthen arrangements at the Regional Processing Centre in Nauru.

The Acting Secretary of the Department of Immigration and Border Protection has initiated a Review to investigate and report on the key issues, in particular:

- to determine exactly what the facts are;
- to ensure that those facts are available to any authorities for any action required as a result;
- to ensure that the department is provided with clear recommendations on any improvements that can be made to support the Republic of Nauru with the ongoing management of the Regional Processing Centre in Nauru.

Consistent with the Memorandum of Understanding between The Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru and related issues (dated 3 August 2013), the security, good order and management of the centre, including the care and welfare of persons residing in the centre, remain the responsibility of the sovereign Government of Nauru.

In relation to service providers, the scope of this Review is limited to an examination of those service providers and staff engaged by the Commonwealth of Australia for the purposes of providing services of any kind at the Regional Processing Centre in Nauru. Should it become apparent in the course of the Review that there is information of concern in relation to service providers engaged by the Republic of Nauru, this information will be provided to the Government of Nauru.

The Government of Nauru has indicated its full support for the Review. The Review will involve, but is not limited to, assessing:

- the accuracy of the allegations;
- the adequacy of arrangements identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the centre;
- the conduct and behaviour of service providers and their staff at the centre;

- the adequacy and secure management of information by service providers and their staff;
- the extent of any prior indicators or intelligence that would have assisted in the prevention of unsatisfactory professional conduct and/or professional misconduct by service providers and their staff;
- breaches of security, including information security;
- the clarity of roles and responsibilities, including the adequacy of training and supervision of service provider staff;
- the ability of service providers to appropriately and professionally manage protest and other activity within the centre;
- any other issues deemed necessary by the Secretary of the Department of Immigration and Border Protection.

Any material obtained by the Review that may be of assistance to relevant authorities in managing actual or possible criminal charges or activity will be made available to relevant authorities.

The Review may make recommendations to strengthen relevant arrangements relating to the provision of services at the centre, and the conduct of service providers and staff.

The Review is to commence immediately and report to the Secretary of the Department of Immigration and Border Protection by the end of the year, or other such dates as may be negotiated, with a progress report to be provided by approximately mid-November 2014.

## Background to the Review

- 1.1 On 25 September 2014, the then Minister announced the re-introduction of temporary protection visas to resolve the status of Illegal Maritime Arrivals in Australia who were found to invoke Australia's protection obligations. Transferees in Nauru would, however, remain subject to regional processing arrangements and would not be eligible for a temporary protection visa and resettlement in Australia. Protest activity by transferees at the Centre followed the Ministerial announcement.
- 1.2 In announcing the Review on 3 October 2014, the then Minister referred to recent serious allegations that had been made regarding sexual abuse of transferees. These allegations were reported in letters, which Senator Sarah Hanson-Young wrote to the then Minister on 26 September 2014 and 30 September 2014, and in media articles.
- 1.3 In correspondence dated 26 September 2014, Senator Hanson-Young referred to allegations that *"on occasions women have been forced to expose themselves to sexual exploitation in exchange for access to showers and other amenities"*. Senator Hanson-Young's letter also stated *"[t]here are further reports that access to cigarettes is being traded for sexual favours. I am extremely alarmed that the reports also involve children and young girls"*.<sup>1</sup>
- 1.4 In correspondence to the then Minister dated 30 September 2014, Senator Hanson-Young referred to more information coming to her attention in *"recent days"*. This additional information was:
- *I have heard from multiple sources that children as young as 8 years old have been involved in lip stitching and other forms of self-harm following the introduction of last week's legislation.*
  - *Accusations of a rape taking place inside the centre and a young female detainee being threatened with rape upon her resettlement in the Nauruan community.*
  - *Accusations that Nauruan guards have been trading marijuana with detainees in exchange for sexual favours.*
  - *Accusations that a guard previously employed at the centre forced children to engage in sexual activity in front of him and that this guard has since been removed from working inside the family camp.*<sup>2</sup>
- 1.5 Some of the allegations of sexual and other physical assault of transferees<sup>3</sup> which were reported in the media, mirrored those referred to in Senator Hanson-Young's correspondence to the then Minister. There were also some additional allegations reported in the media (see [Attachment A](#)).

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<sup>1</sup>L253 - Letter from Senator Hanson-Young, 26 September 2014

<sup>2</sup>L254 - Letter from Senator Hanson-Young, 30 September 2014

<sup>3</sup>The Review refers to asylum seekers at the Regional Processing Centre in Nauru as transferees.

- 1.6 At a media conference on 3 October 2014, the then Minister said that he had been provided with reports indicating that some contract service provider staff members at the Regional Processing Centre at Nauru (the Centre) had allegedly engaged in a broader campaign with external advocates to seek to cast doubt on the Government's border protection policies. This reporting included allegations of:
- orchestration and facilitation to engage in non-compliant or harmful behaviour and protest activities, including the tactical use of children in those protests;
  - coaching and encouragement of self-harm;
  - fabrication of allegations as part of a campaign to seek to undermine operations and support for the offshore processing policy of the government; and
  - misuse and unauthorised disclosure of sensitive and confidential information.
- 1.7 The then Minister advised that the Department of Immigration and Border Protection (the Department) had invoked a provision under the service provider contract to direct Save the Children Australia (Save the Children) to remove ten of its staff members from delivering services in Nauru. The Department gave this notice on 2 October 2014.
- 1.8 On 2 October 2014, the Department referred to the AFP material about incidents concerning the unauthorised disclosure of information by a specific Save the Children staff member. *The Daily Telegraph* reported that the AFP had been asked to investigate, under section 70 of the *Crimes Act 1914*, alleged misuse by staff members of Save the Children of privileged information.
- 1.9 The next day, 3 October 2014, Mr Simon Benson, reporting in *The Daily Telegraph* (and other News Limited publications), cited an intelligence report provided to the Department stating that some Save the Children staff members "had been involved in a propaganda campaign to 'manufacture' conditions to embarrass the Abbott government"<sup>4</sup>.
- 1.10 The intelligence report was subsequently identified as having been compiled and distributed by the Wilson Security intelligence unit, and entitled "*Save the Children Staff on Nauru*". The report was dated 30 September 2014 and has not been officially released.<sup>5</sup>

## Methodology

- 1.11 Following consideration of the Terms of Reference and the background information noted above, the Review identified two main aspects for investigation. They were:
- claims of sexual and other physical assault of transferees; and
  - conduct and behaviour of staff members employed by contract service providers.
- 1.12 The Review looked separately at these two aspects noting the links between them since some allegations of sexual and other physical assault relate to the conduct and behaviour of contract service provider staff members.

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<sup>4</sup> *Claims of abuse on island go overboard, The Daily Telegraph*, 3 October 2014

<sup>5</sup> R248 - 30.9.2014 - Transfield intelligence report - allegations regarding Save the Children

- 1.13 The second aspect to the Review includes the reported allegations of: orchestration and facilitation of transferees to engage in non-compliant or harmful behaviour and protest actions potentially endangering the safety and security of all persons at the Centre; and the misuse and unauthorised disclosure of sensitive and confidential information to undermine the proper management of the Centre.
- 1.14 The Review covered the period between July 2013 and October 2014, as well as incidents occurring and reported during the course of the Review.
- 1.15 At the Review's invitation, the following persons or organisations made one or more submissions:
- Save the Children;
  - Transfield Services and its sub-contractor Wilson Security;
  - the AFP;
  - International Health and Medical Services (IHMS) and its sub-contractor Overseas Services to Survivors of Torture and Trauma (OSSTT); and
  - Senator Hanson-Young.
- 1.16 In addition, the Review received a number of other submissions. For the most part, these submissions were not relevant to the Review's Terms of Reference.
- 1.17 The Review also requested and obtained documentation and other information from:
- the Nauruan Police Force;
  - the Department of Immigration and Border Protection;
  - Save the Children;
  - Transfield Services;
  - Wilson Security;
  - IHMS; and
  - Senator Hanson-Young.
- 1.18 The Review interviewed staff members from the Department, Save the Children (including nine of the ten staff members who were the subject of the removal notice), IHMS, Transfield Services and Wilson Security. These interviews took place in Australia and Nauru. The Review met with the relevant Nauruan Minister and government officials and with the AFP. The Review also interviewed transferees currently living in the Centre. In total, the Review conducted 114 interviews, with the majority being recorded and transcribed.
- 1.19 The Review received, and acknowledges, the co-operation of the Nauruan Government, Departmental officers, the AFP and the contract service providers and their staff members in responding to requests for documentation and other information. The Review also acknowledges the transferees who participated in interviews.
- 1.20 The Review considered previous reviews relating to regional processing and, in particular, the recommendations which those Reviews made.



## Visits to Nauru: 25 October – 1 November 2014 and 12 – 19 November 2014

- 1.21 The Review travelled twice to Nauru. During the second visit, a child protection practitioner from the Australian Capital Territory Community Services Directorate, [REDACTED], travelled with the Review team.
- 1.22 Before the first visit, transferees were told about the Review's Terms of Reference. The Review's first interaction with transferees was in group meetings, which were held by language group with interpreters present. At the group meetings, children were not present because the Review intended to deal separately with issues relating to minors. Nine group meetings were held in the Centre, with between five and ten transferees. All language groups were represented.
- 1.23 The Review spoke with transferees about the conduct and behaviour of contract service provider staff members at the Centre, allegations of sexual and other physical assault, orchestration and facilitation to engage in non-compliant or harmful behaviour and protest actions, coaching and encouragement of self-harm and misuse and unauthorised disclosure of sensitive and confidential information.
- 1.24 Generally speaking, transferees were prepared to discuss these topics. During the group meetings, some transferees asked to meet individually with the Review. Later, other persons came forward to request individual interviews. Due to the numbers, the Review team screened those requests for interview.
- 1.25 The Review received a strong response from the Iranian, Farsi speaking, cohort of transferees. The Review made every effort to ensure that it was available to all ethnic and language groups at the Centre.
- 1.26 At the Review's request, the Department distributed Centre feedback forms.<sup>6</sup> These forms gave transferees the opportunity to provide written information in their own language to the Review.
- 1.27 The feedback forms, which the Review received, helped the Review to identify transferees it might interview individually. The Review received 316 feedback forms during the first visit and 36 during the second visit. The Review interviewed 22 transferees as a result of receiving feedback forms.
- 1.28 The Review arranged translation, when necessary, of the feedback forms and identified the issues being raised. Issues not relevant to the Review were referred to the appropriate authorities.
- 1.29 During the second visit, the Review continued its interviews with individual transferees. Assisted by the child protection practitioner, the Review interviewed several minors who

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<sup>6</sup>Feedback forms are a proforma available at the Centre for transferees to make comment, raise a concern or lodge a complaint.

were 15 and 16 years of age. The Review also interviewed some parents of children<sup>7</sup> who were between five and eight years of age.

- 1.30 During the visits, the Review met with the Nauruan Minister for Justice, the Hon. David Adeang MP. The Review also met with senior Nauruan Government officials, including: the Secretary of the Nauruan Department of Justice and Border Control, Mr Lionel Aingimea; the Solicitor General, Mr Graham Leung; and the Director of the Nauruan Police Force, Commissioner Corey Caleb.
- 1.31 The Review also met the Australian High Commissioner, His Excellency Martin Quinn, and the Senior Adviser to the Nauruan Police Force, AFP Superintendent [REDACTED].

#### **Referral to the relevant authorities**

- 1.32 The Terms of Reference require the Review to provide any material obtained that may be of assistance in managing actual or possible criminal charges or activity to the relevant authorities. The Review took the approach of providing the Department with such material as soon as practicable so that the Department could refer it to the relevant authorities.
- 1.33 On 25 November 2014, the Review provided the Department with information concerning allegations that four local staff members—identified by first name only (and not conclusively), and two unidentified, local staff members—had acted inappropriately in relation to minors. The alleged conduct came to light when five minors told the Review that various security staff members had: offered them marijuana; offered them marijuana in return for sexual favours; committed an assault; offered to obtain items in return for sexual favours; and been on duty while under the influence of alcohol. The minors provided this information on the condition their identities not be revealed. They said to the Review that they had not told their families about the alleged incidents.
- 1.34 On 27 November 2014, the Review team forwarded to the Department a number of feedback forms. These feedback forms raised issues relating to threats of self-harm or other vulnerability concerning individual transferees. Other issues raised in the feedback forms, not directly related to the Terms of Reference, such as requests for medical attention or concerns about living conditions, were also referred to the Department for follow-up with the relevant contract service provider.
- 1.35 On 10 December 2014, the Review provided the Department with information concerning another ten allegations which the Review considered needed to be brought to the attention of contract service providers at the Centre or the Nauruan Police Force. Of the ten allegations, two related to children. Five allegations involved possible sexual misconduct by contract service provider staff members: one allegation was a physical assault by a named contract service provider staff member; and two allegations related to possible criminal activity within the Centre.

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<sup>7</sup>The Review refers to any transferee less than 18 years of age as a child or as a minor.

- 1.36 Also on 10 December 2014, the Review provided the Department with some limited information which the Review had obtained on the misuse and unauthorised disclosure of sensitive and confidential information. The Review suggested that the Department pass this information to the AFP. Following consultation with the Secretary of the Department and the AFP, the Review decided to curtail its focus on this aspect of the Terms of Reference in order to avoid possible duplication of investigative effort and interference with an AFP investigation. This topic is mentioned again later in this report.
- 1.37 On 15 December 2014, the Review provided the Department with information for referral to the relevant authorities about the unauthorised disclosure of a sensitive Wilson Security intelligence document.
- 1.38 The Review did not obtain any other information which it considered needed to be referred. However, the Review did ask the Nauruan Police Force about the progress of an investigation into the alleged rape of a transferee. This matter is discussed later in this report.

### Brief history of the Nauru Regional Processing Centre

- 2.1 On 13 August 2012, the Australian Government announced that asylum seekers who had arrived illegally in Australia on or after 13 August 2012 would be transferred to a regional country where their claims for asylum would be processed. Transferees determined as having refugee status could apply for settlement in Australia.
- 2.2 The Australian Government and the Government of Nauru signed a Memorandum of Understanding (MOU) on 29 August 2012 to establish a regional processing centre (RPC). The transfer of asylum seekers to Nauru commenced on 13 September 2012.
- 2.3 The policy changed on 19 July 2013, when the Australian Government announced a new Regional Resettlement Arrangement with Papua New Guinea, and then with Nauru. Consequently, all illegal arrivals in Australia would be transferred to a RPC. Transferees determined as refugees could not apply for settlement in Australia.
- 2.4 On 3 August 2013, the Australian Government and the Government of Nauru signed another MOU. The MOU is entitled *Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the Transfer to and Assessment of Persons in Nauru, and Related Issues*.
- 2.5 The MOU expanded the previous offshore processing arrangements to include the settlement in Nauru of transferees who were determined as having refugee status.
- 2.6 In support of the MOU, administrative arrangements were signed on 11 April 2014. These arrangements provided guidance for the transfer of asylum seekers to Nauru, management of the Centre and refugee status determination.
- 2.7 The Centre has facilities and services for transferees who are single adult males or single adult females, transferees with family members or transferee couples without children. As of 30 September 2014, there were no unaccompanied minors in the Centre. Nearly all of them had been determined as having refugee status and are living in the Nauruan community. Two minors whose refugee status is yet to be determined, also moved into the Nauruan community. In Nauru, unaccompanied minors are under the guardianship of the Nauruan Minister for Justice.
- 2.8 The Centre consists of three separate areas at different locations known as RPC 1, RPC 2 and RPC 3. RPC 1 provides staff accommodation, facilities (administration, medical and education) and short-term supported accommodation for transferees. RPC 2 accommodates single adult males and RPC 3 accommodates families, single women and couples without children.
- 2.9 The accommodation and some other facilities in both RPC 2 and RPC 3 consist of vinyl 10 x 12 metre canvas marquees. In RPC 2, each marquee can accommodate 40 transferees in

dormitory style configuration with bunk beds. In RPC 3, each marquee has the capacity for up to 22 transferees depending on the needs of family groups. Marquees for families with children under 4 years of age are fitted with air-conditioning and hand washing facilities.

- 2.10 Since the Centre was established, various transferee protests have occurred. These protests have usually coincided with significant Australian Government policy announcements. On 19 July 2013, protest activity turned into a riot. As a result, many of the buildings and other infrastructure at RPC 1 at that time, were destroyed. The extent of the loss was estimated to be over \$60 million. As a consequence, the Centre was rebuilt and RPC 2 and RPC 3 were constructed for their present purposes.
- 2.11 The events of 19 July 2013 provide relevant background in relation to the response to subsequent protests at the Centre.

#### **Management of the Centre**

- 2.12 The Centre is a Nauruan facility and refugee status termination is a Nauruan function. The Secretary of the Nauruan Department of Justice and Border Control, with the support of the Department, and its contract service providers, is responsible for the operation and management of the Centre in accordance with the MOU.
- 2.13 Under the administrative arrangements, the Government of Nauru has appointed three Nauruan operations managers. These managers are responsible for RPC 1, RPC 2 and RPC 3 respectively and are assisted by Nauruan deputy managers. They are located at their respective RPCs.
- 2.14 The Department currently has 20 identified positions in Nauru. The senior Departmental position for all matters relating to the Centre is the Assistant Secretary, Nauru Operations. This position was established in September 2014 and reflects the need for a senior Departmental person to engage with the Government of Nauru and contract service providers in the day-to-day running of the Centre.
- 2.15 At the Centre, there are a number of contract service providers (contracted to the Department) and their sub-contractors. They include:
- Transfield Services;
  - Wilson Security (sub-contracted to Transfield Services);
  - International Health and Medical Services (IHMS);
  - Save the Children Australia;
  - Overseas Services to Survivors of Torture and Trauma (OSSTT) (sub-contracted to IHMS);
  - Canstruct (which provides construction services).
- 2.16 There are also other contract service providers. For example, to meet its threshold of local staff employment, Wilson Security subcontracts to local security providers, Sterling Security and Protective Security Services.

- 2.17 Transfield Services provides support services, known as garrison services, relating to the Centre's operation, which includes escort and security services provided by Wilson Security. IHMS provides medical services (general practitioners, psychiatrists and psychologists and mental health nurses) and torture and trauma counselling (through OSSTT).
- 2.18 Transfield Services provides welfare services for the single adult males accommodated in RPC 2. Save the Children provides welfare and educational services for single adult females, families, children and couples without children in RPC 3. Transfield Services is not responsible for providing any welfare services in RPC 3.
- 2.19 Transfield Services and Wilson Security are required to engage specific minimum levels of local Nauruan personnel and sub-contractors. Their contracts mandate them to use local service providers and staff members as far as possible in all main service areas including security.
- 2.20 Information about incidents at the Centre is communicated through incident reports, information reports and a formal complaints process.
- 2.21 Contract service provider staff members who have witnessed, or become aware of an event (classified as minor, major or critical) are required to submit an incident report in writing. Such reports may be oral in the first instance. Reports must be made within a prescribed time frame. Transfield Services told the Review that all stakeholders, including the Government of Nauru, may receive major and critical incident reports as relevant to the incident that has occurred.
- 2.22 Contract service provider staff members must prepare an information report about a situation or issue which may be of interest and/or require follow up action, but does not necessarily involve a specific incident. Information reports are referred to relevant stakeholders.
- 2.23 There is a complaints process through which transferees can raise any concern. The aim is to achieve early resolution. Complaints are received by the welfare service provider (Transfield Services in RPC 2 and Save the Children in RPC 3) who refer them to the relevant contract service provider for investigation and response. In the case of complaints about contract service provider staff members, the complaint must be referred to the Department for it to refer and/or investigate.

**PART 3: SEXUAL AND OTHER PHYSICAL ASSAULT**

- 3.1 The “recent allegations” mentioned in the Review’s Terms of Reference originated either in the media or from Senator Hanson-Young’s correspondence to the then Minister. In some cases, what was reported was the same or similar. A number of themes emerged, namely:
- sexual exploitation in exchange for access to showers and other amenities;
  - rape and threats of rape;
  - trading of cigarettes and marijuana for sexual favours;
  - indecent assault and sexual harassment;
  - physical assault of transferees by service provider staff;
  - lip stitching and self-harm by minors; and
  - assault of minors.

**Sexual exploitation in exchange for access to showers and other amenities**

- 3.2 The Review notes that when there have been water shortages in Nauru, the water supply in the Centre has been restricted. The water supply has since been upgraded in the Centre.
- 3.3 On 26 September 2014, Save the Children staff members, [REDACTED] and [REDACTED]<sup>8</sup> were asked by [REDACTED] to sit with the transferee who was visibly upset. According to the information report, which [REDACTED] and [REDACTED] made on 28 September 2014, the transferee “talked about several situations, some from Christmas Island and some from RPC 3.” The transferee told them that she had asked for a longer shower, to which the “male security person” agreed on the condition he could “...view a boy or a girl having a shower”.<sup>9</sup>
- 3.4 On 29 September 2014, the transferee repeated her allegation to Save the Children staff members, [REDACTED] and [REDACTED]<sup>10</sup>. In the information report submitted by [REDACTED] and [REDACTED], there was no mention of the request to see a child having a shower. That information report says:

*During a discussion yesterday (29/9/2014) with [REDACTED] she disclosed that she asked a Nauruan Wilson Security guard if she could have 2 minutes extra in the shower to wash her [child’s] hair. The guard replied that for her to have this request, she would have to show him her naked body”.<sup>11</sup>*

- 3.5 On 2 October 2014, two Wilson Security investigators interviewed the transferee. According to the Wilson Security investigation report, the transferee stated that “about four months ago, whilst she was in the female shower block, a local Nauruan male security guard turned off the water. She had not completed her showering and asked for more time. The guard

<sup>8</sup> [REDACTED] and [REDACTED] were among the ten Save the Children staff members who were identified in October 2014 to be removed from delivering services in Nauru.

<sup>9</sup> R2949 - 28.9.2014 - Save the Children Information Report re [REDACTED]

<sup>10</sup> [REDACTED] and [REDACTED] were also among the ten Save the Children staff members.

<sup>11</sup> R2943 - 29.9.2014 - Save the Children Information Report re [REDACTED]

allegedly said to her in reply 'Show me your body and I'll give you more time'. The transferee did not comply with this request."<sup>12</sup>

3.6 On 2 October 2014, Wilson Security investigators obtained a signed witness statement from [REDACTED]. In that document, [REDACTED] stated that the transferee had told [REDACTED] "The two minutes showers are not enough. We requested for four minute showers but the security guard said on one condition that if could see your kid's naked body". [REDACTED] also stated that the transferee had told [REDACTED] that, on 25 September 2014, she (the transferee) had telephoned Senator Hanson-Young about her concerns.<sup>13</sup>

3.7 The Review interviewed the transferee and also the Save the Children staff members who had submitted the incident reports.

3.8 In her interview with the Review, the transferee described the incident. The transferee said that she could not identify the contract service provider staff member and did not say that the security guard has asked to see a child showering. She told the Review that:

*I was dressed. My [REDACTED] was in the shower by [REDACTED]. So, [REDACTED] had put the shampoo in [REDACTED] hair and once the two minutes was up, [REDACTED] hadn't washed out the shampoo and it was burning [REDACTED] eyes. So, I went to the officer and I said, 'Is it possible for you to turn the shower on so [REDACTED] can wash the shampoo out of [REDACTED] hair? It's stinging [REDACTED] eyes.' And he said that, 'If you want me to turn it on for another two minutes, just take off your clothes, show me your body and then I will turn that on for you'.<sup>14</sup>*

3.9 The Review interviewed the Save the Children staff members who submitted the information reports ([REDACTED]). [REDACTED] told the Review that the transferee had recounted, "[t]here had been times where she was wanted to wash her [REDACTED] hair or have two extra minutes in the shower for herself and a guard had said to her that to do that she had to show her body to him, her naked body to him".<sup>15</sup>

3.10 [REDACTED] told the Review:

*[The transferee] was talking about this phone call she made to Sarah Hanson-Young. She then told me what the main thing that she was talking to Sarah Hanson-Young about, and that was that she had requested a four-minute shower instead of a two-minute shower. She asked a security guard this. She said he granted that request upon condition that he be allowed to view a boy or girl having a shower. And it's at that point, because children were involved, that I felt very uneasy. I knew that as a*

<sup>12</sup> R2942 - 2.10.2014 - Investigation Progress Report re [REDACTED], at p.2

<sup>13</sup> S3013 - 2.10.2014 - Statement by [REDACTED], at pp.2-3



*duty of care I had to report that. Doesn't mean I agreed with it. It doesn't mean it was an allegation. It means I have to report that, or I'm going to lose my job ...*<sup>16</sup>

- 3.11 [REDACTED] – she wanted to have extra two minutes to wash her hair, and she said the guard said if you want extra two minutes then we want to watch you have a shower naked”.<sup>17</sup>
- 3.12 According to the Wilson Security investigation report dated 2 October 2014, the Nauruan Police Force was notified.<sup>18</sup> Transfield Services also informed the Review that Wilson Security had referred a series of allegations, which this female transferee had made, including the specific instance of alleged sexual exploitation in exchange for a longer shower, to the Nauruan Police Force.
- 3.13 In group interviews, transferees told the Review about similar incidents occurring regularly when female transferees (adults and children) were in the showers. None of the accounts relayed in the group interviews was first-hand and there were few specific details. Transferees in some of the group interviews told the Review that this form of sexual exploitation had been a “regular occurrence from the beginning”, although no specific details were provided.
- 3.14 The Review was unable to obtain any specific or first-hand information or find any incident or information reports or complaints or to otherwise substantiate the allegations related to the previous paragraph.

## Rape and threats of rape

### Rape

- 3.15 The Review is aware of two specific allegations of rape of two adult female transferees occurring at the Centre. One allegation had already been reported to the Nauruan Police Force. The other allegation, according to the transferee concerned, was made only to the Review and involved a contract service provider staff member.

### Allegation 1

- 3.16 The first allegation involved a female adult transferee ([REDACTED]). In an incident report dated 24 August 2014, the transferee alleged to a Transfield Services [REDACTED] roximately one month before, she was raped by [REDACTED]. The incident report recorded the transferee as saying that the rape had occurred in her tent and she named the person of interest ([REDACTED]). The incident report stated that the victim wanted to keep the

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<sup>18</sup>The referral to the Nauruan Police Force in relation to [REDACTED]

[REDACTED] related to a series of allegations [REDACTED]

matter quiet for fear of retaliation from other transferees and had asked for the matter not to be referred to the police.<sup>19</sup>

- 3.17 Subsequently, [REDACTED], the transferee changed her mind and asked for the police to investigate.
- 3.18 Transfield Services told the Review (on 30 October 2014), that, in accordance with the requirements of the Centre's guidelines and rules, Wilson Security informed the relevant agencies, including the Nauruan Police Force. The Director (Commissioner) of Nauruan Police Force then referred the allegation to the Domestic Violence Unit for investigation. Nauruan Police Force officers interviewed the transferee a few days later.
- 3.19 On [REDACTED], the Nauruan Government granted refugee status to the alleged perpetrator and he was settled in the Nauruan community. On [REDACTED], the Nauruan Police Force informed the transferee that there was insufficient evidence to make an arrest. On 15 October 2014, the Nauruan Police Force advised Wilson Security of its recommendation to the Prosecutions Office that the case be closed.
- 3.20 The Review team interviewed the transferee on [REDACTED]. [REDACTED], the Nauruan Police Force reconsidered the case and reopened it. On [REDACTED], the Nauruan Police Force re-interviewed the alleged victim. The Nauruan Police Force investigation continues.
- 3.21 The Review notes that, although the transferee had reported the incident almost a month after it happened, Wilson Security and the Nauruan Police Force had commenced an investigation in a timely manner.
- 3.22 The Review also notes that the female adult transferee has access to psychological support from IHMS and is not pregnant as was reported in the media.<sup>20</sup>
- 3.23 This case appears to be the one referred to in *The Canberra Times* article, "Asylum seeker alleges she was raped twice in family compound in Nauru".<sup>21</sup> The Review notes that the female transferee has alleged one instance of rape.
- 3.24 As to *The Canberra Times*, article which reported that the Department immediately gave the alleged perpetrator a visa as a cover-up, the Review could obtain no information to substantiate that claim.

#### *Allegation 2*

- 3.25 The second allegation was made to the Review on [REDACTED]. A female transferee alleged that in [REDACTED] she was raped by a contract service provider staff member. For cultural and family reasons, she had not reported the rape previously.

<sup>19</sup> [REDACTED]

<sup>20</sup> Female asylum seeker allegedly fell pregnant after being raped on Nauru, *The Guardian*, 28 November 2014

<sup>21</sup> Asylum Seeker alleged she was raped in family compound in Nauru, *The Canberra Times*, 28 November 2014

[REDACTED]

3.26 The transferee requested that the Review not reveal her identity or refer the matter to the relevant authorities.

*Threat of rape*

3.27 As to the threat of rape, the Review was provided with information about two incidents.

3.28 The first incident was mentioned in *The Guardian* on 13 August 2014. *The Guardian* reported that an anonymous submission by Save the Children staff members to the Australian Human Rights Commission (AHRC) *National Inquiry into Children in Immigration Detention* had highlighted the case of a young female at risk of a “serious sexual assault” after “several adult males were overheard making plans” to attack her. The article said that the transferee was moved, with her family from RPC 3, to different housing, but was then moved back within a “few weeks”.<sup>22</sup>

3.29 The Review was unable to find any information that directly related to what had been reported. Through contract service provider documentation, the Review became aware of an allegation that a group of transferees had threatened to rape a mother and/or [REDACTED] child.<sup>23</sup> The transferee and her family were granted refugee status on [REDACTED]. In the light of this information, the Review did not pursue the matter further.

3.30 The second incident was reported to the Review on 10 November 2014 by Senator Hanson-Young’s office. A female transferee ([REDACTED]) had made contact to allege that she had received an anonymous letter threatening her with gang-rape. This transferee had spoken with the Review [REDACTED]

3.31 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] The transferee told the Review that she had destroyed the piece of paper. When asked whether she had made a complaint, the transferee said “So I’m done with

<sup>22</sup> “Child asylum seekers’ rights on Nauru ‘systematically violated’, inquiry told.” *The Guardian*, 13 August 2014

<sup>23</sup> E2800 - 21.11.2014 - Additional information from Transfield Services

*putting in complaints because I think that they're useless. (...) And I know that whatever I say might be held against me, or make my case more complicated".<sup>24</sup>*

- 3.32 As to allegation, which Senator Hanson-Young reported, about a "young female detainee being threatened with rape upon her resettlement in Nauru", the Review obtained no information which substantiated this claim.

### Indecent assault and sexual harassment

#### *IHMS staff members*

- 3.33 Female transferees told the Review about two allegations involving indecent assault by IHMS employees.

█ [REDACTED]

█ [REDACTED]

- 3.36 On 10 December 2014, the Review referred this allegation to the Department with a recommendation that the matter be investigated.

█ The second allegation [REDACTED]

- 3.38 The alleged incident occurred on [REDACTED]. The transferee made a complaint on [REDACTED] which Wilson Security investigated. The matter was then referred to the Nauruan Police Force on 13 October 2014 for investigation. The complaint was also referred to IHMS.<sup>26</sup>

- 3.39 [REDACTED], told the Review that [REDACTED] had spoken with the transferee who could not identify [REDACTED].<sup>27</sup> The Review interviewed the transferee, but no additional information came to light.

█ [REDACTED]

3.40 This incident was reported in *The Saturday Paper* on 15 November 2014 under the headline, *Fear and abuse: the Nauru letters*.<sup>28</sup> The transferee had written to the newspaper about the alleged incident. The Review obtained a copy of the letter from both the transferee and from [REDACTED] of the Asylum Seeker Resource Centre.

*Wilson Security staff members*

3.41 The same article in *The Saturday Paper* (mentioned above) reported another allegation which involved locally engaged contract service provider staff members employed by Wilson Security. *The Saturday Paper* reported having received a written account from a transferee. The Review was also given a copy of the letter by the transferee and [REDACTED]

3.42 The allegation was that, on [REDACTED], while waiting for the Centre shuttle bus, two female transferees were subjected to indecent exposure and lewd gestures by a Wilson Security staff member.

3.43 The Review interviewed the two female transferees, ([REDACTED]) who claimed they had made a written complaint on the evening of the incident. When they did not receive a response, a Save the Children case manager submitted a second complaint on their behalf, about two months later.<sup>29</sup> A Wilson Security behavioural team investigated the second complaint. The investigators showed the transferees photographs of Wilson Security staff members. The transferees told the Review that there was no photograph of any of the Wilson Security staff members concerned among them.

3.44 Wilson Security decided that there was not enough information to pursue the matter further. Although Wilson Security had no record of the first complaint, the Transfield Services complaints logbook showed that a complaint was received on 14 August 2014.<sup>30</sup>

3.45 On 10 December 2014, the Review provided this information to the Department with a recommendation that Transfield Services review the matter.

3.46 In a [REDACTED] interview, a transferee who did not want to be identified, alleged that [REDACTED] made sexual comments to her. [REDACTED]  
[REDACTED] He also allegedly started touching her. The transferee added "*I haven't reported because incidents like this happen very frequently.*"<sup>31</sup>

3.47 On 10 December 2014, the Review provided this information to the Department with a recommendation that Transfield Services review the matter.

<sup>28</sup> *Fear and abuse: the Nauru letters, The Saturday Paper*, 15 November 2014

<sup>30</sup> S2946 - 24.10.2014 - Copy of Appendix 1 - Summary of Allegations – Transfield Services

3.48 On 30 September 2014, Save the Children staff members, [REDACTED] and [REDACTED], submitted an information report. In that report, the Save the Children staff members stated that a female transferee ([REDACTED]) had told them a contract service provider staff member had requested the female transferee's friend join him and his partner in a sexual relationship once she is residing in the Nauruan community.<sup>32</sup>

3.49 In response, Wilson Security investigated and produced a report dated 2 October 2014. The report noted:

*Whilst she was with her friend ([REDACTED]), they were approached by two Nauruan security guards [REDACTED]*

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>33</sup>

3.50 On [REDACTED], Wilson Security investigators also spoke to the female transferee concerned, who stated: "I was on my own and two Nauruan guards [REDACTED]"

[REDACTED]  
[REDACTED]<sup>34</sup>

3.51 On [REDACTED], the Review interviewed the female transferee ([REDACTED]) mentioned in the paragraph above. She stated:

*So the topic of conversation was about an improper sexual proposition made by the Nauruan officers. [REDACTED]*

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>35</sup>

3.52 The Wilson Security investigation report stated that this matter, together with other matters, had been referred to the Nauruan Police Force.<sup>36</sup> The Review notes this referral was recorded in a Transfield Services schedule, dated 13 November 2014.

3.53 An information report, which a Save the Children staff member, made on 31 October 2014, recorded a female transferee ([REDACTED]) as stating that [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

<sup>35</sup> R2942 - 2.10.2014 - Investigation Progress Report re [REDACTED], at p.2

[REDACTED]  
<sup>36</sup> The referral to the Nauruan Police Force related to a series of allegations [REDACTED]

[REDACTED]  
[REDACTED] she was left alone with [same] security guard...who made further sexual advances towards her.<sup>37</sup>

3.54 Wilson Security referred the matter to the Nauruan Police Force. This referral is also confirmed by a schedule, dated 13 November 2014, which Transfield Services provided to the Review.

3.55 On [REDACTED], a female transferee ( [REDACTED] ) told the Review that:

*There is a...[female] Wilson Security officer, that when women exit the shower, she touches them or offers them or requests sexual favours. Some of the girls have complained about this situation. The way that she has expressed her wishes, they have complained about her.<sup>38</sup>*

3.56 The Review was unable to locate any incident or information reports, complaints or other details from any other source, about this allegation.

3.57 Some female transferees told the Review about other requests from Nauruans employed by contract service providers to form relationships once the transferees had settled in the Nauruan community. These transferees said that they regarded these requests as sexual harassment.

3.58 On [REDACTED], a female transferee, together with another female transferee ( [REDACTED] ), told the Review team that:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Once you come out into the community, we can get together'.<sup>39</sup>

3.59 The transferees provided the Review with the first name of the contract service provider staff member. On 10 December 2014, the Review referred this allegation to the Department for investigation.

3.60 On [REDACTED], Save the Children staff member, [REDACTED] [REDACTED]<sup>40</sup>, told the Review that a female transferee said she didn't feel safe in the camp. According to [REDACTED], he said that "it started when the authorities said about clients going into the community, and ever since then the attitude of the Nauruan security officers has changed, the Nauruan security officers approaching clients and saying things like it'd be nice when you go out we can meet and have a relationship, come and sit on my lap, and are talking to them as though they plan or are thinking that the women will be available to them or to anybody

<sup>37</sup> [REDACTED]  
[REDACTED] - (followed by T117), at p.9

<sup>40</sup> [REDACTED] is one of the 10 Save the Children staff members

when they get into the community on Nauru".<sup>41</sup> There was no information available to the Review to substantiate this particular disclosure, although a number of female transferees made comments in similar terms and expressed apprehension about their personal safety.

3.61 On [REDACTED], a female transferee, who does not want her identity to be revealed, alleged that a Wilson Security staff member, [REDACTED], had a sexual interest in her, [REDACTED]

3.62 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>42</sup>

3.63 On 10 December 2014, the Review referred this matter to the Department with a recommendation that Wilson Security assesses this allegation with a view to investigating it.

3.64 When in Nauru, the Review received other accounts of alleged sexual harassment. These accounts were generally not reported and did not result in any information that could be referred for investigation.

3.65 A female adult transferee ( [REDACTED] ) told the Review on [REDACTED], that a guard had allegedly offered to give her friend chewing gum and a lollypop if she allowed him to see her naked.<sup>43</sup>

3.66 On [REDACTED], two female transferees ( [REDACTED] ) recounted separately that a Nauruan driver and his assistant turned the vehicle's headlights off, drove slowly and propositioned them with an offer of cigarettes and chewing gum.<sup>44</sup>

**Trading of cigarettes and marijuana for sexual favours**

3.67 Reports of allegations concerning "access to cigarettes being traded for sexual favours" and "Nauruan guards ...trading marijuana with detainees in exchange for sexual favours" were considered by the Review.

3.68 According to a Transfield Services schedule, three transferees ( ) n [REDACTED] complaints on [REDACTED] about an alleged trade of cigarettes and marijuana for sexual favours. Transfield Services and Wilson Security advised the Review that these matters had been referred to the Nauruan Police Force.

[REDACTED]



## Cigarettes

- 3.69 The Review spoke with transferees about the trade in cigarettes for sexual favours. The transferees were able to provide only limited information and the incidents reported possibly happened some time ago when cigarettes were prohibited in the Centre. The Review heard that, due to a change in Centre rules, cigarettes are now freely available to transferees. The Review was told that trade in cigarettes occurs because transferees can obtain them more cheaply than Nauruans. As a result, some transferees use cigarettes as a commodity in exchange for other items and for sale outside the Centre.
- 3.70 On [REDACTED], the Review interviewed a female transferee ( [REDACTED] ) who stated that *"[For] one year they've been addicted to this drug [marijuana]. Before, they used to say that because they couldn't obtain cigarettes, they used to tell them, "Take off your clothes so we can touch you, and then we will give you the cigarettes."*<sup>45</sup>
- 3.71 In response to a question, which the Review asked, about how long this situation had existed, the transferee replied: *"About four months ago for the marijuana cases, but about 11 months ago about the cigarettes cases (...)."*<sup>46</sup>
- 3.72 On [REDACTED], the Review spoke with a group of [REDACTED] transferees. One transferee said that *"one of my friends told them that we need cigarettes and the Nauruan officer said, 'Tell your friend to take her clothes off and I will provide the cigarettes.' That guy [REDACTED] - entered my room at night time and he kissed me on the lips and he threw the cigarettes at me"*<sup>47</sup>.

## Marijuana

- 3.73 As to marijuana, the Review was unable to obtain many specific details. Information which transferees provided to the Review, and Wilson Security intelligence reporting, indicated that there is a trade in marijuana in the Centre and that sexual favours being exchanged for marijuana is possibly occurring.
- 3.74 A transferee ( [REDACTED] ) told the Review:
- Because they [some transferees] are suffering great depression here, and they feel relieved when they smoke the marijuana. The officers have made them addicted for their own reasons, but they feel more at peace by smoking the marijuana. Because the women do not get paid here, so what they need to obtain, they only have to offer sexual-- fulfil the requests of the men.*<sup>48</sup>

[REDACTED]



- 3.81 The Review notes the findings of [REDACTED] that “...a number of female Asylum Seekers ... participate in providing sexual favours for personal gain” and that “There have been no reports or complaints in relation to females being coerced or harassed in this, however a certain amount of cultural coercion may be present and should not be dismissed as a possibility”.<sup>53</sup>
- 3.82 The Review also notes that the activity on which [REDACTED] focused was reported as being between transferees. Yet [REDACTED] told the Review that Wilson Security was aware of allegations that some contract service provider staff members may have been involved, but nothing could be substantiated.
- 3.83 The Review understands that some engagement with the Nauruan Police Force in relation to [REDACTED] has occurred.

**Physical assault of transferees by contract service provider staff members**

- 3.84 Two specific incidents of physical assault of adult transferees by contract service provider staff members were brought to the Review’s attention.
- 3.85 In relation to the first incident, a female transferee ( [REDACTED] ) alleged that an assault took place in [REDACTED] or [REDACTED]. The incident was described in terms of a [REDACTED] Wilson Security [REDACTED] members entering a marquee and the transferee’s friend yelling “they are killing me”.
- 3.86 While trying to reach her friend, the transferee alleged that a Wilson Security staff member, [REDACTED] pushed, kicked and punched her. [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]
- 3.88 According to the transferee, Wilson Security did not take her complaint [REDACTED] seriously, or act on her request for a police investigation. [REDACTED]  
[REDACTED]<sup>54</sup>
- 3.89 On 10 December 2014, the Review provided this information to the Department with a recommendation that Transfield Services investigate the handling of this incident. Transfield Services has advised the Review that it is reviewing this matter.
- 3.90 A second physical assault allegation was brought to the attention of the Review. The incident involved a male transferee [REDACTED]  
[REDACTED]  
[REDACTED]

<sup>53</sup> [REDACTED] -Finalisation Brief, Transfield Services, 19 October 2014  
[REDACTED]



involving minors.

3.98 On [REDACTED], an alleged sexual assault of a male minor by a contract service provider staff member was reported.<sup>60</sup> ([REDACTED]). The victim and his family did not want to press charges because they were satisfied with the actions taken by Wilson Security and the Nauruan Police Force.<sup>61</sup> The locally engaged staff member was dismissed. This incident was reported in *The Guardian* on Friday, 6 June 2014 with a headline, "Nauru cleaner sexually assaulted asylum seeker boy."<sup>62</sup>

3.99 On [REDACTED], a Wilson Security staff member reported the alleged sexual assault of a male minor ([REDACTED]) by two male adult transferees. The staff member identified the alleged offenders ([REDACTED]). As a precaution, the alleged offenders, were relocated [REDACTED] pending further investigation.<sup>63</sup>

3.100 On [REDACTED], the victim of the above alleged incident told Wilson Security, in the presence of a Save the Children staff member, that another male minor ([REDACTED]) had been allegedly sexually assaulted by a male adult transferee.<sup>64</sup> The victim was identified by photograph, as was the alleged perpetrator ([REDACTED]). As a precaution, the alleged offender was relocated [REDACTED].

3.101 The Review was advised that the above matters were referred to the Nauruan Police Force.

3.102 On [REDACTED], during a consultation with IHMS, a [REDACTED] minor ([REDACTED]) alleged [REDACTED] that was sexually assaulted by an older male minor.<sup>65</sup> Transfield Services advised the Review that the matter had been referred to the Nauru Police Force. [REDACTED]  
[REDACTED]

3.103 On [REDACTED], a female minor told the Review about the alleged rape of a female minor by a Nauruan contract service provider staff member.

*One of my underage friends has been raped, not for marijuana or not in exchange for anything. She's been raped but she's not [disclosing]. She doesn't want to come and talk about it because she's so afraid that her parents will find out. Her nationality is [REDACTED].*<sup>66</sup>

3.104 The minor indicated that she had spoken with the alleged victim of the assault.  
[REDACTED]  
[REDACTED]

<sup>60</sup> R1264 - 19.11.2013 - [REDACTED] - Incident report

<sup>61</sup> Ibid.

<sup>62</sup> *Nauru cleaner 'sexually assaulted' asylum seeker boy*, *The Guardian*, 6 June 2014

<sup>63</sup> R1380 - 6.2.2014 - SitRep #4 - Cat 2 - Nauru OPC - Allegation of Sexual Assault

<sup>64</sup> Ibid.

<sup>65</sup> R2531 - 28.10.2014 - Sitrep [REDACTED] SexualAssault12.10.2014

<sup>66</sup> [REDACTED]

- 3.105 Given the alleged victim's reported reluctance to come forward, the Review did not investigate or refer this allegation.
- 3.106 In a feedback form, a transferee ( [REDACTED] ) alleged that a Nauruan security officer had inappropriately touched his three-year-old [REDACTED] 9 January 2015, the Review provided this allegation to the Department with the recommendation that Transfield Services/Wilson Security assess this information and pass it to the Nauruan Police Force.<sup>68</sup>

*Sexual harassment of minors*

- 3.107 The Review became aware of two cases of alleged sexual harassment of minors by contract service provider staff members. Both cases have been formally reported.
- 3.108 On 20 March 2014, a locally engaged security staff member allegedly sexually harassed a female minor ( [REDACTED] ).<sup>69</sup>
- 3.109 On [REDACTED], two female minor transferees, ( [REDACTED] ) one of whom was the alleged victim of the above [REDACTED] incident, reported to a Save the Children staff member that an unknown locally engaged security staff member had sexually harassed them.<sup>70</sup> The two minors were not able to identify the alleged perpetrator and separately told Wilson Security that they did not wish to make a complaint. One of the alleged victims advised Wilson Security that she did not know why the Save the Children staff member had submitted the report.<sup>71</sup>
- 3.110 In addition, transferees told the Review of three further instances of alleged sexual harassment and assault of minors by contract service provider staff members. These allegations involved:
- a named Wilson Security staff member ( [REDACTED] ) who, while on duty, was under the influence of alcohol and sexually harassed a minor;
  - an unnamed Wilson Security staff member who attempted to sexually assault a minor ( [REDACTED] ); and
  - a named Wilson Security staff member ( [REDACTED] ) who asked a minor ( [REDACTED] ) for sexual favours.
- 3.111 The Review provided these three allegations to the Department with a recommendation that they be investigated.

<sup>69</sup> R2661 - Nauru Sexual Assault Sitreps

<sup>70</sup> E2375 - 24.10.2014 - Response from Transfield re Request for Information

<sup>71</sup> Ibid.

*Sexualised behaviour of minors*

3.112 In her correspondence to the then Minister, Senator Hanson-Young reported the allegation that *“a guard previously employed at the Centre forced children to engage in sexual activity in front of him and that this guard has since been removed from working inside the family camp”*<sup>72</sup>. The Review did not obtain any information to support this claim.

3.113 The Review became aware of several cases of inappropriate sexual behaviour by minors.

- On [REDACTED], it was alleged that an older male minor ( [REDACTED] ) was engaged in a consensual sexual relationship with a young adult female transferee.<sup>73</sup>
- Three cases involved minors engaging in sexual acts with one another. On [REDACTED], two female transferees reported sexual acts between two unidentified male minors.<sup>74</sup>
- On [REDACTED], a female minor reportedly asked other minors to engage in a sexual manner.<sup>75</sup>
- On [REDACTED], a female transferee reported to a Save the Children staff member that minors were engaged in inappropriate sexual behaviour towards each other.<sup>76</sup>
- On [REDACTED], a minor ( [REDACTED] ) was reportedly exhibiting sexualised behaviour.<sup>77</sup>

3.114 One of these incidents was brought to the attention of the Review. In [REDACTED] 2014, [REDACTED] female transferees ( [REDACTED] ) told a Transfield Services [REDACTED] [REDACTED] and a Save the Children staff member that four male minors (aged from 10 to 13 years) had engaged in sexualised behaviour [REDACTED]. The Save the Children staff member submitted a written incident report which identified the witnesses and the [REDACTED]. The Save the Children staff member subsequently told a Save the Children colleague that Wilson Security had not followed up the matter. The colleague informed the Review about the reported lack of follow-up.<sup>78</sup>

3.115 When the Review asked about the incident, Transfield Services advised that a report had been compiled (on 3 May 2014), one of the children ( [REDACTED] ) had been placed on continual observation and the matter referred to Save the Children. Transfield Services advised also that *“we do not have any information to suggest that any Wilson Security officers witnessed the behaviour and allowed it to continue or were involved in the identification of the asylum seekers”*.<sup>79</sup>

3.116 Since it is unclear what follow-up did occur, the Review recommended to the Department, in

<sup>72</sup> L254 - Letter from Senator Hanson-Young, 30 September 2014

<sup>73</sup> R2999 - Attachment to E2998 - allegations of assault by transferee including [REDACTED], at p.2 and p20

<sup>74</sup> E2800 - 21.11.2014 - Additional information from Transfield

<sup>75</sup> R2357 - 16.10.2014 - Wilson report - Allegations of Sexual Assault [REDACTED], at item 1

<sup>76</sup> E2844 - 1.12.2014 - Follow up questions for Wilson Security re 30 September Intel Report

<sup>77</sup> R2094 - 8.10.2014 - Annex 1a to Transfield Analysis of Support Documentation - Save the Children reporting

<sup>78</sup> R2951 - 30.4.2014 - Save the Children Information Report re minors [REDACTED]

<sup>79</sup> S2911 - 3.12.2014 - Submission to Mr Moss - Transfield Services - intelligence management plan

a letter dated 10 December 2014, that Transfield Services review the investigation to ensure that all necessary action is/has been taken.

- 3.117 This incident was one of the cases referred to in the anonymous submission made by current and former Save the Children staff members to the AHRC Inquiry and also reported by *The Guardian* on 13 August 2014.<sup>80</sup>
- 3.118 The issue of sexualised behaviour was raised several times with the Review. While not within the Terms of Reference, the Review notes the reports about the sexualised behaviour of some children in the Centre.
- 3.119 The Review notes that, despite the welfare and education programs designed to assist and support individuals and families, sexualised behaviours in children have reportedly occurred at the Centre. When observed, these behaviours are reported and contract service provider staff members are available to respond with professional intervention.

#### *Physical assault of minors*

- 3.120 The Review became aware of a number of incidents of alleged physical assault of minors by contract service provider staff members. Two of these cases were brought to the attention of the Review.
- 3.121 On [REDACTED], a [REDACTED]-year old boy, ([REDACTED]), reportedly threw a rock at a Wilson Security staff member who allegedly chased the child, caught him by the hair and dragged him along the ground. Save the Children staff member, [REDACTED] [REDACTED]<sup>81</sup>, who had been told the details from the child's parents, reported the incident to the Review.<sup>82</sup>
- 3.122 On [REDACTED], the Review interviewed the boy's father, ([REDACTED]), who confirmed the incident. The father said that he made a complaint and had heard nothing back. According to the father, the child was "so traumatised by the incident that he has nightmares and is terrified of security staff".<sup>83</sup>
- 3.123 Wilson Security investigated the incident. According to a Transfield Services schedule, dated 24 October 2014, the investigation resulted in the matter being resolved and closed.<sup>84</sup> Yet the father told the Review that he has not been contacted regarding the outcome.
- 3.124 On 10 December 2014, the Review provided this information to the Department, with a recommendation that the matter be reviewed, a response provided to the family and an assessment made of the child for any treatment he may need.
- 3.125 This incident was referred to in an article in *The Guardian* on 24 April 2014 with the headline

<sup>80</sup>"Child asylum seekers' rights on Nauru 'systematically violated', inquiry told", *The Guardian*, 13 August 2014

<sup>81</sup>[REDACTED] was among the ten Save the Children staff members.

S2952 - 5.11.2014 - Statement by [REDACTED], Save the Children, further to [REDACTED], at p.1

<sup>84</sup>S2946 - 24.10.2014 - Copy of appendix 1 - Summary of allegations - Transfield Services



*"Nauru guards accused of assaulting children in detention camp".<sup>85</sup>*

- 3.126 In the same article, *The Guardian* also referred to an incident on 27 March 2014, when a Save the Children staff member saw a Wilson Security staff member chasing a female minor in the recreation area inside the Centre and *"hit her on the back of the head"*.
- 3.127 Two Save the Children staff members made a complaint alleging that they had witnessed a contract service provider staff member assault a four-year old female minor ( [REDACTED] ) by hitting her on the back of the head and causing her to fall.<sup>86</sup> When the matter was referred to the Nauruan Police Force, the alleged victim and her father were unable to provide any information or confirm injuries.
- 3.128 The Review interviewed the father who raised various concerns about the psychological welfare of his children (not just the child concerned), but did not mention this incident.<sup>87</sup>
- 3.129 An allegation of attempted assault was also reported in the submission by current and former Save the Children staff members to the AHRC Inquiry and reported in *The Guardian*. *The Guardian* reported that, in March 2014, a group of school children were subjected to an *"attempted assault"* by a Centre bus driver.<sup>88</sup>
- 3.130 The Review interviewed a female minor ( [REDACTED] ) who said that this incident occurred around March 2014 while one of her friends was in the bus.<sup>89</sup>
- 3.131 According to this account and other reporting of the incident, the bus driver was taking a busload of school-aged children from RPC 1 to RPC 3. Upset by the noise they were making, the bus driver pulled the bus over, took a wooden cricket bat which he pointed at a 16 year-old minor. The bus driver reportedly said: *"Get off the bus. Could you shut up, how many times do I have to tell you to shut up?"* The bus driver was replaced with another driver.<sup>90</sup>
- 3.132 A 16-year-old minor ( [REDACTED] ) described how, in October 2014, during a dispute on the soccer pitch, Wilson Security staff members ( [REDACTED] ) wrestled him and his friend to the ground. The minor sustained bruising on his back that he showed to the Review team. He said that this kind of treatment occurs on a regular basis. *"...because it happens very often, that whenever there is an incident or an argument or the situation is out of control, this is the treatment that we get".<sup>91</sup>*

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<sup>85</sup> *Nauru guards accused of assaulting children in detention camp, The Guardian, 24 April 2014*  
[REDACTED]

<sup>88</sup> *"Child asylum seekers' rights on Nauru 'systematically violated', inquiry told", The Guardian, 13 August 2014*  
[REDACTED]

<sup>90</sup> R2963 - 2.0 Review of incident reports, information, at p.1  
[REDACTED]

3.133 The minor made a complaint, but withdrew it when Wilson Security came to investigate. When the Review asked why he withdrew the complaint, he responded “*nothing happens and we do not trust them*”.<sup>92</sup>

### Conclusions

3.134 The Review cannot be sure that it has become aware of every incident of sexual and other physical assault. For family and cultural reasons, some incidents are not reported. Yet, as has been observed by a contract service provider staff member, information usually flows freely about incidents and situations in the Centre.

### *Allegations of rape*

3.135 The Review became aware of three allegations of rape (two female adults and one female minor), one which the Nauruan Police Force is investigating and two which the victims do not want to pursue by making a complaint. These allegations are concerning. They are also concerning because two of the victims do not feel able to bring forward these allegations to the relevant authorities.

### *Indecent assault, sexual harassment and physical assault*

3.136 The Review was also made aware of allegations of indecent assault, sexual harassment and physical assault occurring in the Centre. A proper response is required at all times. Allegations should be investigated by the relevant authorities. In many cases, it will be the Nauruan Police Force. As noted already, the Review has made available to the Department any material it has obtained.

3.137 In relation to the allegations of sexual harassment, the Review notes that transferees have reported certain behaviours, for instance, physical contact while greeting or comments like “you are beautiful”, as misconduct or threatening behaviour. Transferees reported to the Review that these behaviours are not culturally acceptable or appropriate. As such, contract service provider staff members should be adequately trained to conduct themselves having regard to acceptable standards of behaviour and to the cultural expectations and perceptions of transferees.

### *Sexual exploitation*

3.138 In relation to the allegation “*on occasions women have been forced to expose them to sexual exploitation in exchange for access to showers and other facilities*”, the Review concludes that this allegation is likely to be based on one incident which the transferee related to four Save the Children staff members who all reported it in accordance with Centre guidelines. Separately, the transferee also reported the incident to Senator Hanson-Young.

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<sup>92</sup>ibid

### *Trading of cigarettes and marijuana for sexual favours*

- 3.139 In relation to the allegation concerning cigarettes and marijuana, the Review concludes that *“access to cigarettes being traded for sexual favours”* appears to relate to a time when cigarettes were not openly available in the Centre. The Review was unable to obtain any specific information to substantiate this allegation.
- 3.140 In relation to the allegation *“Nauruan guards have been trading marijuana with detainees in exchange for sexual favours”*, the Review concludes that this activity is possibly occurring. The Review was unable to obtain many specific details because transferees were not prepared to provide them. The details obtained about transferees, who allegedly deal in marijuana, have been provided to the Department for referral to the appropriate authorities.

### *Personal safety and privacy of transferees*

- 3.141 The Review concludes that many transferees are apprehensive about their personal safety and have concerns about their privacy at the Centre. These concerns were raised repeatedly with the Review both in interviews and in the feedback forms. Some transferees expressed their apprehension about other transferees and some expressed concerns about contract service provider staff members. Several married couple transferees raised concerns about their privacy. The apprehension about personal safety and the concern about privacy arises from high density accommodation in mostly non-air-conditioned, soft walled marquees in a tropical climate.
- 3.142 The following examples were provided to the Review in relation to apprehension about personal safety and concerns about privacy and contract service provider staff members:
- *One night I was going back to my room. I went to the bathroom and on the way back, I noticed that one of the Nauruan officers was standing right in front of our tent. He called me and he summoned me to just get closer to him and it was absolutely clear that he was even drunk or on drugs because he could not keep his balance properly.<sup>93</sup> Then he suddenly grabbed my arm and he said, “You are so sexy and you’re so beautiful.” Then I was so petrified that I just pulled my arm and I ran into my tent. Then ever since, whenever he sees me he addresses me as Sexy Lady.<sup>94</sup>*
  - *During the day, it was so hot in the tent that we were almost naked. We just had our underwear. I was lying on the bed studying some English, and there was a blue curtain that I had tucked under the fans to secure it, but after some time I noticed that someone was looking at me and watching me. I noticed that the curtain was drawn and two of the officers were looking at me and watching me.<sup>95</sup>*

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<sup>93</sup> The Review understands that water bottles are no longer able to be brought into the Centre in order to prevent alcohol being available within the Centre.



- *Sometimes they [Nauruan guards] stay over a bit longer, to just look at the girls and put us through more misery.<sup>96</sup>*

- 3.143 The Review concludes that the supervision of contract service provider staff members particularly at RPC 3 needs to focus on the personal safety and privacy of transferees.
- 3.144 The Review notes that some transferees had difficulty in identifying contract service provider staff members and suggests that clearer identification would be appropriate.
- 3.145 Ensuring the transferees are, and feel, safe is important. It requires consideration of such factors as infrastructure, policing and staffing. Policing and staffing are discussed later in the Report.
- 3.146 The Terms of Reference do not require specific consideration of the Centre's facilities and infrastructure. However, the Review considers that all decisions about facilities and infrastructure should be made with the personal safety and privacy of transferees as a prime consideration. The Review encourages the Government of Nauru and the Department to ensure these considerations are part of any decision-making.
- 3.147 The Review notes the significant personal safety and privacy issues that marquee accommodation presents.

*...the parts of the tent were open at night. I always had suspicions that someone from at the back of the fences is watching my room. Until last night I came and I was taking my clothes off, and the light was on and they were watching me from outside. And then when I turned the light off and went to bed, I felt like something has been caught in the fan. I thought that it might be some sort of insect or something. Someone was using a stick to kind of part the tent and I hanged my towel there, but they we're trying to move the towel and move the tent so they could see inside.<sup>97</sup>*

- 3.148 Transferee couples reported that the lack of privacy was affecting their relationships.

*We've been married for [redacted] years and I don't feel right to tell you that but we've been living together for [redacted] years back in [redacted]. We had a lot of hard time, but we had a good relationship with other. Since this incident happened [redacted], we don't feel safe here anymore and since that incident happened, we really didn't have a relationship with each other, like a husband and wife, because my wife is really scared.<sup>98</sup>*

- 3.149 The Review notes that lack of privacy may be a factor in the sexualised behaviour of some children in the Centre through observing adult sexual activity.
- 3.150 The Review encourages the Government of Nauru and the Department to consider any alternative accommodation options.

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[redacted]

- 3.151 Adequate lighting and the use of CCTV may also enhance the personal safety and privacy of transferees. The Review encourages the Government of Nauru and the Department to consider both these measures as part of its infrastructure planning.
- 3.152 The personal safety and privacy of transferees will need due consideration as the Centre transitions to an open centre model in early 2015.

**RECOMMENDATION 1:** The Department and the Nauruan Government take into account the personal safety and privacy of transferees when making decisions about facilities and infrastructure at the Centre.

- 3.153 The Review notes that there is nothing explicit in the service provider contracts or guidelines relating to sexual harassment. The Review notes also that there must be no ambiguity in the minds of transferees or contract service provider staff members that any sexual contact between a contract service provider staff member and a transferee will lead to disciplinary action against the staff member concerned.
- 3.154 The Department has issued a guideline to all contract service providers and their staff members that deals with the issue of relationships with transferees. Relevantly, the guideline states *“All service provider staff must maintain professionalism in all dealings with transferees and remain aware of the limits or boundaries of their relationships. Economic, personal or sexual relationships between service provider staff and a transferee are unacceptable. This applies to both current and former transferees.”*<sup>99</sup>
- 3.155 The Department advised the Review that when allegations or evidence of inappropriate relationships have emerged contract service providers have acted and in cases, when an inappropriate relationship has been proven, the staff member involved has been dismissed. The contract service providers also have their own corporate code of conduct, site rules and guidelines.<sup>100</sup>
- 3.156 Transferees must also understand that sexual harassment by contract service provider staff members is not acceptable. They should understand that, when such behaviour is reported, the Department and contract service providers will take appropriate action. A clear understanding amongst transferees may assist to address any issues of lack of confidence in dealing with complaints and under-reporting. The Review suggests that the Nauruan operations managers, the Department and contract service providers review the information provided to transferees about sexual harassment.

<sup>99</sup> P3012 - 11.6.2013 - RPC Guidelines - Service Provider Staff Relationships with Transferees

<sup>100</sup> E3011 - 31.12.2014 - [REDACTED] to [REDACTED] - Guidelines re Service Provider staff relationships with transferees

**RECOMMENDATION 2:** Contract service providers review their guidelines relating to sexual harassment and sexual relationships to ensure that staff members understand what behaviour is acceptable in the context of a Centre with a diversity of cultures.

#### *Reporting and complaints*

- 3.157 Some incidents of sexual and other physical assault of transferees have been formally reported and others, disclosed just to the Review, had not been formally reported. The Review concludes that there is a level of under-reporting by transferees of sexual and other physical assault.
- 3.158 This under-reporting is generally for family and cultural reasons. Some transferees told the Review that they were also concerned that raising such complaints could have a negative impact on the resolution of their asylum claims. In some cases, transferees told the Review that they had not reported particular incidents because they had lost confidence that anything would be done about their complaints.
- 3.159 Both transferees and some contract service provider staff members raised concerns about the complaints process. Many transferees commented to the Review that they receive little feedback about complaints. This situation contributes to a lack of confidence in the complaints process.
- 3.160 Despite this reported lack of confidence, the Review concludes that, when formal reports or complaints have been made, contract service providers, in the most part, have acted appropriately in dealing with them and have, when required, referred matters to the Nauruan Police Force. In some instances, the lack of timeliness in reporting and referral or inadequate and inconsistent information have hampered the ability of contract service providers and/or the Nauruan Police Force to investigate. This situation is particularly true in relation to allegations relating to sexual assault.
- 3.161 The Review considers that community policing of the Centre is a missing element. Introducing it would enhance the present arrangements. This enhancement would also help to address the doubt raised in a number of instances, which the Review has referred to the Department, about the ability of Wilson Security to investigate its own staff members. This report deals later with the topic of community policing.

#### *Dealing with sexual and other physical assault*

- 3.162 The Review is aware that the Nauruan authorities have a limited capacity to investigate, record and prosecute incidents of sexual and other physical assault in the Centre and in Nauru.
- 3.163 In its submission to the Review, IHMS suggested that improvements could be made to enhance forensic services to investigate, record and prosecute incidents of sexual assault at the Centre and in Nauru. This suggestion includes the availability of sexual assault kits and trained forensic personnel and arrangements to preserve continuity of evidence. These

services are presently outside the scope of the Republic of Nauru Hospital, IHMS and the Nauruan Police Force. The Review supports IHMS's suggestion.

- 3.164 The November 2013 *Force Protection Review* recommended "Ongoing assistance to Government of Nauru on the review of the Nauruan Criminal Code 1921".<sup>101</sup> The Department advised the Review that this work has commenced and that the Australian Attorney-General's Department is providing assistance to the Government of Nauru. Offences against the person including assault and sexual offences form part of the review of the Nauruan Criminal Code.
- 3.165 The Review concludes that any support that the Department can give Nauru to improve its ability to deal with sexual and other physical assault would be of significant benefit to transferees.

**RECOMMENDATION 3:** The Department give consideration to how it could support the Government of Nauru to enhance forensic services to investigate, record and prosecute incidents of sexual and other physical assault in the Centre.

- 3.166 The Review is aware that each of the contract service providers has processes and procedures to manage complaints and report on incidents. What is not evident to the Review is the joined-up approach needed among contract service providers to ensure that allegations of sexual and other physical assaults can be dealt with in the most effective way possible.
- 3.167 In his review into allegations of sexual assault at the Manus Regional Processing Centre, Mr Robert Cornall made the following recommendation:

*The Department should establish a clear and well understood policy for dealing with any future allegations of sexual assault at the Manus RPC (which takes account of the best interests of the victim and the Papua and New Guinea criminal law) and appropriate operational procedures to implement that policy (including preventive strategies and staff training).*<sup>102</sup>

- 3.168 The Review supports this recommendation as it applies to the Centre.

**RECOMMENDATION 4:** Nauruan Government officials and the Department review and enhance the existing policy framework for identifying, reporting, responding to, mitigating and preventing incidents of sexual and other physical assault at the Centre. All staff members working at the Centre (Nauruan, Departmental and contract service provider) must understand the framework and their responsibilities under it.

<sup>101</sup> OR2961 - Force Protection Review Recommendation Table, Recommendation 11 at p.3

<sup>102</sup> OR2957 - 30.9.2013 - Cornall Report 1 - Manus RPC Sexual and other serious Assaults, Recommendation 2 at p.7

*Fabrication of allegations by transferees*

- 3.169 The Review became aware of a claim that some allegations of abuse had been fabricated or exaggerated. The claim was that some female transferees were overheard discussing strategies to discredit contract service provider staff members. The reported intention was to present Nauru as being unsafe for female transferees. The Review was unable to obtain any additional information about this claim.
- 3.170 There were claims that cameras had been smuggled into the Centre and that security staff members were being "set up" to fabricate evidence that would be provided to the Review.<sup>103</sup> The Review did not receive any photographs from transferees or obtain any information about cameras being brought into the Centre. The Review became aware of at least one camera in RPC3.
- 3.171 On 28 September 2014, the Wilson Security Intelligence Unit in Brisbane issued a Security intelligence report entitled "*Protests at NRPC*". It rated the information as F6 (Reliability cannot be judged: Truth cannot be judged). The intelligence report related to transferee protest action at RPC 3. Amongst other things, this intelligence report concluded that asylum seekers would attempt to embarrass staff members with accusations of cultural insensitivity, force changes in staff posture by having individuals removed from their post, bring children to the front of any situation to slow staff reactions, and make accusations of sexual misconduct by staff.<sup>104</sup>
- 3.172 The Review cannot discount the possibility that some claims made by transferees may have been fabricated or exaggerated. The transferees interviewed were generally credible and their accounts convincing. The Review cannot establish the veracity of the allegations. For this reason, the Review provided information about some reported incidents to the Department for referral to the relevant authorities for further investigation.
- 3.173 Despite the large number of interviews conducted and the feedback forms received, the Review notes that some of the most serious allegations emanate from a relatively small number of female transferees. The Review makes this note for completeness and draws no conclusion from it. Establishing the truth of each individual allegation is a matter for the relevant authorities. As has been noted, many transferees are apprehensive about their personal safety and have concerns about their privacy.
- 3.174 The Review also notes that some transferees, [REDACTED], were identified by Operation Aranda as being involved in "trafficking of contraband and illicit sexual activity". While the Review does not discount their accounts based solely that basis, it is noted as adding to the complexity of the situation. An example is [REDACTED]

<sup>103</sup> R248 - 30.9.2014 - Transfield intelligence report, *Allegations regarding SCA*, at p.2

<sup>104</sup> R2109 - 8.10.2014 - Annex M to Transfield Analysis of Support Documentation - SYINT Protests at NRPC



[REDACTED]  
[REDACTED] The transferee was unable to provide any specific details and a promised written account was never provided to the Review.<sup>105</sup> As such, the Review was unable to investigate this allegation any further.

- 3.175 In some cases, when claims cannot be substantiated, the intention behind the complaint may not be malicious. The Review became aware that some of the alleged victims have experienced elsewhere torture, trauma and sexual abuse which may make them susceptible to reliving past trauma through current events. Such events could otherwise be commonplace, but may trigger suppressed memories or cause hyper-vigilance. These factors may lead to distortion of facts or denial of actual abuse.
- 3.176 The Review found no information to support any suggestion that transferees, in particular minors, were being coached by any contract service provider staff members to make false allegations. This issue is discussed in greater detail in Part 4.

#### *Child protection*

- 3.177 The protection of minors in the Centre is of the highest importance and priority. An article in *The Guardian* "Nauru detention: serious health risks to children revealed in confidential report", published on 30 May 2014, quoted from a report produced by five independent clinical experts:

*There is no clear child protection framework for children inside the centre and it is unclear what child protection checks are undertaken for Nauruan staff. This, according to the report, "places them [asylum seeker children] at significant risk of sexual abuse."<sup>106</sup>*

- 3.178 When asked to comment on the child protection framework at the Centre, the Department provided the following response:

*The Department does not agree that there is no clear child protection framework at the Nauru Offshore Processing Centre (OPC). Service providers contracted to provide specialised services for children at the Nauru OPC – delivered by Save the Children Australia (SCA) – are responsible for child protection and welfare. SCA has established a range of processes and policies at the OPC in relation to child protection matters. SCA employs officers with child protection and child safeguarding responsibilities who provide care management services to meet the welfare needs of children. SCA has also developed an overarching Child Safeguarding Protocol and Code of Conduct, aimed to provide a child safe environment at all times at the OPC.*

*In addition, when a specific incident occurs, all relevant stakeholders are involved where required and/or appropriate, including Nauruan Government officials, police, staff and other service providers - particularly medical professionals – to ensure an*

<sup>106</sup> [REDACTED] Nauru detention: serious health risks to children revealed in confidential report, *The Guardian*, 30 May 2014

*integrated, multi-disciplinary approach is taken. Specific details or allegations of abuse (sexual, physical, emotional or neglect) or exploitation against children at the Nauru OPC are also referred to the Government of Nauru, the police, the Department and the relevant service provider(s) as a matter of urgency.*<sup>107</sup>

- 3.179 Children at risk assessments were recommended by the Force Protection Review in November 2013<sup>108</sup>. Following the recommendation, the Department amended the contracts to require all contract service provider staff members to complete a working with children awareness program aimed at improving understanding of risks, abuse indicators and what actions to take.
- 3.180 While the Government of Nauru does not have legislation requiring pre-employment screening, such as working with children checks (as Australian State/Territory jurisdictions do), the Save the Children *Child Safeguarding Protocol* and *Code of Conduct* are aimed at all staff members and contract service providers. These documents operate as part of the Centre's guidelines to reduce the risk of harm to children
- 3.181 The Protocol is followed by all contract service providers and the Code and the Child Safe Incident Reporting Process must be signed by all contract service provider staff members.
- 3.182 As noted previously, the Government of Nauru is revising its criminal code with the assistance of the Australian Attorney-General's Department. The Review recommends that the Department liaise with the Government of Nauru to ensure that child protection issues are reflected in the work being done on the Nauruan criminal code.

**RECOMMENDATION 5:** The Department liaise with the Government of Nauru to ensure that child protection issues are reflected in the work currently being done on the Nauruan criminal code.

- 3.183 A concern was raised with the Review that some contract service provider staff members involved in dealing with children are not appropriately trained and, as such, professional boundaries were sometimes blurred.<sup>109</sup>
- 3.184 IHMS expressed its concern to the Review about the ability to implement immediate action to remove minor transferees from harm.<sup>110</sup> [REDACTED]

<sup>107</sup> E3004-19.12.2014- [REDACTED] - information on child protection – DIBP (Department of Immigration and Border Protection). The Review notes the terms offshore processing centre (OPC) and regional processing centre (RPC) are used interchangeably by Departmental staff

<sup>108</sup> OR2961 - Force Protection Review Recommendation Table, Recommendation 12 at p.4

<sup>109</sup> This was raised, for example, in the interview with [REDACTED] of Save the Children ([REDACTED])

- 3.185 Despite the protocols already in place at the Centre, the Review notes the absence of a specific child protection framework or mandatory reporting requirement of all abuse allegations involving minors under Nauruan law. As such, the Review notes that, once the avenues in the Centre have been exhausted, issues involving child protection may not be escalated or actioned appropriately or in a timely manner and that there is limited expertise to conduct investigations into child protection issues. The Review also notes that the absence of relevant protections under Nauruan law is not a criticism of Save the Children. Save the Children provides support to all stakeholders including the Nauruan government in relation to child protection matters.
- 3.186 The Review further notes the Department's view that the child protection arrangements in place at the Centre are appropriate for the circumstances and context under the auspices of Save the Children, recognising that there are very limited resources available outside the Centre to support a different approach.
- 3.187 The Review further notes that, in November 2014, the Government of Nauru appointed an adviser to its Domestic Violence Taskforce. The Domestic Violence Taskforce also has access to the expertise of a psychologist and a lawyer. Collaboration which is occurring between Save the Children, IHMS and the Domestic Violence Taskforce will assist in dealing with cases of children at risk, not only at the Centre, but also for the time when transferees settle in the Nauruan community as refugees. The Review welcomes this recent development.
- 3.188 The Review acknowledges that the Government of Nauru, the Department, and the contract service providers are committed to ensuring the safety of the children in the Centre. The Department advises that its newly-formed Child Protection Section has been established to develop *"child safe cultures and build best practice approaches to the prevention of child abuse ... and has recently commenced training for departmental officials on child-centred practice and child protection, including to staff being deployed to the Nauru OPC"*.<sup>111</sup> The Review acknowledges the measures that have already been put in place.

**RECOMMENDATION 6:** The Department and the contract service providers continue to work with the Nauruan Government to ensure that a robust child protection framework is developed.

<sup>111</sup> E3004 - 19.12.2014 - [REDACTED] to [REDACTED] - information on child protection - DIBP

## PART 4: CONDUCT AND BEHAVIOUR OF CONTRACT SERVICE PROVIDER STAFF MEMBERS

4.1 The Terms of Reference require the Review to consider recent allegations regarding the conduct and behaviour of staff members employed by contract service providers. The Review has identified the following as the main issues:

- orchestration and facilitation of protest activity;
- coaching and encouragement of self-harm;
- fabrication of allegations;
- misuse and unauthorised disclosure of sensitive and confidential information;
- other conduct and behaviour issues; and
- removal of ten Save the Children Australia employees from Nauru.

4.2 The Review deals with each of these issues separately.

### Orchestration and facilitation of protest activity

July 2014

- 4.3 Some Save the Children staff members were reported to be encouraging protest activity and/or failing to comply with the instructions of the security personnel during a protest on 28 and 29 July 2014 in RPC 3.
- 4.4 A confidential source report, which Wilson Security produced on 29 July 2014, documented the encouragement and non-compliance. The following day, on 30 July 2014, a Ministerial Submission noted that *“a number of Save the Children staff were observed to be engaging with or encouraging protesting transferees”*.<sup>112</sup>
- 4.5 On 31 July 2014, the Department directed Save the Children to remove five staff members from delivering services because they had engaged in improper conduct during the protest. The five Save the Children staff members ceased normal duties that day, yet remained in Nauru.
- 4.6 In response, Save the Children suggested that the allegations be dismissed. Save the Children noted that Wilson Security had recommended an investigation prior to any action being taken concerning the staff members.<sup>113</sup>
- 4.7 An investigation, which Wilson Security, Save the Children and the Department conducted, concluded that there was insufficient evidence in relation to the allegations of improper conduct. As a result, the five Save the Children staff members resumed their normal duties.
- 4.8 The Department told the Review that it was not satisfied with the investigation and noted, on 6 August 2014, that *“while there remains some ambiguity in relation to what may have actually transpired; there is insufficient evidence to substantiate the allegations of improper*

<sup>112</sup> B316 - 30.7.2014 - Signed Ministerial Submission regarding Nauru protests on 28 and 29 July 2014, at p.3

<sup>113</sup> S2675 - 25.10.2014 - Submission from Save the Children

conduct".<sup>114</sup> The Department also told the Review that, in its view, the need to maintain the highest standards of conduct and behaviour had been reinforced.

- 4.9 Save the Children noted that *"the view at the time was that there had been an overreaction to an unsubstantiated, unconfirmed report."*<sup>115</sup>

#### *September/October 2014*

- 4.10 Following the Ministerial announcement on 25 September 2014, the Wilson Security intelligence unit reported four separate protest actions, one on 25 September 2014, one on 26 September 2014 (with refugee settlers in Nauru also protesting) and two on 27 September 2014. The intelligence reporting referred to a series of self-harm related events which had taken place. The reporting also referred to the protests being supported from Australia by refugee advocacy groups and further referred to refugee advocates attempting to coordinate protest activities in Nauru between transferees and refugees settlers in Nauru.<sup>116</sup>
- 4.11 A report prepared by the Wilson Security intelligence unit on 28 September 2014 noted that *"[information] about the build up to last night's protest was Twittered from a number of sources and included information about 'academic staff on Nauru who work with AS [asylum seekers] confirm 7 suicide attempts' and 'Save the Children staff evacuated and 100 riot police in attendance' – this confirms the likelihood of operational information being leaked to advocacy groups and news media as well as the probable source of the leaks"*.
- 4.12 The report also noted that *"[i]t is considered likely that refugee advocates are engaged with asylum seekers, and refugees, to manufacture a situation where 'evidence' can be obtained of the unsuitability of Nauru for processing and resettlement to pursue a political and ideological agenda in Australia regarding TPVs [temporary protection visa] and regional resettlement arrangements" and further notes that "[i]n the light of the ... external influence, it is considered probable that there will be 'scripted' step changes, agreed with external elements, in the current situation as it develops and plays out over the initial four day period"*.<sup>117</sup>
- 4.13 On 29 September 2014, the Wilson Security intelligence unit reported that some Save the Children staff members had possibly facilitated the distribution and collection in RPC 3 of a petition against offshore processing. It was also reported that Save the Children staff members would take the petition to Australia and deliver it to an external entity. It was further reported that some Save the Children staff members had facilitated the provision of cameras to asylum seekers to document the protest activity.

<sup>114</sup> E2928 - 6.8.2014 - ██████████ (DIBP) to ██████████ (Save the Children) - Lessons Learnt from SCA 5

<sup>115</sup> S2764 - 25.10.2014 - Save the Children submission

<sup>116</sup> R3016 - 28.9.2014 - Information report re current protest activity on Nauru - Wilson Security, at pp.1, 3

<sup>117</sup> "Overview of Asylum Seeker and Refugee Intentions and Outlook of Current Protest Activity on Nauru". Wilson Security, 28 September 2014

- 4.14 On 30 September 2014, the Wilson Security intelligence unit prepared a report entitled *"Save the Children staff on Nauru"*. This report, based on information [REDACTED] and previous reports (from July 2014 until 30 September 2014), made the assessment that there was a concerted effort on the part of asylum seekers and refugees assisted by advocacy and human rights groups in Australia to bring adverse attention to the processing of asylum seekers and the resettlement of refugees in Nauru. The report also made the assessment that allegations would be made concerning the misconduct of contract service provider staff members engaged at the Centre. According to the report, it was probable that Save the Children staff members were engaged in this effort in a facilitative role.
- 4.15 The 30 September 2014 intelligence report considered it *"probable that advocates and some service providers are engaged with asylum seekers and refugees to manufacture situations where 'evidence' can be obtained of the unsuitability of Nauru for processing and resettlement"*<sup>118</sup>.
- 4.16 Documents annexed to the 30 September 2014 intelligence report included:
- a newspaper article from *The Australian* dated 11 July 2014 entitled *"Advocates coaching asylum-seekers to self-harm for political reasons"*.<sup>119</sup> In the article, a former employee of the Department, Mr Greg Lake, referred to his belief that transferees were being encouraged to self-harm by advocates;
  - an anonymous submission by Save the Children staff members to the Australian Human Rights Commission (AHRC) (undated);
  - an ABC news article about the Save the Children staff members' AHRC submission;
  - an intelligence report dated 2 August 2014 entitled *"Leak of NRPC Restricted Data to Australian Media"* on the publishing of the complaints register;
  - an intelligence report dated 24 August 2014 entitled *"Imminent Potential for Save the Children Staff to Create Negative Media Coverage"*;
  - a SBS News article dated 4 September 2014 entitled *"Concern over data breach at Nauru Immigration centre"*; and
  - an email from the Department's Program Coordinator to the Wilson Security intelligence unit that referenced, in paragraph six, official material from the Centre being disseminated.
- 4.17 The Review spoke with a number of transferees about their protest actions, specifically about orchestration and facilitation. The transferees claimed that they did not receive assistance in organising protest activity.

*... nobody has actually encouraged us, or provoked us into doing anything. It is just an instant reaction to the news that we've been getting from the people, regarding self-harm or anything else, but nobody has encouraged us to protest.*<sup>120</sup>

<sup>118</sup> R248 - 30.9.2014 - Transfield intelligence report - allegations regarding Save the Children

<sup>119</sup> R2086 - 8.10.2014 - Annex A to Transfield Analysis of Support Documentation - *The Australian*, 11 July 2014

*Actually, the protests, as we said, is a voluntary thing, just because of the treatment, the ones that remain on Christmas Island are treated differently from us, it is just an instantaneous reaction.*<sup>121</sup>

4.18 The Review also spoke with Wilson Security Emergency Response Team members, whose perception was that the protest action in RPC 3 in September and October was the result of transferee orchestration, in particular, [REDACTED].<sup>122</sup> Some transferees interviewed by the Review also confirmed this perception.

4.19 Information which transferees provided to the Review confirmed that direct communication occurs between transferees with a range of persons, advocacy groups and media organisations. Sometimes refugee settlers assist with this communication. One transferee told the Review that *"we don't have enough Internet access to carry out such tasks [transmission of photographs]. So, what we have done is, we have taken photos. We have given it to the refugees that are in the community, and they somehow got it across"*.<sup>123</sup>

4.20 [REDACTED] Wilson Security [REDACTED] provided the Review with the following observation:

*...when the Minister makes an announcement, if it's an announcement that isn't news that people particularly want to hear, then something happens subsequently ... [A]s soon as these protests started ...[reporting] started to appear on social media ... so it's picked up by advocacy outside, and then the communication starts to go backwards and forwards. ... [A]llegations start to appear about different things ... so it's being picked up in Australia and then subsequently reported in advocacy circles, which then is picked up by papers like The Guardian...But I guess where it becomes more problematic is they would protest for a few days and then would stop. The issue then is it's still being pushed in advocacy ... It creates an audience, which then means it goes into wider news media, then the film starts to get released from the Centre, I think on the 27th, of the protest, and there are photographs. Then [a protest] was organised outside of the Centre, and there was a film appeared on YouTube of a protest [of refugees] where police attended and snatched a banner off children...*<sup>124</sup>

4.21 Wilson Security told the Review that, as the protest action continued, a Save the Children staff member reported events on social media. The 30 September 2014 intelligence report stated *"research shows that [a Save the Children staff member]...posted a video taken of a refugee protest on 26 September 2014, at the Anabare Lodge, to [REDACTED] Facebook page on 27 September 2014...This video has appeared on a number of refugee advocacy websites and Facebook pages"*. The Review could not confirm this aspect of the reporting since Wilson Security was unable to provide a screenshot.

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<sup>121</sup> ibid

[REDACTED]

4.22 The Review located the footage on YouTube. It was posted on 26 September 2014 by a person with the username 'nauru.'<sup>125</sup> The Review was unable to obtain any information to confirm who had recorded the footage or posted it on YouTube.<sup>126</sup> For this reason, the Review does not reach a conclusion in relation to this particular matter.

#### Coaching and encouragement of self-harm

4.23 On 28 September 2014, the Wilson Security intelligence unit prepared a report entitled, *"Overview of Asylum Seeker and Refugee Intentions and Outlook of Current Protest Activity on Nauru"*. The report concludes that it is probable there is a degree of internal and external coaching, and encouragement, to achieve evacuation to Australia through self-harm actions.<sup>127</sup>

4.24 The Wilson Security intelligence report of 30 September 2014, which was described as the culmination of a number of intelligence reports and matters under consideration by Wilson Security,<sup>128</sup> concludes that it was probable that some contract service provider staff members were coaching and encouraging self-harm. The intelligence report cited an article from *The Australian*, dated 11 July 2014, entitled *"Advocates coaching asylum seekers to self-harm for political reasons."*

4.25 The Wilson Security intelligence unit quoted *The Australian* article which reported that *"a former director of offshore processing in Australia's immigration detention camps claims asylum-seekers are coached and encouraged to attempt self-harm by refugee advocates as political capital"*.<sup>129</sup> The article did not refer to any encouragement to self-harm by contract service provider staff members in Nauru or more specifically by Save the Children staff members.

4.26 Other than these two intelligence reports, the Review has been unable to obtain any other information supporting the allegation that contract service provider staff members coached or encouraged transferees to engage in self-harm.

4.27 When the Review asked transferees whether they had been encouraged by service provider staff members to engage in self-harm, they denied that any other parties had encouraged them. The overwhelming response from transferees was that self-harm was an individual transferee response to the Ministerial announcement in relation to temporary protection visas.

4.28 A [REDACTED] minor told the Review that [REDACTED] had sewed [REDACTED] lips because *"I thought it was a way to show that I'm not happy with the condition and I was to show my protest"*. When asked why [REDACTED] chose this form of protest, the minor responded *"because it's from Christmas"*

<sup>125</sup> [REDACTED]

<sup>126</sup> E2709 - 11.11.2014 - Response from Wilson Security re 30 Sept Intel Report

<sup>127</sup> R2108 - 28.9.2014 - Information Report - Transfield Services

<sup>129</sup> *"Advocates coaching asylum seekers to self-harm for political reasons"*, *The Australian*, 11 July 2014



Island".<sup>130</sup>

4.29 Information was provided to the Review, however, that suggested there may have been some encouragement from other transferees, particularly some [REDACTED] transferees.<sup>131</sup>

4.30 A [REDACTED] minor described how [REDACTED] and another minor had received assistance to sew their lips from a transferee who is [REDACTED].<sup>132</sup> [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>133</sup>

4.31 The suggestion that anyone responsible for the welfare of transferees would directly or indirectly encourage self-harm was rebutted by the Save the Children staff members. The submission from Save the Children stated that: *"SCA rejects in the strongest terms possible any suggestion that its employees would orchestrate or facilitate asylum seeker behaviour which would result in harm or danger the safety and security of any person at the RPC. Such behaviour would be completely inconsistent with SCA's organisational value, staff training, employee code of conduct and SCA's Nauru program principles"*.<sup>134</sup>

#### Fabrication of allegations

4.32 The Secretary of the Nauruan Department of Justice and Border Control, Mr Aingimea, expressed the view that some people were making false claims about sexual and other physical assault at the Centre. Mr Aingimea was concerned these *"false allegations"* have brought a great deal of harm to his country. Mr Aingimea noted that the evidence about such false claims was anecdotal.<sup>135</sup>

4.33 The 30 September 2014 intelligence report made the assessment that *"it is certain there will be further allegations made during the current period regarding the misconduct of staff engaged within the NRPC [Nauru Regional Processing Centre]. It is probable that there are SCA staff engaged in this effort in a facilitative role on Nauru"*.<sup>136</sup>

4.34 The Review considered a number of incident and information reports, focusing on those which Wilson Security identified as *"emotive"*. The Review also focused on any of those reports that were made by the ten Save the Children staff members who were subject to the

[REDACTED]

<sup>134</sup> S2764 - 25.10.2014 - Save the Children submission, at p.21

<sup>136</sup> R248 - 30.9.2014 - Transfield intelligence report - allegations regarding Save the Children

removal order under the contract. The 30 September 2014 intelligence report stated that:

*Incident reporting by SCA staff at the NRPC [Nauru Regional Processing Centre] has also been noted to be increasingly emotive in recent weeks. In some cases, this reporting is using language and descriptive imagery that seeks to paint service providers in a bad light. It is considered that this is because any subsequent leak of information from the NRPC can then be supported by Freedom of Information requests for service provider reporting around the topic of the leak using the aforementioned emotively written report which was subsequently requested and released under freedom of information legislation to support whatever agenda those in the media, or refugee advocacy, may wish to promulgate.*

*Two days ago, information report 280917 was written in such a manner by SCA employees, [REDACTED] and [REDACTED], and some of the allegations regarding sexually inappropriate behaviour by security guards contained within this report have been widely reported across Australian media today. [REDACTED] left Nauru yesterday and the allegations have appeared in the press today.<sup>137</sup>*

- 4.35 The Review asked the female transferee, who made the allegation about a request for sexual favours in exchange for a longer shower (outlined in Chapter 3), what led her to disclose this incident to Save the Children staff member, [REDACTED], some months after it occurred. The transferee told the Review:

*I talked to [REDACTED] the day after they came to the camps to announce the policy changes. On that very night, a 14-year-old [REDACTED] consumed laundry powder and attempted suicide. On that day and also the next day, I was very upset that, after tolerating the situation and the environment and the conditions here - the harsh conditions here - they have treated us that way. So, I was very, very upset the next day. So, I opened up. I wanted to talk to someone.<sup>138</sup>*

- 4.36 When the Review asked the transferee if [REDACTED] or any other Save the Children staff members what had encouraged her to make the allegation, the transferee responded that, "I decided to do so. [REDACTED] did not encourage me. I was very upset."<sup>139</sup> The Review notes that the transferee told three other Save the Children staff members. As a result, two information reports were submitted.

#### **Misuse and unauthorised disclosure of sensitive and confidential information**

- 4.37 The Terms of Reference require the Review to consider 'the misuse and unauthorised disclosure of sensitive and confidential information'. Concurrent with this Review, the AFP is investigating the alleged misuse and unauthorised disclosure, pursuant to section 70 of the

<sup>137</sup> R248-30.9.2014 - Transfield intelligence report - allegations regarding Save the Children

<sup>138</sup> [REDACTED]

<sup>139</sup> *ibid*

*Crimes Act 1914*, of sensitive and confidential information. On 8 December 2014, the Review briefed the AFP on the progress of its investigations.

- 4.38 On 10 December 2014, the Review referred to the Department, for forwarding to the AFP, the limited information which it had obtained concerning the misuse and unauthorised disclosure of sensitive information. The Review's Terms of Reference require any material obtained by the Review, which may assist relevant authorities in managing actual or possible criminal charges, to be made available.
- 4.39 The Review is aware that the Department has subsequently referred other material to the AFP.
- 4.40 Given the AFP's current investigation, the Review, with the agreement of the Secretary of the Department and the AFP, has not investigated further this aspect of the Terms of Reference.
- 4.41 In its written submission to the Review, Save the Children provided details of all the instances of data security breaches of which it was aware. Save the Children advised that it had reported those data losses to the Department and other instances of loss were not known about by management. The data security breaches reported involved:
- lost or stolen portable storage devices;
  - confidential and contract material stored and/or forwarded to unsecured systems; and
  - the suspected unauthorised disclosure of confidential material to external sources including the media.
- 4.42 Save the Children told the Review that, for some time, the rollout of information technology, equipment and infrastructure was affected by the short period of notice prior to initial employment, difficulties involved in assessing the previous contract service provider's case-management system and shipping delays concerning the delivery of IT equipment to Nauru. Save the Children noted that limited access to computers, additional issues such as frequent power outages, poor internet connectivity and a lack of secure storage also presented challenges. To manage these challenges, Save the Children staff members used personal laptops and hard-drives. USBs were used to store and back-up data.<sup>140</sup>
- 4.43 Save the Children acknowledged that, while this context and environment created some information management risks, Save the Children continues to work with the Department to address these shortcomings and improve and build the IT infrastructure at the Centre.
- 4.44 The Review notes that, on 17 September 2014, Save the Children implemented a Data Management and Security Standard Operating Procedure.
- 4.45 The Review notes that, due to the loss of storage devices and the unauthorised disclosure of data by Save the Children staff members, the Department was required to report three

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<sup>140</sup> S3032 – Response to 5 January 2015 consultation – Save the Children, atp20

possible privacy breaches to the Office of the Australian Information Commissioner. The first of these breaches was the loss of three hard drives, of which the Department became aware following a media enquiry on 28 August 2014. The second breach was the loss of a USB, which Save the Children confirmed on 19 September 2014, and the third breach was the forwarding of approximately 20 emails by a Save the Children staff member from a work email account to a personal email account.<sup>141</sup>

- 4.46 The Review was unable to establish the prevalence of data loss, but notes that it may not be confined to Save the Children.
- 4.47 The Review also notes that the Department and other contract service providers, particularly Transfield Services and Wilson Security, were concerned that some Save the Children staff members on Nauru were leaking information to the media and refugee advocacy groups in Australia and placing information on social media. Wilson Security intelligence reporting, particularly during August and September 2014, raised such concerns. These concerns arose when information about incidents at the Centre were reported in the media, an anonymous submission from current and former Save the Children staff members was made to the AHRC inquiry into children in detention and a significant amount of information, including video footage, appeared on social media.
- 4.48 The Review further notes that the loss or leaking of information by a contract service provider staff member, in the view of the Department, Save the Children and other contract service providers, undermines reputation and professional standing.
- 4.49 Because of the ongoing AFP investigation, it is not appropriate for the Review to comment further on the allegations of loss or leaking of information.
- 4.50 The Review spoke with Wilson Security about the use of social media by contract service provider staff members. The Wilson Security intelligence unit monitors the use of social media by staff members of all contract service providers. Certain liked pages and groups that a staff member is associated with on social media makes the user a person of interest to the Wilson Security intelligence unit because of the potential for conflict with employment conditions.
- 4.51 The Review was provided with screen-shots of Facebook pages which indicate that contract service provider staff members use social media. One contract service provider staff member's Facebook page had the post "*what a cruel shitty world we live in! Morrison sort your shit!!!!*" which captioned a newspaper article entitled "*Nauru asylum seekers reported sewing lips shut over visa denial*" with a photograph of transferee protest.<sup>142</sup>

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<sup>141</sup> Report to the Office of the Australian Information Commissioner, DIBP, 24 September 2014

<sup>142</sup> The Review notes that the contract service provider staff member who posted the above comments was not one of the ten Save the Children staff members who was subject to removal from providing services in Nauru.



4.57 The Review notes that in [REDACTED], Wilson Security stood down a [REDACTED] at the Centre for not acting immediately on a minor's complaint about a staff member.

4.58 In its submission to the Review, Save the Children reported that it had dismissed:

- [REDACTED]
- [REDACTED]

4.59 An IHMS [REDACTED]

4.60 Transferees brought to the Review's attention a range of alleged behaviours by contract service provider staff members. The particular concerns, which transferees raised, included offensive language and drinking or being drunk on duty. As noted above, contract service providers have dismissed staff members for such behaviour. Transferees were unable to provide specific information in relation to these allegations and as such the Review can draw no conclusion as to their veracity.

#### Removal of Save the Children staff members from providing services in Nauru

4.61 On 30 September 2014, Wilson Security issued an intelligence report entitled "Save the Children Staff on Nauru." The executive summary is as follows:

*Information suggests that some Save the Children staff may be engaged in conduct which evidences conflicts of interest with their primary purpose and conditions of employment. Consequently, such behaviour is likely to be in breach of their employment contracts and may also evidence breaches of contract around the collection and onward transmission of information.<sup>146</sup>*

4.62 Three Save the Children staff members were named in the 30 September 2014 intelligence report. They were [REDACTED], [REDACTED] and [REDACTED].

4.63 Wilson Security advised that the report contained information on "possible subversive SCA activities, at the behest of external entities, at the Nauru RPC."<sup>147</sup>

4.64 One of the report's recipients was Departmental officer, [REDACTED], who forwarded the report to his supervisor, [REDACTED], [REDACTED] who is the Department's senior representative in Nauru, [REDACTED] recommended that a 'watching brief' be conducted over a 24 - 48 hour period to obtain more intelligence before proceeding.

<sup>145</sup> S2770 – 25.10.2014 – Save the Children submission at pp 22 & 24

<sup>146</sup> R2962 - 30.9.2014 - Intelligence Report - Save the Children staff on Nauru, at p.1

<sup>147</sup> E2823 - 30.9.2014 - Email - [REDACTED] - DIBP response to Save the Children

- 4.65 [REDACTED] in Canberra advising that the attached report *"raises serious concerns from a number of sources/events."* [REDACTED] expressed the need for [REDACTED] to be collected over a two-day period to *"build a better case."* Departmental Deputy Secretary, [REDACTED], responded *"my sense is that t [REDACTED] r, and I will be seeking advice tonight."*<sup>148</sup>
- 4.66 On 30 September 2014, [REDACTED] advised [REDACTED] of Transfield Services that he wanted advice *"ASAP tomorrow of all identified STA [Save the Children] operatives."*<sup>149</sup>
- 4.67 [REDACTED]'s pressure from the Department to obtain the names of the staff members involved in the activities described in the intelligence report.<sup>150</sup> This approach was confirmed by [REDACTED] who told the Review: *"I indicated that we needed to take action straight away."*<sup>151</sup>
- 4.68 At a meeting on 1 October 2014, [REDACTED] said that he advised the then Minister that he was *"going to get a list of names of people who were identified as orchestrating or participating in this kind of behaviour, I will get a list put to me, and I will exercise a right under our contract to have those people removed"*.<sup>152</sup>
- 4.69 On the evening of 1 October 2014, the Wilson Security intelligence unit commenced work on Transfield Services' request for the names of Save the Children staff members involved in the activities described in the 30 September 2014 intelligence report. The intelligence unit identified six names. [REDACTED], [REDACTED] and [REDACTED] had already been mentioned in the 30 September 2014 intelligence report. [REDACTED] also named [REDACTED] and [REDACTED]. In the process of identifying names, [REDACTED] consulted a Wilson Security investigation section colleague, [REDACTED], who provided two more names ([REDACTED] and [REDACTED]).
- 4.70 [REDACTED], on behalf of Wilson Security provided [REDACTED] (of Transfield Services) with the list of the ten Save the Children staff members who *"are of interest"*. [REDACTED] advised [REDACTED] that they had no firm evidence of Save the Children involvement at that stage and that they would continue to monitor the situation and report to Transfield Services.<sup>153</sup>
- 4.71 On 2 October 2014, a Ministerial submission noted that *"In an 'Intelligence Report' dated 30 September 2014...Transfield Services...assessed that some Save the Children staff in Nauru had engaged in conduct likely in breach of their primary purpose and*

<sup>148</sup> ibid

<sup>149</sup> E2822 - Email - 30.9.2014 - [REDACTED] - DIBP to [REDACTED] - Wilson Security

<sup>150</sup> I2888 - 2.12.2014 - [REDACTED] - Wilson Security, at p.3

<sup>153</sup> R2083 - 2.10.2014 - Email from [REDACTED] - Wilson Security to [REDACTED] and [REDACTED] - DIBP

conditions of employment. The 'Intelligence Report' raised concerns – not yet verified – about the veracity of allegations of mistreatment towards transferees in the past few days, which was reported widely in the Australian press". The intelligence report was attached to the submission.<sup>154</sup>

4.72 Also on 2 October 2014, [REDACTED] from Transfield Services forwarded to the Department the correspondence from [REDACTED], regarding the ten Save the Children staff members who were persons of interest. [REDACTED] advised that "the intelligence report in itself is not evidence; however [it] does speculate on motive."<sup>155</sup>

4.73 The Department's First Assistant Secretary, [REDACTED], signed the 'Notice to Remove Personnel from Work in Respect of the Services' on 2 October 2014. The Department directed Save the Children to remove ten employees under clause 5.7 of the contract.

4.74 [REDACTED] told the Review:

*I felt very comfortable about the decision to direct SCA [Save the Children] to remove the identified personnel because of the context. Whilst the evidence to substantiate the decision might be viewed in hindsight as being somewhat flimsy, it had to be viewed, in my view, in the context of a whole series of issues that had arisen under the contract, and the relationship that I saw that we had with Save the Children Australia. And what I would describe as a general reluctance on the part of the management of Save the Children Australia to bite the bullet on any issue that we regarded as being serious.<sup>156</sup>*

4.75 No details of any specific allegations concerning the ten Save the Children staff members were provided to the Department before it issued the Notice of Remove and the Department has confirmed that it did not request such details.

4.76 The Wilson Security intelligence unit thought that once the names were provided an investigation would follow. "My understanding at the time of releasing this was that [REDACTED] was interested and they were going to look at just firming some of this stuff up, an investigation and that kind of thing as one would expect."<sup>157</sup>

4.77 Departmental Assistant Secretary, [REDACTED], understood that the information about the conduct and behaviour of the ten Save the Children staff members was sourced in the intelligence reports compiled by Wilson Security. The information according [REDACTED] "seemed pretty solid" and was therefore, appropriately dealt with at the Department's National Office in Canberra.

4.78 [REDACTED] told the Review:

<sup>154</sup> B2332 - 2.10.2014 - Ministerial Submission - MS14\_000425 - Save the Children misconduct

<sup>155</sup> R2083 - 2.10.2014 - Email from [REDACTED] - Wilson Security to [REDACTED] and [REDACTED] - DIBP - regarding SCA personnel of interest



*So the gist of the report, [intelligence report of 30 September 2014] ... is that the identified SCA [Save the Children] personnel ... in various ways appeared as aiding and abetting the protest activity then underway on the island. That was viewed quite seriously.<sup>158</sup>*

4.79 The Department's Acting Assistant Secretary, [REDACTED], [REDACTED], in discussing the removal clause under the contract, told the Review:

*[W]e have the clause to be, at our absolute discretion-- so I think that for us was a level of ... comfort that comes in the absolute discretion clause, is that at the time of making that decision you don't necessarily have to have 100% concrete evidence to support your decision, but if you think there's a big enough risk to impact on the delivery of service, or the government reputation, or departmental reputation or whatever, you can make a decision to resolve that.<sup>159</sup>*

4.80 [REDACTED] *make a statement about how we handled this situation" – other mechanisms under the contract had been used to reinforce the seriousness of the issues with Save the Children.<sup>160</sup>*

4.81 Save the Children was not provided with any specific details about the notice to remove its staff members. A copy of the intelligence report has not been provided to Save the Children or officially made public.

4.82 As already noted, the Wilson Security intelligence unit compiled the 30 September 2014 intelligence report from previous reports and from information provided by [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>161</sup>

4.83 When Save the Children received the Notice to Remove, not all of the relevant staff members subject to the Notice were in Nauru. One had previously resigned. [REDACTED]  
[REDACTED]  
Three other staff members were not in Nauru. Save the Children issued letters dated 3 October 2014 to the staff members concerned advising of their removal from normal duties and departure from Nauru.

4.84 On 3 October 2014, the Nauruan Acting Minister for Justice and Border Control signed removal orders for the Save the Children staff members concerned to leave Nauru.<sup>162</sup> The Review notes that, under the removal orders, Save the Children staff members were

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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

escorted to the airport by Nauruan Police Force officers when they were already scheduled to depart Nauru.

4.85 Subsequently, Save the Children conducted an internal investigation into nine of the ten staff members who remained in its employment. The findings of the investigation were sent to the Review and to the Department.

4.86 According to Save the Children, "*the Internal Investigation has not found any evidence to suggest that any of the SCA [Save the Children] employees has engaged in the activities or behaviours set out under the Allegations or any other activities or behaviours that would preclude their reinstatement to their positions in the Nauru RPC. To the contrary, the Internal Investigation finds that there is significant and compelling evidence demonstrating the integrity, professionalism and high quality of the work undertaken by the SCA Employees.*"<sup>163</sup>

4.87 On 12 January 2015, Save the Children ceased the employment of the nine employees

[REDACTED]

4.88 The circumstances of the removal of the ten Save the Children staff members from providing services highlight the complexity and dynamic nature of the environment in which the Department and its contract service providers were operating at the time. The situation in the Centre was tense and the Department's senior level officers were closely monitoring developments.

4.89 There was concern during late September and early October about the direction which the protest activity at RPC 3 might have taken. The thinking was informed by the experiences of a riot at RPC 1 in July 2013 and the events that occurred at the Manus RPC in February 2014. Significant property damage had occurred on both occasions, as well as the loss of life at the Manus RPC. There was particular concern about the safety of transferees, especially the children in RPC 3.

4.90 [REDACTED] told the Review:

*The July 13 [2013] event was very much front of mind as to what can happen, how quickly it can happen, how serious it can get. That was certainly an influence on the need to basically not mess about and say, "The evidence might be light, but it requires urgent and determined action in response to the report that we had." We essentially took it at face value. We had no reason to disbelieve the information. Having regard to the context that I outlined, it resonated. It resonated...[O]n the advice that we had, the need to take urgent action, the need to demonstrate as well that we were serious in responding to this matter quickly, we were prepared to simply accept that advice and get on with it.*<sup>164</sup>

<sup>163</sup> E2818 - 24.11.2014 - Email - SCA Internal Investigation of 10 Staff

<sup>164</sup> [REDACTED]

4.91 This perception was also in [REDACTED] comments to the Review.

*...when you live through these things, you not only take your responsibilities very seriously but you...prepare for what could happen, and you become extremely attentive to the quality of the advice that you're getting, and you are extremely attentive to any trigger points.<sup>165</sup>*

4.92 When the intelligence report dated 30 September 2014 came to hand, the Department's senior officers formed the view that some Save the Children staff members were actively involved in the protest activity. Accordingly, the senior Departmental officers decided to invoke the relevant clause of the contract to remove the ten Save the Children staff members.

4.93 Notwithstanding the fact that the Wilson Security intelligence unit advised that they had no firm evidence of Save the Children involvement and that the intelligence unit believed that once the names were provided, an investigation would follow, neither the Department, Transfield Services nor Wilson Security undertook an investigation before the Department issued the Notice to Remove to Save the Children on 2 October 2014. The Review was announced on 3 October 2014.

4.94 Departmental officers told the Review that the issuing of the removal notice in relation to the Save the Children staff members had the effect of ending the protest action and eliminating the potential for serious developments to occur. One expression used was that it acted as a "circuit breaker". [REDACTED]  
[REDACTED], expressed this view:

*Now, there are two ways you can look at that. Either the ten were ten who may have been doing things that were inappropriate or beyond their contract, and that was exactly what needed to be done. Or, the removal of ten people, irrespective of who they were and what they did ... created a shock and everybody - who may or may not have been involved in other things - sort of shut down.<sup>166</sup>*

4.95 The Review notes that the protest activity which was peaceful and involved on various occasions between 10-120 persons, continued. The last protest was on 21 October 2014 shortly before the Review's first visit to Nauru.

4.96 Departmental officer, [REDACTED] told the Review:

*On the island, we were talking about, "What can we do for a circuit breaker?" And on the island, we came up with a whole bunch of things that I think were successful. They weren't successful in ending the protest, but they were successful in reducing the interest in participation in them. What we saw was it shifted from a reasonably large number of fairly willing participants, to a dwindling number of willing participants who were intimidating others to join in...The Transfield guys have been*

*doing a lot of work around getting the cleaning improved... the infrastructure guys had done a lot of work to improve the level of water that was available. That meant that water restrictions on things like showers, washings, and those sorts of things were reduced, and then lifted completely... They set up two cinemas. They started running more nightly movies. There was a strong focus on just that improvement in the standard amenity of care that was not available... But then, I think they were still looking for something that would cut it off completely. And that was the announcement of the review and the removal of the nine.<sup>167</sup>*

- 4.97 The Review notes that in a situation with the potential to escalate quickly, there may not always be time to verify information.
- 4.98 Save the Children staff members told the Review that, as a result, they “*feel concerned about reporting incidents and information they've been given because they are concerned that this is what has led to the removal of those staff. They feel that they are placing their employment in jeopardy if they do that.*”<sup>168</sup>
- 4.99 The Review notes the Department’s view that its relationship with some, but not all, of its contract service providers in the welfare role has not been entirely satisfactory. The Review notes also that tension may exist for any advocacy organisation if the delivery of a welfare service or program, which it provides under contract, differs from the organisation’s underlying philosophy. The Review notes that any such organisation would have to make a consistent effort to keep its staff members aligned to their contractual obligations.
- 4.100 The Review notes that the welfare role in the context of regional processing centres (in Nauru and Manus) is recognised as challenging.

*Perhaps the hardest, most complex [are the jobs] ... closer to transferees and the human aspect of working with and supporting people who are in difficult circumstances. [T]his is true most particularly of [the] welfare provider.<sup>169</sup>*

- 4.101 The Review notes that the Department considers that, after a positive start, the relationship with Save the Children deteriorated.<sup>170</sup>
- 4.102 Save the Children notes that the Department did not act in a consistent manner in response to allegations concerning its staff members. In July, the allegations against each staff member were shared with Save the Children. Wilson Security with support from Save the Children and the Department in Nauru conducted an investigation. The staff members remained in Nauru, and performed administrative tasks at RPC 1 during the investigation.
- 4.103 The Review notes, that the Department:

[REDACTED]



#### *Coaching and encouragement of self-harm*

- 4.108 The Review has also been unable to obtain any conclusive information to suggest that Save the Children staff members coached or encouraged transferees to self-harm. The transferees who spoke to the Review were very clear that they received no encouragement to self-harm from any contract service provider staff member.

#### *Use of social media*

- 4.109 The Review notes that contract service provider staff member use of social media has the potential to conflict with their employment conditions. The appropriate use of social media is something that all contract service providers and their staff members need to consider. The Review is aware that there are policies developed by the Department and by individual contract service providers that guide staff members' conduct and behaviour. This guidance needs to be reviewed to ensure that it is current and appropriate, fully understood and complied with.

**RECOMMENDATION 7:** All contract service providers review their existing policies in relation to social media to ensure that their staff members have a clear understanding of their obligations concerning its use.

#### *Misuse or unauthorised disclosure of sensitive information*

- 4.110 The Review does not draw any conclusions in relation to the misuse or unauthorised disclosure of sensitive and confidential information by contract service provider staff members, noting that any information, which the Review obtained, has been provided to the Department to assist the AFP's current investigation.

#### *Data loss*

- 4.111 The Review notes that deficiencies existed in the information management practices at the Centre with respect to Save the Children and that it notified the Department of data or information breaches of which it was aware.
- 4.112 The Review notes the contract provisions for the reporting of breaches relating to the *Privacy Act 1988* and other frameworks and procedures that require reporting of information data loss. The Review concludes that the Department should review the relevant contract provisions and other guidelines to ensure that the obligation on contract service providers to report any information or data loss is explicit.

**RECOMMENDATION 8:** The Department review contract provisions and other guidelines to ensure that the obligation on contract service providers to report any data loss is explicit.

#### *The removal of the Save the Children staff members*

- 4.113 In relation to the removal of the Save the Children staff members, the Review notes the explanations which senior Departmental officers gave for acting to remove the Save the

Children staff members. The Review appreciates that, in a potentially volatile situation, decisions have to be made based on the advice available and on the judgment and experience of those providing the advice. Senior Departmental officers read the signs as they saw them based on their experience and their responsibility for the safety of transferees and the implementation of Government policy.

- 4.114 Noting, however, that the information relied upon, in Wilson Security's view, required further investigation, the Review considers that a better course of action would have been to direct Save the Children to remove the ten staff members, thereby alleviating any immediate threat, and conduct an investigation. Save the Children should have been afforded the opportunity to address the concerns raised about its staff members and Wilson Security could also have been given additional time to collect more information.
- 4.115 In February 2014, the FairWork Commission considered in a similar issue in relation to a Serco employee removed under a similar contract provision. In that case, the FairWork Commission recommended:

*Given an exercise of the exclusion power against a detention officer will inevitably affect the officer's livelihood, the Department has a duty to afford procedural fairness to an affected officer. The Department should allow for an employee of a detention contractor who is to be made the subject of an exclusion direction under a contract to be afforded a hearing on whether that exclusion direction should be issued or allowed to stand. In particular, in order to correct the apparent injustice that has occurred in this case, the Department should afford Mr Tavae an opportunity to be heard (including an opportunity to respond to specific allegations against him), and revoke the exclusion direction in so far as it relates to him, unless there is acceptable evidence that Mr Tavae in fact engaged in the misconduct alleged against him.<sup>172</sup>*

- 4.116 The Department was aware of the case and noted that the FairWork Commission made no direction in relation to the Department. The Department expressed the view that there was nothing binding in the recommendation.
- 4.117 The Department does not agree that there is a need to provide procedural fairness and told the Review that "...any requirement for procedural fairness on the Department's part when making decisions under a commercial contract ...has potentially serious implications for our contract management and our obligations to service providers and their staff..."<sup>173</sup>
- 4.118 On 2 October 2014 the Department issued the "Notice to Remove Personnel from Work in Respect of Services" under clause 5.7 of its contract with Save the Children. The following day, the Nauruan Acting Minister for Justice and Border Control issued removal orders. By these actions, the ten Save the Children staff members were denied the opportunity to

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<sup>172</sup> *Nehemiah Tavea v Serco Australia Pty Ltd T/A Serco*, Recommendation, FairWork Commission 18 February 2014 at para 14

<sup>173</sup> L3035- 6 February 2015 - DIBP response regarding factual issues in draft report

know the allegations against them and to respond. This situation has had significant consequences for their employment.

- 4.119 Save the Children notes that individuals who have had removal orders issued against them may potential face limitations upon their ability to travel in certain jurisdictions or face additional scrutiny from security and border control personnel. Save the Children also notes that the mere revocation or withdrawal of the removal orders may not be sufficient to resolve the issue for the individuals concerned in terms of declarations required for entry to various countries. The Review notes that the Nauruan *Immigration Act 2014* allows seven days to appeal a decision relating to a removal order. The Review is not aware if any of the affected Save the Children staff members sought a review.
- 4.120 Whatever the merits of the exercise of these powers—an expression of Nauruan sovereignty on the one hand and on the other hand the Department’s entitlement to have contract service providers perform to its satisfaction—these powers are blunt instruments. The need to use these powers is symptomatic of an underlying problem in relationships and understanding. The theme of the Review’s recommendations is that the Department must be more proactive and take the lead to create the appropriate settings, be they relations with the Nauruan Government or relations with and between the various contract service providers at the Centre.
- 4.121 The Review notes that it has not obtained any information which substantiates the alleged misconduct in terms of inappropriate attitude, emotive reporting and links to refugee advocacy groups in relation to the ten Save the Children staff members. Noting the current AFP investigation, the Review concludes that the Department should review its decision to remove the Save the Children staff members. The Department’s review of the decision would include providing Save the Children with the information it relied on.

**RECOMMENDATION 9:** Noting the current AFP investigation, the Department review its decision which required Save the Children to remove ten of its staff members from providing services in Nauru and in so doing consider the staff members individually. The review would include providing:

- a. Save the Children with the information the Department relied on; and
- b. the opportunity for Save the Children to address the allegations concerning its staff members.

In the event that the decision in relation to any of the ten Save the Children staff members is reversed, the Department make representations to the Government of Nauru about the Nauruan removal order and its consequences.



**PART 5: OTHER ISSUES RELATING TO THE SECURITY, GOOD ORDER AND MANAGEMENT OF THE CENTRE**

- 5.1 The Terms of Reference require the Review to ensure that the Department is provided with clear recommendations on any improvements that can be made to support the Republic of Nauru with the ongoing management of the Centre.

**Nauruan leadership**

- 5.2 The Review suggests that the Centre, which is a Nauruan facility, would operate more effectively if there were greater partnership and integration between the Nauruan operations managers and the Department and its contract service providers.
- 5.3 The Nauruan operations managers play a key role as a link between the Centre and the Nauruan Government and community. Yet they told the Review that they are not receiving enough information about the day-to-day working of the Centre, or do they feel as if they are being sufficiently engaged.
- 5.4 The Nauruan operations managers attend a range of meetings and through that means participate in the operation of the Centre. The Nauruan operations managers told the Review that they did not always know when such meetings were occurring and/or were not invited. Their perception is that they receive invitations when the relevant Departmental officer or contract service provider thinks to include them.<sup>174</sup>
- 5.5 The Department provided the Review with the list of all regular meetings that occur at the Centre, including frequency and attendees. The Review notes the discrepancy between the meetings to which the Nauruan operation managers say they are invited and those to which they are said to be invited. The Review suggests that the Department clarify the situation.
- 5.6 The Nauruan operations managers told the Review that they do not have access to, or knowledge of, the contract provisions between the Department and its contract service providers. They expressed interest in knowing more.

*It's vital to us. We want to know what's in their contract, and what's outside their contract. We want to know if they're keeping up with their side of the contract.*<sup>175</sup>

- 5.7 The Review does not contemplate any change to the present arrangement whereby service providers contract with the Department. Transfield Services stated that “we need the certainty of a commercial relationship with the Commonwealth”.<sup>176</sup> What the Review suggests is more Nauruan observation of and participation in the Department’s interaction with its contract service providers.
- 5.8 One of the Nauruan Operations Managers told the Review:

■  
■  
■

[REDACTED]

*[It] feels like there's more information out there that we need to know. That it's just not coming to us. I think one of the reasons why is, because the services providers are contracted to DIBP, so they report to DIBP all the time. How do we get that information?<sup>177</sup>*

5.9 The Nauruan operations managers say they are not kept fully informed by some of the contract service providers. In most cases, the contract service providers have a large Nauruan component to their workforce and the Nauruan operations managers maintain situational awareness through their local networks. In the case of Save the Children, which reportedly employs 10 Nauruans, the Nauruan operations managers say they are least informed about the activities of that contract service provider.

5.10 The Nauruan operations managers also said that they were not receiving enough information directly from the Department. They expressed concern that while there was a regular meeting with the Department, the information they were receiving was not comprehensive.

*I think there's a lot more information, and I've also expressed my concern... that we need to open up our communication channels a lot more between us and DIBP.<sup>178</sup>*

5.11 [REDACTED]

5.12 While the Department and Transfield Services consider that there is already effective engagement in the running of the Centre, this view is not shared by the Nauruan operations managers. For this reason, the Review suggests that the issue be addressed.

5.13 The Review recognises the effort which the Department and its contract service providers are making to ensure that Nauruan requirements and expectations are met. As the Centre evolves, the Department must maintain the focus on supporting the Nauruan requirements and expectations, particularly at the middle and senior levels of management.

5.14 In order to achieve this outcome, the capability of Nauruan staff members needs to be enhanced through training and personal development. Secretary Aingimea said that he would like to see a Nauruan equivalent in every contract service provider organisation.<sup>180</sup> Transfield Services has noted issues related to capability and independence, yet expressed

[REDACTED]

<sup>180</sup> T294 - 16.11.2014 - Interview - L Aingimea and G Leung

its willingness in principle to commit to making more senior appointments of Nauruans.<sup>181</sup>

- 5.15 The Review notes that it is important for the Department to continue to select officers who can establish and maintain effective relationships to support the Nauruan operation and management of the Centre to achieve a more joined-up approach between Nauruan operations managers and contract service providers.
- 5.16 In Part 3, the report refers to the apprehension of many transferees about their personal safety and privacy in the Centre. The Review notes that, as a consequence, the supervision and training provided to the Transfield Services and Wilson Security staff members, particularly locally engaged Nauruans, needs to be enhanced. The Review concludes that, Nauruan leadership, at the middle and senior levels of the operation and management of the Centre, is essential to assist contract service providers to manage their workforces.

**RECOMMENDATION 10:** The Department ensure that Nauruan operation and management of the Centre is enhanced through a more joined-up approach between the Nauruan operations managers and the contract service providers.

#### **Greater cooperation between contract service providers and the Department**

- 5.17 The Government of Nauru, the Department and contract service providers have to work together to make the Centre function effectively.
- 5.18 The Review suggests that the Department continues to engage with contract service providers to establish clearly its requirements under the service provider contract (to the extent that the Department considers that any contract service provider is not compliant).
- 5.19 The Department needs to provide effective coordination and adopt a lead role in ensuring that contract service providers work effectively together. This role needs to be played not only at the Centre in Nauru, but also at the head office level. The Review notes the Department's intention to hold joint service provider governance meetings with its offshore contract service providers. This initiative would replicate well established arrangements in place with its onshore contract service providers.
- 5.20 By appointing, in September 2014, a Senior Executive Service officer in Nauru, the Department has the basis to ensure that contract service providers achieve a more joined-up approach at the Centre. The Department needs to develop its function beyond mere contract management. This enhanced coordination role needs to be performed jointly with the Nauruan operations managers.
- 5.21 The Review notes that various contract service provider staff members at the Centre say that they do not have sufficient understanding of each other's roles and responsibilities. A Save the Children staff member told the Review that, at the practitioner level, *"we've never sat down and talked about how the three – Wilson, IHMS and Save the Children were going*

*to work together. We've never asked each other what is it in your contract so that we can work together to deliver.*<sup>182</sup> Save the Children advised the Review that, as a result of the events which occurred in October 2014, it reviewed and amended the asylum seeker interaction guidelines, which form part of the RPC Guidelines, to articulate the roles of contract service provider staff members. The amended Guidelines were submitted to the Department for approval in October 2014.<sup>183</sup>

- 5.22 The Review notes that a range of meetings occur at the Centre involving the Department, contract service providers and the Nauruan operations managers. Given the need to improve communication, it would be timely for the Department, in consultation with the Nauruan operations managers and contract service providers, to review the current meeting schedule. There is a need to ensure that the purpose and frequency of meetings suit requirements and that each is an effective forum for sharing information.

**RECOMMENDATION 11:** Greater cooperation between the contract service providers be encouraged, including through the Department:

- a. ensuring that contract service provider staff members have a clear understanding of each other's roles and responsibilities;
- b. reviewing the range of meetings at the Centre to ensure that information is shared effectively; and
- c. taking a more proactive role to ensure that contract service providers are working cooperatively together and are responsive to each other.

#### **Enhanced policing**

- 5.23 The Nauruan Police Force has an important role at the Centre. Consistent with the need for the Nauruan operations managers to be more involved, the Nauruan Police Force needs to be increasingly engaged. To achieve this outcome, the relationship between Transfield Services / Wilson Security on one hand and the Nauruan Police Force on the other hand needs to be more structured. The Review acknowledges that, in an ever evolving and developing context, there needs to be balance between best practice and what can be practically achieved.
- 5.24 At present, the relationship between Transfield Services/Wilson Security and the Nauruan Police Force relies more on individuals rather than a systematic approach. As a result, gaps and inconsistencies may emerge when contract service provider staff members rotate off Nauru every two or three weeks or when the Nauru Police Force members take leave.
- 5.25 The AFP [REDACTED] expressed the need for engagement in a more structured way in the following terms.

*It's got to be ... a partnership and at the moment, if you talk to Wilson's they'll say the Police are fairly responsive but could do better and if you talk to the Nauru*

<sup>183</sup> S3032 – Response to 5 January 2015 consultation – Save the Children, atp25

*Police, they say the response is okay but Wilson's could do better. And when I say better, I don't mean it's an issue of incompetence. It's just the engagement in a structured way, but make sure that everything is on the table somewhat so one, there's no surprises and two, any crime that even is suspected of occurring up here is referred to the NPF so they can choose to...investigate it...I just think they really need a more structured approach to it.*<sup>184</sup>

- 5.26 The Review notes that greater clarity between roles is needed. For example, the present situation may result in Wilson Security referring a matter to the Nauruan Police Force when the matter could or should have been referred sooner. Timely referral of matters ought to be the norm so that the Nauruan Police Force can consider whether its input is required. At present, the decision about when engagement with the Nauruan Police Force occurs rests primarily with Wilson Security. The Review acknowledges that meetings between Wilson Security and the Nauruan Police Force occur, yet this liaison could be improved if it were more regular. For example, *"the Wilson command structure [could] pick themselves up and go down there [to the Nauruan Police Force] to their environment and basically tell them what's going on so they can ask the questions"*.<sup>185</sup>
- 5.27 The Nauruan Police Force is responsible for the investigation of all criminal matters in the Centre. The relationship between Transfield Services/Wilson Security and the Nauruan Police must reflect the primacy of the Nauruan Police Force's role. The Review notes the AFP's view that such engagement might be *"... a bit overwhelming for the NPF [Nauruan Police Force] to start with in terms of they might get a lot of referrals..."*<sup>186</sup> but it is essential in ensuring that criminal matters are investigated properly.
- 5.28 The Review has noted previously a level of under-reporting by transferees of incidents and concerns. This situation needs to be addressed jointly with the Nauruan Police Force.
- 5.29 To address the issue of under-reporting, particularly of sexual and other physical assault, transferees need the opportunity to develop understanding of, and trust in, the Nauruan law enforcement and criminal justice system. Early and effective involvement of the Nauruan Police Force would enable such understanding and trust to be established. The Review notes that the Department's role should be to ensure that cooperative and consistent interaction becomes a feature of the relationship between Transfield Services/Wilson Security and the Nauruan Police Force.

**RECOMMENDATION 12:** The Department ensure that the relationship between Transfield Services/Wilson Security and the Nauruan Police Force becomes more structured and is based on cooperative and consistent interaction.

- 5.30 The Review notes that the Director (Commissioner) of the Nauruan Police Force reports to the President, whereas the Centre is the responsibility of the Nauruan Department of Justice and Border Control. From this perspective, the Department should regard itself as having a



role in assisting the Nauruan authorities to ensure that the Centre's operation and management is coordinated with law enforcement.

- 5.31 The AFP's [REDACTED] commented that "[the Nauruan Police Force] is dealing with things [it] never had to deal with before."<sup>187</sup> The AFP has two officers from its International Deployment Group attached to the Nauruan Police Force. The AFP officers do not exercise executive authority in Nauru and are not directly involved in Nauruan police investigations. Accordingly, although AFP officers in Nauru are broadly aware of any allegations of sexual and other physical assault in the Centre that have been referred to the Nauruan Police Force. The AFP members know the details of specific allegations only to the extent that they advise on investigative procedures and practices.
- 5.32 This situation could be improved if an AFP member were appointed to a Nauruan Police Force line position with the capacity to exercise executive authority. The Review notes that an AFP officer was the Director (Commissioner) of the Nauruan Police Force until July 2013. Notwithstanding this history, an appointment could be considered at the level of deputy commissioner, a position which is currently vacant. While the implementation of this proposal in the longer term would help to build the capacity of the Nauruan Police Force, its immediate effect would be to ensure appropriate law enforcement outcomes in relation to the Centre.

**RECOMMENDATION 13:** The Department consider the feasibility of assisting the Nauruan Police Force to increase its effectiveness through the appointment, on a limited term basis, of an AFP officer with executive authority.

#### *Community policing*

- 5.33 The Review notes the need for the Nauruan Police Force to have increased visibility at the Centre in a community policing role. Community policing is a strategy which forges relationships for mutual benefit between a policing service and the constituency it serves. Community policing is achieved through a networked approach, assigning community liaison officers to be the conduit point to and from sectors of the community most likely to have either a frequent or challenging interface with the police.
- 5.34 It is common, as part of community policing programs, for interaction to extend beyond law enforcement issues to broad social and welfare related interaction. For example, police officers and communities may share social, sporting and other events.
- 5.35 The importance of community policing was also recognised in the August 2014 KPMG review, when, in the context of the Manus Regional Processing Centre, the following recommendation was made:

*Continue to strengthen relationship between Manus OPC and provincial police, with a view to introducing routine walk-throughs and other activities in line with a*

*community policing model.*<sup>188</sup>

- 5.36 Currently, the Nauruan Police Force is seen at the Centre when conducting investigations and by undertaking walk-throughs. This later activity needs to be extended into the sphere of community policing. In doing so, the Nauruan Police Force would appear at the Centre without Wilson Security in attendance. The perception among transferees, and others, is that at the Centre the two organisations are inseparable and that the Nauruan Police Force is subordinate.
- 5.37 A revised approach is needed to give proper authority and standing to the Nauruan Police Force and to change its role at the Centre and how it is perceived there. Many transferees will become refugee settlers in Nauru. A regular Nauruan Police Force presence at the Centre, with the potential thereby for trust and understanding to be developed, could become a positive and important factor in asylum seekers' transition from being transferees to refugee settlers.
- 5.38 With a Nauruan population of 10,000 increasing by potentially 1,000 refugee settlers, community policing would be enhanced by refugee participation. The Nauruan Police Force should consider whether suitable refugee settlers could be included in community policing and law enforcement roles.
- 5.39 Refugee settlers could be given a role in policing, either as substantive members or as special or auxiliary police officers dedicated to dealing with their own community. They may not necessarily have full police powers, yet they could be given limited powers and training to equip them to make the connection between the Nauruan Police Force and the transferees in the Centre.
- 5.40 The Review notes that the AFP, through the Nauruan Police Force capability program, has provided various forms of training and/or equipment to the Nauruan Police Force since November 2004. The AFP may be able to assist the Nauruan Police Force to develop its community policing capability.
- 5.41 The Director (Commissioner) of the Nauruan Police Force says that police members enjoy a good rapport with transferees. This situation would develop as the Nauruan Police Force and transferees become better acquainted. The Police could use their interactions with transferees as a means of providing an informal induction into Nauruan society and its culture. For a start to be made, the Nauruan Police Force has to establish itself in its own right at the Centre.
- 5.42 The Review is aware that the Nauruan Police Force is supporting an initiative to establish a *Nauruan Police Force Community Liaison Officers Program*. One of the stated objectives of the program is to assist in ensuring the safe transition of asylum seekers to the status of

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<sup>188</sup> OR2960 - 29.8.2014 - KPMG Report 2 - Manus and Nauru OPCRisk analysis continuation work, Recommendation 3.6, atpp.9, 41

refugees in the Nauruan community.<sup>189</sup> The Review notes this initiative and encourages the Department and its contract service providers to provide support in whatever ways are requested by the Nauruan Government. The program is discussed in greater detail below.

**RECOMMENDATION 14:** The Nauruan Police Force have greater visibility in the Centre based on community policing and explore ways to include transferees and refugee settlers in community policing and law enforcement roles.

#### **Strengthening the intelligence capability**

- 5.43 A strong intelligence capability within the Centre is important. Intelligence assists the department and contract service providers to ensure the personal safety of their staff members and transferees. Intelligence is also used to ensure that the conduct and behaviour of staff members in the Centre is appropriate and that the Centre is secure from external threats.
- 5.44 The Review acknowledges the existing intelligence capability in the Centre through the intelligence unit operated by Wilson Security. That intelligence capability was relied upon to identify possible risks to the Centre during the September/October 2014 protests and to identify the 10 Save the Children staff members.
- 5.45 From the Transfield Services/Wilson Security perspective, the information used to identify the ten Save the Children staff members required further investigation. The Review notes an apparent lack of understanding on the part of some Departmental officers about the weight that should be placed on such information.
- 5.46 The Department should review the way that it handles such information to ensure that officers, who make decisions based on intelligence, understand the extent to which it can be relied on.
- 5.47 The role of the Wilson Security intelligence unit is to gather information, provide analysis and pass it on for investigation. This role is clear in the increased focus by the unit on cohort trend analysis. For instance, work has begun on incidents by cultural group at the Centre, related to attempted suicide, self-harm, self-harm threats and medical incidents involving self-harm. This initiative should be encouraged, supported and developed in conjunction with the other contract service providers and the Nauruan Police Force because of its potential for direct application in relation to the operation and management of the Centre.
- 5.48 To provide greater clarity, it may be appropriate for Wilson Security to consider changing the name of its intelligence unit to reflect its role as an information collection and analysis unit. This naming would better reflect its purpose and function.
- 5.49 The Review notes that under the *Memorandum of Understanding between The Republic of*

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<sup>189</sup> *Nauru Police Force Community Liaison Officers Program*, Memorandum to Hon. David Adeang MP from Cory Caleb, Director of the Nauruan Police Force, 26 June 2014



*Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru and related issues, the security, good order and management of the Centre, including the care and welfare of persons residing in the Centre, are the responsibility of the Government of Nauru.*

5.50 As with other aspects of the operation and management of the Centre, the intelligence capability would benefit from a more joined-up approach. The Review considers that the effective engagement of the Nauruan Police Force is lacking in the current intelligence arrangements in the Centre.

5.51 The Review considers that, as the Centre continues to evolve, the lack of Nauruan Police Force input will become increasingly significant. The Wilson's Security intelligence unit explained it to the Review in the following terms:

*...we've got to remember we are contracted to the Government. Intelligence should be a State function... we're collecting information. We do analysis based on information...we do information reports from the ground, we do information-- open source information ... For example, if during the course of our information collection...drugs are identified with an individual, we no longer chase or we don't chase an intelligence function for a network to try and coerce or get anything out of it. We hand it to [Wilson Security] Investigations...we'll collect information in support of investigations, which is then handed to the police force to go and do prosecution and whatever they need to do...So that all comes back to my thought process on the information rather than intelligence ...<sup>190</sup>*

5.52 In 2012, the Nauruan Police Force formed a small intelligence unit led by an inspector. According to the AFP submission to the Review, Wilson Security set up an intelligence unit without input from the Nauruan Police Force's Intelligence Unit or the AFP, with the primary aim of the meeting the internal needs in terms of the safety and security of the Centre.

5.53 The Review notes that the circumstances of the Centre are changing. First, the number of refugee settlers in Nauru is increasing as transferees are granted refugee status. Secondly, as the then Minister announced on 6 November 2014, the Centre will transition to an open centre model in early 2015.<sup>191</sup>

5.54 With these changes, effective cooperation between the Nauruan Police Force and the Wilson Security intelligence unit will be needed. In this context, consideration needs to be given to intelligence collection and analysis not only within, but also beyond, the Centre. This role is properly one for the Nauruan Police Force intelligence unit, together with Wilson Security intelligence unit support. For this reason, the present level of cooperation needs to be developed. Liaison visits between the two units would be a good starting point.

5.55 The Review notes that the principal means of facilitating a joined-up approach has been through the joint intelligence group that commenced in mid-2014. The joint intelligence

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<sup>191</sup> MR3015 - 6.11.2014 - S Morrison - MIBP - Getting on with the job on off-shore processing and resettlement

group includes the heads of all the contract service providers.

- 5.56 The AFP told the Review that at times joint intelligence group meetings have not been held as regularly as might have been expected and that the AFP senior adviser is trying to address this situation from the Nauruan Police Force perspective<sup>192</sup>.

**RECOMMENDATION 15:** The Department ensure that there is a more joined-up approach between the Wilson Security intelligence unit and the Nauruan Police Force.

- 5.57 *The Nauru Police Force Community Liaison Officers Program (Program) provides an opportunity for greater intelligence sharing. The Program aims to “engage with the broader Nauruan community in a range of initiatives to ensure a safe and secure community”. The Program recognises that crime prevention and community safety are best achieved when all sections of the community take responsibility.*

- 5.58 The objectives of the Program are:

- increasing community awareness of crime risk and prevention strategies;
- encouraging community involvement in local community safety;
- identifying real and potential community safety problems;
- co-ordinating multi-faceted crime prevention efforts;
- utilising the Nauruan Police Force to assist in early intervention, particularly programs for children;
- assisting in ensuring safe transition of asylum seekers to the status of refugees in the Nauruan community.<sup>193</sup>

- 5.59 The Review considers that the Program would have benefits for transferees, not only in supporting intelligence to identify and prevent risks to personal safety in the Centre, but also in building stronger connections between the transferees and the Nauruan Police Force and the Nauruan community more broadly.

- 5.60 The Program is currently based on the division of Nauru into 16 districts, with representatives from each district. The Review suggests that consideration be given to making the Centre a separate district and to providing representation for the transferees in the Program.

**RECOMMENDATION 16:** The Department work with the Nauruan Government to extend the Nauruan Police Force Community Liaison Officers Program to the Centre.

<sup>192</sup> S3034 - Response to 5 January 2015 consultation - AFP, at p.2

<sup>193</sup> *Nauru Police Force Community Liaison Officers Program*, Memorandum to Hon. David Adeang MP from Cory Caleb, Director of Police, 26 June 2014

## Treatment of local staff and shaping of perceptions of Nauru

- 5.61 The Review notes that attention needs to be paid to: the way in which local Nauruan staff are regarded and treated; more structured education programs and positive messaging about Nauruan society; and improved training and supervision of local Nauruan staff members employed by contract service providers.
- 5.62 The perception exists that some contract service provider staff members do not treat Nauruan employees with respect or show courteous regard for the Republic of Nauru. It is said that the transferees are observing and taking note.
- 5.63 Accordingly, the induction programs for all non-Nauruan contract service provider staff members about Nauruan culture and Nauruan society should be provided. Such programs should be delivered by Nauruans. Secretary Aingimea commented on the issue of cultural awareness: *"They do some, but I think the induction really doesn't touch on-- the issue of being culturally aware."*<sup>194</sup> It is suggested that the induction program be reviewed and consolidated through regular training, perhaps every six months.
- 5.64 Additionally, the Review suggests that advice be given to all Departmental officers and contract service provider staff members working at the Centre about the way in which they relate to the local staff and the messaging that they provide to transferees about Nauru. The Department should take the lead in assisting contract service providers to ensure that their staff members provide appropriate messaging to transferees about Nauru.
- 5.65 Assisted by the Department and contract service providers, Nauruan authorities should continue to explore opportunities to introduce transferees to Nauruan culture with the view to equip them for life in Nauru. Finding ways for Nauruans to interact with transferees would assist in creating positive attitudes towards the recent arrivals. The Review acknowledges the steps which have already been taken.
- 5.66 The need for increased engagement with the local communities hosting regional processing centres has been highlighted in a number of reviews undertaken both in relation to Nauru and Manus. In his review into the events that occurred at the Manus Regional Processing Centre in February 2014, Mr Cornall recommended:

*That the Department put in place a comprehensive and continuing community liaison program to more fully inform the local population about the Regional Processing Centre and the direct benefits it brings to the Manus community.*<sup>195</sup>

- 5.67 KPMG made a similar recommendation in their August 2014 review of both the Nauru and Manus Centres:

*Continue efforts to strengthen communication between transferees and the local community through a broader communications strategy.*<sup>196</sup>

<sup>194</sup>T294 - 16.11.2014 - Interview - L Aingimea and G Leung, at p.15

<sup>195</sup>OR2958 - 23.5.2014 - Cornall Report 2 - Manus RPC events 16-18 Feb 2014, Recommendation 10 at p.14

<sup>196</sup>OR2960 - 29.8.2014 - KPMG Report 2 - Manus and Nauru OPC Risk analysis continuation work,

5.68 The Department accepted both of these recommendations.

5.69 The Department must ensure that the staff members it deploys at all levels in Nauru understand their role in helping to shape the positive perceptions of Nauruan staff members and Nauru more generally.

**RECOMMENDATION 17:** The Department and contract service providers review and enhance existing efforts to ensure that Nauruan staff members are treated with respect and that there is courteous regard shown for the Republic of Nauru. This requirement could be enhanced through:

- a. the induction programs for all non-Nauruan contract service provider staff members about Nauruan culture and Nauruan society be delivered by Nauruans;
- b. establishment of a framework to deliver positive messaging about Nauru;
- c. the Department taking the lead with its contract service providers to assist Nauruan authorities to continue to find ways to introduce transferees and Nauruans to each other's cultures and traditions.

#### **Building the capacity of the Nauruan workforce**

5.70 Building the capability of the contract service providers' Nauruan workforce would assist in the operation and management of the Centre.

5.71 One of the Nauruan operations managers told the Review that *"we've been pushing, at both RPCs 2 and 3, for the security expats to be paired off with local security, but this isn't happening. We want our local staff to gain as much skills and knowledge from the expats, because they are better qualified. Plus just using the English language would help them to develop their English skills. We've been pushing this but it's still not happening in both centres."*<sup>197</sup> The Review supports this suggestion yet acknowledges that it may not be possible to match expatriate and Nauruan staff members in every workplace location.

5.72 The Review discussed the issue of building greater capability amongst local Nauruan staff members with both contract service providers and Nauruan officials. There is agreement, in principle, that strengthening the capability of local Nauruan staff is important. Transfield Services noted:

*I think the strategic long term has to be more than Nauruan employment, has to be more training and that's again part of the challenge for a contractor. We had, I think it was a 12 month contract, and it was another 12 to 18 contract, but we're making commitments to training now, to train more people, to get more Nauruans employed. There's clearly a challenge around the capability of the workforce and the capacity. Capability is not quite the right word, capacity in the workforce. Work is so short in Nauru so there's not a huge work ethic, so taking that on the journey I think*

*is inherent upon us, if we can, to continue to appoint more senior Nauruans into our organisation structure.*<sup>198</sup>

- 5.73 The Review is aware that steps have been taken in this direction and encourages them to continue.

**RECOMMENDATION 18:** The Department work with Nauruan authorities and contract service providers to develop new strategies and training programs to build the capacity of the contract service providers' Nauruan workforces.

#### **The protocol to manage protest and other activity at the Centre**

- 5.74 One of the issues the Review has been asked to consider under the Terms of Reference is the ability of service providers to appropriately and professionally manage protest and other activity within the Centre. This topic could be treated in a broad fashion as it goes to the overall operation and management of the Centre. The Review notes the comprehensive reviews which have been conducted, including those by Mr Cornall, Mr Keith Hamburger and Dr Allan Hawke and Ms Helen Williams. This Review does not intend to restate the conclusions and recommendations of those reviews.
- 5.75 The Review notes the AFP's submission which suggests that a protocol be established between the Nauruan Police Force, the Nauruan Department of Justice and Border Control and Transfield Services and Wilson Security. The purpose of the proposed protocol is to provide an operations interaction in response to incidents at the Centre. The AFP notes that, having regard to Recommendation 12 of this report (a stronger relationship between Transfield Services, Wilson Security and the Nauruan Police Force), the implementation of the draft protocol would not only enhance the current arrangements for managing critical events, but also provide more clarity and direction in the day-to-day roles and responsibilities of all stakeholders. The Review supports the AFP's suggestion. [REDACTED]
- 5.76 Transfield Services advised the Review that *"...to the extent appropriate we [Transfield Services/Wilson Security] have incorporated all relevant aspects of any AFP input into the hand over protocol"*.<sup>199</sup> Noting this response, the Review recommends that the Department, together with Nauruan authorities, consider the existing emergency management plans to satisfy themselves that the relevant aspects of the AFP protocol have been adopted.

<sup>199</sup> E3030 - 4 2 2015 – Email from [REDACTED] (Transfield) to DIBP - Handover protocol and MOU

**RECOMMENDATION 19:** The Department consider the draft protocol suggested by the AFP for protest and incident management to assess whether it adds value to existing emergency management plans.

Philip Moss

6 February 2015