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From the President

3 November 2016

Senator Louise Pratt
Chair
Senate Legal and Constitutional Affairs References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Via Email: legcon.sen@aph.gov.au

Dear Senator Pratt

RACP submission to the Senate inquiry into *Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Island Regional Processing Centre*

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to provide a submission to this Senate inquiry. We request that this be read in conjunction with our submission provided to the previous Senate inquiry into *Conditions and treatment of asylum seekers and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea*. We have attached this for your convenience.

The RACP wishes to reiterate its call that all asylum seekers and refugees on Nauru and Manus Island be brought immediately to Australia, because of the severe adverse health impacts of held detention. RACP Fellows who have worked in Australia's offshore detention network are deeply concerned by the significant deterioration in physical and mental health of asylum seekers, particularly children and their families, who have remained in prolonged offshore detention – some for over three years.

Further to the concerns articulated in our submission to your previous inquiry, this additional RACP submission will respond to terms of reference (e) and (f) of this inquiry. These address:

- The role an independent children's advocate could play in ensuring the rights and interests of unaccompanied minors are protected
- The effect of Part 6 of the Australian Border Force Act 2015

Independent Children's Advocate

Safeguarding the rights and interests of asylum seeker children is of critical importance, especially for unaccompanied minors who do not have parents or family members to support and assist them while held in immigration detention or living in the community.

The RACP supports the appointment of an independent children's advocate, and notes that it is important:

- that the jurisdictional oversight of the role extends to Nauru and includes all asylum seeker children living on Nauru, both in detention and the community; and
- that the advocate is able to act upon advice from health staff, ensuring their recommendations are followed to ensure timely medical attention, child protection, mental health support and evacuation on medical grounds where necessary.

In our Position Statement on Refugee and Asylum Seeker Health, released in March 2015 and available on our [website](#), the RACP called for an independent advocate to be present with unaccompanied refugee and asylum seeker children, or young people who claim to be minors, during age assessments. The need for unaccompanied minors to be supported in health-related decision making extends beyond the setting of age assessments and as such the RACP's call for unaccompanied minors to have independent advocate support should apply equally to other health contexts.

The Australian Border Force Act 2015

The RACP has long held serious concerns about the secrecy provisions of Part 6 of the Australian Border Force Act (the Act) which threaten jail sentences of up to two years for 'entrusted persons' who speak out about conditions in immigration detention.

The RACP notes that on 30 September 2016, the Secretary of the Department of Immigration and Border Protection (DIBP) signed an amendment to the *Determination of Immigration and Border Protection Workers* (the Determination) which excludes 'health practitioners' from the definition of an 'immigration and border protection worker' and thereby from the definition of an 'entrusted person'.

The amendment to the Determination was not subject to parliamentary process and does not represent a substantive legislative amendment. Thus there remains some ambiguity about the legal protections afforded to health and medical professionals who speak publicly about harmful conditions in immigration detention.

The RACP was not consulted about this change, and has not received any formal correspondence from the DIBP advising of the change.

It is critical that doctors and other health professionals are able to freely speak about conditions in immigration detention, particularly given significant concerns (detailed in the RACP's previous submission) about conditions in offshore detention centres and the well-established evidence of the negative health impacts of immigration detention.

The RACP calls on the Australian Government to clarify the legal details of the recent amendment and its implication for health professionals, and to communicate this widely so that physicians, other health and medical professionals are assured that they do not risk prison sentences for speaking about conditions in immigration detention.

Yours sincerely

Dr Catherine Yelland PSM

Enc: RACP submission to the Senate Inquiry on the Conditions and treatment of asylum seekers and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea – April 2016