

A2552703

17 January 2026

Senator Leah Blyth

Chair

Senate Legal and Constitutional Affairs References Committee

via email: legcon.sen@aph.gov.au

Dear Chair

Inquiry into offshore processing and resettlement arrangements

Thank you for the opportunity to provide a submission to the Legal and Constitutional Affairs References Committee regarding offshore processing and resettlement arrangements.

The purpose of the Office of the Commonwealth Ombudsman (**the Office**) is to:

- provide assurance that the agencies and entities we oversee act with integrity and treat people fairly; and
- influence systemic improvement in government administration.

One way the Office achieves its purpose is through my statutory roles as the:

- National Preventive Mechanism (NPM) under the Optional Protocol to the Convention Against Torture (OPCAT) for places of detention under the control of the Commonwealth, with responsibility for conducting regular preventive visits to detention facilities and
- Commonwealth Ombudsman with responsibility for reviewing the appropriateness of detention arrangements for persons who have been in immigration detention for 2 years in accordance with section 486O of the *Migration Act 1958* (Migration Act).

This submission outlines some of the activities of my Office that are relevant to overseeing the activities of the Department of Home Affairs (the Department) with respect to offshore processing and resettlement arrangements when performing these

functions. While I acknowledge the focus of the inquiry is around the integrity of payments in relation to offshore processing and resettlement arrangements, my focus is on the lawfulness, fairness and rationality and transparency of these arrangements. This extends to understanding the impacts of the arrangements on the people who are detained on or transferred to Nauru.

Offshore Processing

In relation to offshore processing, the United Nations Human Rights Committee¹ and the United Nations Committee Against Torture² have recently made findings that, under international law, Australia is responsible for people it detains in offshore processing facilities.

The Department and their contracted service providers are within the jurisdiction of the Australian Commonwealth Ombudsman. My Office has sought information from the Department in relation to the conditions and treatment of people who are held in the Nauru regional processing centre, as it relates to the activities of the Department and their contracted service providers. I am continuing to seek further information from the Department. I note that I conduct my investigations in private and so am not in a position to comment further on these activities at this stage.

Resettlement

Under the *Migration Amendment Act 2024* the Department may enter third country reception arrangements with a foreign country in relation to the removal of non-citizens from Australia. In August 2025, the Australian Government signed a Memorandum of Understanding with the Government of Nauru to resettle members of the *NZYQ* cohort in Nauru under a 30-year visa.

As the Commonwealth NPM and through my Migration Act statutory reporting functions, I have been monitoring the re-detention of the *NZYQ* cohort, including the manner of their re-detention, the information communicated to them at that time and

¹ <https://www.ohchr.org/en/press-releases/2025/01/australia-responsible-arbitrary-detention-asylum-seekers-offshore-facilities>

² <https://www.ohchr.org/en/press-releases/2026/01/australia-offshore-and-prolonged-detention-exposed-iranian-asylum-seeker>

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the impact this may have on the mental health and wellbeing of affected individuals. I am also monitoring the potential impacts this may have on the immigration detention network in Australia.

While our understanding is that people transferred from Australia and resettled in Nauru under the MoU are not deprived of their liberty there, I am particularly focused on what procedural fairness is offered to individuals affected, as well as the guarantees and safeguards the Department has put in place regarding the treatment of people sent to Nauru.

If you have any further questions, please contact Julia Galluccio,
Senior Assistant Ombudsman, Policy and Assurance on [REDACTED]

Yours sincerely

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Iain Anderson
Commonwealth Ombudsman