



**UNHCR Mission to the Republic of Nauru
3-5 December 2012
Report**

Executive Summary

- *UNHCR's longstanding view on any transfer arrangements is that effective protection safeguards need to be reflected in the formal arrangements of the State parties and must be implemented in practice. Assessed as a whole, UNHCR is of the view that the transfer of asylum-seekers to what are currently harsh and unsatisfactory temporary facilities, within a closed detention setting, and in the absence of a fully functional legal framework and adequately capacitated system to assess refugee claims, do not currently meet the required protection standards.*
- *There is a lack of clarity as to the legal and operational roles and responsibilities of the two States parties to the transfer arrangements. Despite formal advice to UNHCR from the Government of Australia that it considers its legal responsibility for transferees extinguished at the time of physical transfer, the terms of the arrangements and the practical arrangements on Nauru indicate a high degree of de facto control by Australian officials and its contractors. This reinforces UNHCR's view that, under international law, legal responsibility for the care and protection of all transferees remains with both contracting States equally.*
- *Despite the establishment by the Government of Nauru of a legal framework for processing asylum claims, a great deal of preparatory work needs to be done before it can be concluded that a functional, fair and effective system for refugee status determination is in place. Preliminary interviews are now being undertaken but further information needs to be provided to asylum-seekers as to when, how and by whom proper and substantive decisions of refugee claims will be made, including appeal and review rights, and rights to legal advice and representation.*
- *Delays in commencement of substantive processing arrangements for asylum-seekers may be inconsistent with the primary and, arguably, sole purpose of transfer to a "Regional Processing Centre", namely, to undertake refugee processing in a fair, humane, expeditious and timely way.*
- *The insertion of the 'no advantage' concept as a basis for delaying or postponing the proper and timely assessment of refugee claims is not appropriate and is inconsistent with both States' responsibilities under the Refugee Convention to accord refugees with the full protection of rights set out in the Convention.*

- *It is apparent that a number of transferees are suffering the effects of pre-existing trauma and torture. The capacity of current health providers to deal with these issues on Nauru is limited and questions are raised about the effectiveness of the pre-transfer assessments undertaken by Australian officials prior to selection and transfer.*
- *The current uncertainty about responsibilities for different aspects of processing and ongoing delays in the commencement of such processing are likely, together, to have a significant and detrimental impact on the mental and physical health of asylum-seekers transferred from Australia to Nauru over time. Unless these issues are addressed without delay, this impact is likely to be exacerbated by the currently unsatisfactory reception conditions within the detention settings of the Processing Centre on Nauru.*

UNHCR's key recommendations are that:

- A. More information should be provided to asylum-seekers about their situation, including better counselling on the procedures which will be followed to assess their claims for refugee status, on what basis, by whom and the indicative time frames for these various steps.*
- B. Asylum-seekers should be provided with adequate reception conditions. Freedom of movement in line with international law must be provided, unless there are compelling circumstances which warrant restrictions on liberty in the individual case, and which are determined to be necessary, reasonable in all the circumstances and proportionate to a legitimate purpose, such as health or security.*
- C. The legal framework, rules and procedures for processing of transferees' substantive claims for international protection should be completed as a matter of urgency. Substantive assessments, with appropriate legal advice and representation, should be commenced without delay by suitably qualified, experienced and appropriately resourced officials. The identification and training of qualified decision-makers is therefore a priority.*
- D. The pre-transfer assessments conducted in Australia need to be reviewed to ensure that they fully take into account the vulnerabilities of individuals who may have suffered torture or trauma and include a realistic assessment of the quality of support and capacities of service providers on Nauru.*

Introduction

1. UNHCR undertook a mission to Nauru on 3-5 December 2012 pursuant to its monitoring and advisory role under Article 35 of the 1951 Refugee Convention, to which both Australia and Nauru are parties.
2. In light of UNHCR's assessment that both Australia and Nauru have legal responsibility for the asylum-seekers who arrived in Australia and were transferred to Nauru, UNHCR's Legal Protection Team had as its overall objective to assess how both countries were implementing their obligations under the 1951 Refugee Convention.
3. The terms of reference were to:
 - (i) Meet with Nauruan officials to discuss the legal and operational implications of the transfer arrangements, with particular reference to Nauru's recent commitments arising from its accession to the 1951 Refugee Convention;
 - (ii) Visit the "Regional Processing Centre" (RPC) to review reception conditions; and,
 - (iii) Meet with asylum-seekers, service providers, contractors and officials of the Australian Department of Immigration and Citizenship (DIAC) in charge of the RPC to assess the protection situation in light of Australia's ongoing responsibilities under the Refugee Convention and other international human rights instruments.
4. UNHCR is grateful to the Government of Nauru for facilitating the mission, for the open and constructive spirit of discussions, and for its commitment to care for transferees brought to Nauru, particularly in light of the considerable constraints imposed by its current capacities, limited resources and lack of experience in managing the many complex challenges arising from such transfers.
5. UNHCR appreciates the complex challenges faced by both States party to the arrangements and their commitment to improve the protection situation. UNHCR acknowledges, in particular, efforts by the Government of Nauru to develop the framework legislation needed to establish the processing arrangements and to ensure transferees are adequately taken care of during these processes. It is hoped that implementation will take place shortly and that rapid progress can be made to ameliorate the current shortcomings identified in this Report as soon as possible.

Findings

Legal responsibility and duty of care

6. On 3 and 4 December UNHCR met with the Minister for Justice of Nauru and senior officials of the Department of Justice and Border Control and the Office of Parliamentary Counsel. Discussions focused on Nauru's obligations under the 1951 Refugee Convention; the national legal framework to implement those obligations pursuant to the *Nauru Refugees Convention Act 2012* and the *Immigration Regulations 2000* (as amended by the Immigration Amendment Regulations 2012 of 14 September 2012); and, the processes the Government of Nauru intends to put in place to ensure a fair and efficient refugee status determination process.
7. Discussions also took into account the terms of the bilateral Memorandum of Understanding (MOU) signed by Australia and Nauru relating to the transfer to and assessments of persons in Nauru on 30 August 2012. Notwithstanding formal advice from the Government of Australia to UNHCR that it considers legal responsibility for individuals is transferred to Nauru upon their arrival in Nauru, the MOU envisages that while the Government of Nauru assumes responsibility for refugee status determination, the Government of Australia, for its part, bears all costs incurred under the MOU and will make all efforts that all persons entering Nauru will depart Nauru within as short a time as is reasonably necessary for the implementation of the MOU.
8. Under the MOU the Government of Nauru assures the Government of Australia it will make a refugee status determination – or permit one to be made – in accordance with the 1951 Refugee Convention, and that it will respect the *non-refoulement* obligations of the Refugee Convention and other human rights treaties.
9. In UNHCR's view, when such transfers take place, at a minimum, the transferring State needs to establish that each individual asylum-seeker, in addition to being admitted and receiving protection against *refoulement*, and as a matter of practice:
 - (i) will have access to fair, efficient and timely assessments of their refugee claims and/or need for other forms of international protection – as the primary purpose of the transfer is the 'processing' of people's claims for protection, that assessment process needs to take place as soon as practicable after transfer;
 - (ii) will be treated in accordance with accepted international human rights standards (including e.g. appropriate reception arrangements and safeguards against arbitrary detention, and that persons with specific needs are identified and assisted); and,

- (iii) if recognized as being in need of international protection, will be able to access a durable solutions.¹
10. In this regard, UNHCR has been particularly concerned that transfers of asylum-seekers from Australia to Nauru took place well before proper reception conditions and refugee status determination (RSD) procedures had been established.
11. Furthermore, Nauru has assumed fewer human rights treaty obligations than Australia, including in relation to broader human rights considerations and statelessness.² At the time of the visit, these human rights safeguards had not been incorporated into Nauruan legislation.
12. There is also considerable ambiguity about operational aspects of the arrangements between the parties, especially in respect of:
- (i) the interpretation and application of the so-called 'no advantage principle' (a notion with which UNHCR has consistently expressed deep reservations, because it is not an appropriate comparator, is inherently difficult to quantify, and could amount to a penalty in violation of Article 31 of the 1951 Refugee Convention);
 - (ii) entitlement to Convention and other rights; and,
 - (iii) responsibility for the provision of permanent solutions within as short a time as is reasonably necessary.
13. During meetings with asylum-seekers, they generally expressed a degree of confusion about who would undertake their processing, who would be responsible for their protection if they were found to be refugees, and how long it would take for them to restart their lives.
14. Several asylum-seekers noted that they had not received much information from officials or service providers, or that they did not understand the advice they had received. Others said they had been told they had to wait five years before a durable solution was found for them. Several asylum-seekers wished to know who would assess their claims for protection, and who would be

¹ UNHCR, *Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*, November 2010, [34]-[35] <<http://www.unhcr.org/refworld/docid/4cd12d3a2.html>>. See, also, UNHCR, *Aide-mémoire: UNHCR's Observations on the Final Draft of the Malaysia-Australia Arrangement on Transfer and Resettlement and Annexed Operational Guidance (dated 8 July 2011)* (July 2011); ExCom Conclusion No. 85 (XLIX) (1998), para. (aa); ExCom Conclusion No. 58 (XL) (1989), para. (f)

² Nauru has acceded to the 1989 *Convention on the Rights of the Child* and the 1979 *Convention on the Elimination of All Forms of Discrimination Against Women* and has signed (but not ratified) the 1965 *Convention on the Elimination of All Forms of Racial Discrimination*, the 1989 *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, as well as the 1966 *International Covenant on Civil and Political Rights* and its First Optional Protocol. Nauru has not signed the 1954 or 1961 *Statelessness Conventions*.

responsible for finding a solution for them. Others described the lack of clarity as 'cruel'.

15. The confusion about lines of responsibility was, in UNHCR's view, exacerbated by the absence of a regular presence of the Nauruan Government at the RPC, and the fairly high visibility (and level of control) by Australian officials, notwithstanding messaging to the effect that responsibility for the asylum-seekers had purportedly been transferred to the Government of Nauru.
16. Arrangements at the RPC are also confusing in that primary contact of the asylum-seekers has been through organizations contracted by DIAC to provide services, and those service providers have not been able to answer the asylum-seekers' questions.
17. While officials of the Government of Nauru had visited the Centre in late November to explain the processes they could expect, it was clear from discussions with asylum-seekers that they had not well understood the respective roles of the Governments of Australia and Nauru, nor what processing they could expect.
18. UNHCR understands that information sheets are being prepared and translated into key languages of the asylum-seekers to ensure a better understanding of their situation.
19. UNHCR considers it essential for further efforts to be made by both the Governments of Australia and Nauru to clarify and advise the refugees and asylum-seekers of their respective roles and responsibilities.
20. UNHCR further considers it a matter of urgency to provide comprehensive information in writing to asylum-seekers setting out the procedures which will be followed to assess their claims for refugee status, on what basis, by whom and indicative time frames for these procedural steps.
21. UNHCR believes it would be helpful to have a regular identifiable presence of the Government of Nauru at the RPC, and regular information sessions and case management contact with the refugees and asylum-seekers.
22. Information should include advice about the rights established under Nauruan law for asylum-seekers, including to natural justice and review of negative decisions; the ability of asylum-seekers to receive legal and other assistance with claims; and, the likely outcomes following decision making.
23. In UNHCR's view, it should also be made clear to asylum-seekers that the Government of Australia has responsibility for ensuring a durable solution for those found to be refugees, as set out in the Memorandum of Understanding and in accordance with Australia's international obligations to the asylum-seekers.

24. Asylum-seekers should not have expectations raised about the likely prospect of resettlement to any one of a number of resettlement countries, nor should they be told that they will be required to wait a significant period of time prior to receiving a durable solution. In this regard, UNHCR recalls its earlier advice to both Governments that the 'no advantage' concept is an inappropriate benchmark against which both States Convention responsibilities are measured.
25. In UNHCR's view, asylum-seekers should be assured that if they are found to be refugees, the Governments of Australia and Nauru will make all efforts to provide a durable solution to their plight as soon as is possible. In the meantime, all refugees are entitled to the full range of rights to which they are entitled under the Refugee Convention.

Key Recommendation A:

More information should be provided to asylum-seekers about their situation, including better counselling on the procedures which will be followed to assess their claims for refugee status and on what basis, by whom and the indicative time frames for these various steps.

Immigration detention and conditions

26. UNHCR's Legal Protection Team visited the site of the RPC on 4 and 5 December.
27. According to UNHCR's information prior to the visit, obtained from official Australian Government sources, as at 21 November 2012 there were some 414 asylum-seekers who had been transferred to Nauru, 18 of whom had returned voluntarily to their countries of origin. Of the remaining 396, 233 are Sri Lankan (of both Tamil and Sinhalese ethnicity), 23 from Iraq, 31 from the Islamic Republic of Iran, 66 from Afghanistan and 43 from Pakistan. As at the time of the visit, DIAC advised there were some 387 asylum-seekers in the Centre. They are all single men.
28. The RPC is located at the 'Topside' of Nauru (the central plateau of phosphate deposits which rises 70m above sea level). The asylum-seekers are currently housed in large and small tents, with the larger ones holding up to 16 asylum-seekers and the smaller up to 5, in a small confined space. Construction is under way to provide better accommodation, which will be 'rolled out' from 20 January 2013, with the intention of having all asylum-seekers out of tents by early February. In the meantime, the construction of the new accommodation as well as the heat and isolation of the Centre provide for a very inhospitable environment for the asylum-seekers, with little privacy.

29. UNHCR met with the majority of the refugees and asylum-seekers at the RPC to explain UNHCR's role and responsibilities, to receive any particular concerns regarding their situation, and to observe firsthand the conditions of detention.
30. UNHCR met with all the service providers at the RPC who have now been operational for three months and provide the following services to asylum-seekers at the facility: camp management (Transfield Services), safety and security (Wilson Security), community services (Salvation Army), and physical and mental health (International Health and Medical Services – IHMS).
31. UNHCR also met with representatives of DIAC, which officially coordinates the implementation of service provider contracts and appeared to be in effective control of management of the RPC. While not housed within the perimeter of the Centre, the DIAC presence was very visible, with a number of DIAC officials in DIAC visibility attire. In addition a number of DIAC staff seconded to the Government of Nauru to undertake 'transferee' (essentially registration) interviews are present, though without identifying attire. Approval to enter the RPC appears to be controlled by DIAC, and not the Government of Nauru.
32. The RPC is currently governed by the following provisions relating to freedom of movement (and work rights) which are associated with the grant of an 'Australian regional processing visa' under Nauruan law:
- (i) Detention for asylum-seekers pending health and security clearance;
 - (ii) Imposition of curfew (between 7 pm and 7 am) and requirement to be accompanied by a service provider (or someone approved by the service provider) outside the place of detention for asylum-seekers who have been granted health and security clearances; and,
 - (iii) Freedom of movement and work rights for asylum-seekers upon recognition as refugees without adverse security assessments, with requirement to reside in notified premises.³
33. The Government of Nauru has made a commitment to ensure greater freedom of movement for asylum-seekers and to create an open reception centre in the future, with the current arrangements being 'transitional', but UNHCR is nevertheless concerned that at present asylum-seekers are subject to deprivation of liberty in a closed place which amounts to "detention" as defined in UNHCR's Detention Guidelines 2012.⁴ Where collective accommodation or reception centre housing is the only alternative, the responsible State needs to ensure the privacy and security of the asylum-seekers.

³ *Immigration Regulations 2000* (Nauru), reg 9A.

⁴ UNHCR, *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention* (2012), [5]:

For the purposes of these Guidelines, "detention" refers to the deprivation of liberty or confinement in a closed place which an asylum-seeker is not permitted to leave at will, including, though not limited to, prisons or purpose-built detention, closed reception or holding centres or facilities.

34. UNHCR's Legal Protection Team noted that the conditions at the closed and congested detention centre are harsh, with little natural shelter from the heat during the day, which is exacerbated by all the challenges arising from residing in a construction zone, including significant noise and dust.
35. Notwithstanding the fact that the asylum-seekers themselves, with some exceptions, expressed less concern with the conditions at the RPC than with the delays and uncertainty about the processing, UNHCR is concerned that the continued delays within a protracted detention situation, in difficult conditions, and against the background of no clear legal process or accountability, will continue to lead to significant and long-term psycho-social harm (see further paragraphs 54-60).
36. UNHCR appreciates the conditions are likely to be significantly improved from early 2013 with the gradual move into more permanent structures.
37. UNHCR considers as a matter of urgency that asylum-seekers are provided with adequate conditions of accommodation in line with international standards and are granted freedom of movement, unless there are compelling circumstances which warrant restrictions on liberty in the individual case, and which are determined to be necessary, reasonable in all the circumstances and proportionate to a legitimate purpose.

Key Recommendation B:

Asylum-seekers should be provided with *adequate reception conditions*. Freedom of movement in line with international law must be provided, unless there are compelling circumstances which warrant restrictions on liberty in the individual case, and which are determined to be necessary, reasonable in all the circumstances and proportionate to a legitimate purpose, such as health or security.

Asylum procedures

38. While the Government of Nauru has enacted enabling legislation and regulations, and advised UNHCR it is in the process of preparing further legislation to address a number of residual issues, the current situation is that there are:
- (i) no asylum procedures in place;
 - (ii) no experienced refugee status determination decision makers in the Government of Nauru;

- (iii) no pool of persons identified to do the independent reviews on the tribunal envisaged by the recently enacted *Refugees Convention Act 2012*; and
 - (iv) no substantive assessments of refugee claims have begun, apart from preliminary data collection.
39. Significant efforts are being undertaken by the Government of Nauru to develop detailed procedural guidelines for decision makers and to source sufficient experienced decision makers to undertake the process. UNHCR also understands consultations between the two Governments are ongoing in relation to (i) staffing needs to undertake the refugee status determination and (ii) tendering arrangements to provide asylum-seekers with advice in presenting their claims for international protection. It is intended that full RSD procedures will commence in early 2013.
40. UNHCR nevertheless remains deeply concerned about the continued uncertainty and delays in establishment of Nauru's RSD procedures, and its deleterious impact on the mental and physical health of refugees and asylum-seekers if this is not addressed very promptly.
41. UNHCR is particularly concerned that some asylum-seekers who may be bona fide refugees might contemplate a return to a country of origin as a result of the uncertainty around processes in Nauru, and the prospect of lengthy delays in accessing a permanent solution, in onerous detention conditions. This may be particularly prevalent where asylum-seekers are reduced to a psycho-social state of hopelessness and despondency. UNHCR considers it essential that any returns are fully informed and consensual, and not prompted by uncertainty and protracted detention.
42. The International Organization for Migration (IOM) has a presence at the RPC, to provide counselling and assistance on Assisted Voluntary Returns, though UNHCR was not able to meet with IOM representatives during the course of the mission.
43. 'Transferee interviews' to collect preliminary registration information commenced on 24 November by three DIAC officials seconded to the Government of Nauru and indications were received that these will be completed in respect of all transferees by February 2013.
44. UNHCR attended one transferee interview during the visit and is concerned that refugees and asylum-seekers receive inadequate information on the RSD procedures and are confused as to whether the Government of Australia or Nauru has ultimate responsibility for assessing their claims to international protection and seeking permanent solutions. This situation is compounded by the conflation of procedures in that previously collected information by the Government of Australia is offered to the applicant for clarification, and

additional documentation submitted by an applicant is submitted through a DIAC email address.

45. Some transferees have elected not to participate in the interviews due to their lack of confidence in the current RSD procedures and/or transfer arrangements. It is noted that the constant and excessive noise associated with the construction of the permanent facility may have a detrimental impact on the ability of an applicant to present his/her claim for international protection.
46. A number of the Sri Lankan asylum-seekers expressed their concern about compatriots who were being removed to Sri Lanka from Australia, both for the sake of their compatriots, but also because they were worried that they might be subject to similar removals in Nauru.
47. UNHCR has raised serious concerns about these expedited removals with the Government of Australia and assured asylum-seekers that both Australia and Nauru have obligations not to return any person claiming protection without providing access to a fair process for assessing their claims, with appropriate legal safeguards, including a personal interview by a fully qualified official and access to review of a negative decision⁵; access to legal advice; access to UNHCR; and particular attention to certain vulnerable asylum-seekers, including for unaccompanied and/or separated children.⁶
48. The Government of Nauru is not currently present at the RPC and has no direct involvement in the scheduling, notification and/or interviewing of the transferees (which is completed by Australian officials on behalf of Nauru). UNHCR understands that Nauru officials of the Department of Justice and Border Control will participate in transferee interviews after 5 December 2012.
49. UNHCR urges the Governments of Australia and Nauru to proceed with urgency to put in place a full refugee status determination procedure. In the meantime, it is highly unsatisfactory that asylum-seekers are being held in detention-like conditions with little or no prospect of prompt and expeditious assessment of their refugee claims.

⁵ UNHCR, *Asylum Processes (Fair and Efficient Asylum Procedures)*, Global Consultations on International Protection, 31 May 2001 EC/GC/01/12, partially based on UNHCR's ExCom Conclusion No. 30 of 1983 on 'The Problem of Manifestly Unfounded or Abusive Applications for Refugee Status or Asylum'.

⁶ *Ibid* [32]-[33]. On children, see UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08, Part IV on procedural and evidentiary issues in respect of refugee status determination of children, available at: <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>.

Key Recommendation C:

The legal framework, rules and procedures for processing of transferees' substantive claims for international protection should be completed as a matter of urgency. Substantive assessments, with appropriate legal advice and representation, should be commenced without delay by suitably qualified, experienced and appropriately resourced officials. The identification and training of decision-makers is therefore a priority.

Oversight and monitoring

50. An interim Joint Advisory Committee has been established with representatives from both Governments and the Australian Immigration Minister's Council on Asylum Seekers and Detention. To date, this body is in the early stages of monitoring and oversight. The composition of the oversight body, together with the de facto areas of control exercised by Australian officials and contractors, reinforces UNHCR's clear view that both States are equally responsible for the care, welfare and protection of all transferred persons.
51. The Government of Nauru has provided the International Red Cross and Red Crescent Movement, Amnesty International, UNHCR and other independent bodies with access to the RPC, which reinforces the principles of transparency and accountability of the transfer arrangements and reassures refugees and asylum-seekers that there are independent organizations monitoring their well-being and progress.
52. In the absence of Nauruan oversight bodies, this will be particularly important over the coming months.
53. UNHCR believes access should continue to be granted to independent oversight bodies to monitor the welfare of the asylum-seekers and progress of the assessment of their claims for international protection.

Mental and Physical Health

54. In meeting with the asylum-seekers, many of them raised concerns about the perceived unfairness and discrimination by which approximately 8,000 asylum-seekers who had arrived by boat to Australia after 13 August were eligible to be released into the community on Bridging Visas while they had been transferred to Nauru and were being held in closed detention.
55. According to medical staff, the sense of injustice, along with the hot and crowded detention conditions, a sense of isolation and abandonment, and a lack of information about their processing and future prospects, has led to widespread depression, instances of self-harm and several attempted suicides.

56. IHMS staff described a steady and rapid incidence in mental health diagnoses at the RPC, self-harm, including hanging attempts, with more than 10 new referrals each day and an additional 20 refugees requiring daily support and follow-up. At the time of the visit there were approximately 40 asylum-seekers on hunger strike to draw attention to their situation.
57. There are limited facilities in Nauru to manage medical health issues. The IHMS medical clinic, which has three general practitioners, and mental health unit, which has two psychologists and two nurses, provides treatment relating to dispensing minor drugs (paracetamol), muscular pain, dental, dehydration, individual counselling, and self-harm (cigarette burns, cuttings and hangings). However, if required, the clinic only has the capacity to complete resuscitation and stabilization until the patient is transferred by standby ambulance to the Nauru Hospital and/or medically evacuated.
58. Post-transfer mental health screening by IHMS continues to identify mental health cases and survivors of torture and/or trauma. This raises concerns about the reliability and comprehensiveness of Australia's pre-transfer assessments.
59. UNHCR has reviewed a sample of Pre-Transfer Assessments of asylum-seekers transferred from Australia to Nauru, and is concerned by the rigid pro-forma template which appears to restrict the scope of questioning and limit the assessment to a record of comments rather than any analysis of needs. The Pre-Transfer Assessment Forms contain no evidence of the interview, or any external information which purports to inform the assessment (such as the IHMS health assessment). UNHCR understands the patient confidentiality required, however, the sample reveals that the Assessment Forms do not contain any substantive analysis of the factors affecting the reasonable practicability of transfer to the RPC, notably the physical and mental characteristics (physical or mental health of the persons, special needs identified, fitness to travel, and other vulnerabilities) or logistical considerations (resources and facilities available in the RPC to accommodate the needs of the person and physical capacity to accommodate the person).
60. UNHCR is concerned that potential survivors of torture and trauma may not be identified until after transfer, at which point the quality and availability of support services is significantly diminished.
61. UNHCR is also of the view that providing more information and clarity about processing, as well as commencement of processing without further delay will contribute to reducing the risk of harm, including self-harm, to asylum-seekers.

Key Recommendation D:

The pre-transfer assessments conducted in Australia need to be reviewed to ensure that they fully take into account the vulnerabilities of individuals who may have suffered torture or trauma and include a realistic assessment of the quality of support and capacities of service providers on Nauru.

Purposeful activities

62. Refugees and asylum-seekers have access to a range of activities at the RPC, including English lessons, musical activities and a temporary gymnastics centre, and it is welcome that the availability of purposeful activities will be significantly expanded by the construction of the permanent (and open) facility.
63. A few asylum-seekers raised issues around access to internet, with one noting he only had half an hour's access every two days. Staff indicated that the limited access was a result of the limited services available on Nauru, but that they were conscious of the desirability of greater access.
64. It is noteworthy that while asylum-seekers are isolated, physically, they have some access to internet technology, and thus are very conscious of developments in policy and practices in Australia as well as in Nauru. This mixture of physical isolation and modern internet connectivity can lead to confusion and misunderstandings. This underscores the need for clearer, more regular information being shared by authorized officials in the Centre at Nauru.
65. UNHCR welcomes the opportunity for refugees and asylum-seekers to participate in excursions outside of the RPC coordinated by the Salvation Army and Wilson Security; however, is concerned by indications that refugees and asylum-seekers are electing not to participate in excursions due to external advice that they should not be seen to be enjoying themselves in Nauru.
66. UNHCR encourages greater community consultation and regular information briefings by service providers, under the overall coordination of the Government of Nauru, to ensure that asylum-seekers are better informed of their rights and consulted about how best to implement and encourage participation in purposeful activities.

UNHCR Regional Representation
Canberra, 14 December 2012