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SUPPORT SCHEMES FOR VICTIMS OF TRAFFICKING IN PERSONS; AUSTRALIA

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The Australian Federal Government's *Support for Victims of People Trafficking Program* is designed to assist persons who have been trafficked into Australia and who are assisting with the investigation or prosecution of trafficking and sexual servitude. Eligibility for this program is tied to Australia's People Trafficking Visa Framework,¹ with levels of available services varying depending on the type of visa held by the applicant.

1. Federal Government Program

1.1 Program and its Aims

The *Support for Victims of People Trafficking Program* (the Program) commenced in March 2004. It is funded by the Commonwealth Department of Families, Housing, Community Services, and Indigenous Affairs (FaHCSIA) and administered by the Office for Women. The Department lists the expiry date of the program as December 2008 and no further information has been provided as to the current funding status of the Program. Prior to the inception of the Program, the Australian Federal Police (AFP) was responsible for the care of victims of trafficking.²

The Office for Women describes the Program as "demand driven" and closely linked to the People Trafficking Visa Framework.³ It aims to assist with the Federal Government's priority of combating people trafficking through successful prosecution by providing "appropriate support and assistance" to persons "who are prepared to assist with the investigation or prosecution of perpetrators" and have been granted a relevant visa.⁴ The Program also aims to improve the skills of victims of trafficking, so as to assist their ability to reintegrate upon return to their home country.⁵

Since its inception, the Program has been carried out by the contractor BSIL Southern Edge, which is a registered training organisation.⁶ This company provides training to numerous government and private sector businesses. BSIL Southern Edge employs caseworkers with at least three years experience to provide "professional, high quality and vocationally relevant training solutions".⁷

1.2 Access to the Program

Trafficked persons gain entry to the Federal Government's support program after being granted one of Australia's visas for trafficked persons and witnesses (the Bridging Visa F, the Criminal Justice Stay Visa, and the Criminal Justice Entry Visa).⁸ The granting of these visas is conditional on the willingness of the participant to assist with any relevant criminal investigation into trafficking offences.

¹ See separate file at www.law.uq.edu.au/humantrafficking.

² Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 36.

³ Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) [1] <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

⁴ BSIL Southern Edge, *Victims of Trafficking Care Program (VotCare Program)* (2008) <http://www.southernedge.com.au/page/votcare_program.html> at 27 Jan 2009.

⁵ Office for Women, 2008. http://www.ofw.facs.gov.au/international/combating_people_trafficking.htm at 27 Jan 2009.

⁶ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 16.

⁷ BSIL Southern Edge, *Victims of Trafficking Care Program (VotCare Program)* (2008) <http://www.southernedge.com.au/page/votcare_program.html> at 27 Jan 2009.

⁸ See separate file at www.law.uq.edu.au/humantrafficking.

Trafficked persons who do not hold any of these visas do not have access to the Program and, as unlawful non-citizens, are to be held in immigration detention prior to being removed from Australia.⁹

Victims of trafficking who may be eligible for the Program are detected in Australia either through the investigations of government bodies (such as the Department of Immigration and Citizenship (DIAC), state police services or the Australian Federal Police (AFP)) or by their own initiative.¹⁰ Trafficked persons have previously sought assistance through notifying local police stations, calling 000, contacting their embassy or asking their clients for help.¹¹

The Support for Victims of People Trafficking Program is open to all victims of trafficking, irrespective of gender or the nature of their trafficking situation.¹²

1.3 Types of Participants

The participants in the Support for Victims of People Trafficking Program have thus far primarily been women working in the sex industry.¹³ As of July 1, 2008, there were 34 participants in the Program.¹⁴ Since the scheme commenced in 2004, a total of 107 persons have been given assistance (including one male victim of trafficking who was working in the hospitality industry).¹⁵ 65% of the participants were Thai nationals and 19% were Korean (Republic of Korea or South Korea).¹⁶

1.4 Services Provided

The services provided under the Support for Victims of People Trafficking Program are divided into three phases. The entry to each phase is determined by the visa held by the individual. As a range of services are available within each phase, the types of programs that the individual becomes involved in are shaped by their needs, as determined by their case manager.¹⁷ Additionally, the guidelines for the provision of these services are made known to the case managers through a program of training.¹⁸

⁹ Section 189 *Migration Act 1958* (Cth).

¹⁰ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, ix, 24.

¹¹ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, ix, 24.

¹² Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) [1] <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009, 1.

¹³ Tanya Plibersek, presentation at the *Australian Trafficking Forum*, Sydney (NSW), 24 July 2008), [2] <http://www.antislavery.org.au/pdf/TanyPlib_Address.pdf> at 27 Jan 2009.

¹⁴ Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) [1] <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009, 1; Tanya Plibersek, presentation at the *Australian Trafficking Forum*, Sydney (NSW), 24 July 2008), [2] <http://www.antislavery.org.au/pdf/TanyPlib_Address.pdf> at 27 Jan 2009, 2.

¹⁵ Elizabeth Broderick, 'Trafficking: The Need for a Human Rights Based Approach', presentation at the *Anti-Trafficking Forum*, Sydney (NSW), 24 July 2008), [11] <http://www.hreoc.gov.au/about/media/speeches/sex_discrim/2008/20080724_trafficking.html> at 27 Jan 2009.

¹⁶ Elizabeth Broderick, 'Trafficking: The Need for a Human Rights Based Approach', presentation at the *Anti-Trafficking Forum*, Sydney (NSW), 24 July 2008), [11] <http://www.hreoc.gov.au/about/media/speeches/sex_discrim/2008/20080724_trafficking.html> at 27 Jan 2009.

¹⁷ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 38; Office for Women, above n2, 2.

¹⁸ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 38.

Phase One Services

Phase One services are only available for a maximum of 30 days to holders of a Bridging Visa F.¹⁹ To obtain this visa, the applicant must be a person 'of interest' in the investigation or prosecution of an offence involving trafficking in persons, sexual servitude or deceptive recruiting.²⁰ Holders of this visa cannot engage in paid employment, but may travel to their home country for a short period and then return to Australia to access the program if "compelling and compassionate" circumstances are present.²¹

The services provided in this phase include:

- Safe accommodation (\$140–\$160 per night)²²;
- Support funds (\$80 a week food allowance, \$80 a week living allowance, plus a one-off amount of \$310 to purchase essentials such as clothing and toiletries);
- Case manager contact (all case managers have access to a car)²³;
- Emergency funds (\$500);
- Medical evaluations;
- Counselling (optional);
- Translation services (up to the value of \$300)²⁴;
- Sexual health screening;
- Local transport and appointment scheduling; and
- Socialisation services.

Phase Two Services

The availability of these Phase Two services is limited to recipients of a Criminal Justice Stay Visa.²⁵ This visa is issued to recipients of the Bridging Visa F (see above) who have been determined to be of interest to a prosecution, following the issuing of a Criminal Justice Stay Certificate (CJSC) by the State/Territory or Federal Attorney-General.²⁶ The Office for Women has stated that this phase of services is designed to provide "less intensive support until the investigation and prosecution of a people trafficking offence is finalised".²⁷ The visa holder can undertake paid employment during this phase.²⁸

Services provided in this phase include:

- Special Benefits Allowance (up to \$424.30 per fortnight), rent assistance (up to \$104 per fortnight), and a Centrelink Health Care Card (if eligible);²⁹
- Access to the Medicare Benefits Scheme and the Pharmaceutical Benefits Scheme.
- Court support;

¹⁹ Subclass 060; Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 14, 15.

²⁰ *Migration Regulations 1994* (Cth). Schedule 1, 1306 3(d); div 270, 271 *Criminal Code* (Cth).

²¹ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 14, 15; Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) [1] <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

²² Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 14, 15.

²³ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 39.

²⁴ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 39.

²⁵ Pt 2, Division 4 *Migration Act 1958* (Cth); Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 16.

²⁶ Section 157(a) *Migration Act 1958* (Cth).

²⁷ Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) [1] <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

²⁸ Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) [1] <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

²⁹ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 16.

- Employment;
- Long term accommodation assistance and furniture;
- Assistance with the opening of bank accounts;
- Social networks;
- English classes;
- Vocational Training;
- Case manager contact; and
- Legal assistance (with a maximum of three appointments per program participant).³⁰

Phase Three Services

This phase was implemented on July 1, 2007 in order to provide services to trafficked persons who hold a Criminal Justice Entry Visa,³¹ and who are returning to Australia in order to assist a prosecution by giving evidence.³²

Similar levels of services as are available in Phase One are provided in this phase, such as:

- Secure accommodation; a
- Living allowance; and a
- Food allowance.³³

1.5 After the Program

Trafficked persons who have participated in the Support for Victims of People Trafficking Program and who may be at risk of harm if they return home (as a result of their involvement with the prosecution of traffickers in Australia) are eligible for a Temporary or Permanent Witness Protection (Trafficking) Visa to remain in Australia.³⁴ Recipients of these visas are not eligible for any further assistance from the Program.

Victims who return to their country of origin after receiving care from this support scheme are also able to access limited reintegration assistance provided by the Australian Government.³⁵

2. Other Forms of Support

2.1 Australian Federal Police Support

The Australian Federal Police has devised a support scheme, funded by the Commonwealth Department of Public Prosecutions, in order to accommodate victims of trafficking who wish to return to their home country before cooperating with Australian law enforcement agencies. This scheme has involved Thai social workers travelling from Thailand to Australia with victims to assist them with the process of giving a witness statement.³⁶

³⁰ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 39.

³¹ *Migration Act 1958* (Cth) s156.

³² Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 15, 17.

³³ Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) 2 <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

³⁴ Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) 2 <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

³⁵ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 44; Office for Women, *Support for Victims of Trafficking Fact Sheet* (2008) 2 <http://www.ofw.facs.gov.au/downloads/pdfs/trafficking_factsheet.pdf> at 27 Jan 2009.

³⁶ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 37.

2.2 Victorian State Government Program

Victoria is the only state/territory in Australia to maintain its own initiative for trafficked persons who would not qualify for the Federal Government's Program. It commenced in October 2006 and provides a "victim-centred" approach in supporting victims of trafficking who are, for example, unwilling to assist with police investigations and thereby excluded from the Federal scheme.³⁷

This program is outsourced to the non-governmental trafficking victims' organisation Project Respect, which works with the Refugee and Immigration Law Centre in Melbourne, the Red Cross, the Asylum Seeker Resource Centre, and the Victorian Centres against Sexual Assault.³⁸

The services provided by this scheme include emergency (temporary) accommodation and other assistance programs such as language classes and social/educational activities. It has been noted that there is also the potential to develop a referral system for victims of trafficking to and from hospitals in Victoria.³⁹

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³⁷ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 3, 17, 27.

³⁸ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 17.

³⁹ Fiona David, *Trafficking of Women for Sexual Purposes*, Canberra (ACT): AIC, 2008, 17.