

OECD Guidelines for Multinational Enterprises

Specific instance involving GSL (Australia) PTY
LTD and the complainants

Agreed outcomes of mediation meeting

February 28 2006

Introduction

This document is a record of the agreed outcomes reached between GSL (Australia) Pty Ltd and the complainants during the mediation meeting held on Tuesday 28 February, 2006, at the Department of Treasury, Canberra.

Additional recommendations were tabled by the complainants during the meeting. An opening statement and relevant documents relating to human rights standards adopted by the United Nations General Assembly were also tabled.

The discussion was open and frank, and based on a shared commitment by all to promote adherence to universally recognised standards of human rights. It was acknowledged that there had been many positive changes since the complaint was lodged, not least that children were no longer being detained in detention centres. In this time there have been a number of reports such as the Palmer Report, and court cases that have highlighted many of the issues at the heart of the complaint.

The protracted tender and negotiation period for the contract, and the constantly changing nature of the demands being placed on the detention services provider, and its own learning from the experience highlighted for the complainants the considerable scope for the company in deciding what services it will offer and how. For all involved there seemed to be a shared understanding at the conclusion of the meeting of the value of international human rights standards in determining the companies own decision making processes.

The meeting took place between 10.00am and 2.45pm. Discussion of some issues of concern will require further time and consideration. There was willingness from all involved to canvass the range of issues involved in the original complaint – from the contractual issues through to operating protocols and the changing patterns of immigration detention. It was agreed that an atmosphere of direct dialogue between the complainants (and others concerned) and the company on these issues was engendered by the meeting and should be fostered to address continuing concerns. This provides scope for GSL to engage more closely with the complainants , or other appropriate external groups, in the future to ensure outcomes reached are implemented and a culture of transparency and accountability fostered.

At the conclusion of the meeting it was agreed by all parties that there would be value in the NCP forwarding a copy of his statement to Minister Vanstone, the Commonwealth Ombudsmen, IDAG and HREOC.

General agreement

1. GSL acknowledged the value of using a human rights framework as the appropriate standard to guide operations and assist the company ‘do the right thing’ in all aspects of operation and service delivery
2. GSL acknowledged that as a corporation it had its own responsibilities and should be accountable for these responsibilities. How it understood and implemented its responsibilities was a key factor in its corporate reputation, which is central to its business success.
3. GSL agreed to ensure the contract renegotiation, and the final contract with DIMIA (should GSL successfully tender) make reference to human rights standards and appropriate international conventions as the appropriate framework for a service delivery model in all areas of detention and deportation

4. GSL agreed to ensure that the contract renegotiation process with DIMA (should GSL successfully tender) include the experiences and learning's that GSL has had with regards to the management of detention centres and their use of isolation facilities, and concerns raised regarding compliance with human rights standards
5. GSL agreed that some of the issues discussed at the meeting needed further consideration and the input of external advice. GSL expressed the willingness to have a more ongoing dialogue on the issues discussed with those with relevant expertise and knowledge.

Training

6. GSL acknowledged the value of deepening the knowledge of understanding of human rights standards of all GSL staff, from senior management down given the nature of the industry that GSL was involved in.
7. GSL agreed to enhance the training curriculum it provides to its staff through the inclusion of appropriate human rights materials and references.
8. GSL agreed to liaise with DIMA to ensure that training delivered via the DIMA Training Initiative recognises the increasingly diverse detainee population, includes human rights standards, and utilises a human rights framework in training
9. GSL agreed to make their training curriculum, manuals and materials available to external human rights trainers for review and comment
10. GSL agreed to seek input from human rights experts to deliver human rights training as appropriate (the complainants offered to recommend appropriate trainers).
11. GSL agreed that staff with particular duties in relation to detainees may have a need for more specialised and in-depth human rights trainings.
12. GSL acknowledged that human rights training delivered to all GSL staff would assist in ‘embedding’ a corporate culture that values a human rights framework in service delivery and operations
13. GSL agreed to develop systems to monitor and evaluate the effectiveness of its training in meeting desired organisational and individual behavioural and attitudinal changes

Monitoring the implementation of GSL procedures

14. GSL agreed to seek external advice to determine if the operations of the GSL Compliance and Audit Unit adequately encompass a human rights framework for monitoring and auditing purposes
15. GSL indicated it was willing to make its own ‘random audits’ available for external scrutiny
16. GSL indicated it was changing its complaints monitoring system so that it could monitor the number and nature of complaints and responses to complaints more effectively and would be establishing targets for reduction in complaints.
17. GSL agreed to review the terms of reference and composition of its Community Advisory Committee to enhance external engagement (the complainants offered to suggest additional community representatives)

18. GSL agreed to expand their planned / forthcoming ‘client survey’ to include input and feedback from community visitors to the detention centres (the complainants offered to provide names of key community visitors)
19. GSL agreed that the existing ‘infringement mechanisms’ for identifying, reporting and responding to infringements needs to be made clearer to all GSL staff. International human rights standards were the agreed framework for the management and disciplining of staff alleged to have engaged in the ill-treatment of detainees

Adequacy of information provision and access to interpreters

20. GSL undertook to improve the ‘induction handbook’ for detainees, and to ensure it is available in the appropriate languages
21. GSL undertook to evaluate detainees ‘understanding’ of the induction handbook to ensure the content, expectations and detainees rights and responsibilities were understood
22. GSL agreed to give consideration to alternative mechanisms to deliver the induction handbook to address literacy issues. Audio presentation was one idea suggested.
23. GSL undertook to consider expansion of the current complaints system to encompass a way to register and respond to the concerns of visitors to the detention centre. GSL would consider ways to convey its commitment that there would be no negative repercussions, such as visiting limitations, placed on visitors who register complaints. A “hotline” was suggested.

Management Support Unit and Red One Compound

24. It should be noted that GSL and the complainants were unable to reach agreement about the use of isolation facilities for punitive purposes. It was acknowledged that the use of Red One Compound in particular had been and continues to be a source of particular concern in relation to the human rights of detainees. Agreement was reached on enhancing the GSL protocols governing the use and operations of these facilities
25. GSL agreed to accept advice from external stakeholders as to how the existing protocols can be improved and streamlined. For example, it was recommended that the MSU Transfer and accommodation Guidelines be amended to ensure that women and minors are never placed in the MSU. It was agreed that the definition of “good order of the institution” would be reviewed against relevant human rights standards.
26. GSL agreed to give consideration to identifying and disclosing the nature of the ‘structured programs’ that are available to detainees in MSU and Red One
27. GSL agreed to refer to relevant international human rights standards in drafting protocols for the management and disciplining of staff alleged to have engaged in ill-treatment of detainees.
28. GSL agreed to review the timeframes for the transfer, detention and assessment of detainees in MSU. In particular, endorsement of transfer (recommended change from 48 to 24 hours), final determination (recommended within 24 not 72 hours) and emergency mental health assessments and checks (recommended within 12 not 24 hours)

Deportation

29. It was agreed that GSL retained the right not to conduct deportations in some circumstances. GSL agreed to develop deportation guidelines and processes and to ensure they are linked to appropriate international conventions and human rights standards
30. GSL agreed to ensure that all GSL deportation escorts have received appropriate training and understand the international protocols and human rights standards
31. GSL undertook to provide a report to DIMA as a matter of course on all deportations, compliance with deportation protocols and an assessment of the arrival situation and well being of the person.

General conditions and services to detainees

32. GSL undertook to give consideration to establishing a ‘visitors scheme’ that is more open and could provide feedback and advice to GSL in enhance their risk management process and improve conditions for detainees (the complainants suggested the Victorian Community Visitors Scheme operated by the Office of the Public Advocate as a possible model)
33. GSL indicated a major announcement would be forthcoming with regard to the provision of food in detention centres. Both GSL and the complainants agreed this is a significant issue of detainee dissatisfaction. It was acknowledged that in part this was an issue of infrastructure operated by GSL, but provided by DIMIA.
34. GSL undertook to ensure all detainees have regular access to phones and phone cards to enable communication, support and advocacy