

## **I'm an Australian, get me out of here: the high cost of consular support**

In August 2011, Foreign Affairs Department head Dennis Richardson delivered an address in Canberra where he discussed some of the challenges facing the Department of Foreign Affairs and Trade (DFAT), along with likely directions for the future. One of the issues he highlighted was the growing strain of providing consular services to Australian expatriates and tourists experiencing difficulty overseas. There were several elements to the problem: firstly, Australians were travelling internationally in ever-increasing numbers; secondly, travellers had high expectations of DFAT, yet often failed to take appropriate precautions; and, thirdly, funding had failed to keep pace with a department that had expanded into more areas and further corners of the globe.

### **A department in demand**

During his speech, Richardson detailed the breadth of DFAT's activities, both locally and internationally. It was, he explained, both a "policy department" and a "functional department" which provided politicians, government departments and the public with a wide range of services. In June 2011, DFAT employed some 4100 full and part-time staff across Australia and at approximately 100 overseas missions.<sup>1</sup> Two of DFAT's key tasks were to represent Australia's interests and support Australian officials abroad. This could include: organising promotional events; working on joint counterterrorism operations; negotiating trade policy and sanctions; hosting visiting dignitaries; and managing Australian properties worth more \$1.5 billion.<sup>2</sup>

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This case was written by Marinella Padula, Australia and New Zealand School of Government for Professor John Alford as a basis for class discussion rather than to illustrate either effective or ineffective handling of a managerial situation. It updates and replaces the case of the same name published in 2011, which has been withdrawn.

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<sup>1</sup> Richardson, D. 'Australian diplomacy in the 21st century' Speech delivered to the Lowy Institute for International Policy, 30 August 2011, Canberra, <http://lowyinstitute.org/Publication.asp?pid=1685>.

<sup>2</sup> Ibid. All currency in Australian dollars.

Much of DFAT's day-to-day activity, however, involves providing notarial services, issuing travel advisories, supplying passports and assisting Australian travellers and/or their families in extremis. For most Australians, contact with DFAT is primarily focussed on these services. By the end of the 2000s, Australians were making more than 7 million international trips each year, double that of a decade ago. A then strong Australian dollar, combined with the greater availability of budget airline travel, were two major factors prompting numbers to climb. In 2010, DFAT issued more than 1.8 million passports<sup>3</sup> – an increase of 16 percent on the previous two years. Not only were more Australians travelling more frequently, the profile of international travellers was changing too. Increasing numbers of Australians were embarking on their first overseas trips, and at younger ages, than in decades past. Many older citizens were packing their bags and venturing abroad too. Australians were also choosing exotic, far-flung destinations and engaging in adventure activities such as trekking or extreme sports with growing frequency. At the same time, more people were heading overseas to pursue work or business interests.

### **DFAT's "rescue missions"**

More Australians were also finding themselves in trouble. Some got caught up in international events and disasters such as cyclones, riots or terrorist attacks but many more encountered problems such as lost passports, accidents, snap strikes or sudden illness. By 2011, DFAT was receiving more than 200,000 requests annually for consular assistance (a 50 percent increase over the last five years)<sup>4</sup> and fielding in excess of 600,000 public inquiries.<sup>5</sup> The department handled more than 20,000 "active" cases per year, up 60 percent in the past five years.<sup>6</sup> Consular assistance could take the form of arranging temporary loans, contacting next of kin and helping to locate missing persons.

While demand for consular assistance was rising, cases had become increasingly complex, sometimes taking many months or years to resolve. The client base had also become more demanding. Many requests went well beyond the department's remit. "Traveller's expectations of consular services vary widely," said a senior spokesman for DFAT, Simon Merrifield. "Sometimes [travellers] do not understand the limit of what consular assistance we can provide."<sup>7</sup> Some contacted DFAT to cover medical expenses or arrange return flights when they ran out of money and wanted to come home. Others expected consulate officials to locate lost luggage, arrange work permits or book sightseeing tours. Part of the problem was the large proportion of people who failed to purchase travel insurance; estimates suggested that one third of Australians departed the country without cover.<sup>8</sup> Even travellers with insurance, however, could find that their coverage was inadequate.

"Consular services should not be viewed as a default for a lack of planning, insurance or common sense," said Dr Tony Gheradin, National Medical Adviser to The Travel Doctor: Traveller's Medical and Vaccination Centre. In his view, people avoided insurance because, "either those travellers don't even consider risk and insurance, or deem their trip to be

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<sup>3</sup> Richardson, D. 'Australian diplomacy in the 21st century' Speech delivered to the Lowy Institute for International Policy, 30 August 2011, Canberra, [www.lowyinstitute.org](http://www.lowyinstitute.org).

<sup>4</sup> Oliver, A. and Shearer, A. 'Diplomatic disrepair: rebuilding Australia's international policy infrastructure', Lowy Institute for International Policy, 22 August 2011.

<sup>5</sup> 'Consular Services: Getting help overseas' Smart Traveller, [www.smarttraveller.gov.au](http://www.smarttraveller.gov.au) Accessed: September 2011.

<sup>6</sup> Fraser, J. 'If you go, there's no getting out of jail free' *The Age*, 14 July 2011.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

‘safe’ ...Some people think travel insurance is just about lost tickets or bags and many do not realise it is essential for paying for medical access and hospital care in most countries,”

he said.<sup>9</sup> Merrifield concurred, noting that travellers were less likely to buy insurance when travelling to “low-risk” destinations, such as New Zealand. Young people and budget travellers were also more inclined to skip insurance. Perhaps unsurprisingly, travellers under 25 years old were most likely to call on consular assistance, as compared to other age groups.<sup>10</sup>

For the unlucky or unwise, the price of an unforeseen mishap could be very high. Treating and/or evacuating an injured Australian sometimes cost hundreds of thousands of dollars and led families into bankruptcy. Worse still, close to 1000 Australian travellers died annually, most lost to illness, accidents or natural causes.<sup>11</sup> South-East Asian countries recorded the most deaths – partly due to their popularity (especially with young backpackers). Elderly travellers, often migrants visiting overseas relatives, also accounted for a significant number of fatalities. As well as being emotionally and financially draining, the process of repatriating a loved one could be heavily bureaucratic. Consular assistance helped many grieving families navigate unfamiliar foreign agencies.

DFAT had established the Smart Traveller website and smartphone application: [www.smartraveller.gov.au](http://www.smartraveller.gov.au) to outline what consular officials could and couldn't do for Australians overseas, as well as issue warnings concerning specific destinations. However, many travellers were still dangerously unaware of the potential perils of travelling without insurance and/or assumed that they enjoyed rights and protections similar to those at home. In 2010, DFAT dealt with more than 1000 cases of Australians arrested overseas, some of whom ended up imprisoned.<sup>12</sup> While consular staff could visit detainees and ensure they were given food, medical care and access to representation, they couldn't pay legal fees or intervene in foreign court processes. Though only a small proportion of all consular cases, arrests and incarcerations accounted for some 50 percent of the workload at overseas missions.<sup>13</sup>

According to Gheradin, many Australian travellers had the attitude that “someone will look after me if I get into trouble”.<sup>14</sup> This mind-set had, he believed, been fostered by the government's reaction to major events and disasters in recent years: “These [responses] have been effective and laudable but create an impression in many people's minds that the Australian government will always respond to crises, big or small,” he said.<sup>15</sup> DFAT's Richardson acknowledged that the government “clearly has a responsibility to help individuals where they are caught up in circumstances beyond their control”<sup>16</sup>, but stressed that help had its limits. He added: “In a crisis, people and the media understandably look at what different countries are doing. So you almost get yourself into a competitive space, where if Country A is doing more than you, then you have to ask yourself whether you shouldn't be doing the same

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<sup>9</sup> Ibid.

<sup>10</sup> ‘Issues Paper: Development of a new Consular Strategy 2014-16’ Department of Foreign Affairs and Trade, Commonwealth of Australia, Canberra, December 2013.

<sup>11</sup> ‘Death’ Smartraveller Website, Australian Government, [www.smartraveller.gov.au](http://www.smartraveller.gov.au) Accessed: January 2014.

<sup>12</sup> Fraser, J. ‘If you go, there's no getting out of jail free’ *The Age*, 14 July 2011.

<sup>13</sup> ‘Issues Paper: Development of a new Consular Strategy 2014-16’ Department of Foreign Affairs and Trade, Commonwealth of Australia, Canberra, December 2013.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Oakes, D. ‘Tourists warned help has its limits’ *The Age*, 31 August 2011.

thing.”<sup>17</sup> An effective response to a crisis only raised the bar even further but a poor one could result in heavy criticism. As Alex Oliver from The Lowy Institute for International Policy wrote:

“...high-profile cases like those of Tony Bullimore, Schapelle Corby and Britt Laphorne force consular officials to devote a disproportionate amount of time and resources to defuse crises and satisfy the sometimes unrealistic demands of the public and the 24/7 news media agenda. A 2006 conference in Geneva on the challenges confronting foreign ministries found that “the reputation of the foreign ministry is ... now seen to hinge on the quality of services it provides to its citizens in foreign countries.”<sup>18</sup>

During his presentation, Richardson recounted some of the more outlandish requests staff had received. For example, during the Egyptian anti-government uprising earlier in the year, the Australian government advised Australians who already had tickets for commercial flights out of Egypt to use them, rather than rely on charter flights. This then prompted complaints the government wasn't doing enough. The government did charter two Qantas planes and evacuate hundreds of Australians from Cairo to Frankfurt. However, two evacuees were keen to know whether they would be awarded frequent flyer points for the flight. Said a bemused Richardson: “Once you start getting questions of that kind, you do shake your head a bit and say, ‘Where is this going?’”<sup>19</sup>

Former Foreign Minister Alexander Downer had similar stories to tell. In 2006, more than 4000 Australians were evacuated by boat from Lebanon and flown to Australia after Israel launched a military assault on Hezbollah forces. Downer recalled that although many of the evacuees had been grateful, some complained about the standard of the boats and sought compensation for sea sickness.<sup>20</sup> But Richardson observed that growing expectations of consular help were not limited to Westerners. “I was in Beijing not long after [the Libyan uprising] and talking to their officials... was a bit like talking to officials from the UK or another like-minded country,” he said, “So this thing has spread globally.”<sup>21</sup>

## Stretched resources

Increased demand for consular services was occurring against a backdrop of stagnant funding levels. As The Lowy Institute for International Policy noted: “While the Australian public service grew more than 60 percent since 1997-98, Defence grew 40 percent and AusAID almost doubled in size, DFAT staffing almost flat-lined. Of even more concern, the size of our overseas diplomatic corps has shrunk by more than a third since the late 1980s.”<sup>22</sup> Australia had fewer overseas diplomatic missions than comparable countries and faced a pressing need to open more. Many consulates were staffed by fewer than three people and struggled with a considerable workload: “Increasingly burdened by security concerns, consular duties and departmental reporting obligations, these missions (nearing half of all Australia's missions)

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<sup>17</sup> Ibid.

<sup>18</sup> Oliver, A. ‘Australia's deepening diplomatic deficit’ *Government Business Foreign Affairs and Trade*, November 2010, pp. 16-20. Tony Bullimore was a British round-the-world sailor rescued by the Australian navy; Schapelle Corby an Australian citizen who spent nine years in a Bali jail; Britt Laphorne an Australian backpacker who disappeared in Croatia.

<sup>19</sup> Oakes, D. ‘Tourists warned help has its limits’ *The Age*, 31 August 2011.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Oliver, A. and Shearer, A. ‘Diplomatic disrepair: rebuilding Australia's international policy infrastructure’, Lowy Institute for International Policy, 22 August 2011.

have insufficient resources for much other than maintaining the most cursory diplomatic formalities, administering themselves and performing basic consular functions.”<sup>23</sup>

Examining why successive governments had failed to boost funding sufficiently, the Lowy Institute’s Alex Oliver speculated that it was partly due to Australia’s increasingly security-oriented focus in the decade since 9/11. Funds that might have gone to DFAT had been directed towards defence, for example. He also posited that DFAT lacked a strong “domestic constituency”, that is, people were unlikely to protest budget shortfalls<sup>24</sup> – until perhaps they found themselves stranded far from home.

### **“Could DFAT feed my dogs while I’m away?”<sup>25</sup>**

Returning to the topic of DFAT in a 2013 Policy Brief, the Lowy Institute’s Alex Oliver found the department’s fortunes were little changed. The workload and expectations were still growing while funding levels lagged well behind. Recent events such as the Christchurch Earthquake, Japanese tsunami and Syrian civil war put DFAT under additional strain.

Dennis Richardson left DFAT in 2012 to become Defence Department Secretary, while the arrival of the Abbott Liberal Government in late 2013 saw Australia’s foreign aid programme added to the DFAT portfolio. Meanwhile, the arrest of International Criminal Court lawyer Melinda Taylor in Libya and the detention of Greenpeace activist Colin Russell in Russia, attracted considerable publicity and scrutiny. A spate of tourist deaths in Bali had also been the focus of much attention and effort.

In the case of Taylor, then Foreign Minister Bob Carr went to Libya in person to help secure her release. Such hands-on involvement from politicians was a double-edged sword for DFAT. On some occasions it was very valuable, even essential; on others it did more to complicate matters and frustrate consular efforts. Domestic politics, diplomatic considerations and the attributes of the affected Australian/s all influenced whether MPs would intercede directly. The media was also a key instigator and intermediary, amplifying pressure to act or “do more”.

Oliver reflected that political intervention could create “a vicious cycle: public expectations, already high and sometimes unrealistic, are stoked by political acts that override departmental protocols and service charters to provide ever increasing levels of consular service.”<sup>26</sup> As a result, Australians caught in similar circumstances (and their supporters) often struggled to understand why their case was not attracting comparable attention. The trend for successive governments to gradually “bid up” consular services also had the potential, he noted, to “create a ‘moral hazard’ by discouraging Australians from assuming personal responsibility and making their own arrangements to leave danger zones early, in the expectation that they will be rescued expeditiously by their government should trouble arise.”<sup>27</sup>

In late 2012, the Consular Services Charter had been amended somewhat to enhance readability and stress the importance of proper planning and personal responsibility (*Exhibit A*). Yet for

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<sup>23</sup> Oliver, A. ‘Australia’s deepening diplomatic deficit’ *Government Business Foreign Affairs and Trade*, November 2010, pp. 16-20.

<sup>24</sup> Ibid.

<sup>25</sup> Request to DFAT in: Oliver, A. ‘Consular Conundrum: The Rising Demands and Diminishing Means for Assisting Australians Overseas’ Policy Brief, Lowy Institute for International Policy, March 2013, p.5.

<sup>26</sup> Ibid, p.6.

<sup>27</sup> Ibid.

Oliver, tinkering at the edges was no longer tenable: the government needed to seriously re-evaluate DFAT's service and funding arrangements urgently. Moreover, "The growing incidence of Australians overseas demanding that government intervene in their cases no matter how trivial, foolhardy or avoidable their predicament," Oliver wrote, "would seem at odds with a national culture that prides itself on resilience and resourcefulness."<sup>28</sup> New Foreign Minister Julie Bishop seemed inclined to agree.

### **The DFAT issues paper**

Soon after she took up her position, Bishop issued an invitation for public comment on a DFAT Issues Paper to develop a new consular strategy for 2014-2016. The Paper stated that Australians "have no automatic 'right' to consular services, nor is there any legislative requirement for the Government to provide those services. It is accepted practice that governments help their citizens abroad in certain situations."<sup>29</sup> In light of that, the three main questions DFAT wished to explore were:

- What are the public expectations for consular services? Are expectations and services mismatched?
- Is there scope to improve the delivery of services, for example through greater use of digital services?
- Is there scope to deliver travel advice in more effective ways, for example through online and social media?<sup>30</sup>

One central issue was whether all Australians really should expect the full range of consular services to be available, irrespective of location and situation. More specifically:

- Should permanent residents, dual-nationals and even long-time expatriates be entitled to receive the same level of assistance as Australian citizens, especially when those travellers experience difficulty in countries where they are recognised citizens?
- Should the frequency and availability of some services be reduced, for example, prison visits?
- Should consular services be varied according to local circumstances and according to the capacity of the individual to cope? For instance, should greater consular assistance be available in developing nations than in say Europe or North America?
- What can be done to reduce reliance on consular assistance, especially in non-critical scenarios amongst the under 25s?<sup>31</sup>

Although the Smart Traveller campaign had some modest success in raising awareness of DFAT's role and limits, under-insurance was still a significant problem. Some 30 percent of travellers still left the country without any coverage.<sup>32</sup> Another challenge was the ever burgeoning presence of social media which was both a boon and a burden to DFAT. Although it was now easier than ever for DFAT to issue warnings and glean real-time local information, it was just as easy for people to disseminate rumours and misinformation. Social media campaigns could be quick to mobilise support for a particular person or cause but could raise unrealistic hopes or misrepresent DFAT's work – especially behind-the-scenes efforts – just as swiftly.

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<sup>28</sup> Ibid, p.5.

<sup>29</sup> 'Issues Paper: Development of a new Consular Strategy 2014-16' Department of Foreign Affairs and Trade, Commonwealth of Australia, Canberra, December 2013.

<sup>30</sup> Ibid.

<sup>31</sup> Adapted from Ibid.

<sup>32</sup> Ibid.

In early January 2014, Greenpeace activist Colin Russell was released from a St Petersburg prison where he had been detained for his involvement in a protest against Russian oil exploration. Though grateful for DFAT's assistance he was critical of what he felt was an inadequate government response. In turn, Bishop flagged taking action against Russell in the event of a repeat, stating that: "If it has cost the Australian taxpayer tens of thousands of dollars and Greenpeace is threatening to do it again, then I think the Australian taxpayer is entitled to ask why they should be footing the bill."<sup>33</sup> Bishop also raised the prospect of cost recovery for consular assistance more broadly, especially in instances where travellers had failed to take all reasonable precautions, had acted recklessly or deliberately set out to break the law.<sup>34</sup> This raised many questions about exactly how and when charges should be applied.

International law expert Donald Rothwell welcomed the DFAT review as an opportunity to clarify Australia's consular obligations but noted that, "When Australians travel, live or work overseas, they are indisputably subject to the laws of the country they are visiting. Nevertheless, when the application of those local laws violates international law, especially international human rights law, the Australian government has a considerable ability to intervene irrespective of arguments about the need to respect foreign legal systems."<sup>35</sup> Oliver meanwhile, suspected that educating the travelling public could only go so far and that high expectations and heavy demand would continue to weigh on DFAT:

"The reality is, however, that the bureaucrats' rule-book will continue to be thrown out of the window regularly and haphazardly by governments seeking to display a muscular approach on consular services to impress domestic audiences. Rather than rely entirely on the risk - and expectation-management approach, other solutions need to be found."<sup>36</sup>

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<sup>33</sup> 'Greenpeace activist Colin Russell may be asked to pay, hints Julie Bishop' *The Guardian*, 3 January 2014.

<sup>34</sup> Upe, R. 'Reckless travellers could be charged for consular assistance: Bishop' *Sydney Morning Herald*, 4 January, 2014.

<sup>35</sup> Rothwell, D. 'Clearing the waters on consular assistance' *Sydney Morning Herald*, 6 January, 2014.

<sup>36</sup> 'Consular Conundrum: The Rising Demands and Diminishing Means for Assisting Australians Overseas' Policy Brief, Lowy Institute for International Policy, March 2013, p.8.

## **Exhibit A: Smart Traveller – Consular Service Charter Excerpt, October 2012**

### *Our role*

We provide consular assistance to Australian citizens and permanent residents travelling or living abroad through our offices in Australia and diplomatic missions (embassies, high commissions, consulates) overseas. Our capacity to assist you is influenced by local laws and conditions, international rules governing consular work, and by the cooperation offered by persons and organisations outside the Australian Government.

Our role includes:

- providing you with prompt, effective and courteous consular service
- ensuring we have trained and dedicated staff to assist you
- advising you of the services we can and cannot provide and the fees and charges that apply
- protecting your privacy in accordance with Australian law
- maintaining collaborative working relations with other government and non-government agencies to facilitate effective consular and crisis-related assistance.

### *Our services*

We can:

- in medical emergencies, provide lists of local doctors and hospitals and assistance in arranging a medical evacuation (at your expense) if required
- in the event of war, civil unrest or natural disaster, provide current information and assistance in arranging an evacuation if appropriate and subject to the state of disruption of communications and transport on the ground
- provide advice and support in the case of an accident, serious illness or death. We will also ensure next of kin are informed (if you give your consent, except in the case of a death where consent is not required)
- assist victims of serious crimes, including by arranging for next of kin to be informed (if you give your consent)
- assist if you are arrested overseas, by visiting or contacting you and by arranging for your family to be informed (if you give your consent). We also seek to ensure that you are treated fairly under the laws of the country in which you have been arrested
- provide lists of local lawyers
- assist in cases of missing persons
- assist with arranging a replacement passport if yours has expired or been lost, stolen or damaged (fees apply)
- assist you to contact relatives or friends for help with money or tickets
- provide small emergency loans in genuine emergency situations. (Note: Any financial assistance we may provide will generally be in the form of a loan, which is made on the basis of a signed, legal undertaking to repay in full. You may also be required to surrender your passport and you may not be issued with a replacement until the debt is repaid.)
- provide notarial services including witnessing and authenticating documents and administering oaths and affirmations (fees apply)
- provide travel advisories as one source of input to inform your travel plans
- provide the opportunity for you to register your travel details with us so that we can try to make contact in case of emergency
- provide voting facilities for federal and some state and territory elections
- assist with contact details of government authorities in Australia in the event of pension or social security payment difficulties.



We cannot:

- provide legal advice
- intervene in private court proceedings or legal matters including employment disputes, commercial disputes and family law matters
- investigate crimes or deaths overseas
- provide or pay for search and rescue services (although we can help you arrange these services)
- get you out of prison or seek special treatment for you
- post bail or pay your fines or legal expenses
- enforce an Australian or any other custody agreement overseas or compel a country to decide a custody case
- provide or pay for medical or psychiatric services or medications
- act as a travel agent, bank or post office, or store luggage
- provide translation, interpreter, telephone or internet services
- issue emergency loans, unless you have first exhausted other sources of support including insurance and family members
- pay your pension or social security benefits
- pay or guarantee payment of your hotel, medical or other bills
- arrange visas, licences, work or residency permits for other countries or help you to obtain them
- intervene in relation to customs or quarantine requirements and regulations of other countries
- provide physical protection or security advice
- accept responsibility for the custody or safe return of lost property.

*Our commitment and your responsibilities*

You can expect that we will:

- provide the services set out in this Charter and deal with your query honestly, equitably and courteously
- meet the high service standards outlined in this Charter
- provide you with all available information relevant to your case, except information which violates the privacy of others whose interests we are required to protect
- protect your privacy in accordance with the Privacy Act 1988.

We expect that you will:

- take personal responsibility for your travel choices, your safety and behaviour overseas
- make precautionary arrangements when preparing for overseas travel such as taking travel insurance, monitoring travel advice and registering your travel details with us
- make sensible arrangements for your accommodation, travel and health needs
- treat us with courtesy and respect
- be honest and ethical and provide us with all relevant information when seeking our assistance
- abide by the laws of the country you are visiting.

Source: Smart Traveller, [www.smarttraveller.gov.au](http://www.smarttraveller.gov.au) Accessed: February 2014.