

REFUGEE ADVICE AND CASEWORK SERVICE (AUSTRALIA) INC

**SIXTEENTH ANNUAL REPORT
2005-2006**

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1. President's foreword

The Refugee Advice and Casework Service (Aust) Inc ('RACS') is Australia's oldest community legal centre specialising in the provision of legal advice and assistance to people seeking refugee status in Australia.

RACS is a non-profit community legal centre that does not receive any core government funding and operates on what can only be described as a "shoe-string" budget. It relies primarily on a contractual arrangement with the Department of Immigration and Multicultural Affairs, known as the "Immigration Advice Application Assistance Scheme" (IAAAS), as well as donations from the community and grants from various bodies.

RACS is staffed by a dedicated team of 4 full time solicitors, who are also migration agents, a coordinator and an administrative assistant, and receives the invaluable support of a large group of volunteers including law students, practitioners and interpreters.

Within this context RACS' strives to meet the demands of a vulnerable indigent client base that otherwise receives little representation and assistance. The demand for its services is high and it is an unfortunate fact that RACS is unable to assist each person who otherwise meets its merits and means criteria.

The work undertaken by RACS is vital. Recognition as a refugee under the UN Refugees Convention is a prerequisite for being granted a Protection visa which prevents a person from being forced to return to serious harm for reasons of their race, religion, nationality, political opinion or membership of a particular social group in their country of origin.

RACS is one of the only organisations that provides free legal assistance to asylum seekers in the community at the primary (Department) and secondary (Tribunal) stages of the refugee determination process. These early stages of the process are crucial as they are where an asylum seeker is given the opportunity to present his or her version of events and be interviewed in relation to his or her story. It is of fundamental importance that an asylum seeker presents an accurate account of their reasons for fleeing their country of origin so that the decision maker is able to make a decision based on all the facts relevant to the case. On account of various factors including poor English, cultural sensitivities, a torture and trauma issues as well as a lack of familiarity with the refugee determination process in Australia, an asylum seeker will often not present all the facts or will not know what facts are relevant. In this respect, the work RACS does in assisting asylum seekers at the primary and secondary stages is fundamentally essential and important.

RACS works in an ever-changing environment in terms of refugee policy and the numbers of people seeking asylum in Australia. During the recent year there were no unauthorised arrivals of people by sea as the Federal Government's "Border Protection"

system remained in operation and continued to deter people who may otherwise have sought asylum in Australia. Yet the numbers of asylum seekers arriving at Australian air and sea ports did not materially fluctuate, nor did the numbers of people who enter Australia with permission and later claim asylum. So the demand for RACS' services continues to remain high, especially with the large numbers of refugees who continue to be caught in the immigration pathway constructed by the Temporary Protection Visa regime.

It is difficult to predict the future of refugee determination in Australia. One can never know in a given financial year how many asylum seekers will journey towards Australia nor how many of these will enter the Australian migration zone.

Ideally, the day will come when there are no refugees or internally displaced people. The United Nations, when setting the original mandate of the United Nations High Commissioner for Refugees (UNHCR), believed this day would have come 50 years ago. In the absence of sufficient political will from the international community to seriously address the factors that cause people to flee their countries on account of persecution, there is little indication that this day will come even in the next 50 years.

Until it comes, the services that RACS provides will remain vital. The more funding that individuals, organisations and government are able to provide RACS, the more RACS will be able to help.

I would like to thank all of the staff of RACS, the volunteers, those who fund RACS, the Management Committee and all other persons who have made it possible for RACS to provide such an outstanding legal service for the most vulnerable of people.

Joanne Kinslor

President

2. Organisational overview

RACS was originally set up in NSW in 1987 to provide a legal service to meet the specific needs of asylum seekers. Organisations involved in its establishment include the Refugee Council of Australia (RCOA), Amnesty International, The Ecumenical Migration Service, International Social Services, the Jesuit Refugee Service and also the UNHCR. In 1988 and subsequent years RACS set up offices in Melbourne and Adelaide and operated in the remote Immigration Detention Centres throughout Australia.

On 1 July 1997, RACS changed its name to RACS (Australia) and confined its operations to NSW, while offices in other States began to operate under different names, such as the Refugee and Immigration Legal Centre (RILC) in Melbourne.

RACS has continued to provide a comprehensive, thorough specialist refugee advice service throughout these changes. This unique and vital service continues to work closely with a broad network of legal and inter-agency support services, including the client-based services of many other organisations such as the Red Cross, Amnesty International, the Asylum Seekers Centre (ASC), the House of Welcome (HoW), the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS), Immigration Advice and Rights Centre (IARC), the Legal Aid Commission of NSW, the National Council of Churches and RCOA. RACS' involvement with these organisations - which are similarly committed to assisting asylum seekers - is critical to its information sharing and support base.

RACS derives its mandate from the *United Nations Convention Relating to the Status of Refugees (1951)* and its *1967 Protocol*. Through our links with the Australian Office of the UNHCR, our attendance and participation at a wide range of conferences and seminars, and our subscription to a variety of international legal journals, RACS aims not only to keep abreast of current thinking in international refugee law, but to contribute to the development of refugee law and policy wherever possible. This occurs through the exchange of views, experience, information and support throughout the world. The possibilities and practice in this regard have been greatly enhanced in recent times by use of the internet.

RACS continues to play a significant role in the development of national policy on refugee law and procedure through its participation in a broad range of activities. This includes participation and advocacy at the Department of Immigration and Multicultural Affairs (DIMA) and Refugee Review Tribunal (RRT) liaison meetings. In addition, we have also made written and oral submissions to the Senate Legal and Constitutional References Committee the Senate Foreign Affairs, Defence and Trade References Committee, as well as providing regular submissions to DIMA. These submissions have been made on issues which are directly relevant to the protection and promotion of rights of asylum seekers under Australian law; issues on which RACS is uniquely placed to comment, given its direct experience on a day-to-day basis with issues confronting asylum seekers throughout the determination process and beyond.

While the focus of RACS' work has continued to be at the local level, with the direct provision of casework advice and assistance to asylum seekers in the community and those held in the immigration detention centre at Villawood, we also perform a considerable casework role throughout Australia. This includes the provision of advice and assistance to asylum seekers held in detention in remote areas such as Baxter Immigration Detention Facility (IDF).

RACS' staff also provides community education and training sessions to lawyers, migration agents, community workers, students and the general public in a wide variety of fora.

There is a decreasing number of private and community organisations which provide legal assistance to asylum seekers in New South Wales, and RACS is the only specialist legal community organisation providing full assistance to Protection visa applicants. The fact that all of the assistance provided by RACS is not for profit and free is also fundamental, given that the vast majority of our clients lack the financial means to privately fund the assistance required to fully and properly pursue their rights.

In 2002, a new project was initiated, the Temporary Protection Visa Legal Project. This Project was established to assist the large number of refugees whose three year TPVs were about to expire and who required legal assistance with applications for further protection. RACS coordinates the TPV Legal Project. In 2003, this project trained 60 volunteer solicitors to assist refugees holding TPVs and, in 2004, another 55 volunteer solicitors. This service was especially important as almost all of the 4,100 TPV holders residing in NSW were not eligible for Legal Aid, and the immigration process was in a state of considerable uncertainty following the legislative changes throughout 2001-2005. About 190 TPV holders utilised the service throughout 2003-2004 and 127 TPV holders utilised the service in 2004-2005. RACS also participated in a number of community briefing sessions held for refugees on TPVs. In 2003 and 2005, RACS received very positive publicity for this project through articles in the Law Society Journal. The Project wound down in the early months of the current period and the final TPV Clinic session was held in October 2005, as the majority of TPV holders lodged their applications for further Protection visas and were mostly granted permanent visas.

During the current year, plans were made and implemented for two new projects, the Ministerial Legal Clinic (MLC) and the Refugee Family Reunion Project (RFRP).

With the generous support of the Myer Foundation, in 2005-06 RACS established the MLC project in an attempt to meet the huge demand of failed asylum seekers hoping to access the Minister for Immigration's "public interest" discretionary powers under s 417 of the Migration Act. With the assistance of the NSW Young Lawyers Human Rights Committee, RACS recruited and trained a large pool of solicitors and law students who were prepared to volunteer their time to assist a very vulnerable group of people prepare requests to the Minister. The MLC Project is due to assist its first group of clients in July 2006.

The RFRP was also due to commence in July 2006. The RFRP was designed as an attempt to meet the demands of thousands of indigent refugees in Sydney who want to sponsor to Australia members of their immediate family. Currently, no community legal service in Sydney is providing such a service. The RFRP will see RACS work closely with the Auburn Migrant Resource Centre (AMRC) and the Liverpool Migrant Resource Centre (LMRC), and the newly appointed Cassandra Heaney will be based at the two MRCs for 3-4 days a week, where she will provide advice and assistance to refugees from the AMRC and LMRC areas.

3. Aims of RACS

- To provide a free, expert legal service for individuals seeking asylum in Australia.
- To provide referral for counselling and assistance on related welfare issues such as accommodation, social security, employment, psychological support, language training and education.
- To provide a high standard of community education about refugee law, policy and procedure.
- To provide training sessions, workshops and seminars on refugee law, policy and procedure to legal and welfare agencies and individuals involved in advising and assisting refugees.
- To establish a resource base of current information and documentation necessary to support claims, for use by RACS, community organisations and lawyers assisting refugee claimants.
- To participate in the development of refugee policy in Australia as it relates to the rights of those seeking asylum in this country.

At a broader level, RACS aims to promote issues affecting asylum seekers by raising public awareness of the rights of asylum seekers in the context of Australia's international obligations.

4. Details of the service

The RACS office is based in Surry Hills, Sydney.

It operates a full-time casework service from Monday to Friday between the hours of 9.00am and 6.00pm.

RACS provides a free telephone advice service between 10am and 12.30pm on Tuesdays and Thursdays.

RACS also provides a free face-to-face advice clinic by appointment on Mondays between 4pm and 8pm, which is run by staff and volunteers.

Our contact details are as follows:

Address:	Level 8, Suite 8C 46-56 Kippax Street Surry Hills NSW 2010	Web:	www.racs.org.au
		Email:	admin@racs.org.au
Tel:	(02) 9211 4001		
Fax:	(02) 9281 8078		

5. Service's structure

The Management Committee

The Constitution and Rules of RACS provide that organisations and individuals may nominate representatives and individuals to the Committee of Management.

The following individuals were office-holders during 2005-2006:

President	Joanne Kinslor
Vice-President	Lachlan Murdoch
Hon Treasurer	Lachlan Murdoch
Hon Secretary	Ben Saul
Committee Members:	Tony Pope, Jane McAdam

The Public Officer

The Constitution and Rules of RACS provide for a public officer. The public officer, currently Jane McAdam, is responsible for keeping proper records.

Staff

RACS continued to be coordinated by Mark Green, who commenced with RACS in May 2004. Apart from his duties as coordinator, Mark also provided casework assistance and advice.

Melissa McAdam continued in her role as Principal Solicitor and Caseworker up until August, when she took a leave of absence from RACS to work with the Africa and Middle East Refugee Assistance (AMERA) organisation in Cairo, Egypt. RACS thanks Melissa for her dedication, enthusiasm and invaluable guidance and inspiration over the past few years, and wishes her all the very best for the future.

On Melissa's departure, Christian Carney commenced as Principal Solicitor, and acted in the role in conjunction with his previous position as Caseworker.

Louise Boon-Kuo continued in her role as a part-time Caseworker with RACS, and also managed to find the time to design and implement and then coordinate and guide the Ministerial Legal Clinic.

RACS sadly farewelled Sarah Di Giglio in August, who left her position as a Caseworker to pursue her passions in Italy. RACS thanks Sarah for her invaluable contribution and wishes her the best for the future.

Zoe Anderson commenced as a Caseworker in September 2005 and in a short time has become an integral part of the RACS team.

Nadia Khan also commenced employment as a Caseworker in January but sadly left RACS in June to take up a position with UNHCR in Uzbekistan. RACS thanks Nadia for her invaluable contribution and wishes her the best for her future endeavours.

Cassandra Heaney commenced with RACS in late May 2006, being appointed as the initial caseworker for the Refugee Family Reunion Project.

RACS continues to be blessed with the calming presence of Cecilia Silva who has been Administrative Assistant since November 2004.

Max Morgan continued to give to RACS his considerable time, knowledge and experience to ensure that our finances and financial records are properly maintained. His commitment to the organisation has also been demonstrated in many other ways. He has generously donated many extra hours to the organisation.

Honorary Life Member of RACS

Margaret Piper was granted honorary life membership of RACS by resolution of the Management Committee on 15 March 2006 in recognition of her outstanding service over many years.

6. Funding

Throughout the year, the funding position of RACS has been stable. RACS had an IAAAS contract with the Commonwealth which commenced on 1 July 2004 and continued until 30 June 2006. A new contract for three years (from 1 July 2006 to 30 June 2009) has been signed. Under this contract, RACS receives funding for performance of the following work:

- The provision of full application assistance for asylum seekers held in immigration *detention* in Sydney (Villawood), Christmas Island and Baxter IDF, at both the primary and RRT stages.
- The provision of full application assistance for disadvantaged asylum seekers in the *community* in New South Wales and the ACT, at both the primary and RRT stages.
- Immigration advice for disadvantaged asylum seekers in the community in New South Wales, including immigration advice face-to-face, by telephone and by way of written referral to government agencies, other registered migration agents (where the client is not eligible for full application assistance under the IAAAS contract) and community organisations. This also includes conducting information sessions for community groups.

The funding from the IAAAS contracts falls seriously short of meeting the needs of disadvantaged asylum seekers contacting RACS. Nearly half of all *advice* provided to asylum seekers in the community and nearly 20% of RACS' *casework* in 2005-2006 was provided by RACS on a *pro bono* basis.

RACS has continued to diversify its funding base. This is particularly important as RACS' IAAAS detention contract is contingent upon new arrivals of asylum seekers arriving without immigration clearance. Throughout this year fundraising efforts have been two-fold. Grant seeking efforts have been successful, with a grant from the Law and Justice Foundation. In addition RACS has received support from many individuals, the Law and Justice Foundation, the Myer Foundation, and the Scully Fund. We are indebted to Fleur Johns for her support of RACS' work and the energy she has put into RACS' fundraising activities.

7. Volunteers

RACS volunteers continued to play an invaluable role in the organisation. Our volunteers contributed countless hours of their spare time to providing essential assistance to asylum seekers in the community, as well as providing back up support for staff.

The following persons volunteered for RACS during 2005-2006:

Day Volunteers

Alison Davidian	Diana Pleasance	Patrick Chan
Antony Lewis	Elizabeth Pleasance	Polly Cheung
Benish Haider	Esther Ku	Simon Haag
Brigitte Carcenac de Torne	Esther Watorowski	Thao Nguyen
Chris Yoo	Kim Blumenthal	Yoga Kumaran
	Louisa Fitz-Gerald	

Evening Advice Volunteers

Alex Newton	Helen Styles	Michael Della Pozza
Alexia Mayer	Jane Brock	Nerida Peart
Amanda Sapienza	Joe Tan	Parastou Hatami
Bree Farrugia	Kathryn Viegas	Penny Gerstle
Christine Michael	Kerry Murphy	Peter Brock
Deepika Weerakoon	Kim Tuaine	Phillipa Martin
Farid Varess	Mark Webster	Ruwan Samarasinghe
Farnham	Meredith Dodds	Steven Glass*
Razzaghipour	Michael Jeremy	Vanessa Burn
Geraldine Read	Michael Robert-Smith	

Special thanks to Steven Glass who, in addition to his busy life as a Partner with Gilbert + Tobin, generously assisted RACS on an IAAAS taskforce to Townsville, providing application assistance and representation to a group of asylum seekers from the Solomon Islands, plus travelled to the Baxter Immigration Detention Facility in South Australia to assist with several detention cases, and also provided RACS with support and assistance with other cases for clients in the community.

TPV Legal Project Volunteers

Farnam Razzaghipour	Meg West	Pepe Clark
Julia Hall	Parissa Notaras	Ross Nicholas

Volunteer Interpreters

Abdul Ali Oruzgani	Elhassan Elabbas	Helal Faili
Abdul Hekmat	Entisar Al Saady	Homeira Hosseini
Amani Nuseibeh	Fabian Tilemans	Jamal Daoud
Antony Lewis	Faisal	Jane Sun
Belinda Qihong Zhang	Fariba Mozayani	Jennifer Toisuta
Bernard Khoshaba	Farnham Razzaghipour	Linda Zhang
Brigitte Carcenac de Torne	Fozia Saeed	Maethim Al Kafajy
Cynthia Baz	Genevieve Lam	Makiz Ansari
Desmond Eo	Habib Ghani	Mary Hanoun
	Hassan Saleh	Moameni Kourosh

Mohamed Abu Shaban	Riz Wakil	Sunny Chou
Mohammad Kader	Samir Abi Salloum	Tahere Shenshaki
Nadarajah Kanapathy	Samira Ghebar	Tahere Shey
Neda Mirzaie	Sandy Swarbrick	Xin Zhang
Patrick Chan	Sarah Klisarov	Zeenat Habib
Rafat Mirzaie	Shahela Begum	Zeina Issa
	Simon Hagg	

8. Clients and casework

The major focus of RACS is the provision of legal services to asylum seekers and refugees. In the 2005-2006 year, RACS assisted 880 people through comprehensive casework assistance, advice provided through appointment or by telephone, and through referrals to other agencies. RACS opened files for 152 new ongoing clients, comprising 39 asylum seekers in detention, 98 in the community, and 15 on a *pro bono* basis. We assisted 127 TPV holders through the TPV Legal Project and 601 people at various stages of the refugee determination process through our Monday evening advice service (263 clients) and our day advice service (including telephone advice) (338 clients). This year, RACS has once again included statistical breakdowns of the number, country of origin, and types of matters for which people have sought face-to-face advice. These statistics assist RACS in evaluating our current strategies to provide the best possible assistance at all levels of service.

As the tables below illustrate, RACS' clients are from many and diverse countries, with many and varied experiences. What all have in common is living away from their country of origin, many having been forced to flee from persecution and human rights abuses. They continue to show enormous courage, dignity and fortitude in a world where cruelty, injustice and inhumanity continue to loom large in theirs and so many other people's lives.

We are immensely proud and privileged to have had the opportunity to assist these people and to play some role in their lives and futures.

Table 1: New Clients in 2005/2006

COUNTRY OF ORIGIN	Total Community	Total Detention	Total Per Country
Afghanistan	2	2	4
Algeria	1		1
Bangladesh	1	1	2
Burma	2		2
Colombia	1		1
Ethiopia	2		2
Ghana	1		1
India		1	1
Indonesia	3	1	4
Iran	9	2	11
Iraq	6	3	9
Jordan	1	1	2
Lebanon	1		1
Nepal	1		1
Nigeria	1		1
North Korea		1	1
Pakistan	3	1	4
Palestine	3		3
PRC	13	16	29
Philippines	1		1
Solomon Islands	4		4
Somalia	1		1
Sri Lanka	3	1	4
Stateless	1		1
Syria	1		1
Turkey	3	1	4
Uganda	1		1
Uruguay	1		1
Zimbabwe	2		2
TOTAL (By Type)	67	31	100
GRAND TOTAL			100

Comments on Table 1:

'Community' refers to clients who are living in the community. It includes cases where RACS provides comprehensive casework assistance, but does not receive any funding for the case. Almost all these clients were in the community. Those matters in immigration detention taken on pro bono may include clients whose visas have been cancelled and clients who wish to make a second protection visa application. These clients are ineligible for funded legal assistance

'Detention' refers to clients who are in immigration detention at the time of referral.

Table 2: New Clients in 2005/2006 – Main Countries of Origin

RACS assisted new clients from 26 different countries.

The highest numbers of new files opened (by country of origin) for the 2004/2005 Financial Year may be represented as follows:

Country	Client s
PRC	29
Iran	11
Iraq	9
Afghanistan	4
Solomon Islands	4
Turkey	4

Table 3: Advice provided by country in 2005-2006

COUNTRY OF ORIGIN	Evening Advice	TPV Advice	Day Advice	TOTAL
Afghanistan	5	3	27	35
Algeria	6		22	28
Angola			1	1
Argentina	1		1	2
Australia			6	6
Bahrain			1	1
Bangladesh	13		33	46
Britain			2	2
Burma	6		12	18
Chile	2		5	7
Colombia	1		4	5
D.R. Congo			1	1
Egypt	11	1	15	27
Eritrea	1		5	6
Estonia			1	1
Ethiopia	2		3	5
Fiji	1		7	8
Germany			3	3
India	3		10	13
Indonesia	22		47	69
Iran	19	1	28	48
Iraq	10	4	29	43
Iraq/Palestine			1	1
Iraq/Kurdish			2	2
Israel			2	2
Ivory Coast	2		2	4
Jordan	1		6	7
Kenya	1		8	9
Kurdish			1	1
Lebanon	4		7	11
Liberia			1	1
Malaysia	5		9	14
Mongolia			2	2
Mozambique			3	3
Nepal	12		19	31
Nigeria	8		15	23
North Cypress			1	1
North Korea			1	1
Occupied Territories	1			1
Pakistan	17		24	41
Palestine	4	1	12	17
Peru			1	1

COUNTRY OF ORIGIN	Evening Advice	TPV Advice	Day Advice	TOTAL
Philippines	4		10	14
PNG			1	1
PRC	25		48	73
Russia	1		3	4
Serbia			1	1
Sierra Leone	3		4	7
Slovakia	3		3	6
South Africa	1		1	2
South Korea			1	1
Sri Lanka	8		34	42
Stateless			3	3
Sudan			6	6
Syria	2		7	9
Syria/Lebanon			1	1
Tanzania	1		2	3
Tibet			1	1
Tibet/PRC	1		1	2
Turkey	7		12	19
Turkey/Kurdish			1	1
Uganda			2	2
Ukraine			1	1
Uruguay	2		3	5
USA			1	1
Vietnam			2	2
Zimbabwe	5		7	12
Total per type of service	221	10	536	767
			Unspecified countries=43	

Comment on Table 3:

As shown above RACS provided face-to-face & phone advice to people from over 67 countries of origin.

Table 4 - Evening Advice (face-to-face) by Matter Type

Primary	108
Review	51
Post RRT	58
Other	0
Total	217

Table 5 - TPV Legal Project Advice by Matter Type

Primary	9
Review	1
Other	
Total	10

Table 6 - Day Advice by Matter Type

Primary	208
Review	95
Post RRT	209
Other	67
Total	579

Comment on Tables 4, 5 and 6:

These statistics were included to assist RACS in evaluating existing face-to-face advice services.

9. Treasurer's report

The Statement of Financial Position and Statement of Financial Performance as at 30/6/2006 reveal the organisation's financial position has declined over the year under review.

Income and expenditure resulted in a loss of \$52,194 for the year.

Whilst income rose by \$16,090 over the year, this can be attributed to additional funding provided by DIMIA beyond the contracted amount for Community work.

DIMIA Detention income was down by \$10,473, but this was countered by other income \$10,384 from the Myer Foundation which was project orientated funds.

Main items of expenditure were Employee expenses which rose by \$16,040. Miscellaneous costs rose by \$3,167, with advertising for staff \$1,683 and Federal Police checks \$2,124 being the major expenses in this regard.

Equipment rental rose by \$2,012 for photocopier but this is offset under contract which reduced telephone costs by \$3,140.

We need to look closely at all avenues of income generation in the year ahead.

RACS has sufficient funds in reserve to maintain the current level of services over the ensuing 12 months.

Lachlan Murdoch

Treasurer

10. President's Declaration in respect of Fundraising Appeals

I, Joanne Kinslor, President of Refugee Advice Casework Service (Inc) (RACS) declare that in my opinion:

- a. the accounts give a true and fair view of all income and expenditure of RACS with respect to fundraising appeals;
- b. the provisions of the *Charitable Fundraising Act 1991* and the regulations under that Act and the conditions attached to fundraise have been complied with; and
- c. the internal controls exercised by RACS are appropriate and effective in accounting for all income received.

.....

Joanne Kinslor
President

Dated.....

11. Statement of the Members of the Management Committee

The Committee has determined that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 of the Notes to the Financial Statements.

In the opinion of the Committee, the accompanying accounts as set out in the attached Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and Notes to the Financial Statements present fairly the financial position of the Refugee Advice and Casework Service (Australia) Inc. as at 30 June 2006 and the results of this Association for the year ended on that date.

On the date of this statement, there are reasonable grounds to believe that the Refugee Advice and Casework Service (Australia) Inc. will be able to pay its debts as and when they fall due.

This statement is signed for and on behalf of the Committee by:

.....

Joanne Kinslor
President

Dated.....