



# Refugee Council of Australia

23 September 2020

The Hon Gladys Berejiklian MP  
Premier of New South Wales  
52 Martin Place  
Sydney NSW 2000

Dear Premier,

## **Re: Impact in your state of Federal Government denial of support to refugees being released from community detention**

I am writing to you to draw urgent attention to a recent decision of the Federal Minister for Home Affairs to begin moving up to 515 refugees and asylum seekers from community detention around Australia on to Final Departure Bridging Visas with no access to any Federal financial safety net. The first 38 people in New South Wales to be affected by this decision had their financial assistance removed last Friday (18 September 2020). Today another 22 people in New South Wales learned that they are losing access to assistance. In coming weeks, the total number of people in New South Wales removed from support could increase to 99.

While this matter is a Federal issue, the impacts will be felt directly in your state, with State Government services, organisations funded by State agencies, local government, unfunded community services and volunteer groups left to deal with the social impacts of the Federal Minister's decision. We fear that these impacts will include destitution, homelessness, child protection issues and risks to community health.

The people who are affected by this decision are refugees and asylum seekers previously transferred from Nauru and Papua New Guinea (PNG) because of medical needs. It is worth noting that these people were transferred by the Federal Government under its own medical transfer process, not under the Medevac legislation which the Government opposed and later repealed. The transfers occurred because the Federal Government regarded the individuals' medical needs as so acute that they could not be adequately treated in Nauru or PNG. Some were transferred to accompany family members with acute medical needs. The majority of people in this group were given refugee status in PNG or Nauru under refugee status determination processes established with Australian Government support. Others were transferred to Australia before their refugee status assessment was complete. A smaller number were assessed and not given refugee status.

The information from the Department of Home Affairs is that people are being affected in all five mainland states. The Minister's focus is particularly on people who do not have active applications for resettlement to the United States. While the process has been delayed in Victoria because of the current Stage 4 lockdown, 188 people (including young children and elderly people) have had support removed – 76 in Queensland, 60 in New South Wales, 30 in South Australia and 22 in Western Australia. The 327 other people who will be considered for removal from support are in Victoria (164), Queensland (96), New South Wales (39) and South Australia (28).

Since entering Australia by boat between mid 2013 and early 2014, the people affected by this policy have been denied the right to work or to study. None of them has had a previous opportunity to work in Australia or to get their qualifications locally recognised. Some are fluent in English but many are not, having been denied access to programs such as the Adult Migrant English Program. While they are being granted the right to work (but still prevented from any study if they are 18 years or older), it is likely that

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most will not find work, particularly given current workforce conditions. While everyone would support the idea of giving people the right to work and support themselves if they can, removing any form of financial safety net is callous and reckless, particularly in the current economic environment for people who have been so badly treated for seven years.

While the Final Departure Bridging Visas being granted could give the impression that the people receiving them might be in the process of leaving Australia, the reality is that they are likely to remain living in your state for an extended period without adequate support. The Federal Government's view is that people in this situation can go home, return to PNG or Nauru or resettle in another country. However, none of these options is possible for most of the people involved, as is outlined in the two-page background note I have attached to this letter.

You will also see in this background note some information on the community detention arrangements people have been in and the Refugee Council's concerns about the failure to address individual's vulnerability or the protection needs of children. The Home Affairs Department's observation that State-based child protection agencies will step in to address any needs created by this policy is a clear indication of the Federal Government's intention of shifting responsibility to your Government and organisations in your state.

The people affected by this policy will join thousands of people seeking asylum who have no safety net and are struggling to survive. [Our recent research](#) on the situation of people who have applied for asylum onshore demonstrates that it is almost certain that many in this group, including young children, will become homeless and reliant on the charities that are already responding to a heightened need. The Australian Government transferred people in this situation to Australia in the first place to help them to recover from health issues that predominantly were the result of their substandard detention conditions. Forcing them into poverty will seriously undermine their recovery.

As your Government will see the negative impacts in your health, housing, community services, child protection, education and policing services, I would strongly encourage you to raise your concerns about this policy with the Federal Government and ask for an urgent review of its decision to withdraw all forms of financial support for members of such a highly vulnerable group. I would also urge you and members of your Government to consider how best your agencies can respond to the inevitable social consequences in your state.

We would be happy to provide further information at your request.

Yours faithfully,



Paul Power  
Chief Executive Officer  
Refugee Council of Australia



Refugee Council  
of Australia

## **REMOVAL OF FEDERAL SUPPORT FROM REFUGEES MEDICALLY TRANSFERRED TO AUSTRALIA: WHAT WE HAVE LEARNED SO FAR**

*Information available as at 23 September 2020*

In September 2020, the Refugee Council of Australia (RCOA) heard from local services and community contacts that refugees and people seeking asylum previously in community detention were being moved on to Bridging Visas with no form of financial safety net. RCOA sought and received information about this from the Federal Department of Home Affairs. This is a summary of what we have learned so far.

### **What has been decided?**

In March 2020, Federal Minister for Home Affairs, Peter Dutton, decided to begin moving more than 500 people who are classified by the Australian Government as “transitory persons” from community detention on to Final Departure Bridging Visas, granting them the right to work but no access to Federal financial assistance. Implementation of this decision was delayed because of the COVID-19 pandemic. In August, the Minister began using his ministerial intervention powers to decide who to remove from community detention and when to do so. As decisions are handed down, the families and individuals being removed from community detention are given three weeks’ notice that the accommodation will end. For most, financial support ends as soon as they are notified that they have received the Bridging Visa.

### **Who is affected by this decision?**

The “transitory persons” affected by this decision are refugees and people seeking asylum previously transferred by the Australian Government from Papua New Guinea (PNG) and Nauru to receive medical treatment not available in those countries or to accompany immediate family members who were transferred for medical reasons. Those being moved out of community detention are people who do not have active applications for resettlement to the United States – because they were not eligible, have been rejected, did not apply or did not continue with the application process. As at 23 September 2020, **188 people have been moved from community detention** (76 in Qld, 60 in NSW, 30 in SA and 22 in WA). **Consideration is being given to removing the remaining 327 people who do not have an active US resettlement application** (96 in Qld, 39 in NSW, 28 in SA and 164 in Victoria). It appears that 268 people with US resettlement applications will not be included unless their application is rejected.

### **Does this have anything to do with the politically contested Medevac legislation?**

No, it does not. Those affected by this decision were brought to Australia under arrangements established, supported and managed by the Coalition Government. The Medevac legislation passed by the Parliament in February 2019 with the support of Opposition and crossbench MPs and Senators resulted in the transfer of around 250 refugees and people seeking asylum to Australia from PNG and Nauru. Even though that legislation was repealed in December 2019, all of those people remain in locked detention in Brisbane, Melbourne, Adelaide, Sydney and Darwin, with no justification of why this is necessary.

### **What community detention arrangements have people been living in?**

People subject to community detention (also known as “residence determination”) are required to live in accommodation determined by the Government but can move freely within the community during the day. They do not have the right to work and only children under the age of 18 can study. Their accommodation is paid for and managed by services contracted by the Government under its Status Resolution Support Services (SRSS) program and they are given an allowance of less than \$100 per week to cover food, basic needs and essential items.

### **Isn't it good that people are being moved out of community detention?**

The people moved out of community detention will, for the first time since attempting to enter Australia to seek asylum in 2013 or 2014, have the right to work and the right to decide where to live. The problem is that they will have no access to any Federal financial assistance other than Medicare (and no clarity about

whether Medicare will cover all their ongoing health needs). With no prior work experience in Australia and no right to study to gain relevant qualifications, few will be able to find jobs at a time when unemployment has been increasing rapidly. Some are fluent in English but many are not, having had no access to the Adult Migrant English Program. While the people affected will theoretically be freer than they have been over the past seven years, many of them fear that they will not be able to earn enough for food, rent and basic living expenses. It is extraordinary that they are being given just three weeks to make such a challenging transition after years of being prevented from supporting themselves. The end result will be that services run and funded by States and local government, along with unfunded community services and volunteer groups, will need to step in to assist people facing homelessness and destitution.

### **What status will people have?**

Those released from community detention are being given Final Departure Bridging Visas. Despite the name of the visa, it appears that most of them will not be on a pathway to departure from Australia and will remain in limbo without Federal support indefinitely. The Department of Home Affairs says that the people affected by this decision will have three options: return to offshore processing arrangements in PNG or Nauru; return to their country of origin; or resettlement to a third country. However, realistically, these options will be difficult for people to take up. Despite some people in locked detention asking to be returned to PNG, no transfers have occurred and it is unclear if the PNG authorities will support returns. Few people involved can consider returning home in safety, as most were given refugee status in Nauru or PNG and many others have refugee claims which were not resolved before their medical transfer. Any forced return in these circumstances would be a direct breach of Australia's non-refoulement obligations under international law and the Department of Home Affairs has indicated that it has no intention of forcing people in this situation to return home. As for third country resettlement options, those affected do not have current applications for resettlement to the United States and the Australian Government is not currently pursuing resettlement options with other countries, having consistently failed to act on the offer of resettlement first made by the New Zealand Government in 2013.

### **Are people being excluded from this measure because of their vulnerability?**

It appears that vulnerability is not being seriously considered by the Minister when deciding to remove people from community detention. All of the people being considered for removal from Federal support were in Australia because of serious medical issues (including cancer, strokes, debilitating autoimmune diseases and chronic mental illness) or because someone in their immediate family has a serious medical issue. There is no independent assessment of vulnerability before the decision to remove someone from community detention is implemented and, as far as we can determine, no open sharing of information with State Government and other services which would be responsible for an individual's care. Elderly people are among those for whom Federal financial support has already been removed, including an 82-year-old grandmother with a chronic medical condition. The SRSS program theoretically includes provision for people to have financial assistance restored on the basis of need. These applications are put forward to the Department of Home Affairs by the agencies contracted to provide SRSS services but, in practice, most applications are rejected despite the compelling needs of many applicants. The indications are that, even if people in the group are able to demonstrate extreme hardship, vulnerability and need, they will not be eligible for any SRSS support.

### **Are child protection issues being considered?**

The Department of Home Affairs was not able to give a definitive answer as to whether it is applying its own Child Safeguarding Framework in its implementation of this policy. The Department's response was that "state-specific child welfare agencies will take ownership of this". There is no indication that any prior discussion with state child protection agencies has occurred.

### **Is the impact of COVID-19 being considered?**

The removal of people from community detention is happening in four of the five states where people are currently living but not in Victoria, because of the Stage 4 lockdown which has been in place in Melbourne. However, the removal of people from community detention in Victoria will begin once the Minister for Home Affairs determines that he is able to proceed. There is no apparent strategy to assist people being released on to Bridging Visas to protect themselves from COVID-19. Community agencies fear that the homelessness and destitution which will result from having no regular income will leave many people at heightened risk of contracting COVID-19 and, as a result, will increase the risk to public health.