

Policy Statement

All people living in Australia have the right to economic and social inclusion. The right to work, the right to study, the right to income support and medical care are crucial to the safety and well-being of all people.

All people seeking asylum in Australia should be granted the right to work, the right to study, the right to income support and medical care for the duration of their legal process.

The treatment of people arriving by sea by the Department of Immigration and Border Protection's (now Department of Home Affairs), is especially discriminatory and is detrimental to the health and safety of people arriving by sea.

People seeking asylum wish to be included in the Australian community and economy.

The Current Situation

Most people arriving by sea to Australia have had to wait with uncertainty for at least three years before being allowed to lodge their application for Protection. After lodging an application for a Protection Visa, it can take years to receive a final outcome. Some people have been here for as many as seven years and still do not have an outcome.

While waiting to lodge their applications for Protection, and while waiting for their applications to be processed, people have had inconsistent access to work rights, study rights, Medicare and income support.

People have spent long periods without the right to support themselves, without access to medical care, without access to education for their children, and without basic financial support to buy essential food and household supplies. People face an increased risk of homelessness and deterioration of their mental health as they are stripped of their ability to be self-sufficient, and as they face poverty.

This is particularly the case at judicial review, where a person has made an application to court. Court processes can take approximately three years. During this time many people have no opportunity to work and no eligibility for financial assistance.

The right to work is critical to human dignity, self-actualisation and social and economic inclusion.

The right to work, and the right not to be denied work unfairly, are rights protected under international human rights pursuant to Article 6 of the *International Covenant on Economic, Social and Cultural Rights*.

People seeking asylum consistently say that they do not wish to live from welfare payments. They want to support their families, contribute to and be included in the Australian community and economy.

Work is an antidote to poverty and despair.

Unfairly denying a person the right to work and contribute to the Australian community while also denying a person income support and access to medical care only serves to foster destitution. It significantly increases stress and deteriorates mental and physical health.

Such a climate has the potential to expose people seeking asylum to exploitative and illegal work conditions. In addition, tightening of eligibility for basic Status Resolution Support Services (SRSS) results in more people being denied access to basic support, resulting in even more reliance to already overstretched and under-resourced charities and community organisations.

Many people seeking asylum experience high levels of anxiety, depression and other mental health issues including Post Traumatic Stress Disorder. This is because of their experiences of trauma in their home countries, their experiences en route to Australia, in Australia's immigration detention centres and because of separation from their family.

Currently there is insufficient funding to provide adequate torture and trauma counselling, and other specialised counselling, to those who have suffered past trauma or have acute mental health needs.

Lack of work rights, lack of access to Medicare and income support not only exacerbate the existing mental health needs of people seeking asylum, as people are further excluded from the Australian community, their isolation means that their mental health care needs often go unnoticed as their interactions with professionals and others in the community are diminished.

There is currently a lot of confusion in refugee communities about when and why they will be granted another Bridging visa; whether that Bridging visa will allow them to work, study, have income support and access to Medicare.

Although the Refugee Status Determination (RSD) process and the judicial review (court) process can take years, some people are issued Bridging visas that only last three months. Some people are issued Bridging visas without work rights, study rights, income support or access to Medicare. Some people are not issued a Bridging visa at all.

It is very unclear who will be issued a Bridging visa, what the duration of the Bridging visa will be and what rights it will offer to the person seeking asylum.

Without a Bridging visa, people have no legal status in the community and face a risk of being detained.

The uncertainty around Bridging visas often means that people, where they have been given work rights, cannot obtain employment as the period of the Bridging visa is not viable for employment. Other people have experienced situations where they have been employed long term, however cannot continue to work as their new Bridging visa does not

allow for work - or they are not issued with a Bridging visa at all.

This situation is inefficient and untenable. There is no clear policy from the Department of Home Affairs outlining the reasons for the inconsistent provision of Bridging visas and associated rights.

It is clear that people who arrived to Australia by boat are targeted as people arriving by plane are largely provided with Bridging visas that allow work rights for the entirety of their legal process.

The uncertainty around Bridging visas creates stress, social exclusion and an inability to plan for the future.

Recommendations

- All people seeking asylum in Australia, regardless of their mode of arrival, be issued an indefinite Bridging visa to allow for legal status throughout the legal process.
- All people seeking asylum in Australia be issued with Bridging visas with the right to work, the right to study, access to income support and to Medicare.
- Increased funding for specialised torture and trauma counselling and other acute mental health needs for people seeking asylum in Australia.
- The creation of a specialised and trained taskforce of caseworkers to case manage people seeking asylum who have acute physical or mental health needs.

Key Facts

- In August 2012 the Gillard Government put a freeze on the refugee application process for all people who arrived by sea.
- This left approximately 24,500 people seeking asylum, including 4395 children, in the community (about 11,000 in Victoria) waiting in limbo to make their claim, many for more than three years.
- These are people who arrived by sea between August 2012 and July 2013, when the Rudd Government barred anyone coming by sea from ever entering Australia.
- Additionally, there are another 6000 people who had already commenced their Protection process who had their applications for a Permanent Protection visa frozen and subsequently converted to an application for a TPV or SHEV. These people have been waiting for an outcome for over five years.
- People seeking asylum in Australia, especially people who come by sea are denied consistent access to work rights, healthcare, income support and education. Some have spent years without any ability to earn a livelihood for basic essentials and without healthcare.
- People who arrive to Australia by sea are disproportionately affected by the DIBP's policies and are discriminated against on the basis of their mode of arrival to Australia.
- "Past experience in Australia has shown that restrictions which prevent asylum seekers from working and earning an income can negatively affect their physical and social wellbeing, resulting in problems with health and nutrition, isolation, depression and other mental health issues, and family breakdown¹."
- People who have sought protection in our communities have historically been among our country's most successful social and economic contributors.
- "Being able to work contributes both to an individual's dignity and to the survival of that person and his or her family.[6] Allowing asylum seekers to work would enable them to be better prepared, both financially and psychologically, for their transition to life as Australian residents if they are granted protection visas. This is significant because in recent times around 90 per cent of asylum seekers who arrived in Australia by boat were ultimately found to be refugees and were granted protection visas.²"
- Australia has obligations under the International Covenant on Economic, Social and Cultural Rights to protect the economic, social and cultural rights of people in Australia. This includes:
 - The right to work (Article 6)
 - The right to social security (Article 9)
 - The right to an adequate standard of living (Article 11)
 - The right to physical and mental health (Article 12)
- There is little transparency around who will be granted a Bridging visa and whether that Bridging visa will have work rights, especially at the court stage.
- People seeking asylum are unable to plan and live with any certainty about their futures as their rights to work, to healthcare, to education and income support may be denied at any time.

¹ Australian Human Rights Commission, *Tell me about: Bridging visas for asylum seekers*, <http://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/tell-me-about-bridging-visas-asylum-seekers>

² Australian Human Rights Commission, *Tell me about: Bridging visas for asylum seekers*, <http://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/tell-me-about-bridging-visas-asylum-seekers>