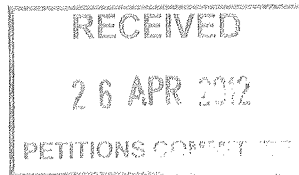




The Hon Chris Bowen MP
Minister for Immigration and Citizenship

The Hon John Murphy MP
Chair of the Standing Committee on Petitions
Member for Reid
Parliament House
CANBERRA ACT 2600



Dear Mr Murphy

Thank you for your letter of 13 February 2012 regarding a petition recently submitted for consideration by the Standing Committee on Petitions regarding refugees and Australian immigration laws. I apologise for the delay in responding.

The Australian Government is committed to treating asylum seekers and refugees humanely and fairly while maintaining its commitment to managing risks to the Australian community. Immigration detention of all unauthorised arrivals is mandatory for the purposes of determining any health, identity or security risk presented by unauthorised people arriving at the border. This is in contrast to those who arrive in Australia lawfully and have been assessed during the visa application process in relation to matters such as identity, security, bona fides and health.

Australia accepts its human rights obligations towards all persons in Australia. Some differentiation in the management of persons who arrive, or remain, in an irregular manner is consistent with Australia's international obligations, including the Refugees Convention and Article 13 of the ICCPR.

Non-citizens who arrive without a valid visa at an excised offshore place, such as Christmas Island, are subject to a visa application bar. This means that they cannot apply for a visa unless the Minister allows them to. All other laws apply in the same way. Successive governments have maintained these arrangements to preserve the integrity of Australia's borders.

The Australian Government provides the Protection Obligations Determination (POD) process for Irregular Maritime Arrivals (IMAs). Under this process:

- Determinations are in accordance with the High Court of Australia's judgment relating to procedural fairness requirements and are consistent with Australian law;
- IMAs have access to an independent review of negative outcomes through an Independent Protection Assessment (IPA);
- IMAs are able to access judicial review of the decisions made under the POD process.

On 25 November 2011, I announced a new approach to the management of asylum seekers. Following an initial mandatory detention period for health, security and identity checks, eligible boat arrivals who do not pose risks to the community will be progressively considered for community placement on bridging visas while their asylum claims are assessed.

As part of these changes, the Government will introduce a single protection visa process for both boat and air arrivals in 2012, using the current onshore arrangements for application and independent review through the Refugee Review Tribunal (RRT) system, as needed.

The Government is conscious of the need to ensure people are not held in immigration detention for long periods, however, time is required to determine whether a person meets the criteria for grant of a visa. Longer processing times can be due to a number of factors including the volume of cases, difficulty in satisfactorily determining a client's identity, complexity of claims, developments in country information and, for those who have been found to be a refugee, assessment of other immigration related criteria.

The Government is committed to reducing people smuggling activity and working with countries in the region under the Regional Co-operation Framework to improve protection outcomes for refugees. The Government will continue to advocate for changes to the *Migration Act 1958* that would enable the cooperative transfer arrangement established with Malaysia to be implemented. As offshore processing is not able to be implemented at this time and consistent with the Government's announcement of 18 October 2010, priority is being given to the transfer of minors, families and other vulnerable individuals out of detention facilities and into community-based detention.

As at 22 March 2012, I had approved more than 3400 clients (1850 adults and 1550 children) for accommodation in the community detention program, since expanding the program in October 2010. Around 1500 clients have left the program after being granted a protection visa. There are over 630 children in and transitioning into community detention arrangements. All eligible children who arrived in Australia prior to 20 November 2011 have been moved into community detention arrangements.

The Government is also using existing visa provisions to progressively allow clients who are assessed as satisfying mandatory identity, health, character and security requirements to be granted a bridging visa. This will allow some clients to reside in the community under certain conditions while their processing continues. Initial priority is being given to those who have been in immigration detention for the longest time. Clients who do not meet these criteria will remain in detention facilities or a community detention placement that is appropriate for the management of any security risks or support needs.

Since 25 November 2011, more than 1000 clients have been released into the community on a bridging visa.

The Government will continue to look at ways to prevent, deter and enforce compliance to preserve the integrity of Australia's migration and humanitarian programs, while treating individuals humanely.

Thank you for writing about these matters.

Yours sincerely

CHRIS BOWEN

11 APR 2012