



**THE HON PETER DUTTON MP  
MINISTER FOR IMMIGRATION  
AND BORDER PROTECTION**

Ref No: MC15-003555

Dr Dennis Jensen MP  
Chair  
Standing Committee on Petitions  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Dear Dr Jensen

Thank you for your letter of 4 March 2015 regarding petition number 1018/1503, submitted to the Standing Committee on Petitions by the Member for McMillan, Mr Russell Broadbent MP, on behalf of churches, residents of his electorate, and other concerned persons. I apologise for the delay in responding.

I can assure you that the Australian Government takes its international obligations seriously and provides protection consistent with these obligations, as now set out in the statutory refugee framework provisions of the *Migration Act 1958*. This creates a new, independent and self-contained statutory framework which articulates Australia's interpretation of its protection obligations under the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (the Refugees Convention). Furthermore, people who do not meet the definition of a refugee under these provisions, but may be in need of protection, may have their claims assessed under another possible visa pathway, complementary protection. The complementary protection provisions in the *Migration Act 1958* allow consideration of Australia's non-refoulement (non-return) obligations under:

- the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT); and
- the International Covenant on Civil and Political Rights (ICCPR) in the Protection visa process.

Australians, however, expect that those seeking access to this country will do so through the appropriate processing channels, comprising the onshore and offshore components of the Humanitarian Programme. The Government has determined that those who come illegally (by boat or air) will not be rewarded with permanent protection visas. Fulfilling our international obligations does not require an offer of permanent residence to asylum seekers.

The Government has reduced the immigration detention population by approximately 90 per cent and, as at 31 May 2015, there were fewer than 130 children in held detention in Australia, compared with a peak of 1,992 children in July 2013. It remains the view of the Government that all people in immigration detention, including families and children, are provided with appropriate care, and where they make claims for asylum, have those claims addressed as soon as is reasonably practicable and consistent with current policy settings.

Resolving the immigration status of the illegal maritime arrivals (IMA) legacy caseload of almost 30,000 people in Australia, who arrived under the former Government, is expected to take several years. Introduction of the Temporary Protection visa (TPV) and the Safe Haven Enterprise visa (SHEV) supports the Government's commitment to uphold the importance of integrity, the establishment of identity, and increased efficiency in Australia's protection processing system. It also allows the Government to commence processing the legacy caseload, while at the same time guaranteeing that people-smugglers do not have a 'permanent protection visa product' to sell to those who are thinking of travelling illegally to Australia. Any further delay in processing claims simply adds to cost and uncertainty and prevents people from getting on with their lives.

I can advise that the Department of Immigration and Border Protection has commenced processing the claims lodged by asylum seekers and has already granted some temporary protection visas. The Department has also developed protection application information and guides to assist asylum seekers in this process. These documents, which are available on the Department's website at: <http://www.immi.gov.au/paig>, have been translated into several languages and contain information on how to apply for a visa, visa options and the assessment process.

All illegal arrivals in the legacy caseload, including minors, can apply for a TPV or a SHEV (when the SHEV is available). Holders of these temporary protection visas will have access to support including work rights, access to employment services, access to Medicare and the Government's programme of Assistance for Survivors of Torture and Trauma, income support, translating and interpreting services, complex case support and access to education for school-aged children. Requests for travel will be considered in compassionate or compelling circumstances to places other than the country from which protection was sought.

A TPV will be valid for up to three years and a SHEV will be valid for five years. Holders of these visas cannot sponsor their family members. Before the visa expires, holders will need to apply for another visa and have another assessment to see whether they still engage Australia's protection obligations. If they do, and they meet all other criteria, they will have the choice to be granted another TPV or a SHEV, should they meet the requirements.

Australia, the United States of America and Canada collectively offer the majority of global resettlement places each year. Australia has a proud history of resettling people from around the world who have suffered persecution or human rights abuses through its Humanitarian Programme. This record will not change as a result of recent legislative changes nor from a stronger focus on integrity in our decision making. Indeed, the Government has increased the programme from the current level of 13,750 places up to 18,750 places over the next four years. This will make the 2018-19 offshore intake the largest in more than 30 years.

Thank you for bringing this petition to my attention.

Yours sincerely

PETER DUTTON