



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.