Chapter 16
Temporary Protection Visas for Children Released from Immigration Detention

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16. Temporary Protection Visas for Children Released from Immigration Detention

The immigration status that results in the detention of children under Australian law also affects their entitlements to various services on release from detention, after they have been recognised as refugees. As discussed in Chapter 6 on Australia's Detention Policy, most children detained in immigration detention facilities for long periods are detained because they arrive in Australia without a visa (unauthorised arrivals). More than 90 per cent of those children are subsequently found to be refugees and are therefore released on temporary protection visas (TPVs). This is in contrast to asylum seekers who arrive in Australia with a visa (authorised arrivals) who are not usually detained and, if found to be refugees, are generally granted permanent protection visas (PPVs).[1] Both TPV and PPV holders are refugees but TPV holders have the right to temporary stay and PPVs have the right to permanent residence.

This chapter discusses some of the difficulties faced by children released from detention on TPVs and examines how these difficulties may impact on their rights. In particular, it discusses the impact that detention has on their ability to settle into the Australian community and on the extra services needed to cater for those difficulties. It also assesses whether the level of services provided to children and their parents released from detention are sufficient to meet the requirements of the *Convention on the Rights of the Child* (CRC).

An extremely small number of children who are unauthorised arrivals are released from detention on bridging visas. This chapter also briefly addresses the rights of those children.

In particular this chapter addresses the following questions:

16.1 What are children's rights when released from immigration detention?

16.2 What conditions are attached to temporary protection visas?

16.3 What services are provided to former detainees living in the community?

16.4 What care is provided to unaccompanied children released from detention?

16.5 What is the impact of restricted services and entitlements on families on temporary protection visas?

16.6 What services and entitlements are provided to children in the community on bridging visas?

There is a summary of the Inquiry's findings at the end of the chapter.

16.1 What are children's rights when released from immigration detention?

All of the rights discussed in preceding chapters of this report apply equally to children after they are released from detention.

Article 22(1) of the CRC requires Australia to take appropriate measures to ensure that refugee children can enjoy all of their rights, including the right to an adequate standard of living (article 27), health care (article 24), education (article 28) and access to social security (article 26). All of these rights impact upon a child's right to the maximum possible development, rehabilitation and social reintegration (articles 6(2) and 39).

There are certain issues of particular concern to refugee children. One of the most important is family reunification. Various articles of the CRC, including articles 5, 9 and 18, emphasise the importance of family unity and parental care for the well-being of children. Article 10 specifically addresses the situation where members of the same family are in different countries:

> In accordance with the obligation of States Parties under article 9, paragraph 1 [family unity], applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
>
> *Convention on the Rights of the Child, article 10(1)*

In other words, the CRC requires Australia to treat applications for family reunification in 'a positive, humane and expeditious manner'. This article should be applied in the light of the principle that the best interests of the child be a primary consideration (article 3(1)).

Further, the United Nations High Commissioner for Refugees (UNHCR) *Guidelines on Reunification of Refugee Families* recommend that governments ensure that 'the unity of the refugee's family is maintained',[2] specifically stating that in situations where members of the same family have reached temporary asylum in different states, their reunification should be facilitated.[3] The UNHCR states that:

> respect for the right to family unity requires not only that States refrain from action which would result in family separations, but also that they take measures to maintain the unity of the family and to reunite family members who have been separated.[4]

Another right important to refugee children is the right to travel to see friends and family who remain overseas. This right is specifically protected by the Refugee

Convention, which requires that refugees be provided with 'travel documents for the purpose of travel outside their territory' (article 28). Paragraph 13(1) of the Schedule to the Refugee Convention requires that the holder of a travel document be able to use that document to come back to Australia when Australia issues that document.[5]

Unaccompanied children living in the community after a period of detention have additional entitlements. Article 22(2) of the CRC requires family tracing,[6] and states that:

> In cases where no parents or any other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family for any reason.

Unaccompanied children also have the right to special assistance and protection in order to compensate for the absence of their parents and ensure that they can enjoy all their rights under the CRC (article 20(1)). Furthermore, the UNHCR recommends that as soon as an unaccompanied child has been recognised as a refugee or permitted to stay on humanitarian grounds, long-term placement in a community should be arranged.[7] The return of unaccompanied refugee children to their country of origin should only occur if appropriate care for the child can be arranged in that country.[8]

16.2 What conditions are attached to temporary protection visas (TPVs)?

There are two means by which children may be released from detention under Australian law. They may be returned to their country of origin or granted a visa to remain in Australia. Children found to be refugees are generally released into the Australian community on a TPV. A very small number of child asylum seekers who arrived in Australia without a visa have received a bridging visa, Bridging Visa E, which allows them to reside in the Australian community while their application for a TPV is assessed. The limited entitlements of these children are discussed in section 16.6.

Children released from detention on the Australian mainland are generally granted a TPV (visa subclass 785). Children now living in the Australian community who were detained in Nauru or Papua New Guinea generally hold a 447 Secondary Movement Offshore Entry (Temporary) Visa or a 451 Secondary Movement Relocation (Temporary) Visa depending on whether they were intercepted in international waters or whether they arrived on an 'excised offshore place' like Christmas Island or Ashmore Reef.[9] The 785 visa was introduced in 1999 and the 447 and 451 visas were introduced as part of the 'Pacific Solution' strategy in 2001.[10] The Department of Immigration and Multicultural and Indigenous Affairs (the Department or DIMIA) clearly states that the motivation behind this new visa regime is 'to strengthen deterrence in relation to unauthorised arrivals'.[11]

Asylum seekers who arrive in Australia on a valid visa (other than a refugee visa) and then apply for a protection visa are usually granted a bridging visa until the

determination of their protection visa application. However, as described in Chapter 6 on Australia's Detention Policy, with respect to unauthorised arrivals, almost no children were granted bridging visas over the period of the Inquiry. The few unauthorised arrival children who have been released on bridging visas were granted Bridging Visa E, subclass 051. This allows the visa holder to live in the community until his or her application for asylum is determined.

As the following table demonstrates, the visa granted to children released from detention after September 2001 (visa subclass 785) imposes the following conditions. The TPV holder is:

- ineligible for permanent residence (PPV) unless the Minister for Immigration and Multicultural and Indigenous Affairs (the Minister) exercises discretion[12]
- unable to bring any family to join them in Australia for the period of their TPV
- unable to travel outside Australia without jeopardising their protection visa, as TPVs are single entry visas.

The combined impact of these conditions is to effectively separate TPV holders from their immediate families for as long as they have an ongoing protection need. This need could continue indefinitely for many years. This situation contrasts greatly to that of children arriving in Australia on a visa who are normally granted a PPV.

Table 1: Conditions attached to protection visas

	TEMPORARY VISAS			PERMANENT VISAS	
	Temporary Protection Visa 785 (Onshore unauthorised arrivals)	**Secondary Movement Offshore Entry (Temporary) Visa 447**	**Secondary Movement Relocation (Temporary) Visa 451**	**Permanent Protection Visa 866** (Onshore authorised arrivals)	**Humanitarian Visas 200-204** (Offshore)
Who is eligible?	Asylum seeker arriving in Australia without a valid visa after October 1999. Asylum seeker arriving in Australia with a visa applying for protection after September 2001, and has spent seven days in a country where he or she could have obtained effective protection.	Asylum seeker arriving at an 'excised offshore place' or intercepted in Australian waters without a valid visa, after September 2001.	Asylum seeker applying after September 2001 who has not entered Australian territory and has not spent seven days in a country where he or she could have obtained effective protection. May have been intercepted in international waters.	Asylum seeker arriving in Australia with a valid visa.	Asylum seeker who has applied from overseas for protection in Australia.
Automatic right to visa if meet criteria?	Yes, as long as pass security and health checks.	No. Minister's discretion.	No. Minister's discretion.	Yes.	No. Minister's discretion.
Detention during processing?	Yes. In mainland Australian detention facilities.	Yes. In Nauru, Papua New Guinea or Christmas Island.	Yes. Most likely in Nauru or Papua New Guinea.	No.	No.
Release from detention if found to be a refugee?	Yes, as soon as pass security and health checks.	No. Must wait for Australia or another country to grant a visa.	No. Must wait for Australia or another country to grant a visa.	n/a	n/a

	TEMPORARY VISAS			PERMANENT VISAS	
	Temporary Protection Visa 785 (Onshore unauthorised arrivals)	**Secondary Movement Offshore Entry (Temporary) Visa 447**	**Secondary Movement Relocation (Temporary) Visa 451**	**Permanent Protection Visa 866** (Onshore authorised arrivals)	**Humanitarian Visas 200-204** (Offshore)
Visa duration?	Three years.	Three years.	Five years.	Permanent.	Permanent.
Further visas available on expiry of current visa?	After September 2001, only eligible for consideration for a permanent protection visa if, since leaving their home country, the applicant has not resided for more than seven days in a country where they could have sought and obtained effective protection, unless the Minister exercises discretion to permit application for a PPV. Otherwise only eligible for successive TPVs.	Only eligible to apply for a further TPV unless the Minister exercises discretion to permit application for a PPV.	Eligible to apply for a PPV.	n/a	n/a
Right to family reunion?	No.	No.	No.	Yes.	Yes.
Travel outside Australia?	Single entry visa. May depart Australia but have no automatic right of return.	No. Single entry visa.	No. Single entry visa.	Yes. Able to leave Australia and return without jeopardising visa.	Yes. Able to leave Australia and return without jeopardising visa.

16.2.1 Impact of the temporary nature of the TPV

> It is like a cancer. It is like a brain tumour or something – you know that you are going to die after three years. Even if you have a brain tumour, you know that you are going to die in that certain time, and you know you are going to die, so you live happily. With this, you just die every day. You don't know what's going to happen. Sometimes I just think that I should leave studies. As soon as I find a job I will start working, because I don't think that there is a future in this country. I am going to go back with nothing. It's a really big shame. I won't even be able to finish school.[13]

Refugee children released from detention should be at the commencement of a period of recovery from the trauma resulting from persecution and flight as well as from their experience of detention.[14]

However, the evidence before the Inquiry indicates that the temporary nature of the protection accorded to children released from detention creates considerable uncertainty about their future. The uncertainty attached to temporary status has been an issue since the inception of the TPV system in 1999. However, as noted earlier, since September 2001, most TPV holders will only ever be eligible for successive temporary visas. This has exacerbated the situation of uncertainty for TPV holders.

Specialist torture and trauma counselling services have reported that the uncertainty inhibits the recovery of former detainee children from trauma suffered prior to and during detention. For example, the NSW agency reported that:

> the environment created by temporary protection policies is more likely to compound the effect of any traumas sustained in detention, rather than contribute to successful recovery. As such, it should be regarded as an integral aspect of how children are affected by Australia's immigration detention policies.[15]

The Queensland torture and trauma service also noted the different recovery experiences between permanent and TPV holders:

> Those on a Permanent Protection Visa I see as having a faster recovery from torture and trauma because they have a sense of safety. They can go through a process of remembering and mourning and then reconnecting but I found with this particular group of young people on a Temporary Protection Visa they have major problems trying to feel safe in their current situation.[16]

This service also reported that young TPV holders exhibited both physiological and psychological symptoms as a result of the uncertainty:

> The crucial thing is the uncertainty that they are experiencing about their current situation and their view of the future, and that comes out in many ways but the most common way that I have heard, just about every day, one is through headaches, constant headaches. Another one is through sleeping problems, either major problems falling asleep or staying asleep and often wandering around in the middle of the night to try and sleep. And also

> problems concentrating and remembering things. And also signs of depression, so getting out of bed in the morning and actually attending school and continuing to attend school with the uncertainty of their future.[17]

The Victorian torture and trauma service also told the Inquiry that uncertainty creates new problems for former detainees, causing further deterioration:

> Our experience is that families deteriorate further in the community. Whilst still in detention, the focus had been on getting out. Once out, they begin to experience the loss associated with an uncertain future. It is hard for many people to see the point of struggling to learn English and apply for jobs, facing the potential rejections that all this entails.[18]

In addition, former detainee children told the Inquiry that the TPV system inhibits their recovery from trauma. A 15-year-old unaccompanied child TPV holder said:

> We've been in a continuous uncertainty, instability and ongoing trauma over the last year. First of all we went through the hell to be separated from our family, took a long, long journey and then we went through the hell of the detention centre experience there. Now after we released we feel that we will be better off somehow we are here but ever since they give us this Temporary Protection Visa and on top of us this uncertain news and even now and then we are hearing, it's like some sort of ongoing torture for us. Because if I just close my eyes I remember that I will be sent back to Afghanistan … I am losing my mind and losing my concentration. Really psychologically we are losing our minds, we are getting crazy. They are just killing us piece by piece. They are leaving us in a limbo situation. If they just send us and say go today, we would just go today we would face death and would be finished, but now we are uncertain day to day.[19]

As well as having an impact on their mental health, the uncertainty faced by TPV holders has a direct impact on their capacity to settle in the Australian community. The NSW Centre for Refugee Research also told the Inquiry about the difficulties that child TPV holders had in settling in:

> In doing that research which was in refugee children in general, one of the unexpected findings of the research was the comment made by just about every professional we spoke to, that it was their opinion that the children who had been in detention [and were therefore on TPVs] were having many more problems in resettlement in Australia than other refugee children who came direct. The research we did certainly did suggest that the children who had been in detention had grave problems in resettlement and there was a time lag in this.[20]

This point of view is supported by the Department of Human Services Victoria who reported to the Inquiry that with regard to unaccompanied refugee children:

> The move towards TPVs has created enormous instability for unaccompanied minors and impacted on their ability to establish long term goals and a stable future while the spectre of deportation or indefinite temporary visa status is the governing basis of their stay in Australia.[21]

Many unaccompanied refugee children are at that time of life where they are contemplating their futures and making crucial preparations to become independent through study and work experience. Young people on TPVs consistently reported to the Inquiry that their uncertainty about their ongoing protection has affected their capacity to settle, particularly affecting choices about whether they should work or study. One young TPV holder told the Inquiry that:

> Of course it is harder [than being on a PPV], because the [PPV holders] know what they are doing and they know what's going on and they know they will stay here and they know everything and they can plan the future and they can make a timetable for their future. But for me, it is like *a temporary life* and like you're living for three years and you don't know what will *happen* to you after that. It makes you worry about it. On the one hand, you want to study and on the other hand you want to work or you want to help others, or you want to see around this country. And you want to have some information about this country that you can take with yourself. And it's really very hard.[22]

Another child reported the following to Uniting Care Burnside:

> It would be good if they would tell us if we are going to get it (permanent visa) or not now. If I am going to stay here for two years I want to work or study or something like that but this uncertain condition is really annoying, it's really bothering because we can't focus on anything. Choosing education or work … because we don't have a permanent visa we can't really work, … and also studying, we don't know where they are going because after two years studying in Australia the education here is different to (country of origin) and we don't know what will happen. It is really uncertain and that causes lots of anxiety … so I can't decide what should I do now. If I study it will be good for me for my future. If not study, if they say, it is not possible to stay here for you after two years … so I should work but my family there is no one to help them so it is all the responsibility for it belongs to me …[23]

Finally, it appears that there was no notice given to TPV holders of the change in the legislation that prevented application for permanent protection if an application had not been lodged by 27 September 2001.[24] This means that refugee children and young people living in Australia on TPVs before September 2001 were not told that the conditions under which they could apply for permanent protection were about to be changed, rendering most of them ineligible for permanent protection in Australia.[25]

16.2.2 Impact of the restrictions on family reunion

Refugee children may be separated from one or both of their parents for a variety of reasons. Children may be sent to Australia alone, or with one family member only, leaving others behind, or families may also be separated by accident, for example they may end up on different boats.

As discussed in section 16.1, Australia has an obligation to deal with applications for family reunion by a child or his or her parents to enter or leave Australia in a positive, humane and expeditious manner. Further, as outlined throughout the report, where different parts of the same family are under Australian control, then Australia

has an obligation to consider the best interests of the child, which usually entails family unity.[26] This includes situations where, under the 'Pacific Solution' strategy, one part of a family is transferred to Nauru or Papua New Guinea while others are in Australia.

However, the current restrictions on TPV holders limit the potential for family reunion. Refugees in Australia who hold PPVs can be joined by family members living overseas through the family reunion provisions of the visa. A TPV does not allow family reunion. Furthermore, TPV holders may not travel from Australia without jeopardising their visa. This effective restriction on travel means that, for example, unaccompanied refugee children on TPVs cannot leave Australia to visit their parents and the family cannot come to Australia to join the children. Therefore children on TPVs with parents outside Australia are prevented from seeing them for the duration of their visa.

These restrictions can potentially lead to family separation for extremely long periods of time. Initially the separation may be for the three years of the TPV. However, if the child's protection needs continue, the three years can turn into many more years.

The Inquiry has some concern that the restriction on family reunion and travel may have directly contributed to the increase in numbers of women and children making the perilous journey to Australia by boat. An Iraqi woman who waited in Jordan for two years, hoping to be reunited with her husband, told the Inquiry that it was very difficult for her living in Jordan as a woman alone with her children, and that eventually she decided that she could wait no longer, as there was no certainty that her husband would be granted a permanent visa:

> I wait there in Jordan for two years, in order that he may take the permanent visa, or the law will change, and he can apply for me to come legally. There was no end.[27]

The Department informs the Inquiry that:

> Family members overseas are eligible to apply for visas to enter Australia in their own right. This includes the opportunity to seek a place in Australia's extensive annual Humanitarian resettlement program.[28]

Further, the Minister can exercise his discretion to grant a PPV at any time, which has family reunion rights attached. However, the Department does not provide any evidence as to how these avenues for family reunion constitute a 'positive, humane and expeditious' manner of dealing with requests for reunification by refugee children and their families. There is no requirement for the Minister to consider such aspects as family reunion early in the refugee application process.

The Government's 'Pacific Solution' has also resulted in a situation where some members of a family who make this journey are detained in Nauru or Papua New Guinea, and others are in Australia, either in detention or living in the community.[29]

While the Inquiry was not able to visit families detained on Nauru and Papua New Guinea, it interviewed at least one family that had been separated in this way.[30] In

that case the mother and her three children aged 14, 12 and 7 years travelled towards Australia on a boat which was intercepted by the Australian navy in October 2000. The asylum seekers on this boat were transferred to Manus Island, Papua New Guinea, for refugee application processing. The children's father, who had arrived in Australia some months earlier, had been granted a TPV and was living in the Australian community. The mother and children were recognised to be refugees in April 2001, but it was not until four months later that they were granted visas to enter Australia. Hence, the family were separated for approximately 10 months.

The Minister has the power under s46A(2) of the *Migration Act 1958* (Cth) (the Migration Act) to allow persons arriving in 'excised offshore places' to apply for a protection visa.[31] However, as the example above indicates, this process may still take many months. The Inquiry also notes that the Migration Act gives some discretion to the Department as to whether to transfer persons to Nauru and Papua New Guinea in the first place. In other words, the Department is able to transfer family members to a detention centre located close to a family member in the Australian community. However, the Inquiry is unaware of any instances where this has occurred.

The ban on family reunion has had a negative impact on TPV holder's mental health and their ability to settle. The Department of Human Services Victoria said separation from family was especially distressing for unaccompanied refugee children:

> Without the prospect of attaining permanent residence, unaccompanied minors are unable to sponsor family members. The absence of family reunion options is a particularly alarming prospect for the young people. It can significantly compound their anxiety about their prospects of future happiness and set back case support goals of helping them to deal with past trauma and embrace a more positive outlook.[32]

Refugee children on TPVs described the impact of being separated from their family:

> It's ridiculous. You don't have access to your family, like your father and mother and that's awful. If you keep someone for three years away from their family you can imagine what will happen to their mind.[33]

The Victorian torture and trauma service told the Inquiry that many children separated from their immediate family are acutely affected by this separation:

> The degree of withdrawal of these children is intensified. They cannot learn and are observed by teachers to be isolated and shut down. From a counselling perspective it is almost impossible to deal with their problems because the pain of separation is so intense that they are in a non-feeling state. They cannot talk about their problems because it would expose them to feeling the pain of separation much more acutely.[34]

The Refugee Council of Australia (RCOA) argues that:

> [r]esettled refugees who are separated from family members are unable to devote their full energies to learning the new language, seeking employment and establishing themselves in the new community.

The RCOA has found that TPV holders are preoccupied with locating lost family members or concerned about the well-being of family members in precarious situations overseas, and are therefore unable to make long-term plans until the family is reunited.[35]

16.2.3 Findings regarding the conditions of temporary protection visas

The Inquiry finds that the conditions attached to TPVs have a detrimental impact on refugee children. The lack of access to permanent protection leads to significant uncertainty about the future for child TPV holders. This uncertainty is more likely to compound mental health problems than facilitate rehabilitation from past trauma and integration into Australian society.

The Inquiry also finds that the combination of the prohibition on family reunion and the effective restriction on travel has a serious impact on the best interests of children, particularly in the context of mental health and family unity. While it is possible that separated family members may eventually join TPV holders in Australia by receiving an offshore visa in their own right, or through the exercise of Ministerial discretion, this process is neither guaranteed nor expeditious. These restrictions mean that children may be separated from their families for extremely long, potentially indefinite, periods of time.

16.3 What services are provided to former detainees living in the community?

As well as having significant conditions attached to their visas, there are restrictions in the social services and other entitlements available to children and families released from detention on TPVs and bridging visas.

A comparison of the services and entitlements provided to PPV holders, TPV holders and Bridging Visa E holders is illustrated in the following table.

Table 2: Commonwealth services provided to Protection and Humanitarian visa holders

	BRIDGING VISAS	TEMPORARY VISAS			PERMANENT VISAS	
	Bridging Visa E, subclass 051 (BVE) (Unauthorised arrival in Australia, released from detention before the refugee status determination process is complete)	**Temporary Protection Visa 785** (Onshore unauthorised arrivals)	**Secondary Movement Relocation (Temporary) Visa 451** (Intercepted in International waters)	**Secondary Movement Offshore Entry (Temporary) Visa 447** (Arrived at an excised offshore place)	**Permanent Protection Visa 866** (Onshore authorised arrivals)	**Permanent Humanitarian Visas 200-204** (Offshore)
Settlement support	n/a	Only eligible for the Early Health Assessment and Intervention.			Only eligible for Early Health Assessment and Intervention.	Eligible for assistance through the Integrated Humanitarian Settlement Strategy, including: • Initial Information and Orientation Assistance • Accommodation Support • Household Formation • Early Health Assessment and Intervention • Community Support for Refugees

	BRIDGING VISAS	TEMPORARY VISAS			PERMANENT VISAS	
	Bridging Visa E, subclass 051 (BVE)	**Temporary Protection Visa 785**	**Secondary Movement Relocation (Temporary) Visa 451**	**Secondary Movement Offshore Entry (Temporary) Visa 447**	**Permanent Protection Visa 866**	**Permanent Humanitarian Visas 200-204**
Employment	Need to demonstrate that they have a compelling need to work.	Right to work. Until 1 January 2003, ineligible for employment assistance programs, except for the most basic services (for example touch screen job matching). From 1 January 2003, eligible for limited employment assistance programs.			Right to work. Access to all employment assistance programs.	
Social Security	Not eligible.	Eligible for restricted entitlements – Special Benefit (paid at Newstart rates but subject to a more stringent income test), Rent Assistance, Family Tax Benefit, Child Care Benefit, and Maternity Allowance. From 1 January 2003 required to meet activity testing requirements.			Eligible to apply for the full range of social security benefits.	
Health	Not eligible for Medicare unless they have permission to work.	Eligible for Medicare. Prior to 29 August 2000 TPV holders not automatically eligible for Medicare.			Eligible for full range of health services provided through Medicare.	
Mental health	Not eligible.	Eligible for torture and trauma counselling.			Eligible for torture and trauma counselling.	
English Tuition for adults	Not eligible.	Not eligible. Only eligible for the Language, Literacy and Numeracy Program if receiving Special Benefit. Fees payable for TAFE.			Access to 510 hours of English language training (free tuition under the Adult Migrant English Program, eligible for Advanced English for Migrants Program), with a further 100 hours if necessary.	

	BRIDGING VISAS	TEMPORARY VISAS			PERMANENT VISAS	
	Bridging Visa E, subclass 051 (BVE)	**Temporary Protection Visa 785**	**Secondary Movement Relocation (Temporary) Visa 451**	**Secondary Movement Offshore Entry (Temporary) Visa 447**	**Permanent Protection Visa 866**	**Permanent Humanitarian Visas 200-204**
Education for children	Generally at the discretion of the States to waive fees. A Bridging Visa E can be issued with a condition that denies permission to study.	From 1 July 2002 eligible for funding through the New Arrivals Program.			Eligible for intensive English training through the Commonwealth-funded New Arrivals Program.	
Legal Assistance for visa applications	Eligible for government-funded legal assistance.	Can receive government-funded legal assistance in preparing fresh visa application if experiencing financial hardship and disadvantaged, for example because of non-English speaking background or disability as a result of past torture and trauma. Unaccompanied minors who are wards of the Minister are entitled to legal assistance funded through the Immigration Advice and Application Assistance Scheme (IAAAS) administered by the Department.			n/a	

16.3.1 Authorities responsible for providing services to protection visa holders

Services to protection visa and Bridging Visa E holders are provided by the Commonwealth, the States and community-based organisations.

The Commonwealth exercises the most responsibility to provide services to refugees. It is responsible for the provision of settlement services and governs access to employment programs, social security benefits, health care through Medicare, Commonwealth-funded mental health services, language tuition for adults, Commonwealth-funded education programs for children and access to legal assistance for further visa applications.

However, there are significant restrictions to child TPV holders' access to Commonwealth-funded services, as outlined in the table above. The Inquiry has heard from State governments and community-based organisations that they have been forced to meet the gaps in provision of service to child TPV holders caused by lack of Commonwealth funding.

For example, the Western Australian Government stated that:

> The failure to provide access to services places significant demands upon community volunteer groups and Western Australian Government service providers in the absence of DIMIA-funded settlement services. It also makes it more difficult for TPV holders to adjust following release from detention with potential long-term impacts on the state.[36]

State governments have variously acted to ensure that TPV holders have access to the services that they require. The most comprehensive strategy is in Queensland, where on 27 November 2000 the State Government adopted the position that:

> The Queensland Government recognised the significant humanitarian issues associated with the arrival of TPV entrants in Queensland. The Queensland Government has approved that Queensland Government agencies provide the same level of services to Temporary Protection Visa holders as Permanent Protection Visa holders.[37]

Consequently, the following services are available to TPV entrants in Queensland:

- English Language tuition through TAFE Colleges;
- all full-fee vocational courses, subject to availability;
- rental bond loans;
- access to public housing;
- access to a 38 bed boarding house which has been provided for on-arrival accommodation;
- continued support to access the private rental market;
- TPV entrants with children have access to state schools at no cost;
- English as a Second Language (ESL) tuition for children in school.[38]

The Victorian Government has ensured that TPV holders have access to State-funded services such as public housing, education for children and young people and access to hospitals and community health care.[39] Furthermore, in February 2001, the Victorian Government made a grant of $100,000 to assist the on-arrival settlement of TPV holders to two local governments and two rural regions based on the numbers of TPV holders being settled in each location.[40]

The Inquiry has also heard that the restriction in services available to TPV holders has led to a much greater reliance on community-based organisations. For example, the NSW Council of Social Service (NCOSS) reported that:

> There are volunteer services being set up to essentially duplicate the role of the Migrant Resource Centres in providing support and assistance to duplicate the role of the Commonwealth funded English language programs in providing volunteer English language training, to provide assistance in obtaining employment, to answer a range of gaps and services that temporary protection visa holders and families and children need.[41]

The remainder of this chapter examines the impact of the level of services provided to child TPV holders across a range of essential services.

16.3.2 Settlement services available to children released from detention

Settlement services are those services necessary for effective settlement in Australia, including information, accommodation and household formation, and specialist health services. In principle, the provision of settlement services is the responsibility of the Commonwealth. The Department has identified the special settlement needs of entrants under Australia's Humanitarian Program.[42]

All offshore Humanitarian Program entrants can access the Integrated Humanitarian Settlement Strategy (IHSS). Under the IHSS, offshore Humanitarian Program entrants are provided with:

- comprehensive settlement assistance that includes an orientation program linking them to a range of essential services
- access to support from community-based volunteers
- initial accommodation and support in securing long-term accommodation
- support in establishing a household, including the provision of household goods and basic furnishings.

The IHSS also includes the 'Early Health Assessment and Intervention Program', which provides physical and psychological health screening and access to torture and trauma services.

Former detainees living in the community on TPVs are a particularly vulnerable group in need of assistance with settlement, and, as discussed earlier, the conditions of the TPV system further heighten this need. However, TPV holders are denied access to almost all of these settlement services. The only element of the IHSS

which is available to both TPV and PPV holders is the Early Health Assessment and Intervention Program.

The Department informed the Inquiry that:

> The department's State and Territory settlement staff assist TPV holders' entry into the community at their final destination. They arrange for their reunification with any known family members residing in the Australian community, introduce them to Centrelink, Medicare and other essential services, and to volunteer organisations who may provide them with support.[43]

The reception of TPV holders released from detention depends on local arrangements in the city where they arrive. For example, in Brisbane, reception is managed by the Romero Community Centre, a non-government organisation. A similar service is provided in NSW by the House of Welcome, a church-based voluntary organisation which provides short-term accommodation for families on their release from detention. Stays average about four weeks, during which time the agency assists former detainees to 'organise Centrelink payments, Medicare cards, open bank accounts and find accommodation in the private rental market'.[44]

No on-arrival accommodation is provided by the Commonwealth for families and children released from detention. In some cases this gap in service provision is met by the States, as in South Australia where the South Australian Housing Trust provides short-term accommodation for TPV holders immediately after their release from detention.[45] No Commonwealth-funded household formation support is provided to any TPV holder. However, in South Australia a grant of $200 per person may be made by the State Government for this purpose.[46]

As well as being denied access to most of the IHSS, TPV holders released from detention are ineligible for Department-funded general settlement assistance that is delivered by Migrant Resource Centres (MRCs) and Migrant Service Agencies. Services provided by MRCs include information and referral, community activities such as playgroups, English language classes and support for community migrant organisations.[47] PPV holders are eligible to access these services.

NCOSS told the Inquiry that although MRCs are prohibited from using Commonwealth funding to assist TPV holders, they may work with them when they can obtain other resources to do so.[48] However, MRCs' funding may be threatened if they work with TPV holders in any capacity. Consequently, MRCs hold 'the State funded events and meetings off-site so that TPV holders could attend without the MRC experiencing difficulties with DIMIA'.[49] The extent of the difficulties experienced by the MRCs is evidenced by their extreme reluctance to discuss issues relating to TPVs. They appear to be 'firmly of the opinion that if they were publicly identified as having spoken about this issue, they would be putting their organisation's funding at risk'.[50]

The restriction on settlement services for former detainees has a significant impact on children, as their families have considerably greater difficulty in establishing themselves in the Australian community.

16.3.3 Health care available to children released from detention

Children and families released from detention on TPVs have access to public health care. The Department reports that TPV holders are given a 'post-release information sheet in their own language' and 'this includes information on how to obtain a Medicare card and how to find help and treatment for medical problems'.[51] As noted earlier, TPV holders are eligible for the Early Health Assessment and Intervention Program that operates as part of the IHSS, and, since August 2000, a Medicare card.

The Inquiry heard that one of the greatest challenges in providing health care in the community for families and children released from detention is that they are generally released with no medical records. A Brisbane doctor told the Inquiry that the lack of medical records from the detention centre compromised the care of former detainees.[52] The Inquiry also heard of children being released without immunisation records, or with incomplete records, necessitating the recommencement of an immunisation schedule.[53]

Several studies have found that families released from detention have significant health care needs. The Queensland Government report on the impact of the TPV found that families arrive with both chronic and acute health care needs, and that unaccompanied refugee children specifically 'exhibited a range of health problems including dental, optical and cardiac'.[54] A Victorian study reported that when people released from detention were:

> asked about their priorities, most did not list health as a first priority as they were more concerned about housing, employment and family reunion. When health [was] discussed, a frustration with accessibility of health services, the lack of culturally and linguistically appropriate services and the long periods of waiting time between request [for] the Medicare Card and its actual issuing by the relevant authorities.[55]

In terms of specific health needs, the Victorian study found that '[d]ental and optical care were immediate needs, followed by psychological care and counselling due to the experiences of torture, trauma, grief and separation anxiety. General health was seen as less significant than these other health issues'.[56]

16.3.4 Mental health care available to children released from detention

As outlined earlier, many children leaving detention have severe mental health problems. These are a consequence of both their experiences prior to arrival in Australia, and their experience of detention. These mental health problems are then compounded by the temporary nature of the TPV. Because all former detainee children who have been granted protection visas are refugees, they have, by definition, demonstrated that they were victims of persecution. The Victorian torture and trauma service told the Inquiry that:

> The psychological impact of pre-arrival experiences will continue, even in a safe environment. However, when the new environment is harsh and uncertain, the negative psychological impact will be exacerbated.[57]

As noted earlier, children and families released from detention on TPVs are eligible for 12 sessions of torture and trauma counselling funded by the Department through the IHSS.[58] Although Department funding is limited to these 12 sessions, TPV holders are also eligible for general programs through the torture and trauma centres.

The Victorian torture and trauma service said that such services were of limited assistance in dealing with survivors' symptoms without access to systematic provision of general settlement services.[59] The Queensland Government shares this perspective, arguing that '[i]solating people who have experienced torture and trauma through the denial of adequate settlement assistance further undermines their sense of safety, security and certainty'.[60]

16.3.5 Education available to children released from detention

Former detainee children often have significant educational needs. Their education may have been considerably disrupted due to conditions in which they lived prior to their arrival in Australia. In addition, they may have had very little experience of formal education prior to arrival in Australia.

Furthermore, as outlined in Chapter 12 on Education, the education provided within the detention environment has generally been of an inferior standard to that offered within Australian schools. As most children detained since 1999 have only been able to access education programs within the detention centres, they have often left detention insufficiently prepared for education in mainstream Australian schools.

The principal of the Adelaide Secondary School of English, attended by many former detainee children, reported to the Inquiry the difficulty that these children have settling into school.[61] The principal of Milpera State School in Brisbane, which has also received a large number of former detainee children, said, 'I would not say that, in a single one of the students – and that would be over a hundred – have I come across anyone that would have been prepared to go into a regular school situation'.[62] Both principals stated that no former detainee children admitted to their schools had any educational records from detention. As outlined in Chapter 12 on Education, teachers formerly employed in detention centre schools confirmed that detainee children did not receive reports of their educational achievement until early 2002 (see section 12.4.6).

Most refugee children who arrive in Australia with permanent visas attend an intensive English program for twelve months. Although these programs are offered through State-operated Intensive English Centres, they are partially funded through the Commonwealth New Arrivals Program (NAP). A synopsis of the typical programs offered by these centres is provided in section 12.3 in Chapter 12 on Education.

Prior to 1 July 2002, children on TPVs were ineligible for Commonwealth funding through the NAP (the Commonwealth New Arrivals Grant provided to the schools is currently $3990 per student per annum). In many cases, until Commonwealth funding became available, State education authorities or other agencies met this gap in funding. For example, the South Australian education department met the full cost

of providing education to children on TPVs (approximately $8000 per annum) prior to the availability of Commonwealth funding for these students.[63]

The State Education Department in Western Australia, unlike South Australia, did not automatically meet the cost of educating children released from detention in Intensive English Centres prior to 1 July 2002. Some children on TPVs were accommodated in mainstream schools without additional support, 'at risk of not achieving the major learning outcomes of schooling to levels that would enable them to achieve their potential because they have very low levels of English'.[64] A special English as a Second Language centre, funded by the Western Australian Government, was set up at Balga Senior High School to accommodate unaccompanied refugee children residing in the area. Intensive Language Centres in WA were also requested to accommodate TPV holders on a 'spare capacity basis once eligible children [had] been accommodated'.[65] Prior to the July 2002 decision that children on TPVs are eligible for the NAP, the WA Department for Community Development (DCD) paid full fees for unaccompanied refugee children to attend Intensive Language Centres.[66]

Although some of the impediments to child TPV holders accessing education have been removed since July 2002, the general conditions of the TPV system continue to operate as a barrier to participation in education.

As outlined earlier, the uncertainty engendered through the temporary nature of the protection that these young people enjoy has a significant impact on their desire to access education. The principal of the secondary school attended by the majority of TPV holders in Adelaide told the Inquiry:

> One of the other difficulties too is given that they're on temporary protection visas and they know that they've got this three years, one of the issues that's beginning to surface is they're into the second year of their visas and now they are questioning what's the value of education and why are we here? Why do we have to learn English if we're going to be sent back to Afghanistan?[67]

Refugee young people interviewed for the Inquiry also reported that the uncertainty and fear of what would happen to them in the future compromised the priority that they put on education:

> When I think about my future, I think it's very uncertain. The only thing that I love and I desire is to study. I really want to be educated, but then again when I think about my future then I think of going back, not being able to get a decent job or study, again I feel completely heartbroken. And I cannot even concentrate on my studies. I believe you can never study when you are full of fear or when your stomach is empty. So sometimes I feel like that and when I go to bed to sleep I think about these things.[68]

> Not only that problem, you, you worried about your future, I mean I like myself I've spent two years of being here in Australia at a state school and now the period is … my visa will finish at the end of this year and next I don't know what will happen.[69]

Similarly, the South Australian Department of Education reported to the Inquiry that fear of the future had a significant impact on young TPV holders:

> the fact that there is uncertainty amongst the children about their future is … causing some issues for their educators. I think this particular group have … caused [their educators] the most concern because of the fears that the students themselves have and there are psychological issues as a result of being in detention and as a result of being in limbo because of their visa status.[70]

Perhaps the most significant impact of the TPV system on education is the impact that it has on young people's choices regarding whether they will work or study:

> This is the very major problem … Because you cannot make decision what to do. To go to work or to study. If you are deciding to study you cannot concentrate and then when you go work then you think my future is not good.[71]

> I am now in Year 10. Before, I was in intensive English centre [IEC] and some of my Afghani friends said, 'Why are you studying? You have to work to earn money because after two years your visit will be over and you have to go back. Just earn money'. That is why I didn't really study hard in the intensive English centre, because I thought I have to work and I was just wasting my time in the IEC. Then I went to the high school and I am not thinking about that anyway, just trying to study. Money is not everything.[72]

The Western Australian Government told the Inquiry:

> The children, from what I have seen, there is a kind of an issue for them about whether they should attend school and try and attain some sort of educational proficiency in English or broader educational outcomes or whether they should go and work and it is a tension for them.[73]

Therefore, the temporary nature of the TPV has a significant impact on children's capacity to take full advantage of the education that is offered to them.

16.3.6 Findings regarding services provided to protection visa holders

The Inquiry finds that the denial of settlement services to child TPV holders compounds the vulnerability of this group.[74] The absence of adequate information, accommodation support, and household formation support all inhibit the successful settlement of these families.

The Inquiry finds that refugee children and their families released from detention are generally provided with adequate health care.

Similarly, while there is adequate provision of mental health care for children released from detention, the restrictions in basic settlement services undermines the effectiveness of this care. The need to establish basic living standards preoccupies the minds of this vulnerable group.

The Inquiry finds that since July 2002, when child TPV holders became eligible for the Commonwealth-funded New Arrivals Program, primary and secondary school-aged children have had adequate access to education. Prior to that time the provision of education varied between States. However, the Inquiry finds that the uncertainty caused by the temporary nature of the TPV system affects young peoples' capacity to access and take full advantage of that education.

16.4 What care is provided to unaccompanied children released from detention?

Australia has a special responsibility to care for unaccompanied refugee children released from detention.

Arrangements for the care of former detainee unaccompanied children are made under the Department's Unaccompanied Humanitarian Minor Program, 'under which welfare, supervision and case management are delegated to State welfare authorities'.[75]

As explained in Chapter 14 on Unaccompanied Children, the Department understands the term 'unaccompanied minor' to be 'the broad term used to describe a non-citizen, under 18 years of age who does not have a parent to care for them in Australia'.[76] Those unaccompanied children who do not have a relative over the age of 21 to care for them fall within the provisions of the *Immigration (Guardianship of Children) Act 1946* (IGOC Act) which designates the Minister as their guardian.

At 31 March 2002, the total number of unaccompanied refugee children (under 18 at the time of their release) released from detention was 291, with the following number sent to each of the following destinations: Adelaide, 83; Perth, 81; Melbourne, 70; Brisbane, 53; Sydney, 4.[77]

The large majority of unaccompanied refugee children now living in the community have spent time in detention and were released on TPVs. At 31 March 2002, there were 165 child TPV holders who were still IGOC wards.[78] Most of them were 16 to 18-year-old boys from Afghanistan.[79]

16.4.1 Guardianship and care arrangements for unaccompanied children

While the Minister remains the legal guardian of unaccompanied refugee children, the care of unaccompanied refugee children on TPVs has generally been delegated by the Minister to officers of State child welfare agencies.

According to the Department, State authorities develop individual case plans for each unaccompanied refugee child, which:

> ensure that UHMs are in an appropriate and stable placement or in stable supported accommodation; in an established, effective and caring relationship with an adult or linked into community support systems

> appropriate to their age and development; accessing appropriate health and social welfare services to reduce crises and trauma; and involved in education, training, social, sporting, recreational and/or cultural activities.[80]

All States have guidelines for the care of unaccompanied refugee children. For example in Western Australia, the Refugee Minor Framework outlines the services which the State welfare department is required to provide:

> The department provides assistance to meet the social, emotional and practical needs of unaccompanied children living in the community. This includes assistance to obtain legal advice on a case by case basis, provision of counselling and referral and liaison with specialist mental health and other services, provision of clothing and other practical support such as enrolment in school and provision of information about other ethnic and community resources available to them.[81]

Each of the State child welfare agencies provides care for unaccompanied refugee children in line with the kind of care that would be provided for all other State wards. However, as the majority of unaccompanied refugee children in the care of State agencies hold TPVs, they require intensive assistance.[82] The Department of Human Services Victoria told the Inquiry that:

> The lack of permanency and isolation faced by TPV holders makes it more difficult for the Refugee Minors Program to develop long term settlement arrangements for unattached minors on TPVs, significantly hampering the goals of trauma recovery and planning a stable future.[83]

The Western Australia Government provided the Inquiry with a comprehensive summary of the services that they provide for unaccompanied refugee children. Children are met by DCD upon arrival and are provided with:

> emergency accommodation leased by DCD for this purpose. The children are provided with information and assistance to access community resources, such as the Association for Services to Torture and Trauma Survivors, Centrelink, education and training facilities and longer term accommodation. Where necessary, they are assisted with bond money for rental. DCD also provides counselling and payments for expenses such as school fees and clothing'.[84]

The type of accommodation provided for unaccompanied refugee children depends on their age, as reported by the South Australian Department of Human Services:

> the type of care that the unaccompanied minors who are TPV holders gets is dependent on their age as it would be with any child who is a Guardian of the Minister child in South Australia and depending on the level of independence. 17 year olds for example pretty much all live independently and the South Australian Housing Trust provides them with subsidised accommodation but they still have support from a social worker and mentorship team. At 15, 16 they tend to live in group housing situations so there would be one adult and maybe four minors living together and anything under that they are in alternative care placements placed with a family, a foster family.[85]

Queensland is the only State where their care is not completely managed by the State welfare agency. In Queensland, the Department of Families (DOF) is responsible for the case management, while a non-government agency, Mercy Family Services (MFS) is responsible for day-to-day management of the unaccompanied children. [86]

16.4.2 Unaccompanied children's experiences of care in the community

The Inquiry met with unaccompanied refugee children in care within the community through focus groups held in capital cities. The young people interviewed presented varied perspectives on their experience of care in the community.

One 15-year-old told the Inquiry that he had been assigned a series of Department of Community Services (DoCS) officers in Sydney:

> When I came to Sydney, the lady at DoCS, she was very helpful to me and she was very kind to me. When she had a baby she was gone. She left and another lady came, and she was good but she left also, she went overseas.[87]

This young man reported that he was not happy with his current carer, who had not assisted him when he needed medical treatment.

One boy aged 14 years had been placed with English-speaking foster families in Melbourne on release from detention. These families were unsatisfactory in the long term. In reference to the first family, he said:

> There was nothing and we didn't say anything. I report to Immigration that I do not like here and I am very upset here. We did no shopping or anything like that. I told them I don't like and I want to live with my friends and they said never, you can't because it is Australian rule for under 15 year olds. I said I can't live here. If you leave me for one week, maybe I will die.[88]

This boy was then placed with another English-speaking foster family, which he said was an improvement, but he was still unhappy. He ultimately moved in with a man who he knew from Afghanistan.

A 15-year-old boy stressed the importance of care and attention in the absence of family contact:

> Not many people will have the experience that we do because not many people will leave their family behind them and make this long, long journey by themselves unless they are in real danger. We were in real danger and that's why we left. And we are still in this situation, which somehow we have to deal with it, and we are not asking for anything more… but we should by law be under good supervision by DoCS or whatever. Its not a matter of money, money wouldn't give you feeling. We feel very lonely. We don't have our family. We don't have our parents or anybody. We need a sensible person to look after us here … We have an expression in our language and it says 'you can offer just bread with onions [as long as it's] with love and care, it doesn't matter, it is the love that is important'. They can't give us the love of our parents but at least they can care about us and they can give us some guidance, something that we can know that we are normal.[89]

16.4.3 Costs to State agencies for providing care to unaccompanied children

The Department states that 'a joint Commonwealth/State cost sharing agreement was established in 1985 with five State child welfare departments: NSW, Victoria, Western Australia, Queensland and South Australia'.[90] Under this arrangement the Commonwealth contributes 50 per cent of the salary costs of a case worker at a ratio of one case worker to 25 children, plus an additional one-third for on-costs.

With the exception of South Australia, where an agreement was signed in November 2002, the delegation of the care of unaccompanied refugee children to State agencies is currently managed through outdated agreements. The Western Australia Government said that they operated under a draft MOU from 1996, stating that under this agreement, the Commonwealth:

> compensates the Western Australian Government for approximately 29 per cent of the salaries and related costs of DCD field staff working with unaccompanied children released from detention. No provision is made for important settlement services such as on arrival accommodation, clothing and other incidentals.[91]

The Department of Human Services Victoria reported dissatisfaction with a 1985 Cost Share Agreement between it and the Department which:

> includes a funding formula under which the Commonwealth is responsible for meeting half the cost of the Refugee Minor Program workers' wages. Under this arrangement, the Commonwealth does not contribute to any additional operating expenses of the Refugee Minor Program, and the cost of supervision and client expenses are fully funded by the State.[92]

In August 2000, the States and Territories began a joint negotiation process with the Commonwealth to develop an MOU to replace the outdated arrangements.[93] However, both DCD in WA and the Department of Human Services Victoria reported that there had been no progress in these arrangements since October 2001.[94]

16.4.4 Problems in making applications for permanent protection visas (PPVs)

The Department states that unaccompanied children on TPVs will receive legal assistance to prepare and lodge further protection visa applications if they wish.[95]

The Inquiry heard that unaccompanied child TPV holders perceive a conflict of interest in the Minister, who is their legal guardian, being the arbiter of their applications for permanent protection, even though the guardianship is delegated to the State child welfare authorities.[96] This is especially the case given the only way in which most TPV holders would be able to receive a PPV is through Ministerial discretion.

16.4.5 Findings regarding the care of unaccompanied children released from detention

The Inquiry finds that unaccompanied refugee children are generally adequately cared for by the State agencies to which their care is delegated.

However, the conditions of the TPV system, including its temporary nature, the restrictions on family reunion and travel, have a proportionally greater impact on unaccompanied refugee children than upon other children due to their isolation from their family.

16.5 What is the impact of restricted services and entitlements on families on temporary protection visas?

Section 16.3 discussed some of the restrictions on services available to children holding temporary protection visas. Several of the restrictions on TPV holders pertain to adults rather than children, for example entitlements to social security. Nevertheless children living in TPV families are affected by these restrictions because they have a significant impact on the functioning of the family unit.

The Inquiry has heard that the detention experience can have a detrimental impact on the effective functioning of refugee family units. The Victorian torture and trauma service reported that parents in the community are often 'limited in their ability to provide the practical and psychological care required by their children as a result of their experiences of conflict, flight and a perilous journey', and that this is further compounded by the detention of families:

> The act of mandatory detention and loss of freedom combined with the physical conditions of the detention centres result in a situation that undermines the capacity for families to function as a viable supportive unit.[97]

The Victorian torture and trauma service also stated that the TPV system compounded family problems:

> A sense of hopelessness, frustration and anger characterise responses to the powerlessness and discrimination experienced by refugees with a temporary protection visa. This has a cost to mental health and also to the capacity of parents to respond to the needs of their children. Parents, particularly fathers, can feel ashamed at being unable to provide for their wife and children. Children and young people can sense the despair felt by their parents and feel equally despairing and helpless. …
>
> People came to Australia trying to achieve safety for themselves, and particularly their children. They cannot, however, offer this and this realisation impairs their confidence. We have observed them to become withdrawn. Children expect their hardships to be over once released but instead notice their parents are ineffectual and remote. Their hopes for being a family are not realised and so the children too become withdrawn, where they had been happy on release.[98]

The Department disputes that families on TPVs are any worse off than any other family:

> People who are released from immigration detention on a TPV have access to the same basic taxpayer-funded package of services which is available to unemployed members of the Australian community. … Beyond this package of assistance, TPV holders are expected to take primary responsibility for their own living requirements while they are in Australia. The benefits are provided to assist refugees in settling into Australia, gain employment and participate equitably in the Australian community.[99]

However, the entitlements and services offered to this extremely vulnerable group of people are considerably fewer than those offered to PPV holders, whose needs more closely represent those of TPV holders than unemployed Australians.[100]

16.5.1 Housing

Secure housing is one of the most important factors affecting the general well-being of refugee children. As outlined earlier, TPV holders are generally not eligible for on-arrival housing. The precarious situation of TPV holders with regard to housing continues beyond the settlement period, with TPV holders at high risk of housing stress. A Victorian study of TPV holders found that most of the participants were still in short-term or emergency housing between six and twelve months after their release.[101] A Queensland study found that:

> There is insufficient supply of appropriate accommodation, particularly for unaccompanied minors and single women. There is not enough short term or flexible accommodation available to TPV holders, who tend to be highly mobile, frequently changing location in search of work or community support.[102]

As public and community housing is administered by the States, eligibility varies between States. For example, the South Australian Government provides considerable additional housing support to TPV holders, particularly those with families. Families are provided with on-arrival accommodation, short-term (six months) access to furnished public housing, access to a grant to cover rental bond and are eligible to register for public housing waiting lists.[103] However, in NSW they are ineligible for such services and are forced to find accommodation in the private rental market. Accessing the private rental market can contribute to 'housing stress due to the high cost of accommodation, insecure tenure, discrimination in obtaining accommodation, and the costs and social dislocation flowing from repeatedly changing address'.[104] Insecure housing has a direct impact on a child's safety and well-being.

TPV holders are, however, eligible for Rent Assistance, a Commonwealth payment to assist with the cost of rental accommodation.

Drawing by a child detainee in Port Hedland.

16.5.2 Social security

The income security of families is another significant factor in children's wellbeing. The capacity of former detainee parents to provide for their families is compromised by the fact that they have spent months or years in detention without an income. TPV holders are eligible for income support through the Special Benefit payment from Centrelink, with payments generally made at the same rate as those for the Newstart or Youth Allowance, the most common social security payments available within Australia.[105] As of 14 November 2002, 4262 of 8800 TPV holders were receiving the Special Benefit.[106]

The conditions under which the Special Benefit is granted, however, are considerably harsher than those for comparable benefits. To be eligible for the Special Benefit, the TPV holder must have no more than $5000 in available funds. Furthermore, the Special Benefit is reduced by one dollar for each one dollar of income earned. As argued by NCOSS, this:

> approach is a strong disincentive to seek part-time or casual work, which is a common path into the labour market. In recognition of this, recipients of Newstart, for example, are entitled to earn up to $62 per fortnight without penalty, and a higher income leads to a reduction in benefit on a scale of 50c and then 70c in the dollar.[107]

TPV holders in Australia have:

> claimed that special benefits from Centrelink barely covered food bills, while practically, most participants expressed urgent need for clothing for themselves and their children, for basic furniture, extra blankets, refrigerators, washing machines and cooking utensils.[108]

Furthermore, the Inquiry heard that '[a]s dependent children who are school students turn 16, their parents who receive a special benefit lost the family tax benefit for that child. This means their income, the family income, drops by $70 a fortnight'.[109]

As of 1 January 2003, changes were made to the conditions under which TPV holders may receive the Special Benefit through the *Family and Community Services Legislation Amendment (Special Benefit Activity Test) Act* 2002. The legislation requires TPV holders to negotiate, sign and comply with an activity agreement specifying obligations (such as the number of employer contacts per fortnight) and subjects them to breaches and penalties for non-compliance.

There are some advantages in the change to the legislation, including limited access to English language classes for adults, access to the Special Benefit if the TPV holder is in full-time study and greater access to Job Search Support services. However, the Special Benefit is a discretionary payment of last resort and to impose a mutual obligation regime on Special Benefit recipients on TPVs will not hasten this group's social and economic participation in Australian society. Enforcing the activity testing of the Special Benefit will have a particular impact on refugee families and children, as the penalties for breach of activity agreements could leave families without sufficient income to meet their children's basic needs.

16.5.3 Employment

> The TPV is really very difficult; it makes you worry about your future. Even me, I think like, if I have to go back, what's the point of study? I will have to work and collect money to get a life, because if I want to make a life, or if my Dad wants to buy the land that we sold or buy anything, it's really very expensive, much more than before. My Dad is not working because he doesn't know English, and there's no English program for adults. It's really very difficult.[110]

Whether or not a refugee family has access to employment has a significant impact on the well-being of children within the family, as obtaining work will contribute to both the mental health of their parents and the income of the family.

The experience of detention can affect the employability of former detainees, particularly if they were detained for a lengthy period. Long-term detainees are likely to have compromised mental health as a consequence of detention and have spent their time in detention out of the workforce. These factors limit their employability.

Furthermore, the conditions attached to the visa hinder the ability of former detainees to obtain employment. Although TPV holders have a wide variety of skills and

qualifications, they face significant impediments in securing work. TPV holders have limited access to the Job Network services. They are ineligible for the National Office of Overseas Skills Recognition loan scheme to support bridging training for overseas trained professionals. In addition, TPV holders have limited access to English language training. Finally, employer reluctance to employ people holding temporary visas creates an additional hurdle and may lead to discrimination in employment.

16.5.4 Findings regarding the impact of restricted services and entitlements on families

TPV holders and their families are not automatically eligible for public housing. The conditions attached to the Special Benefit, including the strict eligibility and income tests and the activity testing regime, compromise the income security of TPV families. The restrictions on access to employment services and English language training can inhibit the employability of TPV holders. These restrictions place extra pressure on families who are already vulnerable due to long periods in detention and the restrictive conditions of the TPV.

The Inquiry finds that these restrictions on the services and entitlements available to TPV holders and their families have a detrimental impact on children.

16.6 What services and entitlements are provided to children in the community on bridging visas?

Former detainee children living in the community on a bridging visa face even more limited entitlements and provision of services than children and families holding TPVs.[111]

As discussed earlier, there are very few unauthorised arrival detainee children released on bridging visas pending determination of their refugee status. Only one unauthorised arrival unaccompanied child, one mother with two children (the father stayed in detention), and one whole family were released on bridging visas over the period of the Inquiry. However, the Inquiry is concerned that the conditions under which such children may be released are inadequate to meet their needs.

The only bridging visa which can be granted to children who are in detention because they arrived in Australia without a visa is Bridging Visa E subclass 051. As Table 2 indicates, asylum seekers holding a Bridging Visa E in this subclass are not eligible for social security payments, nor are they eligible for the Asylum Seekers Assistance Scheme (ASAS), which is available to community-based asylum seekers on other types of bridging visas.[112]

Further, asylum seekers holding a Bridging Visa E 051 must demonstrate that they have a compelling need to work in order to obtain a working permit. They must also have made an application for a protection visa within 45 days of arrival in Australia in order to be granted permission to work. Those holding a Bridging Visa E 051

because they are seeking judicial or Ministerial review will generally not be granted permission to work.[113] Asylum seekers holding a Bridging Visa E 051 are only eligible for Medicare if their visa allows them to work.[114]

The Inquiry did not receive submissions concerning the impact of the restricted conditions attached to Bridging Visa E 051, most likely because so few of these visas have been issued. However, the Inquiry received submissions on the negative impact of the conditions attached to bridging visas held by some asylum seekers in the community, which are similar to the conditions of the Bridging Visa E 051. The Hotham Mission in Victoria describes the problem facing these bridging visa holders as follows:

> Very few asylum seekers in the community are eligible for any government funding, welfare payments, education or housing subsidies. The Red Cross are federally funded to provide assistance to only a small group of asylum seekers who have been waiting for their first decision for more than 6 months and who have not appealed beyond the Refugee Review Tribunal. The majority however are without such assistance. All asylum seekers who appeal to the Immigration Minister for their application to be assessed on humanitarian grounds are denied the right to work, income support or Medicare …
>
> Asylum seekers without support or work rights must rely completely on the support and resources of charities and welfare agencies, often church-based. This group is barred from assistance from Migrant Resource Centres and other settlement services. They are also not eligible for mainstream services like public housing or basic medical coverage. While a considerable amount of tax-payers funds are spent on immigration detention costs, almost no government funds are provided for asylum seekers living lawfully in the community, who make up the majority of all asylum seekers. [115]

This group of asylum seekers is especially vulnerable to homelessness and ill-health and in most cases is completely dependent on churches and over-stretched welfare agencies.

The Brisbane Refugee Health Network also highlights the difficulties faced by asylum-seeking families in the community who do not have work rights, access to Medicare, public housing, welfare, torture and trauma counselling, and no rights to education for their children (even at primary school level).[116]

Amnesty International outlines the problems faced by these asylum seekers:

> No asylum seekers in the community [on a bridging visa] can access any Centrelink services. Further, a significant number reside on bridging visas that do not permit the right to work and as such they are not permitted access to Medicare. Also, they are not eligible for public housing, with limited emergency housing dependent on the generosity of individual state governments. School and tuition fees for children are often prohibitively expensive with administrative procedures confusing for both asylum seekers and the schools involved. With tighter restrictions and severe limitations on assistance for these asylum seekers, welfare and community groups are reporting that increasingly asylum seekers in the community are becoming

> marginalised and impoverished, a situation that can last for several years while claims are assessed.[117]

Despite Bridging Visa E 051 being a bridging visa with significant restrictions in terms of entitlements and services, as described above, this is the only bridging visa granted to asylum seekers in detention.

16.6.1 Findings regarding the care of children living in the community on bridging visas

The Inquiry finds that asylum seekers released from detention on a Bridging Visa E subclass 051 are likely to have insufficient social support in the community. They are not eligible for social security payments, or for the Asylum Seekers Assistance Scheme. They are only eligible to work if they can demonstrate a compelling need, and are only eligible for Medicare if they are granted permission to work. The Inquiry is therefore concerned that the only bridging visa available to asylum-seeking children in detention is inadequate to meet their special needs and vulnerabilities as outlined in this chapter.

16.7 Summary of findings regarding rights on release from detention

The Inquiry finds that the impact on refugee children of the conditions attached to a temporary protection visa (TPV) results in a breach of articles 3(1), 6(2), 10(1), 20(1), 22(1), 24(1) and 39 of the CRC. However, the Inquiry finds no breach of articles 24(1), 27 or 28(1) regarding the services provided to families and unaccompanied children released from detention on a TPV.

Children released from detention on TPVs have fled their homes out of fear of persecution and are seeking to make a new life in Australia. The Inquiry finds that the TPV system poses substantial barriers to their successful integration into Australian society for two primary reasons.

First, their temporary status in Australia creates a great deal of uncertainty which, in turn, impacts upon the ability of a child to achieve the highest attainable mental health, maximum possible development and recovery from past torture and trauma (articles 6(2), 24(1), 39 of the CRC).

Second, the absence of the right to family reunion for the duration of the TPV (other than by the exercise of Ministerial discretion), and the effective prohibition on overseas travel means that some children may be separated from their parents and siblings for long, potentially indefinite, periods of time. The presumption against family reunion poses inherent obstacles to ensuring that any such applications are dealt with in 'a positive, humane and expeditious manner,' resulting in a breach of article 10(1). The prolonged absence of immediate family can also have a very serious impact on the mental health, development and reintegration of children from backgrounds of trauma (articles 6(2), 24(1) and 39). All these factors can compound the damage that may have been caused by long-term detention on arrival.

Furthermore, the laws preventing TPV holders from travelling overseas and re-entering Australia without risking their visa, breach article 22(1) of the CRC. This is because they deprive children of the right to 'travel documents for the purpose of travel outside their territory' under article 28 of the Refugee Convention and paragraph 13(1) of the Schedule to that Convention.

The legislation does not create any special exceptions or considerations for unaccompanied children despite the fact that the uncertainty of the visa status, and the restrictions on family reunion and travel, have a disproportionate impact on these children. This amounts to a breach of article 20(1) of the CRC.

The Department has stated that the legislation introducing the TPV was designed to deter unauthorised boat arrivals. This purpose must be balanced against the need to ensure that the best interests of the child are a primary consideration in all actions affecting children (article 3(1)).[118] In the Inquiry's view the impact of the restrictions of the TPV on the rights of children, as described above, demonstrates the failure of the legislation to properly take these considerations into account.

While the laws creating the TPV itself breach the rights of children, as set out above, the Inquiry finds that the services offered to children who are granted those visas comply with a child's right to health care (article 24) and an adequate standard of living (article 27). However, while the Inquiry does not find any breach in this regard, it notes that the limited services and entitlements available to TPV families may put strain on families and may therefore have a detrimental impact on the experience of children. These include limited settlement services, including housing assistance, stringent reporting requirements in order to receive the Special Benefit, limited employment assistance programs and limited English language tuition for adults.

Similarly, the Inquiry finds no breach concerning the right to education for children on TPVs (article 28(1)) since July 2002, when primary and secondary school-aged child TPV holders became eligible for the Commonwealth-funded New Arrivals Program. However, the Inquiry remains concerned that prior to that time the provision of education varied between States. The Inquiry is also concerned that the uncertainty caused by the temporary nature of the TPV system continues to affect young peoples' capacity to access education.

Unaccompanied refugee children released from detention are generally well cared for by State agencies. The Inquiry therefore finds no breach of article 20(1). However, as noted above, the impact of uncertainty on these children is serious. In particular, it can negatively sway an unaccompanied child's decision to pursue education (rather than earn an income to take back to their country).

Since unauthorised arrival children and families are almost never released from detention on bridging visas, the Inquiry has not received any evidence regarding the experiences of these children. However, the Inquiry notes that if a child or family released on a Bridging Visa E 051 had to rely on the services provided pursuant to that visa, they would not be in a position to enjoy the right to an adequate standard of living (article 27), health care (article 24) and social security (article 26).

Endnotes

1 Unless, after September 2001 they spent more than seven days in a country where they could have sought and obtained effective protection, in which case they are only eligible for TPVs.
2 UNHCR, *Guidelines on Reunification of Refugee Families*, Geneva, 1983, para 3(1).
3 UNHCR, *Guidelines on Reunification of Refugee Families*, Geneva, 1983, para 9(d).
4 UNHCR, *Summary Conclusions on Family Unity*, Geneva Expert Roundtable, 8-9 November, 2001, para 5.
5 The Schedule to the Refugee Convention outlines the specific requirements of article 28 on the issuing of travel documents and the conditions attached to those travel documents.
6 See also UNHCR, *Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum* (UNHCR UAM Guidelines), Geneva, 1997, para 5.17.
7 See also UNHCR UAM Guidelines, para 5.18, which recommends that children be tracked to check on their location and care arrangements to avoid any risk of abuse taking place.
8 UNHCR UAM Guidelines, para 9.4. See also UNHCR, *Refugee Children: Guidelines on Protection and Care,* Geneva, 1994, ch 10.
9 These visa classes are also discussed further in Chapter 6 on Australia's Detention Policy. It is important to note that very few refugees in Australia have these visas, due to the Ministerial discretion needed to allow application.
10 *Migration Amendment Regulations 1999 (No 12)* (Cth), *Migration Amendment (Excision from Migration Zone) (Consequential Provisions Act) 2001* (Cth).
11 DIMIA, Fact Sheet 71, New Measures to Strengthen Border Control, at www.immi.gov.au/facts/71 border.htm, viewed 13 February 2003. The deterrence objective is repeated several times throughout this Fact Sheet.
12 From September 2001, TPV holders are ineligible for a PPV if, since leaving their home country, they have resided for at least seven days in a country where they could have sought and obtained effective protection.
13 Inquiry, Focus group, Perth, June 2002.
14 See further Chapter 9 on Mental Health regarding the impact of detention on the mental health of children.
15 Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS), *Trauma changes adults but forms children – Protecting and healing child asylum seekers and refugees*, Discussion Paper, 2002, p17.
16 Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT), Transcript of Evidence, Brisbane, 6 August 2002, p69. See also, Victorian Foundation for the Survivors of Torture (VFST), Submission 184, p9.
17 QPASTT, Transcript of Evidence, Brisbane, 6 August 2002, pp68-69.
18 VFST, Submission 184, p10.
19 Inquiry, Focus group, Sydney, April 2002.
20 University of NSW Centre for Refugee Research, Transcript of Evidence, Sydney 16 July 2002, p78. See also Coalition Assisting Refugees After Detention (CARAD), Transcript of Evidence, Perth, 10 June 2002, pp24-25.
21 Department of Human Services Victoria, Submission 200, p12.
22 Inquiry, Interview with teenage TPV holder, Sydney, April 2003.
23 Uniting Care Burnside, Submission 172, p22.
24 The Department informed the Inquiry that '[t]he department is under no obligation to provide advance notice of legislative change'. DIMIA, Response to Draft Report, 10 July 2003.
25 The Department informed the Inquiry that 'in certain cases where it is in the public interest the Minister may exercise his discretion and grant a permanent protection visa to an applicant who may not otherwise be eligible'. DIMIA, Response to Draft Report, 10 July 2003.
26 See especially Chapter 4 on Australia's Human Rights Obligations, Chapter 6 on Australia's Detention Policy and Chapter 17, Major Findings and Recommendations.
27 Inquiry, Focus group, Sydney, October 2002.
28 DIMIA, Response to Draft Report, 10 July 2003.
29 The Inquiry did not obtain numbers of families separated in this way. Australian Democrats Senator Andrew Bartlett, who visited Nauru in July 2003, stated that at the time of his visit nine women with their children in the Nauru camp had husbands in Australia. A Bartlett, Australian Democrats

spokesperson for Immigration and Multicultural Affairs, *Pacific Strategy a wasteful humanitarian disaster*, Media Release, 30 July 2003.

30 Inquiry, detainee interview, Sydney. In detainee interviews on Christmas Island, the Inquiry also spoke to two Iraqi women with children who were detained awaiting removal to Nauru and Papua New Guinea for refugee processing. Their husbands were living in the Australian community on protection visas.

31 See also section 6.7.8 in Chapter 6 on Australia's Detention Policy.

32 Department of Human Services Victoria, Submission 200, p12.

33 Inquiry, Focus group, Perth, June 2002.

34 VFST, Submission 184, p10.

35 RCOA, *On Family Unity and Family Reunification Obligations in Relation to Family Unity*, August 2001,at http://www.refugeecouncil.org.au/html/position_papers/FAMILY_UNITY.html, viewed 17 July 2003.

36 Western Australian Government, Submission 223, pp12-13.

37 R Mann, *Temporary Protection Visa Holders in Queensland*, Queensland Government, 2001, p11.

38 Mann, p11.

39 VFST, Submission 184, p12.

40 F Mansouri and M Bagdas, *Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria*, Deakin University and the Victorian Arabic Social Services, 2002, p1. The local government areas are the City of Darebin, the City of Greater Dandenong, Shepparton and Mildura.

41 NSW Council of Social Service, Transcript of Evidence, Sydney, 15 July 2002, p52.

42 DIMIA, Review of Settlement Services for Migrants and Humanitarian Program Entrants, p6, at http://www.immi.gov.au/settle/settle_review, viewed 17 July 2003.

43 DIMIA, Response to Draft Report, 10 July 2003.

44 NSW Council of Social Service, Submission 127a, p8.

45 NSW Council of Social Service, Submission 127a, p8.

46 Department of Human Services, South Australia (DHS), Submission 181, p47.

47 NSW Council of Social Service, Submission 127a, p5.

48 NSW Council of Social Service, Submission 127a, p6.

49 NSW Council of Social Service, Submission 127a, p6.

50 NSW Council of Social Service, Submission 127a, p6.

51 DIMIA, Fact Sheet 64, Temporary Protection Visas, at http://www.immi.gov.au/facts/64protection.htm, viewed 17 July 2003.

52 Brisbane Refugee Health Network, Transcript of Evidence, Brisbane, 6 August 2002, pp13-14.

53 Coordinator, New Arrivals Clinic, City of Port Adelaide Enfield, Transcript of Evidence, Adelaide, 1 July 2002, p11. See also section 10.4.10 in Chapter 10 on Physical Health.

54 Mann, p20.

55 Mansouri and Bagdas, p54.

56 Mansouri and Bagdas, p54.

57 VFST, Submission 184, p3.

58 The Department informed the Inquiry that the average number of sessions provided to clients under this program is eight. DIMIA, Response to Draft Report, 10 July 2003.

59 VFST, Submission 184, p12.

60 Mann, p22.

61 Maria Iadanza, Principal, Adelaide Secondary School of English, Transcript of Evidence, Adelaide, 1 July 2002, p39.

62 Adele Rice, Principal, Milpera State High School, Transcript of Evidence, Brisbane, 6 August 2002, p78.

63 South Australian Department of Education, Employment and Training, Submission 154, p5.

64 Western Australian Government, Submission 223, p8.

65 Western Australian Government, Submission 223, p8.

66 Inquiry, Meeting with officer from DCD, June 2002, Perth.

67 Maria Iadanza, Principal, Adelaide Secondary School of English, Transcript of Evidence, Adelaide, 1 July 2002, p41.

68 Inquiry, Focus group, Melbourne, May 2002, Afghan unaccompanied teenager.

69 Inquiry, Focus group, Brisbane, August 2002, unaccompanied child.

70 South Australian Department of Education, Transcript of Evidence, 2 July 2002, Sydney, p21.

71 Inquiry, Focus group, Brisbane, August 2002, unaccompanied child.

72 NSW Commission for Children and Young People, Submission 258, p72.
73 Western Australian Government, Transcript of Evidence, Perth, 10 June 2002, p56.
74 The Department informed the Inquiry of its view that 'services provided to people on TPVs are comparable with services provided to other temporary residents. TPV holders are not being assisted to settle permanently in Australia'. DIMIA, Response to Draft Report, 10 July 2003.
75 DIMIA, Submission 185, p107.
76 DIMIA, Submission 185, p107.
77 DIMIA, Submission 185, p193.
78 DIMIA, Submission 185, p194.
79 DIMIA, Submission 185, p109.
80 DIMIA, Submission 185, p108. UHM refers to Unaccompanied Humanitarian Minor, and includes both unaccompanied refugee children, and 'detached' refugee children, who have a relative over the age of 21, but are not part of the child's immediate family, living in Australia.
81 Western Australian Government, Transcript of Evidence, Perth, 10 June 2002, p33.
82 Department of Human Services Victoria, Submission 200, p5.
83 Department of Human Services Victoria, Submission 200, p6.
84 Western Australian Government, Submission 223, p9.
85 DHS, Transcript of Evidence, Adelaide, 1 July 2002, p90.
86 Inquiry, Meeting with Mercy Family Service, Brisbane, August 2002. The DOF are the children's legal guardians and while MFS can sign school forms and liaise with Centrelink, for legal matters or serious medical matters, DOF consent is required. MFS manage enrolment in school and medical care. MFS and DOF work together to find permanent housing. MFS employs a cultural support worker for twenty hours per week to assist meeting the children's needs.
87 Inquiry, Focus group, Sydney, April 2002.
88 Inquiry, Focus group, Sydney, April 2002.
89 Inquiry, Focus group, Sydney, April 2002.
90 DIMIA, Submission 185, p108.
91 Western Australian Government, Submission 223, p9.
92 Department of Human Services Victoria, Submission 200, p8.
93 Department of Human Services Victoria, Submission 200, p12.
94 Department of Human Services Victoria, Submission 200, p12. The Department informed the Inquiry that a new funding agreement between the Commonwealth and the South Australian Government was signed in November 2002. DIMIA, Response to Draft Report, 10 July 2003.
95 DIMIA, Submission 185, p111.
96 Inquiry, Focus group, Brisbane, August 2002.
97 VFST, Submission 184, p14.
98 VFST, Submission 184, pp9-10.
99 DIMIA, Unauthorised Arrivals and Detention: Information Paper, February 2002, p10, at http://www.immi.gov.au/illegals/uad/04.htm#13, viewed 18 July 2003.
100 The Department informed the Inquiry of its view that TPV holders are provided with a range of services commensurate with temporary stay in Australia. DIMIA, Response to the Draft Report, 10 July 2003.
101 Mansouri and Bagdas, pp53, 55.
102 *Temporary Protection Visa Holders in Queensland – A Year On*. Findings from a consultation held by Brisbane City Council Social Action & Equity Unity with key stakeholders, May 2002, p8.
103 DHS, Submission 181, p46.
104 NSW Council of Social Service, Submission 127a, p10.
105 Newstart is the general allowance for unemployed Australians, paid at $385 per fortnight for a single person with no children; $416.40 per fortnight for a single person with dependent children; and $347.30 per fortnight for each partnered person. Youth Allowance is paid at a rate between $169.70 and $310.10 per fortnight depending on the age of the young person (without dependants) and whether or not they are living at home. Centrelink, Special Benefit Payment Rates, as at 12 November 2003.
106 Senate Community Affairs Legislation Committee, Report – Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002, p2.
107 NSW Council of Social Service, Submission 127a, p16.
108 Mansouri and Bagdas, p59.
109 CARAD, Transcript of Evidence, Perth, 10 June 2002, p23.

110 Inquiry, Interview with teenage TPV holder, Sydney, April 2003.
111 The Department informed the Inquiry that 'an asylum seeker can only be released from detention on a Bridging Visa E (subclass 051) if there is sufficient social support in the community, which is a requirement to be eligible to make an application'. DIMIA, Response to Draft Report, 10 July 2003.
112 ASAS provides financial assistance for basic living essentials and health care needs. The eligibility criteria for ASAS are restrictive. Eligibility is restricted to asylum seekers who meet financial hardship criteria and who have been waiting for a decision from the Department on the protection visa application for six months or more. Assistance is generally not available to persons seeking a review of their protection visa application at the Refugee Review Tribunal, or seeking judicial review. Parents with children under 18 years of age are exempt from these criteria.
113 DIMIA, Bridging Visas, Form 1024i.
114 DIMIA, Fact Sheet 62, Assistance for Asylum Seekers in Australia, available at http://www.immi.gov.au/facts/62assistance.htm, viewed 12 May 2003.
115 Hotham Mission, Submission 174, p4.
116 Brisbane Refugee Health Network, Submission 105, p3.
117 Amnesty International Australia, Fact Sheet 14 – Community Based Asylum Seekers in Australia, at http://www.amnesty.org.au/refugees/ref-fact14.html, viewed 12 May 2003.
118 The deterrent purpose of TPVs also raises the question as to whether the visa amounts to a penalty under article 31(1) of the Refugee Convention. As discussed in Chapter 4 on Australia's Human Rights Obligations, consideration of article 31 of the Refugee Convention is beyond the scope of this Inquiry.