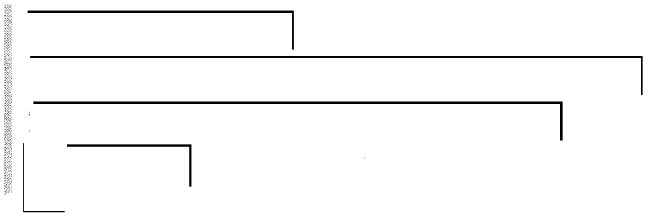
Submission No 103

SUBMISSION TO THE JOINT STANDING COMMITTEE ON MIGRATION INQUIRY INTO IMMIGRATION TREATMENT OF DISABILITY



As a migrant and parent of a disabled child. I believe wholeheartedly that all additional factors should be taken into consideration when assessing a visa applicant with a disability.

My family were put under enormous strain due to the complicated, long process of obtaining permanent residency whilst loving and caring for our Autistic son.

I will summarise our story briefly and have also included the MRT Decision on our case.

In January 1998 my husband and I, both Junior doctors from the UK came to Australia on 442 Temporary Residence visas. We were accompanied by our two children: a daughter aged 3years and our son Eamon aged 7 months. Over the next 8 years until 2006 we continued to live in Australia with renewals of our Temporary Residence Visas on an annual basis. We also both enrolled in the training program with the Australasian College of Emergency Medicine (ACEM) and worked steadily towards Fellowship. Our son was diagnosed with Autism in July 1999, and each application for his visa renewal during this period was referred to the MOC for approval, which was always granted, subject to further medical reports. During this time we also had two daughters born in 2003 and 2004.

My husband and I were both successful in obtaining FACEM and obtained positions as Staff Specialist Emergency Physicians with HNE Health.

We submitted an application for permanent residency in 2006.The application was refused as Eamon did not meet the health requirement.

We knew that our only hope of remaining in our home was to seek Ministerial Intervention, and we wished to do this without any publicity.

We applied to the Migration Review Tribunal and then the Minister .

We were granted permanent residency by the Minister For Immigration in September 2007 and will become Australian Citizens today 26th February 2010.

I cannot comprehend Immigration Laws which allow discrimination against people with a disability, and also their families. The Public Interest Criterion, and assessments based on inaccurate costings by a Medical Officer of the Commonwealth must end.

Would it have been in the public interest to send a family of six, two of whom were Australian trained Emergency Medicine Specialists providing years of public service back to the UK?

I would like the Committee to recommend a "commonsense" level within the Department of Immigration, where all factors relating to a family application are allowed to be taken into consideration. This should be beneath the level of Ministerial Intervention. I think that the most appropriate group to consider applications on merit would be the Migration Review Tribunal.

Account should also be taken of the devastating effect of a refusal of residency on the health of the indivdual concerned. Eamon came to Australia as a 7 month old baby, and if our application had been unsuccessful he would have had to leave his home aged 10 years. This would be a major setback for any child but for a child with Autism who wants and needs familiarity, it would likely cause regression and potentially irreversible loss of function.

We are parents as well as medical professionals and we have spent all of the nine years leading up to our permanent residency knowing that whilst our son was welcome on a temporary basis, he would be refused permanent residency unless the minister intervened in our case. This further highlights the inequities of the current law.

This is a truly horrible cloud to live under and I hope that by telling you our family's story you can prevent this from happening to other families.

Whilst I acknowledge that Eamon was eventually successful in becoming an Australian, I am worried that many other disabled people are not.

It is my intention to travel to Canberra on 10th March for the Public Hearing and I would be happy to contribute in any way I can.

Dr Fiona Downes