



Senator Chris Evans
Leader of the Government in the Senate
Minister for Immigration and Citizenship

Mrs Julia Irwin MP
Chair
Standing Committee on Petitions
House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Mrs Irwin *Julia,*

Thank you for your letter of 8 May 2009 referring for my comment a petition presented to Parliament by Ms Anna Burke MP, the Member for Chisholm, regarding mandatory immigration detention and detention debt.

The Australian Government considers mandatory immigration detention an essential component of strong border control. In accordance with our election commitments, we have retained the system of mandatory detention, along with strong border security measures, to ensure the orderly processing of migration to our country.

In July 2008, in my 'New Directions in Detention' speech, I announced a fundamental shift in immigration detention policy. The reforms I announced include the introduction of seven 'Key Immigration Detention Values' to guide detention policy and practices into the future, and the implementation of a new processing regime for unauthorised arrivals on Christmas Island. In accordance with these values three groups will be subject to mandatory detention:

- a. all unauthorised arrivals, for management of health, identity and security risks to the community;
- b. unlawful non-citizens who present unacceptable risks to the community; and
- c. unlawful non-citizens who have repeatedly refused to comply with their visa conditions.

I would note that most asylum seekers arrive in Australia lawfully and their claims are considered and processed while they remain in the community.

The Government's Key Immigration Values take a risk-based approach to detention and seek a prompt resolution of cases, rather than focusing on punishment. The values commit us to detention as a last resort; to detention for the shortest practicable period; to the rejection of indefinite or otherwise arbitrary detention. My Department regularly reviews the situation of those in immigration detention to identify cases where alternative accommodation arrangements could be considered.

Currently, the Department utilises a number of programs which provide flexibility in the provision of services to people in detention. The range of such arrangements includes residence determination (community detention) overseen by a community organisation such as the Red Cross, detention in Immigration Residential Housing or Immigration Transit Accommodation and foster care arrangements (for unaccompanied minors).

The Government is interested in broadening these alternative detention strategies and it is in this context that I asked the federal parliamentary Joint Standing Committee on Migration (JSCM) in 2008 to inquire into immigration detention in Australia. The JSCM's terms of reference include examining the preferred infrastructure options for contemporary immigration detention and inquiring into additional community-based alternatives to broaden the options available within the current immigration detention framework.

The JSCM is presenting its recommendations in three reports, the first of which, entitled *Immigration detention in Australia: A new beginning - Criteria for release from detention*, was presented to Parliament in December 2008. The second report, *Immigration detention in Australia: Community-based alternatives to detention*, was presented on 25 May 2009. The inquiry is ongoing and a subsequent report is expected to be tabled mid year 2009. Future policies on immigration detention will be guided by the recommendations of the JSCM reports.

Concerning the abolishing of immigration detention debt, I can advise that in line with the unanimous recommendation of the JSCM's December 2008 report that the Government repeal the liability of immigration detention costs and waive existing debts, on 18 March 2009 I introduced the *Migration Amendment (Abolishing Detention Debt) Bill 2009* in Parliament.

The Bill seeks to abolish the unjust and ineffective detention debt regime imposed on immigration detainees and will also extinguish all existing debts for current and former detainees. There will, however, be no refunds of debts already paid. People convicted of people smuggling or illegal foreign fishing will remain liable for their costs of detention and removal to act as a deterrent and to recognise the seriousness of these offences. The liability for costs associated with the removal or deportation of unlawful non-citizens will also remain unchanged. It is expected that the Bill will be debated during the forthcoming Winter parliamentary session.

Thank you for writing to me about this matter.

Yours sincerely

CHRIS EVANS

15/06/09