



752-1199



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

Ref No: MC16-006881

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

Dennis,
Dear Dr Jensen

Thank you for the Committee's letter of 18 March 2013 enclosing Petition Number 752/1199, concerning the release of children in immigration detention with any accompanying family members. I apologise for the delay in responding.

Much has changed since this petition was received, including the election of a Coalition Government and the establishment of Operation Sovereign Borders in September 2013. Since then, the Australian Government has focused on disrupting and deterring people smugglers, detecting and intercepting illegal maritime arrivals (IMAs), and supporting regional processing and resettlement of asylum seekers, as well as returns of those not found to be owed protection. These measures are intended to deny people smugglers a product to sell to often vulnerable people and to restore integrity to the migration programme. From 1 January 2014 any IMAs who arrive in Australia will be transferred to either the Manus or Nauru Regional Processing Centres (RPCs). Those who come to Australia illegally by boat are not eligible for permanent residency in Australia.

The Australian Government views immigration detention as an essential component of strong border control. Detention is not limited by a set timeframe but is dependent upon a number of factors, including identity determination, progress with visa status resolution, and individual circumstances relating to health, character or security matters.

Immigration detention is subject to both administrative and judicial review, and to full parliamentary scrutiny for accountability. The length and conditions of detention are regularly reviewed by senior Department of Immigration and Border Protection officers and the Commonwealth Ombudsman.

A combination of community detention and the grant of Bridging visas E (BVEs) allows about 29,000 IMAs to live in the Australian community while they await the resolution of their visa status, including families with children.

There are a small number of families with children detained within the Immigration Detention Network. Where families and children are detained, they are accommodated in the least restrictive forms of placement possible: immigration residential housing; immigration transit accommodation; or an alternative place of detention. At these facilities, they can access services, support and care according to their assessed needs.

Wherever possible, family unity is maintained. As with all placement decisions, family arrangements are subject to many variables, including operational, capacity and security requirements. For example, a family may live together in immigration detention because one member is not eligible for community detention or the grant of a bridging visa.

As at 7 March 2016, there were 48 IMA children in held detention in Australia, compared with a peak of 1,992 children in July 2013. Of the 48 children, 41 are temporarily in Australia (usually to access specialist medical treatment) and these children and their families are subject to regional processing in Nauru. The Government is working to reduce the remaining small number of cases in Australia further, although national security or character issues with a parent might be a barrier to the placement of a family in the community. Cases are reviewed regularly.

There is a legal obligation under the *Migration Act 1958* to take a transferee temporarily in Australia back to a regional processing country when that person no longer needs to be in Australia for the temporary purpose for which they were brought to Australia. Accordingly, when an individual no longer needs to be in Australia for that temporary purpose, the Department of Immigration and Border Protection considers whether it is reasonably practicable for them to be taken to a regional processing country. Any decision to return an individual to Nauru will be undertaken in a considered and compassionate manner.

The Nauru RPC operates as an open centre and transferees are free to come and go at any time without restriction. Transport is provided to assist transferees to move around Nauru.

The Government of Nauru is responsible for the management and administration of the refugee status determination process and has made determinations for most transferees. Refugees are provided with support to settle into the local community.

Thank you for bringing this petition to my attention.

Yours sincerely

16/03/16

PETER DUTTON