



Immigration detention in Australia: A new beginning

A parliamentary inquiry into immigration detention has recommended a limit of 90 days to complete security and identity checks, before a detainee must be considered for release on a bridging visa.

The report released today by the Joint Standing Committee on Migration calls for a series of open and transparent guidelines against which detainees and the Australian public can judge the fairness and rationality of the detention system.

It recommends a maximum time limit of 12 months detention for all detainees, except those considered a significant and ongoing risk to the community.

In preparing its report, the Committee visited all of Australia's detention centres. "We also spoke to former and current detainees during our consideration of how long it is reasonable to hold a person in detention, and what criteria should apply for their release", said Committee Chair Michael Danby.

The Minister for Immigration and Citizenship announced reforms in July that unauthorised arrivals will only be held in detention until health, security and identity checks have been completed. Beyond this, mandatory detention will continue to apply only to those people that present an unacceptable risk to the community and to unlawful non-citizens who have repeatedly refused to comply with their visa conditions.

M Danby said that the Committee's report was supportive of a presumption against detention and the use of immigration detention only where necessary to safeguard public health, security and immigration compliance.

"We have heard a range of views on what a contemporary Australian immigration policy should look like," said Mr Danby, "and what is clear is that the impacts of prolonged immigration detention and failures in administration have been too high".

"The series of recommendations we have made will build on the new immigration detention values and strike a fair balance between protection of the Australian community and our obligations towards those in immigration detention."

"Our inquiry has been committed to restoring both fairness and certainty to our treatment of those in immigration detention."

The report tackles the uncertainties of indefinite detention and recommends the following time frames for detaining individuals:

- 5 day time frames for health checks;
- up to 90 days for the completion of security and identity checks, after which consideration must be given to release onto a bridging visa;

- a maximum time limit of 12 months detention for all except those who are demonstrated to be a significant and ongoing risk to the community; and
- the publication of clear guidelines regarding how the criteria of unacceptable risk and visa non-compliance are to be applied.

The report also recommends additional measures to increase oversight and transparency, such as:

- greater detail and scope of the three month review to be conducted by the Department of Immigration and Citizenship;
- ensuring the six month Ombudsman's review is tabled in parliament and that the ministerial response to recommendations is comprehensive;
- providing increased oversight of national security assessments of people in detention; and
- enshrining the new values in legislation as a priority.

In addition, the report provides some remedy to past practices of prolonged detention with little scope for review by recommending that:

- a maximum time limit of 12 months in detention is established, unless a person is determined to be a significant and ongoing risk to the Australian community; and
- merits and judicial review of the grounds for detention are available where a person has been detained for more than 12 months.

The report also recommends that people in immigration detention no longer be charged for the costs of their detention, and that all existing debts be waived immediately.

“The Committee found this policy harsh and without a reasonable rationale”, said Deputy Chair Danna Vale. Immigration detainees are currently generating liabilities of \$125.40 per day, with some debts running into the hundreds of thousands of dollars.

A dissenting report was submitted by Petro Georgiou (LIB), Senator Alan Eggleston (LIB) and Senator Sarah Hanson-Young (Greens), calling for broader access to judicial review of detention.

The report will be the first in a series of three, with the remaining two to be tabled in 2009. They will address alternatives to detention, service provision and the infrastructure necessary to support a new framework for immigration detention.

As at 7 November 2008, there were 279 people in immigration detention nationwide, the majority of them people who had overstayed their visas or had their visas cancelled after breaching the conditions.

A **media conference** will be held by the Chair Michael Danby and Deputy Chair the Hon Danna Vale tomorrow (**Tuesday 2 December**) at **11am** in **Committee Room 2S1**. The conference will be webcast on: <http://webcast.aph.gov.au/livebroadcasting/> or broadcast on HMS Channel 15.

For media comment, please contact the Committee Chair, Michael Danby MP, on (02) 6277 4520, or the Deputy Chair, Hon Danna Vale MP, on (02) 6277 4866.

For the full report and background information, please visit the inquiry website at <http://www.aph.gov.au/house/committee/mig/reports.htm> or contact the Committee Secretariat on (02) 6277 4560 or jscm@aph.gov.au.