



Don Randall JP MP

Member for Canning

2851 Albany Hwy, Kelmscott WA 6111
PO Box 465, Kelmscott WA 6991
Tel (08) 9390 1211 Fax (08) 9390 1255
Email don.randall.mp@aph.gov.au

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BY: Migration

Mr Michael Danby MP
Chairman
Joint Standing Committee on Migration
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Mr *Michael* Danby

Thank you for your letter inviting me to write a submission into the Committee's inquiry into the Migration Treatment of Disability.

This is an issue that I am familiar with, having tried to assist families in my electorate that have been denied permanent residency because of a child's disability.

After the high profile case of Perth family the Robinson's (a Perth family who were unable to gain permanent residency because their son has Down syndrome) came to light through the media in 2008 I contacted the Minister for Immigration, Senator the Hon. Chris Evans, on behalf of a family in my electorate who I was aware had been trying to get permanent residency since 2004. In 2005 my constituents had applied but were rejected on the grounds of their child's disability. This family has fully adapted to the Australian way of life and want to settle in Perth permanently. The father is a teacher in a local school who I understand are incredibly supportive of their permanent residency application due to a teacher shortage in the area. The family is treated as residents for tax purposes and they can access Family Tax Benefit but still cannot gain permanent residency because of their daughter's disability. Unfortunately the Minister advised me on this occasion there was no discretion once the Medical Officer of the Commonwealth has determined an applicant is unable to meet the medical requirement. It was clear to me that this family was doing their best to make a positive contribution to the local area and were a much loved part of the school community. The inconsistencies that allow for ministerial intervention to be considered in some cases but not in others causes confusion and disappointment for many applicants. I have more than once been advised by families in similar situations that they would have a better chance of success if they went to the media.



On the other hand I have seen the stress and emotional strain waiting for a decision on ministerial intervention can cause for families. Earlier this year I assisted a family awaiting ministerial intervention on their application for permanent residency as one of them had failed the health requirement as they had been diagnosed with HIV. In this case the family were more than happy and capable of providing the medical care when and if required for their family member's illness. They run several successful businesses in the local area and employ a number of Australians. Their daughter has just started at a local school and only knows Australia as her home. They love the lifestyle, people and culture of Australia and want nothing more than to permanently settle here. This family put in an application for permanent residency knowing that it would be refused and then refused again on appeal to the Migration Review Tribunal, leaving ministerial intervention as the only option for a grant of permanent residency. After personally meeting with them I could see first hand the emotional toll the uncertainty of their application was having on them. There obviously needs to be reform to a system that makes ministerial discretion the only avenue for this family to gain permanent residency. The extended time that families in this situation have to wait whilst they exhaust all their other avenues of appeal is certainly not a happy experience. It is also clearly an inefficient use of the Migration Review Tribunal's time as whilst they can sympathise (and they often do) with the applicant's situation, they have no power to change the decision.

Finally, the difficulties parents of deaf children and deaf applicants face in migrating to Australia have recently been brought to my attention. One constituent of mine is trying to assist her sister and her family to come to Australia through the skilled migration programme. They meet all of the requirements but one of their children fails the medical test as they are deaf. They have been advised by the Department that the family can come to Australia and leave their daughter behind in the UK which as I'm sure you can imagine is not an appropriate or just solution. The family has tried every avenue, contacting the Minister, the Prime Minister, their local State Member and now their Federal Member for assistance but are hitting brick walls with the medical requirement. Many Australians wouldn't even consider deafness as a disability in the same category as others which on the face of it you could see would potentially have significant downstream costs to the Australian health system. I know that other groups such as Deaf Australia have already provided submissions outlining the positive contribution that deaf people already make to Australian society. I agree that deafness doesn't preclude participation in society and shouldn't be used as a reason to deny a family that is so keen to call Australia home from doing so.

I believe that if the public were aware of some of the applications which are presently being refused by Department officials on medical grounds they would be shocked and disappointed. However, this clearly isn't the fault of the decision makers who are simply following legislative requirements but of the legislation itself. Medical treatments and procedures have advanced markedly and our legislation needs to be amended to reflect that. Whilst I accept that some consideration needs to be given to the downstream medical costs associated with disabilities, I believe

the current requirements are out of step with modern medical practice and with the expectations of the public. It shouldn't take media intervention to spur action on in these cases and it shouldn't take years for a final decision to be made whilst all avenues of appeal are exhausted.

Once again, I appreciate the opportunity to be able to provide a submission to this inquiry and I look forward to the Committee's recommendations in due course.

Yours sincerely,

Don Randall MHR
Federal Member for Canning