

Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
Parliament House  
Canberra ACT 2600  
**email to [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)**

## Submission

Inquiry into the administration and operation of the Migration Act 1958

ChilOut will briefly address the first term of reference.

In relation to children in detention, the following are the outstanding problems:

1. **Ex-detainee children living on Bridging Visa Es** (with no welfare or Medicare rights) still need to be supported (see for example, *A bridge on the road to nowhere*, *SMH*, 29 July).
2. There are still **split families**, where children are living in the community with a parent in a detention centre. For example, several fathers in Villawood, with dependent children on Bridging Visa Es living in the community with their mothers. The worst example is an Afghan man (diplomat in the pre-Taliban regime) who has been detained since September 1999. His wife and children are living in Sydney. There is a very similar case in Baxter, where an Afghan father has been detained since August 2001 and his wife and six children have been living in Adelaide on TPVs since August 2002.
3. The part of the *Migration Act* that requires the mandatory detention of all children who do not possess a valid visa is still in place, that is, **Australia still has mandatory detention of children**, just that the Prime Minister has directed the Immigration Minister to exercise her non-compellable discretion to transfer children and their parents from high security facilities to community detention. The Minister has had this power to declare anywhere a place of detention since 1994, but it has rarely been exercised.
4. Community detention does nothing to address the uncertainty that families experience, since they have no visa, no employment, and are totally dependent on DIMIA to pay for everything. They must report to DIMIA regularly and not breach the conditions of their residence determination or they will be returned to Villawood/Baxter/Maribyrnong.
5. There are currently no operational Residential Housing Projects in Australia, so any family picked up by DIMIA Compliance will be housed for 3-4 weeks in a high security facility. This length of time is not compatible with the *Convention on the Rights of the Child*, which requires

that children not be detained at all except as a last resort, and then only for the shortest period of time, If Sweden can manage to transfer children to open hostel accommodation within 3 days, then Australia can too.

It is too early to comment further as most of the detainee families transferred on 29 July are still in temporary (serviced apartments in Sydney, Melbourne, Adelaide) accommodation.

ChilOut will be pleased to appear before the Inquiry with a more detailed update, should the Committee require it. Also, ChilOut can provide the Committee with confidential information about detainee families, should the Committee require it.

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**CONTACT**

Prior to 1 September: Diane Hiles 0425 244 667

After 1 September: Alanna Hector 0417 177 530