



## **Changes a welcome step but Australia is still breaching the Convention on the Rights of the Child**

ChilOut welcomes the Government's announcement that it will transfer all families – not just families seeking asylum - from detention centres to community detention. Fathers' inclusion in the definition of "family" is welcome, if four years late.

However, ChilOut urges the Prime Minister to abandon community detention and embrace family bridging visas. ChilOut spokesperson Dianne Hiles said, "detaining children who have not been convicted of a criminal offence is contrary to international law. And living as a detainee family outside the razor wire will not remove the absolute uncertainty and fear of the future."

These are the main issues:

1. Children are not being released; they are being transferred from one place of detention (razor wire) to another (house or motel).
2. The Minister of Immigration has had the power to declare an ordinary house a "place of detention" since 1994, and began exercising it for the benefit of children in 2001.
3. Transfer to community detention is not automatic; it requires a non-compellable decision by the Minister for Immigration.
4. Transfer to community detention means declaring the house/motel a "place of detention" and deeming either uniformed GSL staff or social workers to be guards who must "accompany and restrain" the detainees at all times. Is this what the Prime Minister envisions? He stated today "conditions would be set to meet their individual circumstances".
5. Community detention will only apply to families for whom "removal arrangements are not underway." This means that Villawood's Tongan families, for instance, whose removal arrangements have been underway since July last year, would remain in the detention centre.
6. The families' legal status will still be that of detention. This means the parents won't be allowed to work to support their children. They will have to rely on charity hand-outs. Or will the Department of Immigration be supplying them with groceries, schoolbooks and medication? What about access to community services?
7. Contrary to the Human Rights Commission's recommendation that Australia's laws be amended so that bridging visas are readily available to families, the Prime Minister said, "they won't be given visas except if they meet entitlements for visas under other circumstances." So it will still be near-impossible for detained families to obtain bridging visas as they cannot afford the (several thousand dollars) bond.
8. Under the new policy, the construction of new Residential Housing Projects within detention centres will still go ahead as they are to be used to house all new detainee families, who will be detained for 3-4 weeks. This is not detention as a last resort, or for the shortest period of time. In other western countries, the necessary identity and health checks are carried out in 72 hours, as the best interests of the child are paramount.
9. Will the new policies apply to Pacific Solution families, present and future?

In light of the above, ChilOut redoubles its call to the Government to:

1. Incorporate a presumption against the detention of children into the *Migration Act 1958*;
2. Require independent (not DIMIA) assessment of the need to detain a child within 72 hours of any initial detention;
3. Provide for prompt and periodic independent (not DIMIA) review of the legality of detaining a child in whatever circumstances;
4. Apply these policies to children subject to 'Pacific Solution' and 'excision' measures, present and future.

Ms Hiles said, “We congratulate the Liberal backbenchers on convincing the Prime Minister to take a humane decision today.

“ChilOut now calls on the Prime Minister to confirm that the new policy applies to the Afghani children in the Nauru detention centre, who have been detained the longest of all 63 children in immigration detention.

“ChilOut urges the Government to abandon the unworkable practice of community detention and replace it with whole-of-family bridging visas, with study, work and Medicare rights.”

**CONTACTS: Dianne Hiles, 0425 244 667; Alanna Sherry 0417 177 530.**

[www.chilout.org](http://www.chilout.org)