

Committee Secretary
Department of the Senate
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Parliament House
Canberra ACT 2600
Submitted via email covid.sen@aph.gov.au

May 28th 2020

Dear Committee Secretary

We welcome the opportunity to make a submission to the Select Committee on COVID-19.

In times of normality, people seeking asylum are one of the most vulnerable groups in our community, as many do not have access to Centrelink, Medicare and other social security benefits that allow them to live independently in the community.

However, the COVID-19 pandemic has exposed people to even greater risk of destitution and loss. It has also impacted on their ability to participate in the refugee determination process, and to preserve their legal rights during this period.

Please find our submission detailing the impact of COVID-19 on people seeking asylum and the lack of appropriate access to Government support packages.

Please feel free to contact me on kon.k@asrc.org.au. We would welcome the opportunity to appear before the committee.



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CEO Asylum Seeker Resource Centre

Introduction

The Asylum Seeker Resource Centre

Founded in 2001, the Asylum Seeker Resource Centre (ASRC) is a place and part of a movement. We are Australia's largest independent aid and advocacy organisation for people seeking asylum and refugees, supporting and empowering people at the most critical junctures of their journey.

Building on our close proximity to those with lived experience, we mobilise and partner for a community of compassion, justice and opportunity.

In times of normalcy, we provide 30+ programs and services to 6,000 people seeking asylum in food and material aid, casework, housing supports, legal, advocacy, health, empowerment, employment and education.

Current situation

In times of normality, people seeking asylum are one of the most vulnerable groups in our community, as many do not have access to Centrelink, Medicare and other social security benefits that allow them to live independently in the community.

However, the COVID-19 pandemic has exposed people to even great risk of destitution and loss. They are ineligible for any of the Federal Government's COVID-19 safety net and stimulus packages such as the JobSeeker or JobKeeper payments, or other income support mechanisms available through Centrelink.

This ineligibility has resulted in unprecedented demand for the ASRC's program and services – across the organization **we have seen a three-fold increase in requests for assistance.**

The ASRC remains open during this time so that members (people seeking asylum) can continue to access critical services and programs to meet their diverse and often complex needs. The requests are for critical and lifesaving services such as food packs, crisis housing, nappies, health support (as the majority of people coming to the ASRC do not have Medicare) and support regarding a wide range of issues including legal representation, mental health, housing, family violence.

Our main concerns include

1. Non inclusion in safety net and stimulus packages
2. Legal status - loss of rights and entitlements
3. People in immigration detention
4. People transferred to PNG/Nauru

Recommendations

1. Ensure all people have access to Medicare.
2. Ensure all people have a financial safety net so they are not forced into destitution:
 - a. Extend JobKeeper to SHEV, TPV and bridging visa holders so that people seeking asylum and refugees are eligible
 - b. Extend JobSeeker to people on bridging visas currently ineligible for income support
 - c. Remove penalties for Safe Haven Enterprise Visa (SHEV) holders accessing Special Benefit in light of the pandemic and remove restrictions on accessing Special Benefit for Temporary Protection Visa (TPV) or SHEV holders who are studying
3. Prevent people from losing legal status and access to support.
4. Reduce the number of people in immigration detention in Australia by releasing people into safe housing with adequate funded support where they can comply with public health advice.
5. Transfer people held in Nauru and Papua New Guinea to Australia before there is a widespread outbreak.

Key gaps in the Australian Government's response to the COVID-19 pandemic for people seeking asylum

We commend the Australian Government for its comprehensive response to COVID-19 so far. However, people seeking asylum and refugees have been left behind, in particular those on bridging visas, Safe Haven Enterprise Visas (SHEVs) and Temporary Protection Visas (TPVs). The Government has the power to fix this inequality now by extending the existing support to all people seeking asylum and to people on temporary visas.

1. Non inclusion in safety net and stimulus packages

Given the exclusions of people on temporary visas from the stimulus packages, such as those on bridging visas, people seeking asylum who have been working and have lost their job are not eligible for the JobKeeper stimulus measures. Additionally, people seeking asylum who are looking for work are not eligible for JobSeeker. This has forced people into destitution, people who have been working and paying taxes, people who are job ready and seeking work and people who are unable to work due to vulnerabilities, however are not supported by the stimulus measures simply due to the temporary nature of their visa.

While the Government is encouraging people on temporary visas who can no longer afford to live in Australia to return home, this option is not available to people seeking asylum and refugees who face the risk of persecution and possible death if they return home.

COVID-19 has had a catastrophic impact on the lives and livelihoods of our members, particularly for those who have lost their jobs as a result of COVID-19 restrictions on key sectors. COVID-19 has also resulted in loss of employment or income of people seeking asylum. We are now seeing people we supported a number of years ago who were living and working independently, now returning in need of support. Being employed ensures independence, empowerment and being able to serve their communities in this time of greater need.

The ASRC has seen up to a three-fold increase in demand for our services across the organisation.

The requests are for critical and lifesaving services such as food packs, crisis housing, nappies, health support (as the majority of people coming to the ASRC do not have Medicare) and support regarding a wide range of vulnerabilities including mental health, physical health, financial risk and family violence.

Major challenges witnessed by the ASRC

- 271 people who lost their jobs or had their hours significantly reduced who are not eligible for Jobkeeper due to being on a temporary visa are now people presenting for emergency housing and food.
- Another 600 people who are job ready on our employment waitlist but cannot secure work because of COVID-19 and no access to JobSeeker subsidy who would otherwise be in employment and are now instead destitute.
- Usually have 40 paid work placements each month, this has reduced to zero for the last two months due to COVID-19.
- In 2019, we saw 1249 people present for assistance in our New Presentation program. In the first 4 months of 2020, this is already at 850.

In April, our frontline services have seen

- 789 requests for assistance through our duty program. As a comparison, pre COVID-19 this was less than 300 per month.
- 496 new people presenting for emergency housing, food and aid and another 224 we could not assist due to capacity issues.
- 1,985 people provided with emergency food packs. Up to 90% of people presenting for food have no income.
- 433 people presenting for GP clinics, immunisations and pharmacy vouchers. Due to lack of Medicare.

COVID-19 is increasing the vulnerability of a significant number of vulnerable migrants on temporary and provisional visas living in Victoria who are ineligible for commonwealth assistance. This includes increased numbers of people seeking asylum experiencing destitution, whose vulnerabilities include trauma, mental health, physical health, homelessness, family distress and violence. It also includes cohorts who were economically self-reliant prior to the pandemic, including people seeking asylum who have lost employment or income. All cohorts are at risk of destitution, exploitation, and poor health and mental health outcomes due to stress and isolation. There is also a risk for individuals and the community that people facing financial hardship will struggle to adhere to health protection directions.

The ASRC provides material and basic needs support in the form of Myki top-ups, nappies, other baby items, material or financial aid for essential items (e.g. household goods for cooking and heating/cooling, clothing, etc.) and financial aid for utilities.

Case study - Ineligible for Government support (JobSeeker and JobKeeper)

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Case study – homelessness

Farhad is a single male who has been residing in Australia since 2013. Farhad has work rights and has been living independently, with income through employment as a security guard, while having his case for asylum heard through the refugee determination process. Farhad's work has been contract and casual, but reasonably steady, and he has supported himself through brief periods of underemployment through savings accumulated when work has been more available. Due to Farhad's inconsistent and low income, finding affordable housing has been challenging for Farhad but he has been living in a share house, with 3 other single men, since October 2019. Farhad is subletting from a 'lead tenant' and does not have a formal lease himself.

Farhad had his employment terminated almost immediately, once Covid-19 restrictions started coming into place. Farhad is not eligible for government funded income through the Status Resolution Support Services due to his legal stage and the assessment that he capable of financial independence through employment. Farhad is not eligible for government funded income through JobSeeker or JobKeeper due to his temporary visa. Farhad is currently living without any income at all.

Farhad paid his first month of rent, following unemployment, using his savings. The next month Farhad and his housemates were able to negotiate a reduction in their rent obligation with the landlord and Farhad borrowed money from friends to meet his rent and other living expenses. Farhad has been unable to pay his most recent month of rent and, due to the financial hardship also being experienced by his housemates, has been told that he will need to leave the property if he is unable to make his rent payment by next week so that the house can bring in a new subletting tenant who is able to pay rent. Since Farhad is not on a lease agreement he is not protected by the eviction freeze and is therefore at imminent risk of homelessness.

In order to prevent this, the ASRC has provided crisis brokerage to pay Farhad's rent arrears and the next month of rent. Without this assistance Farhad would be at risk of street homelessness and reliant on homelessness services.

The ASRC Health Program is a nurse-run clinic that provides appointments with volunteer doctors and allied health professionals, referrals, catch-up immunisation program for adults, and advocacy. In response to COVID-19 we are now providing telehealth services for our members and limiting the number of face-to-face clinic appointments. Little known to people is the fact that many people seeking asylum are not eligible for Medicare.

Case study - Lack of Medicare**REDACTED FROM PUBLICATION**

<p>Case study - Job loss and JobKeeper ineligibility</p> <p>REDACTED FROM PUBLICATION.</p>
<p>Case study – Impact on SHEV pathways</p> <p>REDACTED FROM PUBLICATION</p>
<p>Case study - English for Work student</p> <p>REDACTED FROM PUBLICATION</p>

2. Legal status - loss of rights and entitlements

We have repeatedly raised our concerns with the Department and other relevant authorities regarding threats to legal status and the loss of rights and entitlements due to COVID-19 related measures. We share below some of our main concerns in these areas and also our disappointment with the overall lack of responsiveness by the Department and the Government, as well as other relevant justice institutions, noting any exceptions to this where relevant.

Bridging Visas:

As noted above, those on temporary visas, including Temporary Protection Visas, Safe Haven Enterprise Visas and Bridging Visas have been excluded from Government safety nets during this period, making it especially difficult for people on temporary visas to even subsist.

However, those on bridging visas, including most people seeking asylum, form an even more vulnerable sub-set within the already at-risk 'temporary visa' category. This is because access to critical entitlements, such as work rights, Medicare or SRSS, depend on three further factors: the type of bridging visa held by a person seeking asylum; the conditions attached to their bridging visa; and also often the stage they are at in the refugee determination process.

Bridging visas are governed by a complex patchwork of highly technical regulations, which are so unintelligible that they are almost impossible for specialist immigration lawyers to understand, let alone for visa holders or for other relevant agencies, such as Medicare, who need to navigate their complexity. The Department's own Visa Entitlement Verification Online (VEVO) system does not always provide reliable information on visa status or conditions either, especially for those renewing their temporary protection visas, or those with cases before the courts, further complicating the issue of how a person can evidence their entitlement to Medicare.

Some of our clients have been stuck in processing and stuck on bridging visas for up to ten years. In these circumstances the term 'bridging visa' is a misnomer and masks the long term hardship caused by the 'bridging' visa regime: hardships which have become much more pronounced during the pandemic context.

We set out some of the basic rules to highlight the inadequacy of this Bridging Visa regime, especially during a public health emergency, where vast portions of the asylum seeking

community, have been left without coverage or support of any kind, which has been terrible, not only for the person left without these rights, but also for placing the wider community at risk in a pandemic environment.

- Access to Medicare depends on having work rights. No work rights means no access to Medicare.
- Only the minority of people seeking asylum, (being those who arrived by plane and who applied for asylum prior to their visa expiring) are granted automatic work rights and therefore access to Medicare, on their Bridging Visas until they have completed merits review stage.
- The majority of people seeking asylum are granted Bridging Visa C or E,¹ where the grant of work rights, and therefore also Medicare is only discretionary. Many of our clients on Bridging Visas C and E do not have work rights or Medicare rights on their Bridging Visas.
- Some clients who have work rights at an earlier processing stage then lose them if they proceed to seek review of their decisions in the courts. Therefore large numbers of people at judicial review have no work rights or access to Medicare.
- Some clients have Bridging Visas for set periods, rather than linked to a particular stage of the process and due to the COVID 19 movement restrictions have struggled to apply for renewal within relevant time frames.
- Given the clear public health imperative for all persons in Australia to access medical treatment during a pandemic, we strongly encouraged the Department to direct Medicare to immediately provide all persons seeking asylum with access to Medicare. We repeatedly requested that special measures be taken to automatically extend, or provide bridging visas with work rights and Medicare to undocumented asylum seekers, and to provide all people on bridging visas with these same rights, as an absolute necessity, along with income support. We highlighted to the Department that this change in policy could be made without any legislative amendments. Yet unfortunately Government took no steps to address this need.
- Additionally, the Government must ensure that relevant rights and entitlements are retained on visas such as Medicare and the right to work.

Even worse off than those lacking work rights and Medicare are **those who have no bridging visa at all**. We have at least 50 clients, including families with young children, who have ongoing cases before the courts but have been refused bridging visas. These people have been left for years undocumented in the community, not only without work rights and Medicare, but living in constant fear of being detained and removed from Australia, despite having valid legal proceedings on foot.

Those denied bridging visas are consigned to an underclass existence. They cannot complain about their treatment, seek to enforce their rights or even enrol their primary school-aged children in public schools, without risking being detained. They are particularly vulnerable to economic and

¹ (as they arrived by boat, or did not apply before their earlier visa expired, or they are seeking review at court or a decision from the Minister)

other forms of exploitation even during 'normal' periods, let alone during a pandemic which has caused mass unemployment and made life all the more precarious and difficult.

We have persistently raised these concerns with the Department over the past three months, urging that in order for the existing measures to be successful at supporting people during this uncertain time, the government must prevent people losing their legal status by ensuring all people seeking asylum have a valid visa. In addition, the government must ensure that renewal/grant processes are either automatic or simplified so that people do not have to take health risks in order to renew their visas. In the absence of these steps the Government should have at minimum made public statements assuring undocumented people that they can still approach health services without fear of detention. Unfortunately none of these suggestions have been taken up by the Government.

As has been seen in other countries' COVID 19 responses, the effectiveness of community restrictions on movement are undermined in societies where there are groups of people excluded from social protections, such as undocumented asylum seekers, making cluster outbreaks more likely and difficult to manage when some people in our community have been forced 'underground' and live in fear of all contact with authorities, including health services.

Case study – COVID-19 impacts on family living in the community without bridging visas - Salem* & Khadija*and their three children

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COVID 19 Measures making it more difficult for visa applicants to meet time sensitive requirements

The entire visa processing regime is a rigid codified system containing thousands of time sensitive steps or deadlines built into it, which are provided for under statute, regulation or policy, many aspects which continue like a ticking clock 'by operation of law' irrespective of COVID-19 impediments that visa applicants have faced.

The stakes of missing a deadline for visa holders or applicants can be completely incurable and permanently alter a person's visa rights and pathway options. For example the expiry of a visa for just a single day is enough to prevent a person from exercising a wide range of future rights, including review rights.

Movement restrictions have made it more difficult for people seeking asylum to receive legal notifications and obtain legal assistance. Many have lost all sources of income and are now unable to maintain telephone plans or internet or have become homeless. This has made it much more difficult if not impossible for some people to receive notifications of decisions, invitations to interviews or hearings, or deadlines for submissions. It has also made it much more difficult for those who have lost access to telephone and the internet to seek legal assistance, as many services are only currently being provided by telephone and via document exchange on email or

other web-based software for signing documents. .We have also found it difficult to contact many of our clients, for the same reasons.

An additional barrier is that many pro bono legal services, including ours, have had to completely change our service model and transition into full remote legal services, which has made some legal processes more complicated and time consuming, resulting in some reductions in service levels. This has also contributed to the difficulties for people trying to access legal assistance.

As a consequence of the lack of consideration given by relevant authorities to the increased difficulties faced by those rendered unemployed or homeless in receiving notifications or seeking legal assistance, some have also now permanently lost legal rights which cannot be reinstated due to the rigidity of the codified system and as a consequence may not be afforded the protection they may be owed.

Case study - Lost legal rights as a consequence of COVID-19 circumstances

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Decline in Standards of Procedural Fairness

One of the greatest concerns regarding the restrictions on in-person contact has been that interviews or hearings ordinarily conducted in person by the Department, the AAT or Courts, would be conducted by telephone or by video conference. The concern is that these would not be just temporary measures to address the current health crisis, but would become ongoing measures and erode existing rights to procedural fairness. Removal of the right to in-person interviews/hearings does compromise the fairness of the process.

This is especially to protection visa applicants at primary or merits review stages, whose cases often turn upon assessments of credibility which can only be properly undertaken with the benefit of all available information, including consideration of a person's demeanour. In addition, protection visa interviews are often lengthy, involve the use of interpreters and often involve complex evidence and require applicant's to recall traumatic and difficult experiences. It is very difficult to deal properly with all of these dimensions of complexity unless the interviews/hearings are conducted in person.

While initially when COVID-19 movement restrictions came into effect the Department indicated it would continue with scheduled interviews but now only by telephone, we and other community legal centres continued to 'push back' against this. We have noted more recently that the Department has been seeking the consent of applicants to proceed by telephone, rather than taking a 'telephone or nothing' approach. This has been an area in which we have seen some responsiveness by the Department to the concerns raised regarding preserving fairness to applicants.

The same cannot be said for the Administrative Appeals Tribunal (AAT) and the Immigration Assessment Authority (IAA) which appear to have even taken advantage of the COVID-19 environment as an opportunity to unilaterally issue new Practice Directions in effect as of 27 April

2020, (bypassing previous commitments made to consult with the sector prior to issuing new Directions²), which significantly reduced aspects of procedural fairness to applicants.

Regarding the AAT, we note with concern that whereas the previous standard or norm was for hearings to be conducted in-person and in the presence of the interpreter, the new Practice Directions for both the Migration and Refugee Division (MRD), as well as the General Division (GD) contain instructions to the effect that:

- No in-person hearings will be held, except in exceptional circumstances;
- Hearings will be conducted by telephone, video or a combination of the two;
- Interpreters will generally participate by telephone.³
- Protection visa applicants in detention will be facilitated to participate by video link “to the extent possible”.⁴

This change is a notable retreat from previous standards of procedural fairness and is at odds with the Tribunal’s stated objectives in terms of proportionality, accessibility, fairness and justice.⁵ Even quality video conferencing is often plagued with picture pixilation, sound quality and connectivity issues. More importantly, it creates a sense of disembodiment for applicants who, even in person, often struggle to disclose some of their most difficult and personal life experiences. Moreover, it makes it difficult for their lawyers or other support people to provide encouragement, support and clarifications, which are often very helpful to the decision makers. Without the interpreters being physically present, we expect the number of inaccuracies, misunderstandings and miscommunications in AAT hearings to spike. We are very concerned that this will work unfairly against the interests of applicants, resulting in poorer decision making and leading to more needless appeals and ultimately, lower reliability in identifying people owed protection obligations in Australia.

Regarding the IAA, it already provides a manifestly substandard and unfair process to protection visa applicants, giving no right to a hearing or interview except in very rare cases, and only very limited opportunities to provide even written submissions and new information, which all have to be provided in English and within 21 days.

The lack of hearings in this jurisdiction has enabled the IAA to proceed ‘full steam ahead’ in processing review applications during the COVID-19 context, without any consideration of the additional difficulties that applicants are facing to engage with the IAA process and to obtain legal assistance. The IAA chooses to apply strict time frames to its processes and has proven itself time and time again to be unreceptive to reasonable requests for extensions of time, even in the most compelling circumstances. While the IAA is of course required to work within its statutory framework, it is particularly disappointing to see an institution going beyond these legal requirements to make its processes even more unfair and difficult for applicants to put their best cases forward.

The new IAA Practice Direction tilts the scales of injustice even further against applicants. It makes it even more difficult for applicants to provide their written submissions/information at first

² At the AAT/IAA liaison meeting conducted on 19 November 2019 in Melbourne, the AAT made a commitment to the sector that a draft of the new Practice Direction would be provided for consultation prior to its planned adoption in July 2020.

³ MRD PD at 6.1-6.2; GD PD at 4.1.

⁴ MRD PD at 6.2.

⁵ S 2A, Administrative Appeals Tribunal Act 1975 (Cth).

instance and takes an even more restrictive approach to case remitted from the Courts, not allowing even written submissions to address the error of law identified by the Court.

Rather than working to ensure that no applicants suffer disadvantage due to the COVID-19 context, the disappointing response of the AAT and IAA to this emergency appears to have been to do the opposite.

Case study - IAA unreasonable refusal to grant extension of time

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3. People in immigration detention

The Government's policy has been to continue detaining people in immigration detention, despite detention centres being officially identified as high risk COVID-19 settings and the lack of risks to the community of releasing many detainees, especially people seeking asylum. There has been only a trickle of people released from immigration detention, since the COVID-19 outbreak, and these releases have not been connected to managing risks of COVID-19.

Human rights organisations and [medical colleges](#) have repeatedly called for the immediate release of people from detention due to the fear of an outbreak and as a [public health](#) measure. Other comparable countries have taken proactive steps and released some detainees as a preventative measure to reduce the risks of infection and spread of the virus in detention centres.

Risk reduction measures taken by the Government have been inadequate throughout the entire COVID-19 period to date. Aspects of the Government's own policy for managing COVID-19 risks in detention centres have not been complied with.

Given the close conditions within centres and APODs (alternative places of detention) and the high numbers of rotating staff, the risk of infection entering detention centres and then spreading through detention facilities, has remained very high.

Risk reduction measures taken by the Government have been inadequate throughout the entire COVID-19 period to date. Aspects of the Government's own policy for managing COVID-19 risks in detention centres have not been complied with.

We are in regular contact with detainees in various centres around Australia who have been emphasising their fear and concern that not enough has been done to protect them from the virus.

It has been simply impossible for detainees to maintain social distancing standards within closed centres and within APODS. While the Department has tried to 'thin out' the population density in each centre by moving people within centres and between centres within the same state, this has not been a sufficient measure to ensure minimum social distancing standards are maintained.

In some APODs, people are living 2-3 to a room, eat in communal areas and are in their bedroom for 23 hours a day. In closed detention centres, most detainees are in rooms with others, some in rooms with up to six people. During April one of our clients, who suffers from pre-existing respiratory problems and therefore is at higher risk of severe infection if exposed to COVID-19, was informed he was to be moved from a 2 person room to a six person room. It was only through us raising a complaint that he was kept in his two person room.

The pattern we see is that if there is no complaint, there is no change made. Detainees without advocates actively raising issues on their behalf, are likely to be placed in situations of greater risk. This is the standard response we are getting from the Department to our complaints. When we make complaints to the Department regarding lack of compliance with COVID-19 risk reduction measures, we receive the following standard response: "The Department is very cognisant of its duty of care to detainees relating to COVID-19, including social distancing and we have implemented measures to manage this."

Detainees inform us that while during the earlier period of COVID-19 meal times in at least some closed centres were staggered to reduce the numbers of people queuing for food and eating together, this measure was still insufficient to achieve minimum standards of social distancing. Moreover, more recently we are informed that this measure of staggering meal times has already been relaxed and that large numbers of detainees regularly congregate at meal times.

Detainees have also shared that even the most minimum measures have not been consistently taken in detention centres. Detainees complain of lack of hot water for hand washing, lack of soap, lack of hand sanitiser in the centres, lack of use of Personal Protective Equipment by guards and others in the centre, such as gloves or masks, which are only used by kitchen staff and not by guards or others in physical contact with detainees. Detainees report that there is insufficient health and hygiene measures taking place and that use of Personal Protective Equipment (PPE) is voluntary for staff. A detainee said that *'They took me to hospital once, no isolation, two guards walking with me, grabbing my hands, putting handcuffs, same as before - at this point they were not wearing gloves or masks - But they did put gloves and masks on when we left the detention centre - When they did the pat search when they took me out, there were four people in a small area, no masks, no gloves'*.

Detainees have also expressed their concern that they have seen guards who have visible signs of illness still coming to work in the centre.

We have been especially concerned by the use of isolation, so-called 'protective quarantine' against some of our clients, especially those with pre-existing mental health issues. Several of our clients have been held on their own in prison-like rooms where the only way to have contact with another person is to push a buzzer to be put in touch with a guards in order to communicate any needs. Some of our clients have reported that they have not had breaks outside of these rooms for days on end.

We have also been very concerned to see the use of these rooms for detainees who are in a state of mental health crisis. In our submission the use of isolation rooms in detention centres does constitute inhuman degrading treatment or punishment, and may even constitute torture, in the case of detainees with pre-existing mental health issues.

A further grave concern is the manifestly insufficient oversight and monitoring of detention centres, even in ordinarily circumstances, but which has become even more critical in the context of a public health emergency. We have been routinely asking our clients in detention if they have been contacted or noted the presence of any monitoring bodies in detention centres during the COVID-19 period, and their response has been unanimously in the negative: that they are not aware of any monitoring of detention centres during this period. The Public Interest Advocacy Centre recently filed a group complaint with the Commonwealth Ombudsman, including some of our clients, calling "for an urgent inspection of immigration detention facilities and alternative places of detention, to examine the adequacy of conditions and measures being taken to mitigate and manage the dangers posed by COVID-19 to people in detention and staff."¹

The lack of transparency regarding conditions in immigration detention is a critical issue. Given the absence of any statutory framework setting out minimum standards for detention conditions, the lack of judicial review of immigration detention, the limited powers to require changes and lack of resources for oversight bodies to undertake their functions, is the perfect recipe for systemic human rights abuses, of the kind that we see on a regular basis. We are alarmed that this situation may even worsen, with the Government's re-introduction of the 'Prohibited Items' Bill, whose primary purpose is to confiscate detainees' telephones, and therefore silence the only real source of oversight, which is being provided by detainees themselves, and to protect the Government from public scrutiny of conditions in detention.

4. People transferred to PNG/Nauru

The ASRC endorses the Human Rights Law Centre's (HRLCs) submission referring to people transferred to PNG/Nauru and recommends that people held in Nauru and Papua New Guinea are transferred to Australia before there is a widespread outbreak.

ⁱ Media Release, Public Interest Advocacy Centre (PIAC), *COVID-19: Group complaint for asylum seekers at risk in immigration detention calls for urgent investigation*, 7 May 2020 available at <https://piac.asn.au/2020/05/07/covid-19-group-complaint-for-asylum-seekers-at-risk-in-immigration-detention-calls-for-urgent-investigation/>