

Founded in 2001, the Asylum Seeker Resource Centre (ASRC) is 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.

The ASRC welcomes the opportunity to submit to the Employment White Paper following the Jobs and Skills Summit. The following submission has been informed by ASRC's employment, education and legal programs, working with tens of thousands of people seeking asylum and refugees over two decades.

Terms of Reference

The following paper will primarily address **labour force participation, specifically concerning migration**, however, will also address job security, fair pay and conditions; and pay equity and equal opportunities for women.

Introduction

Providing the right to work, study and access to mainstream social support to people seeking asylum currently facing an immigration processing system in crisis is a mutually beneficial policy that will provide people with their basic rights while addressing key aims of the Jobs and Skills Summit.

Under the current immigration regime, people seeking asylum and refugees are living on temporary visas, in particular bridging visas, for extraordinary lengths of time that the visas in question were never designed for. This has devastating consequences not only for people who came to Australia to seek safety and rebuild their lives but also for the workforce, community and economy. The Federal Government must provide people seeking asylum with an efficient and fair visa processing system, at the very least one in line with the 90-day-rule.

However, delays in visa processing wait times have reached such a point of crisis that, without serious and concerted action, it may take some time to reduce wait times to an acceptable level. Providing basic rights to people seeking asylum as the Government addresses systemic policy failure is needed as an initial and immediate step.

All people seeking asylum in Australia should be granted ongoing bridging visas with mainstream social services including the right to work, and the right to study domestically while they are pursuing their legal options. Such a policy change will radically improve the lives of people who want to make Australia their home and rebuild their lives here, as well as improve the fairness of outcomes and minimise other barriers to access to justice. It also will directly address issues in the labour market identified by the Jobs and Skills Summit.

Recommendations

Recommendation: Provide ongoing work rights for people seeking asylum on bridging visas for the duration of their application process, including the departmental, review and judicial stages, through not applying Condition 8101.

Recommendation: Recognition of Prior Learning process to be done through skills assessment for people without evidence of qualifications, against an established benchmark with tailored courses and employment placements to address identified gaps in skills and local knowledge.

Recommendation: Provide ongoing study rights for people seeking asylum on bridging visas for the duration of their application process, including the departmental, review and judicial stages, through not applying Condition 8201 and 8207.

Recommendation: Ensure people seeking asylum on temporary and bridging visas are eligible for government-funded study support, including subsidised VET courses, CSP, FEE-HELP, funded apprenticeships and traineeships.

Recommendation: There must be increased funding and eligibility for Status Resolution Support Services.

Recommendation: People seeking asylum should have access to mainstream social support, including JobSeeker, while they are pursuing their legal options.

Recommendation: Mainstream social support, work rights and study rights cannot be mutually exclusive and must be provided together.

Right to Work

There are currently thousands of people seeking asylum and refugees in Australia, denied permanent employment due to their visa status, despite having crucial skills to offer, being ready to work and rebuild their lives.

According to figures released by the Australian Bureau of Statistics (ABS), the seven industries experiencing the most critical job vacancies are:¹ construction and manufacturing; administrative and support services; professional, scientific and technical services; retail trade; accommodation and food services; health care and social assistance and public administration and safety. In 2021-22 over 75% of people in the ASRC employment program were employed in the most in-need industries above. This is also indicative of broader research, which found many people seeking asylum on temporary visas are ready and want to work often in critical industries.² However, some people on temporary visas and bridging visas are currently prevented from working.

¹ Australian Bureau of Statistics "Labour Account Australia" (June 2022)

<https://www.abs.gov.au/statistics/labour/labour-accounts/labour-account-australia/jun-2022>

² Curtin University, Murdoch University, Centre for Refugees, Asylum Seekers and Detainees, MercyCare, Uniting Church Western Australia "Supporting economic growth in uncertain times Permanent pathways for Temporary Protection visa and Safe Haven Enterprise visa holders", John van Kooy (2021)

Barriers to employment

There are several barriers to employment for people seeking asylum and refugees. Some people seeking asylum cannot work simply because the Government prevents them.

There is no clear and comprehensive data on how many people seeking asylum in Australia currently have work rights however, the ASRC estimates that more than a quarter of the 100,000 people seeking asylum and refugees on bridging visas at any given time are without work rights. This can occur simply due to the Department not providing work rights for people seeking asylum on bridging visas, under Condition 8101.

The temporary nature of the visas also only allows for a short period of work, which is then followed by a lack of work rights during renewal. Through no fault of the person's own, their visa expires because of processing delays with the Department. Without a visa, you cannot work, regardless of whether your previous visa allowed it.

To make matters worse, work rights are typically tied to Medicare access. Generally, only those with work rights are eligible for Medicare. As of June 2022, 55% of the people accessing ASRC's health program did not have Medicare access.

Furthermore, the current state of work rights for people seeking asylum also leads to poor utilisation of skills and in the worst-case scenarios the perpetuation and reinforcement of insecure and exploitative work. The inbuilt insecurity in temporary visas often gives unethical employers leverage over people seeking asylum and enables them to underpay and overwork them or place them in dangerous working conditions, knowing that their visa gives them few avenues for recourse. In the case of BVE, this has even been linked to instances of modern slavery.³

The perpetuation of insecure and low-paid work through the denial of ongoing work rights on these visas has a negative effect on wages at large, when the Federal Government is seeking to put upward pressure on wages. The most humane and effective way to combat this is to provide automatic ongoing work rights and the security that this comes with.

There has been some concern about unscrupulous migration agents and employers taking advantage of failing immigration systems. While these claims have been overstated, exploitation is possible because of the insecurity built into these visas. In the long term, the only way to address this issue is to rescue wait times for visa processing. However, providing ongoing work rights while this is happening will not only benefit the country and people seeking asylum, but will deny bad actors the leverage they need to force people into exploitative work.

Furthermore, this perpetual renewal disincentivises employers who are hesitant to employ people who run the risk of losing work rights every few months or years. This is also true for people on TPV/SHEV who are forced to renew their visas every 3 and 5 years respectively, as well as those on bridging visas. These needless barriers to employment and the negative outcomes

³ Human Rights Law Centre and the University of Melbourne Social Equity Institute's Community Fellows Program, "LABOUR IN LIMBO: BRIDGING VISA E HOLDERS AND MODERN SLAVERY RISK IN AUSTRALIA" Freya Dinshaw and Professor Susan Kneebone (2022)

that emerge from this are occurring despite the fact that Australia is in the midst of a critical labour shortage.

Recognition of Prior Learning

To fully enable people to seek employment there should also be changes to the current Recognition of Prior Learning (RPL) process. ASRC's employment and education programs frequently work with people who have qualifications and experience across various industries and sectors in their country of origin. Unfortunately, many do not have paperwork or evidence of their qualifications or work history, often because they fled persecution and violence. For the same reason, refugees cannot easily access documentation proving their qualifications in their country of origin.

The current RPL process is fundamentally based on gathering evidence that proves you have experience in a particular job, this is often impossible for people, as previously described, who are trying to access proof of qualifications from a country they fled.

Consequently, ASRC is in favour of RPL through skills assessment for people without evidence of qualifications against an established benchmark, which should be combined with tailored courses and employment placements to address identified gaps in skills and local knowledge. This would necessitate the right to work, study, and access mainstream support when needed.

Right to Study

Refugees in Australia are ready to rebuild their lives and learn in a supportive community, however, education is blocked by government policies that prohibit study or make it financially unfeasible. This is despite the clear benefits access to education has for both refugees and society as a whole.

Accessibility and affordability are the two major barriers to education and training for people seeking asylum and refugees on temporary visas. People on temporary visas are ineligible for a range of skills and training that would support their employment options and most education opportunities they are eligible for are unaffordable.

For many people seeking asylum on bridging visas, they have no right to study higher education, through Condition 8201 and 8207, which limits the study to 3 months and prohibits the right to study respectively.

People seeking asylum and refugees with temporary visas are not eligible for any type of government loan for university, this includes VET-FEE HELP and HECS-HELP. To be admitted, people seeking asylum not only have to meet all the university's requirements for international students but also pay the full-fee payment.

There are clear positive impacts of changing these policies, shown through initiatives such as the Victorian State Government's Asylum Seeker VET program (ASVET),⁴ which started in 2011 after a

⁴ Asylum Seeker Resource Centre "2018-21 ASVET ANNUAL REPORT Asylum Seeker Vocational Education and Training program support and referral services" (2021)

short pilot, allowing people holding any bridging visa access to government subsidised Skills First VET courses. However, in 2016 eligibility was changed allowing only people from the 'Legacy Caseload' (BVE, TPV or SHEV) access. In recent times 449 and 786 visa holders have been added.

The program saw 1,795 people seeking asylum referred between 2016-2021. In 2021, people seeking asylum access training and education in nursing, disability care, childcare, IT, building and more, filling key roles in the community that were shut off previously.

ASRC's employment and education programs often see the mutually exclusive issuance of study rights and work rights prevent people from upskilling and working. This can be seen in people with the right to work not being able to complete the basic up-skilling their employment requires due to restrictions on study. In addition, those who have study rights and wish to undertake apprenticeships are not able to proceed because they lack work rights. Providing work rights and study rights in tandem would address this issue.

Right to Rebuild

People who sought asylum in Australia have been systematically excluded from the mainstream social support system that others in the community enjoy. Denied the vital support systems, people seeking asylum are subjected to a rigged process and excluded from accessing the safety nets that are there to help us rebuild and recover from life's challenges.

There are some limited 'transitional allowance' from Status Resolution Support Services (SRSS) for people seeking asylum and waiting for an outcome. This system, while offering lifesaving support, is inadequate, providing only \$35.70 a day to cover rent and food for single adults.⁵ Even this small financial support is well below the poverty line and is not provided in all cases of people receiving SRSS.

The funding of the social support systems that are accessible has also been gutted, from \$139.8 million in 2017-2018 to \$33 million in 2021-2022. During this time the threshold for access and funding has been cut to the point where those receiving SRSS funding, dropped from 13,299 recipients in February 2018 to 1,578 in August 2022.⁶⁷

Once again mutual exclusivity is an issue here too, with refugees, especially those formerly held offshore, often having to choose between SRSS support or the right to work. Like with study and work rights, access to mainstream social support should be provided together.

People on temporary visas are also often excluded from government schemes. This was seen starkly during the COVID-19 pandemic when refugees on temporary visas and people seeking asylum on bridging visas with work rights could not be registered for the JobKeeper Allowance. During this period ASRC and other charities saw significant demand for already stretched

⁵ Asylum Seeker Resource Centre "Cutting the Safety Net" (2019)
<https://asrc.org.au/wp-content/uploads/2013/04/180419-The-ASRC-Report-Cutting-the-Safety-Net.pdf>

⁶ Legal and Constitutional Affairs Committee, Home Affairs Portfolio, "Question on notice no. 99 Portfolio question number: AE18/104" (2018)

⁷The Department of Home Affairs, "The Administration of the Immigration and Citizenship Programs: Tenth edition" (2022)

support services, due to the vacuum left by the government. Just as access to mainstream social services would greatly improve the lives of people seeking asylum, including people seeking asylum in any future social support is important.

Women seeking asylum

Temporary visas hurt all those subjected to them, however, women seeking asylum in Australia face numerous unique challenges due to the choices made by Government. The Jobs and Skills Summits focus on improving pay equity and equal opportunities for women cannot ignore this.

Successive Governments have excluded women from much-needed programs aimed at addressing inequalities, for example, the recent increase to the Child Care Subsidy, excluding those on TPV/SHEV.⁸ Childcare was provided during COVID-19, however, once this support ended ASRC saw a notable decrease in women accessing employment services, showing that women refugees in Australia are often unable to work due to not having accessible childcare.⁹

Furthermore, often family violence victim-survivors and children on bridging visas cannot access women's shelters or other emergency accommodations because they cannot be transitioned into longer-term housing and women's shelter's cannot afford to have them stay. The October 2022-23 budget introduced a very welcome pilot program to assist temporary visa holders who are experiencing family and domestic violence.¹⁰ However, the inherent instability of temporary visas provides leverage that only fosters maltreatment.

Conclusion

People seeking asylum in Australia are ready to work but are denied the ability to rebuild their lives because of the regime the Albanese Government has inherited.

The Albanese Government both publicly and through the ALP 2021 National Platform has committed to making these much-needed reforms. This includes providing work rights to all; refunding federal legal assistance; and reintroducing the 90-day rule into the Migration Act.¹¹

People seeking asylum are currently facing a rigged system, stuck on visas never designed for the current situation and denied basic human rights. This not only affects them, their families, and their communities, but it also impacts outcomes and reduces the chance that they will receive assistance and a just outcome. The Jobs and Skill Summit has highlighted the need for people who want to work and build a life in the community. Both of these issues can be addressed by providing people seeking asylum an ongoing right to work, study and access mainstream social support.

⁸ Treasury "Budget Paper No. 2" (2022-23) (October 2022)

⁹ Flinders University and the University of Adelaide "Pathways to employment for social inclusion, health & wellbeing for women from refugee backgrounds" (2022)

¹⁰ Treasury "Budget Paper No. 2" (2022-23) (October 2022)

¹¹ Australian Labor Party "Labor's National Platform" (2021) <https://www.alp.org.au/about/national-platform>