
An Adequate Safety Net for People Seeking Asylum JRS Australia Background Brief June 2019

Overview:

There are more than 50,000 children, women, and men seeking asylum in Australia and living in the Australian community.¹ These include people in three broad groups, namely:

1. those who came to Australia on valid visas and then subsequently applied for protection onshore (so called 'plane arrivals').
2. those who came to Australia without valid visas before and up to June 2013 (so called 'maritime arrivals' or IMAs) and applied for protection onshore.
3. those who have been medically evacuated to Australia from Manus Island and Nauru.

The majority of these individuals and families are on some form of Bridging Visa (BV). Depending on a whole range of factors - mode and date of arrival, what stage of the refugee status determination (RSD) process an individual is at, whether they have been able to access community support to enable them to navigate the bureaucracy – these visas may or may not provide work or study rights and may or may not be renewed in a timely fashion.

Access to Medicare is generally attached to the grant of a BV. In a large number of cases, especially for those who arrived by boat, there are significant delays in the renewal of BVs because the Minister has to personally 'lift a bar' or approve their grant. These delays can mean that those who are employed can lose jobs, and those who require regular or urgent medical attention cannot see doctors or afford medications.

People seeking asylum who have work rights on their BVs can find it much harder to find employment than the average migrant or Australian. There are a range of reasons for this including the challenges of dealing with years of compounded trauma from persecution, dislocation from family and time in detention centres; serious physical health illnesses; employers not recognising short-term BVs; lack of English language fluency or basic literacy; non-recognition of previous qualifications; lack of local experience; and the absence of community connections or networks.

People seeking asylum who cannot find work have not been entitled to any form of social security support under Australian law since 1991.² Instead, they can be recipients of the Status Resolution Support Service (SRSS), a discretionary government-funded program that provides a small fortnightly payment (89% of the Newstart allowance), limited case work, torture and trauma counselling to all eligible people seeking asylum in Australia.

Government or departmental decisions to provide or withdraw service provision under SRSS are non-reviewable at independent administrative tribunals.

¹ See Appendix for a more detailed breakdown of numbers.

² http://rightnow.org.au/opinion-3/planned-destitution-people-seeking-asylum-act-grace/#disqus_thread

Changes to the SRSS program

Context

Since August 2017, the Australian government has been restricting eligibility for access to SRSS. People who are longer deemed eligible ('excluded') include those studying full time (16 hours per week or more), people on substantive visas (eg. Partner or student visas) who have subsequently applied for protection, and people who have transferred more than \$1000 to or from domestic or overseas bank account in a 12-month period.

Since April/May 2018, the government has been progressively reassessing all those on the program for 'job readiness' and expecting those found to be job ready to find employment within 28 days.

The government has made no public comment on the reasons or intentions behind the policy. The Minister for Home Affairs has previously stated that SRSS is not a welfare program and that those who can work are expected to do so. There is also limited transparency about the criteria for work readiness, inconsistency in the way eligibility is applied and no opportunity to formally review a final assessment.

Numbers

Although the Department of Home Affairs proclaims that SRSS "delivers a flexible approach for needs-based support services," the statistics point to a prevailing trend: to reduce the program's costs by shrinking its size.

- According to the Refugee Council of Australia's (RCOA) 2019 – 2020 budget analysis, there has been a cut in allocations for 'asylum seeker assistance' from \$139.8 million to \$52.6 million in 2019 – 2020. This is a 62% budget cut.³
- Similarly there has been a significant reduction in the number of people on SRSS. In February 2018, there were 13,299 people on the program. In April 2019, there were a mere 5,888 remaining on it.⁴
- At least 1,000 of these people have been cut off SRSS for 'job readiness' reasons, with further cuts on this basis anticipated. A further 6,411 have lost support either because their claims have been rejected twice or because they have obtained protection visas.
- Although we do not have exact figures, the majority of people on SRSS (and therefore who have been cut off) reside in NSW and Victoria.
- We also know that there have been close to 50,000 people arriving by plane have applied for asylum in the last two years. The majority are not engaged in the SRSS program, but those who have attempted to apply have been met with rejection by contracted providers or the Department.

³ <https://www.refugeecouncil.org.au/federal-budget-summary/>

⁴ Meetings with DHA officials.

Concerns

- Cohorts of people who would be considered vulnerable and far from work ready in any other context are being cut off or excluded from SRSS. These include:
 - People over the age of 60;
 - Families with school aged children (including if one parent is sick), and pregnant women;
 - People with literacy issues and undiagnosed mental illnesses;
 - Women survivors of domestic violence who may be ineligible because they are on other temporary visas or have transferred money overseas.
- The findings of a November 2018 civil society report entitled *An Unnecessary Penalty* based on a survey of 24 organisations representing 19,100 people seeking asylum highlight the negative effects of these cuts:⁵
 - Almost four in five (79%) people seeking asylum in our caseloads are at risk of homelessness and destitution if they lose support;
 - Only 8% of our clients are working full-time. 69% have not been able to find employment or are not in the labour force due to care requirements, old age, or illness;
 - 80% of people are either not job ready (50%) or only partially job ready (30%).
- The timeframes in which people are expected to find employment and the support given to people expected to find work are manifestly inadequate.
 - 28 days is not long enough for the average person to find any form of employment, let alone a safe and sustainable job. If they were able to find a job within 28 days, it is unlikely that the person relying on SRSS in the first place.
 - The support given to those who are exited from SRSS via Job Active amounts access to a computer at a local Job Active centre.
- On the ground, the challenges are getting more complex and unmanageable.
 - Growing numbers of people are couch surfing, living in insecure and sometimes dodgy share-house arrangements, sleeping in cars, or in parks.
 - A growing number of individuals and families struggle to put two meals on the table each day.
 - JRS Australia has seen a 60% increase in the use of our foodbank between February 2018 and 2019 and is now supporting 286 individuals and families with weekly financial assistance to pay rent, buy food, travel on public transport, and buy warm clothing.
 - JRS Australia caseworkers are dealing with much more complex situations than more – eg. Families at risk of homelessness in which one parent has a diagnosed physical or mental illness.
 - A growing breakdown of trust between people affected and local civil society, healthcare, law and order, and federal authorities.
 - Many people are accepting unsafe, exploitative jobs, earning below the minimum wage, experiencing wage theft, and working on dangerous work sites.
 - People are also routinely threatened by employers with being reported to DHA if they raise concerns about work conditions.

⁵ <https://www.refugeecouncil.org.au/srss-economic-penalty/>

- This is a cost-shifting exercise
 - Although the federal government has made up to \$87.2 million in savings between 2017-2018 and 2019-2020 by slashing 'asylum seeker assistance' budgets, these cuts are generating negative financial and social externalities.
 - *An Unnecessary Penalty* showed that the changes to SRSS could create an \$80 million to \$120 million per annum increase in costs for state and local governments in order for them to meet current service demands and cope with the increased volume and complexity of need among people seeking asylum.
 - These costs will manifest in a higher volume of ambulance call outs and emergency ward presentations, and increased demand for beds in refuges.

Assistance for people seeking asylum who are 'post-review' and who are transferred from Manus Island and Nauru

It is worth noting that a growing number of people seeking asylum in the Australian community have had their protection claims rejected by DHA, by the Migration and Refugee Division (MRD) of the Administrative Appeals Tribunal (AAT), or by a limited review mechanism known as the Immigration Assessment Authority (IAA).

Once this has happened, the government effectively treats individuals and families as if they are no longer owed protection and therefore expected to depart the country. There are a number of key problems with this logic.

- The majority of applicants choose to exercise their right to judicial review of their protection applications. This entails further submissions, and hearings at up to three levels of courts.
- Due to the backlog of applications at the courts, the waiting period for the hearings now extends to over 2.5 years.
- A further cohort of people are waiting for an application for ministerial intervention (MI) into their matters to be assessed.
- A separate cohort have no legal or administrative process afoot but may not believe they will be safe if returned and therefore will not depart voluntarily. Key source countries such as Iran do not accept involuntarily returnees, in effect leaving those in this cohort in limbo for years.

In practice, the majority these children, women and men do not have access to SRSS, Bridging Visas, Medicare, pharmaceutical benefits, or work rights. Or only have access to these rights and services intermittently.

There are at least 6,505 boat arrivals in this situation at present, with the numbers in that cohort likely to jump to approximately 9,000 if current acceptance/rejection rates continue. The numbers of plane arrivals in this cohort are likely to be a lot higher.⁶ The concerns we have about this group are similar to those being cut off SRSS with added complexities pertaining to mental health, and circumstances of endless limbo.

Key Asks:

⁶ See JRS Australia Background Brief on 'A Fair Process'

1. The Australian government should ensure that all people seeking asylum in the country who are unable to work for any reasons including health problems, low levels of literacy, caring responsibilities are given access to SRSS.
 - a. The Australian government should exclude particularly vulnerable groups, as understood in mainstream welfare and disability sectors, from changes to SRSS.
 - b. The Australian government consult with civil society groups and develop fair and transparent criteria for SRSS with official review mechanisms for people who are cut off or excluded.
 - c. The Australian government should extend the transition-out time for those found to be job ready from 28 days to 90 days and expand access to employment support via programs such as JRS Australia's Empowered to Work.
2. The Australian government should ensure that all people seeking asylum in the Australian community have the right to work, the right to study, the right to healthcare via Medicare, and the Pharmaceutical Benefits Scheme (PBS) regardless of status or place in the RSD process.

Appendix:

A breakdown of the latest available Department of Home Affairs (DHA) statistics⁷ reveals the following:

Plane arrivals:

- There were 27,931 applications for onshore in 2017-2018, and a further 18,416 applications for onshore asylum this year, amounting to a total of 46,347 onshore protection applications between June 2017 and April 2019.
- Of this number, 1,425 applicants were granted protection visas in 2017-2018 and a further 963 were granted protection visas in 2018 – 2019, amounting to a total of 2,388 protection visas granted between June 2017 and April 2019.
- This amounts to a 5.1% protection visa grant rate amongst this cohort.

Boat arrivals:

- There are 30,970 people who came by boat predominantly before and up to June 2013 and subsequently applied for protection onshore.
- 21,592 people have been processed, of which 15,087 were found to be owed protection and given Temporary Protection Visas (TPVs) or Safe Haven Enterprise Visas (SHEVs). A further 6,505 people were found not to be refugees and are at various stages of review.
- This amounts to a grant rate of 69.7% protection visa grant rate amongst this cohort.

People transferred from Manus Island and Nauru:

⁷ <https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live/humanitarian-program>

- As of 18 February 2019, 1,246 people were transferred to Australia for medical reasons, of which 953 are still in Australia.
- Of this group, 403 people are in community detention, 39 are in detention centres onshore, and 149 are on Bridging Visas (Final Departure E). These numbers do not include family members of people requiring treatment.