



End Child Detention Coalition Submission to the ALP National Platform Consultation Draft May 2018

Who we are

The End Child Detention Coalition is working to ensure children are never placed in an immigration detention facility on Australian territory.

Working together since 2012, the End Child Detention Coalition has 26 member organisations, with a total of 170 staff, around 1,100 volunteers and 150,000 supporters across all States and Territories of Australia.

Our members represent a diverse cross section of the Australian community. Our membership includes various faith-based and community organisations and peak bodies from several sectors including refugee rights, people with disabilities, and social services.

Collectively, these organisations possess a wealth of experience in policy and advocacy, as well as years of experience working effectively together. We advocate for the release of children from immigration detention believing that every child, no matter what their background, deserves freedom and to have the opportunity to learn, be healthy and grow up in a safe environment. See a full membership list at www.endchilddetentionoz.com

“Labor supports the UN Convention on the Rights of the Child. Accordingly, Labor’s humane and risk based immigration detention policies and practices will include a commitment to ensure that after the necessary health, identity and security checks every humanly practical effort will be taken to remove children and their families from immigration detention centres into alternative suitable arrangements...”

Australian Labor Party (ALP) National Platform and Constitution 2015 (Page 159, section 238)
National Platform Consultation Draft 2018 (Page 166, Section 248)

“Labor will legislate to enshrine our international obligations into Australian domestic law...”

Australian Labor Party (ALP) National Platform and Constitution 2015 (Page 166, section 295)
National Platform Consultation Draft 2018 (Page 141, Section 218)

“Labor will develop a national approach to children and the law, which will recognise the best interests of the child as a primary consideration...”

Australian Labor Party (ALP) National Platform and Constitution 2015 (Page 154, section 191)
National Platform Consultation Draft 2018 (Page 137, Section 175)

1. Introduction

The End Child Detention Coalition welcomes the opportunity to consult on the Australian Labor Party's (ALP) Draft National Platform. We commend the Australian Labor Party for its ongoing commitment towards a sustainable solution that will protect children from immigration detention as is reflected in the 2018 ALP National Platform Consultation Draft. We acknowledge that the proposed 2018 platform maintains commitments to this effect from the 2015 Policy Platform and Constitution.

Immigration detention of children is an expensive policy that causes unnecessary suffering and harm. Detention has a profound impact on children's health and development.¹ Detained children experience high rates of depression, anxiety and post-traumatic stress disorder: insomnia, nightmares and withdrawal are common.² Children in detention often feel hopeless and dejected, leading a high proportion to self-harm and attempt suicide.³ Even very short periods of detention can undermine children's psychological and physical well-being and compromise cognitive development.⁴ The impacts can last a lifetime.⁵

2. Benefits of alternative suitable arrangements

The End Child Detention Coalition commends the ALP National Platform Consultation Draft 2018⁶ for its provision that "every humanly practical effort will be taken to remove children and their families from immigration detention centres into alternative suitable arrangements".

The ALP's position reflects a well-established practice on Australian mainland – where the number of children held in detention facilities has been reduced to a minimal level by establishing alternative suitable arrangements ("alternatives"). These well-established programs achieve government objectives while saving money and protecting children's health and wellbeing.

Alternatives are already being widely used. As of 28 February 2018, 3,204 children were living in the Australian community with an unresolved migration matter while only 5 children were in detention facilities. This means 99.9% of children were being managed in a community setting rather than waiting in detention. This has been regular practice for many years now.

Under the *Migration Act*, the Minister for Immigration and Border Protection has a non-compellable, non-delegable public interest power to specify alternative residence arrangements for people in immigration detention. These 'residence determination' powers are commonly referred to as 'community detention'. Community detention enables people to live in a community setting without being accompanied or restrained by an immigration officer. It is primarily used for unaccompanied minors, families and vulnerable groups, such as those with a serious illness.

¹ Mares, S., et al. (2002). "Seeking refuge, losing hope: Parents and children in immigration detention." *Australasian Psychiatry* 10(2): 91-96; Rowcliffe, C., et al. (2016). "The impact of detention on children and adolescents." *Journal of Paediatrics and Child Health* 52(9): 912-913.

² Mares, S. and J. Jureidini (2004). "Psychiatric assessment of children and families in immigration detention - Clinical, administrative and ethical issues." *Australian and New Zealand Journal of Public Health* 28(6): 520-526.

³ Lorek, A., et al. (2009). "The mental and physical health difficulties of children held within a British immigration detention center: A pilot study." *Child Abuse & Neglect* 33(9): 573-585.

⁴ Cleveland, J. (2013). "Psychological harm and the case for alternatives." *Forced Migration Review* (44): 7-8.

⁵ Dudley, M., et al. (2012). "Children and young people in immigration detention." *Current Opinion in Psychiatry* 25(4): 285-292.

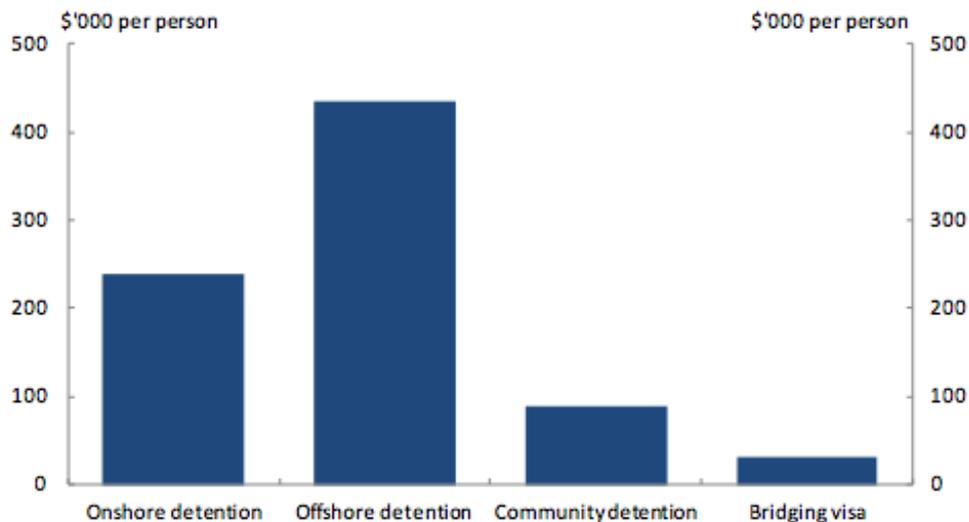
⁶ ALP National Platform Consultation Draft Page 166, Section 248

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Persons released into community detention still have some restrictions on their movement and are not permitted to work. They must live at an address specified by the Minister for Immigration. They are also subject to curfews and other supervision and reporting arrangements. However, community detention mitigates many of the negative impacts of detention in a closed facility by allowing people to live in a more humane setting, in which they maintain a degree of independence and have greater access to support services.

The National Commission of Audit found 'community detention' is 60% cheaper than immigration detention.⁷ Data provided to the audit by the Department of Finance show that onshore detention cost \$655 per person per day, while 'community detention' cost \$247 per person per day. These data are represented in the chart below, which shows the average annual costs associated with different forms of immigration detention (onshore and offshore) and of alternatives (community detention and bridging visa).

Chart 10.14.1: Relative cost per person for 12 months in detention, 2013



Source: Department of Finance.

Source: National Commission of Audit (2014) *Towards Responsible Government: Appendix Volume 2* p.113

Community detention has consistently been estimated to be 60% cheaper than detention in a facility over many years in Australia. For example, in FY 2005/06, immigration detention cost \$339 per person per day, while community detention cost \$124 per person per day. This is also consistent with data from multiple governments around the world that shows immigration detention is significantly more expensive to operate than alternatives.⁸

⁷ National Commission of Audit (2014) *Towards Responsible Government: Appendix Volume 2*. Canberra: Commonwealth of Australia p.113 http://www.ncoa.gov.au/report/docs/appendix_volume%202.pdf

⁸ Edwards, A. (201). *Back to basics: The right to liberty and security of person and 'alternatives to detention' of asylum-seekers, stateless persons, and other migrants*. Geneva, UNHCR. <http://www.refworld.org/docid/4dc935fd2.html> ; Sampson, R., et al. (2015). *There are alternatives: A handbook for preventing unnecessary immigration detention* (Revised). Melbourne, International Detention Coalition. <http://idcoalition.org/publication/there-are-alternatives-revised-edition/>

3. Compliance with international obligations

The End Child Detention Coalition commends the ALP for its support of the UN Convention on the Rights of the Child (CRC)⁹. The UN CRC General Comments on Children in the Context of International Migration issued in 2017 provided authoritative guidance that immigration detention is a child rights violation, and that the principle of ‘detaining as a last resort’ does not apply to children in the context of migration.

Article 3 of the CRC¹⁰ provides that the best interests of the child is a primary consideration. The Committee on the CRC has consistently and clearly stated¹¹ that a child’s best interests should supersede other considerations of the state, including immigration control. We welcome the commitment in the ALP National Platform Consultation Draft to upholding the best interests of the child¹² and urge the ALP to include children who are asylum seekers, refugees and migrants into mainstream child protection and welfare systems.

We commend the ALP for stipulating that “Labor will legislate to enshrine our international obligations into Australian domestic law”. The End Child Detention Coalition would welcome legal reforms that ensure all children are placed in a suitable alternative to detention program in the community when on Australian territory.

4. Contact

Please do not hesitate to contact us should you wish to find out more. Contact Michelle Ferns Michelle@endchilddetention.org

⁹ ALP National Platform Consultation Draft Page 166, Section 248

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¹⁰ CRC Joint General Comment in Countries of Origin, Transit, Destination and Return as well as the General Comment on the General Principles Regarding the Human Rights of Children in the Context of International Migration http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=7&DocTypeID=11

¹¹ CRC General Comment No. 6, (para. 86) <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

¹² ALP National Platform Consultation Draft Page 137, Section 175

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