

Joint Standing Committee on Migration: Inquiry into migrant settlement outcomes

May 2017



Overview

The Victorian Commission for Children and Young People (the Commission) has been established to promote continuous improvement and innovation in policies and practices relating to the safety and wellbeing of children and young people generally, with a particular focus on vulnerable children and young people.¹

It is through this lens that the Commission provides comment on the term of reference that directs the Committee to 'give particular consideration to social engagement of youth migrants, including involvement of youth migrants in anti-social behaviour such as gang activity, and the adequacy of the Migration Act 1958 character test provisions as a means to address issues arising from this behaviour'. The first section addresses the adequacy of the character test in responding to 'anti-social behaviour' displayed by migrant and refugee children and young people. The second section outlines particular practices and programs that the Commission considers are working well in reducing offending and improving the social engagement of young people, and that may warrant further support and expansion.

Adequacy of the character test

The Commission acknowledges community concerns about a perceived increase in violent crimes, such as aggravated burglaries, robberies and car thefts, being perpetrated by groups of young people from certain migrant or refugee communities. However, information about trends in youth offending in Victoria suggest that amendments to the Migration Act 1958 (Cth) (Migration Act) would not be the most effective response to the problem. Moreover, amending the character test may lead to outcomes that undermine on the rights of children and fail to promote their best interests.

Trends in youth offending in Victoria

The Commission notes evidence before the Joint Standing Committee on Migration's (the Committee) inquiry into migrant settlement outcomes that the vast majority of young offenders are born in Australia. Information provided to the Committee by Victoria's Crime Statistics Agency indicates that low numbers of children and young people born outside of

¹ Section 5 of the *Commission for Children and Young People Act 2012* (Vic) defines vulnerable children or young person as including: a child or young person who is or was in the child protection system; a client of the youth justice system; a child who is receiving or has received services from a registered community service; or whose primary carer is receiving or has received such services; a child who has died of abuse or neglect; or a person under 21 years old who has left or is leaving the care of the Secretary to live independently.

Australia are involved in criminal offending in Victoria (Crime Statistics Agency, 2017). This suggests that amendments to the character test in the Migration Act would have limited, if any, impact on the incidence of youth offending and other anti-social behaviours engaged in by young people.

The Commission also notes that, in Victoria, there has been a clear downward trend in both youth offending and the number of children and young people committing crimes. Data from the Crime Statistics Agency shows that:

- the number of young offenders aged between 10 – 14 decreased by 37.4 per cent from 2006-10 to 2014 -15, and the number of young offenders aged between 15 – 19 has decreased by 0.8 per cent (Crime Statistics Agency, 2016a).
- the proportion of offences committed by 10 – 14 year olds and 15 – 19 year olds fell from 13 to 6 per cent and 24 to 16 per cent respectively (Crime Statistics Agency, 2016b).
- while the proportion of offending accounted for by young offenders has dropped, the proportion of young offenders recorded for multiple incidents has increased. Most notably, 3.8 per cent of young offenders accounted for 28.9 per cent of all offences (Crime Statistics Agency, 2016b).

Data presented by the Victorian Sentencing Advisory Council shows the same trends:

- between 2010 and 2015, there was a significant reduction of approximately 43 per cent, in the number of children sentenced in the Children's Court of Victoria (Sentencing Advisory Council, 2016).²
- between 2010 and 2015, there was a substantial decline of approximately 43 per cent in the number of cases sentenced in the Children's Court (Sentencing Advisory Council, 2016).³
- the average number of charges per case has increased since 2013, which suggests that 'a smaller number of offenders are being sentenced for more offences in the Children's Court of Victoria' (Sentencing Advisory Council, 2016).⁴

² The Children's Court of Victoria has jurisdiction to hear and determine charges against children and young people aged 10 to 18 at the time of committing the alleged offence.

³ A case is defined by the Sentencing Advisory Council as 'a collection of one or more proven charges against a person sentenced at the one hearing'.

⁴ This analysis accounts for the introduction in 2013 of the offence of contravene a condition of bail. This offence, which was repealed in respect of children 2016, accounted for a substantial proportion of the increase in charges between

These statistics strongly support the conclusion of Victoria's Sentencing Advisory Council (Sentencing Advisory Council, 2016) that:

Both youth offending and the number of children being sentenced in the Children's Court have declined substantially over the reference period [2010 – 2015]. Further, there is no evidence that sentenced youth offending is becoming more serious overall. While any localised increases in crime by children are of concern to the community, the current evidence suggests a need to implement targeted crime reduction strategies, rather than widespread or systemic reforms.

The Commission agrees with the conclusions of the Sentencing Advisory Council, and urges the Committee to take them into account when considering the need for changes to the Migration Act character test.

Visa cancellation and the rights of the child

As the Committee would be aware, s. 501 of the Migration Act allows the Minister to cancel a person's visa if the Minister is satisfied they do not pass the character test. Where a person fails the character test because they are in custody as a result of having a substantial criminal record or having committed sexually based offences involving a child, the Minister must cancel their visa.⁵ The Commission understands that departmental policy only permits the visas of individuals under the age of 18 to be cancelled in exceptional circumstances.

In considering whether to expand the application of the character test, the Commission urges the Committee to consider Australia's obligations under the Convention on the Rights of the Child (CRC), which Australia ratified in December 1990. The CRC applies to Australia's treatment of all children and young people, including those who are migrants and refugees. It obliges the Australian Government, among other things, to ensure that:

- the best interests of the child are the primary consideration in all actions concerning children
- the rights of children are respected and they are protected from discrimination
- children receive the protection and care that is necessary for their well-being
- children can express their views about matters affecting them
- that children are not separated from their parents against their will, except in accordance with decisions, made by competent authorities and subject to judicial review, that such a separation is in their best interests.

The Commission considers that expanding the application of the character test may result in outcomes that are not in their best interests, that are discriminatory and may result in them being separated from their parents against their will. Such circumstances may arise, for

⁵ *Migration Act 1958* (Cth), s. 501(3A).

example, where a child or young person has spent some or most of their life in Australia, and are removed to a country where they have limited or no support networks, limited, if any, language skills, and are without the support of their family.

Further, the Commission is extremely concerned that expanding the application of the character test will increase situations in which the Australian Government puts children and young people at risk of serious harm. The Commission is aware of cases of young people facing deportation in countries where they face persecution and violence. This is unacceptable, particularly given Australia's status as a country that has the capacity to support the rehabilitation of children and young people.

Reducing youth offending and promoting social engagement

It is the Commission's view that in order to address offending by children and young people from migrant and refugee backgrounds, governments at every level should examine, support and invest in a range of programs and services that, together, address social exclusion and the underlying causes of offending within each community. Promoting the social engagement of migrant and refugee children and young people involves a range of measures such as engaging them in education and supporting their health, including their mental health. The following section describes some programs that may address youth offending that are operating in Victoria. It also discusses briefly some key aspects of social engagement for children and young people, namely school engagement, youth employment and positive mental health, and notes some current programs addressing those areas.

Programs to respond to youth offending

Youth offending perpetrated by children and young people from migrant and refugee backgrounds is best addressed by providing culturally appropriate services that use intensive case management to divert children and young people from offending behaviour. Children and young people from migrant and refugee communities who are within the youth justice system should also be provided with intensive and comprehensive support.

The Commission suggests that consideration be given to the establishment of a service that integrates elements of the Ucan2 and Youth Justice Social Support Programs (**see Attachment 1**) in the provision of intensive case management. The focus of youth offending prevention programs should be to assist young people who experience marginalisation to build a sense of inclusion and social connection and to support them to re-engage with education, training and employment.

Another positive initiative was the establishment of the Maori and Pacific Island Reference Group Project in 2012. This project emerged from the Larry Osborne Youth Parole Board Scholarship, which was awarded 'to report on developing strategies to better respond to the

high number of Maori and Pacific Island young people in custody and serving community based orders' (Youth Parole Board, 2016). The Project identified that this cohort would benefit from developing a positive cultural identity, by services working holistically and involving of family members, strengthening family relationships and addressing areas associated with Maori and Pacific islander wellbeing (Amato, 2012). A cultural support worker can also assist these young people by providing counselling and mentoring services, and working with community groups to identify connections with appropriate organisations to assist them following their release (Youth Parole Board, 2015).

School engagement

Schools play a vital role in the settlement process for migrants and refugee children and young people. Schools can help students and their families feel like they belong and can make a meaningful contribution to Australian society. Parental involvement in schooling can also assist in bridging the gap in family and cultural values between home and school life, and may ease any intergenerational conflict that may arise between young people and their parents (CMY, 2015). Examples of school programs to support the education of refugee and migrant children and young people are described in **Attachment 2**.

In addition, for a range of reasons, refugee and migrant children and young people may not be engaged in schooling, or may be risk of disengaging. The Commission draws the Committee's attention to the Navigator Program, which aims to support young people aged twelve to seventeen years old who have been disengaged from schooling for more than one term. The Navigator Program works with the student and their support networks to re-engage them back into education.

The capacity of school communities to address the challenges faced by children and young people from refugee and migrant communities can be strengthened through cultural competency training. For example, the *School's In for Refugees* resources can support staff to develop their cultural competence. This resource aims to provide school staff with strategies to help refugee and migrant students to overcome learning difficulties, adjust to a new environment and negotiate challenges as they engage in the schooling system.

The Commission suggests that all school staff be required to undertake cultural competency training to strengthen the capacity of school communities to provide a safe and supportive environment for migrant and refugee students.

Older students and youth employment

Young people who arrive in Australia as teenagers have less time to develop literacy, numeracy and social skills before they must make choices about pursuing employment. In the context of high rates of youth unemployment in Australia, the transition to work for newly arrived young people can be more difficult when some or all of the following factors are present:

- limited English language skills
- prior fragmented education or little to no education
- lack of knowledge about post-compulsory education pathways
- lack of familiarity with employment services and Australian systems for searching for and securing paid employment
- limited resources and cultural competency within the employment services sector
- experiences of racism and discrimination in looking for work and in interview and selection processes (CMY, 2014b).

Young people may have to choose between English language classes and low paid or unskilled employment where they will have limited opportunities to learn English. In addition, newly arrived young people may be disadvantaged in seeking employment due to their lack of family and social networks, and professional networks that they would otherwise have developed through their education, training and previous employment experience (FECCA, 2014). Research has shown that what migrant young people need to achieve employment is an integrated approach that includes the following components:

- intensive case management and personal support
- pre-employment and basic skill training
- careers counselling and pathway planning to ensure informed decision-making
- supported work experience and industry links
- building social networks and social trust
- employment support and liaison to ensure sustainability of employment (CMY, 2014b).

Some programs currently operating in Victoria and providing support to young people from refugee backgrounds who are seeking or entering employment are outlined in **Attachment 3**.

The Commission suggests that adequate resources be provided for culturally appropriate and holistic services that support refugee and migrant young people to gain and maintain employment

Health and mental health

Young people from migrant and refugee backgrounds can experience more complex transitions than other family members, with cultural dislocation being compounded by the challenges of navigating adolescence, negotiating relationships with peers and family, and exploring concepts of independence. However, settlement services have not traditionally had a strong youth focus, despite the particular needs of this group, and such services are not always well-equipped to provide mental health support. In addition, settlement services may not be linked with either generalist youth or mental health services.

Young people from migrant and refugee backgrounds have been found to access mental health services at a lower rate than other Australian born young people (CMY, 2014a). According to a 2014 report by the Centre for Multicultural Youth, the Victorian Transcultural Psychiatry Unit reported that rates of access to Child and Adolescent Mental Health Services in Victoria by young people from migrant and refugee backgrounds are on average only one third of that of the Australian born community.⁶ This accords with research that young people from migrant and refugee backgrounds may be reluctant to seek professional support to deal with psychosocial problems due to a range of individual, cultural and service-related barriers (CMY, 2014a). However, refugee and migrant young people have higher rates of admission to acute inpatient units and have significantly longer periods of admission (CMY, 2014a).

In addition, a review of key internet based youth health websites conducted by the Centre for Multicultural Youth found that such websites rarely acknowledged cultural diversity or different conceptions of mental illness (CMY, 2014a). The MindMatters initiative provides an example of how this need could be addressed (see **Attachment 3**).

The Commission suggests that resources should be provided to establish a mental health service specific to children and young people who are migrants or refugees that can provide specialist services, case management, training and secondary consultation. This service should be available on an in-person basis, and online.

⁶ Per 10,000 of the population.

References

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Attachment 1

Program example - Ucan2 Program

The Ucan2 program supports the social inclusion of newly arrived young people of refugee background aged from 16 to 25 years, and is delivered through a collaborative partnership between Foundation House, the Centre for Multicultural Youth and AMES. The program ensures that participants have access to, and engagement in education, training and employment, mental health and wellbeing support, social connections and networks. The program runs for 16 consecutive weeks and provides English language learning and part-time work experience, in addition to individual case management and psychosocial support. For those young people requiring additional support, there is a 12 month mentoring program following completion of the Ucan2 program (Foundation House, 2017; Settlement Council of Australia, 2017).

Program example - Youth Justice Community Support Program

The Youth Justice Consortium of youth support agencies provides intensive support to young men from culturally and linguistically backgrounds, and in particular those from African backgrounds, both in youth custody centres and upon release. The program helps to reduce social isolation and provide support by helping young people to find housing, enter education and training and/or employment, and attend drug and alcohol treatment services, as well as providing practical support with daily living skills and any other issues. This tailored support aims to reduce the risk of re-offending. The program also contributes to youth justice information sessions to improve the cultural competency of volunteers and professionals working with vulnerable young people from migrant and refugee backgrounds (VicSEG, 2017).

Attachment 2

Program example – the Refugee Education Support Program (RESP)

The RESP aims to improve the educational and wellbeing outcomes of young people from refugee backgrounds in Victorian schools. The program works with schools to identify and implement strategies to support achievement in education and promote wellbeing and engagement in learning through:

- providing training to build the capacity of school staff and outside school hours learning support providers including volunteers
- community engagement and participation strategies which support recently arrived families from refugee backgrounds, and
- developing partnerships with community, business and government organisations (CMY, 2016).

Program example - Learning Beyond the Bell (LBB)

This program supports over 250 homework clubs across Victoria to provide high-quality tuition and learning support to children and young people of migrant and refugee backgrounds by trained volunteer tutors. The clubs support students with literacy and numeracy skills and aims to build confidence and provide a safe place to study.

The clubs offer diverse and innovative programs according to local needs, with a focus on parental involvement, recreation activities, specialist VCE programs and English as an additional language (EAL) (CMY, 2016).

Program example –the River Nile School (RNS)

The River Nile Learning Centre (RNLC) was established in 2006 in response to the African communities' concern that many of their children were falling behind their Australian-born counterparts in mainstream schools. The Centre was founded in partnership with the Western English Language School (WELS) and the Department of Education, and later Mt Alexander Secondary College. The RNLC aims to empower refugee and asylum seeker young women to participate in the community through education and preparation for employment. The RNLC provides programs including the English Foundation Program, a VCE Bridging EAL Program and free childcare, with priority being given to young women who are mothers. The River Nile School will open in February 2017, as a Specialist Independent Senior VCAL School for young women of school age.

Attachment 3

Program example - Sustainable Employment and Economic Development (SEED) Project

The SEED Project was established in 2009 to help young people aged 16 to 25 years living in the City of Moonee Valley to re-engage in employment and training. These young people are disadvantaged, live in public housing and come from refugee backgrounds. Young people undertake a paid placement through flexible work placement options including work experience, traineeships, or are supported to undertake a paid placement through apprenticeships offered through strong linkage with local employers. The project is supported by a range of community agency partners, and its success has led to its expansion to other local government areas (CMY, 2014b; MMVLLEN, 2017).

Program example - the Resource Youth Program

ReSource is a multi-faceted pre-employment program provided by the Ecumenical Migration Centre (EMC). It aims to assist young people living in public housing and who may have a refugee background. The program seeks to overcome barriers to employment, such as unfamiliarity with the education system, through the use of peer education, career counselling and connection with volunteering opportunities.

The program has four elements: employment pathways for refugee youth experiential learning program; a weekly informal job club; community service volunteering program, and the youth voices multimedia arts project (CMY, 2014b).

Attachment 4

Program Example - MindMatters

MindMatters is a mental health initiative which provides professional learning, resources and support to improve the mental health and wellbeing of Australian secondary school students. The resources kit includes booklets and a video, accompanied by access to professional development for school staff. The material highlights that the factors that contribute to an individual's capacity to cope and enhance their resilience are:

- connectedness to school, community, family, faith or subculture
- relationship with a caring adult
- supportive networks, belonging and role-models
- self-esteem
- belief in their own ability to cope
- handling of the demands of school
- sense of control

