

# Children and young people who are not permanent residents of Australia.

Statewide Cultural Engagement Program, Commonwealth Operations, COPL.

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## Purpose

The purpose of this document is to provide specialist practice advice to child protection staff working with children and young people who do not have permanent residency in Australia. This practice advice relates to children and young people seeking asylum, refugees, non-permanent visa holders, New Zealand citizens, Pasifika children and young people, young people with parents on non-permanent visas, student visas, Iranian asylum seekers and other children and young people with refugee-like experiences.

## Background

Forty-nine per cent of Victorian young people or their parents were born overseas. Half of that cohort have arrived within the last five years and have helped Victoria to be one of the most multicultural places in the world. As well as a large refugee and humanitarian assistance program, Victoria also has the highest number of asylum seekers in Australia.

Everyone arriving in Australia requires a valid visa. There are many visas, and each one determines the length of stay in Australia, access to services, ability to work or study here or permanent residency. Visa status can have a significant impact on a child's ability to access services such as the National Disability Insurance Scheme (NDIS), Medicare and other social security entitlements, whether the child is in their parents' care or the Department of Families, Fairness and Housing's (the department) care. Visa status is particularly important if a child or young person is currently in a care placement, is about to age out of the department's care, a care placement is being planned, or a Permanent Care Order is being considered.

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Some visas may also mean that a child or young person cannot stay in Australia, and they may eventually be deported to their country of origin or find themselves living in Australia illegally. Lack of permanent residency can mean that care leavers are particularly vulnerable to homelessness, exploitation, and poverty as they may not be able to access the supports needed to live independently.

Children and young people may be eligible for the following visas:

<b>Context</b>	<b>Visa</b>
Asylum seekers, especially those who arrived in Australia, or surrounding islands, by boat.	<ul style="list-style-type: none"> <li>• Bridging Visas (BVA, BVB, BVC and BE)</li> </ul>
Some refugees and humanitarian entrants, including Afghans and Ukrainians.	<ul style="list-style-type: none"> <li>• Subclass 449, Humanitarian Stay</li> </ul>
New Zealanders who do not have Australian citizenship or permanent residency.  Children and young people who are Māori, Fijian, Tongan, Cook Islanders and Samoan background as well as other Pasifika backgrounds.	<ul style="list-style-type: none"> <li>• Subclass 444 Special Category visa (SCV)</li> <li>• Range of temporary visas such as Bridging visas or Student visas.</li> </ul>
Some Iranian refugees or asylum seekers as there are specific international protocols related to them.	<ul style="list-style-type: none"> <li>• Temporary visas</li> </ul>
Children born in Australia whose parents are on Student Visas or other temporary visas	<ul style="list-style-type: none"> <li>• Subclass 500, Student visa</li> </ul>
Children or young people born overseas but listed as dependants on other provisional/ temporary non-permanent visas	<ul style="list-style-type: none"> <li>• Subclass 309, Partner (Provisional) visa</li> </ul>

## What next?

If you have established that a child or young person is on a visa, please ask for their visa type (also known as visa subclass or number). The child/ young person or their parent may not know their visa type or may not disclose it. You may also be able to determine the child's residency status (i.e., are they a permanent resident of Australia) from the visa number, but it may also prove difficult. You will need to see evidence of the visa but keep in mind that people may fear detention or deportation if they disclose their visa has expired or have overstayed their temporary visa.

## If you need some help:

Please contact the [Statewide Cultural Engagement Program \(CEP\)](#). You can email the program at [cultural.engagement@dhhs.vic.gov.au](mailto:cultural.engagement@dhhs.vic.gov.au). You can also book a virtual information and advice consultation at a time that suits you using the [Cultural Engagement information and advice consult booking system \(click here\)](#). The Cultural Engagement Program (CEP) is part of the department's Child Protection program. we provide consultation, advice, reports, referrals, and direct intervention with children and families from culturally diverse backgrounds involved with Child Protection.

The CEP can help you find or establish visa details. CEP is physically located in Dandenong and Footscray offices only but delivers services across the state. The [Cultural Diversity and Engagement SharePoint](#) site has many helpful resources and information about working with culturally diverse families.

## What are the options for children in care who are not on permanent visas?

- The Cultural Engagement Program (CEP) can apply for a new Resolution of Status visa (RoS 851) for young people in care. This visa is for children and young people who may currently be on a Temporary Protection Visa (TPV 785) or on a Safe Haven Enterprise Visa (SHEV 790).
- If a child is ineligible for the Resolution of Status visa, an application can be made by the CEP to the Department of Home Affairs for a Vulnerable Child visa (subclass 802). The paper application must be lodged before the child is aged 18. If granted, this visa gives permanent residency as both a child and an adult, as well as entitlement to all social security benefits.
- In cases where a child is an asylum seeker who has arrived by boat (described by Home Affairs as an 'illegal/irregular maritime arrival') or other means deemed to be illegal, they may be prohibited from applying for a permanent visa, such as the Resolution of Status visa or the Vulnerable Child visa. However, in these cases, the CEP can help Child Protection with an application to the Minister for Home Affairs for Ministerial Intervention. The granting of a Ministerial Intervention is not guaranteed.
- Application for more permanent visas, such as from a 449 (emergency humanitarian) visa to another more permanent visa. CEP can do this application for you.
- In some circumstances, supported repatriation of the young person to their country of origin. An assessment of family in-country would take place first. CEP can organise this for you.
- General information and advice, consultation, and referral if necessary.

## Frequently asked Questions and common scenarios

### ***If a child is born in Australia does that mean they are automatically an Australian citizen or permanent resident?***

The answer is no, yes, and sometimes, depending on the circumstances!

No, it doesn't. For example, if the child's parents are Indonesian and in Australia on a working holiday visa when their child is born, then the child is immediately on the same visa as their parents, and is an Indonesian citizen.

Yes, it does. If a child is born in Australia to one parent who is an Australian citizen, then the child is automatically an Australian citizen.

It may. For example, if a child was born to parents who were neither permanent residents, nor citizens, but the child was born on or after August 20th, 1986, **and** they weren't Australian citizens at birth **and** they have lived in Australia since their birth, then they acquire Australian citizenship on their 10th birthday, regardless of their parent's migration or citizenship status.

### ***I am working with a young child in foster care who urgently needs NDIS, but we keep getting refused. The child is from overseas but is on a CBSO so why can't we get this?***

It may be that the child is not eligible to access NDIS or other Commonwealth or State-administered social security payments or services due to the child or young person's current visa status.

### ***I am working with a child whose parents are on Student Visas. They have relinquished the child. The child has many health issues and now Child Protection has received a huge bill from the hospital as the child doesn't have Medicare. What do I do?***

Some visas specifically require the person to take out their own health insurance to cover the period while they are in Australia. Student visas are an example of this. The child's parents may not have taken out health insurance cover. Given the child is also considered to be on a Student Visa, the child would not have a Medicare number for the hospital staff to bill against. It is imperative that a Subclass 802 Vulnerable Child visa is considered for this child as a matter of urgency.

### ***The young person I'm working with is a New Zealand citizen. The young person is leaving care soon. I think they will be fine because they are on a 444 visa, and this means they can stay in Australia for as long as they like. Is this right?***

Yes, the young person can stay in Australia indefinitely on the Special Category 444 visa for New Zealand citizens. However, this does not make them a permanent resident of Australia (there may be changes to Commonwealth policy regarding this in 2023). This young person's Leaving Care Plan will need careful consideration. It is highly likely that they will not have access to Centrelink payments, NDIS, public housing, or funded education unless they are moved onto a permanent visa.

Please consider a visa establishing permanent residency **before the young person is eighteen (18)** years old. See the SharePoint information on New Zealand children and young people in our care linked below in 'References'. <https://dhhsvicgovau.sharepoint.com/sites/CulturalDiversity/SitePages/New-Zealand-Citizens--Subclass-444-visa-holders.aspx>

***Is there any way we can find out if a young person's visa has expired?***

Yes. Staff from the Cultural Engagement Program have access to the **Visa Entitlement Verification Online** (VEVO) portal. The VEVO portal can tell you what working and other rights are conferred with a particular visa and the type and expiry date of the person's visa. The CEP or a young person can access VEVO but will require information such as passport details, travel documents or ImmiCard card information.

***Can having a Youth Justice history as a young person impact on them getting a permanent visa?***

Yes. Contact the Cultural Engagement Program for more information about permanency options in these circumstances.

**References and Additional Resources**

**Child Visas (Fact Sheet)** <https://dhhsvicgovau.sharepoint.com/sites/CulturalDiversity/SitePages/Child-Visa.aspx?OR=Teams-HL&CT=1629856556353>

**New Zealand citizens in Australia**

<https://dhhsvicgovau.sharepoint.com/sites/CulturalDiversity/SitePages/New-Zealand-Citizens--Subclass-444-visa-holders.aspx>

To receive this document in another format, phone 1300 555 526, using the National Relay Service 13 36 77 if required, or email the Cultural Engagement Program, <cultural.engagement@dhhs.vic.gov.au >.

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