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Proposed legislation tars all in detention centres with same brush

The release of the Senate Legal and Constitutional Affairs Legislation Committee's report into the *Migration Amendment (Prohibiting Items in Immigration Facilities) Bill 2020* fails to make a case that the proposed amendments to the legislation are necessary, reasonable or proportionate, says the Law Council.

Law Council President, Pauline Wright, said the failure to differentiate between the people in immigration detention generally, and individuals who pose a genuine risk to safety and security, is a major flaw within the legislation.

"While the Law Council supports effective management of safety in immigration detention facilities, claims regarding the impact of changes to the composition of persons within detention centres must be demonstrated and the management of detention centres must occur in accordance with the rule of law," Ms Wright said.

"It is of great concern that the government is proposing a Bill in which all detainees may be prevented from possessing vitally important everyday items because of the criminal activity of a few."

"The Law Council firmly believes that if criminal activity is found to be taking place, then the police should be called, and standard criminal law processes should be followed. This is the normal process across Australian jurisdictions," Ms Wright said.

"Recent reports that a detainee accessed child pornography via his phone is an example of the need for criminal justice process to take place when criminal activity has been discovered."

"This one criminal act does not justify depriving the other thousand or so detainees from having access to a mobile phone."

"The prohibiting of mobile phones or other internet-capable devices will have a direct and adverse effect on the timely and confidential provision of legal information and advice, and the rights of detainees."

"The government must remember that detainees are in administrative, not corrective, detention," Ms Wright said.

ENDS

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