



Australian Government

Australian Law Reform Commission

**Professor Rosalind Croucher AM
President**

Ms Sophie Dunstone
Committee Secretary
Senate Legal and Constitutional Affairs References Committee
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Parliament House
Canberra ACT 2600
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23 March 2016

Dear Ms Dunstone,

Inquiry into the Migration Amendment (Family Violence and Other Measures) Bill 2016

The Australian Law Reform Commission (ALRC) welcomes the opportunity to make a submission to the Committee to inform its consideration of the Migration Amendment (Family Violence and Other Measures) Bill 2016.

One of the objectives of the Bill is to require the assessment and approval of sponsors of applicants for partner visas.

In its 2012 Report 117, *Family Violence and Commonwealth Laws—Improving Legal Frameworks*, the ALRC considered whether the *Migration Act 1958* (Cth) should require the sponsor of a partner visa applicant to be assessed and approved. It considered this issue at [20.72]–[20.79] of the Report. The ALRC noted concerns held by the Department of Immigration and Citizenship that the assessment of sponsors in partner visas could lead to ‘claims that the Australian government is arbitrarily interfering with families, in breach of its international obligations. It could also lead to claims that the Australian government is interfering with relationships between Australians and their overseas partners in a way it would not interfere in a relationship between two Australians’.

The ALRC also noted concerns held by the Law Institute of Victoria regarding procedural fairness, the protection of privacy and the risk of discrimination created by approval requirements.

Other submissions to that Inquiry supported assessment and approval of sponsors of partner visa applicants. However, the ALRC concluded that, because of concerns about Australia’s international obligations, as well as procedural fairness and privacy, sponsorship requirements should not be altered. Instead, the safety of partner visa applicants should be promoted by targeted education and information dissemination.

The ALRC understands that the Migration Amendment (Family Violence and Other Measures) Bill 2016 would amend the *Migration Act* to allow the refusal of a sponsorship application, cancel or bar a family

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sponsor in certain circumstances, impose statutory obligations on approved sponsors and to facilitate the sharing of personal information. The ALRC has not done any work on these matters in recent times and is therefore unable to offer comment on these aspects of the Bill.

Family Violence and Commonwealth Laws—Improving Legal Frameworks is available on the ALRC website at www.alrc.gov.au/publications. We trust this submission is of assistance. If you require any further information, please do not hesitate to contact me on .

Yours sincerely,

Professor Rosalind Croucher AM