



The Ethnic Communities Council of Queensland Ltd

ABN 55 010 151 256

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Submission to the Visa Subclass 457 Integrity Review
Department of Immigration & Citizenship
457IntegrityReview@immi.gov.au

Dear Sir/Madam

This submission is a response by the Ethnic Communities Council of Queensland (ECCQ) to Issue Paper Number 3 of the Subclass 457 Integrity Review, established by the federal Minister for Immigration in April 2008.

ECCQ is a community based peak body in Queensland for multiculturalism, migrant communities and the organisations who work with them.

ECCQ is affiliated with the Federation of Ethnic Community Councils of Australia (FECCA) and supports the submission they have provided to this review.

Please contact Ian Muil, Executive Manager of ECCQ, for further details

Executive Summary

This submission makes the following key points:

- There needs to be greater focus on defining and effectively protecting the rights of migrants and maximising their opportunities to contribute to and participate in the Australian economy and community.
- People residing and working in Australia on subclass 457 visas need to be recognised as migrants, rather than just “visa holders”. A majority of them transfer to permanent residency visas at some stage, and it is a false economy not to invest in providing support for migrants to effectively settle and integrate when they first arrive.
- Regardless of the specific safeguards built into legislation, one of the most effective ways of preventing exploitation is to ensure that new migrants – including their families - are aware of services and support they can access in their community. This can be facilitated by providing greater information to government departments, local government authorities and community agencies regarding the arrival and movement of 457 visa holders.
- The federal government should consider supporting the development, in conjunction with state and local government, of locally based programs designed to welcome people when they arrive in a community. A small amount of the significant revenue the Commonwealth gains from 457 workers could be provided to agencies to enable them to assist new arrivals with basic information and support.
- Specific attention needs to be paid to the needs and skills of secondary 457 visa holders, both to identify any potential problems they are facing before they become serious, and to identify potential contributions they could make in the local labour market and community.
- Migrants on 457 visas provide a significant net revenue gain for Australian governments, even before other economic and social benefits are taken into account through the crucial role they play in alleviating capacity constraints in the Australian labour market. It is in Australia’s long-term economic interest to invest in providing support and assistance to these migrants, rather than treat them as a resource to be exploited for short-term gain.
- The Australian government should give strong consideration to ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, noting the potential benefits not only to the rights of migrants, but to relations with host countries and to international trends in how migrants are treated.

Introduction

This submission predominantly responds to the third and final discussion paper on “integrity and exploitation” issues, although it also touches on some of the matters raised in the preceding discussion papers.

The Ethnic Communities Council of Queensland (ECCQ) is the peak body for migrant communities and organisations who work with people and families with migrants and refugee backgrounds.

The overarching advocacy role which ECCQ fulfils requires regular contact with a wide range of multicultural and migrant advocacy workers, community based service delivery organisations, and people and communities with migrant backgrounds. Issues and concerns relating to the 457 visa are being raised continually in a wide range of contexts. This submission draws on that feedback and consultations.

ECCQ emphasises that expressing concerns regarding the impacts on some individuals and families who are on subclass 457 visas should not in any way be interpreted as expressing any opposition to encouraging people from other countries to work and live in Australia. ECCQ supports policies which provide opportunities for people from other countries to be able to reside and work in Australia, whether it be temporarily or on a permanent basis.

ECCQ acknowledges the statement by the Minister for Immigration, Senator Chris Evans, that “the debate about temporary migration quite frankly is over.”¹ We agree with these comments in the context that they were made; i.e. that there is no longer any doubt that Australia will need large numbers of temporary migrants for the foreseeable future, although this must continue to be a supplement to, rather than a substitute for, a substantial permanent migration and humanitarian program.

Regardless of any other factors, economic and related social justice imperatives mean that Australia will continue to need sizeable numbers of migrants, both permanent and temporary. The challenge (and opportunity) is to make sure that Australia – and also the many source nations - obtain the maximum economic, social and cultural benefits from this situation.

ECCQ believes the policy and community debate needs to focus on defining and effectively protecting the rights of migrants and maximising their opportunities to contribute to and participate in the Australian economy and community. This approach also ensures Australia achieves the full, wide-ranging gains from the positive contributions and potential which those migrants offer. This overarching principle informs the comments which follow.

¹ Senator Chris Evans: Address to Catalyst Forum on Temporary Migration, Sydney, 6 May, 2008. <http://www.minister.immi.gov.au/media/speeches/2008/ce08-06052008.htm> (accessed 3/10/08)

Integrity and Exploitation - Some issues for consideration

The Minister has named this review of the Subclass 457 visa an “integrity review”, and the title of the final discussion paper also reflects the notion of integrity. The term ‘integrity’ is used repeatedly throughout these discussion papers. Exhortations about the need to maintain the “integrity” of the migration system have also been made repeatedly over the last decade or more to justify a wide range of policy and legislative decisions in the migration area.

But despite this term being almost ubiquitous, it is not always clearly defined. There is a risk that the self-evident requirement to protect the ‘integrity of a program’ or the ‘integrity of the system’ can just become a motherhood statement which everyone agrees with, without really clarifying precisely what is being meant by the term, how it is measured or to what ends integrity is being pursued.

‘Integrity’ could be perceived as meaning a need to follow the rules down to the last detail, or it could mean ensuring public confidence in and comfortableness with the migration program, or it could mean delivering the best results for Australia’s economy or employers, or it could mean ensuring the rights of migrant workers and their families are fully protected. Each of these aims has merit, but sometimes one can be pursued at the expense of another.

Whilst there is widespread acknowledgement of the need for large numbers of migrants to fill major gaps in the labour market, this reality and the immediate economic imperatives which drive it should not come at the expense of long-term social and economic aims, and the broader underlying principles which should apply for all forms of migration – permanent or temporary, skilled or unskilled, family, business or humanitarian.

The key starting point whenever the term ‘integrity’ is being used in relation to a migration program should be the fundamental human rights of individual migrants, including their families. People who come to Australia on a Subclass 457 visa – or any other form of visa which gives them residency in our country – should not be expected to explicitly forgo, or be left at significant risk of, having their basic rights compromised.

Given that the primary purpose of the 457 Visa is to fill gaps in the Australian labour market, it is crucial that those rights include labour rights.

As the peak body for migrant communities and the multicultural sector in Queensland, ECCQ liaises regularly with a wide range of migrant communities and organisations across Queensland who work with people of migrant backgrounds. Concerns are regularly raised about the operation of the 457 visa program, particularly in regards to the difficulties faced by some of those who come here on this visa – both primary and secondary visa holders – and their vulnerability to exploitation.

The frequency of these expressions of concern, the wide variety of contexts within which they are raised and the fact that they are reported to ECCQ by agencies and workers across many regional, rural and metropolitan areas all reinforce the need to put more focus on the fundamental rights of the migrants.

However else one wishes to define “integrity” in the context of the 457 Visa or the wider migration program, it can have no real meaning unless recognising and protecting the rights of migrants is a bedrock principle.

Recognising the rights of migrants and the ability for those rights to be effectively protected and enforced is not insisting on abstract principle. It is a key component in ensuring the 457 Visa program provides maximum long-term benefit and minimum long-term cost to Australian society and our economy.

What rights?

It is recognised that the changing nature of international migration and labour markets in the skilled, semi-skilled and even unskilled occupations means that the numbers of people migrating here as temporary residents are likely to remain high.

Many people who initially arrive here as temporary residents go on to be permanent residents. Indeed, the government often quite rightly encourages this move to permanent settlement. The practice of viewing people who come here on subclass 457 visas as “visa holders” rather than “migrants” is a bureaucratic distinction which works against our long-term national interest. Failing to treat them as bona fide members of the community and potential settlers from their first day of arrival in Australia is short-sighted and counter-productive.

Migrants on temporary visas usually have access to fewer entitlements; most notably in the areas of welfare and income support. The term “guest worker” is often loosely applied to any type of visa which gives a person the right to work and live in another country on a temporary basis. This type of visa almost always provides the migrant with fewer entitlements than permanent residents and citizens of the country.²

However, the fact that people migrate here as temporary residents should not mean their basic human rights are any less. As Stefanie Grant has written, “in many situations there is a gap between the rights which migrants enjoy under international law, and the difficulties they experience in the countries where they live, work, and across which they travel.”³

ECCQ believes the Australian government and community should do everything possible to ensure that this gap does not apply to migrants in our country.

*The essential elements of a human rights based approach in relation to migration are the observance of international human rights norms, including equality and non discrimination, standard setting and accountability, the recognition of migrants as subjects and holders of rights, the participation of migrant communities and the integration of a gender, child's rights and ethnic perspective.*⁴

All people residing in Australia should have a common basic set of rights and the ability to have those rights enforced, regardless of what specific visa they may hold at any point in time.

² “Numbers vs Rights: Trade-Offs and Guest Worker Programs”, M. Rubis & P.Martin, IMR Volume 42 Number 1 (Spring 2008), pages 249-265.

³ Stefanie Grant, “International Migration and Human Rights”, A paper prepared for the Policy Analysis and Research Program of the Global Commission on International Migration (GCIM), Geneva. September 2005. Page 1. <<http://www.gcim.org/attachements/TP7.pdf> - accessed 6 October, 2008>

⁴ Stefanie Grant, op cit, page 26.

Australia is not yet a signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, even though that Convention came into force in 2003. ECCQ supports the call made in the submission to this inquiry from FECCA for the Australian government to give urgent consideration to ratifying this Convention. Australia's approaches in migration policy have often been internationally influential, so while no developed nation has yet ratified this Convention, there is great potential for Australia to significantly influence current international approaches towards migrants and migration by doing so.

It is significant that a number of less affluent countries where Australia draws high number of migrants from have signed or ratified this Convention, including some in our region.⁵ There are potential gains in regards to regional relations and the development of more consistent basic human rights standards in the migration field. Ratification by Australia could also provide a competitive advantage against other developed nations in the ever more competitive international market for the skills and inputs which migrants provide.

Specific requirements of the 457 Visa

The discussion paper posits many questions, such as the following:

Is the current Subclass 457 visa suitable for all occupational classifications? Should labour market testing be used in the Subclass 457 program? Is it necessary at all levels of the program? How could it be assessed? Are there alternative ways of ensuring employers recruit local workers first, e.g. a price signal? Should work skills be assessed for visa applicants under the program? If so, by whom and at what stage? Should any such assessments be applied to all skill levels?

Issues relating to migration and cultural and linguistic diversity touch the vast majority of the Australian community in one way or another. Consistent feedback to ECCQ from many people who work in these areas, as well as from many migrants and their communities, indicates a high degree of frustration and confusion about the complexity of the migration laws and the wide array of visa conditions and requirements.

ECCQ is not in a position to give a view on the fine details of every aspect of the 457 Visa or the wider migration program. But as a general principle, we argue that simplicity should be pursued wherever possible, and visa conditions should allow as much flexibility as possible whilst protecting migrants' rights and ensuring the Visa category operates as intended.

A key component of the subclass 457 visa is the recognition that, when it operates as intended, employers will only use it when they are unable to find locally based people to fill job vacancies. As long as the pay rates and other obligations on employer sponsors continue to mean that they will clearly face greater costs applying for workers through a 457 visa than they would if they could find suitable locally based employees, it should really be a matter for the employer to ensure the people they hire have appropriate skills for the job which is vacant. Putting in place

⁵ As at 1 October 2008, source nations in the Asian region who have ratified the Convention included the Philippines, Timor-Leste and Turkey. The Convention has also been signed but not yet ratified by Indonesia, Cambodia and Bangladesh. See <http://www2.ohchr.org/english/bodies/ratification/13.htm>, accessed 6 October 2008.

extra hurdles such as skills assessments or English language testing increases delay and costs which can reduce opportunities for migrants.

The basic labour rights of migrants who enter Australia on a 457 visa should be the same as any other worker. Australia is already an enormously culturally and linguistically diverse society, and employers must fulfil their legal and moral obligations to all their workers – whether it be workplace health and safety laws, other workplace laws and regulations, prescribed rates of pay and non-coercive relationships - regardless of whether they have just arrived on a 457 visa, or a worker who is already an Australian resident.

What training obligations, if any, should be required of employers under the 457 Program? Should accredited employers be given freer access to the Subclass 457 program? If so, what benefits should accompany accreditation of employers under the program?

Migrants employed on a 457 Visa should have the same access to training opportunities as would be available to any other worker holding the same position. This is not just a matter of ensuring equal rights. It is also a recognition of the mutual benefits of ongoing training and professional development for all workers and for the economy. Many 457 visa holders go on to permanent residency or obtain renewed 457 or other Visas. It is in Australia's interests that the skills of those workers be as developed and up to date as possible.

What should be the basis for accreditation of employers? For example:

- *size*
- *financial viability*
- *history of compliance with immigration laws and regulations*
- *compliance with industrial, OH&S and taxation laws*
- *commitment to training.*

Enabling fast-tracking of applications for 457 visa applicants who are sponsored by employers with a demonstrated record of compliance with immigration and other laws, a commitment to training and financial viability maximises the gains for both migrants and the economy.

Would greater transparency improve the integrity of the program? If so, what form should it take, for example:

- *publishing the names of employers on the internet where those employers have sponsored 5 or more workers on Subclass 457 visas*
- *publishing regional data on the number of Subclass 457 visas granted*
- *notifying State and Territory governments of Subclass 457 visa grants*
- *passing on information on Subclass 457 visa grants to relevant external agencies, e.g. Workplace Ombudsman, Australian Taxation Office and OH&S agencies. Should the Workplace Ombudsman and OH&S agencies be given the details of Subclass 457 visa holders when they arrive in Australia to assist these agencies to monitor compliance with workplace regulations? Should this information also be given to State and Territory governments to assist with planning infrastructure, such as providing local schools with teachers with 'teaching English as a second language' skills?*

The principle of transparency is one that ECCQ supports. The only query we would raise in regards to the above list is the need to be sensitive to the reality that antagonism towards migrant workers is sometimes still displayed by a minority of the Australian community. This hostility can be greater to those on temporary work visas, as the mythology that migrants allegedly ‘take Australian’s jobs’ is still publicly voiced at times⁶. Therefore care might need to be taken in regards to widely publicising the details of employers in some circumstances, as this may facilitate the negative targeting of some migrant workers, families or groups in rare circumstances.

That concern aside, ECCQ believes there is much to gain from collecting and sharing as much data and information as possible about 457 visa grants. One of the issues raised most consistently with ECCQ has been migrants on temporary work visas ‘slipping through the cracks’ and being isolated from community support which could otherwise be provided.

Concerns have also consistently been raised about the inadequacy of local planning and infrastructure to meet the needs of migrants on 457 visas, including their families. This seems at least in part to be due to a lack of data and information sharing about the numbers of people and likely future trends of people coming to particular areas. These concerns are particularly prevalent in regional areas.

As an indication of the significance of this issue in Queensland, a recent report in The Courier-Mail stated that “Queensland’s skills shortage is accelerating alarmingly, with almost 42,000 workers needed urgently to fix the growing crisis stifling the economy” and that “Australian Bureau of Statistics figures show Queensland job vacancy increases are easily outstripping population growth.”⁷

Most of the responses detailed in the article dealt with this as predominantly a training issue, rather than acknowledging that significant levels of migration will also be required. The failure to plan adequately not only means a failure to reduce the capacity constraints of the labour market. It also means extra strain on infrastructure and social services at local level and an increased likelihood that local communities will not be properly prepared for the needs of the new arrivals.

Whilst fluctuations in the economy will cause fluctuations in the overall numbers of migrants seeking to work in Australia, the nature of the capacity constraints in the labour market, including skills and labour shortages, means there is likely to be both a significant need and demand for high number of migrant workers in Australia for the foreseeable future.

ECCQ notes the comments made by the Immigration Minister in his speech to the Catalyst Forum on Temporary Immigration:

One of the first observations I made about the job was when I was asked to approve the annual migration program. That’s as long as our programming goes – one year. What other

⁶ e.g. “They take local jobs”, The Courier-Mail, 19 September 2008, page 9.

⁷ “Queensland skills shortage critical”, The Courier-Mail, 25 August 2008, <http://www.news.com.au/couriermail/story/0,23739,24233857-952,00.html> (accessed 3/10/08)

*organisational system works on the basis of a one year program? That's the extent of it currently. It seems to me we want a much longer term perspective on migration, skills needs, and plan for those skills needs in conjunction with our planning for skills development education in the country*⁸.

The Minister's concerns with the lack of long-term planning are very valid. But the problems that stem from this lack of long-term planning are just as significant, if not more so, in regards to temporary skilled migration. The fact that subclass 457 visas are technically temporary does not mean there are no long-term planning issues involved, particularly given (a) the likelihood there will continue to be very large numbers of people living in Australia on these visas, and (b) a majority of them go on to become permanent residents in the long run.⁹

A report produced by the Local Government Association of Queensland examining skilled migration in regional and rural Queensland highlighted the importance of this issue. While it was focused mostly on ways to improve settlement and integration of people arriving on permanent skilled visas, the issues and solutions it identifies are just as relevant for migrants on subclass 457 visas.

The recommendations of that report included the following:

That the Dept of Immigration & Citizenship (DIAC) and the Queensland State Government develop mechanisms to communicate with Local Government and other relevant agencies in regional and rural communities, particularly to newly settled areas to assist with local and regional planning.

That DIAC provide clarity for non-primary visa holders' options for employment prior to departure and identify recruitment providers who deliver services in rural and remote areas

*That DIAC provide clear communication regarding options for Australian Health Insurance in pre-departure information to prospective skilled migrants and ensure holders of 457 Visas are aware of how to claim health rebates through the taxation system.*¹⁰

ECCQ recommends that DIAC gives strong consideration to applying these recommendations to the subclass 457 visa program.

Long-term planning regarding skills and labour market needs is only one aspect of the picture. Adequate planning is also important to maximise the capacity of local services and infrastructure, address environmental impacts and assist community awareness and acceptance.

⁸ op cit

⁹ Statistics provided by a DIAC officer at a community forum organized by the Multicultural Employment Action Network, held at the Multicultural Development Association in Brisbane on 12 August 2008, indicated that around 65 per cent of 457 visa holders move onto permanent migration visas.

¹⁰ "What Makes a Welcome? Strengthening Queensland's regional rural communities through skilled migration", Local government Association of Queensland, May 2008". page 10.

Economic and demographic realities make it highly probable that a greater and greater proportion of skilled and semi-skilled migrants will come from countries and backgrounds outside the traditional Anglo-Celtic English speaking one. There is still enormous room for improvement in the capacity and competence of community and government services to work effectively in this reality.

There should be proper protection of privacy in regards to information, but subject to this, the more data that can be collected and shared the better. Where possible, this should include information about nationality, language, ethnicity, family size and type, and other relevant information regarding cultural background.

In line with the principle that migrants on 457 visas, including their families, should as much as possible have the same rights as other Australian residents and all legal rights they do have should be enforced in the same way as everyone else in the community, it makes sense for external agencies – particularly workplace related agencies – to have access to all relevant information.

It is neither realistic nor appropriate to expect the Department of Immigration & Citizenship (DIAC) to ensure compliance with every obligation relating to the workplace. Existing agencies which ensure compliance with workplace, taxation and other requirements should play the same role as they do for other Australian residents.

Role of migration agents

ECCQ supports the thrust of the comments made in the submission by FECCA. The legislative prohibition on people providing migration advice unless they are a registered migration agent was put in place to protect people from poor or fraudulent advice, but obviously this can not completely eliminate such occurrences, particularly in regards to agents offshore.

Enabling community based organisations to provide support and information (as opposed to formal migration advice) for migrants would assist in early identification of potential problems that may occur in the area of advice.

Access to Information and Services

ECCQ believes this area is one of the most critical aspects for protecting migrants' rights. As noted above, inadequate knowledge at local level and amongst community agencies and services that migrant workers and families are living in a community is a significant issue. The fact that the migrants have minimal right to access many of these services is also consistently raised as a problem.

Addressing these issues is a key factor in reducing the chances of exploitation and promptly identifying and dealing with it when it does occur. Ensuring that community agencies can make contact with newly arrived migrants on 457 visas – including their families – not only provides simple but key protection against exploitation, it can drastically reduce isolation and significantly improve the ability of the visa holders to participate in general community life and access social supports, as well as increase the benefits to the local community and economy.

The discussion paper poses the following questions under this topic:

How important is access to information about visa holders' rights and obligations pre-arrival in Australia?

- *What can be done to improve potential applicant's understanding of their rights and obligations?*
- *Would increasing awareness about key elements of the program assist in reducing vulnerability?*

What services (if any) should be available to Subclass 457 visa holders and their dependants on arrival in Australia?

Should Subclass 457 visa holders be given more time to locate another sponsor, beyond days, if they decide to change sponsors in Australia?

- *What sort of assistance could they be given to locate another sponsor?*
- *What sort of support, if any, should they be given in this time?*

It is crucial that any person applying for residency in Australia, whether temporary or permanent, has access to the full details of their rights and obligations prior to arrival. Ideally, they should be able to access this prior to applying for a visa. Every effort should be made to ensure this information is available in the person's main language and uses terminology that is easy to understand.

A community multicultural worker in the regional centre of Nambour in south-east Queensland provided this feedback to ECCQ:

Information about workplace rights and information that has legal bearing (such as employment contracts) to be provided in the persons' first language is absolutely essential. Also it is important to provide information about how to become a permanent resident in the future – so that they can prepare for this if this is the person's long term goal.

I think that ... social and settlement support for 457 visa holders cannot be placed on the employers as this can make workers very dependent on the employers and make it even more difficult for them to be able to act against any exploitation. If a person's housing, medical and social support is all through the employer they have too much to lose and do not want to take action for fear of losing everything. I have even spoken to people who have to call me from a friends' house, as their employer provides their accommodation – so they are not able to discuss any issues from their home.¹¹

This comment demonstrates that information about the migrant's rights and obligations should not be limited just to areas regarding immigration laws and regulations attached to the subclass 457 visa. As much as possible, it should include information about all other legal rights and obligations. It should assist them to make fully informed decisions not just about their immediate situation, but the longer-term goals for themselves and their family.

¹¹ Comment from Naomi Wiley, multicultural community worker, Cultural Connections, Nambour Community Centre

Another community development worker from central Queensland has reported widespread confusion about whether people can renew their 457 visa because of their age. When families have settled well into a local regional community, it is an unnecessary waste for them to leave because of lack of information about possible options for them to stay. Criteria for visas should also take into account these sort of factors to ensure sufficient flexibility to enable people who already settled well to be able to stay.

It is also very important that migrants have information about how they can seek support and assistance after arrival. As the comments above indicate, it is neither realistic nor ideal for the employer to provide all of this type of information.

Resources should be provided to ensure that all 457 visas holders,(including secondary visa holders), are able to contact an independent agency in their region to seek information and basic advice about any issues facing them.

This should not be limited to possible problems with their employer or workplace. It is very much in the interest of the local and wider Australian communities that people who come to reside in Australia are not isolated and have as much chance as possible of being able to fully participate in the community where they live.

Some suggestions from multicultural workers in regional Queensland included involving unions in the process

union understanding of cultural diversity can to help break down barriers, provide an opportunity to educate 457 workers about Australian workers entitlements, reduce chances of exploitation in the process of educating workers about their rights and link in multicultural orientation services if they exist

or giving consideration to government negotiating an industry or employer levy, with government also contributing to provide a defined form of settlement/arrival support. Funds could be delivered to agencies supporting working migrants or even a voucher provided to migrant families.

ECCQ believes consideration should be given to the development of locally based programs designed to welcome people when they arrive in a community. One example of a model developed in regional Queensland is the Welcome Program, sponsored by the local government body in the area, the Fraser Coast Regional Council. It has been developed by the local project officer working for the Council through the state government Local Area Multicultural Partnerships (LAMP) program¹².

This type of program is not focused solely or even predominantly on protecting new arrivals against exploitation. It is about engaging them with the community. The same rationale which

¹² The website for the Welcome Program is www.welcomeprogram.com.au. It is still under development at time of writing, but is due to be fully active by the end of October 2008, with a web based interactive database to assist enquiries and people moving into the community or considering a move.

justifies government investment in settlement support services for migrants arriving on permanent visas should apply for those arriving on other visas which provide long-term residency rights.

A good working example of success with engagement creating good outcomes is the local Australian Filipino teachers association and related community embracing workers on 457 visas. There have been a number of examples of visa conversions as many of the people on these visas carry other skill sets. The move to Australian citizenship can contribute to the cultural vibrancy and economic growth of communities. We have already seen tangible benefits on the Fraser coast - Filipinos (management and education backgrounds) now teaching MYOB, even introductory English, and Sri Lankans working in financial services, aged care, new business initiatives, event management etc.¹³

The fact that the 457 visa is a temporary one is insufficient reason for the government to provide no support to assist in settlement and integration. This is particularly so with the largely ignored group of 457 visa holders who reside here on secondary 457 visas. Sponsoring employers focus on meeting their obligations to the employee, but the individual needs of dependants on secondary visas are often ignored.

This not only can impede effective settlement and create major costs and stresses for the migrant family, it can also mean the community fails to benefit from the contribution that people on secondary visas can make, including in the labour market.

As a general rule, the more awareness there is about the key elements of a program, whether it is amongst migrants, employers or the wider community, the more compliance will be improved. There is no doubt that knowing your rights reduces your vulnerability to exploitation. However, another aspect of reducing vulnerability is ensuring that those rights are adequate to prevent exploitation. If a migrant has insufficient rights under the law, it is almost inevitable that some of them will be exploited in ways which are legal but still unacceptable.

One of the key aspects of the current 457 visa requirements which increases the vulnerability of migrants is the short time frame they have to find alternative employment with a new sponsor should problems arise with their original employer. This leaves a migrant in a weak bargaining position. Employers who blatantly breach their obligations under the 457 visa scheme should be penalised, but migrant workers in those situations should be given every assistance and ample time to seek alternative employment without a fear of imminent removal.

The period of time a 457 visa holder has to seek alternative employment with another sponsor should be extended. Existing migrant settlement support agencies and other suitable community based agencies should be also provide assistance in such circumstances under their government funding agreements.

A temporary migrant by definition has fewer rights than a permanent resident or an Australian citizen. Around the world, programs which provide the opportunity for migrant workers to obtain time-limited employment rights will provide fewer rights and entitlements that permanent residents enjoy.

¹³ Comment from Greg McGarvie, Project Officer Cultural Enrichment and Diversity, Local Area Multicultural Partnerships, Fraser Coast Regional Council

This particularly applies to areas such as entitlements to welfare payments and access to government services such as health and education.

However, care must be taken to ensure these rights are not limited beyond what is necessary. The fact that a migrant is on a temporary visa does not mean they should not be entitled to support. Because subclass 457 visas are temporary, the migrants who come to Australia on these visas are not entitled to any form of settlement assistance. Any formal support requirements for the migrants on this visa have been seen to date as the responsibility of the employer sponsoring the visa.

Whilst the employer should certainly be responsible for ensuring the 457 visa holder's workplace rights are met and they have appropriate housing and other fundamentals, it is unrealistic to expect most employers to have the capacity to address some of the other basic settlement needs. A misguided approach has developed which assumes that because 457 visas are temporary, they are not 'settlers' and therefore have no significant settlement needs.

The subclass 457 visa enables a person to live in Australia for four years, which is often extended with a further visa application. In addition, the majority of people who enter on 457 visas end up going on to becoming permanent residents and then citizens.

Minister Chris Evans has said "*I think we've got a sort of 1960s migration structure that is struggling to cope with the demands that are now placed upon it*"¹⁴

Given the need for continuing levels of temporary migration, one aspect where we need to move out of the 1960s is to recognise this reality in the types of support provided to temporary migrants.

As the Minister stated, "*immigration is very much about supplying the nation with the capacities it needs; with the people it needs; with the skills it needs – and that's where the debate is moving*"¹⁵.

Temporary migrants are very much part of that. Failing to assist them with basic settlement support impedes the nation's needs, as well as the migrant's rights.

457 Visa migrants provide significant government revenue

ECCQ does not have the resources to do full economic modelling, but the figures contained in the most recent federal Budget indicate there is a very significant net revenue gain to the Commonwealth and the taxpayer from migrants on 457 visas.

Budget decisions to increase the number of places in the skill stream of the (permanent) migration program were explained as being "intended to help address skilled labour shortages and to help businesses expand, delivering benefits to the Australian economy."

This included a measure for an additional 6,000 skill stream places for 2007-08 "to accommodate the high demand by employers for skilled workers".

¹⁴ Senator Chris Evans: Address to Catalyst Forum on Temporary Migration, Sydney, 6 May, 2008

¹⁵ *ibid*

This measure was estimated to require a net cost of \$99.6 million over four years, but was offset by an increase in Commonwealth revenue of \$188.5 million over four years, including \$74.0 million in GST, providing the Commonwealth and the taxpayer with a net revenue gain even after the GST revenue had been passed on to the state and territory governments.¹⁶

Given that the majority of the costs to the Commonwealth included “the provision of health, education, employment and other services and benefits for the additional permanent migrants”¹⁷, it is reasonable to assume that the vast majority of these costs wouldn’t apply for migrants on subclass 457 visas, as they are not eligible to receive many of these services and benefits.

However, the revenue stream from skilled workers on 457 visas is likely to be just as strong as migrants on permanent skilled visas. In fact, as by definition almost all primary visa holders will be employed, the overall revenue gain could be even greater.

As migrants on 457 visas provide such clear and immediate net economic gains to Australia, there is a strong case that the federal government, and state governments who benefit from the extra GST revenue, should help fund basic assistance to improve the ability of 457 visa migrants to settle and integrate promptly and effectively in their local community.

This type of investment is likely to bear even greater economic, social and cultural fruit for Australia in the medium to long term, particularly for regional and rural areas.

¹⁶ 2008 Federal Budget, Budget Paper number 2, Part 2: Expense measures, Immigration & Citizenship, page 257-258.

¹⁷ Ibid.