

31 October 2016

Department of Immigration and Border Protection

By email: [temporary.parent.visa@border.gov.au](mailto:temporary.parent.visa@border.gov.au)

### **Introducing a temporary visa for parents: DIBP Discussion paper**

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA cautiously supports the Government's announcement of the new temporary sponsored parent visa in Australia, however holds concerns about some aspects of the proposal.

We are concerned that a shift away from permanent parent visas to flexible temporary parent visas will leave many individuals without a social safety net and no access to crucial services. This will put pressure on Australian families and individuals who hold temporary parent visas. It could also create a class of migrants who are not supported to settle in Australia, affecting social cohesion. Empowering immigrants and allowing them the resources and tools to participate in Australian society is critical in fostering their economic and social contributions.

### **Background**

The Department of Immigration and Border Protection advises that there is approximately a 30 year wait before visa grant consideration for Parent (non-contributory) visa applications.<sup>1</sup> There is a delay of up to 50 years for people applying for remaining relative and aged dependent relative visa applications.<sup>2</sup>

<sup>1</sup> DIBP, 'Parent Visa Queue', <https://www.border.gov.au/Trav/Brin/Fami/Capping-and-queuing/Parent-visa-queue> (accessed 18 November 2015).

<sup>2</sup> DIBP, 'Other Family Visa Queue' <https://www.border.gov.au/Trav/Brin/Fami/Capping-and-queuing/Other-family-visa-queue> (accessed 18 November 2015).

The associated costs with the Contributory Parent visas are significantly higher than the ones for non-contributory visas as they are required to pay higher visa application charges and to make a substantially higher contribution to their health and welfare costs. Disadvantaged families, families with relatives overseas who are solely dependent on their support and people with disabilities or other medical conditions who want to bring over their carer find it almost impossible to sponsor their relatives or carers to come to Australia.

The Productivity Commission has found that the Australian community enjoys a number of positive benefits from parent visa holders, including intangible economic benefits, social and cultural benefits and direct economic benefits.<sup>3</sup> FECCA disagrees with the Commission's conclusion that these benefits are largely obtained by the sponsors and visa holders, and not by unrelated members of the Australian community.<sup>4</sup> As discussed in this submission, family migration is integral to successful settlement of migrants in Australia, which contributes to social cohesion and the wellbeing of the whole community. Many parents volunteer at cultural, religious and community events and contribute to maintaining of cultural and linguistic diversity. Parent visa holders are diverse in age, skills, and experience; these individuals contribute to the Australian community in many tangible and intangible ways.

FECCA considers that the newly announced temporary visa for parents provides individuals with a further option when considering migration to Australia to join their children. We are supportive of additional options for family reunion. However, it is important that the introduction of the new temporary visa for parents does not result in the removal or reduction of other (more permanent) parent visas.

### **Importance of family migration**

Family migration allows migrants to maintain family ties and connections. Family reunion is integral for successful settlement, promoting social wellbeing and cohesion. It is also related to core human rights principles around the rights of Australians to live with their family members. Considering the importance of family reunification, Canada extends the parent visa scheme to parents and grandparents of the Canadian citizens and permanent residents.<sup>5</sup>

In its recent report, *Migrant Intake into Australia*, the Productivity Commission said: "While not true of all cultures, after a certain age, parents do not necessarily have day-to-day contact with their children, and nor is this a general expectation by the Australian community".<sup>6</sup> FECCA considers that this statement is misconceived. Family relations and responsibilities towards relatives in need in CALD communities are very often significantly different from what is considered most common in Australia. Many CALD Australians come from collectivistic societies whereby cultural, religious, historical or traditional beliefs and practices require family members to provide social support not only to their close family members but also to their extended family. Given Australia's multicultural character, it is important that policies take into consideration this cultural diversity and different understandings of family and familial relationships. Not being able to fulfil their family responsibilities towards a dependent relative can impact on the general wellbeing of CALD families and can negatively affect social cohesion.

---

<sup>3</sup> Productivity Commission, *Migrant Intake into Australia* (2016), 472 – 476.

<sup>4</sup> Ibid, 477.

<sup>5</sup> See further, Government of Canada, Parent and Grandparent Visa, <http://www.cic.gc.ca/english/visit/supervisa.asp>

<sup>6</sup> Productivity Commission, *Migrant Intake into Australia* (2016), 471.

Migration is a complex policy and cannot be considered without reference to its social benefits to Australian society. Qualitative benefits including the skills, knowledge and experience that migrants can bring to Australia should be considered in addition to quantitative factors when assessing the impact of the country's migrant intake. Immigrants bring creativity, energy, and productivity to our country as well as help drive economic growth and a diverse and dynamic community.

FECCA holds concerns in relation to the 'balance of family' test in current and future policies in relation to parent migration. Cultural norms that impact on bearing the responsibility of elderly parents and other commitments are not considered when applying the balance of family test. This test disadvantages larger families, and do not take into account cultural obligations which determine who in the family is the most appropriate caregiver.<sup>7</sup> Thus, the balance of family test should not apply to parent visa categories, including the temporary visa schemes.

### **Requirements for the new temporary visa for parents**

FECCA considers that the temporary parent visa should not be subject to age limits.

There should not be a waiting period before a parent can reapply for a subsequent visa. There should be a clear onshore pathway to reapply for the visa without having to leave the country to apply for a subsequent visa. This should also be a multiple entry visa allowing the visa holders to travel overseas without any limitations.

FECCA strongly believes that the visa should include work rights. Five years is an extended stay, and visa holders may wish to work to contribute to the family income and the community during this time. A five year visa without any work rights will add further financial strain on the sponsor. These people bring a wealth of knowledge and expertise with them that will ultimately benefit Australian economy. The ability to work will also provide an opportunity for visa holders to engage in the community and address issues of social isolation.

Due to the temporary nature of this visa, this cohort of people will be taxed at a higher rate compared to the permanent residents or the citizens. If work rights are granted under this visa category, FECCA suggests provision of some form of a tax concession for parent migrant visa holders.

FECCA considers that there should not be a limit to the total time a person can stay in Australia on successive parent visas. Additionally, there should be pathways for individuals who are on temporary parent visas to transition to permanent parent visas if they wish to stay in the country to live with or close to their family.

### **Pathways to permanent residence**

FECCA believes that a pathway to permanent residence is crucial in the implementation of the temporary sponsored parent visa. Without this pathway, individuals may find themselves in an ongoing 'limbo' of temporary visas without certainty about their future and without access to vital services.

The existing contributory and non-contributory parent visas should be retained and the fact that people have applied for the permanent contributory or non-contributory parent visas should not be a hindrance to the application of a temporary parent visa.

---

<sup>7</sup> See further: Loretta Baldessar, Cora Vellekoop Baldock and Raelene Wilding, *Families Caring Across Borders: Migration, Ageing and Transnational Caregiving* (2007), 190.

The temporary parent visa should not preclude a visa holder in Australia from applying for permanent residence (or a different kind of temporary visa) if, while they are onshore, they become eligible for another visa.

## **Visa applicants**

FECCA believes that a level of English language proficiency should not be required for individuals to be granted a temporary parent visas. A minimum level of English language should also not be a requirement in order to apply for a subsequent parent visa. These proposals will potentially disadvantage and exclude some people who have much to offer to Australian society but have difficulties achieving English fluency.

If there was a need to allocate priority access to the visa for particular applicants, those who should receive priority access include:

- parents of unaccompanied minors living in Australia;
- parents who are in danger or in need of humanitarian assistance;
- parents and grandparents with children or grandchildren with disability.

FECCA understands that new applicants for this visa will always have to pass a comprehensive health assessment, and that the Department is considering to what extent a person's health status should be a consideration if they apply for subsequent parent visas. FECCA is concerned about what will happen to individuals who are well enough to be granted a temporary parent visa in the first instance, but experience a decline in health and find themselves in a position where they need extra care from their family but are not able to stay in Australia due to restrictions on a subsequent parent visa.

Discontinuing a visa for older people based on their deteriorating health may also have a negative impact on young grandchildren where they have developed a strong bond with the grandparents.

We are concerned about how the new visa will assess parents with disability when they apply for a visa, given the health requirement for migration currently discriminates against people with disability. We suggest that the health requirement reflect a more modern-day understanding of disability, adopting the social model of disability rather than medical model.

## **Sponsors**

Australian citizen sponsors will be given higher priority under the new arrangements. FECCA believes that permanent residents should also be included in this category. This approach would be in line with the requirements for sponsoring a parent on a non-contributory or contributory parent visa, and recognise the contributions made by permanent residents to Australian society.

FECCA considers that there are circumstances where non-citizen Australian sponsors should be given priority, for example:

- parents of unaccompanied minors living in Australia;
- parents who are in danger or in need of humanitarian assistance;
- parents of refugees settled in Australia.

A financial bond is a security to cover costs that may not be covered by an individual. Given that these visa holders are ineligible for social security benefits and other supports FECCA is of the view that this financial bond should be a reasonably small amount.

Internationally, imposition of financial securities or bonds are not viewed favourably as these can be discriminatory towards nationals from developing countries, many of whom may not be able to afford to pay such a substantial amount.<sup>8</sup> If a bond must be applied, it should be in conjunction with other non-financial securities.

If a financial bond is imposed on the sponsor to offset potential future health costs incurred by the visa holder, FECCA believes that the method of payment should be flexible to ensure that families are not precluded from sponsoring a parent on the basis that they have limited financial means and cannot pay a large lump sum up front.

FECCA believes that reasonable limits should be placed on the total liability of sponsors where their parent incurs significant health or aged care costs not be covered by their private health insurance, for example the amount of the bond. While a sponsor will enter into an agreement to cover such costs, FECCA believes that in the event that there are unforeseen circumstances which mean that significant costs are incurred, the sponsor should not be required to cover these. Such a requirement may result in substantial financial hardship for sponsors and their families, and may dissuade some individuals (particularly those with limited financial means) from sponsoring their parents to come to Australia.

In the event that the holder of a parent visa is unable to depart Australia due to illness or accident, the Government should take a compassionate approach. Sponsors and their immediate family should not be required to bear significant health costs, and the parent should have access to another visa that would allow them to stay in Australia and a pathway to residency.

The death or the change of status of the sponsors of other temporary visa categories does not affect the visa status of the person/people who received such sponsorship. Under partner visas, where the sponsor dies before the applicant is granted a permanent visa, the applicant may still be eligible provided certain conditions are satisfied.<sup>9</sup> The same benefit should be afforded to the older parents.

If the sponsor had children before their demise, the grandparents are the most suitable guardians to bring up those children. Uprooting the rest of the family members from the surviving grandchildren will be an unjustifiably harsh policy. As such, in the event of the death of the sponsor, the visa holders must be provided with an opportunity to apply for a more permanent visa to remain in Australia.

If a sponsor dies, FECCA believes that their immediate family should be able to take over the sponsorship to enable the parent to remain in Australia for the term of their current visa. The time following a death is extremely difficult for families, and they should be given time to grieve and carry out any cultural practices after a death in the family. If a parent is required to leave Australia following the death of their sponsor, adequate time should be allowed for these funeral or other practices to take place, and for the parent to seek advice on other alternatives for staying in Australia.

FECCA emphasises that following the death of their sponsor, the parent may be in a vulnerable position. The wellbeing of the parent should be a priority when developing this visa.

There should be an option for parents of minor children to be sponsored on the child's behalf. Sponsorship could be assisted by community organisations, carers, guardians or

---

<sup>8</sup> UK Home Office, *Points-based system: Making Migration work for Britain*, (2006).

<sup>9</sup> Migration Regulations 1994, Schedule 2, 100.221 read with Procedure Advice Manual (PAM3: Sch2Visa100 – Partner), 7.1 – 7.3.

others, and minors should be excluded from any onerous financial obligations. A framework could be developed to enable community groups, religious institutions and other community organisations to sponsor parents of minor children on their behalf, particularly for unaccompanied humanitarian minors who are unable to sponsor parents due to lack of financial capacity. The structure of this framework could be similar to the Community Proposal Pilot (CPP) visa process.

Other avenues that involve a process through which this category of parent visas are facilitated through the international experts such as UNICEF and International Organisation for Migration should be further explored.

FECCA believes that couples should be given the option to lodge a joint-sponsorship of a parent, but this should not be a requirement.

### **Costs**

High entry charges for migrants wanting to live in Australia are inequitable and fundamentally overlook the importance of immigration to Australian society. Families with limited financial means may find it extremely difficult to sponsor their parents to come to Australia if charges are high, which is discriminatory towards these families as it denies them access to a feasible option to reunite with their parents from overseas. FECCA believes that the ability to bring parents to Australia to live or visit for extended periods of time should not be limited to only those who have the financial means to do so.

FECCA believes that refunds should be available for applicants who want to withdraw an existing permanent visa application and apply for the new temporary parent visa. This should include partial refunds where a significant portion of the processing has already occurred.

A suitable level of annual income available to the applicant for their period of time in Australia would be the requirement currently in place for student visas, that is, sufficient to meet living costs while in Australia. The source of income should include any acceptable source, whether from the parent or the sponsor. There should be flexibility for this framework to allow related or unrelated third parties outside of Australia to provide financial sponsorship.

In setting an income level, it is important to note that these applicants may not be able to demonstrate their financial capacity by way of cash deposits or similar financial investments but could be a combination of cash deposits and other assets that can be swiftly liquidated if required.