

# MYAN Australia submission to the Department of Immigration and Border Protection on Visa Simplification

## Response to Policy Consultation Paper

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18 September 2017

## The Multicultural Youth Advocacy Network (Australia)

The Multicultural Youth Advocacy Network (MYAN Australia) is Australia's national peak body representing multicultural youth issues.

MYAN works in partnership with young people, government and non-government agencies at the state/territory and national levels to support a coherent and consistent approach to addressing the particular needs of young people from refugee and migrant backgrounds in policy and service delivery. MYAN has broad national networks across the mainstream youth and broader settlement sectors and supports a national approach to youth settlement through its state and territory partners. MYAN develops resources and tools to support the government and non-government sectors to meet the needs of young people in settlement, including unaccompanied minors. MYAN also works directly with young people to build their leadership and advocacy skills and supports a national Youth Ambassador's Network.

### About this submission

MYAN welcomes the opportunity to contribute to discussion on simplifying Australia's visa system and providing a submission on the Department's Policy Consultation Paper - Visa Simplification: Transforming Australia's Visa System.

This submission provides a national perspective, drawing on MYAN's breadth of experience working with young people from refugee and migrant backgrounds, their communities, and the youth and settlement sectors across Australia. Given the focus of MYAN's work, this submission will respond broadly to the questions raised by the consultation paper with specific reference to young people, their families and communities. Responses to specific questions are noted where applicable.

MYAN are available to discuss this submission in further detail.

## Overview

The scale and complexity of global migration presents a range of new and difficult policy challenges for Australia. These challenges are made more difficult at a time when security seems increasingly fragile. In addition to larger numbers of people choosing to move around the world to pursue education and work, temporarily or permanently, more accessible travel means there has been a dramatic increase in the number of people travelling for pleasure. In contrast to those moving freely around the world, in 2016 more than 65 million people were reported as forcibly displaced worldwide - the highest figure ever recorded.<sup>1</sup> This included 21.3 million refugees, more than 51% of whom were under the age of 18.<sup>2</sup>

Australia has been a welcome host to increasing numbers of temporary and permanent migrants over the last two decades and around one in every five permanent arrivals to Australia each year are aged between 12 and 24 years.<sup>3</sup> Today, one quarter of young Australians share a refugee or migrant background and their specific needs and interests are a particular consideration when exploring changes in the migration policy area.<sup>4</sup>

Young people from refugee and migrant backgrounds are a diverse population group who commonly display immense resilience. They come to Australia through varied pathways and with a range of strengths and capabilities, and are often highly motivated to succeed in education and embrace the opportunities available to them. However, they also face particular challenges in accessing the support and opportunities they need to navigate the demands of building a life in a new country.<sup>5</sup>

During settlement, young people are frequently required to balance a complex range of challenges that are distinct from adults and the challenges faced by their Australian-born peers. The challenges faced by young people navigating life in Australia can be compounded by the development tasks of adolescence and are often exacerbated for young people from humanitarian backgrounds, who may have past experiences of trauma and are typically learning English as an additional language and have limited and/or disrupted education.<sup>6</sup>

The particular needs and experiences of young people within Australia's visa system is a particular concern for MYAN and this submission focuses on the how the proposed reforms may impact upon young people, their families and communities.

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<sup>1</sup> UNHCR. (2016). cited in Department of Immigration and Border Protection (2017). Discussion Paper: Australia's Humanitarian Programme 2017-18. Available at [https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-humanitarian-programme\\_2017-18.pdf](https://www.border.gov.au/ReportsandPublications/Documents/discussion-papers/discussion-paper-humanitarian-programme_2017-18.pdf), p. 3

<sup>2</sup> UNHCR. (2016a). *Global Trends on Forced Displacement in 2015*. Available at <http://www.unhcr.org/576408cd7.pdf>

<sup>3</sup> MYAN. (2017b). *Humanitarian and Migrant Youth Arrivals to Australia July 2015 – June 2016, Information Sheet*. Carlton: Multicultural Youth Advocacy Network.

<sup>4</sup> CMY. (2014a). *CALD Youth Census Report 2014*. Carlton: Centre for Multicultural Youth.

<sup>5</sup> MYAN (2016). *National Youth Settlement Framework*. Carlton: Multicultural Youth Advocacy Network. Available at [www.myan.org.au/our-work-with-the-sector/156/](http://www.myan.org.au/our-work-with-the-sector/156/)

<sup>6</sup> MYAN (2016a). *Young people from refugee and migrant backgrounds: A National Youth Settlement Framework supplementary resource*. Carlton: Multicultural Youth Advocacy Network. Available at [www.myan.org.au/our-work-with-the-sector/156/](http://www.myan.org.au/our-work-with-the-sector/156/)

## Key points

### 1. Simplifying the visa system or enhancing security?

MYAN support the central tenet of the policy consultation paper that Australia’s visa system is complex and can create unnecessary barriers for prospective migrants. The key proposal to reduce the overall number of visas in order to create a simpler system is in principle supported by MYAN. However, some of the main propositions in this consultation paper appear less about making the system simpler and more about strengthening security processes and introducing stricter requirements for becoming a permanent resident, including addressing concerns around access of migrants to Australian service systems and entitlements.

Australia has a well-established and valued migration program that currently works well in striking a balance between both national interest and international responsibility. Central to achieving this balance are two inter-related but essentially separate systems – the visa system, which outlines the length of time, purpose, obligations and entitlements of a visitor and the rigorous assessment and screening processes Australia has in place for screening all new arrivals, temporary and permanent, and for assessing applications for visa renewal and citizenship.

Concerns raised in the consultation paper regarding more “complex risks at the border” relate to Australia’s security assessment and screening processes rather than the number and types of visas Australia offers, or length of stay or entitlements of new arrivals. MYAN do not believe that the introduction of provisional visas or new categories and types of visas should be linked in any way to ensuring better security for the nation, including protecting the community from global terrorism. This is the role for the system of checks and balances that are in place for screening new arrivals and prospective permanent residents and citizens - rather than something new visa types or criteria will address. Issues about how assessment and screening processes ensure the safety and security of the nation should be the focus of a specific consultation with the community about how Australia’s visa services are delivered and the nature of security screening systems and processes. This would include detailed exploration of issues raised for discussion in the current consultation paper about the use of biometrics and private third party operators.

MYAN believe this is a critical delineation and one that the Department should be making in conversations and discussions about migration and security with the Australian public. The continual conflation of national security risks with migration sends a concerning message to the Australian public about certain groups of migrants, including young people and refugees. MYAN are particularly concerned about the impact this has on a sense of welcome and inclusion for young people from refugee and migrant backgrounds in the Australian community. Feelings of exclusion and isolation and experiences of marginalisation and discrimination have a detrimental impact on identity formation and connection to Australia for young people. This is especially so where parents and family, or young people themselves, are excluded from accessing the security and safety they need to become active participants in and contributors to Australian society.<sup>7</sup> The conflation of migration policy with national security has a very real impact on social cohesion and Australian community support for Australia’s migration program.<sup>8</sup>

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<sup>7</sup> CMY (2016). *The people they make us welcome: a sense of belonging for newly arrived young people*. Carlton: Centre for Multicultural Youth.

<sup>8</sup> Markus, A. (2016). *Mapping Social Cohesion: The Scanlon Foundation Surveys, 2016*. Available at [scanlonfoundation.org.au/research/surveys/](http://scanlonfoundation.org.au/research/surveys/)

## 2. Provisional visas

### *Purpose of a provisional visa*

It is unclear from the policy consultation paper exactly how provisional visas will ensure “a visa system that is more responsive to our economic, social and security interests” or help ensure that only those with “a legitimate purpose for coming to Australia...” are allowed entry. MYAN would like to see more detail on how provisional visas would support achievement of these aims.

In the discussion paper, it is noted that “temporary residence is increasingly becoming the first step to living in Australia permanently”, which is recognised to often be of benefit to the prospective permanent resident and in the national interest. While the benefit of the ‘try before you buy’ approach for both Government and some prospective permanent residents may seem appealing, provisional residence is not a realistic option for all entrants. This is particularly the case for humanitarian and family arrivals who may have waited long periods outside of Australia in dangerous conditions without support, and for whom the possibility of return may be unsafe and counter-productive to their integration and successful settlement.

The consultation paper also suggests that the introduction of a period of provisional residence would also address a concern from the Department that permanent residents who have not previously lived in Australia are eligible to receive welfare payments and services on arrival. Similar to the desire to address security concerns, changes to the number and type of visas available is not the remedy for restricting or changing welfare benefits and entitlements linked to certain visas. Despite the complexity of the current system, existing arrangements allow for a level of flexibility to respond to emerging needs when and if visa holders’ circumstances change. For example, young people on Orphan Relative (117) and Remaining Relative (115) visas are granted permanent residency on arrival in Australia, but are subject to a two-year waiting period before being eligible for social security payments.<sup>9</sup> However, if these young people experience a dramatic change in their circumstances there are provisions allowing them to receive basic support and ensuring they avoid destitution as they settle in.

As explored later, the complexity of the current system can make access to supports based on need difficult. However, this example demonstrates how the provision, or not, of welfare payments and services can be negotiated based on need rather than being pre-determined by visa subclass or length of time in Australia. A needs-based approach to the provision of support ensures all members of the Australian community, regardless of their length of time in Australia or visa subclass, can access supports and services to meet their basic needs.

*How would responsibilities and entitlements for different provisional visa holders be determined? How would this information be shared across all levels of government and with service providers and employers?*

MYAN would like to see more detail about proposed conditions for provisional visa holders. Currently, temporary visa holders have different responsibilities and entitlements dependent on their particular circumstances. While visa subclasses can be complex and challenging for service providers, employers and other key stakeholders to understand and negotiate, these currently serve as an important indicator of work and study conditions and eligibility for services and support.

This is because visa subclass often denotes particular circumstances, including vulnerability, which can highlight particular needs and eligibility for services. Simplifying the visa system, and removing the many subclasses, requires careful consideration of how policy and service planning would respond to this change. A whole-of-government approach is needed to ensure that in the absence of visa subclass as an indicator of vulnerability/eligibility for entitlements and supports a clear system for sharing information and assessing needs and eligibility of new arrivals is introduced and tested.

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<sup>9</sup> CMY (2014). *Fact sheet: Young people on Remaining Relative visas (115) and Orphan relative visas (117)*. Carlton: Centre for Multicultural Youth.  
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*How would the introduction of a provisional visa impact on young people?*

For young people, the potential impact of introducing a provisional visa before being eligible for permanent residence and then citizenship may result in young people postponing important educational opportunities that would improve their post-study employment options and long-term economic participation. Placing such barriers in the path of prospective permanent residents and citizens has the potential to place them at a further disadvantage relative to their Australian-born peers. It can also hinder their capacity to build meaningful careers and integrate successfully into Australian society.

**3. Humanitarian visas should not be provisional**

Australia's commitment to resettling refugees and humanitarian migrants is an important reflection of Australia's shared responsibility and obligation to provide protection to those forcibly displaced. Any changes to Australia's visa system must ensure that protection remains the central goal of Australia's humanitarian program.

The range of protections accessible under current visas within the humanitarian stream should be maintained. Further, humanitarian visas should not be made provisional – all refugee and humanitarian entrants found to engage Australia's protection obligations should be offered permanent protection.

Access to security and stability are vital to planning for the future and being able to establish oneself and settle into life in Australia. This can be especially vital for humanitarian entrants who by very definition have been forced to flee their country due to a well-founded fear of persecution, and are likely to have experienced long periods of insecurity and instability with no immediate prospect of safe return.

The current definition of refugee and range of protection obligations, including refugee protection, should be enshrined in legislative instruments to uphold the integrity of this system. Any changes to refugee and humanitarian protections should require an Act of Parliament to be amended.

**4. What criteria will be used to assess suitability for transition from a provisional to a permanent visa?**

*Length of residence requirement*

It is not clear from the policy consultation paper if a set period of provisional residency would be required in order to be eligible for transition to a permanent visa. Given recent proposals regarding changes to eligibility for citizenship however, this seems likely as a potential criterion. If a set period of provisional residency was to be introduced as a criterion for transition to a permanent visa MYAN believe that provisional residency should later be counted towards residency requirements for citizenship.

Application for and approval of a provisional visa requires considerable assessment of the proposed risk and benefit of an individual to Australia. Length of time spent in Australia even as a temporary resident is time spent participating in and contributing to the Australian community. If the intention of the Australian Government is to assess the integration to community of applicants for permanent residence, this assessment is likely to be similar to any assessment of integration carried out for prospective citizens. As such, both provisional/temporary residence and permanent residence should 'count' towards residency requirements for future citizenship.

*'Integration to community test'*

Department briefings about the proposed reforms to the visa system signposted the potential introduction of an 'integration to community test' that would be used to measure provisional migrant's integration in Australia before transitioning them to a permanent visa.

MYAN are concerned about the lack of detail provided in the policy consultation paper about this potential test. In particular, how such a test would assess integration fairly for all prospective citizens and about the reasonableness of such a requirement – given that settlement (or integration) is a unique and complex process that is experienced differently for all new arrivals.

As MYAN recently highlighted in a submission to the [Joint Standing Committee on Migration](#)<sup>10</sup>:

*Australia currently does not have nationally consistent definitions or frameworks for determining what successful settlement (or integration) looks like. The recently released National Settlement Framework identifies the necessity for “a robust evidence base (that) assists in the measurement of settlement outcomes and helps to identify the settlement and mainstream policies and programmes that are working well as well as where improvements can be made” (Australian Government 2016). While the Framework acknowledges that the current evidence base is inadequate, it provides no detail on how settlement outcomes might be measured beyond ‘active community membership’.*

*In the absence of any agreed measures of what successful settlement or integration looks like, or nationally consistent standards or frameworks for collecting data to monitor and measure these, MYAN is concerned about how the Government would assess this new requirement and believe that any proposed measures should be shared with the community for consultation before being implemented.*

Additionally, in a submission on the Department’s discussion paper on [Strengthening the Test for Australian Citizenship](#) MYAN highlighted the need to be cautious when applying any blanket measures or tests of integration to different populations, particularly young people.

*Young people are at a particular life stage that is focused on establishing the foundations for their transition into adulthood, often through study and training. During settlement, young people are often required to balance a complex range of challenges that are distinct from adults and the challenges faced by their Australian-born peers. The challenges faced by young people navigating settlement can be compounded by the development tasks of adolescence and are often exacerbated for young people from humanitarian backgrounds, who may have past experiences of trauma and are typically learning English as an additional language and have limited and/or disrupted education.*

*Given young people’s developmental stage, MYAN is concerned about what an assessment of a prospective citizen’s integration could mean for young people. Any attempt to measure the participation and integration of prospective citizens should be required to take into consideration young peoples’ developmental stage and their unique experiences of settlement, as well as an individual’s circumstances.*

*It would also not be reasonable to measure integration without also taking into consideration the role structural barriers play in inhibiting participation of young people and migrants in Australia. Unfortunately, while most young people have positive experiences and settle well into life in Australia, racism and discrimination continue to persist in our community and young people in particular regularly report such experiences. Australia also currently has high youth unemployment and MYAN continually hear from young people from refugee and migrant backgrounds that they are struggling to find work and transition into the labour market.*

*The idea that some young people may not be able to gain citizenship based on factors beyond their control, such as inability to find meaningful work in a tight job market, is neither fair nor reasonable. In order to ensure any requirements that measure integration of prospective citizens are fair and reasonable, adequate and appropriate measures must also be adopted to directly address barriers to participation for prospective citizens.*

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<sup>10</sup> MYAN (2017). MYAN Submission to the Joint Standing Committee on Migration Inquiry into Migrant Settlement Outcomes. Carlton: Multicultural Youth Advocacy Network. Available from [www.myan.org.au](http://www.myan.org.au).

MYAN would like to see the Australian Government continue to invest in developing an evidence-base for successful settlement for young people, their families and communities. Without a clear evidence-base, we don't believe such measures should be pursued. Changes in this area should focus on strengthening the integration capacity of Australia, continuing to invest in youth settlement services and supports that strengthen young people's integration outcomes, and building a sound evidence base for improving settlement outcomes. This includes using MYAN's *National Youth Settlement Framework* as a key evidence-based tool for strengthening and measuring youth settlement outcomes.<sup>11</sup>

The importance of recognising integration as a two-way process was reiterated in the 2016 Productivity Commission's report into Australia's Migrant Intake.<sup>12</sup> The report highlights that it is not just the skills and efforts of individual migrants that are key to promoting integration, but the societal attitudes and government policies and programs that support settlement and remove barriers to integration.<sup>13</sup> The Australian Government should continue to invest in the settlement or integration capacity of Australia to support successful settlement and ensure this understanding of integration as a two-way process informs all policy, programs and legislation in this area.

MYAN also believe there is a need for initiatives that actively promote the documented benefits of diversity to all of Australia. Conversations about migration, citizenship, settlement outcomes and integration must be conducted in respectful and constructive ways, be evidence-based and include the voices of young people from refugee and migrant backgrounds, their families and communities.

## 5. How would these changes impact on family reunion?

MYAN have [previously raised concerns](#) with the Department that the existing system for supporting family reunion is failing due to: long wait times, prohibitive costs, stringent documentation requirements, inflexible eligibility criteria and low prioritisation.<sup>14</sup> We are particularly concerned about the consequences for young people wishing to reunite with parents. Many young people living in Australia are facing the very real prospect of permanent family separation.

*Family is extremely important to young peoples' health and wellbeing, their capacity to settle well and to become active participants in and contributors to Australian society. Parents are a critical support for young people during their settlement journey and family reunification is one of nine internationally accepted goals for successful settlement of refugees. A lack of family reunion options can have implications for young peoples' physical and mental health and impact on their capacity for a long-term view of settlement in Australia or motivation to build connections to support settlement, including engagement in education, training and employment. In fact, research shows that access to family reunion is an important protective factor and policies that deny or delay access to family reunion for young people from refugee backgrounds have been found to have negative psychosocial, economic and social consequences.*

MYAN are concerned that any proposed solutions for simplifying the visa system may place access to family reunion even further out of reach. A concerted effort should be made to explore options within the visa reform process that address the multiple barriers young people from refugee and migrant backgrounds face in accessing reunion with their parents, especially humanitarian entrants.

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<sup>11</sup> MYAN (2016). *National Youth Settlement Framework*. Carlton: Multicultural Youth Advocacy Network. Available at [www.myan.org.au/our-work-with-the-sector/156/](http://www.myan.org.au/our-work-with-the-sector/156/)

<sup>12</sup> Productivity Commission (2016). *Migrant Intake into Australia*. (Inquiry Report No. 77). Canberra: Commonwealth of Australia.

<sup>13</sup> Ibid.

<sup>14</sup> MYAN (2016b). *MYAN Submission to the Department of Immigration and Border Protection on Introducing a Temporary Parent Visa Response to the Discussion Paper*. Carlton: Multicultural Youth Advocacy Network. Available from [www.myan.org.au](http://www.myan.org.au).

## **6. Migrants offer more than just economic benefits to the nation**

A migrant's contribution to Australia is not only about their economic participation. Examination of migration policy and legal frameworks therefore should not only consider the economic gains and losses of temporary and permanent migration to the Australian community but equally explore the social, civic and cultural contributions migrants and refugees make. There is little exploration in this consultation paper regarding the non-economic impacts and benefits of visa reform for individual migrants and the broader Australian community. MYAN believe further investigation of the non-economic impacts of the proposed changes are necessary.

## **7. Social exclusion has a bigger impact on terrorism than ethnicity and pre-migration experience**

Concerns about terrorism and national security have been raised in relation to visa reforms and in particular the need to tighten eligibility criteria for permanent residence and citizenship in Australia. MYAN questions the introduction of a provisional visa and integration to community test as the most effective mechanisms for ensuring protection of the community from foreign threats. Additional measures to further test or vet potential members of the Australian community through provisional visas and integration to community tests, must weigh any perceived benefits against the very real potential to isolate and exclude particularly vulnerable individuals and to undermine social cohesion and security.

Social cohesion and security may be undermined if large numbers of prospective permanent residents were unable to pass the test and become permanent residents and then citizens over time. This has the potential to undermine social cohesion, and in the process diminish security and stability rather than reaffirming it, by creating a class of people who live permanently in Australia but are never able to become full, recognised members of our community and establish an important connection and sense of belonging in Australia.

Finally, as MYAN have raised with the Department previously, "community cohesion and security can also be undermined by poorly articulated or evidenced policy, and policy messaging, that allows for inaccurate or biased views targeted at minority or marginalised members of our community to gain momentum. Leadership from Government is critical to ensuring awareness of the many benefits of diversity are recognised and that social cohesion is maintained."<sup>15</sup> This is achieved when conversations about migration, settlement (or integration), citizenship and multiculturalism are conducted in respectful and constructive ways; are evidence-based and; include the voices of people from refugee and migrant backgrounds.

## **8. Lack of clarity and detail given the scope of the proposed reforms**

Greater detail regarding the proposed legislative and policy changes that would bring these reforms into effect is required. This would enable greater community input and consultation regarding a process that is proposing to make a significant change to Australia's migration program.

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<sup>15</sup> MYAN (2017a). *MYAN Response to the Australian Government Discussion Paper on Strengthening the Test for Australian Citizenship*. Carlton: Multicultural Youth Advocacy Network. Available from [www.myan.org.au](http://www.myan.org.au).

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