

SUBMISSION TO PRODUCTIVITY COMMISSION
MIGRANT INTAKE INTO AUSTRALIA

AUTHOR

Libby Hogarth
Reg Migration Agent # 9364758
Director



AUSTRALIAN MIGRATION OPTIONS pty ltd
Level 3/345 King William St
Adelaide, SA 5000

TERMS OF REFERENCE

The terms of reference request the Commission to conduct an examination of the scope to use alternative methods for determining immigrant intakes – including through charges – and the effects these would have. The terms of reference direct the commission to examine at least on specific scenario in which entry charges are the primary basis for entering Australia. The commission has been asked to examine the costs and benefits of immigration, look at mechanisms for determining immigration intakes and their impacts with a focus on a particular charging option, and analyse the balance between temporary and permanent migration.

INTRODUCTION

Australian Migration Options Pty Ltd is a Migration Consultancy company based in Adelaide with eleven registered migration agents and three offices in South Australia and offices in Wagga Wagga, Swan Hill and Shepparton. We provide services to a large group of refugee/ protection visa holders who are seeking to sponsor family members to Australia. Libby Hogarth, a registered migration agent, is the Director of the company with over 23 years' experience in the industry.

Our submission focuses on our concerns about the implications of the budget in relation to the huge increase with immigration fees since 2012 and especially those that will again affect extremely vulnerable Australian permanent residents and citizens who were recognised as refugees and either came to Australia on refugee visas or were subsequently granted refugee visas.

Our submission provides anecdotal evidence of how these policies have impacted on Australian permanent residents and citizens with flow on effect to the wider Australian community, service providers and budget implications.

The table attached (Attachment A) shows the increase in fees this cohort of clients has faced since 2012. I have never experienced a price increase like this with any other commodity. Despite the huge increase in fees (100% increase in past 6 months) we have seen no increase in services and in fact the processing service standard has declined.

Our submission provides an alternative option for charges in the family migration stream for those families whose sponsor holds a refugee visa and meets the Immediate Family Migration Regulation

[1.12AA] (1) For these Regulations, a person 'A' is a member of the immediate family of another person 'B' if:

- (a) A is a [spouse](#) or [de facto partner](#) of B; or
- (b) A is a [dependent child](#) of B; or
- (c) A is a [parent](#) of B, and B is not 18 years or more.

As the Issues Paper has noted on page 6, Australia is signatory to various International Conventions and Treaties, a number of which specifically address the rights of family members and children. Australia is a party to seven core international human rights treaties. The right to respect/ protection for the family is contained in articles 23 and 17(1) of the [International Covenant on Civil and Political Rights \(ICCPR\)](#), and article 5 of the [Convention on the Elimination of All Forms of Racial Discrimination \(CERD\)](#), article 16 of the [Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#), article 16 of the [Convention on the Rights of the Child \(CRC\)](#) and article 23 of the [Convention on the Rights of Persons with Disabilities \(CRPD\)](#).¹

OUR SUBMISSION

People of refugee background are often vulnerable however they are also extremely resourceful and often highly skilled and have contributed greatly to Australian society in particular since the influx of refugees following the Second World War. Unfortunately our respective Governments too often link refugee families with “poor, vulnerable and unskilled”.

- MIGRATION REGULATIONS AND POLICIES

In approximately 1998/1999 the Government introduced regulation 1.12AA and provisions that allowed people who were holders of refugee or permanent protection visas to sponsor their families under the refugee program known as “split family” or “immediate family” program. A person who held a permanent protection visa subclass 866 was able to propose (sponsor) their immediate family members under the offshore refugee program visa sub class 202. There was no application fee.

From the outset I was one of only a few advocates that spoke against this program being under the refugee/ humanitarian program and I suggested it be placed in the family stream as a sub category of partner visas. I also suggested that most of these families could afford a small application fee to offset costs but this was strongly opposed by other refugee advocates and even many Immigration staff.

In August 2012 regulations were introduced that prevented anyone who arrived by boat after August 2012, from using the split family visa options. The regulations also introduced the provision that any split family applications had to also meet the refugee or compassionate and compelling circumstances. Unfortunately these regulations were made retrospectively and affected applications that had been lodged in 2009/ 2010 and were still under process. Despite the fact that virtually all cases had strong compelling and compassionate grounds given the situations in their home countries, the majority of applications were refused resulting in all the families having to start again

¹<https://www.ag.gov.au/RightsAndProtections/HumanRights/PublicSectorGuidanceSheets/Pages/Righttorespectforthefamily.aspx>

and lodge visa applications under the Family migration stream – and pay the relevant application fees which at the time were per family not per applicant.

In December 2012 a further regulation was introduced that required all boat arrivals to be Australian citizens before any further processing would occur with their family visa applications. This had a further huge impact on the old applications that had initially been submitted under the split family program – see **Attachment B – Anecdotal evidence**

In July 2013 fees were increased and also a fee per applicant was introduced. This is shown in the Table at Attachment A; this had an enormous impact on families who were paying \$2640 per application and now faced a fee of \$3085 just for their wife and further fees for each child. I note that this is NOT evidenced in the Issues paper at page 9 Table 4 which does not indicate the subsequent charges per child over 18 \$1545 and child under 18 \$770.

During 2013 and 2014 policies also changed in regards to identity documents required which have caused considerable issues especially for Afghan clients.

In January 2015 the fees increased again by 50% to:

Main applicant \$4630, \$2320 for dependents over 18 years and \$1155 for dependents under 18 years

Now in July 2015 the fees are AGAIN increasing by 50% to

Main applicant \$6865; \$3435 for dependents over 18 years and \$1720 for dependents under 18 years

As provided in the table at attachment A, this cohort of clients have been adversely affected by numerous changes to Immigration regulations and policies and fee increases and in the meantime their families have been left in perilous situations in places like Quetta, Pakistan and Syria.

- IMPACT ON THE IMMIGRANTS AND WIDER AUSTRALIAN COMMUNITY.

It is obvious that the changes to regulations and policies and the fee increases, has had an unprecedented impact on families and in particular on the growing number of protection visa holders who were/ are seeking to sponsor their immediate families.

Attachments B and C provide anecdotal evidence of how these policies have impacted on some of the clients of Australian Migration Options. These stories are repeated over and over.

The financial impact is the most obvious to the onlooker, where we see more than a 100% increase in visa applications fees for family members in a period of just 2 years and yet NO increase in service provisions – in fact the provision and quality of services provided by Immigration offices has declined and processing times have stretched from just 4-6 months to finalise a case to now 12 months – 2 years and in too many cases even longer periods.

The impact on the sponsor is noticed by offices like Australian Migration Options and other service providers in settlement areas and in particular mental health areas. Sponsors have become increasingly depressed and frustrated. This has impacted on their ability to sleep and ability to concentrate. There have been workplace accidents, car accidents, and attempted suicides. People have become unemployed and returned to welfare payments because their mental health has declined so much they can no longer work.

I have not seen any research done on this although I am advised there has been some attempts to research the impacts of the temporary visas and denial of family migration which has had similar impacts.

Obviously work place accidents and car accidents impact far more widely to ordinary Australian citizens and employers and the results of such incidents impact on State and Federal Budgets in various areas (mental health resources, Centrelink, Welfare groups, settlement services etc)

PROPOSAL

In recognition of the vulnerability of people from refugee backgrounds, the right for families to live together in a family unit and Australia's Obligations under International conventions and treaties, AMO's suggestion that:

1. **A new visa subclass be allocated under the family migration stream for partner , dependent child and parent visas**, for families where the sponsor is the holder of a refugee or protection visa AND meets the criteria of reg 1.12AA, and has declared the family members in his /her own refugee application AND made the sponsorship application for these family visas within 5 years of the grant of their own visa.
2. **An application fee be charged** for the whole family (regardless of how many dependents) of no more than \$3600 OR an application fee be charged for each applicant but at a far lower price than proposed in the July 2015 changes – no more than \$3085 for the main applicant and no more than \$770 per dependent.

We believe the above suggestion is able to be achieved under the current regulatory framework. We already have differing streams for example under the child visa categories where there is a different visa sub class and decreased fee for orphan children as compared to a dependent child visa application. This reflects the presumed vulnerability of orphan children.

For budgetary purposes Immigration could also consider increasing the visa application charges for business migration applicants and their dependents and also skilled visa applicants and their dependents with the assumption that such families normally have more disposable income at hand and good employment prospects in Australia.

Libby Hogarth
Director, AMO
Reg Migration Agent 9364758

ATTACHMENT A: TABLE OF FEE INCREASES AND REGULATION CHANGES

Date	Application Type	Main Applicant Fee	Dependent OVER 18	Dependent Child UNDER 18	REGULATION/ POLICY CHANGES THAT AFFECTED THIS PARTNER VISA COHORT
2012	"SPLIT FAMILY" Humanitarian	No fee	No fee	No fee	Any person who held a refugee visa AND who had declared their immediate family members on their own refugee application, was eligible to sponsor ("propose") their immediate family members under the humanitarian/ refugee program; regulation changes in August 2012 close this path to boat arrivals and even those who had already lodged applications were affected by the new rules and had to start a new partner visa under the family migration program
Post August 2012	Partner visas	\$2680	No fee	No fee	There was just one application fee regardless of how many family members included in the application
From July 2013	Partner visas	\$3085	\$1545	\$770	On top of the fee changes a new rule was introduced in January 2013 which meant anyone who arrived by boat had to wait until they were Australian citizens before any partner visa processing would continue . This affected applications that were already lodged. Also policy changes for Afghan clients required they provide certain documents that can only be obtained from Kabul meaning that refugee clients in Pakistan were being forced to return to their country of persecution to obtain the required documents.
From January 2015	Partner visas	\$4630	\$2320	\$1155	A 50 % increase in application fees!! ; also for the past 6-8 months we have seen LONG delays with citizenship applications which has caused further delay with partner visas for this cohort.
From July 1st 2015	Partner visas	\$6865	\$3435	\$1720	A further 48% fee rise within 6 months.

ATTACHMENT B: ANECDOTAL EVIDENCE

A typical scenario we see in our office is:

Mohammad fled Pakistan in 2009 and came to Australia via Indonesia. He was granted a permanent protection visa in October 2010. He lodged a split family visa application for his wife and 4 children in January 2011. Many applications at that time were processed within 6-12 months but others simply sat in the pile.

In July 2012 Mohammad was told the rules had changed and it was unlikely now that his family would get a split family visa and he should lodge a partner visa. Mohammad borrowed money and paid the \$2640 fee and started the process again – no processing concessions were given to applicants who had already lodged a split family visa application. Then in January 2013 he was told the application would not be processed until he got citizenship - he was not eligible for citizenship until October 2014.

Finally he gets citizenship but now the Australian embassy in Dubai has brought in new rules about documents and all clients have to obtain attested documents or digital passports from the Ministry of Foreign Affairs in Kabul. The family are refugees in Pakistan – how can they return to Kabul to obtain documents? Our office began an ongoing advocacy and fight with the Australian Immigration Department concerning these requirements.....until today we continue to battle the issues.

Mohammad did not know how to send his sick wife and children back to Kabul to get these documents. Not only did they need to return to Kabul but first they would have to go back to their home village in order to get the original document required. This was impossible. Then tragedy occurred and Mohammad's wife died. SO the whole partner visa application had to be withdrawn otherwise it would be refused.

Four years after his original application was lodged Mohammad was facing starting a whole new process – this time a dependent child visa application. BUT two of his children were now over 18 years old; none of the children could attend proper school because of the security situation in Quetta. So suddenly Mohammad finds his two older children do not meet the criteria of a child visa as Immigration demands that any child over 18 must be in full time study in a course that will lead to a skilled occupation! An impossible situation for children in refugee situations.

To be eligible for a refugee visa the children must cross the Taliban/ Lashge-Jangvi part of Quetta to reach the UNCHR office. No taxi drivers will take them there because of the risks of attack. Mohammad comes to our office and cries.

We are facing this situation in our office week in week out. The mental health issues we are seeing are horrendous. People are finding they can no longer work because they cannot concentrate; they are depressed and in constant anxiety about the situation their families are facing. All the money they have is sent back home to support the family.

And now we are telling them to find thousands and thousands of dollars to lodge a visa application. It is more money than they paid to a people smuggler.

ATTACHMENT B: ANECDOTAL EVIDENCE

In the past three weeks we have had four clients referred by community workers to our AMO Wagga Wagga office; one man was about to face major surgery and the other three were older, illiterate and uneducated men all of whom were on pensions and all of whom had SEVEN children.

The three pensioners had previously applied for their family under the split family provisions but the applications had been refused. One had been given wrong information about whether or not he could apply for his family under the migration program.

The three men on pensions with seven children each had to find over \$15000 immediately for us to be able to pay the immigration fees and lodge the applications before the July 1st 2015 fee increase after which time they would each be paying over \$22,000 just for the Immigration visa application fees.