

Friday, 21 July 2017

SUBMISSION TO SENATE INQUIRY

Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017

SUMMARY

The Brotherhood of St Laurence and Whittlesea Community Connections welcome the opportunity to respond to the Senate Parliamentary Inquiry on Australian Government's [Strengthening the Test for Australian Citizenship](#) legislation. Our organisations are currently partnering to drive better settlement outcomes for the large number of humanitarian entrants establishing themselves in Melbourne's northern fringe.

Our two organisations have considerable experience and knowledge about people settling in Australia. We work with both new migrants and humanitarian entrants to help them integrate and to ensure Australia is able to maximise opportunities created by newly arriving people.

Both organisations have concerns that, far from encouraging better integration and social cohesion, the changes to citizenship requirements have the potential to create alienation and a class of long-term non-citizens who may never qualify for citizenship.

The Brotherhood of St Laurence and Whittlesea Community Connections have made a number of recommendations in response to the proposed changes. They are listed here as well as in context in the document:

Recommendation 1: Exempt stateless people from meeting any additional citizenship requirements.

Recommendation 2: Take into account the time that new arrivals on temporary and provisional visas spend in Australia before becoming permanent residents towards the waiting period for citizenship eligibility. If the changes proceed, introduce appropriate transitional provisions to ensure certainty and fairness for those who are already in Australia.

Recommendation 3: Reinstate permanent residency and citizenship as a pathway for humanitarian migrants currently on Temporary Protection Visas and Safe Haven Enterprise Visas.

Recommendation 4: Fund settlement agencies and community organisations to deliver evidence-informed education programs to strengthen understanding of and commitment to Australian values, in preference to introducing citizenship testing about values.

Recommendation 5: Do not proceed with explicitly testing English language proficiency as part of the citizenship test. If English language testing proceeds, allow oral testing and broaden the proposed exemptions to include:

- a. people with low literacy in their first language and those who have had very limited or significantly disrupted previous education as assessed by Adult Migrant English Program (AMEP) providers

- b. humanitarian entrants who have completed AMEP (and any additional citizenship support course) but are assessed by AMEP providers as not having the current capacity to achieve the required language levels
- c. people who have not been able to study in AMEP before their eligibility for English language support expires
- d. stateless people
- e. children under 18 years.

Recommendation 6: Strengthen the effectiveness of English language assistance for the purpose of greater social and economic participation by:

- a. extending eligibility for enrolment in AMEP from 12 months to two years post-settlement and completion within five years of course commencement, while providing additional hours of language tuition to those who are not sufficiently proficient in English after exhausting the allocated hours
- b. improving flexibility of tuition hours to fit with work commitments and ensuring sufficient transport and child care to overcome initial barriers to participation for humanitarian entrants in particular
- c. working with jobactive providers and their peak bodies to increase referrals to the Skills for Education and Employment program.

Recommendation 7: Permit family groupings to apply for citizenship collectively, with equitable treatment for women and other family members who may be less likely to achieve integration in the early years of resettlement.

Recommendation 8: Specifically recognise integration activities below:

- a. volunteering, including in one's own ethnic community
- b. family and caring responsibilities
- c. addressing barriers such as trauma and health issues.

Recommendation 9: Maintain eligibility to access support through the AMEP Australian citizenship course for applicants with low English literacy levels who have failed the test three times.

Recommendation 10: Allow repeat attempts at the citizenship test. Where an applicant passes one component of the test (e.g. English) and fails another, the pass should be credited and count towards future attempts.

Brotherhood and Whittlesea Community Connections – 100 years of experience

The Brotherhood is an organisation with strong community links that has been working to reduce poverty and exclusion in Australia since the 1930s. Our support of people from migrant and refugee backgrounds—particularly those facing disadvantage—for over 60 years provides us with specialist knowledge of the difference that belonging makes for people arriving in a new country. Our Multicultural Communities Team (formerly the Ecumenical Migration Centre) delivers a broad range of tailored supports to individuals and communities from migrant, refugee and asylum seeking backgrounds. Across the broader organisation, newly arrived people make up a large proportion of participants in our early childhood, youth, training, employment, aged care and disability services.

Whittlesea Community Connections (WCC) is an independent, community-led organisation with robust and longstanding connections in Whittlesea, particularly with newly arrived communities. Our wide-ranging efforts to increase community participation and address disadvantage include: legal, settlement, case work, emergency relief, community transport and projects such as the Whittlesea CALD Communities Family Violence Project. WCC's work is responsive to and driven by the needs of the community and has been part of the community for over 40 years.

Collectively, the Brotherhood and Whittlesea Community Connections bring 100 years of experience working with newly arrived communities. We are committed to strengthening the social, civic and economic inclusion of immigrants seeking to build their future in Australia. Such inclusion is pivotal to engendering a sense of belonging and the embrace of Australian values, laws and beliefs.

Citizenship reforms risk undermining inclusiveness and social cohesion

Australia's migration program is well regarded internationally because of its strong history of inviting all Australians, regardless of background, to build a great future together. In our experience, refugees and other humanitarian entrants are particularly eager to secure Australian citizenship, and take great pride in doing so. Indeed, these groups seek citizenship at a higher rate than other migrants. For people who have suffered persecution, been stateless or been victims of state-sanctioned violence, Australian citizenship is an important milestone in their resettlement journey, symbolising safety, security, confidence to vote freely and the right to participate in civic life. Their experiences mean they deeply value our nation's freedom and democracy and do not take it for granted. This enthusiasm for and commitment to Australia should be actively supported and encouraged.

We are concerned that Australia's inclusiveness and social cohesion will be adversely impacted by proposed changes to the citizenship laws that will effectively exclude significant portions of the resident population from citizenship. Extended alienation from the rights, privileges and belonging that come with citizenship risks increased social fragmentation and disintegration of Australia's largely harmonious social fabric.

The settlement process ought to advance integration by being as welcoming as possible, with migrant support, resettlement and naturalisation to operate within an atmosphere of cooperation. Several proposed citizenship reforms risk undermining this, putting Australia's vibrant cultural diversity, success as an immigrant nation and world leadership in multicultural policy at risk.

Countless waves of refugees in Australia have demonstrated that arbitrary judgements of English or the initial integration levels of individuals are not a good predictor of future contribution or commitment to the nation.

Stateless people warrant a different approach

Stateless people have a right to nationality under the UN Declaration of Human Rights. This group of permanent residents, due to their extraordinary circumstances and lack of any citizenship, ought to be treated as a separate category from other humanitarian entrants and exempted from citizenship test requirements.

Recommendation 1: Exempt stateless people from meeting any additional citizenship requirements

Extending the wait for citizenship could delay civic engagement and economic participation, adversely impacting vulnerable groups

Citizenship is an important signifier of permanent acceptance by, and commitment to, the nation. However, increasing the length of time before residents are eligible to apply for citizenship risks delaying their full engagement in civic and economic life. The Discussion Paper proposal to restrict eligibility to those with four years of *permanent* (as opposed to temporary) residency will lead to unnecessarily long waiting periods for many migrants, especially those from refugee backgrounds and those not able to meet the proposed higher language and integration thresholds.

Refugees are heavily reliant on use of the partner and prospective marriage visas for family reunification. The sponsored partner of a refugee, for example, waits up to two years after arrival to be eligible for permanent residency. It then often takes another year before their permanent visa is granted. Under the proposed changes, these applicants will face a minimum seven-year waiting period before they become eligible to apply for citizenship.

Furthermore, education may be delayed or forgone if proposed higher education reforms proceed, requiring non-citizens to pay full international student fees for Australian degrees. This will unfairly impact on the partners of humanitarian entrants, who are likely to have fewer resources at their disposal, with negative consequences for Australia's productive capacity.

Overseas travel may be avoided, as without citizenship travellers will lack a sense of security and safety and protection. Again, this will particularly impact on those facing humanitarian concerns who have left family members behind. Inability to travel overseas may be harmful to their wellbeing and mental health and/or could limit employment or business opportunities.

Time spent living in Australia on temporary and provisional visas should be counted towards eligibility for citizenship, particularly where the sponsor is a humanitarian entrant.

Recommendation 2:

- **Take into account the time that new arrivals on temporary and provisional visas spend in Australia before becoming permanent residents towards the waiting period for citizenship eligibility.**
- **If the changes proceed, introduce appropriate transitional provisions to ensure certainty and fairness for those who are already in Australia.**

Humanitarian entrants with temporary visa status need a pathway to citizenship

Recent legislative changes have denied citizenship to asylum seekers who arrived by boat. This was a retrograde step. Across a wide spectrum of our programs, we support people seeking asylum, and those who have a proven refugee claim and have gained a TPV or SHEV. They have high aspirations for themselves and their families and given support and are making valuable social and economic contributions to our society.

Unless this group of temporary residents is afforded the right to permanency and a pathway to citizenship, Australia will be unable to meet our obligations under the UN Refugee Convention to provide a pathway to naturalisation.

Recommendation 3: Reinstate permanent residency and citizenship as a pathway for humanitarian migrants currently on Temporary Protection Visas and Safe Haven Enterprise Visas.

Australian values are best embedded through meaningful engagement

By incorporating an Australian Values Statement in the citizenship test, we understand that the Government is seeking to strengthen overall social cohesion and avoid potential risks arising from discordant social values or belief systems. While supporting the intent of this measure, we do not believe that a pledge and testing based on stated values will achieve this aim. In practice, it may have the opposite effect as a potentially exclusionary measure.

Fostering a sense of Australian values goes beyond tokenistic consent to a form of words. Rather, values alignment is supported by involvement in the community, and should be seen as a consequence of engaged citizenship, rather than as an entry requirement. Understanding, connection and affiliation with Australian values is built from the first contact with immigration officials and people with shared ethnic heritage living in Australia, through subsequent engagement with the broader community, including local organisations, schools, service providers, local government, employers, and sporting clubs.

There is considerable opportunity to strengthen values alignment by the provision of culturally tailored community education programs aimed at equipping people to manage the transition to the Australian social context. Inspiration can be drawn from the community education efforts of some settlement agencies that are already supporting new arrivals to develop a positive bicultural identity and acculturate to Australian laws, which may represent a challenge to their upbringing and/or cultural values. Offering newly arrived communities support to grapple with issues such as understanding gender roles in Australia, parenting norms, and the imperative in the wider Australian community to address family violence, would provide the opportunity for people to develop an authentic understanding of, and commitment to, Australian values. A sensitively supported peer environment would assist newcomers develop the necessary skills to transition to a new socio-cultural and legal context.

In contrast, multiple choice questions as part of the citizenship exam carries the risk of applicants superficially learning how to pass the test, rather than building a deeper understanding and commitment

to Australian values and laws. To have relevance and credibility, a future Australian Values Statement would need to be informed by and shaped through a broad process of community engagement.

Recommendation 4: Fund settlement agencies and community organisations to deliver evidence-informed education programs to strengthen understanding of and commitment to Australian values in preference to introducing citizenship testing about values.

High-level English language requirements are unnecessary and unfairly impact humanitarian entrants

The proposal to dramatically increase the level of English competency required to attain citizenship places it well beyond the reach of vast numbers of new arrivals, and indeed much of Australia's population from non-English speaking backgrounds.

The level of language competency required under the proposed changes will increase from the basic English needed to complete the current test to the equivalent of an IELTS Band 6 in speaking, reading, writing and comprehension—which is close to university entrance level. This is wholly unnecessary for citizenship applicants to demonstrate productive capacity as citizens, and is counter to Australia's history of effective multicultural policy. While proficiency in English is desirable, this comes with time and may take many years to develop. However, even with a basic level of English, community members can participate in everyday Australian social, economic and civic life.

Requiring high-level English competence would demand significant (public and private) investment in language training, as the competency level is well beyond the functional English attained through the AMEP and SEE programs (see further discussion of these programs below). This would impact heavily on applicants with limited resources and time free from work and family commitments to participate in extensive language training.

Higher English level requirements would also unfairly impact on people from refugee backgrounds (see case study below). Many have low literacy or little education even in their own languages, given their time in refugee camps and other interruptions to their education. Contending with the impact of torture and trauma can make education difficult. Department of Immigration and Border Protection statistics show that in 2014–15 the citizenship test failure rate for refugee entrants was 8.8%, six times higher than the average of 1.4%. A 2008 review of the citizenship test, led by retired ambassador Richard Woolcott, warned against a testing regime which was intimidating and discriminatory. The review highlighted the importance of special consideration for refugee and family migration entrants who have had disrupted or limited formal education and are struggling to learn English as adults. It would also adversely impact women, who often bear the greater share of caring responsibilities of raising young children or nursing elders, and hence have limited access to developing their English.

Some people will struggle to reach higher level English

Fatima is a 35-year-old woman from Somalia. Just seven years old when the civil war broke out, she fled with family to a Kenyan refugee camp, where she spent the next 24 years. Fatima has never been to school and cannot read or write in her own language.

Fatima, her husband and their three children arrived in Australia as refugees in 2013. They have since had two more children. Consumed by raising her young family, Fatima missed the deadline to register for AMEP English classes within the required timeline of twelve months from arrival.

Fatima and her family are very grateful to Australia for accepting them as refugees. She talks passionately about how much love and gratitude she holds for this country. Her husband works hard in two different jobs in local factories.

Fatima is worried about how the new changes to the citizenship test. She has good oral command of English and has no difficulty communicating in daily life at her children's school and with her GP without an interpreter. She is undertaking conversational English classes at the school, but needs help with basic reading skills. She can't imagine a time when she could sit and pass a reading and writing English test when she is not even literate in her first language.

*Whittlesea Community Connections participant

While recognising that certain groups are proposed to be exempted from a future English test (children under 16 years, people over 60 years, and people with enduring or permanent mental or physical incapacity), we do not believe these exemptions go far enough.

If higher level English requirements are introduced, many of the people that our organisations work with risk being shut out of citizenship and disenfranchised from civic participation. It would be an unfortunate policy outcome if residents of good repute whose lives are intrinsically connected to Australia were excluded from citizenship because their English language is still developing.

In order to affirm the importance of English language as a component of Australian citizenship, applicants could be required to demonstrate their attempts to avail themselves of government-supported language training, provided that sufficient concessions and/or exemptions apply and that applicants who have missed out are given an opportunity to rectify this, rather than face rejection of their citizenship application. Oral testing may be another option.

Recommendation 5: Do not proceed with explicitly testing English language proficiency as part of the citizenship test. If English language testing proceeds, allow oral testing and broaden the proposed exemptions to include:

- people with low literacy in their first language and those who have had very limited or significantly disrupted previous education as assessed by AMEP providers
- humanitarian entrants who have completed AMEP (and any additional citizenship

support course) but are assessed by AMEP providers as not having the current capacity to achieve the required language levels

- people who have not been able to study in AMEP before their eligibility for English language support expires
- stateless people
- children under 18 years.

More support is needed to help new arrivals develop their English language skills

The Adult Migrant English Program's (AMEP) provision of 510 hours of English language courses goes some way in preparing newly arrived people to reach a competent level of English. However, for some new arrivals, 510 hours is not sufficient. While the additional 200 hours through the Settlement Language Pathways to Employment and Training (SLPET) program is welcome, a recent report indicated that up to 2,000 hours of training may be needed for people with no background to learn English (ACIL Allen Consulting 2015). After 510 hours of free language tuition in Australia, only 7% of migrants achieve a level of English which satisfies basic social and work needs. About 60% of AMEP clients begin the program with little or no English and so will require considerably more instruction. Additional support is also needed for those people who lack literacy in their first language and have limited formal education experience.

The Skills for Education and Employment (SEE) program can provide up to an additional 800 hours of employment-focused English instruction. However, uptake is lower than it could be. Referrals from jobactive providers are low, possibly because of limited awareness of the program and its benefits; they could be encouraged to make referrals to SEE in appropriate circumstances. As suggested in a recent report on program alignment, AMEP and SEE could be better integrated and redesigned as an overarching program delivering different streams to meet different learning needs (ACIL Allen Consulting 2015).

A number of other practical issues limit access to and effectiveness of English language support for humanitarian entrants. First, people need to register within 12 months of their arrival: failing to do so results in losing their entitlement to the classes. Our collective experience tells us that for most people from refugee backgrounds, finding work is among their highest priorities upon arrival in Australia. Many have fled their home countries, losing all their financial assets and even accruing debts from family or friends to fund their journey. Learning English and up-skilling themselves, although important, is seen as a second order issue. The AMEP eligibility timeframes do not factor in people's employment, personal and family caring commitments during initial resettlement; and therefore migrants and refugees may not be able to take advantage of the full number of allocated hours. A rethink is needed. We suggest extending the eligibility for AMEP to five years after arrival, in line with other settlement services, to maximise access.

Second, access is limited by the class times. AMEP classes frequently clash with hours of work, making it challenging to juggle competing commitments. Consideration should be given to how AMEP can be delivered to more effectively cater for the needs of newly arrived communities. More flexible hours, including evening and weekend classes would be a positive step.

Third, AMEP could be considerably enhanced by tailoring the content according to need. The 2015 AMEP evaluation report suggested the ESL curriculum options could be broadened in order to support participants' transition and access to further education, training and employment.

Recommendation 6: Strengthen effectiveness of English language assistance for the purpose of greater social and economic participation by:

- extending eligibility for enrolment in the Adult Migrant English Program from 12 months to two years post-settlement and completion within five years of course commencement, while providing additional hours of language tuition to those who are not sufficiently proficient in English after exhausting the allocated hours
- improving flexibility of tuition hours to fit with work commitments and ensuring sufficient transport and childcare provision to overcome initial barriers to participation for humanitarian entrants in particular
- working with jobactive providers and their peak bodies to increase referrals to the Skills for Education and Employment program.

Flexible approaches are needed to assess integration

Integration is a critical component of Australia's cohesive, multicultural society. However, assessing integrative potential requires careful consideration of economic, family and civic participation dimensions. It is reasonable to expect that people choosing to make a life in Australia will participate in the community —many of the people we work with do this in significant ways already and will welcome the opportunity to demonstrate their commitment to Australia.

Economic integration takes time: The economic contribution of migrants, particularly humanitarian entrants, needs to be considered in generational terms. Refugee communities integrate and contribute to Australia in a wide range of ways in the first ten years —whether in fostering a new generation of Australians, studying English to prepare for work and/or supporting and building the capacity of their communities to contribute. Re-establishment in a new country takes time.

Despite high aspirations, refugees face increasing challenges to establish themselves in a modern knowledge and services-based economy that demands skills, qualifications and relevant Australian work experience. As the demand for low-skilled or entry-level labour falls, so do employment prospects for newly arrived refugees. Those who arrive with qualifications are often unable to have them easily recognised, or put to good use in Australia. The recent *Settling Better Report: Reforming refugee and employment settlement services* (Centre for Policy Development and Boston Consulting 2017) laments the appalling record of mainstream employment services, with only 17% of humanitarian entrants in paid work 18 months after arriving in Australia.

However, in the medium and longer term, refugees, other migrants and their children are demonstrating high productivity and are making significant contributions to the Australian economy. According to recent ABS data, recent arrivals from North Africa and the Middle East, for example, have low labour force participation rates during early settlement—just 38.2% for those who arrived within the last five

years. However, this rises rapidly to 54.6% for those who arrived 5–9 years ago. According to Census statistics, about 0.12% of the population of Australia was born in Vietnam, yet approximately 5.3% of all small businesses are run by Vietnamese entrepreneurs (ABS 2016).

In assessing integration, it is critical that any consideration about economic participation does not place a higher bar on migrants than is asked of the broader population.

Integration should be considered from a whole-of-family perspective: Measures of integration should avoid unfairly disadvantaging some family members. Proposed changes should consider a whole-of-family perspective, avoiding circumstances where, for example, a mother may fail to satisfy integration requirements because of caring responsibilities, while younger members of her family, or her spouse, may be assessed with high integration potential through English skills and participation in education or employment (see case study).

Narin supports her family's integration

Narin is a 35-year-old Kurdish woman from Iran who arrived with her husband (they have since separated) and two teenage children five years ago. She had a third child soon after settling in Melbourne's North. Caring for her family has been her focus.

While Narin is seeking to integrate in the Australian community, she has never worked outside the family home and doesn't yet belong to any social group. She is gradually becoming more confident about connecting with the wider community after having some English tuition at home. Her unfamiliarity with and fear of the childcare system has meant she hasn't felt safe to attend a course.

However, Narin has raised her children with care. They have attended school and are highly integrated. Her older daughter is studying at TAFE and achieving very well, and has provided leadership among her peers. Her teenage son is doing a TAFE course and belongs to the local soccer club.

*Whittlesea Community Connections participant

Participation can take many forms: Proposed requirements to demonstrate integration as part of the citizenship application risk discriminating against people (largely women) with caring responsibilities, and refugees with torture and trauma issues that have limited their participation in education or employment. These barriers should be considered in the development of an inclusive citizenship system.

Volunteering is an important aspect of social participation. One of the ways newly arrived migrants demonstrate their civic engagement is through volunteer work within their own ethnic communities, where their community links and language skills are an asset.

Recommendation 7: Permit family groupings to apply for citizenship collectively, with equitable treatment for women and other family members who may be less likely to achieve integration in the early years of resettlement

Recommendation 8: Specify recognised integration activities to include:

- volunteering, including in one's own ethnic community
- family and caring responsibilities
- addressing barriers such as trauma and health issues.

Pathways to citizenship are needed for those that fail the test

We are concerned about proposals to:

- Abolish AMEP's Australian Citizenship course, available for people who fail the current citizenship test three times. The course is designed to accommodate people that are committed to becoming citizens but who did not have the language skills to pass the test.
- Reject the application of someone who fails the citizenship test three times. This is inconsistent with other licensing and testing across a variety of fields nationally.

Humanitarian entrants are among the groups significantly at risk of being denied citizenship due to their low literacy, which will not enable them to pass a more stringent test. Already, many humanitarian migrants require more than three attempts to pass the current test: in 2014–15, skilled stream applicants averaged 1.1 tests; family stream applicants averaged 1.4 tests; and humanitarian stream applicants required an average of 2.4 tests.

New proposals represent a potentially punitive approach that risks increasing barriers to integration and participation in mainstream communities. The Brotherhood and WCC have worked with many community members from refugee backgrounds who would have been denied the benefits of citizenship under such proposals, and with them, an increased sense of belonging and identity, due to their basic English language levels. Host communities, in turn, would not have been able to reap the benefits of their enormously productive contribution.

Recommendation 9: Maintain eligibility to access support through the AMEP Australian citizenship course for applicants with low English literacy levels who have failed the test three times.

Recommendation 10: Allow repeat attempts at the citizenship test. Where an applicant passes one component of the test (e.g. English) and fails another, the pass is credited and counts towards future attempts.

Submission authorised by

Mr Rob Hudson

Group General Manager, Policy and Programs

Brotherhood of St Laurence

(03) 9483 2430 rhudson@bsl.org.au

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Ms Alex Haynes

CEO

Whittlesea Community Connections

(03) 9401 6666 ahaynes@whittleseacc.org.au