



**Australian Government**  
**Department of Home Affairs**



# **Department of Home Affairs Submission to the Inquiry into the Immigration (Education) Amendment (Expanding Access to English Tuition) Bill 2020**

Senate Legal and Constitutional Affairs Legislation Committee

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# 1. Introduction

The Department of Home Affairs (the Department) welcomes the opportunity to provide the Senate Legal and Constitutional Affairs Legislation Committee with this submission as part of the Committee's Inquiry into the Immigration (Education) Amendment (Expanding Access to English Tuition) Bill 2020 (the Bill).

## 1.1. Reasons for referral

The Bill was first introduced into the House of Representatives on 29 October 2020. It was referred for inquiry by the Senate Standing Committee for Selection of Bills in its Report No. 10 of 2020 to the Senate Legal and Constitutional Affairs Legislation Committee on 12 November 2020.

The Bill has been referred for inquiry as more information is requested about:

- how changes to English language requirements are expected to work;
- the reach to potential eligible migrants and retention within the Adult Migrant English Program (AMEP);
- how the changes will interact with existing service provider contracts; and
- whether service providers will be asked to do more within the current funding contract and existing contract.

## 1.2. Overview of the Department's submission

The Department delivers services to strengthen the cohesiveness of Australian society through our migration and citizenship programs. We manage and assist temporary and permanent migrants, including refugees and humanitarian entrants, and confer citizenship.<sup>1</sup>

Migrants to Australia have contributed significantly to its social, economic and civic life. New arrivals have become part of our social fabric, been shaped by it and are helping to shape our shared future.

English proficiency plays a central role in determining the successful integration of migrants into Australian society and their civic engagement. It helps migrants to learn about Australian society and values through communication and engagement with people from a range of backgrounds in the community. It is also a key factor associated with education and labour market participation.

This submission notes the proposed changes to the AMEP and the role of the Australian Government in supporting migrants learn English. This is the most significant reform to the program in many years and is part of a range of measures the Government is implementing to support Australia's social cohesion. These changes mean that more migrants will be able to access free English tuition for longer and until they reach a higher level of proficiency.

# 2. Adult Migrant English Program

The AMEP has provided free English tuition to migrants for over 70 years. The AMEP helps migrants learn foundation English language and settlement skills to enable them to participate socially and economically in Australian society.

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<sup>1</sup> Department of Home Affairs, (2018), Blueprint for Home Affairs, p. 22.

The AMEP currently provides eligible migrants and humanitarian entrants with 510 hours of free English language tuition. It also includes sub-programs, which offer extra hours to assist students with additional needs.

AMEP expenditure in 2019-20 was \$217.7 million. AMEP forward estimates vary due to changes in the migration planning level, which includes an increase in the Family stream and reduction in the Skilled stream for 2020-21 only and a reduction in the Humanitarian Program from 2020-21.

2019-20	2020-21	2020-21	2021-22	2022-23	2023-24
<b>Actual</b>	<b>Actual YTD</b> (up to 31 October 2020)	<b>Budget</b>	<b>Forward estimate</b>	<b>Forward estimate</b>	<b>Forward estimate</b>
217,745	85,062	261,297	261,116	241,737	238,816

## 2.1. AMEP reform

Over recent decades, the nationalities of migrants entering Australia have changed, with a measurable increase in migration from countries with languages that are more 'linguistically distant' which means they are more different from English (Chinese is more linguistically different to English than German is, for example). The nature of the Australian economy has also changed. There are vastly fewer lower skilled jobs in the Australian economy than in the post war period. Even lower-skilled jobs now require higher levels of English to manage the health and safety requirements of Australian workplaces. Higher levels of English are also required for vocational training.

The purpose of the Government's proposed reform is to expand access to government-funded English tuition for migrants and encourage the acquisition of a higher level of English proficiency. The reform will enable the Government to remove disincentives to English language learning for migrants, and provide English tuition to migrants who are ineligible for the program due to current statutory time limits, or who have exhausted their available tuition hours without reaching a vocational level of English. The removal of timeframes for completion of English courses will allow people who were in Australia before or on 1 October 2020 and ineligible for English tuition the opportunity to improve their English, and subsequently, their employment prospects.

Reform of AMEP has been recommended in multiple reviews, evaluations and public consultations, including:

- 2019 Shergold Review *Investing in Refugees, Investing in Australia: The finding of a Review into Integration, Employment and Settlement Outcomes of Refugees and Humanitarian Entrants in Australia*. The report found that:
  - not enough participants attain a functional level of English on completion of the AMEP; and
  - adult English tuition does not have a strong enough focus on vocational English;
- 2019 Social Compass *Evaluation of the AMEP New Business Model*. The evaluation received 40 submissions from AMEP service providers, community organisations, government agencies and peak bodies. Of note:
  - the Refugee Council of Australia submission recommended:
    - removal of the 510 hour time limit; and
    - greater flexibility for people to leave the program and return;

- 2019 Settlement Council of Australia *Maximising AMEP and English Language Learning Consultation Report*. The report found:
  - the allocation of 510 hours per learner is arbitrary and not evidence-based;
  - time limits fail to recognise the competing priorities that new arrivals face; and
  - the AMEP lacks flexibility for people who are working, studying or have caring responsibilities;
- 2019 Scanlon Foundation *Australia's English Problem: How to renew our once celebrated AMEP*. The report noted:
  - for many migrants, 510 hours is not enough to attain functional English;
  - functional level English is regarded as well below the level required in most workplaces and TAFE courses; and
  - time limits in which migrants can enrol and complete the AMEP should be extended, while continuing to encourage migrants to start the program as soon as possible after arrival;
- 2017 Parliamentary Inquiry into Migrant Settlement Outcomes. The Committee commented that:
  - the focus on a specific amount of hours in English language training should be shifted to include a focus on English outcomes; and
  - migrants have many competing priorities when arriving in Australia such as finding accommodation, employment or caring for family members. The requirement to enrol and undertake lessons within the first year of arrival can be particularly challenging;
- 2015 ACIL Allen *AMEP Evaluation*. The report noted:
  - functional English is generally insufficient for employment, VET or higher education; and
  - 510 hours is insufficient for most AMEP clients to reach functional English.

The Department undertook a survey of language programs in comparator countries in 2019, including questions on ways in which program outcomes were incentivised.

In late 2019, the Department sought public feedback and received input from 43 stakeholders – encompassing service providers, teachers, settlement services and not-for-profit organisations – on the current state of AMEP and suggestions for improvement. The feedback received reinforced the recommendations of the reviews listed above and included that:

- for students who have low or no levels of literacy in their own language, limited experience of formal education, and/or experience of torture and trauma, the hours currently available in the AMEP (including through the various sub-programs) are inadequate to enable clients to reach a level of functional English;
- the allocation of 510 hours per learner is not evidence-based;
- the lack of focus on vocational English impacts the ability of the AMEP in getting clients 'job ready'; and
- current time limits for accessing AMEP fail to recognise the competing priorities that new arrivals face.

In May 2020, the Commonwealth Coordinator-General for Migrant Services commissioned a review of English language acquisition in Australia, which also fed into these reforms.

On announcement of the reforms, many organisations publicly welcomed the changes, including the Federation of Ethnic Communities' Councils of Australia, the Multicultural Youth Advocacy Network, the Settlement Council of Australia, Settlement Services International, the Australian Council of TESOL Associations, Welcoming Australia and settlement and AMEP providers.

The Department has communicated information about the AMEP reforms to over 850 stakeholders through a range of channels including a departmental newsletter. This includes engagement with local, state and

territory governments, as well as engagement with community and multicultural organisations. In addition, the Acting Minister has released a number of media statements and delivered speeches about the reforms.

The Department will be undertaking targeted consultations with stakeholders throughout the implementation of the reforms to ensure the program effectively achieves English language outcomes for eligible migrants.

The Department engages regularly with AMEP stakeholders, such as peak bodies and community groups via fora such as the Senior Officials Settlement Outcomes Group (SOSOG), the Refugee and Migrant Services Advisory Council (RAMSAC), and via departmental mechanisms such as Community Liaison Officers and Settlement Network Officers located in regional and metropolitan areas in Australia.

The introduction and passage of the Bill in the Spring 2020 legislation program is necessary to provide clarity as the Department designs a new business model and prepares for the next procurement process. It will also increase the potential pool of clients, which will assist current AMEP providers to maintain viability while the Australian border remains closed.

### 3. Proposed measures

The Immigration (Education) Amendment (Expanding Access to English Tuition) Bill 2020 (the Bill) will amend the *Immigration (Education) Act 1971* (the IE Act) to expand eligibility for migrants to access English tuition through the AMEP. The amendments proposed in Schedule 1 to the Bill will:

- remove the 510 hour statutory limit on an eligible person's entitlement to English tuition, in order to support and incentivise English proficiency;
- amend the upper limit for eligibility to access English tuition from a level of functional English to a new, higher level of vocational English, which will enable eligible migrants to continue their language learning to a higher level of English proficiency;
- remove the statutory time limits for registering for, commencing and completing English tuition for certain people who held a visa and were in Australia on or before 1 October 2020; and
- expand eligibility for AMEP outside Australia – currently only permanent visa applicants are eligible; the Bill will expand this to include specified temporary visa applicants, and holders of permanent visas or the specified temporary visas.

Subject to passage of the Bill in its current form, a new legislative instrument will be prepared to specify classes of temporary visas so that an overseas applicant or holder for such a visa can access AMEP overseas. It is intended that the classes of visa will be the same as those currently listed in the current instrument specifying temporary visas for onshore holders. The current instrument, *Immigration (Education) (LIN 19/218: Temporary visa classes for eligibility for English Courses) Instrument 2019*, also needs revising for technical reasons to align with the amendments to the empowering provision in the bill. A new instrument will also be required to specify the procedures and standards for *vocational English*, replacing the current instrument *Immigration (Education) (Functional English) Specification 2017*, which specifies procedures and standards in relation to *functional English*. Similarly, minor technical amendments to the *Migration Regulations 1994* may also be required as a consequence of the amendments to be made by the Bill, to align with amended provisions in the IE Act, where necessary.

#### 3.1. The Department's response to the reasons for referral

In this section, the Department will respond to the reasons for referral of the Bill to inquiry.

##### 3.1.1. How changes to English language requirements are expected to work

The proposed changes are designed to provide migrants with access to free English tuition until they reach a level of proficiency to enable participation in Australian society and the economy.

#### 3.1.1.1. Removal of 510 hour cap

Research shows that 510 hours is insufficient to reach the current requirement of functional English for the vast majority of AMEP clients who enter the program with very low levels of English. For these people, around 2,000 hours may be required. Uncapping the number of hours of tuition available recognises that learning a new language is complex and takes time and that migrants will learn English at different rates.

At present, the cap on hours in the AMEP sends an incorrect signal to migrants about the long-term effort that will be required to achieve a level of English to effectively participate in Australian life. The 510 hours was set without reference to any evidence base and only 21 percent of AMEP students currently leave the program with functional spoken English (usually those who enter the program with higher levels of English skills).

#### 3.1.1.2. Increased eligibility to vocational

The legislation currently provides free English tuition for migrants up to the level of functional English. This is lower than the level of English required by most employers, and for entry to most TAFE courses. By raising the upper limit to vocational English, migrants have the opportunity to study English for longer and reach a higher level of proficiency. This will enhance their prospects for further education and future employment, as well as support their full participation in the Australian community. It also sends a more accurate message about the level of English required to participate in Australian life.

#### 3.1.1.3. Removal of time limits

AMEP clients are required to register for tuition within six months of arrival in Australia, commence within 12 months, and complete tuition within five years. Extensions up to 10 years are available in compelling and compassionate circumstances. Over 8,000 exemptions are granted by the Department each year to the six/12 month and five-year time frames.

There are cohorts who have been in Australia for more than 10 years, who for various reasons have not commenced (or have not completed) English tuition. Removing the time limits for registration, commencement and completion of English tuition for those with a visa commencement day of on or before 1 October 2020 will provide an opportunity for these people to re-engage in language learning.

#### 3.1.1.4. Provision of tuition overseas

The IE Act currently provides the Minister with a discretion to provide, or arrange the provision of, English courses outside Australia. It is currently only available for those who have applied for a permanent visa, but not available once they have been granted a permanent visa (or a specified temporary visa). It should be noted that the AMEP is not currently delivered to any students outside Australia.

The proposed changes in the Bill will allow the Minister the discretion to decide whether English courses will be provided to those who have applied for, or have been granted, a permanent visa or a specified temporary visa.

This change will mean that, should an appropriate English tuition option be developed for those outside Australia in future (for example, a pre-arrival online English training course), it would be able to be offered to those outside the country who are preparing to migrate to Australia.

### 3.1.2. Reach to potential eligible migrants and retention within the AMEP

The Department has a number of approaches through which it aims to increase the number of people enrolled in AMEP.

The Department has partnered with the Behavioural Economics Team in the Department of Prime Minister and Cabinet to increase participation and retention in language learning. Initial work will focus on increasing enrolments in the AMEP for key groups and locations identified through Census data as having low English proficiency (including Mandarin, Vietnamese, Cantonese and Arabic speakers in Queensland, New South

Wales, Victoria and the Australian Capital Territory). Subsequent work will focus on student retention in the program.

The Department is working closely with providers to monitor uptake of the program and distribute information to the community to encourage new enrolments amongst the cohort of eligible people who are already in Australia.

From late 2021, the Government will introduce English language requirements for Partner visa applicants and their sponsors. Participants will be able to meet the requirement in a number of ways. Acceptable evidence may include an appropriate English language test score, demonstrating that they have completed studies where the language medium was held in English, or demonstrating that they have made a reasonable effort to learn English through participating in the AMEP. Detailed policy settings around the application of English language requirements to the Partner visa program will be developed in consultation with key stakeholders and the public. The English language requirement will apply to primary and secondary Partner visa applicants aged 18 to retirement age, and sponsors who are not yet Australian citizens. .

Aside from legislative changes, the Australian Government will be seeking to embed a greater level of flexibility within the AMEP program model in the future, including a greater use of education technology and online training platforms. Formal classroom training does not suit everybody or fit around their lifestyle and delivery of AMEP classes online during COVID demonstrates that online delivery of AMEP can work and, for some clients, is the preferred method of tuition.

### 3.1.3. Interaction of changes with existing service provider contracts

The current Deed of Standing Offer is in place from 2017-18 to 2022-23, with Work Orders in place up to 30 June 2022 (June 2021 for the Quality Assurance provider).

The Department is currently considering what amendments to the Deed may be required to support implementation of the measures in the Bill. Contractual changes will be required to remove reference to 510 hours and associated subprograms, to time limits and extensions and to functional English. Associated amendments will be required to Service Provider Instructions and the AMEP Reporting and Management System (ARMS).

AMEP service providers are selected through an approach to market process. The Department is not currently running an approach to market process to select service providers for the AMEP. Any future approaches to market will be published on the AusTender website.

### 3.1.4. Financial impact on service providers, including whether they will be asked to do more within the current funding contract and existing contract

The Department estimates the proposed changes will be cost-neutral for providers under the existing contract, as the increase in access to the AMEP for students currently in Australia will be counteracted by the reduction in student numbers as a result of COVID-19 and border closures.

## 3.2. Impacts of proposed legislative changes

The Department estimates that the proposed legislative changes will impact client numbers and hours in 2020-21 and 2021-22. Enrolments are likely to reduce in 2020-21 and will return to pre-COVID levels in the second half of 2021-22.

The Department is exploring a range of further reforms for AMEP delivery, including efficiencies that can be gained through the use of online learning and linking funding directly to outcomes.

Currently AMEP expenditure is input-driven, with providers paid an hourly rate for tuition. This does not sufficiently incentivise language outcomes for AMEP students. The Department is reviewing comparable



outcomes-based models in other sectors and how such a model in the AMEP can incentivise greater take-up, retention and English language progression.

The cost implications of these reforms will be considered in the 2021-22 Budget context.

## **4. Conclusion**

In summary, the intent of the Bill is to expand eligibility for migrants to access English tuition through the AMEP and to support and incentivise English proficiency and enable language learning to a higher level of proficiency. This will not only enhance their employment prospects but also broader settlement outcomes. Ability to speak English and make connections in their communities will strengthen Australia's social cohesion and help make Australia a prosperous, secure and united nation.