



**Australian
Human Rights
Commission**

31 August 2017

Mr Tim Watling
Committee Secretary
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
PO Box 6100
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

Dear Mr Watling,

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

I write to you concerning evidence provided by the Australian Human Rights Commission to the Senate Legal and Constitutional Affairs Legislation Committee during its hearing in Sydney on 23 August 2017 in relation to the Australian Citizenship Legislation Amendment (Strengthening the Requirements for Australian Citizenship and Other Measures) Bill 2017.

Officers from the Commission who provided evidence to the Committee have identified the following clarification.

Evidence of Mr Graeme Edgerton, Acting Deputy Director, Legal Section, Australian Human Rights Commission

On page 52 of the transcript, Senator Griff asked the following question:

Senator GRIFF: From having a look at the English test, there are a number of exemptions being considered. It is your understanding that individuals suffering from disabilities which would otherwise result in them failing the test will be exempt from the test? Do you know whether this extends to individuals who are vision or hearing impaired?

The answer that was given to Senator Griff's question related to a different issue about people with intellectual disability or cognitive impairment which is described in section 6.4 of the Commission's written submission.

The Australian Human Rights Commission would like to clarify its evidence in response to the question as follows.

The current general eligibility requirements for citizenship by conferral require the Minister to be satisfied that an applicant possesses a basic knowledge of the English language. This requirement is satisfied by the applicant successfully passing the Citizenship test in English.

Sections 21(3), (4) and (5) of the *Australian Citizenship Act 2007* (Cth) currently provide that the following categories of people are not required to demonstrate that they have a particular level of English language ability in order to apply for citizenship by conferral:

- (a) a person who has a permanent or enduring physical or mental incapacity, at the time the person makes the application, that means that the person:
 - (i) is not capable of understanding the nature of the application at that time; or
 - (ii) is not capable of demonstrating a basic knowledge of the English language at that time; or
 - (iii) is not capable of demonstrating an adequate knowledge of Australia and of the responsibilities and privileges of Australian citizenship at that time;
- (b) a person aged 60 or over
- (c) a person aged under 18
- (d) a person aged 18 or over who is suffering from a permanent loss or substantial loss of hearing, speech or sight at the time of making the application.

If the Bill is passed, these categories of people would also not be required to demonstrate that they have 'competent' English, with one exception. The exception is that 16 and 17 year olds will now also have to demonstrate that they have competent English.¹

One anomaly arising from the changes proposed in the Bill is that people aged 18 years and over who have a permanent or substantial loss of hearing, speech or sight will not be required to pass the new English language test, but a 16 or 17 year old with a permanent or substantial loss of hearing, speech or sight will be required to pass the new English language test.

¹ Item 51 of the Bill.

This anomaly could be corrected by amending s 21(4)(a)(ii) to refer to a person 'aged 16 or over' rather than a person 'aged 18 or over'.

Yours faithfully,

Graeme Edgerton
Deputy Director (A/g)
Legal Section