



09 October 2015

RP:sr

Ms Sophie Dunstone  
Secretary  
Legal and Constitutional Affairs Legislation Committee

by email: [legcon.sen.gov.au](mailto:legcon.sen.gov.au)

Dear Ms Dunstone

### **Inquiry into the Migration Amendment (Charging for a Migration Outcome) Bill 2015**

We refer to your invitation to comment on the provisions of the *Migration Amendment (Charging for a Migration Outcome) Bill 2015*, by email dated 22 September 2015. The Society welcomes the opportunity to comment on the Bill.

Paragraph 1, Schedule 1 of the Bill proposes to amend s116 of the *Migration Act 1958*, by inserting subsections (1AC) and (1AD). The effect of the proposed amendments is that the Minister would have the power to cancel a person's visa where payment has been:

- a) asked for or received; or
- b) offered or provided

by or on behalf of the person, in exchange for a visa sponsorship arrangement.

The Society is concerned that subsection (1AC) is broad enough in scope that it would apply in respect of a person who has no knowledge that payment has been proposed or made in return for visa sponsorship. It would, therefore, be fundamentally unfair for such person, who is likely to also be the victim of human trafficking, to be at risk of having their visa cancelled.

The Explanatory Memoranda to the Bill acknowledges that visa applicants involved in payment for sponsorship arrangements are often vulnerable to exploitation and extortion. Persons who have been coerced, abused and/or exploited by an employer/sponsor (including trafficking victims) should not, in the Society's view, be subjected to penalties or other sanctions. In the Society's view, the Bill puts vulnerable applicants and trafficking victims at unacceptable risk of having their visa cancelled. The Society suggests that there should be safeguards in the Bill to protect these classes of people from being penalised, whether or not they have made a payment or know that a payment has been made on their behalf for a visa. In the Society's view, all vulnerable applicants and trafficking victims should be exempt from the visa cancellation power proposed. An alternative safeguard

might be to state that subsections (1AC) and (1AD) do not effect or limit the ability to apply for special visas relating to human trafficking pursuant to other Acts.

We trust that these comments are of assistance.

Yours sincerely

Rocco Perrotta  
**PRESIDENT**