

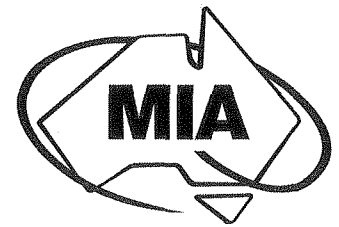


Submission No 33

Inquiry into Australia's Overseas Representation

**Supplementary submission
(addendum)**

Organisation: Migration Institute of Australia



Migration Institute
of Australia

ADDENDUM TO MIA SUBMISSION

Overview

Broadly speaking, MIA Members find overseas diplomatic posts to be capable distributors of general information about Australia's Migration Program with the demonstrated capacity to handle most enquiries.

While knowledge gaps surely exist, the range of resources available through the DIAC website helps mitigate this issue by providing prospective migrants and visitors comprehensive, accurate and up to date information to complement that provided at these posts.

Similarly, as the DIAC now processes most visa types onshore, relatively few visa subclasses fall within the purview of offshore offices.

While much of overseas posts' very limited migration functions are handled professionally and capably, there are some notable exceptions and MIA Members regularly report inconsistent decisions and examples of staff failing to comply with the *Migration Act 1958*. The Institute takes these allegations seriously and conducts regular consultations with DIAC officers on these and other matters.

Issues or difficulties with Australia's overseas posts that have been identified by MIA Members include:

Lack of communication with Registered Migration Agents (RMAs).

- Difficulties in reaching case officers by phone or email, slow responses to emails (e.g. Philippines), poor ongoing correspondence and failure to respond to emails (e.g. Singapore, Malaysia, Moscow); and
- Some Case Officers do not acknowledge the role RMAs play in representing clients, despite a 956 form being lodged (a 956 form is advice by a migration agent/exempt person of providing immigration assistance). The overseas post office often contacts the client directly, interviews and seeks further information without the RMA's consent or knowledge (e.g. New Delhi- India, Manila- Philippines, Nairobi- Africa, Islamabad- Pakistan, Berlin-Germany, Myanmar, and Washington). Applicants or sponsors who are contacted by case officers directly feel anxious, intimidated and are subject to unnecessary pressure.

Administrative problems

- long processing times (particularly with regard to character tests);
- difficulties in lodging applications (e.g. Papua New Guinea, Iran);
- reliance on outdated computer systems which not consistent with those used in DIAC office in Australia; &
- problems with courier services to London.

Poor client services

- arrogant, condescending or rude attitude of staff at overseas posts;
- poor knowledge of immigration law and natural justice, and inaccurate advice and / or responses given (e.g. in Hanoi, Laos, Sri Lanka, China, USA and Brazil);
- inconsistency and bias in decision making & failure to take into account valid evidence/policy/legislation (e.g. a case officer in Cairo refusing visa application by a Sudanese applicant, but accepting the application of an Egyptian client who provided similar supporting information. In Shanghai, China case officers have failed to distinguish between a subclass 309 Partner visa and a subclass 300 Prospective marriage visa) & case officers conducting one-sided interviews (this allegation related to a supervisor of the Student Visa section in the overseas post in Thailand);
- poor record keeping (e.g. health results have gone missing in the Manila overseas post);
- cultural insensitivity. For example, staff at the Australian Embassy in Cairo do not understand cultural issues relating to marriage, family obligations, and other norms in cultures such as the Sudanese culture;
- poor English language competency of staff.

Suggestions to address such issues:

- Improve training and resources. The MIA submits that more Australian nationals from the Australian Public Services (APS) should be engaged at overseas posts to ensure an appropriate knowledge base and to assist in engaging local populaces with Australians and Australian culture. It is essential that locally engaged staff have access to a significant and comprehensive training regime to bring them in line with Australian staff. The need for consistency in decision making is essential in the determination of complex migration matters.
- The Institute notes and endorses the *Strategic Review of the Student Visa Program 2011* conducted by the Hon Michael Knight AO (the Knight Review) earlier this year, which recommends that DIAC Upgrade its liaison at overseas posts with migration and education agents in relation to the student visa program, including regular meetings to keep agents abreast of any changes in rules and procedures.¹ The knowledge held by RMAs and EAs could be better leveraged by DIAC overseas (and in Australia, for that matter). These migration professionals are often best placed to provide an immediate and comprehensive resource for overseas posts and prospective migrants and visitors to Australia. This problem elucidated in the Knight Review cuts both ways, however, as not only do overseas posts often hold a poor understanding of DIAC procedures and processes, but the DIAC's representatives onshore often do not know or understand the migration functions of the overseas posts. The MIA is of the view that the recent initiative of placing the promotion of Australian international education within the Department of Foreign Affairs and Trade (DFAT) arm, Austrade, is a welcome service to advance Australia's standing in this important trade sector that needs to be supported and continued.

¹ Strategic Review of the Student Visa Program 2011, Recommendation 33, June 2011.

- Liaise/communicate with MIA about internal policies (especially country specific policies), staff lists (particularly Principal Migration Officers and Senior Migration Officers) & any changes to them.
- Direct more resources to overseas posts' migration functions generally.
- Create a separate RMA mailbox at overseas posts to improve communication with RMAs.
- Up-to-date processing times and statistics on the average / longest / shortest processing times of visa subclasses should be available on the websites of overseas posts.
- Implement strategies to make officers at overseas posts accountable e.g. create a Code of Conduct for all overseas staff similar to the OMARA code of conduct for agents. If a Case Officer refuses too many cases, it should be considered whether their practices should be investigated.

Information technology

Information technology is a tremendous resource with many applications across all migration functions. The effect of e-diplomacy & information on the activities of diplomatic posts is varied. Possible positive effects include:

- Improvement to the service offered to clients as RMAs would have more control over applications, and be able to access DIAC officers more easily.

Possible negative effects/limitations are:

- countries with limited technology or access to technology often require physical posts where clients can attend to provide documents, present themselves etc. Existing technology systems in some countries are already outdated.
- Local posts with a physical presence may have a better understanding of local situation and can verify information quicker if appropriately trained to assess information without bias

Though information technology is useful, it is not a replacement for well trained, well resourced human assistance.

Outsourcing of visa services to third parties

Some MIA Members say that outsourcing of visa services to third parties such as VFS has been ineffective, and they may choose to bypass VFA & communicate with the local High Commission. Third parties without full knowledge of visa matters can add to delays, costs & create more barriers & bureaucracy in contacting overseas posts.

Conclusion



Overseas posts are often prospective migrants' and visitors' first interaction with the Australian Government and the Australia people and it is important to both maintain the posts currently operation – particularly if some functions are able to be outsourced to information technology application – and expand where practicable into states where there is currently no representation.