



Submission No 41

Inquiry into Australia's Overseas Representation

SUPPLEMENTARY SUBMISSION

Organisation: Migration Institute of Australia



12 March 2012

The Secretary
Joint Standing Committee on Foreign Affairs, Defence and Trade
Inquiry into Australia's Overseas Representation

John.Carter.Reps@aph.gov.au

Dear Secretary;

Thank you for the opportunity to respond in writing to a question posed by Ms Gai Brodtmann MP during the Friday 10 February public hearing of the Committee's Inquiry into Australia's Overseas Representation at which the Migration Institute of Australia (MIA) appeared.

In the course of the MIA's appearance before the Committee, Ms Brodtmann asked Institute CEO Maurene Horder and ACT Chapter Member John Hourigan what proportion of staff within the immigration sections of overseas diplomatic posts the MIA believes should be Australia based.

Ms Horder asked for time to respond and Committee Chair Mr Michael Danby MP requested a reply in writing.

Please see attached for the Institute's response.

The MIA is available to contribute to further consultations on this Inquiry and other related matters, and thanks the Committee for the opportunity to discuss the views and concerns of its more than 2000 Registered Migration Agent (RMA) and Education Agent (EA) Members.

Yours sincerely,

Maurene Horder
Chief Executive Officer
The Migration Institute of Australia (MIA)

Ms BRODTMANN: You mentioned before that you want more A-based staff in each mission in the immigration section. What sort of proportion are you looking at?¹

According to reports from MIA Member Agents operating abroad, the most significant problem with the engagement of Australia based staff at overseas posts is that they are employed in transitory roles, usually through two year postings.

Locally engaged staff, alternatively, have longer terms of employment and are the group MIA Members generally regard as the major source of most intransigence, inconsistency and inappropriate application of fast changing Australian Migration Program policies.

The MIA notes that the Department of Immigration and Citizenship (DIAC) says Australia based officers are ultimately responsible for the submissions of applications from overseas posts and that there is a review process for handling complaints made at submission of application level. MIA Members, however, report that there is a reticence to lodge a complaint because of possible retribution.

The MIA strongly encourages the Government to make use of any existing data to place greater Australia based staff within posts that are low performing or frequently cited in complaints as both a stop-gap measure to improve outcomes and a longer term planning strategy to change the culture of select posts. It may be further necessary to introduce improved locally engaged staff training, rotations and reviews.

This would help in turn address frequent problems before the impractically protracted and administratively taxing complaint process, as well as assisting in the long term training of locally engaged staff.

The MIA is concerned that the proliferation of “delivery provider partnerships with commercial entities around the world where they are able to collect the applications, do the data entry and provide the applications to us electronically so that we can expand our footprint”, as described in parliamentary hearings by Jim Williams, DIAC Assistant Secretary, Offshore Biometrics and Operations Branch, will not reduce cost and increase efficiency, as the Department claims, but will remove applicants a further step from competent human service.²

All applicants require and deserve qualified assessments from fully trained and qualified staff. These are future residents and citizens and their visa assessments should be judged on its efficacy rather than efficiency.

¹ Proof Committee Hansard, Parliamentary Joint Committee on Foreign Affairs, Defence and Trade Inquiry into Australia's Overseas Representation, Public Hearing, 10 February 2012

[<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=id%3A%22committees/commjnt/0e77ed9d-8c39-4cc8-970a-f5bec931cd05/0000%22>, retrieved 12 March 2012]

² *Ibid.*

Recommendations

1. Where available, the Commonwealth must use complaint and processing data and undertake internal reviews to assess the relative effectiveness of Australia based versus locally engaged staff.
2. Where said data does not exist, DIAC must develop metrics and benchmarks for the provision of effective, capable managers, particularly within low performing and frequently cited posts.
3. Where within overseas posts there exists a culture of intransigence, inconsistency and inappropriate application of Australian law, action must be taken to arrest and amend that behaviour.

ADDENDUM A: Further Evidence

Further anecdotal evidence has been collected since the MIA's appearance before the Joint Select Committee. Please see below for quoted commentary from offshore Members relevant to this Inquiry:

Cairo – Locally engaged staff are holding up Libyan students who are seeking visas to study in Australia.

Monterrey, Nuevo Leon – long delays for non-Mexican applicants from South and Latin American countries, which must process through this location. International students can be significantly delayed due to two to three month processing times, even for short courses.

Delhi – Accusations of bribery to have Students visas processed.

Beijing – Applications for Student visas were referred to Australia without explanation, causing delays.

ADDENDUM B: *MIA Position Document Tabled with in Parliament 10 February 2012*

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 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, or slow email responses (eg, Philippines), poor ongoing correspondence and failure to respond to emails (eg, Singapore, Malaysia, Russia)
- Case Officers do not acknowledge the role RMAs play in representing clients, despite a Form 956³ form being lodged. The overseas post office often contacts the client directly, interview and seek further information without the RMAs' consent or knowledge (eg, India, Philippines, Kenya, Pakistan, Germany, Myanmar, USA). 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)

³ *Advice by a migration agent/exempt person of providing immigration assistance*, DIAC [<http://www.immi.gov.au/allforms/pdf/956.pdf>, retrieved 29 February 2012]

- Difficulties in lodging applications (eg, Papua New Guinea, Iran)
- reliance on outdated computer systems inconsistent with those used in DIAC office in Australia, problems with courier services to London

Poor client services

- Arrogant, condescending or rude attitude
- Poor knowledge of immigration law and natural justice, and inaccurate advice or responses given (eg, in Vietnam, Laos, Sri Lanka, China, USA, Brazil)
- Inconsistency and bias in decision making and failure to take into account valid evidence / policy / legislation (eg, case officer in Egypt refusing visa application by a Sudanese applicant, but accepting the application of an Egyptian client who provided similar supporting information; case officer in China failing to distinguish between a Partner (Subclass 309) visa and a Prospective Marriage (Subclass 300) visa) and officers conducting one sided interviews (eg, Student Visa Sector Supervisor in Thailand)
- Poor record keeping (eg, Health results have gone missing in Philippines office)
- Cultural insensitivity, particularly toward marriage as a culturally specific institution and amongst most personal and private visa types. Overseas posts must recognise and utilise Australian cultural paradigms, values and laws when discussing, distributing information and processing Spouse visas. This is particularly true with regard to same sex Partner visa types (eg, staff at the Australian Embassy in Egypt 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:

- Training and Resourcing Issues. 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 MIA is of the view that more resourcing directed to overseas posts' migration functions generally.
- Create a separate RMA mailbox at overseas posts to improve communication with RMAs
- 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. Greater interaction with RMAs through MIA could also address issues of unregistered migration agents providing inaccurate advice.

Federal Government Departments' Relationship with Overseas Posts

- 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.⁴ 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 Department's representatives onshore often do not know of or understand the migration functions of the overseas posts. Here, again, greater training would be of great help at home and abroad. It is also worth noting that the MIA finds the recent initiative of place 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.
- 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 an Immigration Case Officer refuses too many cases, it should be considered whether their practices should be investigated.

⁴ Strategic Review of the Student Visa Program 2011, Recommendation 33, June 2011 [retrieved 30 November 2011, www.immi.gov.au/students/_pdf/2011-knight-review.pdf]

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 already are poor or outdated
- Local posts also have better understanding of local situation and can verify information quicker if appropriately trained to assess information without bias

Its power and applicability, however, is no 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.