

SUBMISSION TO THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE

INQUIRY INTO THE EFFECTIVENESS OF THE CURRENT TEMPORARY SKILLED VISA SYSTEM IN TARGETING GENUINE SKILLS SHORTAGES

EXECUTIVE SUMMARY

Universities Australia would like to bring the following key points to the attention of the Committee:

- Australia's universities operate in a global labour market, perhaps more than other industries in Australia, characterised by a two-way flow of academic talent.
- Australia's knowledge economy is dependent on collaboration underpinned by the ability of students and staff to move between institutions in different countries at different stages of their careers.
- Australia's universities would benefit from streamlined visa classes aimed specifically at facilitating the entry of knowledge workers for short- and long-term stays with options for permanency.
- An alternate approach to classifying occupations, which is more responsive to the changing nature of the workplace than the existing Australia and New Zealand Standard Classification of Occupations, should be considered.
- While temporary visa holders should not have an automatic right to permanent residency, they should have the right to hold that ambition and to have minimal obstacles placed in their way provided they have the appropriate profile to be accepted.
- Post-study work rights for international students must be retained so as to optimise Australia's position as a destination of choice for international students.
- Any potential changes to the temporary visa system must be well communicated to stakeholders and the public in a timely manner.
- The current temporary skilled visa system is serving the needs of the university system well and the overarching principle in this exercise should be to do no harm.

INTRODUCTION

Universities Australia is the peak body representing the interests of Australia's 39 comprehensive universities. We welcome the opportunity to provide input to the Legal and Constitutional Affairs References Committee's inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages. This submission complements submissions made by individual universities and university groups, which reflect their own circumstances and shared perspectives.

As the peak body representing Australia's university sector, Universities Australia advocates for a visa system that is conducive to the maintenance of a strong and dynamic university system. A poorly designed visa system will undermine the ability of universities to attract world-class academics into Australia to work with our homegrown academic talent, and to drive the global collaborations that help to create new jobs and new industries for Australia.

Higher education is one sector that is now truly global in nature, with providers competing intensely for the best students and staff. Institutional success in research and global university rankings are becoming increasingly dependent on collaboration which is dependent upon students and staff moving between institutions in different countries at different stages in their careers.

The view of Universities Australia is that the current temporary skilled visa system is serving the needs of the university system well. The overarching principle if altering the current system should be to do no harm.

AUSTRALIAN UNIVERSITIES ARE PART OF A GLOBAL MARKETPLACE FOR TALENT

Australia's universities operate in a global labour market, perhaps more than other industries in Australia, characterised by a two-way flow of academic talent. It is through engaging with this global talent market that Australia has positioned itself as a world-leader in education, research and innovation. The most successful nations are underpinned by strong, vibrant university and research systems that are characterised by a highly mobile workforce and concentrated pools of research expertise from all over the world. Business and industry groups recognise the value of a thriving university sector that has a global outlook on recruitment in order to maintain its reputation as a world-class system. The Government has recognised this through the recent adjustments to the skilled occupation lists, acknowledging that employing international staff is essential to the ongoing success of our world-class university sector.

Business and industry groups recognise the value of a thriving international education sector. This sector builds a wealth of talent, supplying skilled labor to fill occupational gaps within the Australian workforce while also creating a pipeline of talent to supply industries that operate abroad with the advanced skillsets they need.

ENSURING AUSTRALIA'S VISA SYSTEM ATTRACTS THE BEST TALENT TO SUPPORT THE NATIONAL AGENDA

Universities seek to entice global talent to Australia in a highly competitive environment. Key national strategies can only be achieved by a visa system which attracts the world's best and brightest to work and study in Australian universities. Institutional success in research is becoming increasingly dependent on collaboration underpinned by the ability of students and staff to move between institutions in different countries at different stages of their careers.

Many countries with high-ranking and highly competitive university sectors have introduced new and streamlined visa classes aimed specifically at facilitating the entry of knowledge workers for short- and long-term stays. Many of these specialised visas may end in permanent residency. For example:

United Kingdom: The British work visa allows for exceptional talent in sciences, humanities, engineering, medicine, digital technology of the arts to stay in the country for five years with an extension of up to five more years. Following this period, the applicant is entitled to apply for a settlement¹.

Canada: The Canadian visa system includes university professors, lecturers and research assistants as a part of their Skilled Migration program which prioritises these occupations. In Canada, there is a clear route from this Skilled Worker Program to permanent residency after 12 months².

The European Union: The EU Blue Card system entitles all non-EU academics with a recognised or comparable university degree and a work contract with a European institution to a work permit in the EU. EU Blue Card holders are eligible to apply for permanent residence after 33 months³.

The Netherlands: Alongside their highly skilled migration program or ‘knowledge worker’ visas, the Netherlands has two innovative visa policies specifically aimed at graduates and academics. The “Orientation Year” visa allows graduates from Dutch universities to stay in the country for 12 months while job-searching and the Scientific Researcher Visa which enables holders to work with an approved institution under a research grant rather than a salary⁴.

Germany: While the EU Blue Card system has a high salary requirement, the German Research Permit does not. This visa can be awarded to qualified academics and university teachers with an agreement within a German university and settlement can be applied for after five years⁵.

France: The French “*scientifique chercheur*” visa is a long-stay visa for scientists, researchers or university teachers. Public and private institutions of higher education and research organisations may use this visa category to bring doctoral candidates, research scholars, and research faculty to France to perform research or to teach at the university level. After the 12-month visa, the holder can apply for a residence permit⁶.

In all of the international examples described above, an easily identifiable pathway to permanent residency is offered. In most cases, those individuals wishing to pursue permanent residency are required to meet particular threshold requirements relating to career prospects, language capabilities and character.

The international standards for attracting global talent are shifting and Australia must keep pace with such visa policies in countries with leading university sectors in order to remain competitive.

RESIDENCY AND CITIZENSHIP

The attraction and retention of highly qualified individuals relies on immigration and citizenship pathways that can be easily navigated. Current exemptions to the Australian Citizenship Act, which are designed to facilitate academic employment, are perversely acting as a deterrent for Australian universities who wish to employ suitably qualified academics and senior university leaders from overseas. We submit that current exemptions to the law do not extend far enough to assist Australian universities in attracting and retaining internationally-recognised, world-class academics and university leaders who will be critical to the continued success of the sector.

¹ <https://www.gov.uk/tier-2-general>

² http://www.cic.gc.ca/english/work/apply-who-permit-result.asp?q1_options=1b

³ <https://www.apply.eu/BlueCard/>

⁴ <https://ind.nl/en/work/Pages/Highly-skilled-migrant.aspx>

⁵ <http://www.bamf.de/EN/Migration/Arbeiten/BuergerDrittstaat/Forscher/forscher-node.html>

⁶ <https://www.campusfrance.org/en/talent-passport-long-visa>

Currently, academics at levels B to E are afforded skill and age exemptions under the Direct Entry stream for Permanent Residency⁷. In practical terms, this means these academics are exempt from age, skill and earning requirements and are immediately eligible to apply for permanent residency, without first having worked in Australia on a temporary work visa.

In contrast, senior academics who are entering Australia to take up senior leadership roles, including as Vice-Chancellors and Deputy Vice-Chancellors, are not afforded the age exemption. While all will pass the income threshold test, often these are individuals over 45 years of age. As such, the Direct Entry Permanent Residency stream is not available. Hence, they must wait over four years whilst working on a temporary visa to apply for permanent residency and once the minimum four years are up must hold a contract of employment which is valid for over two years before they are eligible to apply for permanent residency.

Given that many individuals being recruited into leadership roles in Australian universities would sometimes be leaving positions in prestigious international universities, they are often reluctant to give up these roles without the security that permanent residency affords them. This can make the recruitment of highly talented individuals difficult for Australian universities. The only permanent residency pathway currently available to such candidates is the Distinguished Talent visa⁸, which is extremely specialised and competitive and in no way guarantees applicants a permanent visa. The Distinguished Talent pathway is more onerous than the Direct Entry Permanent Residency pathway and has less certainty of ultimate eligibility.

SKILLED OCCUPATION LISTS

UA has welcomed the move toward a transparent, evidence-based methodology in maintaining the skilled occupation lists. However, we do have concerns regarding the applicability of this methodology to knowledge workers, particularly those employed in university-specific occupations.

The demand for knowledge workers is driven by a complex set of variables none of which are quantifiable through existing metrics. This includes domestic and international research priorities, state-based strategies, funding availability, changes to Government policy, such as those introduced through the National Innovation and Science Agenda, and continuously evolving technology trends.

Consequently, we continue to advocate for an approach to reviewing the lists which takes into account those occupations where quantifying the absolute need for a specific occupation is impossible and where metrics may not provide an accurate representation of future workforce needs. This may include the use of international benchmarks to demonstrate the contribution foreign knowledge workers make to the academic enterprise in countries against whom we compete for academic talent.

Universities Australia is also concerned about other university-based occupations which do not feature on the Australian and New Zealand Standard Classification of Occupations (ANZSCO) but are of vital importance to the long-term success of Australia's universities. Of particular importance are university advancement and philanthropy professionals where the recruitment of foreign expertise is vital in fostering the development of philanthropy capability in Australian universities. The lack of a specific category for such an important profession highlights the current disconnect between the ANZSCO and the ever-evolving university sector. Assigning a new occupation to the ANZSCO is a complicated administrative process with long time lines. Furthermore, submitting an occupation for inclusion on the ANZSCO may not result in a positive outcome after many months of consideration, nor does a final inclusion on the ANZSCO immediately result in the occupation being listed on the Skilled Occupation List. It raises the issue of whether an alternate approach to classifying occupations is required which is more responsive to the changing nature of the workplace.

⁷ <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/employer-nomination-scheme-186/direct-entry-stream>

⁸ <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/distinguished-talent-124#Overview>

LABOUR MARKET TESTING

Australian universities run global searches looking for the best talent to fill positions. This approach to recruitment is what keeps the sector competitive and contributes significantly to Australia's reputation and ability to continue to attract international students. Universities run transparent, non-discriminatory recruitment that ensure employers are not discriminating against suitably qualified Australians. Whilst universities have enjoyed exemptions in terms of Labour Market Testing, each institution has well developed recruitment policies and procedures which demonstrate the process by which a candidate has been selected, the rationale for the selection and the conditions under which the successful candidate will be employed.

CLEAR AND ACCESSIBLE PATHWAYS TO PERMANENT RESIDENCY

The attraction and retention of highly-qualified individuals relies on immigration and citizenship pathways that can be easily navigated. Clear and accessible pathways to permanent residency are important for senior academics and university administrators. The prospect of a transition to permanent status is one of the deciding factors in attracting highly-sought after researchers and academics that give Australia a competitive edge over other countries.

A smooth pathway for those potential migrants who have demonstrated their intent, commitment and investment by obtaining a significant Australian qualification is in the national interest. Applicants who have obtained a qualification from an Australian university should have this recognised in any subsequent application for migration.

The university sector faces a significant hurdle in attracting skilled employees without being able to offer sponsored employees a path to permanent residency. In the first instance, it is of vital importance that university occupations are preserved on the Medium to Long Term Skills Shortage List to ensure there are pathways to permanent residency. Many international candidates for senior roles within universities are unwilling to accept offers of employment in Australia unless they know they can obtain permanent residency before leaving their current role. In fact, the desire to obtain permanent residency as part of taking on a role in an Australian university, only reinforces the commitment of the candidate in contribution to Australia's knowledge economy.

STUDENT VISAS

International education is Australia's third largest export industry and the largest services export, contributing \$32 billion dollars to the Australian economy in 2017. Universities contribute approximately 67 per cent of this income. Australia is the third largest provider of international education behind the US and UK, with Australian universities responsible for the education and training of more than 500,000 students in 2018. Our role in fostering the potential of the best and brightest minds from around the region and beyond cannot be underestimated. Australia's international education system builds capacity and capability among the students we educate and serves as a mechanism of the soft diplomacy and social benefit arising from improved cultural literacy, strengthened cultural linkages and enhanced cultural capital.

To maintain the world-class standard of our university sector, it is imperative that our student visa system supports the integrity of our universities by attracting genuine students to our shores. At the same time, to stay competitive in an increasingly global market, Australia's student visa framework must maintain clarity, transparency and consistency and encourage timely outcomes for students wishing to study in our universities.

While temporary visa holders should not have an automatic right to permanent residency, they should have the right to hold that ambition. With respect to student visa holders, the current Genuine Temporary Entrant criteria sends the message that international students are not encouraged to become permanent residents by virtue of the specific criteria and its isolation from any other visa possibilities. Genuine students with an ambition to eventually become permanent residents should be

welcomed. It is at the stage of applying for long-term residency that a decision should be made about whether they have the appropriate profile to be accepted.

Ensuring there are adequate pathways to facilitate permanency will bolster the success of the temporary migration program. Australia's Temporary Graduate Visa⁹ (subclass 485) is a key component of the nation's overall migration program and provides Australian employers with a pipeline of global talent in possession of world-class Australian higher education qualification. UA strongly supports the continuation of this visa subclass. Analysis of student visa transition data suggests that over the period of 2000-2014 only 16 per cent of the international students in Australia during this period transitioned to permanent residency¹⁰.

Despite the number and strong growth of international students in Australia, there is no compelling evidence presented to suggest that the ability of these students to work during and after their period of enrolment has an impact on the domestic labour market. Recent analysis of the impact of overall immigration on labour market outcomes in Australia found that there was no evidence that immigration harms the labour market outcomes of individuals born in Australia¹¹. In fact, it was shown that migration contributed positively to the economy – with the 2014-2015 temporary migrant cohort projected to contribute \$9.7 million to the economy. It was found that immigration flows into skill groups where salaries are high and employment is low with evidence to suggest that immigration has a positive effect on outcomes for the Australian-born.

All temporary migrants create demand for labour, services and other resources through the day to day consumption of goods and services, thus creating additional jobs in the local economy¹². Those migrants who do not participate in the labour market or have limited work rights (such as international students) but yet consume goods and services also contribute to job creation¹³.

Universities Australia cautions against ad hoc changes to the Temporary Graduate Visa. Valuable lessons can be learnt from looking at the effect of the removal of post-study work rights for international students by the UK Government in 2011¹⁴. These changes have seen significant long-term reputational damage to the UK education system from which the UK may not recover¹⁵.

COMMUNICATION, CLARITY AND CERTAINTY

Careful communication about changes to the migration program assists in the mitigation of risk in the higher education sector. Consistency of migration processes have a direct impact on Australian universities' ability to recruit international students and staff. Changes in the system – whether large or small – create uncertainty. It is essential that all changes are well communicated to stakeholders and the public in a timely manner.

⁹ <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485>

¹⁰ <https://cdn.tspace.gov.au/uploads/sites/107/2018/04/Shaping-a-Nation-1.pdf>

¹¹ <https://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-supplementa.pdf>

¹² <https://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-report-overview.pdf>

¹³ <https://cdn.tspace.gov.au/uploads/sites/107/2018/04/Shaping-a-Nation-1.pdf>

¹⁴ <https://www.gov.uk/government/news/major-changes-to-student-visa-system>

¹⁵ <https://www.nus.org.uk/Global/NUS%20-%20Immigration%20Bill%20briefing%20-%20Survey%20Report.pdf>

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