

UNIVERSITIES AUSTRALIA SUBMISSION

VISA SIMPLIFICATION: TRANSFORMING AUSTRALIA'S VISA SYSTEM

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EXECUTIVE SUMMARY

Universities Australia is the peak body representing Australia's 39 comprehensive universities in the national interest. We welcome the opportunity to provide input to the Department of Immigration and Border Protection's process of simplifying Australia's visa system. This submission complements those made by individual universities and university groups, which reflect their own particular 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. We do so in recognition of the role our members play in contributing to Australia's prosperity as well as realising Australia's diplomatic, trade and investment potential. A poorly designed visa system would undermine the ability of universities to attract world class academics into Australia to work with our homegrown best and brightest, and to drive the global collaborations that will help us to create new jobs and new industries for Australia.

Australia offers some of the best opportunities for academic talent in the world through a combination of high quality teaching and research. Australia has positioned itself as a world leader in the university sector by recruiting the best talent available. However, a move to short-term visa arrangements would put Australia at a substantial disadvantage. The best and brightest would not come here to collaborate with Australian talent.

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. If Australian universities cannot recruit the best and brightest academics internationally, we deny our homegrown stars the opportunity to work alongside the best globally. This will lead to a downgrading and isolation of our own system, unable to benefit from the cross-fertilisation that great research and higher education requires.

International education is Australia's third largest export industry and the largest services export, contributing \$21.8 billion dollars to the Australian economy in 2016. 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 350,000 students in 2015. Our role in fostering the potential of the best and brightest minds from around the region and beyond cannot be undersold, both in building capacity and capability among the students we educate and as a mechanism of the soft diplomacy and social benefit arising from improved cultural literacy, strengthened cultural linkages and enhanced cultural capital.

Business and industry groups recognise the value of a thriving international education sector. This sector builds a wealth of talent, supplying skilled labour 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.

Higher education is one sector that is now truly global in nature, with providers competing intensely for the best students and staff - both academic and professional. Institutional success in research and global university rankings are becoming increasingly dependent on collaboration which is built on the ability of students and staff to move between institutions in different countries at different stages in their careers.

Universities Australia recommends:

1. The development of a simplified visa system that is based on the principles of openness, simplicity, fairness, transparency and accessibility, stability and certainty.
2. The retention of a visa option for students, student guardians (for students under-18 years) and university graduates for the purposes of working following completion of studies and temporary workers engaged in university-specific occupations.
3. The retention of the 40-hour per fortnight work allowance for student visa holders.
4. That researchers working in grant-funded positions to be exempt from the requirement for the applicant to have at least two years remaining of their current contract at visa approval date, where they have been employed for more than two years.
5. That candidates wishing to enter Australia to take up university-sponsored employment should not be required to undertake a skills assessment.
6. That universities be exempt from Labour Market Testing for temporary visa purposes from March 2018.
7. That DIBP look at international examples with the view to developing a knowledge-worker visa subclass that provides a straightforward path to permanent residency for individuals employed by universities.
8. Changes to exemptions through the use of the term “academic” rather than “scientist” under Section 22C of the Act, and broadening of the skills and age exemption under the Direct Entry Stream for Permanent Residency.

PRINCIPLES

To ensure that Australia remains a strong player in an ever more competitive market, Universities Australia recommends the development of a simplified visa system that is based on the following principles:

Openness

Australia's future prosperity will depend on our ability to attract talented people from around the world who can help build Australia's capabilities and strengths. As a relatively small and geographically isolated nation, any reform to Australia's visa system must carefully balance vital national security

Australia must continue to be seen as a country welcoming of international students, educators, researchers and university professionals.

considerations with the large economic and social benefits that flow from maximising the simplicity by which people can enter and leave the country. Australia must continue to be seen as a country welcoming of international students, educators, researchers and university professionals and our messaging should be consistent with our national agenda to build a globally engaged university sector.

Simplicity

Given the complexity of Australia's current visa system and the cost it imposes on taxpayers, employers, and individuals, the case for simplification is strong. Simplification will help make Australia a more attractive destination for visitors, employees, international students and others. However, there are sound reasons for some of the current complexity, and ensuring unintended consequences are minimised will be vital to the success of any transformation. In particular, while rationalising the number of visa subclasses would be a positive step, care must be taken to ensure this does not result in a significant increase in the number of streams under various visa sub-classes. A visa program that focuses on primary intentions of tourism, study, work and permanent migration could be a positive pathway to useful simplification.

Fairness

Too often, in the past, substantial reforms to visa policy have been announced with insufficient regard given to the impact the changes will have on people who are already in Australia, or who have submitted an application based on the previous set of rules. Changes to the visa system should not apply retrospectively if Australia is to remain a competitive and attractive destination for temporary and long-term entrants. In the interests of fairness and competitiveness, visa reform should consider that senior academics and core university leadership staff are often individuals over 50 years of age. Any age restrictions must reflect this for our sector to attract the top-level staff it requires to maintain its reputation and performance as a world leader.

Transparency and accessibility

Information about our visa categories and how the system works should be readily available in clear language that is accessible to all. A person considering coming to Australia should be able to easily see and understand how the

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different categories of our visa program operate. The online information the Government provides to applicants should be at global industry standard. This should include up-to-date information about expected total costs and processing times, pathways to permanent residency, cost of living and access requirements for health, education and other vital services and the appeal rights open to all applicants.

Stability and certainty

Much of the complexity of our current visa system comes from repeated incremental change that has been absorbed into the system over time. While the Australian Government will always need to retain the right to make changes quickly to address unforeseen developments, maximising the stability and certainty of our visa framework should be a key policy objective. Once a new visa framework is implemented, any future reform should routinely take place following a recurring formal review process which may be undertaken every three to five years. Bipartisan commitment to this process would provide employers and individuals with certainty to plan business and life decisions.

SCOPE TO REDUCE THE NUMBER OF VISA SUBCLASSES FROM 99 TO APPROXIMATELY 10

Australia's universities are broadly supportive of visa simplification provided it remains competitive with other destinations for international students, lecturers, researchers and university professionals. While reducing the number of visa subclasses is positive, care must be taken to ensure this does not result in a significant increase in the number of streams under various sub-classes. Moreover, any reduction in visa subclasses must safeguard the existing pathways that enable Australian universities to attract and retain highly-skilled people.

A visa program that focuses on primary intentions of tourism, study, work and permanent migration would be a positive pathway to useful simplification. While the current number of visa subclasses is too many, ten may not be enough. There is likely to be a number somewhere between these two extremes that is the simplest for students and stakeholders to understand and comply with.

Irrespective of the way in which the visa numbers are rationalised, the university sector recommends the retention of a visa option for the following categories of temporary entrants:

- students;
- student guardians (for students under 18 years of age);
- university graduates for the purposes of working following completion of their studies and potentially a pathway to permanent residence; and
- temporary workers engaged in university specific occupations.

The market is sensitive to changes in opportunities for further work experience in Australia after graduation and the 485 Post Study Work visa is a significant drawcard for international recruitment. We would not advocate any changes to these visas, nor any further narrowing of pathways to valid additional temporary work opportunities.

Universities welcome a reduction in the number of visa subclasses provided that the existing pathways are not lost.

Universities welcome a reduction in the number of visa subclasses provided that the existing pathways are not lost for academics, researchers and core professional staff. Universities must be in a position to support pathways for individuals to transition from temporary to permanent residency and must be able to support the retention of our best international students.

THE DELINEATION BETWEEN TEMPORARY ENTRY AND LONG-TERM OR PERMANENT RESIDENCY

The proposal for a separate 'provisional' period of residence could decrease the attractiveness of Australia as a study or employment destination for some cohorts. Uncertainty about changes to Australia's visa framework, and perceptions about fairness, efficiency and transparency makes other destinations more attractive choices. In the case of international education,

more change is likely to encourage students to apply to countries where the system is seen as more stable.

While temporary visa holders should not have an automatic right to permanent residence, 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 never welcome 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.

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 MLTSSL to ensure there are pathways to permanent residency.

While mandatory time spent in Australia before eligibility for permanent residency supports a prospective migrant's investment in Australia, it will affect those who want the certainty of permanence before they move to Australia. Many international candidates for jobs within universities are unwilling to accept offers of employment in Australia unless they know they can obtain permanent residency before leaving their countries of origin. If a mandatory temporary period were introduced, exceptions for certain occupations should apply which should include individuals with a university-specific teaching and research employment opportunity.

AUSTRALIA'S RESEARCH CAPABILITIES SHOULD BE ENHANCED BY OFFERING REASONABLE VISA ELIGIBILITY CRITERIA

Australia's university sector would benefit by Australia offering reasonable visa eligibility criteria including a specific consideration of relevant work experience. Consideration must be given to any work experience duration requirement and the impact this can have on a prospective applicant's ability to access a pathway to permanent residency.

Where applicants have been employed in grant-funded research positions in Australia for more than two years, Universities Australia recommends exemption from the requirement for the applicant to have at least two years remaining of their current employment contract. With low unemployment rates for highly-qualified people, such an exemption presents low risk, and provides the applicant with greater security and investment in Australia

Whilst much of this submission focusses on the simplification of the visa system as it relates to students and academic staff, universities continue to face difficulties when recruiting non-academic staff to senior positions under the Employer Nomination Scheme (subclass 186). Australian universities recruit specialist professionals based on their many years of relevant work experience,

Universities Australia would like to see the age restriction removed or increased to at least 60 years.

and in most cases such individuals are aged between 45 and 60. The chances of attracting such people to specialist roles in Australia are very low when a pathway to permanent residency is not available to them. Universities Australia would like to see the age restriction removed or increased to at least 60 years.

Furthermore, universities recommend that such candidates should not be required to undertake a skills assessment. Given the highly-specialised nature of the work and the rigorous recruitment processes employed, universities themselves are most ideally qualified to determine whether a candidate has the required skills for the position in question.

An English language exemption based on salary should be reintroduced for academic and professional university appointments. Before 1 July 2017, an English language exemption existed for those candidates on a base salary of at least \$96,400. Again, universities are well placed to determine whether a candidate has the appropriate English language skills for the role.

Universities Australia recommends that universities should be exempt from Labour Market Testing (LMT) for temporary visa purposes from March 2018. Universities undertake rigorous labour marketing processes, as part of their own internal procedures. Furthermore, in select cases, suitably qualified and experienced candidates are targeted for recruitment according to institutional strategic requirements and these may not involve LMT. Given the specific targeting of the candidate in such circumstances, it should not be necessary for the university to also undergo an LMT process.

DEVELOPING A VISA SYSTEM WHICH ATTRACTS THE BEST TALENT TO SUPPORT THE NATIONAL AGENDA

Universities seek to entice global talent to Australia in a highly competitive environment.

Australia's universities operate in a global labour market, perhaps more than any other industry in Australia, characterised by a two-way flow of academic talent. Universities seek to entice global talent to Australia in a highly competitive environment.

Academics see themselves as part of a global talent pool who compete for positions at the best institutions in the world. Many academics consider time served in an overseas institution as an important part of their professional development.

Key national strategies can only be achieved through the development of a visa system which attracts the world's best and brightest to work and study in Australian universities. The visa reform is essential to the success of three key national strategies. A timely and transparent visa process is particularly necessary to support the Government's *National Innovation and Science Agenda*, as the STEM area is a highly-competitive global market. A fair, clearly-communicated and reasonably-priced visa application process will also facilitate the objectives set out in the Australian Government's first *National Strategy for International Education (2025)*. A regional student visa subclass for study and residence in regional Australia could provide a major impetus to the

Commonwealth regional development agenda, *Regions 2030: Unlocking Opportunity*.

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 in their careers. Several 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 settlement.
- 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 twelve months.
- 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 months.
- The Netherlands
Alongside their highly skilled migration programme 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 twelve 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 salary.
- 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 with in a German university and settlement can be applied for after five years.
- France
France’s ‘*scientifique chercheur*’ visa is a long-stay visa for scientists, researchers or university teachers. Public and private institutions of higher education and research organizations 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 permit.

In all 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, in some cases, 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.

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Universities Australia recommends that as part of the review of Australia's visa system, the Department of Immigration and Border Protection look at these international examples with the view of developing a knowledge worker visa subclass that provides a straightforward path to permanent residency.

OTHER POINTS FOR CONSIDERATION

EFFICIENT AND EFFECTIVE VISA PROCESSING SERVICES MUST BE ENSURED

The university sector calls for sufficient resources to be available to provide sustainable and effective services. Visa processing times, consistency of processing and ease and clarity of the application process impact directly on Australian universities' ability to recruit international students and staff. Lengthy process times for certain visa subclasses can cause problems and efforts to improve this would be welcomed. It is hoped, however, that speed would not be at the expense of effectiveness and transparency. Members have reported that the global processing approach in the case of student visas appears to have produced some inconsistencies in visa outcomes.

While the concept of Genuine Temporary Entrant (GTE) has been subject to some discussion across the sector, it is notable that it is assessed against transparent criteria and reasons for refusal are provided. There would be concern in this regard if Australia were to move to a more American-type system with quick risk-based decisions without transparency and refusals based solely on profile. Such a change would damage our competitiveness in the international space.

Responsibility for assessing risk should be the primary responsibility of DIBP. Where there is joint responsibility with universities, DIBP must provide reasonable and timely data and market intelligence about emerging risk issues to support universities in their internal processes. Failure to manage risk, while resulting in short-term growth could negatively impact public perception of Australia's international education and force the government to act in a way that causes collateral damage. Informed and transparent risk management would greatly benefit the sector.

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The collection of biometrics could be problematic for the university sector. While this is currently undertaken for citizens of some countries, it is not currently mandatory for all individuals wishing to enter Australia. If biometrics can be gathered in a way that does not inconvenience the individual, for example through an uploaded digital photo, then there would likely be no major issues. If individuals were required to go in person to a third-party office to undertake a biometric assessment this has the potential to affect Australia's competitiveness.

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.

Permanent Residency Exemptions

Currently, academics at levels B to E are afforded skill and age exemptions under the Direct Entry stream for Permanent Residency. 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 within universities are not afforded the age exemption. While all will pass the high-income threshold test, often these are individuals over 50 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 pathway, 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.

Citizenship Exemptions

Under current immigration and citizenship legislation, exemptions in relation to citizenship are afforded to certain academics working in a university. To be eligible for Australian citizenship, an applicant must have resided in Australia lawfully for four consecutive years and must have been a permanent resident for the twelve months preceding their application. In addition, they must not have spent more than twelve months outside Australia in the 4 years immediately before lodging their application and further they must not have spent more than 90 days outside of Australia in the immediately preceding twelve months.

For scientists working in a university setting, there is an exemption to the above, such that they are not precluded from travelling outside of Australia for more than 90 days in the preceding 12 months prior to applying for citizenship. This is known as the Special Residence Requirement.

However, the definition of ‘scientist’ that is employed by the Department of Immigration and Border Protection when applying this exemption is extremely narrow. The definition of ‘scientist’ as per Department of Immigration and Border Protection policy is a researcher working in a university setting who has expert knowledge of one or more of the natural or physical sciences. Consequently, this definition excludes many senior academics who conduct rigorous, peer-reviewed, world-class research and publish in globally recognised peer-reviewed journals. These senior academics are often required to travel frequently for their research, hence are prevented from registering enough days in Australia within a four-year period to be eligible for citizenship.

The inability of highly-qualified, globally recognised academics in the humanities, social sciences, law, architecture, engineering and the arts to secure citizenship places these academics in the position where they can only ever reside in Australia as a foreign national, despite a commitment to Australia and their obvious benefit and contribution to Australia. They frequently travel internationally representing their Australian institution often carrying out fieldwork and presenting their research findings at international fora. Paradoxically, it is this travel on behalf of their Australian university that prohibits them from accruing the necessary number of days spent in Australia for the conferral of citizenship.

Universities Australia recommends changes to the exemptions through the use of the term “academic” rather than “scientist”.

Universities Australia recommends that changes to the exemptions through the use of the term “academic” rather than “scientist” under Section 22C of the Act, and broadening of the skills and age exemption under the Direct Entry stream for Permanent Residency would provide Australian universities with means to

attract world class academics and university leaders to Australia and maintain the quality of Australia’s university sector.

The Australian university sector is supportive of the Australian Government’s intent to simplify Australia’s visa system. The impact of a poorly designed visa framework will be far-reaching, long-term and will condemn Australia to be a globally disconnected higher education and research backwater. Current geopolitical events have created a unique, once-in-a-generation opportunity to

turn Australia's much-lamented brain-drain into a brain-gain. A visa system that is simple, transparent, accessible and stable will support the movement of skilled individuals and the development of the knowledge economy. Something which is vital for the long term prosperity of Australia and the region.