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DESIGNING AND DELIVERING VISAS

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The Australian Government, like governments of other developed nations, has been faced with greatly increased movements of international visitors, students and other movers. It has experienced less non-compliance with visa conditions than has been evident in most other comparable nations. This article spells out the administrative principles which have guided the officers in charge of managing population movement to and from Australia. For immigration agencies around the world the continual search for better ways to design and deliver visas is a necessity, not a choice.

CHALLENGES AND CONSTRAINTS FACING IMMIGRATION AGENCIES

Most immigration agencies face similar challenges. These include: expectations of faster and more convenient visa processing, particularly from services industries such as tourism and international education, but also from organisations that rely on the rapid entry of skilled workers from overseas in order to maintain a competitive advantage and from family sponsors in Australia. These pressures occur against the background of ageing workforces in most developed nations. Indeed there is increasing competition for highly skilled people who themselves are highly mobile. Immigration agencies also have to respond to demands by governments at state and local levels for a greater say in the level of migration, particularly skilled migration, to their jurisdictions.

They must also bear in mind the rising volumes of people movements, both legal and illegal. An increasing percentage of this is from countries where bona fides have to be checked more closely due to risks of overstay, visa non-compliance or fraud. Further, there are concerns about illegal entry and illegal access to government services and benefits and increasingly sophisticated fraud in immigration caseloads, particularly identity fraud. There is also the problem of rising volume

and the complexity of immigration cases needing to be security checked. These difficulties are compounded by the risks of communicable diseases being transmitted because of the rising level of people movements, particularly diseases such as TB and HIV, and the entry of persons of character concern, particularly those associated with organised crime.

Most immigration agencies also face similar constraints. These include financial constraints, particularly against the background of a burgeoning caseload; accommodation constraints, particular at overseas embassies which cannot be readily expanded in size; constraints on how quickly the IT systems on which much immigration work now depends can change to accommodate rapid change; and constraints on the passage of legislative changes that may be necessary to tackle new and emerging issues.

Within the context of these constraints, the consequences of not dealing adequately with the above challenges are serious. They can lead to lengthening processing times and backlogs. If the applicants are on-shore they can use these backlogs to delay departure thus compounding the situation. This is particularly the case for Family Stream visas and Protection Visas but can also occur with Skill Stream visas. Immigration agencies that do not deal with the challenges also

face increased level of complaints from bona fide applicants and sponsors who are affected by the slower processing times and backlogs. These complaints can be from various industry groups or as correspondence to the Minister. This can lead to a rising percentage of resources being 'sucked' into administrative functions such as responding to complaints and application progress inquiries and a reduced ability to undertake integrity checking and post-arrival monitoring. This in turn can also can then feed into further delays in processing applications.

TEN KEY STRATEGIES

It is against this background that the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has over recent years pursued ten key strategies to improve the design and delivery of visas. These strategies are all at various stages of implementation. The strategies are discussed below.

1 More transparent and objective visa criteria

DIMIA has sought wherever appropriate to introduce more transparent and objective visa criteria. This has had the downside of reducing flexibility to respond to the unique and exceptional circumstances of some applicants. The benefits of this approach, however, more than outweigh the loss of this flexibility. These benefits include: enabling potential applicants to self-assess whether they meet criteria and thereby reducing the number of unsuccessful applications; more consistent decision-making and fewer appeals to review tribunals; and reduced scope for allegations of bias.

Examples of where subjective criteria and concepts have successfully been replaced by more transparent and objective ones include: replacement of the highly

subjective concept of 'usual occupation' in the pre-1999 general skilled migration points test with criteria that enable applicants to nominate their own occupation from the Skilled Occupation List. Together with skills assessment by expert skills assessing bodies, this change led to a major reduction in refusal rates (from around 50 per cent down to around 15 per cent), appeals and complaints. It has also contributed to reduced processing times. At the same time, for a range of reasons, we have seen a major improvement in the employment performance of migrants entering Australia under these immigration categories.

Another example is the replacement of the distinction between 'key activities' and 'non-key activities' in the long-term business entry category with a simple list of skilled occupations, combined with an associated minimum salary level to ensure skill levels are not being exaggerated. Key activities were those that did not require labour market testing before an employer could sponsor an employee from overseas. As a result, almost all employers indicated that the position they sought to fill was a 'key activity' even if it was of a relatively low skill. This led to increased and unproductive debates between DIMIA staff and sponsors/agents. Using a list of skilled occupations and minimum salary levels did away with this problem while still meeting the overall objective of ensuring that this visa class is only used for the entry of skilled workers. It also enabled DIMIA to cease using the anachronistic mechanism of 'labour market testing'. DIMIA found that, with labour market testing, employers with genuine high skilled vacancies experienced unnecessary costs and delays to meet the bureaucratic requirements whilst non-genuine cases could usually arrange the job advertising to give the

results needed. Because of the highly polarised nature of Australia's labour market (for example with high unemployment levels amongst unskilled Australians and low levels amongst high skilled), a better approach is to focus on the skill and salary levels of applicants than on labour market testing.

A further example of DIMIA introducing more transparent and objective visa criteria is the introduction of specific financial and English language benchmarks for student visa applications to replace the discretionary benchmarks that were previously used by DIMIA decision-makers. This has enabled student visa applicants to better self-assess their chances of meeting criteria and thus a reduction in refusal rates.

2 Partnerships with expert third parties

Making assessments of whether an applicant meets the requirements for a visa can often involve very complex issues. It is not humanly possible for immigration officers to have the range of expertise needed to make all of these assessments. For this reason, DIMIA has increasingly relied on the expertise of external third parties. Examples of this include relying on the skills assessing bodies nominated by the National Office of Overseas Skills Recognition (NOOSR) to undertake skills assessments of potential skilled migration applicants. This has helped to ensure a greater level of confidence amongst both applicants and employers that new skilled migrants indeed have skills that meet Australia's high standards. DIMIA also relies on the International English Language Testing System (IELTS) to assess an applicant's English language level rather than have this done via interviews conducted by DIMIA officers. The Department also uses Health Services

Australia to test the medical needs of Australians who sponsor people from overseas as carers.

Changes such as these have put decision-making on a much firmer footing and have led to a reduction in appeals to the Migration Review Tribunal and a reduction in complaints to the Ombudsman on these matters. DIMIA is taking these partnerships further by establishing electronic links to the databases of these third parties where possible (with appropriate privacy protection). These electronic links provide for both greater efficiency as well as greater integrity as they reduce the potential for document and identity fraud. DIMIA has encouraged its third party partners to include photos of applicants in their databases as well as other measures to ensure database security and combat identity fraud.

3 Front-end loading and concurrent processing

Efficient and timely decision-making requires that applicants be encouraged to provide all the necessary documents at time of application and for DIMIA officers to undertake relevant checks concurrently rather than consecutively. DIMIA has sought to encourage this via a combination of legislative change (for example, making the lodgment of certain documents a requirement for being able to lodge a valid application) and by encouraging DIMIA decision-makers to request all outstanding documents when contacting clients immediately after application lodgment. These initiatives have contributed to a significant decline in processing times, particular for Partner Visa applicants.

4 Matching visa processing to objective assessments of immigration risk

Taking a risk management approach to

identifying which visa applications require additional integrity and other checking has long been part of the approach that all immigration agencies take. The key to this is how well such checking can be targeted so that resources are not wasted on doing extra checking for cases that do not need it, whilst focusing resources on those cases where the extra checking is needed. The better the targeting, the more efficient and effective the visa service. DIMIA has increasingly sought to use highly objective indicators and quality data to determine this targeting. At a macro level, the targeting is based on indicators such as non-return rates, visa non-compliance rates and rates of document fraud in the caseload. DIMIA will soon introduce a system known as 'Safeguards'. This will provide more detailed guidance to decision-makers on which cases they need to undertake more detailed checking and/or referral to overseas posts to undertake interviews or site visits.

5 Enabling self-assessment

High visa refusal rates are often an indicator of either poor visa design or that the information about the visa that is available to potential applicants is not clear and accessible. High refusal rates can mean that many clients are wasting their time and money in applying and that DIMIA is diverting resources into less than productive work. One means of minimising this is to make sure that potential clients are able to self-assess whether they are likely to be successful with a visa application.

DIMIA has been pursuing a number of measures to improve communication with clients before they lodge an application. We have developed more comprehensive visa application booklets that provide a step by step guide to the visa application

process for different types of visas and created dedicated client contact centres where pre-application lodgment advice can be obtained. We have also revised the DIMIA web-site to make it more client friendly and progressively developed inter-active elements to the web-site enabling potential applicants to test their own situation relative to visa requirements before lodging an actual application. These measures have contributed to the generally lower refusal rates for most visa classes that now exist.

6 Working more closely with sponsors

It is often the case that sponsors here in Australia are better placed to provide the information needed for visa processing than the actual applicant. Dealing with applicants via the sponsor can also greatly streamline processing and reduce the need for the sponsor/applicant to deal with more than one office of DIMIA. Examples of initiatives where DIMIA has sought to deal with cases via the sponsor include: the parents category; temporary resident doctors; sponsored business visitors; long-term temporary residents; and the professional development visa.

7 Centralisation/repatriation of administrative aspects of visa processing

Management of the visa function can be divided into two broad parts. First there are the administrative aspects. These include receiving applications, registering applications on immigration systems, file creation, receiving and accounting for application fees, ensuring that the applications are legally valid, sending acknowledgment letters to applicants, responding to client inquiries, making an initial assessment, requesting any outstanding documents and requesting health

and character checks to be undertaken, writing up decisions and advising the applicant of the outcome.

Second there are the integrity checking aspects. These can involve making contact with local employers and/or various local authorities, undertaking interviews, site visits or other investigations and the post-arrival monitoring aspects. These can range from simply checking systems to ensure that the visa holder has departed before visa expiry through to undertaking site visits of employers to ensure relevant obligations and undertakings are being complied with.

The pressures and challenges from rising caseloads can mean that the percentage of resources taken up by administrative functions as described above, particularly in the litigious environment which often surrounds immigration agencies, can put downward pressure on the percentage of resources devoted to integrity checking and post-arrival monitoring. To address this, DIMIA has initiated a process of progressively repatriating and often centralising the administrative aspects of visa processing. The key benefit is to enable the administrative aspects of visa processing to be undertaken more efficiently and for the resources saved to be re-directed to integrity checking and post-arrival monitoring.

Apart from improving the integrity of visa processing functions, this has delivered a range of other benefits. The Department can now provide better client service, particularly as applicants and sponsors find it much easier to deal with an office in Australia than with an overseas post. The reforms have also led to reduced processing times and more consistent decision-making. They have also improved our ability to address training

needs, particularly those associated with implementation of change management.

An important dimension to progressing this strategy is to ensure systems support for what are known as 'case referral functions'. This is where a visa processing office in Australia has to refer a case to another office in Australia or overseas to undertake integrity checks (for example an interview or a site visit) on its behalf. DIMIA has found that efficient systems support for this function is critical for tracking which office a particular case may be at and for transmitting details regarding a referred case from one office to another. This includes reports back to the processing office on the outcome of integrity checks and management reporting on the referral function.

As at June 2004, DIMIA had repatriated and/or centralised the following visa categories:

- all General Skilled Migration in Adelaide
- student applications from PRC nationals in Adelaide (which is being progressively extended to other nationals)
- most Business Skills visas in Perth
- all off-shore Parent applications in Perth
- all Entertainer visa applications in Sydney
- Distinguished Talent and Special Eligibility visa processing in Canberra
- all Sponsored Business Visitor applications and temporary medical practitioner applications in the relevant State/Territory Office in Australia.

An important by-product of these reforms has been the repatriation of over 300 jobs to Australia.

8 Electronic lodgment and processing

Electronic lodgment and processing can

extend the benefits of repatriation and centralisation. These benefits include easier access to DIMIA services by clients allowing clients to be guided through the application process based on their individual circumstances. They also mean that DIMIA resources devoted to data entry, application fee management, and so on are reduced and that data entry is more accurate as this is being done by applicants or their agents. Further benefits are that a range of systems checks can now be done automatically rather than relying on staff remembering to make these checks. (Some 15 to 20 checks are currently done automatically including in relation to the legal validity of the application, the immigration status of the applicant, whether the applicant owes any debts to the Commonwealth, and so on.) Also systems profiling can now be used more efficiently to identify cases that may require additional integrity checking.

DIMIA is moving progressively to enable electronic lodgment for an increased number of visa types. To date, these include a range of visitor visas, student visas, long-term temporary resident visas, working holiday maker visas and on-shore resident return visas. The Department plans to enable electronic lodgment of temporary resident doctor visas and general skilled migration visas in the next 12 months. Take-up rates for most of these electronic visa applications is growing strongly.

To be able to take full advantage of the benefits of electronic lodgment and processing, DIMIA is at the same time pursuing a range of related initiatives. These include testing provision for applicants to attach various electronic documents to their applications, without losing their essential security features and trialing travel to Australia without visa labels. For a number of years, DIMIA has allowed

visitors on Electronic Travel Authorities (ETA) to travel to Australia without a visa label in their passports by relying on data in our systems to check this rather than to rely on a human reading the label. This ability has been enhanced by what is known as Advanced Passenger Processing (APP) and the placement of Airport Liaison Officers at key airports around the world to detect passengers who may be seeking to enter Australia without authorisation. Taking advantage of APP, DIMIA is progressively testing travel without visa label for holders of other visas and for visa holders from non-ETA countries. Enabling travel without visa labels not only provides for greater client convenience but also reduces the prospect of people trying to use forged visa labels.

The Department also plans to establish electronic links with panel doctors around the world to enable more rapid and secure checking of health requirements (panel doctors are doctors appointed by DIMIA to undertake health checking of visa applicants on DIMIA's behalf). A trial of this for some panel doctors and a radiologist in Singapore (for student visa applications only) has progressed well and this is now being extended to other doctors, visa classes and countries. Within Australia, DIMIA has established electronic links between its visa processing system and the electronic database of medical examinations undertaken by Health Services Australia. This enables DIMIA to check health examination outcomes more quickly and with greater integrity (as examination results are then less prone to fraud as this database also contains photos of the applicant who was health checked).

DIMIA also intends to establish electronic links to the English language testing database held by IELTS Australia. This also assists with improving efficiency

and integrity because the electronic transfer of results limits the forging of English language testing results. A key aspect of this database is a photo of the person who sat the test. Steps to improve the quality of this aspect of the database are being examined by IELTS Australia in conjunction with DIMIA.

9 Monitoring post-arrival compliance and targeted integrity checking

This is an area where Australia, due to our exit/entry control arrangements, has a significant competitive advantage (very few countries around the world have the exit/entry control systems Australia has, including most western, developed countries). Post-arrival monitoring of temporary entrants has a number of benefits including providing essential feedback on compliance levels of various visa programs and helping identify areas of emerging concern so that integrity checking can be better targeted. An important dimension of this is being able to better monitor the performance of key players such as migration agents and education providers. This monitoring also has a significant deterrent effect as clients become conscious of the degree of post-arrival monitoring and it enables more streamlined up-front visa processing.

Examples of where such post-arrival monitoring is being used include:

- sponsors of long-stay temporary business entrants (ie high skilled temporary employees), 100 per cent of whom are required to complete a questionnaire every 12 months and 25 per cent of whom are currently site visited, largely on a targeted basis
- all visitor visas whereby a check is made every month on the numbers returning within their visa validity and the immigration status of those who have not left

- student visas via an electronic system linking DIMIA and DEST to each education provider's reports of non-attendance or failure to meet course requirements
- professional development visas whereby tracking is done monthly on an individual basis.

DIMIA continues to invest in improving its post-arrival monitoring systems and the associated Safeguards system which is designed to use the data from post-arrival monitoring to assist visa decision-makers identify cases that require additional checking.

An aspect of Australia's approach that also assisted in such monitoring arrangements is the use of 'two-stage' visas. These are visas where a visa holder enters initially on a temporary or provisional basis and then is able to obtain permanent residence once minimum requirements have been met. The first example of this two-stage approach involved partner visas where the visa holder must, two years after obtaining an initial partner visa, demonstrate that the relationship with an Australian which was the basis of the application is on-going. The concept has now been extended to business skills visas and will from 1 July 2004 be extended to a portion of the General Skilled Migration category. To a degree, the employer sponsored categories have an informal element of this as a rising percentage of applications for permanent migration on an employer sponsored basis are from persons who entered Australia on a long-term temporary entry basis and then converted to permanent residence after arrival. This enables a check of an applicant's claims to be made at two stages.

10 Enforcement of sponsor undertakings

Many temporary entry visas involve sponsorship where undertakings are given. For example, in the long-stay temporary entry visa, employers who sponsor skilled workers from overseas must sign up to a series of legally enforceable undertakings. In the visitors area, sponsors may sometimes be required to put up a security bond to ensure compliance. These measures operate in conjunction with the post-arrival monitoring strategy that DIMIA has in place. As with post-arrival monitoring, this has enabled more streamlined visa processing, a higher approval rate and increased levels of visa compliance.

OVERALL IMPACT

While it is always difficult to distinguish which measures and/or policy changes led to which impacts, it is clear that overall immigration outcomes have improved considerably during the period that the above strategies have been introduced. Examples of these include considerable

improvement in the employment and income performance of General Skilled migrants coming to Australia. This contrasts with the situation in Canada, for instance, where there is concern about the declining performance of more recent cohorts of immigrants. They also include a significant rise in approval rates for most visa categories, particularly for General Skilled migrants where approval rates are around 90 per cent compared to around 50 per cent in the 1990s and steady improvements in processing times and the clearance of application backlogs, particularly the pipeline of Partner visa applications which are at their lowest level for over a decade. There has also been a major decline in on-shore Protection Visa applications to a level not seen since the late 1980s.

Note

These views are those of Mr Rizvi and do not necessarily represent those of the Australian Government.

