



Settlement  
Council  
of Australia

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Immigration Policy Framework Branch  
Immigration and Settlement Services Group  
Department of Home Affairs  
Email: [correspondence.family.policy@homeaffairs.gov.au](mailto:correspondence.family.policy@homeaffairs.gov.au)

**RE: SCoA submission to consultation on the English language requirement and the new sponsorship framework for the Partner visa program**

The Settlement Council of Australia (SCoA) welcomes the opportunity to respond to the Department of Home Affairs' consultation paper on the English language requirement and the new sponsorship framework for the Partner visa program.

SCoA is the peak body representing the vast majority of settlement agencies across Australia providing services and support to people from migrant and refugee backgrounds. Our members include organisations large and small, who are committed to the successful settlement of migrants and refugees across the country. Their services range from greeting new arrivals at the airport, through to assisting them to secure housing, learn English, make social connections, access services, and find their first job.

SCoA has long supported evidence-based approaches to improving English language proficiency among migrants and refugees. In this regard, SCoA warmly welcomed the federal government announcement of changes to the Adult Migrant English Program (AMEP) in 2020, as well as further reforms to the program currently being progressed by the Department of Home Affairs.

However, SCoA does not support the proposed English language requirement. There is insufficient evidence to show the proposal would result in improved English language proficiency, and without this evidence, the measure could undermine social cohesion by appearing punitive in nature. SCoA considers reforms to the Adult Migrant English Program (AMEP) the most impactful way to increase English language proficiency.

In relation to the sponsorship framework, SCoA recognises the many complex considerations the Department must balance in developing an appropriate sponsorship framework. In this submission, SCoA conveys some key factors that must be considered to avoid any unintended consequences that could undermine women's safety.

Both these measures have the potential to add to visa processing timelines. In general, SCoA cautions against measures that prolong periods of separation for families and create further uncertainty around permanency. This has negative impacts on the settlement journey, can lead to feelings of marginalisation, reduces regional population growth (where sponsors are in regional locations), and limits the ability to build social networks and socially integrate. Further, there is an economic impact of income being spent on remittances to family members rather than being spent in the local economy.

SCoA's position on each of the proposals is outlined below, together with responses to specific consultation questions.

## English language requirement

English language proficiency is an essential element of successful settlement, and of building a socially cohesive society.

The Settlement Council of Australia has consistently advocated for evidence-based approaches to improving English language proficiency among migrants and refugees. In this regard, we applaud the government's reforms to the AMEP, which address a number of barriers to learning English and will have a tangible positive impact on English language proficiency for many migrants and refugees.

SCoA considers there is insufficient evidence to show that the new English language requirement will result in improved English language proficiency. In the experience of settlement services, the overwhelming majority of migrants and refugees want to learn English. This is reflected in the data outlined in the Department's consultation paper, which states that 84.4 per cent of partner migrants speak English well, or very well. For the remainder, there is no data to show that this is due to a lack of willingness to learn English, and that a formal requirement would lead to improved English language proficiency.

The experience of settlement services is that for those who lack English language proficiency, the primary reason is a lack of access to suitable English language tuition or other barriers to learning.

The main vehicle for migrants and refugees in Australia to learn English is the AMEP. It should be noted that at present, the delivery of the AMEP does not meet the needs of all learners. This includes people with learning disabilities, caring responsibilities, work commitments, and people in regional and rural locations. In some locations, the diversity of learners in the class makes it difficult to meet the needs of some students, and these students may not extract as much benefit from classes. Further, the focus on assessment has been widely criticised as diverting time away from meaningful teaching and learning.<sup>1</sup>

SCoA applauds the Department of Home Affairs in implementing a range of reforms to the program. However, until these changes have been implemented and tested in practice, it will not be known that every partner visa applicant who wants to learn English, has the opportunity to do so.

If the Department is minded to proceed with the proposed English language requirement, it is recommended that the proposal be revisited after the implementation of reforms to the AMEP.

In implementing the proposal, the Department should provide a clearer evidence base for the measure, so as to avoid communicating a punitive intention and thereby undermining social cohesion.

Specific issues and responses to the specific questions in the paper are outlined below.

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<sup>1</sup> For further elaboration on current barriers in the AMEP, please see the following publications by SCoA: Settlement Council of Australia (2021), *Submission to Inquiry into Adult Literacy and its Importance*, available online at: <http://scoa.org.au/wp-content/uploads/2021/03/SCoA-Submission-Adult-Literacy-Inquiry.pdf>; Settlement Council of Australia (2020), *Maximising AMEP and English Language Learning: Consultation Report*, available online at: <http://scoa.org.au/wp-content/uploads/2020/02/SCoA-AMEP-Consultations-Report2020-PDF.pdf>; and Federation of Ethnic Communities Councils of Australia and Settlement Council of Australia (2019), *Community Driven English Language Programs*, available online at: [http://scoa.org.au/wp-content/uploads/2019/10/FECCACommunity-Driven-English\\_WEB.pdf](http://scoa.org.au/wp-content/uploads/2019/10/FECCACommunity-Driven-English_WEB.pdf).

### **Exacerbating the vulnerability of partner visa applicants experiencing violence**

The consultation paper states the intent of the requirement is to support partners towards independence, including supporting them to independently seek help for family violence. However, the Department must consider the possibility that this measure could in fact exacerbate the vulnerability of partner visa applicants experiencing violence. Through preventing a partner from learning English, a violent sponsor could prevent the applicant from ever obtaining permanency. Their status as a temporary resident could then entrench their reliance on the sponsor and makes it even more difficult to leave a violent relationship.

### **Consultation question 1 – English language level**

The paper suggests 'functional English' as the level of English for the requirement, and proceeds to define this as including an ability to communicate independently during parent-teacher interviews and medical appointments.

Language used during parent-teacher interviews and medical appointments can be complex and being able to independently manage these interactions within two years of arrival is not a reasonable expectation of someone who arrives in Australia speaking little or no English. A migrant may be able to undertake most day to day activities independently and without an interpreter, but may still require one for these types of interactions for a more prolonged period. Conversely, many migrants may undertake such engagements without an interpreter, however they may not necessarily comprehend all the information provided and would be better served using an interpreter.

Implementing this measure could dissuade migrants from making use of an interpreter, and this could have a range of negative social, health and economic consequences. For example, when attending a health appointment, if an interpreter is not used for someone with limited English, they may not understand complex information about a diagnosis and how to manage a health condition. For instance, a person diagnosed with osteoporosis may not know what osteoporosis is despite being able to manage most of their day to day affairs, and may further not understand terms like calcium or vitamin D, which are essential to managing the condition.

### **Consultation question 2 – Reasonable effort to learn English**

SCoA believes all migrants and refugees should utilise their AMEP entitlements. However, some may not do so due to a lack of accessibility, or due to not gaining any learning benefits from the program as outlined above. For these learners, it is understandable that they may discontinue attending classes which do not improve their English language ability. These systemic issues in the program mean a lack of participation cannot necessarily be indicative of an absence of a reasonable effort.

In addition to considering participation in the AMEP, the requirements should also consider participation in community language programs. Community language programs are an important source of English language learning.<sup>2</sup> Further, undertaking paid or voluntary work should be considered as these are often practical and efficient methods of learning basic English.

### **Consultation question 3 – Other means of meeting the requirement**

There will be a number of partner visa applicants who have a reasonable level of English language proficiency, but have no evidence to substantiate this. For example, many migrants may have learnt English through their primary or secondary schooling, or are self-taught through watching television, practising with friends and family, or reading children's

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<sup>2</sup> Federation of Ethnic Communities Councils of Australia and Settlement Council of Australia (2019), Community Driven English Language Programs, available online at: [http://scoa.org.au/wp-content/uploads/2019/10/FECCACommnuity-Driven-English\\_WEB.pdf](http://scoa.org.au/wp-content/uploads/2019/10/FECCACommnuity-Driven-English_WEB.pdf).

books. For these individuals, the only method to establish proficiency is through an English language test.

However, the existing language tests, such as IELTS and other tests, are not fit for the purpose of the requirement outlined in the consultation paper. These tests are typically designed for occupational or study purposes – not for testing functional English used in a day to day setting. SCoA cautions against using these tests.

Should a new test be devised, extensive consultation with a broad range of community groups, interested individuals, and experts would be required to ensure it is appropriate for the purposes of the requirement.

#### **Consultation question 4 - Exemptions**

The consultation paper suggests the English language requirement would apply to both sponsors and partners. SCoA recommends sponsors who are humanitarian entrants be exempt from the requirement. The requirement as articulated in the paper does not adequately address the migration experiences of humanitarian entrants, including lower levels of English language proficiency upon entry to Australia, the impact of torture and trauma on learning, and competing settlement priorities.

Consideration should also be given to exempting those with work or caring commitments, people with learning disabilities, and people in certain regional or rural locations – noting that the AMEP at present is not sufficiently accessible to all in these categories.

#### **Consultation question 5 – Implementation**

SCoA recommends any implementation of this measure be deferred until the reformed AMEP is operational and there is a more universally accessible English language learning program in place. Implementation prior to the reformed AMEP being operational and tested in practice is premature.

Further, in implementing the proposal, the Department must clearly articulate the evidence-base for the measure, including providing evidence of an absence of a willingness to learn English. Without this evidence, implementation of the measure will likely be perceived as punitive, and therefore undermine the very social cohesion it seeks to build.

### **Sponsorship framework**

SCoA strongly supports measures that improve access to safety for partner visa applicants. The development of a sponsorship framework is a complex process, and must balance various considerations. SCoA wishes to draw attention to the specific considerations outlined below in implementing the framework. Adequate consideration of these factors is necessary to avoid unintended consequences that undermine women's safety.

#### **1. Impacts of sanctions on victim/survivors**

While sanctions for sponsors who perpetrate violence are appropriate and necessary, there is a risk that these sanctions also “punish” victims/survivors by jeopardising their ability to access a visa. For example, if a partner is residing in Australia on another visa, the risk of visa refusal due to violence adds to her vulnerability and may be used as a further tool of coercion and control by the sponsor-perpetrator. Knowledge of sanctions may prevent reporting, and reporting may mean the victim/survivor is unable to obtain permanent residency or make use of services available to support her.

If a partner is residing overseas and unable to travel to Australia, the victim/survivor may continue to experience significant harm. She may continue to experience violence from the partner while he resides in Australia and when he visits, and from relatives overseas. By

being unable to travel to Australia, she may be unable to avail herself of services to assist her.

## **2. Timing of information provision**

The intent of the framework is to allow prospective partner visa applicants and sponsors to make informed decisions about whether or not to proceed with a visa application. However, this is made difficult by the timing of the sponsorship application process.

Irrespective of cultural background, the majority of couples starting the visa application process will have established a serious and long-term relationship. Moreover, in many cultures, the couple will have married prior to embarking on the visa application process. In some countries, female initiated divorce may not be easily accessible. This means, in many cases, when relevant information is shared, a partner may be unable or unwilling to leave the relationship.

The sponsorship framework must recognise this complexity in decisions by a victim/survivor as to whether to remain in the relationship or leave, and whether to proceed with the application.

## **4. Availability of comprehensive support for victim/survivors**

There are a number of barriers to safety for partner visa applicants, and these have been well articulated by our colleagues across the sector and in the women's safety sector.<sup>3</sup> It is well-known that there is insufficient access to support for partner visa applicants experiencing violence – particularly those who are in Australia on temporary visas prior to the application process. There are also a range of barriers in the migration framework. SCoA considers addressing these barriers should be a priority for the Department in working towards the goal of improving women's safety.

## **Conclusion**

In conclusion, SCoA reiterates support for measures that maximise safety and English language proficiency for partner visa applicants. At present, it is unclear that the English language requirement proposal outlined in the paper will achieve this purpose. SCoA encourages the Department to reconsider implementation of this initiative, and at a minimum, defer further consideration until the AMEP reforms are implemented and operational. Should the Department be minded to proceed with the measure a stronger evidence-base for it must be articulated in order for it not to undermine social cohesion.

In relation to the sponsorship framework, SCoA has outlined some key considerations for ensuring the framework meets its intended purpose of supporting women's safety, and encourages further consideration of other measures put forward by a range of advocates to enhance the safety of migrant women.

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<sup>3</sup> See for example see the following report endorsed by a large number of services and advocacy groups: AWAVA, 2018, *Path to Nowhere Report: Women on Temporary Visas Experiencing Violence and their Children*, available online at: <https://awava.org.au/2018/12/11/research-and-reports/path-to-nowhere-report-women-on-temporary-visas-experiencing-violence-and-their-children>.