



FORCIBLY DISPLACED PEOPLE NETWORK

**Submission to the Department of Home Affairs call for public
consultation**

A Migration System for Australia's Future

Forcibly Displaced People Network

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Glossary

LGBTIQ+	people who are lesbian, gay, bisexual, trans, intersex and queer. '+' (plus) signifies further diversity in terms of gender, sexuality, bodies and relationships not captured by the acronym.
SOGIESC	sexual orientation, gender identity and expression, and sex characteristics.
Forcibly displaced people	the term is inclusive of asylum seekers, refugees and migrants from non-Western countries.

About Forcibly Displaced People Network

Forcibly Displaced People Network (FDPN) is the first LGBTIQ+ refugee-led organisation in Australia. FDPN aims to empower and increase self-reliance of LGBTIQ+ forcibly displaced people through direct support, capacity building, training of services and policy change. For more information visit <http://fdpn.org.au>

FDPN is the national organisation supporting LGBTIQ+ forcibly displaced people across states and territories. You can read more about our impacts [here](#).

We welcome an opportunity to make a submission in response to the discussion paper on the future of migration system. In this submission we are responding to questions 3 and 4 of the discussion paper.

Lack of gender mainstreaming and LGBTIQ+ inclusion in the Migration Program across its continuum (from visa application process to settlement)

It has been shown in the academic literature and through our work, that many LGBTIQ+ visa applicants often face entrenched barriers during the application process. This includes, for example, inconsistent recognition of partners in same sex relationships from countries with no legalised marriage equality or a lack of tailored services to assist with settlement, integration, accessing education, employment opportunities and others.

Currently migration regulations require decision to consider the following factors in assessing the grant of a visa who is a spouse or de facto partner of a main visa applicant, a permanent resident, Australian citizen, or eligible New Zealand citizen:

- financial aspects of the relationship (Factor 1 – regulation 1.15A(3)(a))
- nature of the household (Factor 2 – regulation 1.15A(3)(b))
- social aspects of the relationship (Factor 3 – regulation 1.15A(3)(c))
- nature of the persons' commitment to each other (Factor 4 – regulation 1.15A(3)(d))

In many countries, especially those of a non-Western and non-English speaking background where the visa applicants are applying offshore, same sex relationships are systemically criminalised, persecuted, stigmatised, and discriminated against. Couples may be prevented from living together or even presenting themselves as a couple in public (to satisfy the social aspect of relationships criteria).

Thus, for LGBTIQ+ visa applicants the onus to provide evidence about their relationships is greater than for their non-LGBTIQ+ peers. Such criteria seek to assess a same sex relationship through culturally heteronormative perspectives, making it impossible for these visa applicants to provide sufficient evidence where their relationships are already subjected to discrimination and marginalisation.

A lack of mainstreaming gender and LGBTIQ+ inclusion in migration policy at the visa application process translates to post-migration services. There is still a lack of services for LGBTIQ+ migrants. Most of the orientation information provided to migrants including through the government-funded English classes does not provide any information on LGBTIQ+ inclusion. This impedes the ability of LGBTIQ+ migrants to achieve successful settlement outcomes in comparison with their peers.

Recommendation 1:

Ensure that gender mainstreaming and LGBTIQ+ inclusion are embedded in the Migration Program across its continuum (from visa application process to settlement)

Complexity of the visa system

Excessively complex visa systems build in systemic barriers for temporary visa holders to allow transition to permanent residency, leaving skilled migrant workers, including LGBTIQ+ migrant workers, in migration limbo for many years. This makes them vulnerable to exploitation, unable to fully participate and access services and opportunities restricted to Australian permanent residents and citizens.

As an organisation, Forcibly Displaced People Network is working with LGBTIQ+ refugees and migrants recognising that more than 70 countries can legally discriminate and persecute LGBTIQ+ people. It is common that LGBTIQ+ people though being displaced may not meet a high bar and onus of evidence for non-refoulement obligations or complimentary protection which is set at 'significant harm'. Their migration pathways while having a visa choice, have an element of coercion in it. While this means that LGBTIQ+ migrant can apply for a skilled visa, for example, the process is time consuming, extremely costly, bureaucratic, overtly complicated that leads to LGBTIQ+ displaced migrants being put on successive roll-over of temporary visas.

FDPN has identified two issues related to the complexity of the visa system:

1. Currently, the English language proficiency regulations state that the results of such tests are only valid for three years.

Such regulations lead to results that are grounded in practical circumstances but rather bureaucratic steps intended to place further burdens on visa applicants and holders.

FDPN views that if a visa applicant and visa holder has been obtaining higher education qualifications in Australia and employed in skilled work in Australia, such English language proficiency regulations on the restriction of validity of English tests in relation to time should be abolished.

2. Skilled temporary visa holders are excluded from any types of government support even though they have been paying Australian taxes

As described by the nature of the Australian migration system which has designed a system of skilled workers on successive temporary visas for many years, FDPN views that skilled workers on any temporary or bridging visas should be extended basic government services. This is particularly important for LGBTIQ+ migrants and those experiencing family violence who may not have equitable access to non-government services. These services should include Medicare, eligibility to pay domestic fees for higher education, eligibility for social housing support etc.

Recommendation 2:

Abolish time expiry of the English test results.

Recommendation 3:

Extend access to social security and Medicare to all people on temporary visas.

Lack of support services for LGBTIQ+ migrants

A significant number of LGBTIQ+ migrants, both displaced and skilled, cannot rely on their ethnic communities for support due to potential institutional homophobia and transphobia in their countries of birth. At the same time, LGBTIQ+ migrants experience racism and racist marginalisation in mainstream (white) LGBTIQ+ spaces. Additionally, many services have eligibility requirements based on Australian citizenship and permanent residency status (eg. via Medicare eligibility to access health services), further creating alienation.

The resulting realities are such that LGBTIQ+ migrants often feel invisible and marginalised and are unable to access services or tap into professional networks and opportunities, keeping them from meaningfully participating and getting established in the community and in the labour market.

It is thus required that services supporting migrants must be trained to provide this support in inclusive ways. Inclusivity of services must be a requirement embedded in funding contracts. FDPN as the only registered LGBTIQ+ organised led by displaced people can provide such bespoke training to migrant and settlement services.

Recommendation 4

Ensure that services funded to work with refugees and migrants are required to undergo a comprehensive training on working with LGBTIQ+ forcibly displaced people

Recommendation 5

Fund the Forcibly Displaced People Network as an LGBTIQ+ refugee peak body.

Addressing discrimination, homo- and transphobia in employment

The fifth national survey on sexual harassment in Australian workplaces run by the Australian Human Rights Commission has reported that 46% of LGBTIQ+ workers (compared to 33% of non-LGBTIQ+ workers) has been subjected to sexual harassment.¹ The first national survey on LGBTIQ+ migration and asylum run by FDPN has also identified that discrimination against LGBTIQ+ migrants and refugees was prevalent in workplaces:

- 24% reported experiencing discrimination based on their SOGIESC status
- 35% reported experiencing discrimination based on their racial or ethnic identity
- 24% reported experiencing discrimination based on their migration status.²

Out of those who experienced discrimination only 16% reported those experiences, but most of them stated that nothing changed as a result. Two main reasons for not reporting workplace discrimination included not believing that the situation would resolve and fear of losing employment.

It is essential that Australia-wide efforts to prevention and eliminate discrimination and sexual harassment in employment are addressing these harmful experiences as directed at LGBTIQ+ migrants.

Recommendation 6

Ensure that prevention of discrimination and sexual harassment at workplaces is inclusive of LGBTIQ+ experiences.

In conclusion, supporting LGBTIQ+ migrants to achieve their potential and successful settlement outcomes compared to their non-LGBTIQ+ peers reflects the commitment of the Australian Government to achieving human rights and social cohesion for all.

Once again, thank you for the opportunity to make a submission. If you wish to discuss this submission further, please contact Renee Dixson, FDPN Chair.

Renee Dixson

Co-founder, Chair

Forcibly Displaced People Network

¹ <https://humanrights.gov.au/time-for-respect-2022>

² Forcibly Displaced People Network (forthcoming) Australia-wide survey on LGBTIQ+ migration and asylum. Canberra.