# Julian Hill MP
FEDERAL MEMBER FOR BRUCE


Mr Grant Hehir
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Mr Hehir

I write to raise my concerns with you regarding aspects of the family migration programme administered by the Department of Home Affairs, and seek your consideration of an examination of these matters by the Australian National Audit Office (ANAO).

In particular, I am concerned that contrary to s86 and s87 of the Migration Act 1958 and the expectations of Parliament, spouse visa applications are not being processed on a demand-driven basis, but are being deliberately delayed in order to limit the number of visas granted to the number of places made available annually by the government.

I have further concerns in relation to the management of dependent child visa applications, which are also - through s86 and s87 of the Act - not limited by a visa grant ceiling but where the total number of visas granted annually mirrors remarkably closely the indicative planning level released by the government prior to each program year.

In each of the applicable visa categories, a significant backlog of applications remains on-hand from year to year, with no appreciable increase in staff resources leading to long delays in processing timeframes, and, somewhat inevitably, to negative consequences for the families concerned.

**Partner visas**

The Federal Parliament has voted (notably in 1989 and again in 1996-97) to ensure the processing of spouse visa applications on a demand-driven basis, rather than allowing the responsible minister to curtail the ability of Australian citizens to reunite with their partners through annual visa caps.

Despite this, partner visas (which include spouse visas) continue to be included as a capped visa category within the Family migration stream of the Department's annual migration planning totals, released as part of the Budget process.

The Department's *Migration program planning levels* webpage (https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels) indicates that of the annual migration cap of 160,000 for 2019-20, a total of 39,799 places have been allocated for Partner visas.


45 Robinson Street Dandenong VIC 3175 PO Box 7427 Dandenong VIC 3175
(03) 9791 7770 julian.hill.mp@aph.gov.au JulianHillMP julianhillmp julianhillmp.com

As at 30 June 2018, the 'pipeline' – or backlog - of Partner applications was 80,539, slightly higher than the 30 June 2017 backlog of 79,027 (https://www.homeaffairs.gov.au/research-and-stats/files/report-migration-program-2017-18.pdf). With the number of places allocated by the Government in this visa category around half that of the backlog existing at the start of the program year, it is evident that the Government is satisfied with maintaining a backlog of this size on an ongoing basis.

Application fees for spouse visas have increased significantly to around $8,000, but there is no evidence there has been a commensurate increase in resources devoted to processing spouse visas, such as might be expected for a strongly-supported and uncapped category of family migration.

Unsurprisingly, processing times for spouse visa applications have also increased significantly in recent years, with the processing timeframe for 75% and 90% of Subclass 820 Temporary partner visas (onshore) currently standing at 22 months and 28 months respectively, with Subclass 309 visa (offshore equivalent) reportedly 15 months and 20 months. The number of Australian citizens and permanent residents approaching my office seeking advice and assistance in relation to these extraordinary timeframes has seen a concomitant marked increase.

As per the documents released under Freedom of Information request FA 19/03/00642, on 7 June 2018 the Director of the Family Migration Program Management Section advised departmental Regional Directors that "***EFFECTIVE IMMEDIATELY*** *there are to be no further grants in the Family stream until such time as the exact delivery position is confirmed and I come back to you with the number of places left available to grant before 30 June 2018.* [Redacted]". A further email to Regional Directors of 15 June 2018 states that "*Based on the current delivery forecasts for* [redacted] *the stop grant notice on Partner visas that I sent on 7 June will need to remain in effect until 1 July*".

In an email of 6 February 2019 titled '*URGENT – Migration Program count check – Stop Grants extended for month of February*', the Acting Director Family Migration Program Management states:

"*I write to you following on from my message of 21 January 2019 directing the temporary pause on grants for first stage Partner* [redacted]. *As you may be aware, while the 2018-19 Migration Program has 190,000 permanent visa places* [redacted], *this is a ceiling, not a target. The Government's focus is on quality not quantity and the Minister wants to maintain* [redacted]. *Please note: The temporary pause on grants continues for first stage Partner,* [redacted]".

I have enclosed a copy of the documents in question for your information (https://www.homeaffairs.gov.au/foi/files/2019/fa-190300642-document-part2.PDF - Communications to offshore posts in relation to processing subclass 320 [sic] and 820 visas in the period January 2018 to March 2019).

It is of course critical that the Department confirm the bona fides of any relationship as a necessary part of spouse visa processing. However the inordinate increase in processing times, coupled with the significant backlog of cases and, notably, the internal departmental directions to cease granting Partner visas at various points in the last two program years, raise serious concerns about the administration of the partner visa program.

**Dependent child visas**

As with spouse visa processing, Parliament has voted to ensure that no limitations apply to the grant of visas to the dependent children of Australian citizens and other eligible residents.

The *2017-18 Migration Program Report* states that *'Since 2015-16* [sic], *the Child program is demand driven but remains within the overall ceiling of permanent Migration Program places with an indicative planning level of 3485."*

The processing timeframes for Subclass 802 Child visas currently indicate that 75% of applications are processed within 12 months, and 90% within 14 months. For Subclass 101 Child visas (offshore equivalent), the respective timeframes currently stand at 14 and 19 months.

The primary eligibility criterion for these visa subclasses is dependence on a parent who is an Australian citizen, eligible New Zealand citizen or Australian permanent visa holder, indicating the significant impact of lengthy processing timeframes on the children and families concerned.

Despite a 9.1% increase in the backlog of applications from 30 June 2017, with the 30 June 2018 on-hand figure standing at 3,093, the planning level for Child visas decreased from 3485 in 2018-19 to 3350 in 2019-20. The planning level – a visa ceiling by another name - for 2019-20 therefore mirrors precisely the number of visas granted in 2017-18.

As with spouse visa applications, a significant backlog of cases is being maintained despite the Migration Act providing for their processing on a demand-driven basis. In the case of Child visas however, the subjects of ongoing processing delays in order to manage effective visa caps are minors, who are being exposed to unintended consequences as a result.

In my own electorate, two recent such cases serve to highlight the impact of delays on vulnerable children and their families. An Australian citizen mother, working part-time and caring for her elderly parents and her two children, is unable to send her 9 and 12 year old sons to school, as each of the boys – bridging visa holders awaiting the grant of Subclass 802 Child visas – is subject to international school fees. The family's financial position makes the outlay of many thousands of dollars in fees to attend a Victorian government school impossible. The fact that the visa applications are within current processing times should be irrelevant given the nature of the impact on the children concerned.

A further matter arose in relation to a Subclass 820 spouse visa holder, married to an Australian citizen, whose applications for Child visas for her now 17 and 13 year old daughters took 16 months to process. Again, as the children concerned held bridging visas, they were unable to access education for over a year in 2018-19 as their mother and stepfather - who worked hard in low-paying jobs to support their family - were unable to afford to pay international student fees. The situation was further complicated by the children's inability to travel overseas to undertake access visits with their biological father according to the terms of their parents' divorce, due to their status as bridging visa-holders. While the two girls have subsequently been granted visas and returned to school following my representations to the Minister, the impact of such a lengthy gap in their schooling at a critical point in their formative years is incalculable.

It appears that the previously-cited departmental 'stop' directive on grants in the Family visa stream would necessarily apply to the dependent children, as well as spouses of Australian citizens and eligible residents. As a signatory to the Convention on the Rights of the Child, I am concerned that Australia's obligations to affected children are not being met as a direct result of the 'managed' processing of Child visa applications.

I therefore seek an examination by the ANAO of the administration of the Family Migration program, and of spouse and dependent child visa applications in particular, with regard to whether applications are being processed efficiently and on a demand-driven basis, consistent with the provisions of the Migration Act and the expectations of Parliament.

Please don't hesitate to get in touch with me if you wish to discuss this matter further.

Yours sincerely

**Julian Hill MP**
Federal Member for Bruce

Date: 3/9/19