



Public consultation on the English language requirement and the new sponsorship framework for the Partner visa program

Australia is a successful and cohesive multicultural nation.

Over one quarter of Australia's residents were born overseas, from over 200 countries.

The diversity of the population provides Australia with a variety of languages. The English language provides an important unifying element of Australian society.

Integration is critical to Australia's success, building cohesive and more resilient communities.

Within the Family stream of the Migration Program, the Partner visa program facilitates unification of partners of Australian citizens, Australian permanent residents or eligible New Zealand citizens.¹

The Partner program is the largest component within the Family migration stream.

As part of the 2020-21 Federal Budget, the Government announced that it will implement reforms to strengthen the integration outcomes of the Partner program by the end of 2021. These include:

- Introducing an English language requirement for permanent resident sponsors and Partner visa applicants; and
- Applying the sponsorship framework set out in the *Migration Amendment (Family Violence and Other Measures) Act 2018* to the Partner visa program.

The Department of Home Affairs (the Department) is seeking community views to inform the development of settings and the implementation of the new English language requirement and the sponsorship framework for the Partner visa program.

Part A. English Language Requirement

Introduction

The new English language requirement for Partner visa applicants and permanent resident sponsors will encourage and support English acquisition.

English language skills assist partners to gain employment, independently access government services and seek help in emergency situations, such as when facing family violence at home or during medical emergencies.

¹ The definition of an eligible New Zealand citizen is available at: <https://immi.homeaffairs.gov.au/entering-and-leaving-australia/new-zealand-citizens/pathway-to-permanent-resident-and-citizenship>

Migrants who do not have sufficient English language skills may be more vulnerable to family violence and other exploitation. They are less likely to have an established support network or be aware of Australia's laws and how to seek help. Only 13 per cent of those with no English skills are employed.²

The Department's Continuous Survey of Australia's Migrants has shown that the majority of Partner visa holders and sponsors have a grasp of English. In the 2018 survey, 84.4 per cent of partner migrants self-declared that they spoke English well very well, as their best language or as their only language, six months after settling in Australia.

It is important to Australia's social cohesion to build upon and improve uptake of the English language. We cannot take Australia's success for granted.

Other countries, such as the United Kingdom, require family migrants, including partners, to demonstrate knowledge of the English language when they apply for a visa.

The new English language requirement will further support and enhance English acquisition for all partners, including more vulnerable people who do not have adequate English skills to function effectively in Australian society.

Meeting the English language requirement

The English language requirement will apply to primary and secondary Partner visa applicants aged 18 to retirement age and sponsors who are permanent residents.

- Permanent resident sponsors will need to meet the English language requirement as part of the sponsorship assessment (details about the new sponsorship framework are at **Part B**).
- Partner visa applications are processed in two stages and Partner visa applicants will only need to meet the English language requirement at the second-stage assessment, which is often two years after the provisional Partner visa application is lodged.

Partners will continue to be able to travel to and stay in Australia on the provisional Partner visa and access government funded Adult Migrant English Program (AMEP) classes to learn English.

The English language requirement will be introduced to the Partner program at the end of 2021 and will apply to applications lodged on or after the date of implementation.

Consultation topics – English language requirement

Please provide your rationale and, where practicable, evidence to support your views and/or proposals.

1. English language proficiency level

The English language requirement may be met by demonstrating that the person has made a 'reasonable effort' to learn English, or demonstrating an existing level of English, for example Functional English.

A person with Functional English may have a basic level of English sufficient for the purposes of engaging with, and functioning within, Australian society. They may be able to communicate in everyday situations and in some unfamiliar situations. For example, a person with Functional

² Australian Bureau of Statistics, 2016 Census.

English may be able to communicate independently during parent-teacher interviews, medical appointments, or during an emergency.

Our questions to you

What level of English language proficiency and skills would Partner visa applicants and permanent resident sponsors need to function independently in Australian society, including to access essential services and employment?

2. Reasonable effort to learn English

Partner visa applicants and permanent resident sponsors would be able to meet the English requirement if they can demonstrate that they have made a 'reasonable effort' to learn English.

A reasonable effort to learn English may include participating in government funded AMEP tuition. Previously, AMEP participants could access up to 510 hours of tuition. The AMEP program now offers unlimited hours of tuition, and changes continue to be made to improve accessibility to online learning, including for persons with caring responsibilities.

The Immigration (Education) Amendment (Expanding Access to English Tuition) Bill 2020 was passed by parliament on 10 December 2020, and will commence in the first half of 2021.

Our questions to you

What should constitute a reasonable effort to learn English in the context of AMEP participation?

What other types of evidence could be accepted for the purposes of assessing whether an applicant has made a reasonable effort to learn English?

3. Other means of meeting the requirement and supporting evidence

The English language requirement can be met in a number of ways, including, as discussed above, through demonstrating that a reasonable effort has been made to learn English or demonstrating an existing level of English, for example Functional English. Under current settings for other Australian visas, English language requirements can be met by providing supporting evidence such as:

- an appropriate score in an approved English language test;
- a valid passport issued by a particular country (the United Kingdom, New Zealand, the United States of America, Canada or the Republic of Ireland); or
- an education or qualification in or outside Australia for a nominated period where all instruction was in English.

For detailed information on how the English language proficiency requirements are currently assessed for visa purposes, including about the current test score requirements, see:

<https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/english-language>

Our question to you

What evidence should be accepted to satisfy the English language proficiency requirement for Partner visa applicants and permanent resident sponsors?

4. Exemptions

The introduction of the English requirement to the Partner program will support integration for migrants and reduce vulnerability associated with language barriers.

However, the Government acknowledges that there will be certain circumstances in which sponsors and visa applicants may not be able to satisfy the English language requirement. Accordingly, consideration could be given to situations where a person could be exempt from meeting the English language requirement, for example if they have a learning disability.

Our questions to you

In what circumstances should a person be exempt from needing to meet the English language requirement? What evidence should be accepted to support a claim for an exemption?

5. Implementation

The new requirement will apply to applications lodged on or after the date the legislation to introduce the English requirement comes into effect.

The Department will make information available on its website to advise prospective partner visa sponsors and applicants about the English language requirement, both in the lead up to implementation and on an ongoing basis.

The Department will also ensure easily accessible information is available about the government support provided through the AMEP, including how to access services.

Our question to you

What other strategies can the Department adopt to support prospective Partner visa applicants and permanent resident sponsors to prepare for the introduction of the English language requirement, both in the lead up to and after the implementation of the new requirement?

Part B. New Sponsorship Framework for Partner Visa Program

Introduction

As part of the 2020-21 Federal Budget, the Government announced that it will apply the family sponsorship framework set out in the *Migration Amendment (Family Violence and Other Measures) Act 2018* (the Act) to the Partner visa program.

- A sponsorship framework, made under the provisions of the Act, currently applies to the Sponsored Parent (Temporary) visa (SPTV).

The new partner sponsorship framework will support prospective Partner visa applicants and sponsors to make informed decisions about whether or not to proceed with a visa application.

It will allow prospective Partner visa applicants to walk away from a potentially violent relationship (before they lodge and pay for the visa application). The framework will:

- separate the sponsorship and visa application processes;
- support information disclosure relating to domestic and family violence to the sponsor or the applicant; and,
- enable sanctions to be imposed on sponsors who breach sponsorship obligations.

The new sponsorship framework complements the existing provisions in Australia's migration laws, which allow provisional Partner visa holders and certain Prospective Marriage visa holders who experience family violence to continue with their permanent visa application even if their relationship breaks down.

The new sponsorship framework

The new sponsorship framework will separate the sponsorship and visa application into two separate processes.

The sponsorship application will be assessed separately and will need to be approved before a valid Partner visa application can be lodged.

- The Department will be able to disclose 'adverse information' about the Partner sponsor to the prospective Partner visa applicant.
- Adverse information could include relevant and registrable offences – such as child sex offences – as defined in the Migration Regulations 1994, other serious offences, or history of domestic and family violence.

Similarly, the Department will be able to disclose 'adverse information' about the Partner visa applicant to their sponsor at the visa application stage of the process.

The early exchange of information between sponsors and visa applicants will give the parties an opportunity to withdraw from the process before a visa application is lodged or a visa is granted.

Under the new framework, the Partner visa sponsor will also be subject to enforceable sponsorship obligations. These will include obligations to notify the Department of changes in their circumstances and to provide adequate accommodation, ongoing support and financial assistance to the sponsored partner.

Failure to satisfy a sponsorship obligation may result in the sponsor being barred from sponsoring others in the future. In serious instances, civil penalties, such as fines, may also apply.

Consultation topics – Sponsorship Framework

Taking into account the information above, please provide your rationale and, where practicable, evidence to support your views and/or proposals in relation to the below topics.

Our questions to you

What types of adverse information should be subject to disclosure under the new sponsorship framework?

Are there other issues that should be considered in the development and implementation of the new sponsorship framework for the Partner visa program?

Consultation Process

Written submissions must be sent via email to correspondence.family.policy@homeaffairs.gov.au preferably in Microsoft Word or PDF format **by close of business 31 March 2021**. Submissions received after this deadline may not be considered.

This is a public process and all submissions should be provided as public documents. The Department does not intend to publish submissions but it might share the content with other parties such as state and territory governments and other Commonwealth agencies.

For privacy reasons, all personal and direct contact details will be removed from your submission before they are shared with state government or other Commonwealth agencies unless otherwise stated. Please advise if you do not want your submission to be shared outside the Department of Home Affairs.

Implementation Timeframes

Feedback received via community and government stakeholder consultations will be considered as part of developing final settings for the English language requirement for the Partner program and the new Partner visa sponsorship framework, which will be implemented by the end of 2021.

Further information

Department of Home Affairs website www.homeaffairs.gov.au

Budget Measures 2020-21 https://budget.gov.au/2020-21/content/bp2/download/bp2_complete.pdf

Media Release 8 October 2020 <https://minister.homeaffairs.gov.au/alantudge/Pages/New-requirement-to-learn-English-to-maximise-job-prospects.aspx>