

The Auditor-General  
Audit Report No.62 2002-03  
Performance Audit

# **Management of Selected Aspects of the Family Migration Program**

**Department of Immigration and Multicultural  
and Indigenous Affairs**

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of Australia 2003

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Canberra ACT  
30 June 2003

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Immigration and Multicultural and Indigenous Affairs in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Management of Selected Aspects of the Family Migration Program*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely



Oliver Winder  
Acting Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

## AUDITING FOR AUSTRALIA

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For further information contact:

**The Publications Manager  
Australian National Audit Office  
GPO Box 707  
Canberra ACT 2601**

**Telephone: (02) 6203 7505**

**Fax: (02) 6203 7519**

**Email: [webmaster@anao.gov.au](mailto:webmaster@anao.gov.au)**

ANAO audit reports and information about the ANAO are available at our internet address:

<http://www.anao.gov.au>

### **Audit Team**

Steven Lack

Greg Watson

Kelly Schomaker

Rebecca Collareda

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# Abbreviations/Glossary

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|       |  |
|-------|--|
| AAT   | Administrative Appeals Tribunal                                    |
| AIPs  | Agreed Indicative Planning Levels                                  |
| ANAO  | Australian National Audit Office                                   |
| AOS   | Assurance of Support   |
| BFUs  | Bona Fides Units   |
| BOF   | Balance of Family  |
| DIMIA | Department of Immigration and Multicultural and Indigenous Affairs |
| DoHA  | Department of Health and Ageing                                    |
| ETA   | Electronic Travel Authority  |
| FaCS  | Department of Family and Community Services                        |
| HAS   | Health Assessment Services   |
| ICSE  | Integrated Client Services Environment                             |
| IDC   | Interdepartmental Committee  |
| IRIS  | Immigration Records Information System                             |
| LEE   | Locally Engaged Employees  |
| MARA  | Migration Agents Registration Authority                            |
| MIA   | Migration Institute of Australia                                   |
| MOCs  | Medical Officers of the Commonwealth                               |
| MPS   | Migration Program Section  |
| MRT   | Migration Review Tribunal  |
| MSI   | Migration Series Instructions                                      |
| OASC  | Office Audit and Security Checklist                                |
| PAM   | Procedures Advice Manual   |
| PIC   | Public Interest Criterion  |
| POPC  | Perth Offshore Processing Centre                                   |
| QA    | Quality Assurance  |
| QCC   | Quality Control Code   |
| SOWs  | Statements of Work   |
| VAC   | Visa Application Charge  |





# **Summary and Recommendations**



# Summary

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## Australia's Migration (non-humanitarian) Program

1. Over the past 50 years, Australia's population has been growing at between one and two per cent per annum. This is one of the fastest rates of population growth amongst developed countries. The main component of Australia's population growth has been natural increase (the difference between births and deaths), which has contributed about two thirds of total population growth since the beginning of the 20<sup>th</sup> century. Net overseas migration has also contributed to natural increase, albeit indirectly, through children born to migrants.<sup>1</sup>
2. However, since 1962, fertility rates have been falling. Population projections from the Australian Bureau of Statistics<sup>2</sup> indicate that continued low fertility, combined with an increase in deaths from an ageing population means that Australia's rate of population growth, as with that of most developed countries, is expected to slow considerably and may reach zero population growth by around the middle of this century.
3. These population factors and others, such as Australia's need for particular skills and the level of demand in family visa categories, form the basis for determining the annual planning levels of Australia's Migration (non-humanitarian) Program. The planning level is set and announced by the Government after a process of analysis of current and expected migration levels; an extensive program of community consultations; and input from various Commonwealth departments, and state and territory governments throughout the course of the year.
4. The Migration (non-humanitarian) Program is governed by the *Migration Act 1958*. It is divided into three streams; skilled, family and special eligibility. The planning level for the 2002–03 Migration Program is set in the range of 100 000 to 110 000 places. It will be maintained at this level for the next four financial years, barring exceptional circumstances.<sup>3</sup> The mid-point of this planning level (105 000) represents an increase of 12 000 (14 per cent) from the 2001–02 Migration Program of 93 000 migrants. This was an increase of 13 per cent over the level recorded in the previous year.

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<sup>1</sup> Source: Australian Bureau of Statistics, <<http://www.abs.gov.au/ausstats/abs@nsf/94713ad445ff1425ca25682000192af2>> dated 28 April 2003.

<sup>2</sup> *ibid.*

<sup>3</sup> Source: Department of Immigration and Multicultural and Indigenous Affairs, <<http://www.immi.gov.au/facts/02key.htm#5>> dated 13 February 2003.

5. Although the Australian Government has an ongoing commitment to Family Migration, in recent times there has been a deliberate focus on skilled migration and the family stream of the migration program. The latter now accounts for just under half of Australia's non-humanitarian migrants per year. In 2001–02, 38 090 migrants were selected in the family stream of the migration program. The planning level for the 2002–03 family stream of the migration program is 43 200.

6. The family stream of Australia's Migration Program enables the reunion of immediate family members of Australian citizens, permanent residents or eligible New Zealand citizens. It consists of four main categories:

- Partner;
- Child;
- Parent; and
- Other family.

## Management of the Migration Program

7. DIMIA is organised around functional processes, where domestic and overseas managers report to both regional and central offices. The achievement of the overall Migration Program as well as corporate policies and procedures are managed through central office. Central office coordinates and distributes individual planning levels (or targets) to DIMIA regional offices and posts. The latter are responsible for the coordination of local resources and for the achievement of local planning levels and targets that feed into the overall program.

8. The environment in which DIMIA manages the Migration Program is complex and diffuse. DIMIA has 72 offices overseas and 14 offices in Australia. These are required to cater for a wide range of cultural and linguistic backgrounds from which DIMIA clients are drawn. Many of DIMIA's overseas offices have responsibility for a large geographical area. In some cases the local infrastructure is poor, particularly in relation to communications and transport. In addition, there are significant security concerns in overseas locations as well as high levels of attempted fraud. The ANAO noted that documentation supplied in support of some visa applications may be unreliable. In such cases, visa processing becomes more complicated.

## The Review Processes

9. The Government has a commitment to provide review mechanisms for all areas of significant individual decision-making such as taxation, welfare benefits or migration decisions. The major avenue for external review of DIMIA's family migration decisions is application to the Migration Review Tribunal (MRT). The MRT reviews decisions to refuse or cancel a visa (with the exception of protection visas), and also certain decisions related to sponsorships.

10. The MRT has the power to affirm decisions; make new decisions; or return the case to DIMIA for further processing. In conducting a review, the MRT must apply the relevant law and can only make decisions within criteria set out in the *Migration Act 1958* and regulations. As part of the review process, the MRT must consider all the evidence, including new evidence presented at lodgement, or at a hearing. The MRT does not review the quality of the initial decision. Rather, it reconsiders applications in the light of all evidence, including that which was not available to the primary decision-maker.

11. The Federal Court may also review a migration decision on the grounds that the decision-maker made a jurisdictional error. The court may decide that the decision was made unlawfully, and require that the decision be made again. However, the court cannot assess the merits of a claim, or substitute its own decision for that of the original decision-maker.

12. Sections of the *Migration Act 1958*<sup>4</sup> also provide for the review of certain visa decisions by the Administrative Appeals Tribunal (AAT) for certain refusal decisions, for example those made on character grounds.

## Audit objective and scope

13. The objective of the audit was to examine the effectiveness and efficiency of DIMIA's decision-making processes and management systems for delivering the parent and partner aspects of the family stream of the migration program. The areas of focus were on the following key questions:

- Does DIMIA have the systems to facilitate decision-making which is internally consistent?
- Does DIMIA have strategies in place to facilitate effective and prompt decision-making?
- How effectively does DIMIA manage relationships with other relevant agencies?

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<sup>4</sup> The relevant section for family visa applications is Section 500(1) which provides that the AAT may conduct a merit review of a decision of a delegate of the Minister under Section 501.

## Audit methodology

14. The audit fieldwork involved reviewing documents and holding discussions with managers and program staff at central office, Perth and Melbourne regional offices, the Gateway and Parramatta offices in Sydney, and posts in Manila and Guangzhou. Focus groups with decision-makers were conducted by the ANAO in the regional offices.

15. The audit methodology also consisted of ANAO compliance testing of a sample of 208 completed parent and partner visa cases to determine whether decisions were:

- transparent;
- made in accordance with legislation and guidelines; and
- well documented.

16. In conducting this audit, and in the examination of case files, ANAO took into account the environmental issues raised by DIMIA. In particular, ANAO noted that different cultures may have different practices for solemnising marriage relationships and determining other family relationships. DIMIA decision-makers take account of these differences in determining whether relationships satisfy the relevant definitions of spouse and other family relationships in the Migration Regulations.

# Key Findings and Overall Conclusion

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## Planning and Performance Information

### Overall planning

17. In recent years, DIMIA has successfully planned and introduced improvements to the family stream of the Migration Program. Planning initiatives have led to the clearance of backlogs, improved accessibility through streamlined procedures, and closer scrutiny of visa applications. DIMIA has also undertaken multiple research projects and environmental scans to ensure that an overall strategic focus is maintained. However, the ANAO found that more could be done to clearly define the links between DIMIA's high-level strategies and individual program plans. The department has advised the ANAO that it is reinvigorating its planning framework. A particular focus will be improved links between strategic and operational plans to better identify opportunities for performance improvement in resourcing and coordination and to assist in identifying and assessing risks to the achievement of objectives.

18. The ANAO found that the department has adopted a rigorous approach to setting intake targets (known as the Agreed Indicative Planning Levels—AIPLs) for the family stream of the migration program. The AIPL process is flexible and, in conjunction with new processing efficiencies, has allowed the department to clear its backlog of partner cases. However, current downward trends in lodgements and cases on hand present ongoing challenges for the department achieving overall program targets. It is noted that the family stream comprises just under half of the overall Migration (non-humanitarian) Program.

19. The department has advised the ANAO that current application rates remain steady onshore and are increasing offshore. In future years, AIPLs for the family stream of the migration program will be adjusted to cater for demand. If there is a reduction in applications in the family stream of the migration program, in line with government policy, AIPLs for skilled migration will be increased accordingly.

### Performance information

20. The ANAO found that DIMIA provides high level selected performance information in its Portfolio Budget Statements relating to Outcome 1. At the program level, the quantity indicator used by DIMIA in its Portfolio Budget Statements and Annual Report to measure the performance of the family stream of the migration program is a tangible measure that directly relates to the output

and can be directly linked to the program outcome. However, the ANAO found that this program level indicator does not provide information regarding the quantity of work undertaken to support the output. For example, different classes of family entry visas generate differing workloads. Thus overall workload could rise or fall without the overall quantity measure varying. Similarly, visa refusals, as opposed to grants, may generate a higher workload.

21. The ANAO also found that the quality measures being used in the family stream are largely indicators of process. Their focus is on the inputs to the decision-making process, rather than the quality of the outputs delivered and their contribution to the related outcome.

22. Sound financial performance information is essential so that managers and stakeholders can properly assess the efficiency and cost effectiveness of DIMIA's operations in delivering the Migration Program. This also requires appropriate links between financial and non-financial performance information. However, the audit found that performance results and costing information for the Migration Program were poorly linked for external reporting purposes. Although DIMIA has invested considerable resources in ensuring that it can attribute resources to its activities, financial and non-financial performance information is still not well integrated.

## **Service Delivery and the Integrity of Decision Making**

### **Compliance with procedures**

23. The ANAO undertook compliance testing of a sample of 208 completed parent and partner visa cases to ascertain whether decisions were:

- transparent;
- made in accordance with legislation and guidelines; and
- well documented.

24. The ANAO found that DIMIA decision-making was generally sound. However, there were certain elements of the decision-making process that were not transparent, or were not adequately documented on file. In particular, the ANAO found that, in 16 per cent of cases, not all copied documents were certified. In 25 per cent of cases, not all documents provided were translated.

25. DIMIA advised that it is usual practice for locally engaged employees (at overseas posts) to translate key documents where the content is crucial to the decision. They would usually make a file note of the overall results of their check. However, the ANAO found in practice that the standard of documentation varied between DIMIA offices and posts and the use of file notes was not



consistent. The ANAO considers that such documentation is a key element of sound administration and accountability. The department has advised that the level of documentation on the paper file is informed by each post/region's Fraud Management Plan and the level of risk associated with the profile of the application.

26. The record of a visa decision is an amalgam of paper and electronic records. DIMIA's approach to record keeping is that electronic records relevant to the decision should be 'printed-to-paper'. In this way, all elements of the decision-making process relating to visa grant, refusal or withdrawal should be available and the formal record properly maintained.

27. The ANAO found that, in close to four per cent of cases, the payment of the initial Visa Application Charge (VAC) had not been documented on the paper file; in close to nine per cent of cases a character check had not been documented; and in about seven per cent of cases a health check had not been documented.

28. The ANAO also found, in cases where interviews were conducted, 41 per cent were not adequately documented. In some cases, there was no record of interview on the paper file. The only evidence that an interview had been undertaken was a reference made to an interview appointment. In other cases, the decision-maker had recorded that an interview had been undertaken. As a result, a decision to grant the visa had been made. However, the decision-maker had not prepared a formal record of interview, outlining the reasons for their decision.

### **Quality assurance (QA)**

29. The ANAO acknowledges the efforts DIMIA has made in assessing and monitoring the quality of its work through QA mechanisms operating in onshore offices and offshore posts. However, the ANAO identified that the department is unable to monitor and compare the quality of processing between its onshore offices and offshore posts owing to the different approaches used in the QA systems. DIMIA advised that separate QA processes are used as a result of the different legislative requirements for the two processing environments.

30. The ANAO also found that DIMIA's current approach to offshore QA was limited as it excluded cases where visas had been refused, and was often conducted without access to the paper file. A more consistent approach to QA, based on the better elements of the onshore and offshore processes, would assist in improving the overall QA process and the department's capacity to monitor quality in the program as a whole. DIMIA has advised it is exploring the introduction of an analytical, risk-based approach to QA.

## Strategies and Controls to Assist Decision-Making

### The capped visa sub-classes

31. Delivery of the family stream of the migration program requires close monitoring of the capped visa classes, particularly for parents, and the resultant queues of applicants. In its examination of the granting of visas in the parent category, the ANAO found evidence of a small number of applicants being issued visas through a regional office when their queue date indicated they were not due for visa grant for a number of years. With only 500 parent visas issued last year, the granting of visas out of order creates a risk not only of inequity but also that another individual's visa may be unduly delayed.

32. While the number of available parent visas remains restricted, a queue of parent applicants waiting to have their applications finalised will remain. DIMIA's current administrative system for managing the queue and allocating available parent visas does not allow for automatic monitoring of applicants being placed in the queue and the subsequent grant of a visa. This also increases the risk that visa grants may be made out of order.

33. The ANAO acknowledges that the department has centralised its offshore parent visa caseload and is considering the possibility of doing so for the onshore caseload. DIMIA has advised that it is not possible to develop a system that would guarantee that all parent visas are granted automatically in order. However, the department has plans to introduce changes to its IT system to enhance the management of the parent queue.

### Delegations

34. A decision-maker's position number forms the basis of DIMIA's delegation system. The ANAO found that, although the electronic record includes an audit trail of officers involved in processing the application, 39 per cent of paper files examined did not record the decision-maker's position number. We were therefore unable to determine, from the paper file, whether the decisions were made by appropriately delegated decision-makers.

35. The ANAO found inaccuracies in the delegation instruments at a regional office. As well, we found that a single position number had been listed on the delegation instrument twice, at two different posts. In addition, position numbers operational at one post had been listed as delegated at another post. Notifications of inaccurate entries are collected and corrected in the subsequent instrument. However, the identified inaccuracies still impact on the operational status of DIMIA officers for the duration of the inaccurate delegation instrument.

## Relationships with Third Parties

### Migration Review Tribunal (MRT)

36. The ANAO found that there has been a significant accumulation of review cases before the MRT, with the Tribunal's caseload increasing by 31 per cent over the last two years with consequent adverse effects on MRT finalisation times. At 31 May 2002, the MRT had 8265 cases on hand, 30 per cent of those cases being partner applications. DIMIA advised that the accumulation of cases at the MRT was due, in part, to concerted efforts by the department to clear its own backlogs, especially of partner visa cases. The MRT advised that the increase in the incoming caseload meant there was no capacity for the MRT to clear its own backlog.

37. The ANAO notes that there may be many reasons for sponsors seeking review of the primary decision, which are not necessarily related to perceived errors in the initial decision. As well, the Government recently approved the recruitment of additional MRT members to assist in dealing with the incoming caseload and reducing backlogs.

38. The ANAO also found that, in 2001–02, the MRT overturned 53<sup>5</sup> per cent of all cases considered for review, and that some 74<sup>6</sup> per cent of all partner applications to the MRT were also overturned. The ANAO notes that each review represents additional workload involving an increasing cost burden for the Commonwealth, as the achievement of one migration outcome may, if reviewed, involve multiple expenditures of Commonwealth funds. Government policy is that the \$1400 MRT application fee is refunded where a result favourable to the review applicant is handed down.

39. The ANAO notes that there are a number of feedback mechanisms between DIMIA and the MRT covering strategic issues through to the quality of decision-making. The department advised the ANAO it considers it important that contact between DIMIA and the MRT take account of the need for independence between the two bodies.

### Migration agents

40. Migration agents provide a valuable role in assisting potential migrants to complete and lodge migration applications. While, in the majority of cases, agents can assist DIMIA's processing efficiency by lodging complete applications, the use of certain migration agents may represent an increased risk to the integrity

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<sup>5</sup> This rate is as reported in the 2001–02 Annual Report. MRT reporting has now been made consistent with other Tribunals to include withdrawn and ineligible applications. Under these conditions the rate would be 47 per cent.

<sup>6</sup> As above. Including withdrawn and ineligible applications, the rate would be 66 per cent.

of the family stream of the migration program. At the time of the audit, DIMIA did not have a national database containing information to assist staff in identifying potentially high-risk migration agents. Owing to these data deficiencies, the department has had limited capacity to monitor global trends related to migration agents to enhance program integrity. The ANAO notes that DIMIA is taking steps to rectify this. Funding for a new management system was announced in the 2003–2004 budget papers.

## **Health standards for migrants**

41. The requirement for migration applicants to meet a health standard for entry into Australia is provided for by section 60 of the *Migration Act 1958*. Section 60 outlines the ability of the Minister to request a health examination if the health, physical or mental condition of a visa applicant is relevant to the grant of a visa. The *Migration Act 1958* also states that a specified person must examine the applicant and that the applicant must make every reasonable effort to attend the examination.

42. The ANAO found that the Department of Health and Ageing (DoHA) and Family and Community Services (FaCS) provide advice to DIMIA about health standards for migrants and have been, on occasions, involved in reviews of those standards. However, from the whole of government perspective, there are deficiencies in the approach to the maintenance of health standards for migrants. The ANAO found no evidence that the understandings and protocols between the three departments had been recorded. The latter would enhance the capacity of the Commonwealth to develop cohesive standards and responses to health protocols, for example, in the event of the emergence of a communicable and contagious medical condition. Clear and unambiguous administrative arrangements would provide a description of:

- the communication protocols between the three key stakeholder departments and the identification of roles and responsibilities;
- a current analysis of risks to the Commonwealth; and
- governance and monitoring arrangements, to provide assurance to senior management and responsible Ministers that key risks are being addressed in a timely manner.

## **Estimation of Health costs**

43. The health requirement under the Migration Regulations can be waived in some family migration cases where compelling and compassionate circumstances exist; provided there is no undue cost to the Australian community, or the waiver does not cause undue prejudice to the access to health care or

community services of an Australian citizen or permanent resident.<sup>7</sup> The ANAO identified areas for improvement in the estimation of costs of health conditions of migrant applicants. In particular:

- Medical Officers of the Commonwealth (MOCs) are using costing guidelines that were prepared by Health Outcomes International (a company which specialises in health economics). In preparing the guidelines, Health Outcomes International consulted widely with FaCS and DoHA. However, the guidelines have not yet been agreed; and
- the cost estimates prepared by MOCs, based on these guidelines, is not always documented.

44. Clear, comprehensive and consistent guidance on estimating the likely lifetime community cost of medical conditions of migrants is critical if waiver provisions are to be applied equitably and if appropriate accountability is to be maintained. The ANAO was unable to determine whether current DIMIA guidance provides a sound and sufficient basis for the effective and accountable administration of the health waiver provisions. Also, the failure of MOCs to consistently record the basis of calculations, and the absence of appropriate quality control measures, create difficulties in maintaining consistency and proper accountability.

### **Cost of health waivers**

45. The ANAO found that data was incomplete on the number, costs and nature of health waivers granted to migration applicants. This is a significant difficulty for effective program administration, because the cost to the Commonwealth of granting of health waivers is not known. As well, appropriate measures to ensure accountability and quality control cannot be identified and implemented.

46. The ANAO also found that relevant agencies are unable to determine what impact, if any, the granting of health waivers may have on the provision of health and community services to the broader Australian community. Data on the waivers granted has not been provided to agencies with the responsibility for planning and delivering community health and care services.

### **Overall Conclusion**

47. In recent years, there have been improvements in the efficiency and effectiveness of the family stream of the Migration Program. After examining a

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<sup>7</sup> Migration Regulations 4005, 4006A and 4007 outline the health requirement for migration and long stay entry into Australia and the provision for waivers.

sample of visa cases, the ANAO concluded that decision-making by DIMIA officials was generally sound, although there are elements of the Department's administrative systems which require attention at the first opportunity, including;

- the lack of documentation which supports certain elements of the decision-making processes. The variable standard of record keeping makes it difficult to assess the merits and risks attached to particular decisions;
- the administrative systems for managing the queue and allocating visas in queue date order do not have the functionality to enable DIMIA to continually monitor, or automatically allocate, visa places in queue date order, thereby potentially compromising the queuing process; and
- greater consistency between the department's existing offshore and onshore quality assurance processes would also support the maintenance of appropriate standards and continuous improvement in applications processing.

48. Current health risk assessments for migrants and the roles and responsibilities for each of the stakeholder departments are poorly defined. DIMIA does not have reliable information on the number and type of health waivers that are granted to new migrants. The costing guidelines currently in use have not been agreed by relevant agencies. DIMIA, DoHA and FaCS are seeking to improve cooperation and information exchange. This should be resolved as a matter of priority to protect the various interests of the Commonwealth.

## DIMIA Response

49. A detailed response from the department is reproduced in full at Appendix 8. Overall, the department commented:

The Department is pleased that the report found there have been recent improvements in the efficiency and effectiveness of the program and that overall decision-making is sound.

We note that the audit found there were a few matters of an administrative nature that should be addressed. Action is already in hand to implement these recommendations and in some cases is well advanced. There are also suggestions for improvements such as more formal links with the Departments of Health and Ageing and Family and Community Services in relation to health requirements and procedures for waiver which we support and have already taken steps to achieve.

The Department is committed to a process of continuous improvement and in that spirit appreciates the work that has been undertaken by the Australian National Audit Office.

# Recommendations

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Set out below are the ANAO's recommendations aimed at improving management of the family stream of the migration program in DIMIA. The key recommendation is number five; others are focused on improvements to performance information, record keeping and quality assurance. Report paragraph references are also included.

- Recommendation No.1**  
**Para. 2.46**
- To allow DIMIA stakeholders to better assess the benefits and costs of the family migration program, the ANAO recommends that DIMIA report and publish additional performance information in its Annual Report including:
- the aggregate expenditure for the Family Stream of the Migration Program; and
  - a verifiable quality measure relating to onshore partner interview rates.

*DIMIA response:*

The Department agrees to this recommendation.

- Recommendation No.2**  
**Para. 3.29**
- Consistent with DIMIA guidance, and in accordance with the level of risk associated with the profile of the application, the ANAO recommends that key processes and decisions made in the assessment of parent and partner visa applications be clearly and accurately documented to ensure appropriate accountability, including transparency.

*DIMIA response:*

The Department agrees to this recommendation.

**Recommendation No.3**  
**Para. 3.45** The ANAO recommends that DIMIA assess the benefits and costs of progressively introducing the better elements of its existing onshore and offshore quality assurance processes into a single system to ensure that there is a consistent approach for monitoring and reporting quality across departmental operations.

*DIMIA response:*

Agree with qualification. DIMIA does not consider that a single system as recommended by the ANAO is feasible. However, DIMIA will seek to achieve a consistency of approach in relation to its quality assurance mechanisms and believes that this will meet the spirit of the ANAO recommendation.

**Recommendation No.4**  
**Para. 4.64** To enhance the management of the parent visa queue, the ANAO recommends that DIMIA clearly specify the control and monitoring function required from departmental information systems.

*DIMIA response:*

The Department agrees to this recommendation.

**Recommendation No.5**  
**Para. 5.27** The ANAO recommends that DIMIA, in consultation with DoHA and FaCS, review and formalise the consultative arrangements for setting health policy for migrants to ensure that Migration Regulations reflect current risks, and the roles and responsibilities of each agency.

*DoHA response:*

DoHA agrees with the thrust of this recommendation.

*FaCS response:*

Agree.

*DIMIA response:*

The Department agrees to this recommendation.



# **Audit Findings and Conclusions**



# 1. Introduction

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*This Chapter provides an overview of Australia's Migration Program and, in particular, family migration. It also details the Department of Immigration and Multicultural and Indigenous Affairs approach to planning and managing the family stream of the Migration Program. The audit objectives and approach are also discussed.*

## Australia's Migration (non-humanitarian) Program

1.1 Australia's Migration (non-humanitarian) Program<sup>8</sup> is governed by the *Migration Act 1958* and is divided into three streams;

- a skilled migration stream, which has a number of categories for people who have particular occupation skills, outstanding talents or business skills;
- a family migration stream, where people can be sponsored by a relative who is an Australian citizen or permanent resident; and
- special eligibility migrants, who are former citizens or residents wanting to return to Australia, or certain New Zealanders.<sup>9</sup>

1.2 Over the past 50 years, Australia's population has been growing at between one and two per cent per annum which is one of the fastest rates of population growth amongst developed countries. The main component of Australia's population growth has been natural increase (the difference between births and deaths), which has contributed about two thirds of total population growth since the beginning of the 20<sup>th</sup> century. Net overseas migration has also contributed to natural increase, albeit indirectly, through children born to migrants.<sup>10</sup> However, since 1962, fertility rates have been falling. Population projections from the Australian Bureau of Statistics<sup>11</sup> indicate that continued low fertility, combined with an increase in deaths from an ageing population means that Australia's rate of population growth, as with that of most developed countries, is expected to slow considerably and may reach zero population growth by around the middle of this century.

1.3 These population trends and other factors, such as Australia's need for particular skills and the level of demand in family visa categories, form the basis for determining the annual planning levels of Australia's Migration (non-

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<sup>8</sup> From this point forward, references to the Migration Program should be taken to mean the Migration (non-humanitarian) Program.

<sup>9</sup> Migration to Australia, <[www.immi.gov.au](http://www.immi.gov.au)>

<sup>10</sup> Source: Australian Bureau of Statistics, <<http://www.abs.gov.au/ausstats/abs@nsf/94713ad445ff1425ca25682000192af2>> dated 28 April 2003.

<sup>11</sup> *ibid.*

humanitarian) Program. The Commonwealth Government announces the planned intake of permanent migrants for the Migration Program, annually. These planning levels are set after a process of analysis of current and expected migration levels; an extensive program of community consultations; and input from various Commonwealth departments<sup>12</sup> and State and Territory governments throughout the course of the year. An Interdepartmental Committee (IDC) provides input into a Cabinet submission that provides advice to the Commonwealth Government about the yearly costs and other impacts of the annual Migration Program and makes recommendations as to the size and composition of the Migration Program.<sup>13</sup>

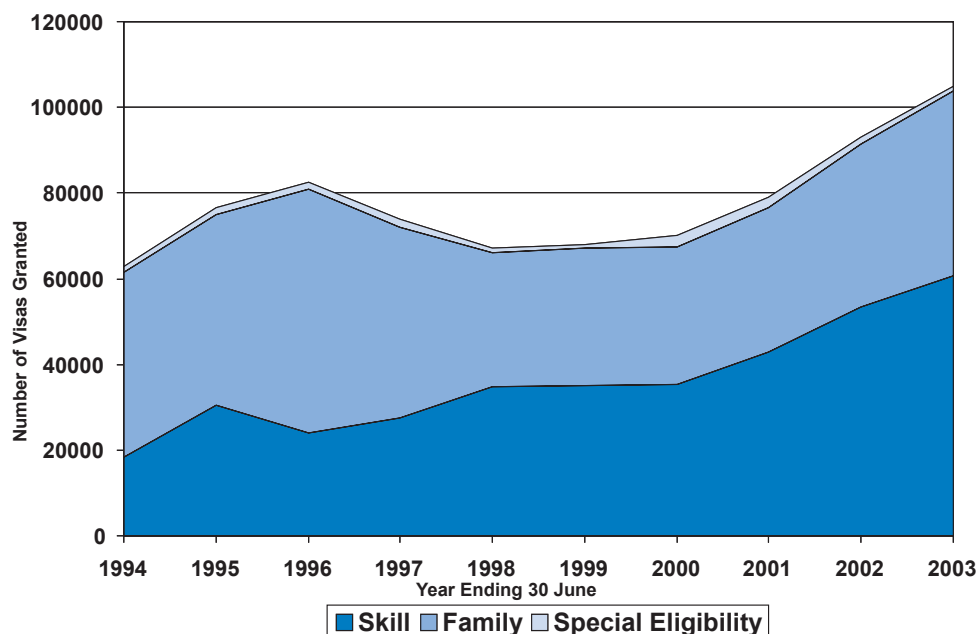
1.4 The planning level for the 2002–03 Migration Program is set in the range of 100 000 to 110 000 places and will be maintained at this level for the next four financial years, barring exceptional circumstances. The mid-point of this planning level (105 000) represents an increase of 12 000 (14 per cent) from the 2001–02 Migration Program which selected 93 080 migrants.

1.5 Although the Australian Government has an ongoing commitment to Family Migration, in recent times there has been a deliberate focus on skilled migration and the family stream which now accounts for just under half of Australia's non-humanitarian migrants per year. The size of the family stream over the past decade, both in actual numbers and as a proportion of the overall Migration Program, is shown in Figure 1.1. In 2001–02, 38 090 migrants were selected in the family stream. The planning level for the 2002–03 family stream is 43 200. If the Migration Program delivers more than 105 000 places, this is likely to be as a result of additional skilled visa grants.

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<sup>12</sup> ABS, DEST, DEWR, FaCS, DoHA, AG, DoFA, PM&C, Treasury, DFAT, DE&H, DoTRS, DOCITA, AFFA and NOIE.

<sup>13</sup> The operation of the IDC, the adequacy of the IDC's inputs and outputs and, consequently, the robustness of the whole of government policy framework for managing the annual Migration Program were not considered in this audit.

**Figure 1.1****Migration (non-humanitarian) Program Outcomes (Visas Granted)  
1993–94 to 2001–02 and planning levels for 2002–03**

Source: ANAO based on DIMIA Data.

## The family stream

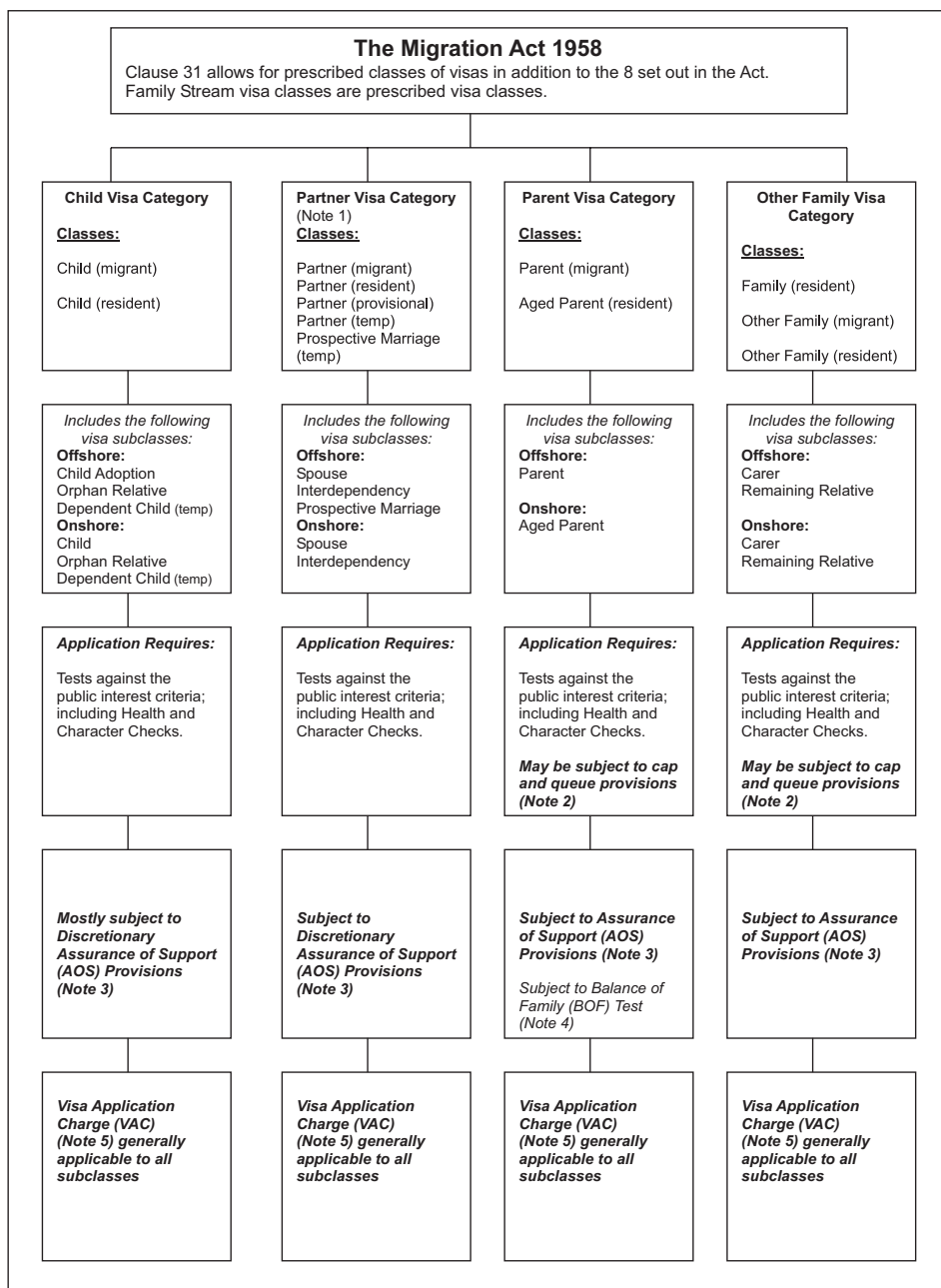
1.6 The family stream of Australia's Migration Program enables the reunion of immediate family members of Australian citizens, permanent residents and eligible New Zealand citizens. It consists of four main categories:

- Partner, which includes:
  - spouse: the husband, wife or de facto partner of the Australian sponsor;
  - prospective marriage: a fiancée overseas who plans to marry their Australian sponsor in Australia; and
  - interdependent partner: a person in an interdependent relationship with an Australian partner involving a mutual commitment to a shared life together.
- Child, which includes:
  - dependent child: the natural, adopted or stepchild of the Australian sponsor;

- adopted child: a child adopted overseas; and
- orphan relative: an unmarried child under 18 at the time of application who cannot be cared for by either parent.
- Parent: a person who meets the balance of family test and is sponsored by their child, who is an Australian citizen, Australian permanent resident or eligible New Zealand citizen.
- Other family, which includes:
  - aged dependent relative: a single, widowed, divorced or formally separated person who is dependent on an Australian relative;
  - remaining relative: a person who has no close family ties outside Australia and is the brother, sister, child or step equivalent of an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
  - carer: a person willing and able to give substantial, continuing assistance to an Australian relative or member of their family who has a medical condition that impairs their ability to attend to the practical aspects of daily life. The need for assistance must be likely to continue for at least two years.

1.7 Figure 1.2 shows the visa categories and sub-classes applicable to the family stream, together with a summary of the rules applicable to each. This audit focused on the Partner and Parent Visa Categories as they are of sufficient size to provide representative samples of applications that are subject to the queuing provisions (parents), as well as those that are not subject to queuing (partners).

**Figure 1.2**  
**Visa Classes in the family stream**



Source: ANAO analysis

Notes:<sup>14</sup>

**1.Partner Applications.** Partner applications are subject to a two stage process. Stage 1 involves assessment of eligibility for a temporary visa. Stage 2 begins approximately two years after lodgement of the initial application and will, subject to eligibility requirements lead to granting of a permanent visa.

<sup>14</sup> ANAO analysis of information from DIMIA fact sheets.

2. **Cap and Queue.** The *Migration Act 1958* allows ‘capping’ or limiting of the number of visas which can be granted each year in a particular visa sub-class. A number of visa classes in the family stream can be subject to ‘capping’. Within the partner category, spouse visas cannot be capped. However, prospective marriage (fiancée) and interdependent partner visas may be subject to capping. Parent visas, may also be, and usually are subject to capping, but child visas cannot be capped under the legislation. Once a cap is reached, applicants then wait in a queue for the visa to be granted (if successful) in a following year, subject to places becoming available.

3. **Assurance of Support (AOS) provisions.** An AOS is a legal commitment by the assesor to repay the Commonwealth of Australia any benefits (such as Special Benefit, Newstart Allowance, etc.) paid to those covered by the assurance in the first two years after their migration from overseas or grant of permanent residence in Australia.

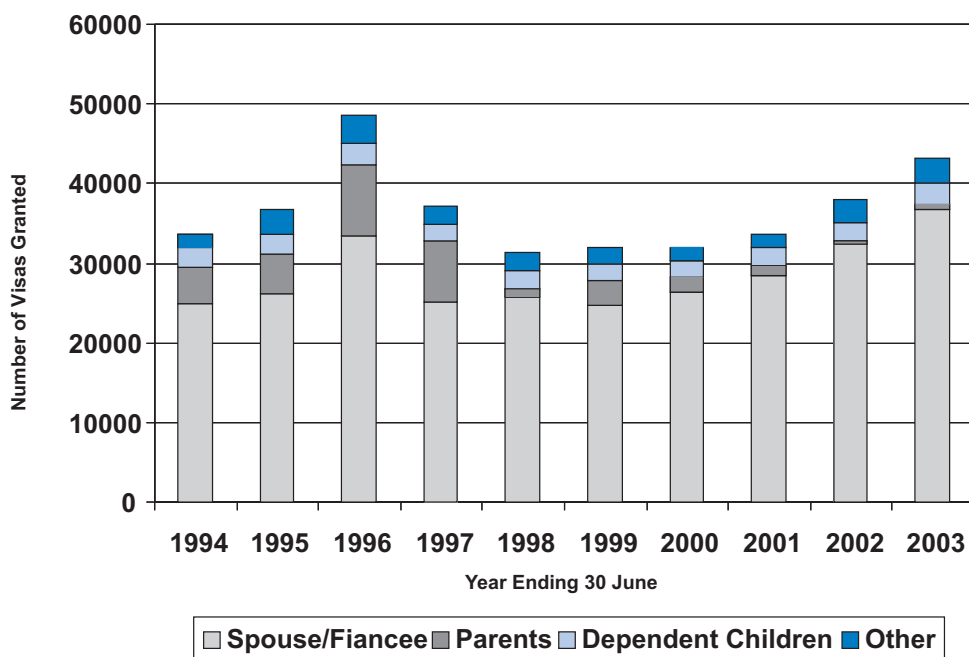
4. **Balance of Family (BOF) test.** The BOF test applies in the Parent visa categories described above. It states that the claimant must have more than half of their children in Australia or there must be more children in Australia than anywhere else.

5. **Visa Application Charge (VAC).** Payment of the VAC must accompany the visa application. It is generally not refunded if the application is assessed to be unsuccessful. For applicants applying for visas in the Parent and Other Family visa categories the total VAC is made up of two instalments. The second instalment of the VAC is imposed to recover health related costs and English language training if applicable. In cases where applications are subject to placement in the queue, the payment of the second instalment is deferred until a place becomes available and a visa can be granted.

1.8 Figure 1.3 illustrates the planned and achieved levels of the family stream over the past decade. Achieved levels are measured by the number of visas granted.

**Figure 1.3**

**Family stream Outcomes (Visas Granted) 1993–94 to 2001–02 and planning levels for 2002–03 by visa sub-category**



Source: Data from DIMIA Systems (Note: Concessional family which ceased in 1997 has been omitted for clarity.)



**1.9** Increased demand in the Spouse and Fiancée visa subclasses results from increases in working holidaymakers, students, temporary business entrants and visitors coming to Australia and forming relationships. There are also an increasing number of young Australian professionals travelling overseas, a growing effect of Internet communication on the formation of relationships, and a rising proportion of young and single people migrating via the skill stream. To some degree, the increased demand in the Spouse and Fiancée visa subclasses is also the inevitable result of a larger and younger skill stream.

## **Functional and structural arrangements for delivering the program**

**1.10** DIMIA is organised around functional processes, where domestic and overseas managers report to both regional and central offices. The achievement of the overall Migration Program as well as corporate policies and procedures are managed through central office. Central office coordinates and distributes individual planning levels (or targets) to DIMIA regional offices and posts, which are responsible for the coordination of local resources and for the achievement of local planning levels and targets that feed into the overall program.

**1.11** In the process of implementing the department's global working initiatives, the department has repatriated segments of the caseload from overseas, including the parent visa categories. Although the parent visas will be processed in one location in Australia (the Perth Offshore Processing Centre—POPC), some elements, such as health and character checks, will be coordinated from the overseas locations. Central office retains overall control of the parent visa caseload.

**1.12** The environment in which DIMIA manages the migration program is complex and diffuse. DIMIA has 72 offices overseas and 14 offices in Australia. These are required to cater for a wide range of cultural and linguistic backgrounds from which DIMIA clients are drawn. Many of DIMIA's overseas offices have responsibility for a large geographical area and in some cases the local infrastructure is poor, particularly in relation to communications and transport. In addition, there are significant security concerns in overseas locations. There are also high levels of attempted fraud. The ANAO noted that documentation supplied in support of some visa applications may be unreliable, and in these cases, visa processing becomes more complicated.

## Audit objective and scope

**1.13** The objective of the audit was to examine the effectiveness and efficiency of DIMIA's decision-making processes and management systems for delivering the parent and partner aspects of the family stream of the Migration Program. The areas of focus were on the following key questions:

- Does DIMIA have the systems to facilitate decision-making which is internally consistent?
- Does DIMIA have strategies in place to facilitate effective and prompt decision-making?
- How effectively does DIMIA manage relationships with other relevant agencies?

## Audit methodology

**1.14** The audit fieldwork involved reviewing documents and holding discussions with managers and program staff at central office, Perth and Melbourne regional offices, the Gateway and Parramatta offices in Sydney, and posts in Manila and Guangzhou. Focus groups with decision-makers were conducted by the ANAO in the regional offices.

**1.15** The audit methodology also consisted of ANAO compliance testing of a sample of 208 completed parent and partner visa cases to determine whether decisions were:

- transparent;
- made in accordance with legislation and guidelines; and
- well documented.<sup>15</sup>

**1.16** The audit was conducted in accordance with ANAO auditing standards at a cost of approximately \$390 000.

**1.17** In conducting this audit and in the examination of case files, the ANAO took into account the environmental issues raised by DIMIA. In particular, the ANAO noted that different cultures may have different practices for solemnising marriage relationships and determining other family relationships. DIMIA decision-makers take account of these differences in determining whether relationships satisfy the relevant definitions of spouse and other family relationships in the Migration Regulations.

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<sup>15</sup> The audit examined a stratified random sample from the population of spouse and parent migration applications finalised between 1 July 2001 and 30 May 2002. The examination was aimed at identifying and measuring the extent of errors in the application assessment process over this period.

## 2. Planning and Performance Information

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*This Chapter reviews the management and planning of the Migration Program and the number of visas to be delivered in the family stream, including an assessment of the quality and quantity performance measures nominated by the department.*

### Overall planning

2.1 Planning is an important aspect of good governance and essential to ensuring the successful delivery of program outcomes. Strategic planning assists management to:

- determine priorities for the allocation of limited resources, and select operational measures and appropriate areas of operation; and
- evaluate the overall effectiveness and appropriateness of current initiatives in achieving organisational objectives.

2.2 In strategic planning for the Migration Program, DIMIA seeks to strike a balance between achieving the overall program planning level, providing a high level of service to clients, and maintaining and improving program integrity and efficiency.

2.3 In order to examine how DIMIA had translated government policy at the strategic level, and to determine whether regions and posts were provided with strategic guidance on the range of objectives and key measures, the ANAO considered the following documents:

- Cabinet submissions prepared to support the determination of the annual Migration Program;
- DIMIA's Annual Reports;
- DIMIA's Portfolio Budget and Additional Estimates Statements;
- outcomes from the Minister's community consultation process and public documents such as departmental fact sheets;
- DIMIA's past and current Corporate Plan, Risk Management Plan and Business Directions 2003–2005; and
- the Migration and Temporary Entry Division annual plan.

2.4 The audit found that the overall strategic focus is maintained, and strategic management coordinated through both Executive meetings and regional directors and residence managers conferences. The messages and priorities from

these meetings and conferences then flow through to staff via branch meetings, performance and learning agreements, an agency intranet and widely distributed e-mails and newsletters.

2.5 The departmental publications referred to above establish broad, high level, strategies. More detailed planning generally occurs at the program level. For example, the Migration and Temporary Entry Division produces an annual plan setting out priorities within the scope of its responsibility. However, this document does not place the Division's priorities within the context of the risks outlined in DIMIA's risk management plan. The linkages to other portfolio strategies are unclear.

2.6 While acknowledging the work that DIMIA has undertaken to ensure that an overall strategic focus is maintained, the ANAO considers that more could be done to clearly define the links between DIMIA's overall strategic plan and associated risks and the allocation of resources to divisional priorities to achieve greater efficiency and effectiveness.

2.7 More clearly defined links between planning frameworks would ensure that staff and other stakeholders are better informed about DIMIA's approach to implementing the Migration Program. They would also provide a more robust context for identifying and assessing risks to the achievement of objectives and offer opportunities for performance improvement in resourcing and coordination of related activities.

2.8 The department has recently introduced a system of Statements of Work (SOWs), which are designed to translate the strategic policy directions set by the department into practical instructions for each DIMIA office that is to carry out the work tasks. Each SOW articulates the policy framework, volume of work required, and how it is to be carried out, including resourcing, client service and integrity and risk management aspects.

## **Risk management**

2.9 The requirement to manage risk systematically applies to all organisations and to all functions and activities within an organisation and should be recognised as being of fundamental importance to all managers and staff within the Australian Public Service.<sup>16</sup> It is generally accepted that the systematic identification, analysis and treatment and monitoring of risk will assist managers and staff to ensure risks are identified early, the best options for managing them are selected, and that significant risk exposures are minimised and/or managed for better performance.

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<sup>16</sup> MAB/MIAC, October 1996, Report No.22, Guidelines for Managing Risk in the Australian Public Service.

**2.10** With the different rules and regulations attaching to the various visa sub-classes and with limitations imposed on some of the latter, it is important that DIMIA is able to both identify and effectively manage risks. Risk management provides a disciplined approach for dealing with future uncertainty. It is an important element of implementing a sound governance framework incorporating the establishment of a process for identifying, analysing and mitigating risk<sup>17</sup> that could impact on the achievement of organisational objectives.

**2.11** The ANAO found that the Migration Program included a number of processes in which the application of a risk-based approach to the processing of visa applications is apparent. Chief among these is the nominations of nationalities as high or low risk. DIMIA regularly monitors the non-return rates of all nationalities and sets risk levels accordingly. The department also classifies its overseas posts according to high or low risk levels and these govern the Electronic Travel Authority (ETA) arrangements. The ETA system was examined in detail in ANAO report No.3 of 1999–2000 *Electronic Travel Authority*.

**2.12** DIMIA has also recently conducted a comprehensive review of its risk management processes. This review has led to the development of a revised risk management strategy and risk management toolkit for the use of program and regional managers. The new strategy is based on the Australia New Zealand Risk Management Standard (AS/NZS 4360:1999) and was introduced in June 2002. The department envisages that the evolution of the strategy will be an integrated risk management framework throughout all levels of the department. Operational units will be responsible for the management of their risks. This stage of the strategy will require the establishment of a suitable risk organisational structure, clear delegation of responsibility, and embedding risk management in management and planning processes.

**2.13** The ANAO acknowledges that DIMIA's new risk management framework has the potential to significantly enhance senior management control over major initiatives that address both the efficiency and integrity of the program. However, the ANAO was not able to assess the effectiveness of the new risk management strategy as it was being implemented during the course of the audit.

## Allocating targets to offices and posts

**2.14** Operational planning is used by DIMIA to translate the overall Migration Program target into actual or indicative planned intake levels over its global

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<sup>17</sup> The Australian/NZ 4360:1999 Risk Management Standard defines risks as events that have the power to impact on the achievement of organisational objectives. The Standard contemplates not only events that lead to loss or harm, but also that may lead to gain or advantage.

network of DIMIA offices and posts. Ideally, an operational plan needs to be able to set clear priorities for operational units and to allocate appropriate resources for the achievement of migration targets. The ANAO examined the processes for allocating planned intake levels to regions and posts and the primary basis for allocating resources, given these targets. In doing so, the ANAO considered the environmental issues such as cultural differences in the recognition of relationships, raised by DIMIA during the course of the audit.

**2.15** At the time of the audit, overall resourcing for the Migration Program was governed by a purchasing agreement<sup>18</sup> between DIMIA and the Department of Finance and Administration. This agreement set out the outputs that DIMIA will produce in contributing to DIMIA's overall migration outcomes and the price the Commonwealth will pay for those outputs. It included a combination of fixed resources for the core provision of services, plus a variable component linked to changes in certain activity levels. DIMIA has advised that the purchasing agreement with the Department of Finance and Administration no longer applies. A review of funding arrangements was announced in relation to the 2003–2004 Portfolio Budget Statements.

**2.16** Once the overall number of places to be allocated is known, central office in Canberra coordinates the translation of these planned intake levels into purchasing agreement estimates. These are set by the output managers in consultation with state and regional directors. In producing these estimates, the implementation of the global working initiatives are considered, in particular the impact of eVisa applications, the repatriation of segments of the caseload from overseas, the creation of the Bona Fide Units and the Best Practice Model. All present a number of challenges in forecasting the end state of the budget.

**2.17** An essential planning input into this process is an analysis of the number of visas that can be processed by each of the DIMIA offices in Australia and overseas. The analysis includes consideration of each office's on-hand caseload, historical rates of application and refusal, and the rate of throughput of applications. The figure derived from this is communicated to each office as its Agreed Indicative Planning Level (AIPL).

## **AIPLs offshore**

**2.18** The overseas posts visited by the ANAO were operating in a very difficult and testing environment. File reviews conducted by the ANAO, and observations of interviews with clients, indicated high levels of attempted fraud by applicants.

**2.19** This environment has resulted in DIMIA implementing a visa application process that is rigorous and resource intensive. The ANAO also noted high levels

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<sup>18</sup> The department has advised that it is currently reviewing the purchasing agreement.

of representations from Members of Parliament, submissions from sponsors, and referrals from the internal investigations section. Some concerned minor issues, but others required significant amounts of research by DIMIA and investigations over weeks or months.

**2.20** Regions and posts visited by the ANAO indicated that they had received AIPL targets considerably in excess of their historical capacity. There was some concern that the increased targets could only be achieved at some risk to program integrity, particularly at 'high risk' posts and where difficulties and delays were faced in obtaining necessary additional resources, including accommodation and appropriately skilled staff.

**2.21** The ANAO found that offshore posts considered their current throughput and current capacity in recommending their contribution to the overall AIPL. The department has provided additional short-term processing resources in the current and previous program year to assist in the clearing of backlogs at some high-risk posts. However, the ANAO considers that increases in the overall Migration Program of 13 or 14 per cent place pressure on maintaining a high level of integrity in the delivery of the Migration Program. Globally, variations of this magnitude can be managed through regular reviews, but the successful translation to a post level can be affected by local factors, such as capacity and particular risk profiles of countries.

**2.22** DIMIA advised that the higher AIPLs were allocated in order to accommodate further backlog clearances and expected higher throughput because of the implementation of the Best Practice Model. The allocation of AIPLs is reviewed through the year and where posts report they are unable to achieve their AIPLs they can be adjusted to accommodate this.

## **AIPLs onshore**

**2.23** In the onshore context, the AIPLs are translated into monthly targets for individual decision-makers. At the larger offices in Australia, an experienced decision-maker processing visas in the Residence<sup>19</sup> (family) section is expected to clear about 20 cases per month. In focus group discussions held by the ANAO, most decision-makers agreed that this is a workable level of activity.

**2.24** In overall terms, the department has reduced the backlogs and the processing times for visa classes in the family stream significantly (discussed further in later sections of this chapter). The ANAO reviewed the caseload of several decision-makers and found that most had between 100 and 200 files waiting to be finalised. However, the audit found some files that had been open

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<sup>19</sup> The Residence or family section in regional offices is responsible for processing visas classes in the family stream of the Migration Program.

for four or more years with brief case notes providing explanations of the reasons for delays in the case. No conclusions can be drawn from such observations. In some cases, the reasons for the delay in the case were beyond DIMIA's direct control.<sup>20</sup> However, discussions with team leaders and ANAO observations of DIMIA's IT systems support suggest that management of the onshore caseload is not assisted by the design features of the department's onshore visa processing system (ICSE).<sup>21</sup> Processing milestones are not required to be recorded in ICSE. This limits the ability of managers to measure and track particular points in the process where delays could be occurring.

**2.25** The department advised that specific case management reports have since been developed for the use of local managers in the Residence (family) section. This will allow them to generate reports to identify cases that require further action.

## **AIPL initiatives**

**2.26** In recent years, DIMIA has reduced the global pipeline of cases to the point where the number of applications being finalised exceeds the number of new applications lodged. In 1999–2000, less than one application was finalised for every application lodged. The number of cases on hand at DIMIA increased by 15 per cent, in that year. In the following year, applications and finalisations were about equal. The backlog remained relatively steady. For each application lodged in 2001–02, 1.2 cases were finalised, resulting in the backlog of cases being reduced by 20 per cent.

**2.27** Figure 2.1 illustrates the trend over the past three years in terms of finalisations, caseload on hand, and visa applications in the family stream. Finalisations have experienced significant growth, while both the caseload on hand and applications lodged have decreased.

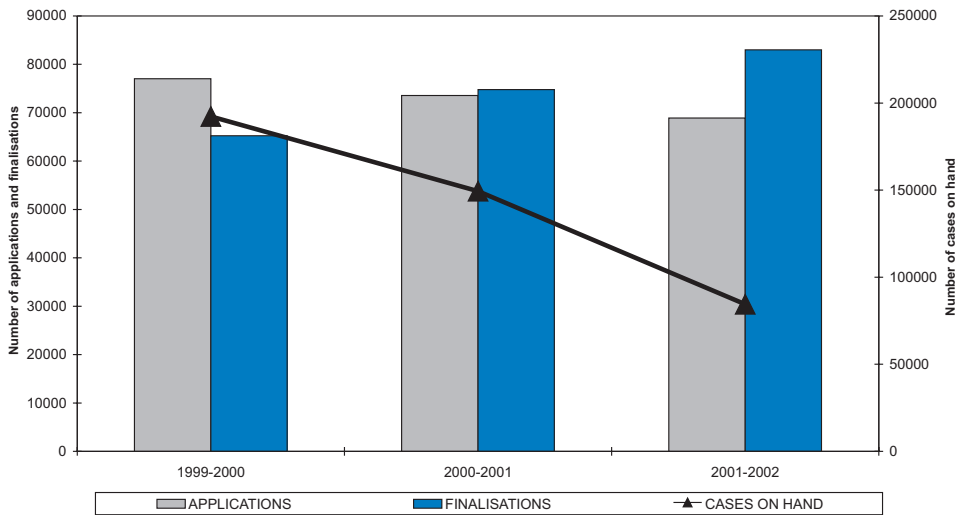
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<sup>20</sup> The department advises that there are a number of reasons that an application can take several years to finalise, including cases involving overseas custody of minors that fall under the jurisdiction of a foreign court, resolution of health issues or difficulty with contacting applicants, particularly where they have not informed the Department of a change of address.

<sup>21</sup> The Integrated Client Service Environment is the department's onshore visa processing system. ICSE is discussed further in Chapter 4.



**Figure 2.1**  
**Caseload movement within the family stream**



Source: ANAO analysis of DIMIA data<sup>22</sup>

2.28 Noting the Government’s intention to maintain the program at 2002–03 levels<sup>23</sup> for the next four years, a continuation of the above trend would have implications for the ongoing achievement of the annual Migration Program, as the increased targets have, to some extent, been achieved through clearing the backlog. DIMIA advised that current application rates remain steady onshore and are increasing offshore. In future years, AIPLs for the family stream of the migration program will be adjusted to cater for demand. If there is a reduction in applications in the family stream of the migration program, in line with government policy, AIPLs for skilled migration will be increased accordingly.

## Conclusion

2.29 The department has adopted a rigorous approach to setting the Agreed Indicative Planning Levels (AIPLs) for the family stream of the Migration Program. The AIPL process is flexible and in conjunction with new processing efficiencies, has allowed the department to clear its backlog of partner cases. However, current downward trends in lodgements and cases on hand present ongoing challenges for the department in achieving overall program targets. The ANAO suggests that DIMIA evaluate its AIPL process and its alignment to planning and resourcing to ensure that the current process is able to address these challenges.

<sup>22</sup> All data is as at 30 June for the program year stated.

<sup>23</sup> See Figure 1.1

## Performance information

2.30 Robust performance information is required to measure progress against government outcomes and to provide enhanced accountability for agency performance. Performance information promotes external accountability enabling Commonwealth agencies to meet the mandatory requirement that they provide Parliament with sufficient information in their Portfolio Budget Statements to explain their resourcing and proposed performance in relation to outcomes and outputs.<sup>24</sup>

2.31 Performance information also provides some of the tools needed to bolster improvements in public sector performance including improving accountability, performance management, risk management and business planning.<sup>25</sup>

2.32 The ANAO examined the indicators of performance selected by DIMIA for managing and reporting on the family stream of the migration program and how it measured its performance in terms of those indicators.

## Outcomes and outputs

2.33 The family stream of the Migration Program contributes part of DIMIA's Outcome 1: *The Lawful and Orderly Entry and Stay of People*. Its place in the program structure of the department is illustrated in Figure 2.2.

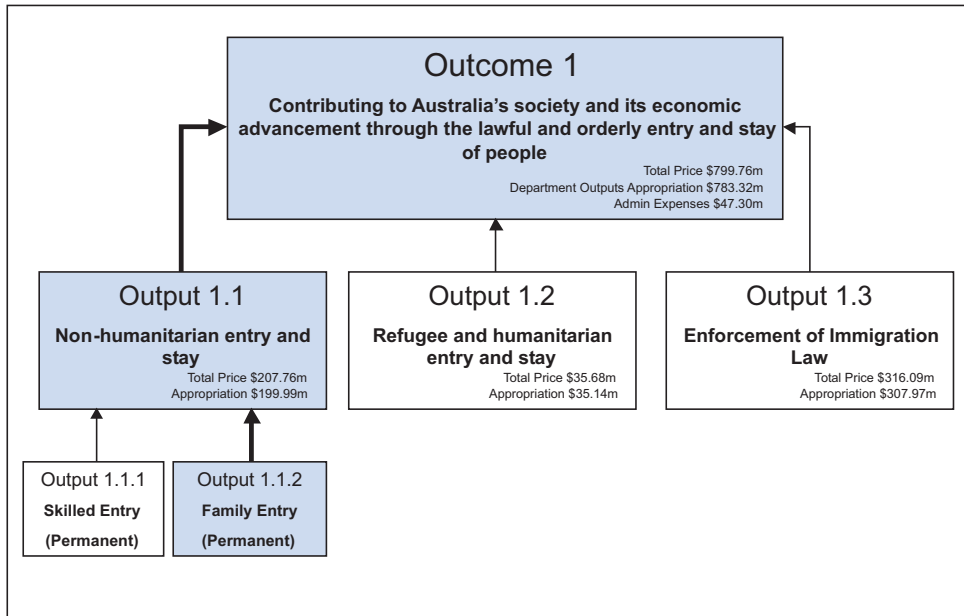
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<sup>24</sup> Australian National Audit Office 2002, *Performance Information in Portfolio Budget Statements: Better Practice Guide*, Commonwealth of Australia, May, p. 3.

<sup>25</sup> HM Treasury, Cabinet Office, National Audit Office, Audit Commission, Office for National Statistics, *Choosing the Right Fabric, A Framework for Performance Information*, United Kingdom, March 2001, p. 1.

**Figure 2.2**

**Outcome and output groups—family stream of the Migration Program**



Source: Portfolio Budget Statements 2002–03, Immigration and Multicultural and Indigenous Affairs Portfolio, p. 52.

**Performance measures for Output 1.1.2**

2.34 Performance information for the family stream of the Migration Program (Output 1.1.2) in 2002–2003 is shown in Figure 2.3.

**Figure 2.3**

**Performance Information for the family stream**

| Performance Information for Departmental Outputs—Output 1.1.2 Family Entry <sup>26</sup><br>(Permanent)          |   |
|--|---|
| Quantity   |   |
| 40 795 onshore applications (persons) finalised <sup>27</sup>  | 45 123 offshore applications (persons) finalised <sup>28</sup>  |
| Quality  |   |
| (A) 85% of first stage partner cases from non-ETA countries interviewed (either face to face or over the phone). | (B) 65% of first stage offshore partner cases from ETA countries interviewed (either face to face or over the phone). |
| (C) 65% of first stage onshore partner cases interviewed (either face to face or over the phone).                | (D) Number of cases actioned by onshore residence bona fide units.  |
| (E) Percentage of applications refused on the basis of fraud   | (F) Performance against service standard  |

Source: Department of Immigration, Multicultural and Indigenous Affairs Portfolio Budget Statement 2002–03, p. 70.

**Quantity measures**

**2.35** In 2002–03, the family stream of the Migration Program will provide 43 200 permanent migration places, an increase of 14 per cent over that in the previous year. This follows an increase of 13 per cent the year before.

**2.36** Although the quantity indicator chosen is a tangible measure that directly relates to the output administered and can be directly linked to the program outcome, it provides the reader with limited information regarding the quantity of work undertaken in support of this output.

**2.37** For example, different classes of family entry visas generate differing workloads. Consequently, overall workload could rise or fall without the overall quantity measure varying. Similarly, visa refusals, as opposed to grants, have a higher workload attached.

**2.38** Information on the number of applications and on the balance between grants and refusals, is presently collected and collated within DIMIA. The presentation of this information could significantly enhance readers understanding of the volume of work undertaken in support of this output.

<sup>26</sup> Family Entry is used in the department’s published performance information to reflect that approval, refusal or withdrawal of a visa application may or may not convey a right of entry into Australia. Elsewhere in this report we refer to the family stream of the migration program to indicate the management of a suite of visa subclasses and their supporting systems.

<sup>27</sup> Finalisations includes approvals, refusals and withdrawals.

<sup>28</sup> As above.

## Quality measures

### *Appropriateness*

**2.39** With the exception of measure F in Figure 2.3 (relating to processing times), the measures are largely indicators of process. Their focus is on the inputs to the decision-making process rather than on the quality of the outputs and outcomes. While they may be considered as potential lead indicators of quality they do not, on their own, provide the reader with an insight into the quality of the administration of the output.

**2.40** The ANAO notes that considerable additional data is available concerning the quality of the outcomes under output 1.1.2. DIMIA collates data on complaints made under its Client Service Charter and on complaints made to the Commonwealth Ombudsman. DIMIA also receives information on the proportion of cases that are overturned on appeal (the review processes are discussed further in Chapter 5). The dissemination of such information would provide greater insight into the quality of the administration of this program.

### *Data collection*

**2.41** The ANAO was able to confirm that DIMIA had mechanisms in place to provide data in respect of quality measures A, B, D, E and F in Figure 2.3. The ANAO was unable to find evidence that an adequate mechanism exists to provide data in relation to quality measure C from Figure 2.3 relating to the rate of interviews in onshore partner cases. DIMIA advised that information on interview rates is provided via surveys of all DIMIA offices. Guidelines have recently been sent out to all DIMIA offices on how to conduct and record interviews.

## Resourcing output

**2.42** The audit found that performance results and costing information were poorly linked for reporting purposes. Although DIMIA has invested considerable resources in ensuring that it can attribute resources to its activities, financial and non-financial performance information is not well integrated.

**2.43** The department's view is that output and outcome reporting requirements are prescribed by the Department of Finance and Administration, and the scale and scope of the Migration and Temporary Entry program would make it difficult to report in more detail. The ANAO acknowledges these constraints. However, poor linkages between financial and non-financial performance data means that a degree of transparency inherent in DIMIA's existing financial data is lost. As a consequence, the visibility of key efficiency measures, such as the implementation

of the best practice processing model and the repatriation of the parent caseload from overseas, is not being maintained.

## Conclusion—performance information

2.44 The family stream of the Migration Program is responding simultaneously to efficiency initiatives and expansion pressures. However, there are limitations with the published performance information. As a result, it is difficult to reach an informed judgement in relation to the overall performance of the program as it responds to these pressures. The published performance information does not assist readers in developing an understanding of both the cost to implement the family stream of the Migration Program and the benefits of it. While there has been activity and progress with specific tasks, the performance information does not allow assessment of whether, and in what way, visa processing and program integrity and efficiency have improved.

2.45 There is a need for a performance framework that provides clear and unambiguous definitions of relevant measures. The inability to extract data from departmental systems to independently verify a key quality measure nominated by the department in the Portfolio Budget Statements reinforces this need.

## Recommendation No.1

2.46 To allow DIMIA stakeholders to better assess the benefits and costs of the family migration program, the ANAO recommends that DIMIA report and publish additional performance information in its Annual Report including:

- the aggregate expenditure for the family stream of the Migration Program; and
- a verifiable quality measure relating to onshore partner interview rates.

### *DIMIA Response:*

The Department agrees to this recommendation. DIMIA has extensive performance information which it uses to evaluate the cost effectiveness of its performance in relation to the overall goals for the migration program including the family stream. This ranges from the Longitudinal Survey of Immigrants to Australia through to the large volume of information about the processing of visa applications. This includes statistical information, and detailed costings of each aspect of its work including the various components of visa processes. This is used by officers at all levels of the Department to assess performance, develop new initiatives and refine policy and procedures.

DIMIA regularly provides information on a wide range of different aspects of the Department's work to external stakeholders and other interested parties both via

a range of publications and the Internet and on request. Selected performance information is provided in the Portfolio Budget Statement (PBS) and Annual Report, mostly at a high level. This is in accordance with the guidelines that are provided by the agencies responsible (Finance and Prime Minister & Cabinet).

The ANAO indicated that the PBS and Annual Report would be enhanced if it included the cost of the family stream component of the migration program. DIMIA agrees with this. In relation to the proportion of interviews held, which is related to the integrity of the program as mentioned in the general comments on the program above, the ANAO has indicated that the number of interviews conducted is not easily verifiable for applications lodged and processed in Australia without a detailed file search and/or a sample survey. To enable this indicator to be tracked more readily requires staff to record that an interview has been conducted on the electronic case file. Staff have already been requested to do this and the Department will ensure that this practice is adhered to, possibly by making this a mandatory provision within the system.

## 3. Service Delivery and the Integrity of Decision-Making

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*This Chapter outlines the results of the compliance testing undertaken by the ANAO. It also examines the quality assurance mechanisms DIMIA has in place to monitor the processing of residence visa applications and DIMIA's performance against their client service standards.*

### Introduction

**3.1** The existence of strong control structures within a governance framework provides assurance to clients and the Parliament that an agency is operating in the public interest and has established clear lines of responsibility and accountability for its performance.

**3.2** Conformance and compliance control structures, are a particularly important element of any governance framework because of their role in promoting effective performance and ensuring accountability obligations are appropriately discharged.

**3.3** Key issues that public sector agencies such as DIMIA must consider in a conformance and compliance framework include:

- ensuring legislative compliance as required; and
- quality assurance.<sup>29</sup>

**3.4** As indicated earlier, the ANAO's audit methodology consisted of compliance testing of a sample of 208 completed parent and partner visa cases to determine whether decisions were:

- transparent;
- made in accordance with legislation and guidelines; and
- well documented.

The sample design is discussed further in Appendix 1. In conjunction with the compliance testing, focus groups were conducted by the ANAO in the regional offices and posts visited during the audit fieldwork.

**3.5** The ANAO also examined the quality control mechanisms DIMIA has in place to monitor the processing of residence visas and DIMIA's performance against their client service standards.

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<sup>29</sup> *Expectation, and Perception, of Better Practice Corporate Governance in the Public Sector from an Audit Perspective*, address by the Auditor-General for Australia, CPA Australia's Government Business Symposium, 20 September 2002.



## Compliance with procedures

### Transparency through record keeping

3.6 Records are required as proof of activity by senior managers, auditors, members of the public or by anyone inquiring into a decision, a process or the performance of an organisation or an individual. Up to date, accessible, relevant and accurate records can ensure that decisions made by an agency are consistent, and based on accurate information; are cost-effective, engender a sense of ownership of decisions throughout the agency; and place the agency in a considerably better position to justify to Parliament and the public any decisions made. It is often not just outcomes that are of concern to Parliament and the public, but also the process of decision-making and the reasons for decisions made. This transparency is achieved by ensuring that the decision-making process, and the reasons for decisions made are adequately documented by the agency. Transparency through record-keeping is an agency's first line of defence against accusations of bias and negative public perceptions.<sup>30</sup>

### Documentation of key integrity checks

3.7 To assess DIMIA's compliance in processing visas for the family stream of the Migration Program, the ANAO tested a sample of 208 completed parent and partner visa cases. In particular, the ANAO assessed whether errors had been made in elements of the decision-making process, and the impact of these errors on the overall transparency of decisions and the integrity of the program.

#### *Translation and certification*

3.8 Visa applicants are required to provide a number of documents with their application form to support their claims for eligibility for the visa class they have applied for. Applicants are requested to provide certified copies of original documents and English translations of documents in languages other than English.<sup>31</sup> The ANAO found that in 16 per cent of cases not all copied documents were certified and, in 25 per cent of cases, not all documents provided were translated. DIMIA advised that it is usual practice for Locally Engaged Employees (LEE) to translate key documents where the content is crucial to the decision and they would usually make a file note of the overall results of their check. However, the ANAO found in practice that standards of documentation between offices and posts were variable.

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<sup>30</sup> *Record keeping in Commonwealth Agencies: An audit perspective*, presentation by the Auditor General to National Archives of Australia Advisory Council, 11 August 2000.

<sup>31</sup> Partner migration application booklet, Part 5: Preparing your application.

3.9 The ANAO considers that such documentation is a key element of sound administration and accountability and that, where LEE have translated documents, and they form the basis of the decision on the visa, it is necessary for them to make a file note of the results of the check. The department has advised that the level of documentation on the paper file is informed by each post/region's Fraud Management Plan and the level of risk associated with the profile of the application.

### *Payment of Visa Application Charge (VAC) and health and character checks*

3.10 The ANAO found that in close to four per cent of cases, payment of the initial Visa Application Charge (VAC) had not been documented on file; in close to nine per cent of cases a character check had not been documented on file; and in close to seven per cent of cases a health check had not been documented on file. These three elements of a decision are essential requirements that must be met before a visa can be granted; yet the ANAO was unable to determine from reviewing the files whether these elements had been met. For a visa to be granted, it is essential that applicants meet health and character requirements (discussed further in Chapter 5). If the documentation regarding these checks was not on file, it would not be possible for an independent person to assess by looking at the file, whether these essential requirements had been met. In some instances, the ANAO was able to conclude that it was highly likely that health and character checks had been undertaken as part of the process to grant a temporary visa before the grant of the visa class under review. However, to ensure transparency in decision-making and lessen the instances of potential fraud occurring, it is essential that all elements relating to the decision are kept on relevant files.

3.11 DIMIA advised that the need to have health check information recorded accurately will be emphasised in training programs for regional and overseas officers, immediately, and reinforced in the Procedures Advice Manual (PAM) with exploration of additional prompting in checklists developed for different visa class processing. DIMIA also advised that payment of the first instalment of the VAC goes to the validity of a visa application and accepts that it is good administrative practice to keep a photocopy of the receipt of the VAC on file.

## **Documentation on partner visa application files**

### *Documentation of interviews*

3.12 DIMIA's Best Practice Partner Visa Processing Model requires officers, where possible, to interview applicants at time of lodgement of their application. This initial interview allows the decision-maker to:

- clarify claims;
- assess whether further investigation is required;
- put adverse or conflicting information to the applicant;
- progress processing of the application; and/or
- request a more formal interview at a later date.

**3.13** Three of the six quality measures under Output 1.1.2—Family Entry (Permanent) in DIMIA’s Portfolio Budget Statements for 2002–03 use the percentage of interviews undertaken as a measure of performance (see Chapter 2). Hence, it is important that data on interviews undertaken is collected and that interviews are adequately documented.

**3.14** DIMIA training material on assessing and deciding partner visa applications states that:

the record of interview must be accurate because it is likely you will be relying significantly on the interview record when you come to make a decision...notes should be accurate, complete and legible. The interview is all about collecting information so that you can make an assessment against the relevant legal criteria. Interviews are usually important evidence for you to consider in your assessment.

**3.15** The ANAO examined whether interviews were adequately documented. In particular, the ANAO assessed whether the interviewer was identified in the interview notes; the interview notes were legible/typed; and the interview notes were signed/dated.

**3.16** The ANAO found that, where interviews were conducted, 41 per cent were not adequately documented. In some cases there was no record of an interview on file. The only evidence that an interview had been undertaken was a reference made to an interview appointment. In other cases, the decision-maker had recorded that an interview had been undertaken. As a result, a decision to grant the visa had been made, but the decision-maker had not prepared a formal record of interview outlining the reasons for the decision.

**3.17** The ANAO considers that the standard of record-keeping for interviews will improve with the introduction of training in investigative interviewing and basic report writing.<sup>32</sup> DIMIA advised the ANAO that the Partner visa training course being developed by Family Section will include some interviewing and decision-record writing training. DIMIA’s Investigations/Compliance Sections are also developing some training courses that will include interviewing.

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<sup>32</sup> The training provided to decision-makers is discussed in more detail in Chapter 4.

## *Overall standard of record keeping*

**3.18** The ANAO found that the standard of record keeping varied between offices and posts. DIMIA officers expressed concern over the standard of record keeping on first stage offshore partner files which made it difficult to assess when it came to second stage (onshore) processing. In some instances it was difficult to determine on what evidence the first stage decision was based.

**3.19** DIMIA advised that it is in the process of determining what information is required to process second stage applications, to better inform decision-makers at the first stage in keeping records of their decisions and the evidence on which they based the decisions.

## **Documentation of decisions**

### *Decision records*

**3.20** A decision record is the record of the decision to refuse (or grant) a visa. It is the written record that is sent to an applicant informing them of the decision that has been made on their visa application.

**3.21** Under subsection 66(2) of the *Migration Act 1958*, notification of a decision to refuse an application for a visa must:

- (a) if the grant of the visa was refused because the applicant did not satisfy a criterion for the visa—specify that criterion; and
- (b) if the grant of the visa was refused because a provision of this Act or the regulations prevented the grant of the visa—specify that provision; and
- (c) unless subsection (3) applies to the application—give written reasons (other than non-disclosable information) why the criterion was not satisfied or the provision prevented the grant of the visa; and
- (d) if the applicant has a right to have the decision reviewed under Part 5 or 7 or section 500—state:
  - (i) that the decision can be reviewed; and
  - (ii) the time in which the application for review may be made; and
  - (iii) who can apply for the review; and
  - (iv) where the application for review can be made.

**3.22** The requirement to write up formal decision records for refusal decisions ensures that the decision-maker records, in detail, the elements of the decision and what evidence was considered against each element.

### 3.23 DIMIA training material states that:

while there is no legal requirement for a detailed decision record where the decision is favourable to the client, there may be good policy reasons for setting out your more significant findings on the file as it may assist during second stage processing.

In providing information on improving primary decision-making, the MRT also suggests that all decisions should be well documented. A decision record should avoid generalisations as well as referring to the legislation and addressing each criterion. The decision should be based on the individual circumstances of the applicant.<sup>33</sup>

3.24 The ANAO found that three per cent of files did not contain a record of the decision. For the purposes of the compliance testing, a 'grant letter' sent to the applicant confirming their visa had been granted was considered by the ANAO as a record of the decision, as DIMIA policy and the legislation only requires formal decision records for visa refusals. However, the grant letter does not outline the reasons for the decision or the documentation considered by the decision-maker in reaching the decision to grant a visa. The ANAO found instances where some decision-makers were writing up formal decision records for grant cases. However, this practice is not widespread.

3.25 DIMIA advised that the record of a visa decision is an amalgam of paper and electronic records. DIMIA's approach to record keeping is that electronic records that are relevant to the decision should be 'printed-to-paper'. In this way, all elements of the decision-making process relating to visa grant, refusal or withdrawal should be available and the formal record properly maintained.

3.26 The ANAO considers that, to enhance the integrity of the decision-making process and ensure decisions are transparent, the requirement for formal records of decision should be extended to all visa decisions, not only to those that are refused. DIMIA advised that it is good administrative practice for decision-makers to keep on file the reasons for a visa grant, although there is no specific provision in the *Migration Act 1958* or the Regulations that requires a written record of a visa grant.

## Conclusion—record keeping

3.27 Up to date, accessible, relevant and accurate records can ensure that decisions made by an agency are transparent, consistent, based on accurate information, cost-effective, engender a sense of ownership of decisions throughout the agency, and place the agency in a considerably better position to justify to Parliament and the public any decisions made.

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<sup>33</sup> Migration Review Tribunal—How It Operates, Migration Review Tribunal, June 2002.

**3.28** Consistent standards of record keeping would lead to greater transparency of decision-making, for partner and parent visa applications. DIMIA has advised that its Family Section is working on a project that would enable applicants to document the information provided to DIMIA to support their applications electronically, which would address some of the concerns noted by the ANAO.

## Recommendation No.2

**3.29** Consistent with DIMIA guidance, and in accordance with the level of risk associated with the profile of the application, the ANAO recommends that key processes and decisions made in the assessment of parent and partner visa applications be clearly and accurately documented to ensure appropriate accountability, including transparency.

### *DIMIA Response*

The Department agrees with this recommendation. DIMIA is committed to maintaining full and correct records of its visa processing and decisions. This commitment is evidenced by efforts made through provision of guidelines, training, quality checking and feedback to staff. Our understanding is that the ANAO's survey found that the paper files for refused applications were well-documented but that the cases where the visa had been granted were less well-documented. There were also some concerns about inconsistent practice across offices.

As noted in the general comments, DIMIA operates in a risk management framework and distinguishes between the level of scrutiny required according to high and low risk environments and different case characteristics. The level of documentation that would be required in a case involving an applicant from a country where high levels of fraud are endemic would be greater than that required for an applicant where little or no fraud is experienced. Similarly, there would be less documentation on the file of an applicant who had been in the same relationship for a lengthy period and had children, than on the file of an applicant who had known their sponsor for a very short period of time.

New processing procedures that allow applications to be processed in different locations in the world to deliver the best outcomes for the client in the most cost-effective way have resulted in the establishment of new practices in relation to documenting the processing of a visa application. Offshore parent visa applications for example, are processed at the POPC but checking of documentation, and other information provided by applicants, is carried out by the relevant overseas post. Records need to be full and complete to ensure the integrity of this global processing model.

DIMIA is developing clearer guidelines and procedures in relation to the level of documentation and recording of procedures that should be kept on files in the

context of global processing in a range of visa classes. Possible options for electronic guidance in relation to decision-making are currently being explored.

## Quality Assurance

**3.30** Quality assurance mechanisms enable organisations to monitor the quality of processes and systems. The design and implementation of an organisation's quality management system are influenced by the various needs and objectives of the organisation. Successful quality management systems are designed to continually improve effectiveness and efficiency of organisational performance.<sup>34</sup>

**3.31** DIMIA has two quality control mechanisms in place to monitor the processing of family stream visas. Onshore, DIMIA operate a Quality Control Code (QCC), a uniform system for checking the quality of decisions made on behalf of the clients. DIMIA's offshore offices use the Office Audit and Security Checklist (OASC), an overall quality assurance tool that requires staff at posts to undertake periodic checks and report on the higher risk areas of operations.

**3.32** The ANAO examined the procedures in place for the operation of both the QCC and the OASC.

### Quality Control Code—Onshore

**3.33** The QCC includes onshore applications.<sup>35</sup> It is used to ensure that the end products meet the specifications, and to create a learning environment for all staff. Special Residence Section at central office provides Residence Managers with random samples of cases to be checked and includes all cases that have been decided during the previous cycle (both grants and refusals). While as a guiding principle five per cent of grant and refusal cases are required to be checked at each office, in practice, a minimum of 15 and a maximum of 100 cases are actually checked depending on the size of the office. Checks on sampled files must be made by persons who have had no prior involvement in the case and should be checked with reference to both the paper file and the Integrated Client Services Environment (ICSE)<sup>36</sup> record.

### Office Audit and Security Checks—Offshore

**3.34** The OASC contains three sections, which assess high-risk areas of post operations. Part A deals with financial and asset management issues; part B examines staff conduct, delegations, agents, systems and security issues; while

<sup>34</sup> AS/NZS ISO 9004:2000, Quality Management Systems—Guidelines for performance improvements.

<sup>35</sup> The Department is in the process of incorporating the offshore repatriated caseload within the QCC process but this has not yet been put into effect.

<sup>36</sup> ICSE is discussed further in Chapter 4.

part C requires posts to examine a five per cent sample of grants (not refusals) at the post during the previous cycle. The OASC cycle is six monthly, with the guidelines suggesting that the checks may be spread over the six month interval in order to ensure that they are completed on time and with the appropriate level of detail. The guidelines also suggest that the timing of the checks be such that they are unanticipated by staff.

**3.35** Departmental policy is that migration case files for granted applications are retained at the issuing post for one year before being sent to the appropriate area in Australia. For the assessment of Part C of the OASC process, posts are required to examine cases that were finalised within the past six months. The list for detailing a random sample is sent to the posts at the beginning of the checking cycle. At this time, cases finalised at the beginning of the sample period would be six months old. Many of the posts are undertaking the checks towards the end of the cycle, at which stage those cases finalised at the beginning of the sample period, are nearing 12 months since finalisation. The operation of such a timeframe, with the requirement to send all finalised cases to Australia, results in some of the cases requiring assessment no longer being available at the post. In the absence of the original file, assessment of sample cases is being undertaken solely from the information contained on the Immigration Records Information System (IRIS).<sup>37</sup>

**3.36** The ANAO notes concerns expressed by senior DIMIA officials about the effectiveness of the OASC check of cases that are assessed without the original file being on hand. The value of the assessment without actually examining the physical file and the practice of assessing cases based exclusively on the information contained on IRIS, potentially undermines the intent of the OASC process. DIMIA agreed that it is not ideal to audit migration cases without the file on hand and, in the main, this does not occur because of the alignment of the OASC cycles with current archiving policy. DIMIA also advised that they are examining options for overcoming this problem and to ensure that the need for appropriate auditing of this caseload is addressed.

**3.37** The ANAO also found that Part C of the OASC is based on a five per cent sample of grants, rather than a sample of all decisions. The department cites review and complaints procedures as the mechanisms allowing them to monitor negative decisions.

**3.38** The ANAO acknowledges that review and complaint procedures have some ability to monitor negative decisions. However, this does not provide the same scrutiny that is given through the OASC checks of grants. While the review process provides a mechanism for inspection of cases which have been refused,

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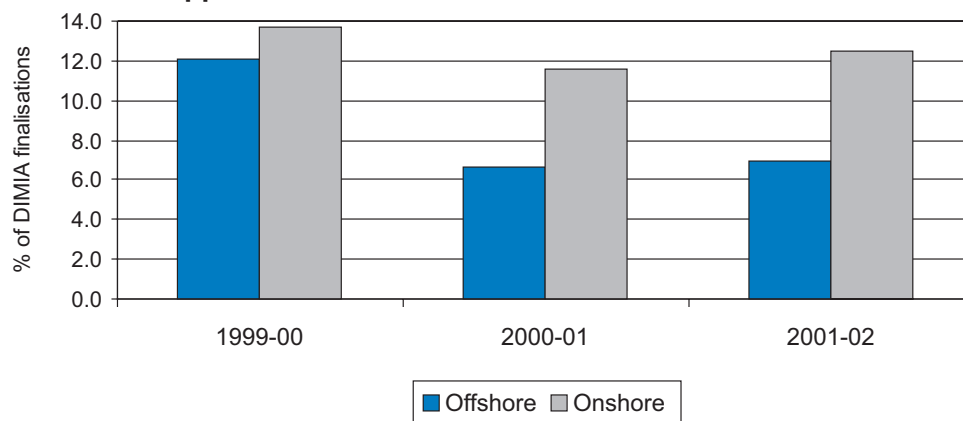
<sup>37</sup> IRIS is discussed further in Chapter 4.



as shown in Figure 3.1, applications for review to the MRT from onshore applicants is much greater than those review applications that are initially lodged offshore. The lower levels of offshore applications to the MRT may be linked to the fact that the sponsor must lodge the application for review. In any case, the lower levels of review applications from offshore lessens the ability to monitor the quality of negative decisions, as suggested by the OASC literature.

**Figure 3.1**

**Visa review applications<sup>38</sup> received at MRT at 30 June**



Source: ANAO analysis of MRT data.

**3.39** In the context of complaints procedures providing the ability to monitor negative decisions, the ANAO found that the DIMIA complaints mechanism relates to customer service received by the applicant and not the actual visa decision. Therefore, it would not be possible for the department to monitor processing procedures relative to negative decisions through their current complaints mechanism.

**3.40** For an accurate assessment of offshore processing of visa applications, it is necessary to examine all finalisations made during the assessment period, rather than only grant finalisations. While the ANAO acknowledges that the review process provides some assessment of the processing procedures for negative finalisations, it does not allow for the cases to undergo the same scrutiny as the OASC process gives the grant cases. Utilising the MRT review process as a quality control mechanism does not allow for feedback to be considered by the department and improvements to processing to be implemented.

<sup>38</sup> Parent and partner cases.

## Conclusion—Quality Assurance

3.41 The ANAO acknowledges the efforts that DIMIA has made in assessing and monitoring the quality of its work through the quality assurance mechanisms operating both onshore and offshore. However, the ANAO has identified that the department is unable to monitor and compare the quality of processing between its onshore offices and offshore posts. This is due, in part, to the different IT systems used onshore and offshore. DIMIA also uses two quality assurance systems. The onshore system samples grants and refusals and the offshore system samples grants only. This approach makes it difficult for DIMIA to assess quality control across the board. DIMIA advised that separate QA processes are used as a result of the different legislative requirements for the two processing environments.

3.42 The ANAO also found that the current approach to offshore quality assurance was limited in that it excluded cases where visas had been refused and was often conducted without access to the paper file. A more consistent approach to quality assurance would assist in improving both the offshore process and the capacity to monitor quality in the program as a whole.

3.43 DIMIA advised that its preference would be for the same quality assurance approach onshore and offshore but it would require significant financial and human resource costs. DIMIA's recent initiatives to centralise work in Australia has seen them implement QCC processes for the Parent Offshore Processing Centre in Perth and the Adelaide Skill Processing Centre. DIMIA has advised it is exploring the introduction of an analytical, risk-based approach to QA.

## Recommendation No.3

3.44 The ANAO recommends that DIMIA assess the benefits and costs of progressively introducing the better elements of its existing onshore and offshore quality assurance processes into a single system to ensure that there is a consistent approach for monitoring and reporting quality across departmental operations.

### *DIMIA Response*

The Department partially agrees with this recommendation. DIMIA has had quality assurance programs in place for some time. It is committed to continually improving its quality assurance processes and new procedures that would address the ANAO's concern about the consistency of approach to on and offshore files are currently under consideration.

It is not possible to compare the quality of processing for applications lodged overseas and in Australia because of the different legislative requirements for the two processing environments. In light of the centralisation of work in Australia under the new global processing model, for example offshore parent visas

processed by the POPC, quality assurance programs are being reviewed to allow for checks of work undertaken on the same visa application in different locations.

For this reason, DIMIA does not consider that a single system as recommended by the ANAO is feasible. However, DIMIA will seek to achieve a consistency of approach in relation to its quality assurance mechanisms and believes that this will meet the spirit of the ANAO's recommendation.

## Client service

### Internal review

**3.45** DIMIA's Client Service Charter advises clients of the standards of service they can expect from the department and their responsibilities when dealing with DIMIA. It provides clients with information on how to make a suggestion or a complaint regarding DIMIA performance. The Client Service Charter requires DIMIA to provide for a mechanism to process complaints related to client service but not complaints concerning visa decisions. Applicants who are not satisfied with the outcome of their visa applications are referred to the formal appeals processes.

**3.46** In 2000–01, DIMIA received 3676 complaints from clients relating to all visa subclasses, down from 6244 in 1999–2000. Ninety per cent were resolved within three days. The ANAO found that the nature of complaints reported by the department in its annual reports (1999–2000 and 2000–01) were similar. The majority of complaints received were related to the department's national inquiry number. Other key causes for complaint related to the timeliness of processing and waiting times at counters (waiting time at counters increased in 2000–01 compared with that of the previous year).

### Timeliness

**3.47** DIMIA's 2002–03 Portfolio Budget Statements provides a measure of the timeliness of visa application processing.<sup>39</sup> It specifies a target, in months, for the median finalisation time of visa applications. As discussed earlier, the ANAO selected a random sample of 208 parent and partner cases for review of decision-making against the legislation and guidelines. Details of processing times for these files were also recorded, and the results were compared against the performance standards published in the 2001–02 Portfolio Budget Statement.

**3.48** The performance standards relate to the median finalisation time for spouse/interdependent<sup>40</sup> cases. Table 3.1 shows that, based on DIMIA data, the

<sup>39</sup> Measure 'F' in Chapter 2, Table 2.3.

<sup>40</sup> See definitions in Chapter 1, paragraph 1.6.

department met three out of four of its performance targets over the audit sample period:

**Table 3.1**

**Finalisation Time of ANAO Sample against DIMIA Performance Standards for visas issued in the family stream of the Migration Program**

|  | Onshore   |          | Offshore  |          |
|--|-----------|----------|-----------|----------|
|  | High risk | Low risk | High risk | Low risk |
| <b>Standard</b><br><i>(Median finalisation time—in months)</i>                     | 8.9       | 6.3      | 9         | 4        |
| <b>Performance</b><br><i>(Median finalisation time of sampled cases—in months)</i> | 6.4       | 3.9      | 8.2       | 4.5      |
| <b>Performance standard met?</b>   | Yes       | Yes      | Yes       | No       |

Source: ANAO Analysis of DIMIA files.

3.49 The ANAO notes that the department has recently reviewed the performance standards. In DIMIA’s 2002–03 Portfolio Budget Statements, the performance standards will be extended through the use of the 75<sup>th</sup> percentile qualification to the median processing times. The ANAO acknowledges this improvement. However, the ANAO suggests that including an age profile of the remaining 25 per cent of cases (without a target) would ensure completeness of the measure without unnecessarily distorting the priorities.

3.50 The ANAO conducted an analysis of the age of the caseload (see Appendix 2). The ANAO notes that nearly 15 per cent of unfinalised offshore applications were more than three years old. Regular reporting of such data would provide an additional discipline for DIMIA staff and would provide the reader with a more complete picture of the timeliness of application processing.

## 4. Strategies and Controls to Assist Decision-Making

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*This Chapter examines the strategies and controls DIMIA has in place to facilitate effective and timely decision-making in parent and partner visa sub-classes.*

### Introduction

4.1 Processing of visa applications is undertaken by DIMIA staff at offices and posts throughout its onshore and offshore network. The regional office Residence Manager (onshore), the Principal Migration Officer (Operations), and the Regional Director at the overseas posts have responsibility for overseeing the management of visa processing.

4.2 Owing to the diverse nature of visa applicants and the environment in which processing officers work, it is important that processing officers work under a clear legislative and policy framework that is transparent to clients and their representatives, and that DIMIA has strategies in place to facilitate effective and timely processing of visa applications. The ANAO examined the strategies DIMIA has in place and, in particular, focussed on:

- the procedures and guidance to support decision-making;
- training; and
- the IT support systems.

### Procedures and guidance to support decision-making

4.3 To assist staff to make consistent decisions regarding the processing of visa applications, DIMIA should provide appropriate guidelines and adequate support for their decisions.

4.4 The ANAO found that DIMIA processing officers have access to a range of procedures and guidance to support them in making decisions on parent and partner visa applications. This includes (but is not limited to):

- Procedures Advice Manual (PAM), which provides an interpretive, edited statement of the Government's policy on a particular topic. The PAM is carefully edited to provide a consistent set of papers covering current Government policies under the *Migration Act 1958* and Regulations;
- Migration Series Instructions (MSI), which provides an authoritative statement of the Government's policy on a particular topic. The use of the MSI format implies that the policy has been newly amended;

- written directions by the Minister (Section 499 directions) to a person or body that has functions or powers under the *Migration Act 1958*. The direction may give instructions on the performance of those functions; or the exercise of those powers that the person or body has. A Section 499 direction cannot prevail over the legislation;
- the Migration Advising Helpdesk, which is available, to all staff who wish to enquire about particular criteria or seek advice on how to process a particular application;
- Process maps that outline the steps in the visa decision-making process;
- Administrative circulars;
- Client Service Charter;
- information on the printed application form;
- the Client Information Pack;
- Minister's speeches;
- Media releases;
- DIMIA internet site; and
- information pamphlets, handbooks and manuals.

**4.5** A decision on a visa application is based on a finding of fact. A decision-maker must judge whether the evidence before them supports the relevant finding of fact. In coming to a decision, a decision-maker must identify the legal criteria, have regard to the relevant policy, and consider the evidence against the criteria. As such, application of legislation and policy depends on the decision-maker's knowledge and judgement. Hence, decision-makers have to be adequately trained and have access to accurate, up to date and easily accessible guidance.

**4.6** The ANAO examined the method of delivery of guidance to decision-makers and the mechanisms DIMIA has in place for updating this guidance and communicating these changes to staff. The ANAO found that the main methods for the delivery of guidance were:

- LEGEND—an interactive toolkit available on the internal intranet or on CD-Rom, that encompasses: The *Migration Act 1958*, Migration Regulations, Ministerial Directions, MSIs, and the PAM;
- bulletin boards on DIMIA's internal intranet;
- emails;
- training; and
- conferences.

4.7 The ANAO found that guidance can be updated as a result of:

- procedural modifications to reflect operational changes (for example in response to the establishment of Bona Fides Units (BFUs));
- changes to procedures due to issues identified through DIMIA's QA process; and
- relevant changes to legislation/regulations (for example as a result of Federal Court decisions).

4.8 The ANAO found that, while there was an established process for updating guidance material in response to changes in legislation, there were no standard processes for updating guidelines or for the development of guidelines in response to internally funded initiatives. The ANAO found that the BFUs were established without formal guidelines. Interim guidelines covering certain protocols for the operation of BFUs were distributed in December 2001. However, formal guidelines were finalised in August 2002, some eight months after all State and Territory BFUs had been in operation, and some 18 months after the BFUs were initially established in Melbourne in October 2000.

4.9 The ANAO considers that DIMIA's current approach to updating guidelines provides limited assurance that new initiatives and the rules that govern them are formalised. The ANAO suggests the department adopt a prescribed approach for updating guidelines to ensure that draft guidelines are issued and subsequently finalised within a set timeframe.

## Checklists to support and document decisions

4.10 Checklists provide a consistent approach to documenting decisions. They also allow transparency to occur by ensuring that the key steps in the decision-making process have been undertaken, and that the reasons for decisions made are adequately documented by the agency.

4.11 The ANAO examined the use of checklists by case officers to support decisions on parent and partner visas. The ANAO found that the checklist used, and the degree to which it is completed, vary depending on the regional office or overseas post. Central office has developed a series of checklists to be used in the processing of parent and partner visas. However, a number of different checklists have been developed and are used locally.

4.12 Overseas posts use the mandatory field system in IRIS as an inbuilt checklist to record information they receive from a client at each stage of the process. This system also allows the case officer to record the decision record and a record of interview (if required). The amount of information recorded

using this format varies between posts and also varies depending on the visa decision. A formal decision record is only required in those cases that are refused.

**4.13** Some regional offices ensure checklists (whether they have been developed by central office or are locally developed) are completed fully and cross-referenced to the folioed file. However, other regional offices partially complete checklists or do not complete them at all.

**4.14** The ANAO acknowledges that it is necessary to have flexibility in checklists to allow for variations in local conditions. However, to ensure that decisions are well documented and transparent, there is a need for consistency in the use of checklists to document the decision. DIMIA has stated that checklists were initially developed to meet a need for a consistent but simple approach to managing visa assessment processes onshore, and to improve accountability. The ANAO considers that checklists would also provide the department with a mechanism to monitor the key factors considered in making the decision.

## Training

**4.15** Learning and development are important activities in all organisations. New employees need to be trained to perform their jobs and existing employees need to acquire new skills and knowledge.<sup>41</sup> Most organisations distinguish between training for new entrants and ongoing training for existing employees to ensure all staff have the requisite skills to contribute to organisational capability and performance. New entrant training typically consists of induction and socialisation programs for the inculcation of organisational culture and also to provide job-ready employees who are able to integrate into the work environment. Ongoing training is typically provided to enhance or update the core skills of staff in technical or managerial fields which are central to departmental outputs and outcomes.

**4.16** The ANAO examined the level of training required by DIMIA staff involved in the visa decision-making process provided to them. The ANAO found that DIMIA's central office had developed training packages that cover the following areas:

- Family Migration training course: Developed for officers selected for posting overseas and includes six modules which focus on an overview of the family stream, partner migration, child migration, parent migration, other family migration, priority processing and the code of procedures.

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<sup>41</sup> Raymond J. Stone, *Human Resource Management*, Jacaranda Wiley Ltd, Queensland, 1991, p. 180.



- Assessing and Deciding Partner Visa Applications: Developed for offshore offices to facilitate the implementation of the Best Practice Model for processing partner visa applications. The course covers:
  - legal framework (including legal framework, tools for decision-making, using IRIS and sponsor interviews.);
  - decision-making (including making a decision, decision records and the MRT); and
  - resource material (including the structure of the Migration Act 1958 and the migration regulations, extracts from the *Migration Act 1958* and regulations, extracts from PAM, glossary of partner and other family stream terms).
- Lawful Decision Making: Available to all staff in the department, that is, staff in central office, regional offices and overseas posts. Depending upon line area requirements, the courses delivered included generic lawful decision-making principles in the migration context, government law in the migration context, and more specialised courses for program areas, including family.
- Health Criteria Training: related to Public Interest Criteria 4005, 4006A, 4007, medical treatment visas and bridging visas.
- Departmental Obligations relating to the Migration Review Tribunal: Training by special residence section, covers the departmental obligations to the MRT, and outlines the set up and workings of the MRT.
- Section 501 Character training.
- Training is also conducted in ICSE.

4.17 The ANAO found that new staff involved in DIMIA processing were assigned a 'buddy', where possible, when they initially start. As well, the level of training new starters received was dependent on how much time the more experienced case officers had to devote to them. The ANAO also found that staff in remote onshore and offshore locations do not have the same access to central office prepared training in parent and partner visa decision-making as staff do in larger onshore and offshore locations; and that the training program provided by central office was not targeted at specific levels of skill but was more of a generic program, designed to give staff an overview of the environment in which they would be making decisions.

4.18 DIMIA advised the ANAO that it is currently developing a National Learning Strategy in response to a recommendation in ANAO Audit Report No.56 2001-02 *Workforce Planning in the Department of Immigration and*

*Multicultural and Indigenous Affairs.* The strategy seeks to provide a framework to identify knowledge and skills needed to meet business goals, and ways that knowledge and skills may be developed and/or maintained. The strategy encompasses a set of core capabilities which reflect the skills and activities that staff need to achieve DIMIA's business outcomes. Planning for, resourcing and monitoring of, learning activities will be linked to these capabilities. It will enable better targeting of learning activities, both in content and resource allocation. While the strategy provides a broad overarching framework for learning activities, delivery of program related learning will continue to remain the responsibility of program areas.

**4.19** During focus group discussions with decision-makers, the ANAO was advised by staff that more targeted training should be provided by central office, to ensure that the most up to date advice was given and that there was some consistency between offices in the application of policy and legislation. In particular, staff had specific training needs that were not being met. This was particularly evident in the areas of investigative interviewing and basic report writing.

**4.20** DIMIA has advised the ANAO that training initiatives currently being developed within the Family Section include an overview of family migration onshore classes, including a resource booklet for officers new to Residence Section; an intranet based Partner visa training package for onshore officers new to the Residence Section; skills training for more experienced officers processing Onshore Partner visas, including Domestic Violence issues; and training on processing of new contributory parent visas. Legal Policy Section has also developed a new course entitled 'Good Decision-Making' which will be presented to officers in all states and territories this year.

## **Conclusion—training**

**4.21** The ANAO acknowledges that DIMIA has developed a number of training packages on assessing and deciding visa applications and that case officers have given positive feedback on their value. However, there is no comprehensive training package that addresses all aspects of the visa decision-making process. While DIMIA has advised that an enhanced decision-making training product has been developed, at the time of the audit, it had not been implemented. As a consequence, the ANAO was unable to make an assessment of the impact of the package.

**4.22** The role of a DIMIA official involved in visa decision-making is to make the best decisions possible with the information available. To enable them to perform their role effectively, it is essential that they have access to the most up

to date and accurate training and guidance. The ANAO concluded that training in assessing and deciding partner visa applications, and lawful decision-making, should be made available to all decision-makers, especially those who are new to DIMIA's Residence section. As well as basic training in report writing, the course could be expanded to include advanced training in investigative interviewing. This training should be backed up by regular workshops undertaken by regional office staff and staff at posts to ensure decision-makers have the most up to date information available to them.

**4.23** To address the gaps in the training of visa decision-makers discussed above, the ANAO suggests that DIMIA expand its current training on assessing and deciding partner visa applications to include sections on:

- advanced investigative interviewing; and
- basic report writing.

DIMIA should ensure that the expanded course is made available to all decision-makers and that the take up of the expanded course is monitored to ensure all decision-makers have access to the most up to date information. If necessary, the course should be supplemented by regular workshops undertaken by regional office staff and staff at posts.

## IT systems support

### Introduction

**4.24** The effective use of IT systems is integral to the efficient administration of the Migration Program. IT systems facilitate greater efficiency in processing and allow management to monitor and manage performance. Particular roles for IT include:

- information provision and exchange; and
- direct support of visa processing. This can also incorporate, to some degree, the business rules and processes of program management, including a capacity to produce performance information.

**4.25** DIMIA uses two primary systems to manage its client database and process visa applications. The two systems process applications independently of each other but are tightly coupled through backend data processing. In general, IRIS (the Immigration Records Information System) provides IT support in overseas locations. It is also used onshore to process the repatriated case workload. ICSE (the Integrated Client Service Environment) is the onshore processing system with enquiry function also being available offshore.

**4.26** In 2002–03, the department expects to process approximately 86 000 Family Stream applications, split almost equally between ICSE and IRIS. A brief overview of the two systems is provided below.

### **The Integrated Client Services Environment (ICSE)**

**4.27** ICSE is DIMIA's major onshore client recording and application management system. It was first used in December 1998 for Citizenship processing, and in July 1999 for other processing. ICSE is a client-server application that has PC and mainframe components with client data stored in a single database.

**4.28** ICSE provides a generic system for recording clients and visa/citizenship processing across the department, where the concept of a unique client record is central. Certain processing steps are described as 'events'. Some are designated 'predecessors' in order to ensure that the processing steps are carried out before significant milestone events such as the grant of a visa, can be undertaken. ICSE was developed as a client based system to provide a single history of a client's involvement with DIMIA. It is designed for recording activities and decisions about client requests but is not designed as a decision support system or to provide office management functions. A map showing the major features of ICSE is at Appendix 3.

### **The Immigration Records Information System (IRIS)**

**4.29** IRIS was introduced as the department's overseas processing system in 1989. Each overseas post has its own standalone IRIS database with terminals and/or PC's connected. Other connected devices include visa label printers, letter printers, cash drawers, receipt printers and passport readers. At the time of the audit there were 71 IRIS systems operating overseas and three onshore in Perth and Adelaide including one in a central location for the use of other regional offices. Although the systems are standalone, there is a facility to electronically transfer cases between systems.

**4.30** IRIS is designed to be a complete client and office management system, providing a range of features in addition to visa processing and decision support. It provides a range of functions to enable overseas staff to manage the movement and archiving of paper records; manage user access; schedule interviews; and create and maintain form letters. A map showing the major features of IRIS is at Appendix 4.

**4.31** IRIS has case management functionality. However, the standalone databases are an impediment to providing an overall picture of a client's total interaction with DIMIA. The department has recognised the risks inherent in

this arrangement. On 1 July 2003, DIMIA is planning to introduce a hybrid system known as ICSE Offspring, to make client information from all IRIS systems, as well as from ICSE, available to all users.

## **Combining IRIS and ICSE Outputs**

4.32 For management reporting purposes, the outputs of IRIS and ICSE are downloaded to a data warehouse. All requests for data are processed through a dedicated outcomes reporting section in central office. Operational reporting for routine onshore and ad-hoc data requests can be processed directly from the ICSE database. In overseas posts, local managers can produce reports directly from their local IRIS database.

4.33 However, at the time of the audit, onshore local and regional managers did not have the flexibility to design their own reports. Some enhancements to ICSE reporting were provided in July 2002. DIMIA has since advised that development of business area specific 'data marts' within the data warehouse will lead to more extensive and better quality data for reporting.

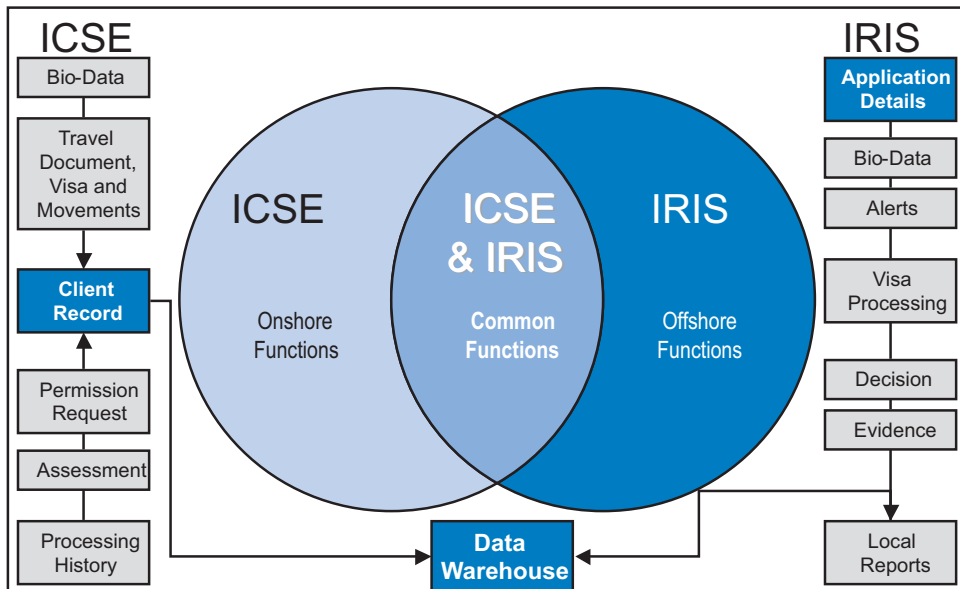
## **Strategic Direction**

4.34 Senior management of the department has been active in considering the future direction of the IRIS and ICSE systems. The department has high-level strategic decision-making processes, including management board involvement in determining major systems directions, and deciding on major systems investments. Supporting these are processes involving both senior management, and business systems owners, to determine where investments of IT resources can best be made to deliver priority outcomes.

4.35 The department advises that options for a global case processing and management system are explored in a discussion paper currently being prepared for the department's IT governance committee. The department has also advised that, at this stage, its preferred option is a combination of ICSE and IRIS for the foreseeable future. This is illustrated at Figure 4.1, together with schematic representations of the main features of both systems.

**Figure 4.1**

**Main Features of Migration Program Information Systems**



Sourced from DIMIA documents

4.36 The audit identified that there are some features of ICSE and IRIS that are influencing the way in which work is being completed in the department. As ICSE has had to process more transactions, and overall pressures on the caseload intensify, users have encountered problems and have thus developed local databases to ensure that work can be done to the standard required.

**Local databases**

4.37 The ANAO found that several local databases have been developed to meet apparent shortcomings in ICSE in key areas of program administration. In general, these databases take the form of locally constructed Microsoft Access databases or Excel spreadsheets that, to a large extent, duplicate information already held and therefore involve significant additional workload and an increased risk of error and security breaches.

4.38 In most onshore locations, there were two discrete workaround databases; one used for the tracking and management of cases and files, and the other for the Bona Fide Unit (BFU) caseload. Some client details are being entered three or four times; into ICSE, into TRIM (the department’s file management system), into the residence section case management database and, in some cases, into the BFU management system.

4.39 Other local databases exist in the policy, health policy and overseas compliance sections. For the most part, each database has been developed in isolation from the other.

4.40 The ANAO found the use of local databases in locations supported by the IRIS system to be less extensive than in locations supported by ICSE. Local databases were primarily used to overcome difficulties in effective and timely data exchange between offices resulting from the dependence of IRIS on standalone databases. At the time of the audit, this had the potential to lessen the effective check of applicant bona fides and led to some offices creating standalone databases to assist in identifying high-risk applicants. Although the introduction of ICSE offspring, from 1 July 2003, will assist in mitigating this risk, separate databases will be maintained to assist in the analysis of attempted fraud at high risk posts.

4.41 The development of local databases represents a substantial investment of staff resources and these present several key risks to the agency, including;

- duplication of records;
- inconsistency of approach, data collection and recording;
- increased costs in maintenance;
- limited system control resulting in potentially poor data integrity; and
- diminished ability to manage the program as a whole, as key information is not being held on corporate systems.

4.42 The department has advised that it recognises that the development of small, stand-alone systems carries some risks, and has commenced a review of IT systems reporting needs and reporting systems priorities. The ANAO suggests that this review include a cost-benefit analysis of the supplementary databases to establish the functionality that these databases are providing, and their cost, including those noted above.

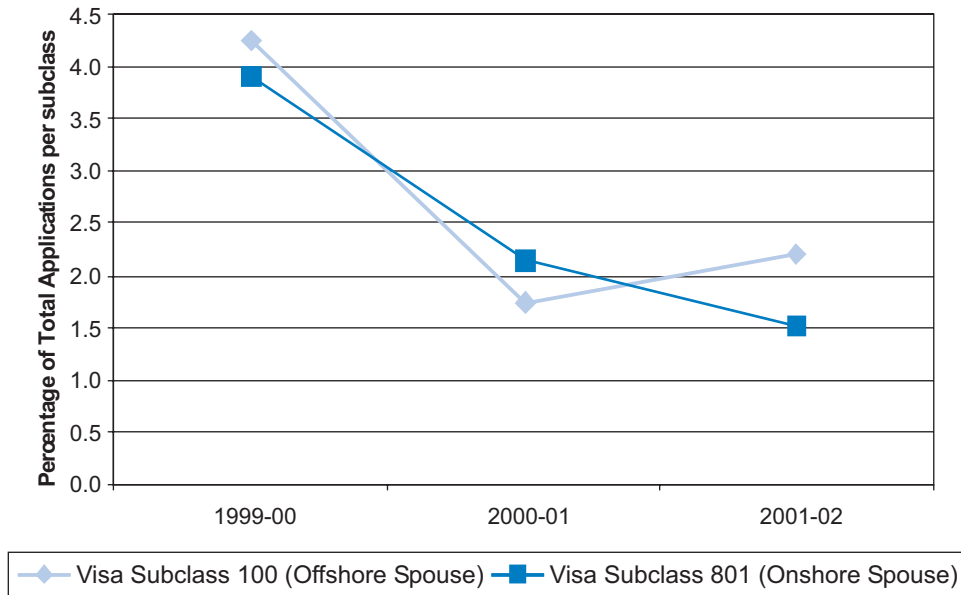
## **Data Integrity**

4.43 High levels of data integrity are an important characteristic of IT systems used to deliver the Government's programs and are essential for their successful operation. IT records are relied upon to assess whether applicants are entitled to a visa and also to provide required management information. The ANAO identified that there are data integrity problems, including duplicate and inaccurate records.

4.44 The audit found that the ICSE database contains a small but persistent number of duplicate records which were confined to the 'spouse' subclasses.<sup>42</sup> Figure 4.2 shows the proportion of duplicate records has decreased recently, relative to the total number of applications.

**Figure 4.2**

**Duplicate records as a proportion of applications per sub-class per year**



Source: ANAO Analysis of DIMIA data

4.45 The ANAO acknowledges the difficulties involved in managing a large caseload over a global network. The ANAO notes the downward trend in duplicate records as a proportion of applications, although with a slight upward spike with visa sub-class 100 (Offshore spouse). The risks associated with duplicate data are that it may cause confusion in the finalisation of visa applications and it introduces inaccuracies in the compilation of performance reports.

4.46 The ANAO also identified that reports out of the data warehouse contained inaccuracies that have a bearing on the management of the parent queue and may have wider implications in other visa sub-classes. There was a corruption of data as it related to visa sub-classes 806 (parent) and 804 (aged parent). Examination of a printout of the parent queue dated April 2002 showed that 57 of 202 listings were incorrect; that is, 57 applications that were in fact sub-class 806 were shown as sub-class 804 applications. There are flow on implications from this for the accuracy of the 804 queue. Moreover, there are

<sup>42</sup> Visa subclass 100 (offshore spouse) and visa subclass 801 (onshore spouse).



approximately 3000 people in the onshore section of this queue and resources do not permit detailed checking of this listing. DIMIA advised that the corruption of data occurred when records were transferred across to the ICSE system from a now inactive onshore database. This error was identified and compensated for manually. DIMIA considers that the problem was resolved last year and these records no longer appear incorrectly in aggregated data.

**4.47** The overall effectiveness of the migration system and the management of associated queues depend on the production of relevant and robust management information. The ANAO's review of the available information reveals data inaccuracies that have the potential to impact adversely on program administration, particularly where applicants are waiting in queues. To allow the department to have a better understanding of the scope of the problem and its impact, a data integrity program embedded in the existing QA processes would assist the agency in ascertaining the extent of data integrity problems and therefore identify and prioritise solutions.

## Conclusion—IT systems

**4.48** In 2002–03, the family stream of the Migration Program will provide 43 200 permanent migration places, an increase of 14 per cent over those in the previous year. This follows an increase of 13 per cent in the year earlier. In order to grant this number of places, the department expects to process approximately 86 000 applications. This level of processing, its continuing growth and the lack of standardised onshore and offshore processing systems, represent significant challenges for the management of information systems in the department. Central office, regional offices and overseas posts are all maintaining duplicates of some client records in local databases due to the difficulty in managing client records and retrieving performance information from existing reporting systems.

**4.49** Although the department has been active in setting the strategic direction for the future of information systems for processing, the ANAO noted that, while there have been some reductions in duplicate records in some key sub-classes, there remains potential in a program as large as migration for data integrity problems to increase.

**4.50** The ANAO suggests that DIMIA embed a data integrity checking program in the existing Quality Assurance processes to assist in monitoring and controlling data integrity.

## Controls to assist decision-makers

### The management and control of capped visa sub-classes

#### Introduction

4.51 Within the Family Migration Stream, Section 87 of the *Migration Act 1958* prevents persons applying as a spouse or dependant child being affected by the imposition of a cap. The introduction of the cap has had the most impact on the parent visa sub-classes, where the number of visas available to be granted in a program year has been capped at 500.

4.52 Capping is one of a number of mechanisms available to the Government to control program numbers when demand for places in the Migration Program exceeds the number of places available. Capping and queue mechanisms limit the number of visas which can be granted each year in a particular visa sub-class. Once a cap is reached, applicants then wait in a queue for the visa to be granted (if successful) in a following year, subject to places becoming available.

4.53 The application pipeline for parent visas is currently 24 400, with 15 400 applicants in the queue and 9000 being processed toward placement in the queue. At the time of the audit, this corresponded to a waiting list of approximately 40 years. The ANAO notes that the department has developed alternatives for parent migration. Amendments to the *Migration Act 1958* were passed by the Senate on 5 March 2003, which provide an additional 4000 visa places for parent migrants on an annual basis.<sup>43</sup> In the 2003–04 Program Year, a total of 7000 places will be available for parents because of delays in the legislation passing through Parliament. Unused places that had been allocated for 2002–03 have been added to the additional places made available annually through the new parent migration package.

#### Management of capped sub-classes

4.54 The effective management of capped sub-classes creates particular coordination and communication challenges for DIMIA. For the most part, individual offices manage toward the achievement of the allocated target for

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<sup>43</sup> The package includes 3500 places per annum for a new contributory parent migrant category that will require adult applicants to pay a Second Visa Application Charge (health charge) of \$25 000 and a higher Assurance of Support Bond valid for 10 years. The existing parent category will remain open for new applications and the number of places available per annum will double to 1000. The new contributory parent visa category will commence offshore on 27 June 2003 and onshore on 1 July 2003.

the uncapped sub-classes. However, each capped sub-class has a 'queue date.'<sup>44</sup> When the queue date for a particular sub-class is reached, management of the issuing of visas in that sub-class is taken over by the Migration Program Section (MPS), central office.

**4.55** The MPS has the responsibility for cap and queue management including advice to the Minister concerning gazetting the cap notice; calculating and advising the offices of the cut off queue date; backdating queue dates; and controlling the approval of parent visa grants once the number of grants reaches the reserve limit.

## Queue management systems

**4.56** The ANAO examined the capping and queuing processes in place for the parent categories.

**4.57** When a visa application is received in a regional office, it is assessed against certain core criteria.<sup>45</sup> Additional information is sought if required. Where the application meets the core criteria, the applicant is assigned a queue date and placed in a holding queue in accordance with that date.<sup>46</sup> Individual offices are able to grant visas in queue date order unless the cap has been approached and MPS has taken over responsibility for the management of the issuing of visas in that particular class. In such circumstances, the MPS gives approval to grant visas in accordance with the applicant's queue date. The process of granting parent visas is mapped at Appendix 5.

**4.58** This system relies heavily on the accuracy and integrity of the process of assigning queue dates. The MPS maintain its own records to ensure that regional offices and posts have accurately recorded the queue date assigned by the MPS into the onshore and offshore visa processing systems.

**4.59** In its examination of the granting of visas in the parent category, the ANAO found evidence of a small number of applicants being granted visas through a regional office when their queue date was not due for visa grant for a number of

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<sup>44</sup> The Migration Program Section, Central Office, estimates that date that it expects the number of grants in a capped sub-class to approach that sub-class cap and advises that date to individual offices. This is known as the queue date.

<sup>45</sup> These include that the applicant is sponsored by a child who is a citizen or permanent resident of Australia or an eligible New Zealand citizen, and meets the Balance of Family test. Onshore applicants must be of pensionable age. All cases must also satisfy the public interest criteria of health, character and security requirements.

<sup>46</sup> Queue dates can be backdated in instances where a case has had a successful review outcome, and in other cases where there has been a departmental error in processing. Backdating assigned queue dates is under the exclusive control of MPS to ensure the integrity of the process. MPS receive approximately 15–20 requests to backdate assigned queue dates per week. Where there are processing errors it is necessary to backdate the queue dates so that the positions of all cases are accurately reflected in the queue.

years. With only 500 parent visas issued last year, the granting of visas out of order creates a risk that another individual's visa may be delayed, in effect undermining the intended outcome of the queuing process.

**4.60** Existing administrative systems for granting parent visas do not have the functionality to continually monitor, or automatically allocate, visa places. Visa grants are only closely scrutinised by the MPS when the number of visa grants is within the reserve limit of the cap. For the remainder of the year, posts and offices are able to grant visas without notifying or gaining the consent of the MPS. As well, there is no formal process of monitoring visa grants to provide assurance that posts and offices are granting visas in queue date order.

**4.61** The deficiencies in the current queue management system results in the management of the queue being a labour intensive process with low levels of IT support. This exposes the department to the risk of having visas granted in error or out of order.

**4.62** The ANAO acknowledges that DIMIA has centralised its offshore parent visa caseload and is considering the possibility of doing so for the onshore caseload. DIMIA has advised that it is not possible to develop a system that would guarantee that all parent visas were granted automatically in order, but the department has plans to introduce changes to its IT system to enhance the management of the parent queue.

## **Conclusion—capped visa sub-classes**

**4.63** The number of available parent visas is capped. Increasing queue numbers impact on the ability of DIMIA officers to transparently manage the existing queue. The current system of managing the queue and allocating available parent visas does not allow for the continual monitoring of queue placements and visa grants. The deficiencies in the queuing systems create an increased risk that visa grants may be made in error.

## **Recommendation No.4**

**4.64** To enhance the management of the parent visa queue, the ANAO recommends that DIMIA clearly specify the control and monitoring function required from departmental information systems.

### *DIMIA Response:*

The Department agrees with this recommendation. The Government capped the number of parent visas at 500 annually because of concerns about the cost impact of older migrants, as indicated in the general comments above. DIMIA has been

required to manage a pipeline of more than 22 000 applications, of which 15 600 had been queued at the end of April 2003. Even though legislation has now been passed that will introduce a new contributory category for parents that will allow for a substantial increase in the number of parent places, DIMIA expects that there will still be demand in excess of the available places. There will be a continuing need to manage the parent visa queues, including the transfer of some applicants from the existing category who choose to apply for the new contributory category.

The queuing process is an administrative mechanism that helps to ensure that visas are granted in order across the world. The Department acknowledges that there have been a few instances where parents were granted a visa out of turn because of an administrative error. This is unfortunate, however given that the program is delivered across so many offices and the numbers are very large, the fact that so few such problems have arisen should be seen as a major achievement.

The granting of visas out of turn was not an unlawful act. It is unlikely that the applicants next in line would have been disadvantaged to any significant degree, and they may have been granted visas on the same day or at worst, within a few days.

Queue management has been greatly facilitated by the centralisation of parent visa processing for the offshore caseload in Perth. Consideration is now being given to centralising the onshore caseload also. This will allow for much greater overall control of the queuing process. DIMIA will also continue to look for IT system technologies that will assist in the process, as recommended by ANAO.

## Delegations

**4.65** Section 496 of the *Migration Act 1958* allows the Minister to delegate any of his or her powers under the *Migration Act 1958* to any person, including the power to grant or refuse a visa.

### Decisions made by appropriately delegated staff

**4.66** The ANAO examined the accuracy of the delegation instruments to determine whether visa decisions were being made by appropriately delegated decision-makers. The ANAO found that, although the electronic record includes an audit trail of officers involved in processing the application, 39 per cent of files examined did not have a position number recorded. The ANAO was, therefore, unable to determine whether the decisions were made by decision-makers with appropriate delegation. The ANAO found that the largest proportion of files that did not record the position number were drawn from offshore locations.

4.67 The significant number of files that do not record the decision-makers' position number have implications for visa decisions, especially those that are subsequently reviewed by external review bodies. A decision-maker's position number is the basis of DIMIA's delegation system. Any internal or external quality assurance process will examine systematic errors such as decisions being made by decision-makers without delegation. The absence of the position number on the decision records limits the ability to assess whether the decision-maker held the appropriate delegation to make the decision.

4.68 The ANAO suggests that DIMIA ensure that all decision records include the delegate's position number in accordance with DIMIA guidelines.

### **Accuracy of delegation instruments**

4.69 The audit found that, from 14 March 2002 to 17 June 2002, some decision makers in a regional office were granting visas without appropriate ministerial delegation. This occurred because position numbers were inadvertently deleted in the development of the delegation instruments for a particular period. This resulted in some decision-makers working without a current delegation. As soon as the department identified the error, a correcting instrument was drawn up. Although the decision-makers continued to process and approve some grant cases without the delegation to do so, they did not formally refuse visas, because of the possibility that such cases would be subject to review.

4.70 The ANAO also found inaccuracies in some of the delegation instruments. The audit found that a single position number had been listed on the delegation instrument twice, at two different posts. Also, position numbers operational at one post had been listed as delegated at another post. Notifications of inaccurate entries are collected and corrected in the subsequent instrument. However, the identified inaccuracies still impact on the operational status of DIMIA officers for the duration of the inaccurate delegation instrument.

4.71 The ANAO acknowledges the challenges faced by the department in keeping delegation instruments current and accurate. However, the ANAO was unable to identify any evidence of a contingency plan that can be implemented to allow processing to continue when a regional office or post are affected by inaccurate delegation instruments.

4.72 There is a need for contingency arrangements to provide for the continued processing of visas in the event of offices or posts being impacted by inaccurate delegation instruments. These arrangements should consider and address the risks of undelegated decision-making and ensure full compliance with the law.

4.73 DIMIA advised that a project is currently underway to record all position numbers, together with their delegations on SAP. This will allow each person to

enter their name or position number into SAP and a list of all *Migration Act 1958* delegations attached to that name or position number will appear. It will then be each individual's responsibility to ensure that their position number has the delegations it requires. Legislation Section and Visa Architecture Section are currently preparing an Administrative Circular which outlines the processes of delegation amendment requests. This will ensure that all instructions received by Legislation Section are correct and clear.

**4.74** These projects should take priority to ensure that delegation instruments remain accurate.

## 5. Relationships with Other Relevant Agencies

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*This Chapter considers DIMIA's approach to managing relationships with other agencies external to the initial visa application, but which have an impact on the family stream of the Migration Program.*

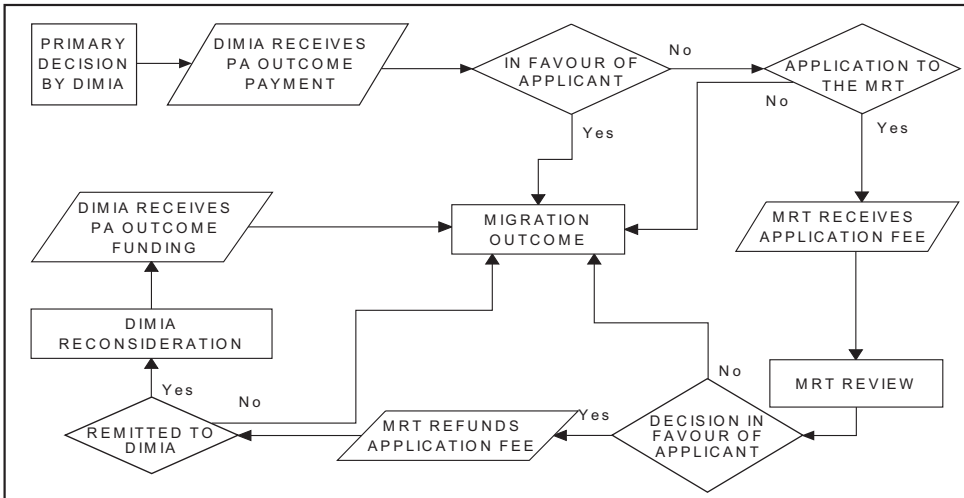
### The Migration Review Tribunal

5.1 There are review mechanisms available for all areas of significant individual decision-making such as taxation, welfare benefits or migration decisions. The major avenue for review of residence migration cases is application to the Migration Review Tribunal (MRT). The MRT reviews decisions to refuse or cancel a visa (with the exception of protection visas), and also certain decisions related to sponsorships. The MRT has the power to affirm decisions, make new decisions or return the case to DIMIA for further processing. In conducting a review, the Tribunal must apply the relevant law and can only make decisions within criteria set out in the *Migration Act 1958* and regulations. To be eligible for review, applicants must apply within the given timeframe.<sup>47</sup> As part of the review process the MRT must consider all the evidence, including the evidence presented at the time of lodgement or hearing. The MRT does not review the quality of the initial decision; rather it reconsiders applications in the light of all evidence, including that which was not available to the primary decision-maker. Figure 5.1 outlines the interaction between DIMIA and the MRT for review cases.

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<sup>47</sup> The applicable timeframes are: 21 days if the applicant is seeking a review of a decision to refuse a visa while in Australia and the applicant is not in immigration detention and 70 days if applying as a sponsor or nominator, where the visa application was made outside Australia and the application was refused.



**Figure 5.1****Interaction between DIMIA and the MRT for review cases**

Source: ANAO based on DIMIA data.

**5.2** The Federal Court may also review a migration decision on the grounds that the decision-maker made a jurisdictional error. The court may decide that the decision was made unlawfully, and require that the decision be made again. However, the court cannot assess the merits of the claim, or substitute its own decision for that of the original decision-maker. Sections of the *Migration Act 1958*<sup>48</sup> also provide for the review of certain visa decisions by the Administrative Appeals Tribunal (AAT) for certain refusal decisions, for example, those made on character grounds.

**5.3** The ANAO found that the MRT has a significant backlog of cases waiting to be reviewed, largely due to a 31 per cent increase in its incoming caseload over the past two years. At 31 May 2002, the MRT had 8265 cases on hand, 30 per cent of those cases being partner applications. At the time of the audit, the MRT advised that the increase in the incoming caseload meant there was no capacity for the MRT to clear its backlog of cases. The ANAO notes that there may be many reasons for sponsors seeking review of the primary decision, which are not necessarily related to perceived errors in the initial decision. As well, the Government recently approved the recruitment of additional MRT members to assist in dealing with the incoming caseload and reducing backlogs.

**5.4** The significant backlog of cases on hand at the MRT results in a review time of 12–18 months for many family stream migration cases. Since the MRT is required to consider all information available at the time of its hearing, the time

<sup>48</sup> The relevant section for family visa applications is Section 500(1) which provides that the AAT may conduct a merit review of a decision of a delegate of the Minister under Section 501.

delay between the initial decision and the review of the case in some instances allows applicants to strengthen their application by providing the MRT with additional evidence of the relationship that was not available at the time of submission. In this sense, the MRT is not reviewing initial decisions; rather it is reconsidering applications in the light of all evidence, including that which was not available to the primary decision-maker. DIMIA advised that the backlog experienced by the MRT was due in part to concerted efforts by the department to clear its own backlogs, especially of partner visa cases.

5.5 The ANAO found that, in 2001–02, the MRT overturned 53<sup>49</sup> per cent of all cases considered for review. Some 74<sup>50</sup> per cent of all partner applications to the MRT were overturned. It is possible that this is due, in part, to the additional information available to the MRT. The department advised that many applicants meet and/or marry their sponsor within a short time and cannot satisfy a decision-maker that they meet the visa requirements. The department's understanding is that the bulk of the overturns are on this basis. However, the large number of cases that must be reconsidered represents a significant cost to the Commonwealth. The achievement of one migration outcome may require multiple expenditures of Commonwealth funds. Government policy is that the \$1400 MRT application fee is refunded if a result favourable to the review applicant is handed down.

5.6 The exact amount outlaid in refunds following favourable decisions could not be obtained from the MRT.<sup>51</sup> However, in 2001–02, of the 3787 applications for review which resulted in a favourable decision being handed down by the MRT, there were 1096 family stream cases.

5.7 DIMIA advised the ANAO that the Government is considering a range of initiatives, including legislative changes, to improve the current situation. There has also been a significant effort to remove backlogs and improve training in both DIMIA and the MRT.

## Migration agents

5.8 In March 1998, the Government appointed The Migration Institute of Australia Limited (MIA) as the Migration Agents Registration Authority (MARA) to regulate the migration advice industry in Australia. MARA is the body responsible for the management of the industry entry requirements, continued

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<sup>49</sup> This rate is as reported in the 2001–02 Annual Report. MRT reporting has now been made consistent with that of other Tribunals to include withdrawn and ineligible applications. Under these conditions the rate would be 47 per cent.

<sup>50</sup> As above. Including withdrawn and ineligible applications, the rate would be 66 per cent.

<sup>51</sup> Advice from the Department is that it now can be provided and we have requested it.

registration, and discipline of migration agents. The objectives of the arrangement were to:

- maintain and strengthen consumer protection; and
- contribute to the integrity of the migration (and humanitarian) programs by promoting an ethical and competent migration advice industry.

**5.9** In Australia, migration agents become registered after attending short courses in relevant immigration legislation. They are then able to provide immigration advice assistance to visa applicants when preparing and lodging their visa applications. Within Australia, all Migration Agents must be registered with the MARA and the majority charge a fee in return for their services. Offshore there is no requirement for migration agents to be registered.

**5.10** According to the *Migration Act 1958*, the functions of the Migration Agents Registration Authority are:

- to deal with registration applications;
- to monitor the conduct of registered agents in their provision of immigration assistance and of lawyers in their provision of immigration legal assistance;
- to investigate complaints about registered agents in relation to their provision of immigration assistance;
- to take appropriate disciplinary action against registered agents;
- to investigate complaints about lawyers in relation to their provision of immigration legal assistance, for the purpose of referring appropriate cases to professional associations for possible disciplinary action;
- to inform the appropriate prosecuting authorities about apparent offences against the *Migration Act 1958*; and
- to monitor the adequacy of any Code of Conduct.

**5.11** The ANAO considered two issues:

- DIMIA's approach to managing cases where migration agents are involved onshore; and
- the strategies for handling cases where potentially unethical agents are involved.

**5.12** Implicit in DIMIA operations, is that the degree of vetting and the subsequent processes depend on the risk profile of the applicant. The risk profile includes such aspects as the country of origin, places that have been visited and, in some cases, the applicant's relationship with their sponsor. Pivotal to

this, is the migration agent who may be providing administrative support and advice for the application. The risk profile of migration agents is, therefore, very important.

**5.13** The ANAO notes that a number of Migration Series Instructions address the issues related to dealing with migration agents. There are also a number of relevant Administrative Circulars, all of which are available to staff globally. In addition, DIMIA maintains a spreadsheet record containing basic information regarding migration agents who have been referred to MARA, including complaints about registered and unregistered agents referred to DIMIA's regional Investigative Units regarding alleged breaches of the code of conduct. This data is used to monitor MARA's progress in resolving complaints and providing feedback to staff involved in the complaint and is not available to staff generally.

**5.14** The ANAO found that, in most instances, regional offices have a good working relationship with many of the migration agents operating in their areas. The positive nature of these relationships is also supported during discussions with the MIA. The ANAO also found that some regional offices had developed databases where they could monitor the operations of migration agents within their area. This enabled them to scrutinise applications received from those agents believed to be operating unethically to ensure that the bona fides of the relationship were genuine. However, the databases in the regional offices are not linked and it is difficult to determine whether trends are emerging. The ability to analyse a more comprehensive database would, over time, enable closer study of the overall trends and patterns.

**5.15** The ANAO notes that great care needs to be taken in regard to collecting and circulating information in regard to migration agents suspected of having breached the Code of Conduct, or who are alleged to have committed a criminal offence. Any national database would need to accommodate the relevant principles relating to privacy and natural justice. These issues are also relevant, although to a substantively lesser extent, in developing a risk profile for migration agents that focuses on characteristics that may help staff identify possible high-risk applications.

**5.16** DIMIA is in the process of implementing a number of the recommendations flowing from the 2001–02 Review of the Statutory Self-Regulation of the Migration Advice Industry. From July 2003, it will introduce a facility to regularly and electronically update information about migration agents directly from the MARA database.

## Conclusion—Migration Agents

**5.17** Migration Agents provide a valuable role in assisting potential migrants to complete and lodge migration applications. While in the majority of cases agents can assist DIMIA by lodging complete applications, some migration agents represent a risk to the integrity of the Migration Program by engaging in unethical behaviour. At the time of the audit, there was no national database containing information to assist staff in dealing with particular migration agents or in identifying potentially high-risk migration agents, although the department is taking some steps to rectify this deficiency. Owing to data limitations, DIMIA has limited capacity to monitor global trends related to migration agents to enhance program integrity. The ANAO notes that DIMIA is taking steps to rectify this, and funding for a new management system was announced in the 2003–04 budget papers.

**5.18** The ANAO suggests that DIMIA consider enhancing its national approach in dealing with casework from migration agents, through increasing support to individual decision-makers. It should also maximise its utilisation of data concerning migration agents to more effectively monitor and detect industry trends, while, at the same time, taking into account the relevant provisions of the *Privacy Act 1988*.

## Health and community services

### Introduction

**5.19** The Departments of Health and Ageing (DoHA) and Family and Community Services (FaCS) both provide key health and community related services to the Australian community. Both departments also provide input into an annual Cabinet submission, through an Interdepartmental Committee (IDC),<sup>52</sup> which forms to provide advice and recommendations to government about the costs and other impacts of the annual Migration Program. The operation of the IDC, the adequacy of the IDC's inputs and outputs and, consequently, the robustness of the whole of government policy framework for managing the annual Migration Program, were not considered in this audit.

**5.20** In examining the application of the health standards provisions to the family stream of the Migration Program, including the use of waivers, the ANAO was cognisant of the critical role these standards play in protecting the broader Australian community in terms of protecting public health, containing outlays

<sup>52</sup> ABS, DETYA, DEWR, FACS, DHA, AG, DOFA, PM&C, Treasury, DFAT, DE&H, DoTRS, DOCITA, AFFA and NOIE also provide input to the submission.

and preserving access to health and community services. The ANAO noted the prominence given to the application of appropriate health standards in the migration legislation.

## Health standards for migrants

**5.21** The requirement for migration applicants to meet the health criteria for entry into Australia is provided for by section 60 of the *Migration Act 1958*. Section 60 of the *Migration Act 1958* outlines the ability of the Minister to request a health examination if the health, physical or mental condition of a visa applicant is relevant to the grant of a visa. The *Migration Act 1958* also states that a specified person must examine the applicant and that the applicant must make every reasonable effort to attend the examination.

**5.22** The Migration Regulations describe in detail the health requirement to be met by applicants. Visa applicants are required to undertake certain health checks and the results of these are assessed to ensure that they do not pose a public health risk and that their entry will not result in undue cost to the Australian community or unduly prejudice the access of Australian residents to health care or community services. This policy is discussed in more detail at Appendix 6.

**5.23** Standards governing the operation of a public program are complete insofar as the supporting procedures anticipate the variety of circumstances that arise in implementation. Any program dealing with a large number of clients annually can be expected to strike new circumstances continually. When this occurs, there is a need to amend, develop and enhance standards and guidelines. Many factors affect health standards. These range from changes in health risks through to advances in health technology. The current health policy<sup>53</sup> was developed in consultation with the then Department of Community Services and Health in 1989 and has been reviewed in full, or in part, several times since 1992.

**5.24** The ANAO found that the DoHA and FaCS provide advice to DIMIA about health standards for migrants and have been on occasions, involved in the reviews described above. However, from a whole of government perspective, there are deficiencies in the approach to the maintenance of health standards for migrants. The ANAO found no evidence that the understandings and protocols between the three departments had been recorded. This would enhance the capacity of the Commonwealth to develop cohesive standards and responses to health protocols. For example, in the event of the emergence of a communicable and contagious medical condition. Clear and unambiguous administrative arrangements would provide a description of:

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<sup>53</sup> Detailed in Appendix 6.

- the communication protocols between the three key stakeholder departments and the identification of roles and responsibilities;
- a current analysis of risks to the Commonwealth; and
- governance and monitoring arrangements to provide assurance to senior management and responsible Ministers that key risks are being addressed in a timely manner.

## Conclusion—Health and community services

5.25 The effective application of appropriate health standards to Australia’s Migration Program, including the family stream of the Migration Program, is fundamental in protecting public health, containing pressure on outlays and preventing undue crowding of public health facilities. The growth in permanent migration, combined with the dynamic nature of public health risk and maintenance, creates significant public risk if public policy and practice in this area becomes out of date or otherwise irrelevant.

5.26 The ANAO found that, on occasions, DoHA and FaCS have provided advice to DIMIA about health standards for migrants. However there are no written protocols or understandings in relation to the maintenance of health entry standards for migrants. As a result, health and community services policy for migrants is being developed without a shared understanding of overall objectives and without the effective assessment and management of health risk.

## Recommendation No.5

5.27 The ANAO recommends that DIMIA, in consultation with DoHA and FaCS, review and formalise the consultative arrangements for setting health policy for migrants to ensure that Migration Regulations reflect current risks, and the roles and responsibilities of each agency.

### *DIMIA Response*

The Department agrees with this recommendation. DIMIA has already taken steps to put this recommendation into effect. It currently liaises on a regular basis with FACS and DoHA on a range of issues at all levels, including in relation to health checking procedures and standards. The current procedures have been working successfully for many years and any new issues are discussed promptly. A recent example is the SARS epidemic. DIMIA attended a series of meetings called by DoHA for all affected agencies in response to the situation.

Cost estimates are standard for common medical conditions and FACS and DoHA were consulted during their preparation. More formal meetings would allow these

to be reviewed on a regular basis and DIMIA supports this proposal. The Department notes the ANAO has expressed concerns about the exercise of the health waiver in subclasses where this is available. There are clear policy guidelines for the exercise of the health waivers and each decision is carefully considered in the light of the information provided by the Medical Officer of the Commonwealth and all of the evidence provided by the applicant.

The \$43 million estimated cost of health waivers for two years (1999–2000 to 2000–01) needs to be seen in context. It is a whole-of-lifetime cost and the impact in a single year might be about one-twentieth of this amount at most. Even the whole-of-lifetime cost in a single year would only be approximately 0.07 per cent of DoHA's budget in 2001–02. FACS has a budget of similar proportions. The impact of health waiver costs is already built in to the budget-estimating processes for FACS and DoHA because the health and welfare costs for the whole community include ongoing expenditure in respect of people who originally arrived as migrants and for whom the health requirement was waived.

DIMIA is nevertheless fully supportive of the proposal to provide details of health waivers to DoHA and FACS on a regular basis.

### *DoHA Response*

5.28 Agree with the thrust of this recommendation.

### *FaCS Response*

5.29 Agree.

## **Waiving health standards for migrants**

5.30 Under the migration regulations, DIMIA officers deciding visa applications must accept the opinion of the Medical Officer of the Commonwealth (MOC) as to whether applicants meet the health requirement. Departmental guidelines specify that any medical condition assessed by a MOC as likely to generate costs to the Australian community of more than \$20 000 over the life of the applicant, will result in the applicant being deemed to have failed the health requirement on the grounds of significant cost to the Australian community. However, the regulations also provide for prescribed classes of applicants to seek a waiver of the health requirements.

5.31 Within the family stream, Public Interest Criterion (PIC) 4005, which applies to both the parent and the aged parent visa categories, indicates that the visa classes processed under this criteria do not have access to a waiver provision for health.



**5.32** Moreover, PIC 4007,<sup>54</sup> which applies to most of the partner and child applications, provides for a waiver of the health requirement if 'the applicant satisfies all other criteria for the grant of the visa applied for; and the Minister is satisfied that the granting of the visa would be unlikely to result in:

- undue cost to the Australian Community; or
- undue prejudice to the access to health care or community services of an Australian citizen or permanent resident.'<sup>55</sup>

**5.33** Consideration of a waiver takes into account, among other things, the compassionate and compelling circumstances of the relationship, over and above the criteria needed for the grant of the visa. The waiver cannot be used where the visa applicant is assessed by a MOC as representing a risk to public health or safety in Australia.<sup>56</sup>

**5.34** As noted above, migration applicants with a condition assessed as having a likely cost to the Australian community, over the lifetime of the applicant, of less than \$20 000 are considered to have met the health standards. Where the estimated cost exceeds \$20 000 but is less than \$200 000, departmental officers are delegated to grant waivers under PIC 4007. Where the estimated cost is in excess of \$200 000 or the MOC considers the prejudice to access will be great, the application must be referred to the Minister for consideration and recommendation before a decision to waive these costs is made.

**5.35** Department policy<sup>57</sup> specifies that all decisions to waive the health requirement (whether taken in Australia or overseas) must be reported to central office in a specified format.

**5.36** The Migration Review Tribunal (MRT) is the principal avenue for review of residence migration cases. Although different standards of evidence apply for cases brought before the MRT, in making its decision the MRT, applies the same legislative provisions as DIMIA. Therefore, it also has the capacity to waive the requirement for migration applicants to meet prescribed health standards.

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<sup>54</sup> A number of humanitarian and temporary visa sub-classes, which are outside the scope of this audit, are also subject to regulation 4007 and also have access to the waiver provisions.

<sup>55</sup> Migration Regulations—Schedule 4 Public Interest Criteria and Related Provisions, Part 1: Public Interest Criteria, 4007.

<sup>56</sup> That is, the applicant must be free from tuberculosis; and/or free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community.

<sup>57</sup> PAM3 Schedule 4, Public Interest Criteria 4005-4007, Section 79 dated 1 March 2002.

## The Administration of Waiver Provisions

### Estimation of Costs

5.37 The audit found some deficiencies in the estimation of costs of health conditions of migrant applicants. In particular:

- MOCs are using draft costing guidelines that were prepared by Health Outcomes International (a company which specialises in health economics). In preparing the guidelines, Health Outcomes International consulted widely with FaCS and DoHA, however there have been some difficulties in finalising the relevant papers the guidelines have not subsequently been agreed by relevant agencies,<sup>58</sup> and
- the basis of cost estimates prepared by MOCs is not always documented.

5.38 The ANAO noted that DIMIA has identified these issues (through an internal audit report) and has recommended that a Steering Committee, with membership from DIMIA, Health Assessment Services (HAS)<sup>59</sup> and DoHA, be established to oversee the preparation of appropriate guidance for assessing the costs in this area.

### Conclusion

5.39 Clear, comprehensive and consistent guidance on estimating the likely lifetime community cost of medical conditions is critical if waiver provisions are to be applied equitably and if appropriate accountability is to be maintained. The ANAO was unable to conclude that current guidance provides a sound and sufficient basis for the effective and accountable administration of the health waiver provisions. The failure of MOCs to consistently record the basis of calculations and the absence of appropriate quality control measures also create substantive difficulty in maintaining consistency and preserving accountability.

5.40 Formal procedures to require the involvement of FaCS and DoHA in the process of determining costs of medical conditions, and the impact of these on future health and welfare budgets, would ensure a sound basis for the effective administration of the health waiver provisions. Agreed costings, reviewed and updated regularly, should be the basis for the MOC estimates of costs in relation to health waivers.

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<sup>58</sup> A departmental internal audit report notes that unsuccessful applicants have used this discrepancy as a basis to appeal the Department's decisions.

<sup>59</sup> Health Assessment Services is contracted by DIMIA to provide Health Assessments and Policy Advice.

## Granting of waivers

5.41 As indicated above, there is an internal DIMIA requirement that all waivers should be reported to central office in a specified format. However, the ANAO's analysis of the data revealed some gaps in the data held by DIMIA in regard to health waivers. In particular, it is not possible to determine:

- the total number of waivers granted;
- the conditions in regard to which waivers have been granted; and
- the overall cost to government and the community of decisions to waive the health requirements for migrant applicants.

5.42 The ANAO found that decision-makers in DIMIA offices were less likely to report waivers where the cost estimate was less than the \$200 000 threshold. This reduces the accuracy of data recording the total amount of health waivers. In addition, the ANAO found that health waivers exercised by the MRT were not being reported. This has now been rectified.

5.43 DIMIA is working towards gathering the necessary information and has introduced, from 1 July 2002, changes to its offshore processing system (IRIS) to enable it to more easily gather data on all cases where the health requirement has been waived. However, the department will also rely on manual returns for onshore cases for some time into the future due to the design features of ICSE.<sup>60</sup>

5.44 While complete data on the granting of health waivers is unavailable, administrative data indicates that the estimated likely lifetime cost of health conditions for which waivers were granted by the Minister (i.e. those with individual costs exceeding \$200 000) from 1999–2000 to 2000–01 (inclusive) approached \$43 million.<sup>61</sup>

5.45 The ANAO found no evidence that data on the waivers granted (to the extent that information was available) was provided to other agencies with responsibility for planning and delivering community health and care services. This affects the ability of agencies, such as FaCS and DoHA to provide accurate estimates of the impact of the Migration Program as follows:

- In calculating the extent to which new migrants will require access to community support services, including income support, FaCS assumes that new migrants to Australia have been subject to a rigorous health check. Data on the extent to which health requirements are waived could assist FaCS in more accurately estimating the impact of migration on Commonwealth outlays on family and community services.

<sup>60</sup> ICSE (Integrated Client Service Environment) is the department's onshore visa processing system. Discussed in more detail in Chapter 4.

<sup>61</sup> Source: DIMIA data.

- In the absence of relevant data, DoHA is unable to provide any assurance that the full health and care costs of the conditions, to which waivers relate, have been captured in the assessment process. Nor is it able to assess whether the granting of waivers is likely to impact on the provision of medical services within the community generally.

## Conclusion

5.46 The absence of complete data on the number, costs and nature of health waivers granted to migration applicants is a significant difficulty for effective program administration as:

- the cost to the federal budget of the granting of health waivers is not known;
- appropriate measures to ensure accountability and quality control cannot be identified and implemented; and
- relevant agencies are unable to determine what impact, if any, the granting of health waivers may have on the provision of health and community services to the broader Australian community.

5.47 The ANAO suggests that DIMIA:

- put in place procedures to ensure accurate collection of data on waivers granted by DIMIA and MRT; and
- ensure that data on the granting of waivers is provided to relevant agencies to assist in their planning and the appropriate attribution of costs.

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Canberra ACT  
30 June 2003



Oliver Winder  
Acting Auditor-General

# Appendices



## Appendix 1

### Sample design

#### Reference Population

The ANAO examined a stratified random sample from the population of parent and partner migration applications finalised between 1 July 2001 and 30 May 2002. The examination was aimed at identifying and measuring the extent of errors in the application assessment process over this period.

#### Sample constraints

The ANAO audited 208 visa application files. This audit sample was large enough to draw sufficiently robust conclusions about the primary variables of interest.

It anticipated that around 20 per cent of files would not be obtained within the audit fieldwork period and so 250 visa application files were to be selected for audit. The ANAO identified the following four groups (or 'strata') of visa applications that it was interested in examining:

- spouse visa applications processed in overseas posts ('Offshore spouse applications');
- spouse visa applications processed in Australia ('Onshore spouse applications');
- parent visa applications processed in overseas posts ('Offshore parent applications'); and
- parent visa applications processed in Australia ('Onshore parent applications').

Based on the composition of the visa application population (see Table 1 below), the ANAO structured the audit sample so as to equate the expected statistical precision for the primary error rates<sup>62</sup> across these four strata.

#### Sample design

The sample design implemented for this audit was a stratified sample with random selection of claims. Stratification is the process of dividing the population into non overlapping groups called strata. The sample is then selected

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<sup>62</sup> A 'primary error' relates to criteria that apply to all visa applications—such as whether decisions were made in accordance with legislation. The audit also produced estimates of a range of 'secondary errors' that only applied to a subset of applications—such as whether there were valid character checks for dependents included in the application. However, these secondary error rate estimates were not considered crucial to the audit exercise and were ignored for the purposes of the sample design.

independently from within each stratum. This allows the sample designer to control the expected accuracy of estimates for each strata.

Table 1 illustrates the number of finalised visa applications within the four strata identified by the ANAO (i.e. offshore spouse applications, onshore spouse applications, offshore parent applications, and onshore parent applications) in the reference population and in the selected sample.

From this sample allocation and assumptions about the anticipated error rates and the proportion of files that would not be obtained,<sup>63</sup> it was expected that the 90 per cent Confidence Interval widths surrounding the strata error rate estimates would be around 10 percentage points and the Confidence Interval widths surrounding population error rate estimates would be around six and a half percentage points.

**Table 1**  
**Selection of finalised visa applications**

| Visa type    | Processing location | Number of applications in stratum | Number of applications selected | Number of applications audited | % of selected applications not located within audit period |
|--------------|---------------------|-----------------------------------|---------------------------------|--------------------------------|--|
| Spouse       | Offshore            | 15 421                            | 66                              | 47                             | 29   |
|              | Onshore             | 4 334                             | 65                              | 62                             | 5  |
| Parent       | Offshore            | 4 161                             | 65                              | 58                             | 11   |
|              | Onshore             | 321                               | 54                              | 41                             | 24   |
| <b>Total</b> |                     | <b>24 237</b>                     | <b>250</b>                      | <b>208</b>                     | <b>17<sup>64</sup></b>                                     |

Source: ANAO analysis of DIMIA data

## Files not obtained for audit

Table 1 also shows the number of files actually obtained for audit. Overall, 17 per cent of files were not obtained for audit. However, the percentage of files not obtained for audit ranged from five per cent of selected onshore spouse applications to 29 per cent of offshore spouse applications.

In addition, given that offshore spouse applications account for almost two-thirds of the reference population, the fact that 29 per cent of files selected from

<sup>63</sup> The error rates of interest were assumed to be around 25%. It was assumed that around 20% of files in each stratum would not be obtained within the audit fieldwork period. As it transpired, the latter assumption did not hold (for implications see following section *Files not obtained for audit*).

<sup>64</sup> The total percentage of files not obtained for audit is not a simple summation of the strata percentages. Each strata percentage is independent from the other due to different denominators used in each calculation.



this group were not obtained adversely impacted upon the statistical precision of error rates for the overall reference population.

### **Methodology used**

The ANAO developed checklists for the testing based on DIMIA Quality Control Code (QCC) and Office Audit and Security Checklist (OASC) checklists and through discussions with key staff. All error rates quoted in the report are for granted and queued cases only. In undertaking the compliance testing the ANAO had access to all procedures and guidance available to decision-makers. Key staff in DIMIA were consulted throughout the process and were shown preliminary results of the testing including explanations as to why certain conclusions had been made.

## Appendix 2

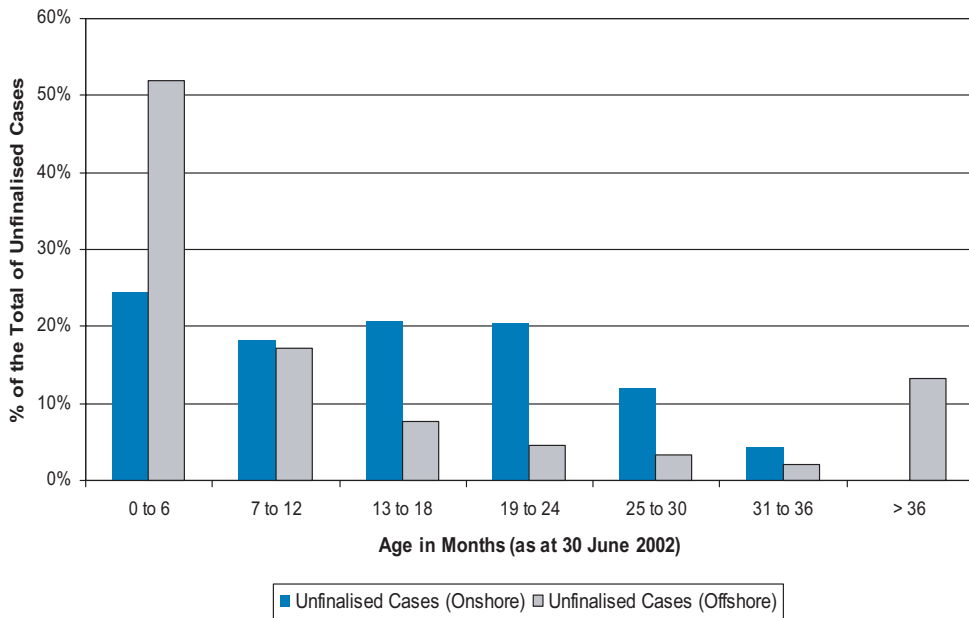
### Age of the Caseload

ANAO analysis of the age of the caseload is shown at Figure 1.

To put the percentages in context, the total number of unfinalised offshore cases (at the time of this analysis) was around 20 000, with about 56 000 onshore. Figure 1 shows that there are some differences in the two sets of data. The higher proportion of cases over three years old (offshore) is due to the parent cases waiting in the queue.

The high proportion of onshore spouse cases that have taken more than two years to finalise is because of the two-stage process for partner visas, in which the permanent visa application is assessed and decided two years after the original application.

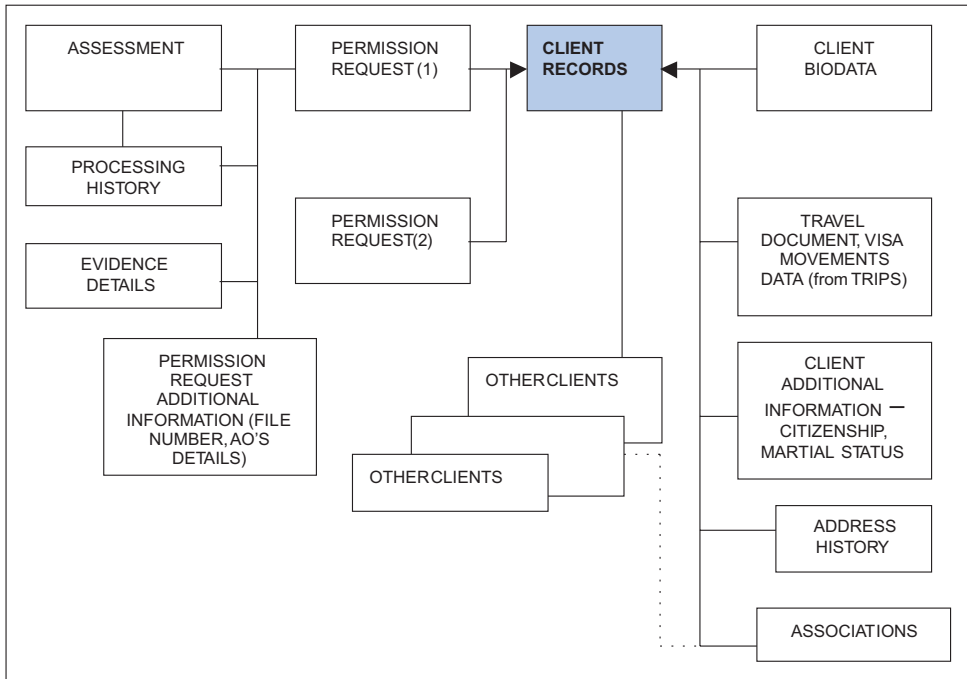
**Figure 1**  
**Age of unfinalised cases as at 30 June 2002**



Source: ANAO analysis of DIMIA data

### Appendix 3

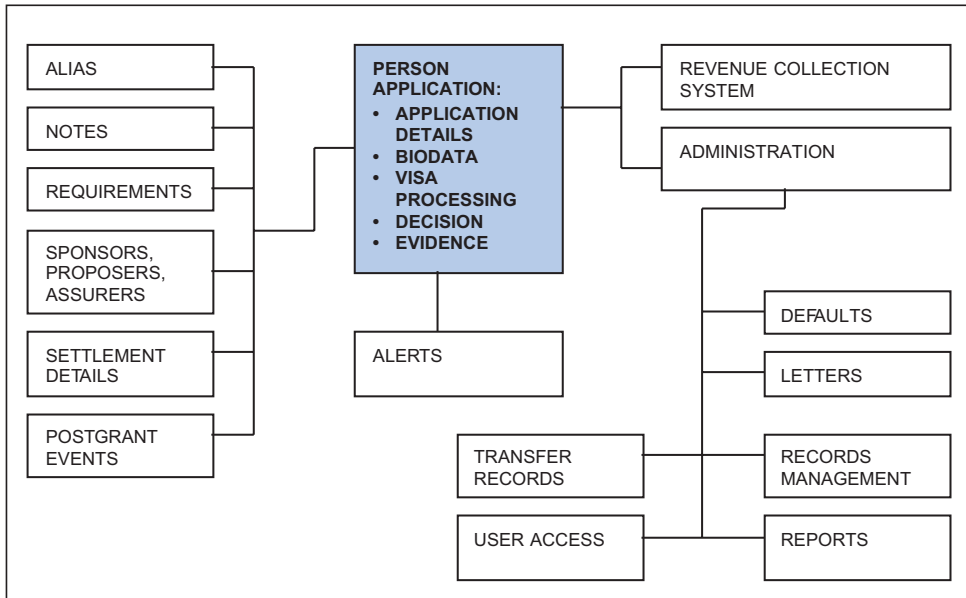
## ICSE Concept Map



Source: ANAO analysis of DIMIA data

## Appendix 4

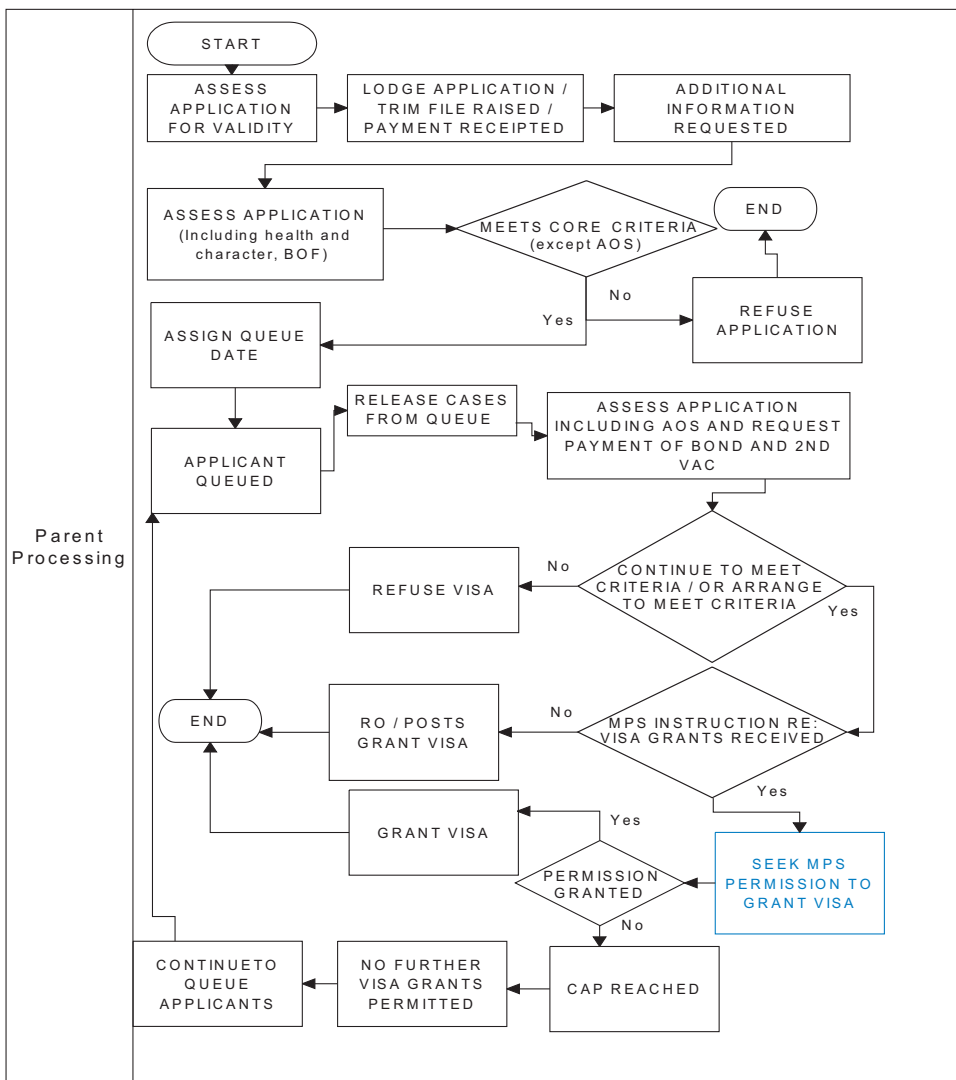
### IRIS Concept Map



Source: ANAO analysis of DIMIA data

## Appendix 5

### Process Map: Granting Parent Visas



Source: ANAO analysis of DIMIA data

## Appendix 6

### Health Requirement for Entry into Australia

1. Migration Regulations 4005, 4006A<sup>65</sup> and 4007 outline the health requirement for migration and long stay entry into Australia. The effect of the regulations is that the applicant must be:

- (a) free from tuberculosis; and
  - (b) free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
  - (c) not a person who has a disease or condition to which the following subparagraphs apply:
    - (i) the disease or condition is such that a person who has it would be likely to:
      - (A) require health care or community services; or
      - (B) meet the medical criteria for the provision of a community service; during the period of the applicant's proposed stay in Australia;
    - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
      - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
      - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;
- regardless of whether the health care or community services will actually be used in connection with the applicant.

2. The health assessment for a temporary visa applicant is related to the country of citizenship, the country of residence (if the applicant has lived in certain locations<sup>66</sup> for more than three months in the last five years), the length of stay and any other factors of significance. A factor of significance could include new arrivals intending to stay for less than three months if, during their stay the visa applicant is:

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<sup>65</sup> Regulation 4006A refers to an employer commitment to meet health costs and is outside the scope of this audit.

<sup>66</sup> For the purposes of medical assessments, countries are grouped according to low, medium, high and very high risk. These countries are specified by notice in the Commonwealth of Australia Gazette.

- likely to enter a hospital or health care area;
- likely to enter a classroom;
- likely to be engaged in an Australian pre-school age child care centre; or
- is aged 70 years or older,
- if there is an indication that the health requirement may not be met.

3. Medical examinations and x-rays are conducted by doctors and radiologists nominated by DIMIA. In Australia, these examinations are undertaken by Health Services Australia (HSA) through a contract managed by DIMIA. The contract with HSA also provides for the operation of the Health Assessment Service (HAS), an office within DIMIA staffed by Medical Officers of the Commonwealth (MOC) and administrative staff. The HAS is responsible, *inter alia*, for:

- providing medical opinions, as per the department's legislative requirements and policy guidelines;
- providing (together with the health policy section) advice on:
  - medical and radiological examinations and related forms;
  - guidelines for examining doctors and radiologists; and
  - overseeing the work conducted by the Regional Medical Directors (RMD)
- liaising with the RMDs overseas and MOCs appointed in Australia;
- operating a telephone enquiry service for applicants and sponsors; and
- providing general advice on health assessments to the department's officers and others.

4. In overseas locations, medical examinations are conducted through a panel of doctors accredited by DIMIA, and their decisions are regularly audited by the department's two RMDs. Specialist medical reports can also be requested, either by the examining doctor or a MOC to ensure the most comprehensive information is available in assessing applicants against the health requirement.

5. The MOC provides the department with an opinion on whether the applicant meets the health requirement. In providing this opinion, the MOC takes into account:

- the results of the medical examination(s) and x-rays;
- the applicants medical history, age, period of intended stay in Australia; and
- other relevant considerations.

## Appendix 7

### Reviews of Health Assessment Standards and Processes for Migrants

Joint Standing Committee on Migration Regulations. *Conditional Migrant Entry: The Health Rules* (December, 1992).

Commonwealth Department of Human Service and Health Review of Migrant Health Requirement and Associated Procedures (23 August 1995).

Review of Health-Screening Procedures with Regard to Tuberculosis (finalised, September 18, 1998, Dr Kathleen King, BSc (Hons), MBChB, MASM, FRCPath., Director, Special Projects, Department of Immigration and Multicultural Affairs, now DIMIA).

Options to manage more effectively the workloads of the Regional Medical Directors (finalised, June 1999, Dr King, above mentioned).

Outcomes of 1998/1999 re-enforcement of PAM3 policy on medical examinations of onshore applicants for student sub-class 560 visas (finalised, September 1999, Dr King, above mentioned).

*Review of Health Processing of Temporary Entrants.* (finalised, May 2000, Dr King, above mentioned, in consultation with Department of Health and Ageing).

Medical examinations at Immigration Refugee Processing Centres (finalised, May 2001 Dr King, above mentioned and Dr Peter Vodicka, MBBS, DPH).

King, K., & Vodicka, P. both above-mentioned, (2001) Screening for conditions of public health importance in people arriving in Australia by boat without authority. *Medical Journal of Australia*, 175, 600-602.

Analysis and review of medical examination and health-related services provided to DIMIA (commissioned, July 2002; in train).



## Appendix 8

### Department of Immigration and Multicultural and Indigenous Affairs—Detailed Response to the Audit

1. The Department is pleased that overall, the ANAO's report has made positive findings on the effectiveness and efficiency of its decision-making processes and management systems for delivering the parent and partner aspects of the family stream of the migration program.
2. The family stream visa provisions allow Australian citizens and permanent residents to bring their close relatives to join them in Australia. This benefits those Australians who would otherwise face a choice between long-term separation from family members, and leaving Australia to rejoin them in a third country. It is generally accepted people will only be able to function fully as a member of Australian society if they have their immediate family members residing with them on a permanent basis.
3. The more limited provisions for other family members such as parents, aged dependent relatives, remaining relatives or carers to migrate recognise that these ties are less strong than for partners and dependent children and generally have higher costs associated with their migration.
4. The social benefits of family migration must be balanced against the potential costs, particularly in relation to less immediate family members. Within the overall program, it is important that immigration continues to have a positive impact on the economy, and is seen to do so by the Australian community.
5. The research shows that the current proportions of skilled and family migrants produce a significant net economic gain. Social gains are also apparent through the culturally diverse yet cohesive nature of Australian society. These beneficial effects can be continued and enhanced as long as the number and composition of family stream migrants is carefully managed and controlled, including in relation to the skilled stream of the program.
6. Eligibility for migration under the family stream is based on the relationship with an Australian sponsor and there is no skills or English language requirement.
7. Sponsors are expected to support their relatives to avoid the negative cost impacts on the Australian community, particularly in the first two years after arrival. This has been an issue in relation to parents in particular, since research has shown that the health and welfare costs of older migrants are significantly higher than for younger migrants.

8. The Department monitors the performance of the family program at a broad outcome level. The Department commissions research studies to examine such issues, a number of which are based on the Longitudinal Survey of Immigrants to Australia (LSIA). This study, which is considered to be unique in the world, is a rich source of information about the experiences of migrants after arrival.

9. In a recent report published by the OECD, Australia's performance in relation to the management of its migration program was hailed as an example of best practice. Australia was referred to as an immigration country par excellence. The OECD report noted that the Australian immigration system is one of the most sophisticated in terms of the degree of detailed information used in selection. It also noted that our system is based to a considerable degree on academic research and has focused increasingly on selecting immigrants that will increase the incomes of existing residents and avoid budgetary costs.

10. The OECD's view is mirrored by Professor John Salt, Migration Research Unit, Department of Geography, UCL who considers that Australia is at the forefront in terms of the structure and operation of a successful migration program. He has stated that 'Australia . . . has long been ahead of its research into its migration policy. It's almost certainly the most informed migration policy in the world—perhaps the world has ever seen'.

11. The Department also monitors the performance of the family stream of the migration program at the operational level. In a program of this size and complexity considerable challenges are presented by the operational environment in which the family stream of the program is delivered. The ANAO has pointed out some administrative matters that require attention. In most cases the Department already has action in train to address these and will consider all of the ANAO's suggestions in the interests of continuous improvement to the program.

12. Assessment of the genuineness of the claimed relationship is a key factor in the processing of applications for visas in family visa classes, particularly in the partner visa classes. The level of scrutiny that is accorded to applications varies according to the assessed risk of malpractice, which in turn is based on the incidence of fraud experienced in applications with particular profiles. Interviews and other investigative tools are used to ensure the integrity of processing for high risk applications and the extent to which these are utilised forms part of the Department's measures of its performance.

13. Another key performance element for the family migration program is the level of service provided to clients. Recent efforts to clear backlogs and reduce processing times for partner visa applications have resulted in substantial

improvements. For example, the overseas pipeline of unfinalised partner visa applications has been reduced by 32 per cent between August 2001 and April 2003, and the median processing time for successful provisional partner visa applications lodged overseas was reduced from 29 weeks to 18 weeks in a similar time period.

**14.** In the parent visa caseload, significant improvements in client service have resulted from the establishment of the Perth Offshore Parents Centre (POPC), which has taken over the processing of all parent visa applications lodged by people usually residing outside Australia. POPC encourages communication through the Australian sponsor, which has markedly increased the level of client satisfaction with accessibility of information and responsiveness to enquiries.

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