



**ethnic
communities'
council of
victoria**

ECCV SUBMISSION TO THE DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

2007-08 REVIEW OF STATUTORY SELF-REGULATION OF THE MIGRATION ADVICE PROFESSION

1. The Ethnic Communities' Council of Victoria (ECCV) welcomes the opportunity to present a submission to the Department of Immigration and Citizenship *2007-08 Review of Statutory Self-Regulation of the Migration Advice Profession*.

2. ECCV is the state-wide peak advocacy body representing ethnic and multicultural communities in Victoria. For over 30 years, ECCV has remained the principal liaison point between multicultural communities, government and the wider community in Victoria. ECCV has been a key player in building Victoria as a successful, harmonious and multicultural society.

3. ECCV recognises that the terms of reference for the review are broad and the focus of this submission will be the implications for culturally and linguistically diverse (CALD) consumers if the movement from statutory self-regulation to self-regulation in the migration advice profession is to occur. As a result, the submission will mainly address the following points within the terms of reference –

- a) Evaluate the capacity of the migration advice profession to move to full self regulation
- d) Evaluate the costs and benefits of the scheme to consumers and the community, and to fee charging and non-fee charging agents
- g) Examine the priority processing of applications submitted to DIAC by registered migration agents

4. ECCV consulted with member organisations to inform our view that that the migration advice profession should not move to full self-regulation. ECCV's main concern is that self regulation will create greater risks of exploitation for CALD communities, and people who are already marginalised, when seeking migration advice. It is highly unlikely that the checks and balances on a self regulated migration advice profession would be as stringent as that achievable under the current system.

5. Multicultural communities often encounter cultural and language barriers when negotiating the immigration system. As a result, many people from CALD communities seeking migration advice tend to use a third party such as a migration agent, lawyer or respected member of the community. ECCV has received consistent feedback that many people from CALD communities are vulnerable to exploitation from unscrupulous migration agents, lawyers and members of their own community when seeking migration advice.

6. The discussion paper produced by DIAC states that most of the complaints received by the Migration Agents Registration Authority (MARA) related to professional conduct. ECCV acknowledges, overall, the complaints to MARA about professional conduct decreased over 2006-07. However the discussion paper also notes that 214 agents were complained about over 2006-07, representing 6 % of

Statewide Resources Centre
150 Palmerston Street
Carlton Victoria 3053

t 03 9349 4122
f 03 9349 4967
eccv@eccv.org.au
www.eccv.org.au

ABN 65071572705



the total number of registered migration agents. Additionally, the three most common issues raised in complaints against migration agents were in relation to competence (324), integrity (139), and fees and charges (112). This indicates that the migration advice industry is not well positioned to move towards more liberal regulatory structure. Further, feedback from ECCV constituents indicates that professional conduct amongst registered migration agents remains an issue of great concern.

8. The Commonwealth and Immigration Ombudsman produced the 2007 report '*Migration Agents Registration Authority- Complaint Handling Process*' and found that improvements to the complaints handling mechanisms had been implemented by MARA, but that there was also scope for further improvements.

9. The Commonwealth and Immigration Ombudsman found that complaints were made against 283 registered agents during 2005-06. Additionally, from July 2003 – June 2006 it was estimated that 12% of registered migration agents had complaints against them confirm that breaches had occurred.

10. Additionally, amongst CALD communities it is likely that issues relating to the professional conduct of unscrupulous migration agents are most likely under reported as a tendency exists within many CALD communities to address issues internally rather than utilise official complaints mechanisms. Cultural and language barriers may also make the system difficult to negotiate. The Commonwealth and Immigration Ombudsman in the aforementioned 2007 report made good recommendations as to how MARA could make its complaints handling mechanisms more accessible and culturally appropriate for consumers.

11. Migrant Resource Centres (MRCs) have reported that many of their clients seeking migration advice pay significantly more money than necessary before coming into contact with the migration agents at the MRC. Although MARA publishes the average fees of migration agents on the website ECCV constituents still report common experiences assisting clients who pay well in excess on the fee structure on the website.

12. ECCV has also received reports that migration advice is dispensed by people that are not registered migration agents as well as agents that have been negatively sanctioned by MARA. MARA accepts complaints only in relation to registered migration agents, not unregistered persons providing migration advice or posing as migration agents.

13. Serious concerns regarding migration agents enticing overseas students to study in Australia and exploitation have been raised by ECCV members. International students may be deceived by unscrupulous migration agents and associated persons in relation to the amount of money paid for migration assistance to study in Australia.

14. The impact of unscrupulous migration agents' actions on persons seeking legitimate migration advice is profound. While ECCV acknowledges the diversity of standards amongst migration agents and lawyers, it has received reports of migration agents, or people posing as migration agents/lawyers, submitting applications they know will not succeed and then appealing the decision in order to draw out the process and extract more money from the client. Such situations exploit already vulnerable communities and have very real and negative consequences for family reunion.

15. ECCV is concerned that a self regulated industry will swing the balance of power too far to migration agents and lawyers, rather than consumers of migration advice. Further policies and strategies are



required to ensure that people seeking migration advice in Australia are able to readily access affordable and correct migration advice.

16. MRCs and ethno specific organisations face challenges in their capacity to deliver accessible migration advice that satisfies community need. Strict funding arrangements mean that such organisations cannot generally provide free migration advice to people who have lived in Australia for a period beyond five years. In response to demand, some organisations have established low-fee immigration services which are not orientated towards profit. However, the costs associated with becoming a registered migration agent and maintaining professional skills are prohibitive for those seeking to benefit their communities, especially within ethno specific organisations.

17. Non fee charging migration agents have noted the brochure given to clients when providing migration advice (IRMAP) with information on complaints mechanisms is not translated into new and emerging community languages and therefore the effectiveness of the communication strategy is undermined.

18. In response to the proposal for registered migration agents to receive priority processing, ECCV strongly opposes the suggestion. Firstly, such a model would disadvantage persons who do not use migration agents, including those who cannot afford to pay a migration agent. Such a model would also increase the perception that applications submitted by registered migration agents are more successful than those that are not.

19. In conclusion, for the reasons outlined above, ECCV strongly opposes the proposed model to move to a self regulated migration advice profession. ECCV recommends that the Department of Immigration and Citizenship look to develop further policies and strategies that ensure culturally and linguistically diverse communities within Australia are able to access free or low cost, quality migration advice.