



australian  
nursing federation

## Issues Paper No. 3 on the 457 Integrity Review

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The Australian Nursing Federation (ANF) welcomes this opportunity to make a submission to the third and final Issues Paper on the 457 Integrity Review.

This submission is intended to be read in conjunction with the ANF response to the Visa Subclass 457 Integrity Review Issues Paper on English language requirements.

The ANF is the national union for nurses in Australia with Branches in each State and Territory. The ANF is also the largest professional nursing organization in Australia. The ANF's core business is the industrial and professional representation of nurses and nursing in Australia.

The ANF's 170,000 members are employed in a wide range of enterprises in urban, rural and remote locations, in the public, private and aged care sectors, including hospitals, health services, schools, universities, the armed forces, statutory authorities, local government, offshore territories and industries.

The ANF participates in the development of policy in nursing, nursing regulation, health, community services, veteran's affairs, education, training, occupational health and safety, industrial relations, immigration and law reform and aged care.

Subject to the comments below the ANF supports and adopts the submissions of the Australian Council of Trade Unions. In particular, we support the strong submissions by the ACTU that the 457 visa program has failed to protect temporary overseas workers from abuse and exploitation and that the recognition and protection of the rights of migrant workers must be central to Australia's temporary overseas labour program.

### The nursing skill shortage

The occupations listed as being eligible under the 457 visa program are skilled occupations where demand by Australian employers cannot be met within the Australian domestic labour market.

With respect to nursing the list includes:

- Registered nurse;
- Mental health nurse;
- Midwife;
- Nurse Educator;
- Nurse Manager;
- Nurse Researcher; and
- Enrolled Nurse

The inclusion in the list of Nurse Educator, Nurse Manager and Nurse Researcher is not supported by the ANF because such positions could be easily filled by local nursing labour as they are attractive and sought after positions within the nursing profession. More generally, the ANF would challenge the general claims by many employers that they have been unable to source local nursing labour and therefore have turned to migrant labour under the 457 visa program.

As we understand it there are currently no measures in place to ensure employers have exhausted all avenues for employing Australian workers before applying to sponsor a worker on a 457 visa. While it is generally agreed that there is a shortage of nursing labour many commentators are now referring to the shortage as being a shortage of decent nursing jobs; jobs that are well paid and have attractive hours of work and offer satisfying opportunities. In fact, we know that currently there are around 30,000 domestic nurses who are registered but not working in the health industry (AIHW, Nursing and Midwifery Labour Force 2005, Australian Government, 2005).

This is particular the case in the aged care industry where many employers are reluctant to offer local nursing labour, attractive and decent jobs particularly where they can now readily turn to a growing temporary migrant labour workforce and be able to fulfil their labour requirements more cheaply. The aged care industry's inability to attract nursing labour relates more to the low levels of pay and poor working conditions than it does to a general shortage of labour.

Accordingly the ANF would support the introduction of robust and transparent labour market testing arrangements and a requirement that prospective sponsors should be required to provide evidentiary support they are unable to fill a nursing vacancy despite offering decent market wages and conditions of employment.

### Processes for determining market rates

In nursing, in most settings, there will be a relevant collective agreement which incorporates the current market wage rates and market conditions of employment. In the vast majority of cases, the market will be the wages and conditions of employment available under a collective agreement to a nurse employed in the public sector.

Where there is disagreement or a lack of certainty as to the relevant market conditions of employment that should apply to the 457 worker, an independent body such as the Australian Industrial Relations Commission should have the powers to make a binding ruling.

### Premium on 457 wages

The ANF supports the application of a premium on the wages payable to a worker on a 457 visa. We believe that the premium should be paid directly to the 457 workers and be set at a level which will defray some of the costs associated with working in Australia. The premium would also act as a disincentive for employers to avoid hiring domestic labour.

### Reducing the dependency of 457 workers on their employers

It's widely acknowledged that the greatest source of exploitation and abuse of 457 workers is linked to their sponsorship by an employer. The ANF does not support the reliance on 457 workers on a single employer and would support alternative arrangements whereby a 457 worker is able to work within a particular occupation or alternatively within a regional area and therefore be able to work for a number of employers during their time in Australia. A level of mobility for 457 workers within the labour market would of itself dramatically reduce the levels of exploitation and abuse.

The ANF would also support the removal of the requirement to be sponsored by an employer in an application by the visa holder for permanent residency. It has been the experience of the ANF that nurses have been exploited by employers who have threatened to withdraw their support for the visa holder's application for permanent residency.

### On-hire agencies

Recently the ANF is being approached by many labour hire companies wishing to bring nurses to Australia. They contact the union as a mere 'courtesy' to meet the current government policy requiring them to do so. It appears to be little more than a box ticking exercise as it rare for any of them to progress toward a Labour Agreement, which should be mandatory to avoid the type of exploitation mentioned in the discussion paper regarding the Filipino nurses.

The ANF also does not support the use of 457 visa holders to replace sick leave or unplanned absences in the workforce.

### Use of alternative visas to avoid 457 requirements

Increasingly the ANF is being asked to assist nurses who have been 'lured' to Australia utilising visas other than the 457. For example immigration agents assist registered nurses to enter the country on training visas with the 'promise' of English language courses that will enable them to eventually register as nurses in Australia. The immigrant nurses are enrolled in courses that do not add value to their qualifications and are employed on 'clinical placements' in aged care facilities on questionable employment conditions or as unlicensed workers.

More often than not the promise of registration is not realised. The nurses are therefore returned to their country of origin, and a second tranche is brought out on similar terms. This is unethical behaviour. The training visas such as 442 visas, we understand carry little restrictions around employment conditions and it is the view of the ANF that they are exploited. The promise of assistance with the IELTS and final registration is the lure that entices the nurses into these unfair and unethical situations. Although beyond the scope of the discussion paper the ANF is concerned for these workers and believes the issue should be raised in this context.