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Australian Government
Department of Home Affairs

Submission

For information
PDMS Ref. Number: MS23-002455
Date of Clearance: 11/12/2023

To Minister for Immigration, Citizenship and Multicultural Affairs
Subject Hamas-Israel conflict - visa processing update
Timing Not time critical. Consideration by 21/12/2023 is desirable.

Recommendations

That you:

- 1. note the current approach taken for the processing of visa applications from people declaring Palestinian citizenship.

(circled) noted / please discuss

Minister for Immigration, Citizenship and Multicultural Affairs

Signature..... 

Date: 13/12/2023

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Minister's Comments

Key Issues

1. Throughout the Hamas-Israel conflict, the Department of Home Affairs (the Department) has received visa applications from affected people, including applicants claiming Israeli, Palestinian and Lebanese citizenship. A consistent approach to prioritisation and assessment has been applied. The broad approach is also consistent with the approach taken in recent conflicts in Ukraine and Sudan – to support Australian citizens and permanent residents to the extent possible within Migration Regulations.
2. Departure from a common approach across all nationalities impacted by the conflict is almost certain to draw criticism from communities. While the broad approach is similar, outcomes do however differ based on the specifics of particular situations.
3. The Israeli and Lebanese caseloads are stable. However, the Palestinian caseload has increased significantly with 5,184 visa applications lodged between 7 October and 30 November 2023 (compared with 967 lodgements in all of 2022-23).
4. Around 90 per cent of Palestinian applicants lodging between 7 October and 30 November 2023 declared a residential address in Gaza at lodgement. There are restrictions in place on movement out of Gaza, s. 33(a)(iii)
 - a. DFAT is seeking to support departures by Australians, visa holders (permanent or long-term) and their immediate families who hold a visa, but their ability to do so is limited.
 - b. 2,072 visas have been granted to Palestinian nationals since 7 October. Only 206 have arrived in Australia as at 9 December 2023.

5. **s. 47E(d)**

Background

Palestinian visa caseload

6. From 7 October to 30 November 2023, 93.1 per cent of grants to Palestinians were Visitor visas. An applicant must meet all legislative criteria including health character and security requirements, for a visa to be granted.

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7. For detailed information on the caseload, please see Attachment A. Key characteristics of the caseload include:

s. 47E(d)

- b. Most applicants have a connection to Australia. For most, this is extended family.
- c. Family groups are generally large and they are all seeking to travel to Australia.

8. s. 47C(1)

- a. While all applications are assessed on an individual basis and all outcomes are possible, the Department places weight on a range of factors when assessing the Genuine Visitor requirement. This can include whether the applicant has incentives to leave Australia and their connection to Australia. The Department is weighing heavily immediate and close family connections when assessing the Genuine Visitor requirement.
 - i. For example, an immediate family connection will include a spouse or partner of an Australian citizens or permanent resident, parent of an Australian or permanent resident child and a child of an Australian citizen or permanent resident parent. A close family connection we would consider to include, an Australian citizen or permanent resident's adult child, parent, fiancé or sibling.

s. 47C(1)

- iii. Applicants with more distant familial connections, friends or other claimed connections to Australia may still meet the Genuine Visitor requirement based on their circumstances, but would need to provide evidence to balance incentives to remain in Australia for longer than their Visitor visa allows.

9.

s. 47C(1)

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10. s. 47C(1)

11. s. 47C(1)

- a. This measured approach will limit the impact on families and the community in Australia while we remain focused on assisting those with the closest connection to Australia. Making some decisions to refuse, may reduce the number of meritless applications, which are taking away resources from applications that satisfy requirements.
 - b. For those who have been internally displaced within Gaza and do not have support from family overseas, the \$190 per person visa application charge (VAC) is a significant expense that may exacerbate their humanitarian difficulties. As such, we expect that, in addition to the work efforts required to finalise these visa refusals, there are likely to be flow on efforts considering VAC refund requests.
12. Approved talking points and community messaging will be essential to correcting misconceptions about Australia's visa offerings, and stemming the rate of Visitor visa applications from individuals who objectively do not meet criteria.

Visa holders in Australia

13. s. 33(a)(iii), s. 47C(1)

14. The Department has received some feedback that charities are struggling to meet demand from visa holders from the Occupied Territories of Palestine. While the Department is further exploring this feedback, it doesn't hold with the relatively small number of arrivals (206 as at 9 December 2023) from those with visa granted since 7 October 2023.

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15. Visitor visa applicants must declare how they will support themselves while in Australia – noting parts of the NGO sector are starting to advocate for Government-funded settlement support:
- a. Many applicants for Visitor visas indicate that an Australian relative will assist them during their stay. The Department will request additional evidence of an applicant's ability to meet the legislative financial requirement if they declare they or an Australian contact will be providing support for more than five people (regardless of when visas were lodged/granted).
 - b. A Visitor visa holder cannot work while in Australia.
 - c. There are no Commonwealth Government funded settlement supports for Palestinian nationals who arrive in Australia on visitor visas.
 - i. A Visitor visa holder is not eligible to receive JobSeeker payment, Age pension or Status Resolution Support Services.
16. Visitor visa holders may choose to apply for a visa to extend their stay in Australia. If they do so, they may become eligible for some Government supports:
- a. If they apply for a Permanent Protection visa and are granted an associated Bridging visa, which allows them to remain lawful in the community while their visa application is being processed, they may have access to a range of services offered by the Government. This includes Medicare and the public health system, education for school aged children, assistance with finding employment, if they have work rights, translating and interpreting services and if eligible, the Australian Government's Status Resolution Support Services (SRSS) Program.

Approach to visa responses for other recent crises

17. Like all Visitor visa holders, Visitor visa holders from Sudan were not eligible for Australian Government payments or supports.
18. Previous emergency humanitarian responses included the use of the following visa subclasses:
- a. Humanitarian Stay (Temporary) (subclass 449) visa in response to the evacuation of Kabul, Afghanistan in 2021; and
 - b. Temporary (Humanitarian Concern) (subclass 786) visas (offered once visa holders had entered Australia) in response to the war in the Ukraine.
19. **s. 47E(d)**
s. 47E(d) There were also additional costs associated with facilitating access to support services not usually accessible to subclass 449 and subclass 786 visa holders, such as Medicare. Facilitating access to these services often required legislative changes and the provision of bespoke funding arrangements to enable access to these critical services.
20. The use of these visa subclasses as part of any future emergency humanitarian responses will need to be carefully balanced against these associated risk and costs and would require further consideration across Government.

- 21. In response to the Ukraine crisis, the Government expanded the Settlement Engagement and Transition Support program to Ukrainian Visitor visa holders. This program does not provide support for the costs of living, rather it provides clients with settlement- related information, advice, advocacy, and assistance to access mainstream and other relevant services. It is generally restricted to permanent humanitarian or refugee visa holders.

Consultation – internal/external

- 22. Refugee, Humanitarian and Settlement Division, Data and Economic Analysis Centre, Immigration Compliance, Intelligence Division, Migration and Citizenship Law, Europe and Sub-Saharan Africa Region and Health Policy and Assurance Branch reviewed and contributed to the submission.

Consultation – Secretary / Acting Deputy Secretary / ABF Commissioner

- 23. The Secretary was not consulted on the approach in this submission.
- 24. The Commissioner was not consulted on this submission.

Client service implications

- 25. The Department has published a web form and web content specific to the situation in Hamas -Israel. The web form provides a channel through which impacted people may contact the Department directly.
- 26. Talking points, community messaging and messaging for client enquiries is essential to managing the caseload. These continue to be refined through standard channels.

Risks and Sensitivities

- 27. There is a risk of criticism relating to decisions to refuse visa applications from people impacted by the conflict. Protests in support of those impacted by the conflict are continuing in most capital cities which indicates a high level of ongoing public interest.
- 28. There is also a risk of criticism if the visa regime is seen as too lax or if large numbers of visa holders are seen to be allowed to enter Australia without adequate support.

29. **s. 33(a)(iii)**

Financial/systems/legal/deregulation/media implications

- 30. There are no direct financial or legal implications of this submission. s. 47E(d) will continue to work with media as the Hamas-Israel conflict evolves and at key decision points.

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Attachments

Attachment A Palestinian caseload

Attachment B Measured approach to actioning refusals

Authorising Officer
Cleared by:
Michael Willard A/g Deputy Secretary Immigration
Date: 11/12/2023 Mob: s.22(1)(a)(ii)

Contact Officer Leanne Smith. A/g General Manager Immigration Operations, Ph: s.22(1)(a)(ii)

- Cc**
- Minister for Home Affairs, Minister for Cyber Security
 - Secretary
 - ABF Commissioner
 - DS Executive
 - DS Chief Operating Officer
 - DS National Security and Resilience
 - Group Manager Legal

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Attachment A

Palestinian caseload

Key statistics

Between 7 October to 30 November 2023, 5,184 migration and temporary visa applications were lodged by Palestinian citizens.

- Not all applications lodged will meet our requirements for grant.

Between 7 October and 30 November 2023, the Department granted 1,749 migration and temporary visas to people declaring Palestinian citizenship who met all visa requirements.

Of those, 31 per cent of visas were granted to people under 18 years of age.

Age Group	Female	Male	Total
Under 18	257	286	543
18 to 50	413	430	843
Over 50	189	174	363
Total:	859	890	1,749

As at 30 November 2023, the Department had 3,888 applications on-hand for Palestinians. Of these applications on hand, 154 applications were for Refugee and Humanitarian visa where the client was in Australia. This is consistent with on hand numbers at 8 October 2023.

Between 7 October and 30 November 2023, 178 visa holders arrived by air (Palestinian Authority travel document). Of these 72.5 per cent held a Visitor visa. 75.8 per cent were granted their visa after 7 October 2023.

Identity

All visa assessment relies on the accurate identification of the visa applicant.

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Character and security

As per normal processes, officers are considering character requirements carefully. An applicant will not meet character requirements if for example:

- They have a substantial criminal record or links to organised crime, or are reasonably suspected of involvement in a range of criminal activity;
- There is a risk that while in Australia they will engage in criminal conduct, harass or intimidate others, vilify members of the community, incite discord or be a danger to the Australian community, or
- They are subject to an adverse security assessment by ASIO

s. 47E(d)

Connection to Australia

Applicants generally have a connection to Australia. Of the 2,311 applications lodged between 16 October and 16 November 2023 (with a residential address from Gaza), over 70 per cent declared a contact in Australia.

- Of all applications lodged between 7 October and 30 November 2023, where relationship was specified in application, the majority of contacts were niece/nephews (637) followed by cousins (337) and siblings (287).
- Applicants intending to depart the OPT with an Australian citizen or permanent resident is now rare. This is likely because DFAT has assisted Australians and their immediate families to depart the OPT. DFAT is providing consular assistance to 66 people in Gaza.

Family groups are large and can be difficult to map as each member of a family must apply separately. We are noticing that an Australian contact may have many relatives. 4,068 applications have a group ID allocated. Group IDs generally relate to a family group in this caseload. The average size of a group is five, but groups range from 1 to 34 applicants.

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The Occupied Palestinian Territories are considered a low risk country for Tuberculosis (TB) risk. As such, most temporary applicants do not need to undertake an immigration medical examination (IME) to meet the Health Requirement. Applicants who have special circumstances including where they are aged 75 years or over or declare a positive response to the health declaration questions (such as having a health condition) would be required to undertake an IME at an approved panel clinic. A request to undertake health examinations is automatically generated in these circumstances. The Panel doctor in Gaza is currently closed and applicants are not able to travel to our other panel clinics located in Ramallah, Israel or another country for the purposes of completing their IME.

As such, and as per normal processes, a Medical Officer of the Commonwealth (MOC) reviews each case individually and determines if they agree to exempt the applicant from the Health Requirement at this time given the compelling circumstances of the situation. In making this decision they consider the personal circumstances of the client, including the nature of any declared health condition. Some common conditions declared include those impacting on mobility, such as arthritis or use of a wheelchair. There have also been a small number of pregnant visa applicants. s. 47C(1)

s. 47C(1)

There have been no cases where TB has been of concern.

The MOC has strongly recommended in all cases a period of shorter visa grant (generally no more than three months, with the exception of pregnant visa applicants in advanced stages of pregnancy, where the MOC has recommended a longer period of visa grant) to enable the client to undertake an IME onshore in the event they lodge a further visa application once in Australia. s. 47C(1)

s. 47C(1)



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Attachment B

Approach to refusals

s. 47E(d) [Redacted] As at 1 December 2023, we have about 367 cases where we are not satisfied that the applicant meets criteria for grant. The number of cases for refusal will grow as more cases are assessed.

s. 47E(d) [Redacted] Visa decisions makers will be reminded to handle refusals sensitively and language in our decision records will be appropriate and tailored to the situation.

We will allocate resources to achieve close to the below refusal numbers, with family groups being actioned together:

Week commencing	Probable number of refusals	Priority in order
11 December 2023	s. 47E(d)	
18 December 2023		

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25 December and
1 January 2023

8 January 2023

15 January 2024
onwards

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