



THE UNIVERSITY OF  
**SYDNEY**

—  
Sydney Policy  
Lab

# Reforming the Carer Visa

## *Community-Centred Policy Options*

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## Sydney Policy Lab

The Sydney Policy Lab is where community members and academics come together to solve complex challenges. Created by the University of Sydney, we work with people from all walks of life to set the agenda, experiment and make public policy that transforms lives.

The Lab's work is community centred, multidisciplinary, exploratory and applied. To kickstart a new ecosystem of public policy research and development, our projects build on deep relationships with civil society organisations, government and philanthropy. We prioritise working with people who have been excluded from decision-making, leadership and power.

## The CARE Program

The CARE program – Championing Australia's Relational Economy – at the Sydney Policy Lab seeks to elevate care in society through exploratory and applied research that embeds person-centred principles, values and practices in Australian public policy.

The program is an umbrella for the Lab's multidisciplinary, community-centred research across the lifespan. We work with people across the University of Sydney alongside the expertise and wisdom of CARE partners in the community. The program's strength is its commitment to partnership with communities, practitioners, researchers and policymakers in Australia and internationally.

We recognise and pay respect to the Elders and communities – past, present, and emerging – of the lands that the University of Sydney's campuses stand on. For thousands of years they have shared and exchanged knowledges across innumerable generations for the benefit of all.

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# Reforming the Carer Visa

## *Community-Centred Policy Options*

### Contents

Executive summary	03
Project background	04
Current policy context: The carer visa	06
Eligibility criteria	06
Processing time	07
Existing policy recommendations	08
Policy options	10
Endnotes	12
References	12

## Executive summary

The carer visa has been routinely criticised by migrant community groups for its restrictive eligibility criteria, complex application process and lengthy processing times.

The low number of visas granted each year contributes to the carer visa remaining largely unsuitable for migrant communities wishing to receive care from their family members. Caps means at most 500 “other family” visas, including carer visas, will be granted in 2024-25. These issues, combined with the broader tensions concerning how migrant communities perceive their access to familial care and the immigration system, underscore the inadequacies of the current visa class.

To better meet the needs of migrant communities, we propose the carer visa be reformed through an increase on the current cap of awarded visas, a reduction of the visa backlog, the simplification of the application process and slackening of the visa criteria.

Separately, we recommend the introduction of a temporary carer visa stream to address immediate care needs that cannot be met by the current visa.

# Project background

In 2023, the Sydney Policy Lab's Australia Cares project held People's Assemblies on Care in Westmead and Broken Hill to support community members to identify and articulate the care challenges and solutions that mattered to them most.

Community participants in the Westmead Assembly were predominantly from Indian backgrounds with experience of the migration system. One of the critical policy concerns they identified was the desire for a new carer visa, connected to the issues associated with non-contributory and contributory parent visas.

According to the *Australia Cares* report, the goal was to:

[c]reate a new carer visa category that has clear categories for qualification. For example, to provide care to a family member who has been diagnosed with terminal cancer, has been significantly injured in an accident or has been told by their doctor to be on bed rest during pregnancy. This could also enable caring for a young child.<sup>1</sup>

Assembly participants viewed existing parent visa options as unsuitable for Australian residents seeking extended care from their parents, in large part because of the exceedingly long processing times and visa costs.

As of 2024, the permanent contributory parent visa (subclass 143) requires an estimated 14 years for processing, with a substantial cost of \$48,495. The parent visa (subclass 103) requires a lower fee of \$5125 but has a staggering processing time of approximately 31 years. The contributory parent (temporary) visa (subclass 173), which permits a parent to stay for two years, has a 14-year processing time and costs \$32,430.<sup>2</sup>

These prohibitive wait times means "families are waiting for visas that never come," which is particularly problematic for the care of people who have a terminal condition.<sup>3</sup>

To get visas to bring parents to Australia you have to have the money and no pre-existing conditions. So, you're incentivised to hide pre-existing conditions which become big issues and a significant burden for family. It can become a choice between treating day-to-day matters like arthritis versus pressing problems like cancer.

— Westmead Assembly participant

Parents only meet approval for these visa classes if they meet the 'balance of family test,' a stringent requirement that requires the parent applying must have more children with Australian permanent residency or citizenship than children without.<sup>4</sup> This test disqualifies applicants whose families are not predominantly based in Australia.

The pre-existing conditions criteria highlighted by Assembly participants further disqualifies applicants with health conditions that would likely require "health care or community services in Australia."<sup>5</sup>

There are cultural expectations that make family a key factor in caring. Mum starts caring for the kids and as they age the caring roles reverse. It comes naturally.

— Westmead Assembly participant



The obstacles encountered by families trying to bring their parents to Australia for care through the parent visa classes underscore broader tensions within the Australian migration framework, including those arising from the prioritisation of skilled migration.<sup>6</sup> In its submission to the 2022 federal review of the migration system, the Federation of Ethnic Communities Councils of Australia reminds us that “social aspects of migration, such as family reunion, are complementary to economic aspects and are crucial to creating a society where everyone can belong and thrive.”<sup>7</sup> The stated objectives of the government’s Migration Strategy 2023 include “meeting skills needs” and “supporting productivity growth” alongside “supporting relationships with family abroad” and “building a cohesive, multicultural society.”<sup>8</sup>



Participants in the Westmead People’s Assembly on Care

### Cost and estimated processing time of selected visas

<p>Subclass 143 <i>Carer visa</i></p> <p><b>\$2,115</b></p> <p><b>8 years</b></p>	<p>Subclass 143 <i>Permanent contributory parent visa</i></p> <p><b>\$48,495</b></p> <p><b>14 years</b></p>	<p>Subclass 103 <i>Parent visa</i></p> <p><b>\$5125</b></p> <p><b>31 years</b></p>	<p>Subclass 173 <i>Contributory parent visa (temporary)</i></p> <p><b>\$32,430</b></p> <p><b>14 years</b></p>
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# Current policy context:

## The carer visa

The carer visa allows applicants to move to Australia to care for a relative with a long-term medical condition. This visa is available in two subclasses depending on the applicant's location at the time of application. The carer visa (subclass 836) is for applicants who are in Australia when they apply and when the Department of Home Affairs grants their application. Conversely, the carer visa (subclass 116) is for applicants who are outside of Australia at the time of application and when the visa is granted. This visa grants the holder the ability to stay in Australia indefinitely, work and study, apply for citizenship if eligible, and travel to and from Australia for five years.<sup>9</sup>

### Eligibility criteria

For applicants to be eligible for the carer visa, the affected Australian must have "a medical condition ... causing physical, intellectual or sensory impairment of the ability of that person to attend to the practical aspects of daily life" which has been ongoing for at least two years.<sup>10</sup> Further, they must demonstrate they have no other relative in Australia who can reasonably care for them and that they are unable to access care from any health service in Australia including a hospital, nursing or community centre.<sup>11</sup> Applicants need to obtain a certificate from Bupa Medical Services to prove they meet the visa requirements, an additional cost of up to \$900.<sup>12</sup>

These requirements make the carer visa unsuitable for the care concerns articulated by the communities at the Westmead People's Assembly. For instance, caring for a family member during pregnancy or after childbirth would not constitute a significant condition per the eligibility requirements of the carer visa. Further, it may be the strong preference of the Australian citizen or resident to receive care from a family member, but their access to

a health care provider makes their relatives ineligible for the carer visa. The current visa subclass prioritises formal care even when it may be more culturally appropriate or financially sensible for applicants to remain at home and receive care from relatives.

At the People's Assembly, participants identified that money provides access to care, services and independence. They observed the cost of care is "extremely high" in Australia compared to other countries.

Money is an important part of the system in this country. To get quality service you need money.

— Westmead Assembly participant

Such financial concerns are connected to one of the challenges in the carer visa application process: ensuring the applicant demonstrates that no alternative care options are available within Australia. One of the primary reasons visas are not granted is applicants are unable to demonstrate that care cannot be "obtained from welfare, hospital, nursing or community services in Australia" or "provided by any other relative of the resident, being a relative who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen."<sup>13</sup> The latter requirement places the onus of care on family members who may be unable to or do not wish to provide care. These family members may be used as proof that the person needing care has other means of it being "provided," leading to the visa application being denied.

A 2017 case effectively highlights the difficulties of obtaining a carer visa based on these criteria. The Administrative Appeals Tribunal decision affirmed the decision by a delegate of the Minister for Immigration and

Border Protection that the requirements of reg 1.15AA were not met in *Javoric (Migration)* [2017] AATA 2627. The Tribunal were not satisfied that the applicant could not obtain the required assistance from his family or from welfare, hospital or nursing or community services, despite the applicant stating that his estranged wife and his children would not provide care:

The Tribunal was not satisfied that at least some degree of assistance cannot be obtained from various organisations in Australia. The applicant provided no evidence of contact with the organisations above other than a list of the organisations' names.<sup>14</sup>

This case highlights the demanding evidentiary burden placed on applicants and the Tribunal's strict interpretation of the regulation, which demands substantial evidence of efforts to secure care from existing services.

In a 2013 review of a decision by the Migration Review Tribunal before the Federal Circuit Court, the Delegate was similarly "not satisfied that assistance for the review applicant could not reasonably be expected from his relatives in Australia, nor from other community and welfare services."<sup>15</sup> While the applicant cited "cultural" reasons for preferring his daughter as his primary carer, the court found these reasons to be irrelevant in the context of this case.

More recent cases, however, show that the strict application of reg 1.15AA does not create an automatic basis for denying carer visa applications.<sup>16</sup> In one case, the Delegate initially refused to grant the applicant a carer visa as they were "not satisfied that the assistance the resident requires could not reasonably be obtained

from welfare, hospital, nursing or community services in Australia."<sup>17</sup> Evidence presented to the Tribunal instead demonstrated that due to the complex care needs of the person receiving care, "assistance which might be provided to the [individual needing care] by existing services is not reasonably obtainable." Consequently, the Tribunal remitted the visa application to the original decision-maker for reconsideration.

## Processing time

The carer visa, like all visas in the "Other Family" visa category, is subject to ministerial capping and queuing powers under the Migration Act.<sup>18</sup> As of June 30, 2024, applications are queued up to October 31, 2022, with an estimated processing time of eight years for new applicants.<sup>19</sup> For the 2023–24 Australian financial year the carer visa was capped at 500.<sup>20</sup> Capping and queuing pose significant concerns for those seeking immediate care from their relatives, particularly as their condition may deteriorate while waiting for their visa to be processed. The Immigration Advice and Rights Centre (IARC) recommended in a 2021 submission that "the Minister removes the cap on the number of Carer visas that may be granted each year." This recommendation would significantly assist those waiting in the queue for the carer visa, especially considering the preference of many in migrant communities wishing to receive care from a family member.

Where members of the community come from, the family unit in the village is central and they help each other. Coming here where it's a system approach it is difficult to trust the system.

— Westmead Assembly participant

# Existing policy recommendations

Various stakeholders have contributed commentary and recommendations regarding carer visas to public consultations in recent years.

In a 2021 submission, the IARC made several recommendations concerning the carer visa.<sup>21</sup> Alongside advocating for the removal of the cap on the number granted annually, the IARC urged the Department to allocate sufficient resources to ensuring decision-ready applications are processed within 90 days. Additionally, they recommended the Government provide targeted funding to community legal centers and Legal Aid Commissions to offer assistance to prospective carer visa applicants and sponsors. The IARC also suggested the Department's policies be updated to require consideration of publicly available information about the disability and aged care sectors before requesting evidence from applicants, and to accept NDIS and MyAgedCare assessments as conclusive evidence of community care availability. Further, they proposed amending the Migration Regulations to allow onshore carer visas (subclass 836) to be granted even if the person in need of care dies, provided the applicant has offered care for a reasonable period. Finally, the IARC recommended the removal of PIC 4005 as a Public Interest Criterion and eliminating the requirement for non-migrating family members to meet health criteria.

On 23 February 2021 the Senate referred an inquiry into the "efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions." Two recommendations were made by the Senate Legal and Constitutional Affairs References Committee:

1. The committee recommends that, as a matter of

urgency, the Department of Home Affairs develops a long-term strategy to update its system for the processing of visas; to improve its efficiency, to reduce its complexities, reduce waiting times substantially, and to provide greater transparency for applicants.

2. The committee recommends that the Australian government appropriately resources the Department of Home Affairs to undertake, urgently, the development of the strategy and its timely implementation, as outlined in Recommendation.<sup>22</sup>

The Australian Greens added several comments to the report. They proposed broadening the definition of "family" to allow for reunification beyond the nuclear family and called for the removal of the discriminatory balance of family test for parent visa applications. Additionally, the Greens suggested the Government abandon proposed reforms to English language requirements for partner visas and advocated for the removal of health requirements for individuals with disabilities under the Migration Act 1958. They recommended amending the Disability Discrimination Act 1992 to eliminate exemptions related to the Migration Act. The Greens also urged increasing family reunion visa quotas to address current backlogs and process future applications within reasonable timeframes, abolishing contributory parent visas while retaining and processing non-contributory parent visas in order of application, and reviewing the family reunion visa fee structure to ensure affordability and alignment with actual administrative costs.<sup>23</sup>

On 20 June 2024 the Australian Government responded to the report, replying to the two Committee



recommendations and the Greens' additional comments: "The Government notes this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate."<sup>24</sup> This response has become typical of the Albanese Government responding to reports submitted when the Coalition was in power.<sup>25</sup> Considering the substantial wait times and related issues with the family and carer visas haven't subsided, it is crucial the recommendations in the report be considered.

On 3 August 2022, the Senate established the Select Committee on Work and Care to examine how care and work responsibilities impacted upon "the wellbeing of workers, carers, and those they care for."<sup>26</sup> Evidence to the Committee found migrant and culturally and linguistically diverse (CALD) carers face unique challenges including "structural employment barriers that prevent access to quality jobs, limited access to family and childcare supports, experiences of exploitation in the workplace; and conditions in frontline jobs in Australia's care economy."<sup>27</sup> Further, "compared to their locally-born counterparts, migrant and CALD carers have limited access to formal and informal work and care supports. Migrants have significantly less access to family support when providing care, particularly for children."<sup>28</sup>

The issues with family reunification were highlighted further within the Committee's report:

Migrants experience 'significant obstacles to family reunification' that reduce their ability to provide and receive care. Mr Cranfield of [the National Ethnic Disability Alliance] called for the simplification of the carer visa process stating that the current system is 'complex and requires the person with a disability to

go above and beyond to prove that they are out of options. This reduces their choice and control to be cared for at home if they want to be.'<sup>29</sup>

The Committee recommended "that the Australian Government develop and implement programs and initiatives for informal carers from migrant and CALD backgrounds to improve access to carer support services and family support."<sup>30</sup> The Albanese Government agreed in principle to this recommendation in its response to the report. It went on to say:

The Government also acknowledges that fundamentally these issues are about gender equality and recognises the connections with the gender pay gap and the important contribution of unpaid care work to our community.<sup>31</sup>

As the Australian Government is currently receiving submissions to develop the National Carer Strategy, these unique challenges faced by migrant and CALD communities must be prioritised, especially in the post-COVID 19 context.

All of my family back in India came down with COVID. The world is not the same for me as it was three years ago. I thought it was clear, but it's not anymore.

— Westmead Assembly participant

Listening to communities and recognising the visa system isn't serving migrant populations effectively is critical for building an inclusive and equitable society that supports the well-being of all community members.

## Policy options

There are clear issues in both the design and the approximately eight-year processing backlog of the existing carer visa.

For Australian citizens and residents seeking care after childbirth, for maternity care, or for a recently-diagnosed illness, the carer visa is not an appropriate visa class. It cannot meet the needs of Australian migrant communities with complex care needs. Coupled with the cost and backlog of parent visas, there is currently no appropriate visa class for people seeking care from their non-Australian family members (unless they meet the stringent requirements of the carer visa).

We propose a two-prong solution. First, to address outstanding visa issues and, second, to create a new temporary visa stream.

### **Recommendation 1**

#### *Increase the current cap on the carer visa*

Increasing the existing cap on carer visas would allow more families to access critical support networks, particularly for those providing essential care to vulnerable family members. This could also improve the significant processing backlog.

### **Recommendation 2**

#### *Reduce the backlog for both visa classes*

The scale of the backlog in visa processing causes long delays, adding stress to Australian citizens or residents in need of immediate care support. Continuing to work to reduce the backlog would streamline access to necessary care and family reunification.

### **Recommendation 3**

#### *Simplify the application process for the carer visa*

The current application process for the carer visa is complex, often leading to visa applications being denied. Providing clear guidelines on what qualifies as “reasonable” available care options and the amount of evidence needed would simplify the application process, reducing the administrative burden for both applicants and visa processing staff.

### **Recommendation 4**

#### *Loosen the criteria of the carer visa*

The current criteria for the carer visa are restrictive and limit the ability of many applicants to qualify even when there is a genuine caregiving need. Expanding the criteria would allow more families to benefit from the support of familial carers and reduce reliance on the Australian healthcare system.

### **Recommendation 5**

#### *A new temporary carer visa*

We recommend the introduction of a temporary stream for the carer visa, allowing for a family member to travel to Australia and provide care to their relative. This option would provide a short-term care solution for migrant communities and is similar to the Super visa in Canada.

## Endnotes

1. *Australia Cares*: 20.
2. Department of Home Affairs: (Subclass 143) Contributory Parent visa; (Subclass 103) Parent visa; (Subclass 173) Contributory Parent (Temporary) visa; *Visa Processing Times: Parent visas queue release dates*.
3. *Review of the Migration System 2023*: 135.
4. Migration Regulations 1994: 1.05.
5. Regulations: Schedule 2, cl 4005.
6. Crock: 25–26.
7. *Review of the Migration System 2023*: 135.
8. *Migration Strategy 2023*: 37.
9. Department of Home Affairs: (Subclass 116) Carer visa; (Subclass 836) Carer visa.
10. Regulations: 1.15AA(b)(ii).
11. Regulations: 1.15AA(e)(i), 1.15AA(e)(ii).
12. Regulations: 1.15AA(f)(b)(iii); Bupa Medical Visa Services.
13. Regulations: 1.15AA e(i), 1.15AA e(ii).
14. Javoric (Migration) (2017) AATA 2627.
15. Hon Anh Vuong v Minister for Immigration & Anor [2013] FCCA 274 (14 May 2013).
16. Crock: 38.
17. 1920335 (Migration) [2023] AATA 293 (9 February 2023).
18. Australian Government Department of Home Affairs, *Visa processing times, Other Family visa – queue release dates and processing times* (2024).
19. Department of Home Affairs, *Visa processing times*.
20. Absolute Immigration, *Family Visa Caps Announced by Australian Government*.
21. Immigration Advice and Rights Centre, *Submission*.
22. Legal and Constitutional Affairs References Committee, *The efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions*: ix.
23. Legal and Constitutional Affairs References Committee: 93–101.
24. Commonwealth of Australia, “Australian Government response to the Senate Legal and Constitutional Affairs References Committee report.”
25. Josh Butler, “Australian government cites ‘passage of time’ for silence on reports.”
26. Parliament of Australia, *Select Committee on Work and Care Report*: 1.
27. *Select Committee Report*: 75.
28. *Select Committee Report*: 77.
29. *Select Committee Report*: 77.
30. Parliament of Australia, *Australian Government response to the Senate Select Committee on Work and Care Reports* (2024): 46.
31. Australia Government Response: 3.

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