

# RECENT ARRIVALS TO AUSTRALIA

Australia is a nation built on migration,  
with more than

## ONE QUARTER

of its population born overseas, and a further  
**one-fifth** having at least one overseas-born parent.<sup>1</sup>

## 67%

of recent arrivals speak a language  
other than English at home.<sup>2</sup>

### Key access to justice barriers include:

- Lack of knowledge of Australian laws and legal systems.<sup>3</sup>
- Recent arrivals may be wary of seeking legal assistance through formal avenues<sup>4</sup> due to:
  - cultural isolation, lack of awareness of services, limited financial means, fear or distrust of authorities, including a fear of deportation, and a preference to resolve certain issues within communities.<sup>5</sup>
- Limited English language skills affect many recent arrivals' engagement with the justice system at every stage.<sup>6</sup>
- Temporary visa holders often choose not to pursue their legal rights, out of fear that it may affect their permanent stay in Australia.<sup>7</sup>

### Laws, policies and practices which exacerbate these barriers include:

- Expanded visa cancellation powers have led to a significant increase in visa refusals and cancellations on character grounds. During 2015-16, 423 people had their visa application refused and 983 people had their visas cancelled on this basis.<sup>8</sup> Legal Aid NSW has recorded almost a doubling of advice/minor assistance in this area.<sup>9</sup>
- Certain police practices – both 'over-policing'<sup>10</sup> and 'under-policing'<sup>11</sup> – may undermine recently arrived communities' engagement with the justice system.
- Gaps in consumer and tenancy protections may mean that recent arrivals are especially vulnerable to unscrupulous conduct by companies and landlords.<sup>12</sup>

### CRITICAL SERVICE GAPS:

- There is a lack of:
  - interpreters to support recent arrivals, to negotiate the justice system<sup>13</sup>
  - culturally competent legal assistance services offering civil services.<sup>14</sup>
- Some courts are facing critical pressures regarding migration matters:
  - in 2016-17, the Federal Circuit Court's general federal law filing workload increased by 12%, most noticeably in migration law, which increased by 40%.<sup>15</sup> In the five years to 2015-16, its migration filings had already increased almost three-fold.<sup>16</sup>
- A lack of low-cost housing, as well as limited culturally responsive housing assistance and tenancy advocacy services, leaves many refugees disadvantaged in dealing with landlords and agents.<sup>17</sup>



### LEGAL NEEDS

Recent arrivals can experience complex legal difficulties, particularly during their initial settlement period, including:

- exploitation in the workplace
- unfair consumer practices
- driving infringements
- specific family violence issues
- housing-related issues
- visa cancellations
- discrimination<sup>18</sup> - eg 39% of Indian respondents and 77% of Sudanese respondents surveyed in 2016 had experienced discrimination.<sup>19</sup>

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## Priorities in this area include:

- Build recent arrivals' legal literacy and general knowledge of the Australian system of law and government during the initial settlement and later phases.
- Ensure that information about the law, particularly regarding key legal issues experienced by recent arrivals, is provided in a range of languages, as well as Easy English, and is available in a range of accessible modes.
- Ensure that free, appropriately skilled interpreters are available to assist recent arrivals at every stage of their interaction with the justice system, in line with the Judicial Council of Cultural Diversity's best practice guidelines.
- Prioritise face-to-face, intensive and free assistance, including in civil matters allowing additional time for services to meet recent arrivals' needs.
- Expand employment of cultural or community liaison officers in legal assistance services, courts and tribunals and police services to build trust amongst recent arrival populations.
- Expand access to free specialised legal assistance in RRR areas with high recent arrival populations, including through outreach or referral networks.
- Resource key justice sector players to increase their cultural competence and cultural diversity.
- Support collaborations to build multi-disciplinary knowledge and referrals between legal and non-legal organisations, such as settlement/migrant services.
- Increase independent accountability mechanisms to overcome concerns about under- and over-policing of recent arrivals.
- Address a lack of secure, low-cost housing for recent arrivals, as this can exacerbate associated legal problems with landlords.
- Address gaps in evidence about recent arrivals, their legal needs and their experiences of the justice system, including through targeted surveys and research, and improved justice data collection which better captures the cultural, linguistic and gender diversity of users as well as their outcomes.

1. ABS, 2012.  
2. ABS, 2012.  
3. Family Law Council, 2012.  
4. Fraser, 2009.  
5. See eg, JCCD, 2016.  
6. JCCD, 2016.  
7. WEStjustice Submission, 2017.

8. Department of Immigration and Border Protection, 2016.  
9. Legal Aid NSW, 2016.  
10. Flemington & Kensington Community Legal Centre, 2015.  
11. JCCD, 2016.  
12. Berta, Brody and Mackenzie, 2013; Berta, 2012.

13. Department of Justice and Regulation Victoria, 2016; JCCD, 2016; Fraser, 2009; Family Law Council, 2012.  
14. Fraser, 2009; Allens Consulting Group, 2014; Family Law Council, 2012; JCCD, 2016.  
15. Federal Circuit Court of Australia, 2017.

16. Federal Circuit Court of Australia, 2016.  
17. Berta, 2012.  
18. Department of Justice and Regulation Victoria, 2016; Justice Connect, 2014.  
19. Scanlon Foundation, 2016.