



Australian Computer Society submission
Independent Review of Integrity in the subclass 457 programme

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Australian Computer Society Inc. (ACT)

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National Secretariat

Level 11, 50 Carrington Street, Sydney NSW 2000

PO Box Q534, Queen Victoria Building, Sydney NSW 1230

T +61 2 9299 3666 | F +61 2 9299 3997

E info@acs.org.au | W www.acs.org.au

The Manager 457.Integrity.Review@immi.gov.au.

ACS Submission to Independent Review of Integrity in the subclass 457 programme

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The Australian Computer Society (ACS) welcomes the government's recognition of the importance of the subclass 457 Visa programme in strengthening the economy in the face of ongoing imbalances in domestic skills supply and demand. As Australia's only technology and vendor neutral voice for the Information Communications Technology (ICT) profession, the ACS is appreciative of the opportunity to provide the following input into the Review.

The ACS is also a registered skills assessment authority, assessing the skills suitability of ICT professionals seeking permanent skilled migration to Australia. The ACS assesses only a very small number of 457 Visa applicants – estimated at less than ten applications per annum – and only at the request of the sponsoring employer.

The 457 Visa program is an important tool for the ICT sector where job growth still outpaces the number of domestic ICT graduates each year and the rapidly changing nature of technology means that required skills are not always readily available in the labour market.

DATA LIMITATIONS

The review is timely following significant long-running debates in the media and online discussions about 457 Visas in the ICT sector and a view that this sub-class of Visa is being misused to support the migration of ICT professionals for jobs that could or should have been available for the existing Australian workforce.¹

The ACS does not discount these claims given the sheer numbers of ICT 457's currently in operation but recognises the difficulty of the debate in the limitations of published 457 data on the ICT industry (as defined by the ANZSCO regime) and ICT occupations (as defined by ANZSCO).

While the ICT sector is the third largest user of 457 Visas by industry², it is likely that by occupation ICT is the largest group in the 457 program. This is because ICT occupations are in fact spread across many industry classifications. Like Human Resources or Accounting, ICT is a horizontal across all industries.

¹ For example: <http://www.abc.net.au/news/2013-06-20/workers-accuse-indian-it-giant-of-457-visa-abuse/4769482>

² 11 per cent, or 2630 Visas to Dec 31 2013-14: <http://www.immi.gov.au/media/statistics/pdf/457-quarterly-report-2013-12-31.pdf>



For example, the ANZSIC Industry Division J, Information Media and Telecommunications, includes traditional print publishing, movie and music production, radio and TV broadcasting, and Library occupations as well as Telecommunications and web services. As such, government quarterly reporting on Subclass 457 Visas lacks sufficient detail to validate ICT's proportion of 457 Visa use.³ We simply do not know with confidence from published data how many 457 Visas have been awarded in ICT occupations, what they get paid, what work they do, and whether these metrics are increasing or decreasing.

The ACS has however obtained Department of Immigration and Border Protection 457 Visa data which draws a disturbing picture of over-reliance on 457 Visas by ICT employers.⁴ Like many other voices, the ACS is concerned that encouraged by the current regime, employers are biased to 457 Visa skills solutions, that Labour Market Testing (LMT) required to support a 457 Visa application is inadequate and that enterprise training investments are not targeted at reducing reliance on 457 Visas by supporting older workers and graduates.

Of immediate note in the most recent quarterly reporting published by the Department of Immigration and Border Protection is that 40 per cent of all 457 Visa applicants last year lacked a degree.⁵ This makes sense when Cooks and Café Managers are the most popular 457 Visa categories and the ACS is interested in obtaining further data in relation to ICT 457 Visa applicants specifically given ongoing concerns in government and industry about both the (poor) quality of ICT projects undertaken in Australia⁶ with subsequent costs to consumers and citizens as well as concerns about the availability of entry level employment for ICT graduates⁷ as much as the number of ICT graduates who are in full time employment in non-ICT roles.

ICT 457'S AND SKILLS SUPPLY ISSUES

It is well documented that Australia has an imbalance in skills supply and demand across many sectors of the economy.⁸ Whether this is a net skills "shortage" or "skills gap imbalance" is a moot semantic point; employers struggle to access skills they need to do business. Across all sectors of the economy, ICT is becoming increasingly important to drive value, employment and productivity. ICT now accounts for almost ten per cent of GDP, which is comparable to the mining sector.⁹ As the digital economy rises

³ The ACS has provided substantial analysis of the limitations of the current ANZSCO regime with recommendations for bringing it up to date: http://acs.org.au/_data/assets/pdf_file/0004/28570/Australian-ICT-Statistical-Compendium-2013.pdf

⁴ The DIBP told a Senate Estimates committee there were nearly 110,000 457 primary visa holders in Australia as at 31 January 2014 (109, 610 as per DIBP evidence, 25 February 2014). The ACS estimates, based on analysis of visa grant data showing 16 per cent of all 457 grants were in ICT occupations in 2012, that almost 20,000 of these are in ICT occupations; and that around 50 per cent of these are under the age of 30 given the level of skills recorded. Source: *CFMEU DIBP, (DIBP file ref: 'BE 6520 Subclass 457 granted to 31 August 2012')*.

⁵ Detailed as Australian Qualifications Framework level 2,3 or 4 (Diploma, Cert IV/III, II)

⁶ The ACS has summarised these concerns here: http://acs.org.au/_data/assets/pdf_file/0011/24986/ACS-NT-Submission-Nov-2013.pdf

⁷ While Graduate Careers Australia note that between 20-30 per cent of ICT graduates are seeking full-time work (<http://www.graduatecareers.com.au/wp-content/uploads/2013/12/GCAGradStats2013.pdf>), The Australian Workplace Productivity Agency notes that 51 per cent of ICT graduates are employed in non-ICT occupations (<http://www.awpa.gov.au/our-work/sector-specific-skill-needs/Pages/ICT%20workforce%20study.aspx>).

⁸ <http://www.awpa.gov.au/our-work/sector-specific-skill-needs/Pages/ICT%20workforce%20study.aspx>

⁹ http://acs.org.au/_data/assets/pdf_file/0004/28570/Australian-ICT-Statistical-Compendium-2013.pdf



and older sectors decline – ICT jobs are growing in number and specialism¹⁰ and yet in Australia there are insufficient numbers of domestic ICT graduates to meet this demand and those that do graduate face ongoing barriers to entry level jobs in ICT.¹¹

ICT GRADUATE IMPACTS

The ACS acknowledges that many employers consider graduates from many disciplines are not work ready – that is, while they have deep technical knowledge they may lack the professional skills necessary in business. The ACS also acknowledges that employers may be reluctant to invest in bringing graduates “up to speed” and that this may bias employers to a 457 Visa solution. In response the ACS has developed a work-readiness program for ICT graduates with successful employment outcomes¹² but by itself the program is not a panacea for what is in effect a structural issue in the economy. Similar employability arguments are heard in relation to displaced older workers and those workers requiring up-skilling or cross-training and the ACS has received feedback from older ICT workers who have been retrenched shortly before their employer has brought in 457 Visa workers allegedly to replace them.

The ACS maintains that both temporary (457) and permanent skilled migration in ICT should only occur in the context of interventions to assist in addressing domestic skills imbalances and this should better be evidenced by employers in both enterprise training investments and employment market testing.

The real issues for the Australian ICT industry and the ICT profession generally are a continual lack of focus on attracting young people into ICT as a career and employer buy in to any form of 'growing a graduate' scheme that would skill them for such a career. The ACS has consistently advocated for a focus on attracting young people into ICT through well-thought-out programs in schools; and increased levels of support for Higher Education and the VET Sector. In addition we would argue that government incentives might be considered to employers to encourage 'growing a graduate'. As a result, Australia would produce more domestic ICT graduates, significantly reducing the reliance on 457 visas.

The impact of 457 ICT Visas is particularly acute when data from the government shows that 26 per cent of all 457 Visa grants in ICT occupations went to persons already in Australia (3,002 out of 11,631).¹³ While the overall onshore rate of the 457 program (43 per cent) is higher than for ICT, it is still significant when compared to the number of domestic ICT graduates each year and that our graduates must therefore compete with around 3,000 foreign nationals receiving 457 Visas each year and who are already in Australia – many already working for their 457 sponsor. Furthermore, a large proportion of onshore 457 Visa grants for ICT are for what arguably may be seen as graduate level work.

Returning to the Terms of Reference of the Inquiry, the ACS has acknowledged that Subclass 457 Temporary Work (Skilled) Visas are a legitimate and valuable instrument for all businesses to source skills critical to their operations.

¹⁰ In 2012 the Australian economy generated an additional 12,300 jobs in ICT. The ACS' own research accurately forecast 14,000 ICT jobs generated in the 2012-13 financial year and predicted a further 21,000 ICT jobs generated in 2013-14. It is important to note that these additional jobs are over and above those that must be filled through retirement or people leaving the sector.

¹¹ There are about 4500 domestic students graduating in ICT each year, from all our universities in Australia. There are also a number of Vocational Education Sector students who graduate with ICT qualifications although this number has declined in recent years. There are also between 8000 and 9000 international students graduating with ICT qualifications from Australian universities, but many of these return to their home countries.

¹² The ACS Professional Year (PYear) Program in Computing/ICT runs for 44 to 52 weeks and aims to equip students 'with the professional skills needed for a successful career in the Australian workforce'. The program includes courses on business and communication skills and workplace culture, a 12-week internship with a host organisation, and a concurrent online module on professionalism in ICT.

¹³ See Appendices



However, in support of the fundamental tenets of the 457 scheme, employers should not be able to use the 457 solution to the detriment of Australian/Permanent Resident ICT professionals who are either starting their career (graduates), seeking to change their career (requiring some training) or who are encountering entrenched barriers to employment (sexism, ageism). Similarly, employees on 457 Visas should experience the same working conditions as those provided to Australians.

The ACS has received feedback from individuals of alleged employer abuse of the 457 Visa scheme. Typically this feedback is where employers are perceived to have retrenched older ICT workers and replaced them with “cheap” 457 skills due to perceived short-term cost and productivity drivers.

The ACS also recognises that evidencing these claims is problematic when employees and job applicants are often subject to confidentiality agreements themselves and that the rapidly changing nature of technology itself makes job type comparisons problematic just as it also disrupts business models in ever increasing frequency. For a worker who has been retrenched it can be extremely difficult to not feel victimised in this way.

By reference to government data, almost 17 per cent (1927) of ICT 457 Visas issued between August 2011 and September 2012 were recorded with the suffix “NEC” - meaning ‘not elsewhere classified’.¹⁴ Notwithstanding the rapidly evolving nature of ICT, the ACS considers “NEC” to be such a broad-brush term that it is impossible to then apply the principle of the 457 policy - that these individuals have come to Australia to meet a skills shortage - because it cannot be determined whether ‘programmer not elsewhere classified’, for example, fills a need if nothing is known about what programming skills that person has. Via this example the ACS believes that an entry-level programmer in their early twenties from some other country is in fact displacing a job for an Australian ICT graduate.

Until such time as the ANZSCO regime can be updated to reflect the modern workforce, any 457 Visa for ICT listed as “not elsewhere classified” should be subject to an independent skills assessment. This also provides Australia with the assurance that applicants actually have the skills and credentials they claim to have whereas currently assurance is based on an honour system where skills and expertise are taken at face value.

TRAINING AND LABOUR MARKET TESTING

Returning to the original and valid intent of the Subclass 457 Temporary Work (Skilled) Visa, for ICT employment the ACS recommends that Employers seeking to use 457 Visa’s for ICT roles need to better demonstrate there is a genuine immediate skills shortage that cannot be solved through retraining of existing employees at a cost and in a time period that is at least equivalent to the cost and the time involved in implementing a 457 solution.

The 457 scheme is a short term solution and a valuable and important instrument to support Australia’s economic growth. It is not intended to be considered as an ongoing feature of a specific business or employment model. As such, the scheme contains explicit reference to employer training commitments.

The ACS recognises the intent of the scheme in therefore addressing concerns about up-skilling Australians however as it stands the training commitment of employers is difficult to assess. This is because while there is now an onus on employers to meet the 457 training benchmarks in every year they are a sponsor, no data is published on what that training ‘expenditure’ is spent on. At a minimum, to protect and strengthen the integrity of the 457 scheme, employers should be able to demonstrate that investments in staff training are aimed at removing the need for ongoing 457 Visa

¹⁴ Refer Appendix to this submission



recruitment/employment, that is, where there is a genuine need for a 457 Visa in ICT, the enterprise should demonstrate it is directing training resources to that specific job function.

Employers similarly need to better demonstrate that reasonable attempts have been made to source domestic skills. The current scheme has inadequate attestation requirements tantamount, where required, to ticking a box. Documentary evidence should be required at the time of application.

That the current regime does not even require LMT for ICT 457's at Australian Qualification Framework skill level 1 and 2 is inadequate and the ACS questions why Nursing and Engineering stand alone in this regard. The ACS maintains that all ICT occupations in Skill level 1 and 2 should be subject to LMT, except for those occupations LMT-exempt on international trade grounds (i.e. ANZSCO 135111, 135112, and 135199).

Simply stating that reasonable attempts have been made is inadequate and open to abuse. For example, one ACS member reported that an ICT employer posted a job vacancy on the company Facebook page for less than 12 hours before determining that a 457 Visa was required.

LMT can and ought to be a positive experience for all involved - governments should know the type of skills being sought and sufficient information ought to be demanded of employers to demonstrate this. It should NOT be a process that involves simply ticking a box to demonstrate compliance.

The ACS believes that as a result of such an approach which is educative on the subject of availability of skills and which identify the gaps in our national capacity building at least in the areas the employer is seeking to hire, Australia would have an ability to both identify and plan for capacity building within companies through their own initiatives and those of government through incentives to train staff. Graduates would be an ideal feed-in to in-house training schemes which would both provide the individuals with much needed experience and improve our capability on a national level.

RECOMMENDATIONS

- 1. Develop national workforce plan for ICT to begin addressing ICT skills supply imbalances in Australia**
 - a. Implement the recommendations of the 2013 AWPA ICT workforce report with particular focus on graduate work-ready programmes and secondary school student and teacher support for the National Curriculum Technologies.
- 2. Strengthen requirements for Visa recipients to be appropriately skilled professionals**
 - a. Degree-level and VET qualifications for 457 ICT Visas and recognised professional certification, either general (ACS) or specific to position (PMI, ISACA etc.)
 - b. Utilise an appropriate skills framework (such as SFIA) for assessing applications (possibly in conjunction with existing classifications)
- 3. Strengthen obligations to test market before applying for 457 Visa for ICT roles**
 - a. ICT 457's should be subject to LMT
 - b. Stronger requirements for seeking local employees with necessary skills for ICT roles.
 - c. Stronger requirements to provide evidence existing workforce cannot be trained in required ICT skills in an appropriate timeframe.
 - d. Evidence of business planning to ensure reduced reliance on 457 Visas for ICT roles in the future.

4. Improve available data on existing and future 457 Visa applicants, in alignment to the government's stated commitment to Open Data, to enable adequate review of the program

a. Specifically

- What information has the panel obtained about the operation of the Labour Market Testing (LMT) rules since they came into force on 23 November 2013? Is the panel planning to share that information with ACS and other stakeholders?
- Have 457 Visa applications in occupations subject to LMT increased or decreased?
- What percentage of applications are successful versus unsuccessful?
- Does the government collect data on the number of ICT graduates employed by firms with 457s in ICT occupations? Are these numbers going up or down as 457 numbers increase?
- Why are 457 Visas for ICT not subject to LMT when they are obviously competing with Australian graduates?
- What is the mean (not median) salary paid by age bracket of ICT 457 Visas?
- What are the ages of 457 Visa applicants for ICT roles?

Thank you for the opportunity to provide input into this important work. If you require further information, please contact Mr. Adam Redman, Head of Policy and External Affairs at adam.redman@acs.org.au or on 0448 883 445

Sincerely



Alan Patterson, Chief Executive Officer



About the ACS

The [Australian Computer Society](#) is the professional association for Australia's Information and Communication Technology (ICT) sector.

In everything we do, our goal is to help our members be the best they can be. We're passionate about recognising professionalism, developing ICT skills and building a community with a true sense of belonging.

Our members are committed to the pursuit of excellence and the highest standards of professional conduct. We strive for ICT to be recognised as a driver of innovation in our society, relevant across all sectors.

We help our members realise their professional ambitions in the global economy, making the most of an era of extraordinary possibility.

Members receive international, independent recognition for skills through our certification program, bringing the rewards of new job opportunities and better remuneration. ACS professional development opportunities, networking and information resources help members carve out a successful career path.

The ACS is also the only independent voice of Australian ICT, representing all practitioners in business, government and education. We are not a union, we are a professional society. Our [Code of Ethics](#) upholds professional standards while our advocacy and policies help our profession thrive.

APPENDIX

Subclass 457 primary Visa grants between 1 September 2011 and 31 August 2012, by nominated (ICT-specific) occupation (ANZSCO) showing ONSHORE %

Occupation/ANZSCO	Total No	Onshore No	Onshore %
Managers			
135111 Chief Information Officer	82	23	28.0
135112 ICT Project Manager	655	129	19.7
135199 ICT Managers nec	99	28	28.3
	836	180	21.5
Professionals			
223211 ICT Trainer	27	10	37.0
224999 Information and Organisation Professionals nec	625	279	44.6
225211 ICT Account Manager	81	26	32.1
225212 ICT Business Development Manager	111	37	33.3
225213 ICT Sales Representative	236	105	44.5
232413 Multimedia Designer	34	25	73.5
232414 Web Designer	74	55	74.3
261111 ICT Business Analyst	1,209	265	21.9
261112 Systems Analyst	828	130	15.7
261211 Multimedia Specialist	16	14	87.5
261212 Web Developer	86	60	69.8
261311 Analyst Programmer	889	141	15.9
261312 Developer Programmer	1,987	362	18.2
261313 Software Engineer	950	211	22.2
261314 Software Tester	369	74	20.1
261399 Software and Applications Programmers nec	1,056	368	34.8
262111 Database Administrator	127	35	27.6
262112 ICT Security Specialist	52	14	26.9
262113 Systems Administrator	371	53	14.3
263111 Computer Network and Systems Engineer	260	73	28.1
263112 Network Administrator	43	20	46.5
263113 Network Analyst	29	5	17.2
263211 ICT Quality Assurance Engineer (a)	18	2	11.1
263212 ICT Support Engineer	170	69	40.6
263213 ICT Systems Test Engineer	462	88	19.0
263299 ICT Support and Test Engineers nec	59	15	25.4



263311 Telecommunications Engineer	56	16	28.6
263312 Telecommunications Network Engineer	173	29	16.8
	10,398	2,581	24.8
Technicians and trades workers			
313111 Hardware Technician	28	17	60.7
313112 ICT Customer Support Officer	272	164	60.3
313113 Web Administrator	9	8	88.9
313199 ICT Support Technicians nec	88	52	59.1
	397	241	60.7
Grand Total	11,631	3,002	25.8
Total 457 Visa grants, ALL occupations	70,629	30,053	42.6

Source: Department of Immigration and Citizenship, 2013 (BE6520.01), (BE6153.01)

Extract from files supplied to CFMEU.

(a) The Onshore Visa grant value in the DIBP data was recorded as <5. CFMEU assigned a value of 2, based on the estimated average value of all entries recorded as <5 in this DIBP data table.