



OSEC 1856/2018

Senator Louise Pratt
Chair
Senate Legal and Constitutional Affairs References Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Chair,

I am writing in response to your letter of 12 September 2018 following the provision of my Department's answers to Questions on Notice to the Inquiry into *Allegations concerning the inappropriate exercise of ministerial powers, with respect to the visa status of au pairs, and related matters*.

I should like to inform the Committee that, in the time available, having undertaken extensive searches of case files and manually reviewing Departmental systems, the Department has not found any evidence of another case between October 2015 and the end of 2016 involving a young female from a Western or Southern European country who had been detained at Brisbane airport due to evidence of an intention to work as an 'au pair'.

You raised concerns about inconsistencies between dates provided by the Department in relation to a Question on Notice (IEMP/001) detailing cases in which Minister Dutton used his ministerial intervention powers under section 195A of the *Migration Act 1958* to grant a Visitor (subclass 600) visa and documents tabled in Parliament.

In the time available, the Department has answered the Committee's questions to the best of its ability, noting that searches undertaken involve legacy, mostly paper based, systems and the manual review of files going back more than three years. Further to your letter to me dated 12 September 2018, I wish to clarify that, between 23 December 2014 and 31 August 2018, the Minister has intervened under section 195A to grant a Visitor visa (subclass 600) in 21 cases involving 31 people not 18 cases involving 24 people as previously advised.

Since receipt of your letter we have reconciled the data you provided with departmental files and I offer the following response:

- The reference in the Committee's table to a visa granted by Minister Dutton on 8 April 2017 is the result of this date being incorrectly transcribed. This visa was granted on 8 February 2017 (consistent with the Department's answer to IEMP/001).
- The reference in the Department's answer to IEMP/001 to a visa granted on 18 April 2018 is incorrect. This visa grant occurred on 12 April 2018 (consistent with the date provided in the Committee's table).
- The reference in the Committee's table to visas granted by the Minister on 24 March 2016, 17 June 2016 and 10 August 2017 are a result of these visa grants not being captured in departmental reporting and have been subsequently identified as a result of a manual search.
 - On 24 March 2016 the Minister granted a visa to a woman with diagnosed health issues preventing travel.
 - On 17 June 2016 the Minister intervened under a different ministerial intervention power (section 351) to grant a subclass 600 visa to some members of a family while the child was granted a subclass 600 visa under section 195A.

- On 10 August 2017 the Minister granted visas to a family on compassionate grounds following the death of the father.
- The Committee's table refers to a visa granted on 15 September 2015 - manual searches continue in order to locate a copy of the submission. It is noted that is outside the period October 2015 to the end of December 2016.

As the Committee would be aware, the Government is currently testing the market through an expression of interest process to inform consideration of modernising the visa processing systems by moving to a digital platform. Without this digital platform, the review of documents will remain a lengthy manual process.

Your letter also queries six cases as being contained in the department's answer IEMP/001 where the Statements to Parliament were not able to be located by the Parliamentary tabling offices. I can confirm that the six cases identified by the Committee have been tabled in both houses of parliament. In order to assist the committee with reconciling the visa grant dates we have drafted a table with the correct dates as an attachment to this letter.

Should further information on the above cases come to hand, I will inform the Committee.

It is usual practice that tabled Statements to Parliament do not make reference to whether a grant is to a single person or a family unit, in line with tabling principles that no identifying information be provided.

In your letter you also request that the Department provide Ministerial submissions where Minister Dutton granted a visitor/tourist visa using the section 195A intervention power. I can confirm that the Department is progressing the compilation of these submissions and will provide these to the Committee as soon as practicable.

Yours sincerely

Michael Pezzullo
Secretary
13 September 2018

Cases Committee identified as not tabled in Parliamentary tabling offices

Decision date	Signed by	Date tabled HoR	Date tabled Senate	Recorded in IEMP/0001	Explanation
15/09/2015	Minister Dutton	1/03/2016	2/03/2016	Yes	Relevant tabling dates recorded here.
6/10/2015	Minister Dutton	1/03/2016	2/03/2016	Yes	Relevant tabling dates recorded here.
8/02/2017	Minister Dutton	8/08/2017	8/08/2017	Yes	Relevant tabling dates recorded here. Date was incorrectly transcribed by the Parliamentary tabling office 8 April 2017. Correct date of visa grant is 8 February 2017.
22/11/2017	Minister Dutton	26/03/2018	20/03/2018	Yes	Relevant tabling dates recorded here.
15/02/2018	Minister Dutton	13/08/2018	13/08/2018	Yes	Relevant tabling dates recorded here.
12/04/2018	Minister Dutton	13/08/2018	13/08/2018	No	Incorrect date of 18/04/2018 provided in answer to QON. Correct date of visa grant is 12 April 2018.

12 September 2018

Mr Michael Pezzullo
Secretary
Department of Home Affairs

By email only: parliamentary.coordination@homeaffairs.gov.au

Dear Mr Pezzullo

Inquiry into allegations concerning the inappropriate exercise of ministerial powers, with respect to the visa status of au pairs, and related matters

I write to you regarding answers to Questions on Notice provided to the Senate Legal and Constitutional Affairs References Committee inquiry into allegations concerning the inappropriate exercise of ministerial powers, with respect to the visa status of au pairs, and related matters.

I refer to answer IEMP/001 regarding cases in which Minister Dutton has used his ministerial intervention powers under Section 195A of the Migration Act to grant visitor/tourist visas.

In order to have the utmost confidence in the Government, Australians must be assured that Ministers and their Departments are being open, truthful, and transparent and not engaging in behaviour that looks like a cover-up.

The Department's answer states that between 23 December 2014 and 31 August 2018, Minister Dutton granted 24 Visitor (subclass 600) visas using his section 195A intervention power. The Department has also provided a table of grants made on particular dates (noting that some dates feature multiple grants).

I write to you as there is apparent inconsistency between the dates in the Department's table and documents tabled by Minister Dutton in the Parliament.

According to documents tabled in Parliament relating to the exercise of ministerial discretion under Section 195A of the Migration Act 1958, Minister Dutton has intervened and granted visitor/tourist visas on the following individual occasions between 23 December 2014 and 31 August 2018:

Date	Signed by	Detailed in IEMP/001 answer
17/06/2015	Minister Dutton	Yes
17/09/2015	Minister Dutton	No
1/11/2015	Minister Dutton	Yes
24/03/2016	Minister Dutton	No
17/06/2016	Minister Dutton	No
23/08/2016	Minister Dutton	Yes
7/09/2016	Minister Dutton	Yes
7/10/2016	Minister Dutton	Yes - date included; no note of multiple grants
7/10/2016	Minister Dutton	Yes - date included; no note of multiple grants
8/04/2017	Minister Dutton	No
11/05/2017	Minister Dutton	Yes
10/08/2017	Minister Dutton	No
21/09/2017	Minister Dutton	Yes - date included; no note of multiple grants
21/09/2017	Minister Dutton	Yes - date included; no note of multiple grants
12/04/2018	Minister Dutton	No
10/05/2018	Minister Dutton	Yes
24/05/2018	Minister Dutton	Yes - date included; no note of multiple grants
24/05/2018	Minister Dutton	Yes - date included; no note of multiple grants

Answer IEMP/001 also outlines a number of cases of which Statements to Parliament were not able to be located by the Parliamentary tabling offices:

- 15/09/2015
- 6/10/2015
- 8/02/2017
- 22/11/2017
- 15/02/2018
- 18/04/2018

As you would be well aware, the inconsistency between the answers provided by the Department to the Senate Inquiry in comparison to documents tabled in Parliament is of great concern to me in my role as Chair of the Legal and Constitutional Affairs References Committee.

I request the Department provides clarity to this particular answer as a matter of urgency. The answer fails to provide further details to the cases it does list – such as the locations of the individuals involved or the reasons for ministerial intervention – akin to the information which was released by the Department as per the original FOI Reference number FA 15/12/01761.

Therefore, I request the Ministerial briefs prepared by the Department for all ministerial interventions under Section 195A of the Migration Act 1958 in which Minister Dutton has intervened and granted visitor/tourist visas.

Given the number of these interventions is limited and redacted Ministerial briefs for the Brisbane and Adelaide cases have been released via FOI, this is not an unreasonable request and falls within the Terms of Reference of the Senate Inquiry.

I look forward to the Department's prompt response.

Sincerely,

Senator Louise Pratt
Chair
Senate Legal and Constitutional Affairs References Committee