

## QUESTION TAKEN ON NOTICE

**ADDITIONAL ESTIMATES HEARING : 27 February 2017**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(AE17/154) - Compliance and Detention - IMA Onshore Management - 501 cancellations - Programme 1.3: Compliance and Detention**

Senator Carr, Kim (L&CA) written:

Are you only applying the section 501 cancellations to those currently incarcerated, or are you looking at retrospective cases?

*Answer:*

Section 501(3A) of the *Migration Act 1958* (the Act) provides that a non-citizen's visa must be cancelled if they are currently serving a full-time term of imprisonment in Australia and they have, at any time in the past, been sentenced to a period of 12 months or more in prison; or have had a charge proven for, or have been found guilty of, a sexually based crime involving a child.

Where a non-citizen has a previous criminal history or has engaged in previous conduct of concern and is not in prison and is, therefore, not liable for mandatory cancellation, the Minister or his delegate may consider cancelling or refusing the non-citizen's visa under the discretionary character provisions (section 501(2) or section 501(3) of the Act).