

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES - 25 FEBRUARY 2014

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(AE14/574) PROGRAMME – 4.3: Offshore Asylum Seeker Management

Senator Ludwig (Written) asked:

Is there a code of conduct currently in place for asylum seekers? If yes:

1. Please provide a copy.
2. Are there any penalties in place for asylum seekers who break the code of conduct? If so, please detail the penalties.
3. Have any asylum seekers been subject to any of these penalties to date? Please detail any cases where this has occurred.
4. Have there been any positive impacts in any area that have been attributed to this code since it was implemented? If so, please detail.
5. Have there been any negative impacts in any area that have been attributed to this code since it was implemented? If so, please detail.
6. If there is not a code of conduct currently in place for asylum seekers:
 - a. Has there been any plans or discussion of when a code will be implemented? If so:
 - b. When will this occur?

Answer:

There are documents governing behaviour currently in place for non-citizens in held and community detention and which apply in the department's offshore processing centres. Non-citizens entering held detention are briefed on their rights and their responsibilities, detainees in the community are subject to community detention conditions, and transferees to offshore processing centres are briefed on their rights and responsibilities. These responsibilities and conditions cover similar behaviour themes to those outlined in the Code of Behaviour such as abiding by the law, respect, tolerance and compliance with reasonable directions.

There is also a Code of Behaviour that applies to people being granted a Bridging visa E (BVE) by the Minister using his personal powers under section 195A of the *Migration Act 1958* and to subsequent grants of BVEs to this cohort. This cohort can include Illegal Maritime Arrivals (IMAs), Unauthorised Air Arrivals and other non-citizens who arrived lawfully in Australia, and have since become unlawful, and which can include people in Australia seeking asylum.

1. Please provide a copy.

A copy of the Code of Behaviour can be found at

<http://www.minister.immi.gov.au/scottmorrison/files/code-of-behaviour.pdf>

2. Are there any penalties in place for asylum seekers who break the code of conduct? If so, please detail the penalties.

Under these changes to the *Migration Regulations 1994* (the Regulations) a BVE applicant who holds or has previously held a BVE granted to them by the Minister personally under section 195A of the Act is required to sign the Code of Behaviour to meet the criteria for the grant of the BVE. Condition 8566 applies to any person who has signed the Code of Behaviour for the grant of a BVE. Where a non-citizen who is subject to condition 8566 is found to have breached the code, the department will make an assessment and respond in one or more of the following ways:

- Counselling
- Warning letters
- Temporary reduction or cessation of income support
- Consideration of visa cancellation, which may result in cancellation and subsequent immigration detention.

3. Have any asylum seekers been subject to any of these penalties to date? Please detail any cases where this has occurred.

To date no sanctions have been applied.

4. Have there been any positive impacts in any area that have been attributed to this code since it was implemented? If so, please detail.

The Code of Behaviour was created to be an enforceable and educational tool that provides guidance to applicable non-citizens on acceptable levels of behaviour whilst in the community as the holder of a BVE. The implementation process has commenced and person's being considered for BVEs are attending information sessions and are signing the Code of Behaviour.

5. Have there been any negative impacts in any area that have been attributed to this code since it was implemented? If so, please detail.

There is no evidence to suggest that the Code is having an adverse impact on the treatment of BVE holders in the community, or that it is being negatively perceived by eligible persons required to sign the Code as the prerequisite for the grant of a BVE.

6. If there is not a code of conduct currently in place for asylum seekers:
- a. Has there been any plans or discussion of when a code will be implemented? If so:
 - b. When will this occur?

Not applicable.