

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 27 MAY 2010

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(131) Program 4.1: Visa Compliance and Status Resolution

Senator Hanson-Young asked:

- (1) How many women in the sex industry have been removed and repatriated since 1 July 2009?
- (2) How many women in the sex industry have been identified as possible victims of trafficking since 1 July 2009? How many women have agreed to being identified as victims of trafficking since 1 July 2009?
- (3) How many victims of trafficking have been referred to the Support for Victims of People Trafficking Program?
- (4) What support does DIAC offer to identified victims of trafficking who do not agree to be identified as victims and who stay at the sex industry establishment at which they have been found?
- (5) How many BVFs have been granted since 1 July 2009?
- (6) How many criminal justice stay (trafficking) visas (CJSV) have been granted since 1 July 2009?
- (7) What has happened with trafficked persons who do not agree to cooperate with police and access the CJSV? Were they returned home or able to access other visas?
- (8) What follow-up is conducted of women who have been repatriated? Have any of these women been re-trafficked?
- (9) How many victims of trafficking have been offered the Witness Protection (Permanent) visa? What definition of 'cooperation' was used to satisfy this criterion of eligibility for the visa?
- (10) How much time has elapsed, on average, from when a victim is first identified till they are granted the Witness Protection visa, since 1 July 2009?
- (11) Please provide a breakdown of how many of each trafficking-related visa have been issued in each State, since 1 July 2009.

- (12) Have guidelines or procedures been developed and implemented in relation to the visa sub-categories? Where can these be found?
- (13) What training is offered to the members of DIAC's Sexual Servitude taskforce? Did they receive training on the new visa regime? Is this training shared with the AFP?
- (14) What reviews are conducted of the Sexual Servitude's Taskforce's work, to establish that they are always asking potential victims of trafficking appropriate questions, and are using respectful and culturally appropriate language and body language?
- (15) What monitoring does DIAC conduct of schools aimed at international students to ensure that fake or rogue schools are not being used by traffickers to facilitate access to student visas?

Answer:

- (1) This question was transferred to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) for response.
- (2) This question was transferred to FaHCSIA for response.
- (3) This question was transferred to FaHCSIA for response.
- (4) Australia's whole-of-government Anti-People Trafficking Strategy includes a visa framework that enables suspected victims of trafficking to remain lawfully in Australia, initially regardless of whether they are willing to assist police, and subsequently to assist in criminal justice proceedings against their alleged traffickers.

A non-citizen may work in the legal sex industry provided they have a valid visa and they are permitted to work by their visa conditions. The police are entrusted with identifying people as *suspected* victims of trafficking. DIAC's support takes the form of granting Bridging F visas (BVs) to non-citizens who do not hold a valid visa and are willing for the police to identify them as suspected victims. The police do not identify a person as such without that person's agreement. The BVF has a no-work condition, as the visa's purpose is to offer a suspected victim the opportunity of up to 45 days in which to recover and to reflect on their situation away from the workplace, with basic needs covered by the Support Program. The BVF is not available to those who intend to continue working.

- (5) A total of 30 BVs have been granted since 1 July 2009. Of these:
 - 14 were first time grants to persons newly identified as suspected victims;

- two were second BVFs granted to people identified as suspected victims willing to assist the police but unable to do so for various reasons; and
 - 14 were granted to allow former trafficking-related Criminal Justice Stay visa (CJSV) holders who had left Australia for short periods to re-enter Australia and go back onto the CJSV, which ceased upon their departure.
- (6) A total of 24 CJSVs have been granted since 1 July 2009. Of these:
- 14 were first time grants; and
 - ten were repeat CJSV grants to former CJSV holders whose visa ceased on their departure from Australia.
- (7) Those identified as suspected victims who do not agree to cooperate with the police may continue on any current valid visa. It is only if they do not hold a valid visa and wished to cooperate with the police that they would be granted a CJSV.

Only two of those identified as suspected victims since 1 July 2009 have chosen not to assist the police. Both held 417 Working Holiday visas and remained in Australia for a further three weeks to two months before departing voluntarily, in each case several months before their visas were due to expire. One has since returned on a 976 Electronic Travel Authority and currently has a Bridging A visa associated with an application for a 572 Student visa.

- (8) The Department does not maintain data on repatriation or re-trafficking. However, as indicated by the response to question 7, the two people who did not wish to assist the police, despite being identified as suspected victims, were in fact the holders of valid visas and therefore not liable to removal.
- (9) Thirty-one people have been invited to apply for a Witness Protection (Trafficking) (Permanent) visa (WPTV) since 1 July 2009. [This includes those who were offered the Witness Protection (Trafficking) (Temporary) visa, with some of these offers never finalised.] Twenty-six WPTVs have been granted (including eight to members of the immediate family) and the remainder are currently being processed.

Regarding the definition of 'cooperation' the Attorney-General's Department has provided the following clarification:

The Attorney-General (or a person authorised by the Attorney-General) can issue a Witness Protection Trafficking Certificate to the effect that:

- the person made a contribution to, and cooperated closely with, the prosecution of a person who was alleged to have trafficked a person

or who was alleged to have forced a person into exploitative conditions (whether or not the person was convicted), or

- the person made a contribution to, and cooperated closely with, an investigation in relation to which the Director of Public Prosecutions has decided not to prosecute a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions.

Cooperation refers to the person assisting Australian authorities by providing information and/or evidence for use in an investigation or prosecution. The person may cooperate with the authorities by providing a victim statement, physical evidence, or other information that may be used by the authorities to conduct an investigation or prosecution.

- (10) No WPTV has yet been granted to a person identified since 1 July 2009. Since the People Trafficking Visa Framework was established on 1 January 2004 the average time from identification of a suspected victim to grant of a WPTV has been four years. This is not however indicative of the likely time lapse in future cases, as more than half of these visas correspond to earlier arrangements, which required that a temporary WPTV be held for at least two years.
- (11) Given the small numbers involved publication of this information could compromise individuals.
- (12) Policy Advice Manuals (PAMs) exist for the Bridging Visa F, the Criminal Justice Visa, the Witness Protection (Trafficking) Visa and the National Strategy – People Trafficking. All but the Criminal Justice Visa PAM were substantially revised to support the legislative amendments of 1 July 2009. They may be found on LEGENDcom, DIAC's commercial version of LEGEND, a computer package that enables Departmental staff to access migration and citizenship legislation and policy and other related information. Migration agents and lawyers providing migration advice and other members of the public can purchase subscriptions to LEGENDcom online through the Department's website.
- (13) DIAC does not have a Sexual Servitude Taskforce.

DIAC has specialist trafficking teams (covering trafficking in any industry) in New South Wales and Victoria and designated People Trafficking Contact Officers (PTCOs) in all States and Territories. All PTCOs received training on the new visa regime before its introduction. Subsequent opportunities have been taken to reinforce awareness through monthly teleconferences and in the course of ongoing relations between National Office and the State and Territory offices.

A people trafficking and exploitation component forms part of the Compliance Officer Training Course, which prepares officers for their role in combating trafficking. This includes training in how to recognise the indicators of trafficking. Representatives of the AFP's Transnational Sexual Exploitation and Trafficking Team and of an anti-trafficking non-government organisation are invited speakers at the training session. There is no shared trafficking training with the AFP.

- (14) As noted above, DIAC does not have a Sexual Servitude Taskforce.

DIAC compliance officers are trained to ask potential victims of trafficking appropriate questions, and to use respectful and culturally appropriate language and body language. Implementation of this training is regularly monitored as part of general performance review. Additionally, reports from the frequent external observers of sex industry compliance operations are consistently positive. In preparing its 2009 audit report, the Australian National Audit Office, whose particular concern was management of the Australian Government's Action Plan to Eradicate Trafficking in Persons, observed that DIAC's compliance teams conducted themselves in a professional manner, and implemented the prescribed procedures. It noted that in particular, the DIAC officers were sensitive to the circumstances of the women subjected to 'screening' for trafficking indicators.

- (15) The criteria for grant of a Student visa require applicants to be enrolled in CRICOS (Commonwealth Register of Institutions and Courses for Overseas Students) registered courses and education providers. Education providers which are not CRICOS registered are not permitted to enrol international students (even if they are permitted to enrol domestic students). Any school which is not registered on CRICOS is not allowed to enrol an international student (and therefore no Student visa could be granted), and doing so would breach the Education Services for Overseas Students (ESOS) legislation.

Registration on CRICOS is the responsibility of State/Territory education registration authorities, with the involvement of the Department of Education, Employment and Workplace Relations (DEEWR). Any allegations of unlawful activities (of whatever kind) by provider staff would be investigated by the State authorities and DEEWR in the first instance.

The Department conducts a range of compliance and investigations activity within Australia and overseas to identify, respond to and counter immigration fraud and malpractice. Where issues come to light which suggest concerns relating to the CRICOS registration of educational institutions, these are passed to DEEWR for appropriate action.