

## QUESTION TAKEN ON NOTICE

### BUDGET ESTIMATES HEARING: 23 MAY 2011

#### IMMIGRATION AND CITIZENSHIP PORTFOLIO

#### **(BE11/0083) Program 1.1: Visa and Migration**

Senator Cash (L&CA 32) asked:

Provide an outline of how the domestic violence provisions, which allow foreign spouses to remain in Australia if they have been victims of domestic violence, operate.

*Answer.*

Australia's Migration Program enables certain visa applicants to apply and remain in Australia if their partner relationship breaks down and they are a victim of family violence. The family violence provisions were introduced in response to community concerns that some partners might feel compelled to remain in abusive relationships rather than end the relationship and be required to leave Australia.

Claims of family violence are initially considered by departmental officers based either on judicial or non judicial evidence. A judicial finding that a person has been the victim of family violence must be accepted by the department and cannot be investigated further.

Non judicial evidence is made up of statutory declarations provided by the applicant and two competent persons qualified to make a determination on whether or not a person is a victim of family violence. The term 'competent person' is defined in the Migration Regulations 1994 and includes members of the following professions working in their relevant field; medical practitioners, psychologists, nurses, social workers, family consultants appointed under the Family Law Act 1975 and managers of women's refuges or counselling services.

Where a case officer determines that a non judicial claim is doubtful, the case is referred to an independent expert for their opinion. 'Independent Expert' is a term prescribed in the Migration Regulations 1994 and means a person suitably qualified to make independent assessments of non-judicially determined claims of family violence and working for an agency gazetted to perform this function. The independent expert is currently a professional Social Worker within Centrelink who has specialist experience in family violence matters. The independent expert assesses all available information and interviews the applicant in order to determine if, in their opinion, the applicant has been a victim of family violence as set out in the Migration Regulations. The opinion of the independent expert is binding on the decision maker.