

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARINGS: 31 May 2013

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(BE13/0439) PROGRAM – 4.2: Onshore Detention Network

Senator Cash (Written) asked:

During 2012/2013 how many visas have been cancelled due to Section 501 Character considerations? Are there any cases where people subject to Section 501 consideration or non- Australian citizens who have completed custodial sentences for serious crimes (eg murder, rape, major drug offences) are currently residing in the community without consideration of cancellation of their visas? How does the department know of such cases? In what sort of accommodation are they being housed?

Answer:

Between 1 July 2012 and 30 April 2013, 119 visas were cancelled under section 501 of the *Migration Act*.

The department has processes in place to identify non-citizens for possible visa cancellation under character considerations, before they complete their custodial sentence.

The department also uses a range of methods to identify non-citizens with criminal convictions residing in the community. These methods include:

- information supplied through the department's dob-in service;
- police intelligence;
- visa holders refused citizenship on character grounds;
- Interpol notices;
- self-declaration on incoming passenger cards;
- media interest; and
- subsequent visa applications that, as part of the visa requirements, include the provision of a police certificate from all countries the applicant has resided in for 12 months or more in the last 10 years prior to application decision.

Should the department become aware, whether through established processes or by some other means, that a non-citizen may not pass the character test, the section 501 consideration process would be commenced and expedited as appropriate.

Character cancellation considerations involve a two stage process. Firstly, it must be determined whether a non-citizen fails the character test, and, if so, whether their visa should be cancelled. Character cancellation considerations are highly complex and require subjective judgment in weighing up a range of factors. Consequently, this process takes time and, as a lawful non-citizen, an individual could reside in the community pending a decision.

In the event that a person became an unlawful non-citizen as a consequence of their visa being cancelled, they would be detained and accommodated in immigration detention with a view to progressing their removal from Australia. The department does not provide accommodation for lawful visa holders.