

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 15 OCTOBER 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(SE12/0009) Program: Migration Review Tribunal and Refugee Review Tribunal

Senator Cash (L&CA 13) asked:

I refer to the answer given to BE12/0014 where it states, in relation to complaints received in relation to the MRT, that there were 11 complaints during the period 1 July 2011 to 22 May 2012 and says:

The complaint was upheld in relation to 2 of the complaints. One matter concerned the timeliness of review and the other matter related to the decision outcome.

Are you able to provide more details in relation to those two particular cases?

Answer:

Complaint one – timeliness of review

A complaint was lodged on 22 August 2011 relating to concerns about the delay in the constitution of the case (refused Temporary Business visa subclass 457) which was lodged on 28 July 2009. The tribunal apologised for the delay in constitution, explaining that increased lodgements and a growing backlog of cases had contributed to the delay.

The applicant ultimately withdrew the application for review, indicating that changes to legislation following the lodgement of their application meant that the application could no longer succeed. This complaint was **upheld**.

Complaint two – not being offered a further hearing

A complaint was lodged on 8 July 2011 relating to the tribunal's decision not to offer the applicant a further hearing, as the tribunal undertook to do. At hearing, the tribunal informed the applicant that if a favourable decision could not be made on the basis of the material provided by the applicant to the tribunal, a further hearing would be offered and that an unfavourable decision would not be made without the applicant being offered another hearing. However, the tribunal proceeded to affirm the decision under review without offering the applicant the opportunity to participate in another hearing.

A Senior Member of the tribunal investigated the complaint and recommended that the case be reconsidered. The member agreed to this approach and reconsidered the case. The decision on the case was set aside and remitted to the Department for reconsideration. This complaint was **upheld**.