



FOI Request FA 19/12/01125

The following questions were raised under Freedom of Information request FA 19/12/01125. An explanation of our response has been provided alongside each of the request points, in **red**.

Figures for how many people:

- a) Under s.501(2):
 - i. receive notices of intention to consider cancellation under s.501(2); **As natural justice is provided for all s501(2) cancellation considerations, NOICC's are issued in every case. Refer to table 1 for details of the number of cases considered under s501(2).**
 - ii. make representations in response to the NOICR; **The Department is unable to provide statistics on the number of responses to NOICCs issued under s501(2).**
 - iii. receive a positive decision from the Minister; **See table 1 below**
 - iv. receive a positive decision from a delegate; **See table 1 below**
 - v. receive a negative decision made by a Minister; **See table 1 below**
 - vi. receive a negative decision made by a delegate; **See table 1 below**
 - vii. seek merits review of a negative decision; **The Department is not able to report review actions against an original decision at this time. See table 4 for all review statistics**
 - viii. make an invalid application for merits review of a negative decision; **See table 4 for all review statistics**
 - ix. succeed at the Tribunal; **See table 4 for all review statistics**
 - x. of those who receive negative decisions, seek judicial review of a:
 - a. primary decision; **See table 4 for all review statistics**
 - b. Tribunal decision; **See table 4 for all review statistics**
 - xi. succeed at judicial review. **See table 4 for all review statistics**
- b) Under s.501(3):
 - xii. have their visas cancelled; **See table 1 below**
 - xiii. make representations; **See table 1 below**
 - xiv. receive a positive decision; **See table 1 below**
 - xv. receive a negative decision; **See table 1 below**
 - xvi. seek judicial review; **See table 4 for all review statistics**
 - xvii. succeed at judicial review. **See table 4 for all review statistics**
- c) Under s.501(3A):
 - i. have their visas cancelled, including by country of nationality. **See table 2 below**
- d) Under s.501B(2):
 - i. how many personal decisions are made by the Minister, including country of origin. **There were less than five s501B(2) cancellations. They were all in the 2019/20 financial year, and were all United Kingdom nationals.**
- e) Under s 501BA:
 - i. how many personal decisions by the Minister, including country of origin. **See table 3 below**
- f) Under s 501CA:
 - i. purport to request revocation, including how many representations are accepted; **There have been approximately 3747 applications lodged under s.501CA. At this time the Department is unable to determine the number of applications that have been invalid or withdrawn.**
 - ii. receive a positive decision; **See table 1 below**
 - iii. receive a negative decision made by a Minister; **See table 1 below**
 - iv. receive a negative decision made by a delegate; **See table 1 below**
 - v. seek merits review of a negative decision; **See table 4 for all review statistics**
 - vi. make an invalid application for merits review of a negative decision; **See table 4 for all review statistics**
 - vii. succeed at the Tribunal; **See table 4 for all review statistics**
 - viii. of those who receive negative decisions, seek judicial review of a:
 - a. primary decision; **See table 4 for all review statistics**
 - b. Tribunal decision; **See table 4 for all review statistics**
 - ix. succeed at judicial review. **See table 4 for all review statistics**
- g) Visa refusals - Figures for how many people (under s.501):
 - i. receive NOICRs; **As natural justice is provided for all s501(1) refusal considerations, NOICR's are issued in every case. Refer to table 1 for details of the number of cases considered under s501(1).**
 - ii. respond to the NOICR; **The Department is unable to provide statistics on the number of responses to NOICRs issued under s501(1).**
 - iii. receive a positive decision; **See table 1 below**
 - iv. receive a negative decision made by a Minister; **See table 1 below**
 - v. receive a negative decision made by a delegate; **See table 1 below**
 - vi. seek merits review of a negative decision; **See table 4 for all review statistics**
 - vii. make an invalid application for merits review of a negative decision; **See table 4 for all review statistics**
 - viii. succeed at the Tribunal; **See table 4 for all review statistics**
 - ix. of those who receive negative decisions, seek judicial review of a:
 - a. primary decision; **See table 4 for all review statistics**
 - b. Tribunal decision; **See table 4 for all review statistics**



Table 1 – assorted s501 powers by decision and decision maker

	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	Total
s501(2) Cancel with Natural Justice								
Cancelled								
Delegate	0	0	<5	<5	12	7	15	39
Minister	<5	19	30	27	37	5	0	119
s501(3)(b) Cancel without Natural Justice - National Interest								
Cancelled								
Minister	<5	6	18	8	12	7	7	59
Cancellation power not recorded								
Cancelled								
Delegate	37	0	0	0	0	0	0	37
Minister	37	61	0	0	0	0	0	98
Not Cancelled								
Delegate	455	236	33	22	13	15	23	797
Minister	<5	22	22	33	<5	<5	<5	88
Decision maker not recorded	35	23	0	0	0	0	0	58
Cancellation withdrawn or invalid								
Decision maker not applicable	81	100	45	55	153	15	20	469
s501(1) Refuse with Natural Justice								
Refused								
Delegate	65	108	387	617	523	262	154	2116
Minister	18	27	36	12	9	5	10	117
s501(3)(a) Refuse without Natural Justice - National Interest								
Refused								
Minister	0	<5	0	0	<5	0	0	<5
Refusal power not recorded								
Refused								
Decision maker not recorded	0	0	0	0	0	0	<5	<5
Not Refused								
Delegate	508	351	665	1258	757	677	427	4643
Minister	<5	<5	31	8	<5	<5	0	51
Decision maker not recorded	113	101	14	14	12	0	<5	257
Refusal withdrawn or invalid								
Decision maker not applicable	49	47	106	116	176	197	120	811
s501CA(4) Mandatory Cancellation Revocation								
Not Revoked								
Delegate	0	0	76	170	187	167	43	643
Minister	0	<5	31	220	152	22	27	455
Revoked								
Delegate	0	<5	60	336	158	73	11	641
Minister	0	0	48	69	<5	0	0	121
Revocation power not recorded								
Not Revoked								
Delegate	0	0	33	37	30	133	142	375
Minister	0	<5	24	43	39	9	14	131
Revoked								
Delegate	0	14	15	57	45	161	61	353
Minister	0	<5	36	11	0	0	0	48



Table 2 –s501(3A) mandatory cancellations by citizenship

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020 (to 31 Dec)	Total
New Zealand	292	515	637	427	427	177	2475
United Kingdom	55	100	134	92	92	26	499
Vietnam	11	30	48	42	43	21	195
Sudan	12	22	36	15	26	18	129
Fiji	8	11	32	16	23	7	97
China	5	13	22	20	28	5	93
Iraq	5	11	25	12	13	9	75
India	<5	7	15	5	17	5	51
Iran	<5	7	13	9	10	5	47
Afghanistan	<5	5	13	6	13	5	46
All other citizenships	95	208	257	190	232	95	1077
Total	492	929	1232	834	924	373	4784

s.501(3A) of the Migration Act 1958 was introduced on 11 December 2014, therefore there were no s.501(3A) cancellations prior to this date.

Table 3 – s501BA set Aside Non-Adverse No Natural Justice decisions by citizenship

	2014/2015	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020 (to 31 Dec)	Total
New Zealand	0	0	6	<5	0	0	8
Turkey	0	0	0	<5	0	0	<5
Vietnam	0	0	0	<5	0	0	<5
Bangladesh	0	0	0	<5	0	0	<5
Nigeria	0	0	0	<5	0	0	<5
Total	0	0	6	7	0	0	13

s.501BA of the Migration Act 1958 was introduced on 11 December 2014; however, no cancellations using this power were recorded until the 2017/2018 financial year.

Table 4 – judicial and merits review statistics arising from adverse s501 decisions

	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020 (to 31 Dec)	Total
AAT review	36	12	70	170	235	316	159	998
Department loss	5	<5	18	25	58	68	17	193
Department win	25	8	45	114	156	188	45	581
Department withdrawal	<5	<5	0	<5	5	12	0	24
Applicant withdrawal	5	0	6	27	11	18	5	72
Active case	0	0	<5	0	5	30	92	128
Judicial Review	55	55	87	176	242	252	108	975
Department loss	11	8	12	22	40	42	5	140
Department win	33	34	46	89	126	112	<5	444
Department withdrawal	6	7	12	34	22	26	<5	110
Applicant withdrawal	5	6	17	28	38	25	7	126
Administratively closed	0	0	0	0	0	0	<5	<5
Active case	0	0	0	<5	16	47	88	154
Total	91	67	157	346	477	568	267	1973

Each case has been reported by the financial year the merits or judicial review was lodged in.