



Australian Government

Department of Immigration
and Border Protection

PIC 4020 - Correspondence Examples

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Background and Purpose

This document has been prepared in response to requests for examples of good decision records and for words to address particular issues. This document is a working document and we expect to add to it and to update the examples so that they remain relevant, current and accurate.

The **primary purpose** of this document is to provide you with examples as a point of reference or a guide when you are considering refusing an application because of a failure by the applicant to satisfy the requirements of PIC 4020. It is a reference on possible ways to address particular requirements.

These are a selection of fragments from a range of actual Natural Justice letters and decision records send out to applicants.

Therefore, please **DO NOT** just copy and paste things from here into your letters or decision records. Use the information and tailor it to your individual case.

When creating the s57 Invitation to Comment letter or the decision record remember to:

- Use the templates provided. These have been cleared by Legal Division and contain paragraphs or fragments that have a specific purpose.
- Do not paraphrase the legislation. If you are including legislation, copy and paste it from Legend.
- Keep it simple and clear

If you have examples that you would not mind sharing, please send them to s. 47E(d) and we will add.

False or Misleading information in a Material Particular

If you have concluded information which is false or misleading in a material particular has been given, state how the information is relevant to a criterion being assessed. Both in the natural justice and decision record.

Ask yourself, for the visa I am processing, what criteria/regulations is the information relevant to?

If the information is in the previously held visa, then you ask, is the information that is false or misleading relevant to the criteria of the previous visa?

Be aware that in some cases the information may not be relevant to the criteria that you are considering which means PIC 4020 might not be appropriate.

In these examples, the decision makers has shown what criterion the information that is false or misleading relevant to.

Example 1: NJ letter: Character Convictions

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s. 47E(d)

Example 2: NJ letter - Character declaration

(Showing what criterion that information is relevant to.)

s. 47E(d)

This is considered to be information that is false or misleading in a material particular as it was relevant to assessing whether the applicant met the character requirements under PIC 4001. The applicant is therefore likely to fail to meet PIC 4020(1)(b) in the application currently under assessment.

Example 3: NJ letter - Character declarations

(In this example, the decision maker has quoted the relevant clause.)

"therefore information provided in regards to her character remains information material to the application, in the assessment of Regulation 462.221(b):

(b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014, 4019 and 4020.

Example 4: Previously held a 417

(Showing what criterion the information is relevant to.)

s. 47E(d)

This information is relevant to the consideration of Regulation 417.222 (b)

(b) the applicant has not previously held more than 1 Subclass 417 visa in Australia.

Example 5: Convictions

(Showing what criterion the information is relevant to.)

Given the information available to the Department indicates that you have been convicted of offences s. 47E(d)

. This information is relevant to the consideration of the character requirement

Example 6: Second working holiday visa

(Showing what criterion the information is relevant to)

s. 47E(d)

s. 47E(d)

On the basis of these declarations and your documents, I find that you have provided information that is false or misleading in a material particular in relation to s. 47E(d)

This information is relevant to criteria 417.222

(b) the applicant has not previously held more than 1 subclass 417 visa in Australia

Example 7: Genuine Temporary Entrant

(In a decision record showing what criterion the information is relevant to. This of course would be the concluding paragraph.)

Based on the evidence and information before me, I find that the applicant has given information that is false or misleading in a material particular to Genuine Temporary Entrant Criteria. Accordingly, I am not satisfied that the applicant meets Public Interest Criterion (PIC) 4020, subclause 4020 (1).

Example 8: Financial requirements and Genuine Temporary Entrant

(In a decision record showing what criterion the information is relevant to. This of course would be the concluding paragraph.)

Based on the evidence and information before me, I find that the applicant has given or caused to be given information that is false or misleading in a material particular as it was relevant in deciding whether the applicant meets the financial requirements (Regulation 500.214) and consequently genuine temporary entry to Australia (Regulation 500.212).

Accordingly, I am not satisfied that the applicant meets Public Interest Criterion (PIC) 4020, subclause 4020 (1).

Example 9: Be sponsored by a spouse or de facto

(Showing what criterion the information is relevant to.)

s. 47E(d)

[REDACTED] namely clause 309.211 which requires the applicant to be sponsored by her spouse or de facto partner.

Identity

s. 47E(d)

Example 1: Not satisfied with identity

(This would come after the behaviour and immigration history had been discussed.)

s. 47E(d)

Given the information above I am unable to be satisfied as to your true identity and therefore PIC 4020(2A) is not met.

Example 2: No response to identity received

(The preceding paragraphs would contain the information leading to this conclusion).

s. 47E(d)

[REDACTED] I am therefore satisfied that Public Interest Criterion (PIC) 4020(2A) applies, and I am not satisfied that you meet clause 600.213(1) in Schedule 2 of the Regulations.

Example 3: Response to natural justice provided

s. 47E(d)

[REDACTED] Therefore, I am not satisfied that you meet PIC 4020 (2A).

PIC 4020 Waiver provision

In your decision record you must:

- Show that you have turned your mind to both (a) and (b) of the PIC 4020 waiver provision
- Identify where the applicant has provided no information to support (a) or (b)
- Acknowledge any claims /supporting evidence given
- Show that you have considered these claims

Example 1: – It is clear the applicant has applied for the waiver

s. 47E(d)

Therefore, based on the evidence and information before me, I am not satisfied that you meet Public Interest Criterion (PIC) 4020, subclause 4020(1).

Example 2: Information not submitted

No information has been submitted that indicates that you are seeking waiver of PIC 4020. *[This is the standard fragment in the decision record.]* s. 47E(d)

s. 47E(d)

Example 3: Information provided but you are not satisfied that there are grounds to justify waiver of PIC4020

s. 47E(d)

Example 4: Information provided but you are not satisfied that there are grounds to justify waiver of PIC4020

s. 47E(d)

Example 5: Applicant claims there are compassionate or compelling circumstances

s. 47E(d)

Example 6: No information provided but acknowledging all information provided

s. 47E(d)

Example 7: No information or response to natural justice provided

s. 47E(d)

Example 8: Family ties and Compelling interests of Australia

s. 47E(d)

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s. 47E(d)

Example 9: Compelling interests of Australia

s. 47E(d)

Example 10: Compelling interests of Australia

s. 47E(d)

Example 11: No compelling or compassionate circumstances

s. 47E(d)

Therefore, based on the evidence and information before me, I am not satisfied that the applicant meets Public Interest Criterion (PIC) 4020, subclause 4020 (1). Accordingly, 457.224 is also not met.

Example 12: Bogus documents provided compassionate and compelling circumstances requested

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s. 47E(d)



Considering the response

Example 1: Very detailed response provided

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Example 2: Applicant has not responded to NJ letter/has not provided evidence of any circumstances

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Example 3: Bogus document provided

s. 47E(d)



Example 4: Financial Requirements

s. 47E(d)



Example 5: False information about a previous marriage

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Non-grant period – providing natural justice


IF PRIMARY APPLICANT PREVIOUSLY REFUSED

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IF FAMILY MEMBER PREVIOUSLY REFUSED

s. 47E(d)



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