



Request for Comment Checklist

Surname: _____

Given Name: _____ Date of Birth: _____


Reference: _____

The table below provides some examples of the type of supporting documents you may provide for consideration. This list is not exhaustive.

After completing this checklist, please attach it to the front of your reply. Do not provide original documents unless requested. Documents not in English must be accompanied by accredited English translations.

<h2>Types of Documents</h2>		✓
<p>Sentencing remarks / Court reports / Victim Impact Statements.</p> <p>You may provide judicial orders, including parole probation reports, bail, bonds, suspended sentences or any other relevant undertakings or conditions imposed by the courts.</p>		
<p>STATEMENT DESCRIBING THE CIRCUMSTANCES AND FACTORS THAT INFLUENCED YOUR CONDUCT AND CONTRIBUTED TO YOUR OFFENDING. PLEASE ADDRESS EACH CONVICTION SEPARATELY.</p>		
<p>Psychological / Medical reports.</p>		
<p>Have you completed any rehabilitation programs, sought assistance or received treatment in dealing with issues leading to your offending? Please detail any rehabilitation or treatment you have undergone and attach supporting documentation where possible.</p> <p>You may provide parole reports, employment reports, course completion documents etc</p>		
<p>HAVE YOU COMPLETED ANY COMMUNITY ORDERS, VOLUNTARY COMMUNITY WORK OR OTHER ACTIVITIES THAT GO TOWARDS RECTIFYING YOUR CONDUCT? PLEASE PROVIDE DETAILS AND ATTACH SUPPORTING DOCUMENTS WHERE POSSIBLE.</p>		
<p>In relation to the minor visa applicant/s, does a child welfare authority have a management plan in place? Please provide documentation.</p>		

Released by Department of Home Affairs under the Freedom of Information Act 1982

<h1>Types of Documents</h1>	
<p>Are one or more third parties aware of the issues around your offending and willing and able to monitor the minor's welfare? Please provide documentation.</p>	
<p>Are there court orders relating to parental access and care arrangements of the minor visa applicant? Please provide documentation.</p>	
<p>Are there other persons in Australia who fulfil a parental role or support role in relation to the minor visa applicant? If yes, please detail role.</p>	
<p>Please detail the relationship between you and the minor visa applicant. What role do you have in the minor visa applicant's life?</p>	
<p>Does the minor visa applicant have a relationship with siblings or other relatives in Australia? If yes, provide details.</p>	
<p>Do you have any other parental role? Please describe your contact with the child/ren.</p>	
<p>You may wish to discuss the length of time the minor visa applicant has been living in Australia. Are there any hardship factors affecting the child should they be required to leave Australia or not be granted a visa to live in Australia?</p> <p>In relation to the minor visa applicant, are there issues of the protection pursuant to the Convention and the Protocol relating status if refugees or the Convention Against Torture (CAT)?</p>	
<p>Any other matters you wish to provide for consideration.</p>	



Home

Intranet



Menu

Border and operations

[Home](#) > [Border and operations](#) > [Processing people](#) > [Visa](#) > [Character assessments and visa cancellations](#) > [Visa applicant character consideration](#)

Visa applicant character consideration

On this page:

- [Determining whether a section 501 assessment is appropriate](#)
- [How to refer a client to VACCU](#)
- [Who to refer](#)
- [Further assistance](#)
- [Contact us](#)

The character consideration of a visa applicant is managed by the Visa Applicant Character Consideration Unit (VACCU). The VACCU is a unit within the National Character Consideration Centre (NCCC).

Determining whether a section 501 assessment is appropriate

A non-citizen's conduct may fall within the scope of the character test but this does not necessarily mean the case requires s501 consideration in the first instance. In view of the serious consequences for the client of a decision under s501, visa refusal under s501 should only be considered where other possible approaches have been ruled out.

A visa application should be assessed according to the 'core' Schedule 2 criteria for the visa before refusal under s501 is considered. For example, where a visa applicant provides fraudulent documentation in relation to a

Released by Department of Home Affairs under the Freedom of Information Act 1982

visa application, their visa application should, where possible, be refused on the basis that they are unable to demonstrate that they pass the relevant visa criteria, rather than under s501.

How to refer a client to VACCU

1. Complete relevant referral minute under the 'Who to refer' section below.
2. Scan the client's penal any other information relevant to s501 consideration.
Note: Referring officer must sight client's original penal clearance certificate.
3. Attach the scanned documents and the referral minute in an email to 22(1)(a)(ii) You are not required to send the hard copy file.

Who to refer

A visa applicant should be referred to VACCU if the following circumstances are present.

Applicant circumstance	Action required
<p>Substantial Criminal Record: Section 501(6)(a)</p> <p>a <i>substantial criminal record</i> as defined by s501(7):</p> <ul style="list-style-type: none"> • the person has been sentenced to death • the person has been sentenced to imprisonment for life • the person has been sentenced to a term of imprisonment of 12 months or more (a suspended sentence is considered a prison sentence) • the person has been sentenced to 2 or more terms of imprisonment, where 	<p>Refer to VACCU for consideration under s401 of the <i>Migration Act 1958</i>, using the s501(6)(a) - Substantial Criminal Record form (43KB DOCX).</p> <p>Refer to PAM3: Act - Character -s501- The character test, visa refusal and visa cancellation.</p> <p>Refer to the VACCU Character Referral Guidelines (TRIM OPD2018/409956) for</p>

Released by Department of Home Affairs under the Freedom of Information Act 1982

<p>the total of those terms is 12 months or more</p> <ul style="list-style-type: none"> • the person has been acquitted of an offence on the grounds of unsoundness of mind or insanity, and as a result the person has been detained in a facility or institution. • the person has: <ul style="list-style-type: none"> ◦ been found by a court to not be fit to plead, in relation to an offence ◦ the court has nonetheless found that on the evidence available the person committed the offence, and ◦ as a result, the person has been detained in a facility or institution. 	<p>additional guidance prior to referral.</p>
<p>Immigration Detention related criminal convictions: Sections 501(6) (aa), 501 (6)(ab)</p> <p>The applicant has been convicted of an offence that was committed:</p> <ul style="list-style-type: none"> • while the applicant was in immigration detention • during an escape by the person from immigration detention • after the person escaped from immigration detention but before the person was taken into immigration detention again, or • the applicant has been convicted of escaping from immigration detention. 	<p>Refer to VACCU for consideration under s501 of the <i>Migration Act 1958</i>, using the s501(6)(aa)(ab) - Immigration Detention Offences form (42KB DOCX).</p>
	<p>Refer to VACCU for consideration under s501</p>

Released by Department of Home Affairs under the Freedom of Information Act 1982

Association and membership: Section 501(6)(b)

The Minister reasonably suspects that the applicant has been or is a member of a group or organisation, or has had or has an association with a group, organisation or person and that group, organisation or person has been or is involved in criminal conduct.

Note: Evidence must be provided that clearly indicates the nature of the applicant's association with the identified person, group or organisation and the degree, frequency and duration of the association. Failure of this limb of the character test does not require the applicant to have been sympathetic with, supportive of, or involved in the criminal conduct of the group or organisation.

of the *Migration Act 1958*, using the s501(6)(b) - Association form (43KB DOCX).

People smuggling, human trafficking, international crimes: (Sections 501(6)(ba) and (f))

Where a person has been charged or indicted with one or more of the following, or there is reasonable suspicion that the applicant has been involved in:

- people smuggling
- people trafficking
- the crime of genocide
- a crime against humanity
- a war crime
- a crime involving torture or slavery
- a crime that is otherwise of serious international concern.

Refer to VACCU for consideration under s501 of the *Migration Act 1958*, using the s501(6)(ba) and (f) - people smuggling human trafficking international crimes form (46KB DOCX).

Released by Department of Home Affairs under the Freedom of Information Act 1982

Consider advice provided in Ministerial Direction 65 for further information.

Conduct: Section 501(6)(c) Having regard to either or both of the following to determine the character of the applicant:

- the person's past and present criminal conduct
- the person's past and present general conduct.

Consider advice provided in Ministerial Direction 65 (437KB PDF). You can refer to VACCU for consideration under s501 of the *Migration Act 1958* using the s501(6)(c) (i) and (ii) - Past and present criminal or general conduct form (43KB DOCX).

Refer to the VACCU Character Referral Guidelines (TRIM OPD2018/409956) for additional guidance prior to referral.

Unacceptable Risk: Section 501(6)(d)

In the event the person were allowed to enter or to remain in Australia, there is a risk that the person would:

- engage in criminal conduct in Australia
- harass, molest, intimidate or stalk another person in Australia
- vilify a segment of the Australian community
- incite discord in the Australian community or in a segment of that community, or
- represent a danger to the Australian community or to a segment of that community, whether by way of being liable to become involved in activities

Consider advice provided in Ministerial Direction 65 (437KB PDF). You can refer to VACCU for consideration under s501 of the *Migration Act 1958* using the s501(6) (d) Unacceptable risk form (43KB DOCX).

Refer to the VACCU Character Referral Guidelines (TRIM OPD2018/409956) for additional guidance prior to referral.

Released by Department of Home Affairs under the Freedom of Information Act 1982

that are disruptive to, or in violence threatening harm to, that community or segment or in any other way.

Sexually based offences involving a child: Section 501(6)(e)

A court in Australia or a foreign country has convicted the applicant of one or more sexually based offences involving a child, or found the applicant guilty, or found a charge proven against the applicant for such an offence.

- A conviction, charge proven or finding of guilt relating to persons under the age of 18 and including but not limited to:
 - child sex offences, child abuse, possession/distribution of child pornography, solicitation or grooming of a minor, incest, indecent dealings with children, and other non-contract carriage offences.
- Charges which have been acquitted or are yet to be resolved

Refer to VACCU for consideration under s501 of the *Migration Act 1958* using the s501(6)(e) - child sex offences form (40KB DOCX).

Adverse Security Assessments: Section 501(6)(g)

The applicant has been assessed by the Australian Security Intelligence Organisation (ASIO) to be directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*)

Consider advice provided in Ministerial Direction 65 (437KB PDF). You can refer to VACCU for consideration under s501 of the *Migration Act 1958* using the s501(6)(g)and(h) - ASIO assessment Interpol notice form (40KB DOCX).

Released by Department of Home Affairs under the Freedom of Information Act 1982

and PIC 4002 is not a criterion of the visa the applicant has applied for.

Note: Protection visa applicants who have been issued with an adverse security assessment can be refused under section 36(1B) of the Act and do not need to be referred to VACCU.

Interpol notices: Section 501(6)(h)

An Interpol notice in relation to the applicant, from which it is reasonable to infer that the person would present a risk to the Australian community or a segment of that community, is in force.

Consider advice provided in [Ministerial Direction 65 \(437KB PDF\)](#). Refer to VACCU for consideration under s501 of the *Migration Act 1958* using the s501(6)(g)and(h) - ASIO assessment Interpol notice form (40KB DOCX).

PIC 4001 assessments

- Eligible New Zealand citizen sponsors who may not satisfy PIC 4001
- Non-migrating dependants who are required to satisfy PIC 4001 where there is evidence to suggest they may not.

Consider advice provided in [Ministerial Direction 65 \(437KB PDF\)](#). You can refer to VACCU for consideration, using the [PIC4001 form \(44KB DOCX\)](#).

PIC 4016 and 4018 and Regulation 1.20KB

Australian citizen, Australian permanent resident or eligible New Zealand citizen sponsors of minor visa applicants for child, partner and extended eligibility category visas who have:

- a conviction or outstanding charge/s relating to persons under the age of 18

Consider advice provided in PAM3: Div 1.4 - Form 40 sponsorship - Protection of children - Sponsors of concern. The NCCC requests that urgent or critical cases are signed off by the PMO or EL1 of the visa processing area. See also [Referral for](#)

Released by Department of Home Affairs under the Freedom of Information Act 1982

and including but not limited to child sex offences or child abuse, including possession of child pornography

- any conviction for sex offences against an adult that resulted in a sentence of imprisonment (for example, rape, indecent assault) or any outstanding charges for sex offences against an adult
- other criminal convictions that you consider may constitute a compelling reason to believe that the grant of the visa would not be in the best interests of a minor applicant.

applications with sponsor of concern (50KB DOCX).

You can also use the Request for comment checklist (69KB DOCX).

The NCCC requests that urgent or critical cases are signed off by the PMO or EL1 of the visa processing area.

Further assistance

The VACCU does not provide pre-referral assessments. If unsure, you can refer to the VACCU using the appropriate template provided or contact

22(1)(a)(ii)

Contact us

To contact VACCU:

- **Phone:** +22(1)(a)(ii) (overseas) or 22(1)(a)(ii) (in Australia)
- **Email:** 22(1)(a)(ii)

Last updated: 10 February 2020

Content owner: VISA APP CHARACTER CONS UNIT

Released by Department of Home Affairs under the Freedom of Information Act 1982



Claim ownership



Feedback

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

Department of Home Affairs
Visa Applicant Character Consideration Unit (VACCU)
s501 Case Referral Pro-forma

IMPORTANT PRE-REFERRAL REQUIREMENTS

- Determine whether your referral falls within the VACCU's referral guidelines
- Ensure that relevant information on this form is completed and all mandatory documents are attached
- If any mandatory documents are not included, the case **will be returned**. The VACCU do not retain information and referrals must be resent in full
- Please contact the VACCU on 22(1)(a)(ii) or 22(1)(a)(ii) if your case falls outside these requirements

Urgent <input type="checkbox"/>	Sensitive <input type="checkbox"/> Sex Based Offending Involving Child <input type="checkbox"/>	Detention <input type="checkbox"/>
High Profile (eg. Media Interest) <input type="checkbox"/>	Previous s501 Consideration <input type="checkbox"/>	EL1/PMO Cleared YES <input type="checkbox"/> NO <input type="checkbox"/>

Comments:
(If any of the above apply, please provide details and attach relevant documentation)

APPLICANT DETAILS

Client ID:	IRIS Family ID:	Primary Applicant <input type="checkbox"/> Dependant applicant <input type="checkbox"/>
Given Name(s):	Family Name:	Date of Birth:
Country of Citizenship:	Country of Residence (if different):	
Onshore <input type="checkbox"/> Choose an item. Choose an item.	Offshore <input type="checkbox"/>	
Current visa held: <i>Visa Class (Subclass XX)</i>	Previous travel to Australia: YES <input type="checkbox"/> NO <input type="checkbox"/>	

APPLICATION DETAILS

Visa: <i>Visa Class (Subclass XX)</i>	Purpose of visa application: Choose an item.
Date Lodged: Click here to enter a date.	Proposed travel date: Click here to enter a date.
Applicant agreed to email contact? YES <input type="checkbox"/> NO <input type="checkbox"/>	Applicant's email address:
Migration Agent: <input type="checkbox"/> Authorised Recipient: <input type="checkbox"/> 956 Form Attached <input type="checkbox"/>	Migration Agent/Authorised Recipient Details:
MAL Record created/updated: <input type="checkbox"/>	Stream 3 transfer in ICSE: <input type="checkbox"/>

APPLICATION OF THE CHARACTER TEST

Substantial criminal record – s501(6)(a)

Subsection 501(1) of the Act states that the Minister may refuse to grant a visa to a person if the person does not satisfy the Minister that the person passes the character test. Under paragraph 501(6)(a), a person does not pass the character test if the person has a substantial criminal record within the meaning of subsection 501(7).

The applicant has a substantial criminal record if the applicant has:

<input type="checkbox"/>	(a) been sentenced to death; OR
<input type="checkbox"/>	(b) been sentenced to imprisonment for life; OR
<input type="checkbox"/>	(c) been sentenced to a term of imprisonment of 12 months or more; OR
<input type="checkbox"/>	(d) been sentenced to 2 or more terms of imprisonment (whether on one or more occasions), and the total of those terms is 12 months or more; OR
<input type="checkbox"/>	(e) been acquitted of an offence on the grounds of unsoundness of mind or insanity, and as a result the person has been detained in a facility or institution; OR
<input type="checkbox"/>	(f) (i) been found by a court to not be fit to plead, in relation to an offence; AND (ii) the court has nonetheless found that on the evidence available the person committed the offence; AND (iii) as a result, the person has been detained in a facility or institution

Released by Department of Home Affairs under the Freedom of Information Act 1982

Summary of the visa applicant's conduct:

Example: Applicant X was sentenced to a term of imprisonment of 5 years for Armed Robbery in the Supreme Court of NSW on <<Date>>

MANDATORY DOCUMENTS CHECKLIST

<input type="checkbox"/>	Applicant is Schedule 2 criteria met OR the applicant presents an immediate risk that warrants referral
<input type="checkbox"/>	Full disclosure criminal history reports with at least a 12 month validity period including all countries applicant has resided in for longer than 12 months over the age of 16 years in the last 10 years See: Character and police certificate requirements
<input type="checkbox"/>	Penal clearance waivers: If applicable, contact the relevant Post in accordance with the guidelines in the Penal Checking Handbook and attach the penal clearance waiver.
<input type="checkbox"/>	USA applicants only: State penal certificates where the applicant has resided must accompany FBI identification record if records are incomplete Chinese applicants only: Court dispositions/sentencing remarks
<input type="checkbox"/>	Detailed statement from applicant outlining the circumstances of their conduct/offending
<input type="checkbox"/>	Any claims of rehabilitation undertaken by the applicant need to be supported by documentary evidence as applicable (e.g. probation reports, completion of programmes, community service etc.)
<input type="checkbox"/>	All documents in a language other than English must be accompanied with an official translation
<input type="checkbox"/>	Visa application and/or sponsorship forms including where applicable, <i>Personal particulars for assessment including character assessment</i> (Form 80) and <i>Advice by a migration agent...</i> (Form 956)
Controversial visitor process, if applicable, has been completed and attached	YES <input type="checkbox"/> NO <input type="checkbox"/>
External agency checks, if applicable, has been completed and attached	YES <input type="checkbox"/> NO <input type="checkbox"/>
War crimes screening process, if applicable, has been completed and attached	YES <input type="checkbox"/> NO <input type="checkbox"/>
Relevant 503A protected information attached	<input type="checkbox"/>
Relevant non-disclosable information attached	<input type="checkbox"/>

OTHER INFORMATION

Supplementary information may include the following:

<input type="checkbox"/>	Sentencing Remarks / Court Reports / Victim Impact Statements
<input type="checkbox"/>	Character References
<input type="checkbox"/>	Compassionate circumstances (identified physical/mental health issues to be accompanied by medical or psychologists reports where possible)
<input type="checkbox"/>	Minor applicants whose interests may be adversely affected in the event of visa refusal
<input type="checkbox"/>	Assessment of applicant as being owed international obligations (CAT, Refugees Convention, ICCPR)

Comments:

If any of the above apply, please provide details and attach relevant documentation

REFERRAL SOURCE

Contact Officer(s):

Email Address:

Phone:

Processing Office:

VACCU USE ONLY

<input type="checkbox"/> Referral acknowledged	<input type="checkbox"/> Travel date noted in CCMD Portal
<input type="checkbox"/> CCMD Portal entry created	<input type="checkbox"/> MAL entry checked/updated
<input type="checkbox"/> Risk assessment classified	<input type="checkbox"/> NOICR/ADF

Released by Department of Home Affairs under the Freedom of Information Act 1982

Urgent <input type="checkbox"/>	Sensitive <input type="checkbox"/> Sex Based Offending Involving Child <input type="checkbox"/>	Detention <input type="checkbox"/>
<input type="checkbox"/> TRIM record created	<input type="checkbox"/> Ministerial	