

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MACHINERY OF GOVERNMENT CHANGES

KEY TALKING POINTS:

- On 1 July 2022, in accordance with the Government's Administrative Arrangements Orders (AAOs), the protective security services, electronic surveillance law enforcement, child abuse, counter terrorism and modern slavery policy functions transferred from the Department of Home Affairs to the Attorney-General's Department (AGD).
- The Australian Federal Police; Australian Criminal Intelligence Commission; AUSTRAC; and the Office of the Special Investigator have also transferred to the Attorney-General's portfolio.
- On 1 September, the National Emergency Management Agency (NEMA) was established as an Executive Agency under the Home Affairs Portfolio, bringing together the functions of the Department of Home Affairs' Emergency Management Australia (EMA) and the former National Recovery and Resilience Agency (NRRA).
- The Department is working co-operatively with agencies impacted by changes to the new Administrative Arrangements Order, including the Attorney-General's Department and the Australian Federal Police, to ensure counter-terrorism frameworks are maintained and the Australian community remains safe.

BACKGROUND AND CHRONOLOGY

- In accordance with the AAOs announced by the Prime Minister on 1 June 2022, the Australian Federal Police, Australian Criminal Intelligence Commission (including the Australian Institute of Criminology), Australian Transaction Reports and Analysis Centre (AUSTRAC) and Office of the Special Investigator (OSI) transferred from the Home Affairs Portfolio to the Attorney General's Portfolio with effect from 1 July 2022.
- While effect was given to the AAOs on 1 July 2022, including the change of reporting lines and delegations, the Section 72 Public Service Act Determination effecting staff movements, was finalised 18 August 2022. The physical move of the staff occurred on 26 August 2022 and resulted in 162 ongoing and non-ongoing APS staff and 14 external staff (secondees and contractors) transferring to AGD.
- The delivery of corporate services for OSI transitioned from the Department to AGD with effect from 1 November 2022.

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

MACHINERY OF GOVERNMENT CHANGES

- On 1 September 2022, the National Emergency Management Agency (NEMA) was established as an Executive Agency under the Home Affairs Portfolio, and the National Recovery and Resilience Agency was abolished on 2 September 2022. The functionality of both the National Recovery and Resilience Agency and the Department of Home Affairs' Emergency Management Australia moved into NEMA on 1 September.
- The Department is currently working toward 8 December as the date when the Department will take over provision of all corporate services for the National Emergency Management Agency (NEMA). In the interim, the Department has agreed arrangements for the continued provision of corporate services for the former NRRA with the Department of Prime Minister and Cabinet.
- Memorandums of Understanding will be agreed to document service levels and funding arrangements where there is a requirement for both interim and ongoing corporate services.
- The Department's MoG Taskforce and Chief Operating Officer continue to engage with all areas involved to ensure these changes are implemented in a timely and co-ordinated manner.

Lead Division

Contact: Lee-anne Monterosso

Division: Procurement, Property and Contracts

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Originating Source: (MO/HA)

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

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QUESTION TIME BRIEF (QTB)

OPERATION SOVEREIGN BORDERS

KEY TALKING POINTS:

- The Australian Government remains committed to countering maritime people smuggling and preventing deaths at sea.
- Individuals continue to risk their lives by joining people smuggling ventures to Australia. This is evidenced by the interception of six vessels since 21 May 2022.
 - Operation Sovereign Borders (OSB) safely returned all 183 Sri Lankan nationals from these vessels to Sri Lanka, in close cooperation with the Sri Lankan Government.
- Measures and safeguards are in place to ensure all OSB actions and activities are undertaken in a manner consistent with Australian domestic law and Australia's obligations under international law.
- Since the commencement of OSB on 18 September 2013, Australian authorities have returned 1,056 people from 44 maritime people smuggling ventures to their country of origin or departure.
- Over the same period, close cooperation with regional partners has resulted in disruptions of an additional 101 maritime people smuggling ventures, 3,332 potential irregular immigrants (PIIs), and 1336 arrests in source and transit countries.
- It has been more than eight and a half years since the last known death at sea from maritime people smuggling ventures en-route to Australia.
- It has been more than eight years since the last successful¹ maritime people smuggling venture to Australia.

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¹ 'Successful' maritime people smuggling ventures are defined in this brief as those unable to be safely returned.

QUESTION TIME BRIEF (QTB)
OPERATION SOVEREIGN BORDERS

BACKGROUND AND CHRONOLOGY

OSB Headline Statistics from 18 September 2013 to 1505hrs 30 November 2022:

Days since last successful maritime people smuggling venture (since 27 July 2014)	3048 days
Days since last maritime people smuggling venture safely returned to country of origin or departure (since 5 August 2022)	117 days
Total maritime people smuggling ventures returned to country of origin or departure	44 boats, 1,056 PIIs and crew
Total successful maritime people smuggling ventures ²	23 boats, 1,309 Unauthorised Maritime Arrivals (UMAs) and crew

If asked: OSB's on-water assessment processes?

- Australia is committed to its international obligations set out in international conventions to which it is a party.
 - Australia's processes ensure consistency with our international obligations.
- Australia does not return individuals to situations where they face persecution or a real risk of torture, cruel, inhumane or degrading treatment or punishment, arbitrary deprivation of life or the application of the death penalty.

If asked: What is causing the recent surge in ventures?

- The socio-economic crisis in Sri Lanka has made some Sri Lankans more susceptible to exploitation by criminal people smugglers.
- The Australian Government remains firmly committed to Operation Sovereign Borders.
- The Government's strong border protection policies to counter maritime people smuggling and preserve safety of life at sea remain effective and will not change.
- This has been clearly demonstrated since May 2022, with all 183 passengers and crew on board the six attempted maritime people smuggling ventures to Australia safely returned to Sri Lanka.

² This total does not include UMAs that do not fall within the remit of Operation Sovereign Borders (e.g. cruise ship arrivals without valid documents and other non-people smuggling irregular movement in the Torres Strait).

ABF

QUESTION TIME BRIEF (QTB)

OPERATION SOVEREIGN BORDERS

Foreign Law Enforcement Agencies Disruption and Deterrence activity in the reporting period 18 September 2013 to 15 November 2022.³

	Disruptions	PIIs Disrupted	Arrest Warrants	Arrests
Country	Since 18 Sep 2013	Since 18 Sep 2013	Since 18 Sep 2013	Since 18 Sep 2013
Indonesia	53	1,778	14	69
India	0	0	0	2
Sri Lanka	34	1,255	1	1,201
Malaysia	11	277	0	51
Pakistan	1	0	0	5
Thailand	0	0	0	0
UAE	0	0	0	1
Vietnam	0	0	0	7
Timor Leste	1	13	0	0
PNG	1	9	0	0
Totals	101	3,332	15	1,336

Contact: Ky Blackman - Deputy Commander
 Joint Agency Task Force Operation Sovereign Borders
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³ The statistics are collated on a twice-monthly basis; the information recorded in the above table is current as at 15 November 2022.
 NB: Statistics are provided by AFP posts, based on advice provided by foreign law enforcement, and are indicative only as they are subject to a range of factors that may affect accuracy and quality. Post experience is that results are typically under-reported because arrests in regional locations are occasionally not reported.

~~OFFICIAL~~
HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
VISA BACKLOG

KEY TALKING POINTS:

- Reducing the number of on-hand visa applications is a priority for the Australian Government.
 - The temporary and migration visa backlog includes growth in new applications and applications not processed while borders were closed.
 - Growth in Student visas has been particularly strong. We have granted record numbers of offshore student visas between June and early November 2022 - 46 per cent more than in the same period in 2019.
- Nearly 3.48 million applications have been finalised between 1 June and 18 November 2022, including nearly 3.09 million applications that involve applicants who are outside Australia.
 - This includes over 1,867,000 visitors, 257,000 students and 53,000 temporary skilled visa applicants.
- As at 18 November 2022, there are just under 737,100¹ visa applications onhand.
 - This is down from just under a million in June 2022.
- The temporary visa holder population **in Australia** is also recovering.
 - As at 18 November 2022, it has rebounded to over 2.22 million, having fallen to 1.61 million in December 2021 from a pre-pandemic figure of 2.34 million in March 2020.
- There are a further 3.59 million temporary and migration visa holders outside Australia who are able to travel to Australia.
- To increase capacity and output, the Department has:
 - added 309 new staff to support temporary and migration visa processing between 1 May 2022 and 31 October 2022,
 - conducted recruitment and training to fill the extra 500 staff to support visa processing announced at the Jobs and Skills Summit. As at the end of October 2022, around 30 per cent of these positions have been filled.
- Other measures to reduce the number of on-hand visa applications include:
 - prioritising key **offshore** caseloads - temporary skilled, student and visitor – so more people can travel to Australia.
 - reviewing risk profiles and policy settings, streamlining assessment processes and enhancing system settings to grant more visas quickly while maintaining scrutiny of high risk cases - particularly for Temporary Skill Shortage, Student and Temporary Graduate visas.

¹ Includes visa applications that are pending payment resolution and does not include second stage partner to avoid double counting.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
VISA BACKLOG

If asked:

When will processing times improve?

- Processing times will take time to improve as we work through older applications in the backlog – policy changes are enabling more streamlined visa processing.
- If application rates remain steady, we expect a reduction in priority temporary visa caseloads, to pre-COVID-19 levels, by the end of 2022.

Will the Department deprioritise Family visa processing, including Partners? Will this result in family members being kept apart for longer?

- In the Partner visa program (the largest component of the Family stream of the Migration Program), on-hand numbers have fallen by over 40,000 applications (or 41 per cent) from over 98,000 as at 31 October 2020 to just over 58,000 as at 18 November 2022.

Will the Department be working to reduce the number of Bridging Visa holders in Australia?

- Bridging visas allow applicants who have applied for a visa whilst in Australia to remain here lawfully while that visa is being finalised. The number of Bridging visa holders will decrease as associated on-hand visa applications are finalised.
- Approximately 90 per cent of Bridging A, B and C visa holders with an application with the Department, or at merits/judicial review stage, have work rights².
- The growth in Bridging visa holders since the start of the pandemic has largely been driven by growth in Temporary Graduate, Student and Pandemic event visa applications.
- Over 216,054 applications from applicants in Australia in these categories are currently on-hand at 18 November 2022, compared to 46,000 just before the start of the COVID-19 pandemic (January 2020).

BACKGROUND AND CHRONOLOGY

Table 1: Historical Immigration Programs Division Average Staffing Level (Average Staffing Level)

	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Budget ASL	2,553	2,479	2,447	2,335	2,208	2,018	2,020	2,492 ⁴
Actual ASL	2,585	2,489	2,396	2,317	2,204	2,076	1,959	

* The historical staffing numbers listed are to deliver the temporary and migration visa programs from a visa backlog and global service delivery perspective and is based on the structure as at 30th June 2022.

² The percentage does not include BVD, BVE, BVF or BVR holders, and is based on data for BV ABC holders with condition 8101, based on most current data available (as at 31 July 2022).

³ Average Staffing Level (ASL) is the average number of employees receiving salary or wages over a financial year, with adjustments for casual and part-time employees to show the full-time equivalent. An ASL is an average over a period of time normally a financial year.

⁴ Total FY22-23 budget for Immigration Programs Division includes resourcing previously attributed to the Global Australia Taskforce.

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QUESTION TIME BRIEF (QTB)
VISA BACKLOG

Table 2: Immigration Programs Division Staffing (Full Time Equivalent⁵)

	30/4/22	31/5/22	30/6/22	31/7/22	31/8/22	30/9/22	31/10/22
Actual FTE	1,943	1,983	2,047	2,123	2,158	2,203	2,252

Attachment A is an overview of migration and temporary visa program activity, showing progress since 1 June 2022, and comparisons between September and October 2022.

- As at 18 November 2022, there were just under 737,100⁶ visa applications onhand, down from just under a million in June 2022.
 - This compares to just under 500,000 applications onhand at end of June 2019.
 - Of the just under 737,100 visa applications onhand now, just over 139,400 are in visa categories subject to capping and/or queuing. The cap is set annually in a legislative instrument based on Migration Program planning levels.
- Visa processing times are updated regularly on the Department's website, as new data becomes available.
- Factors impacting processing times vary. Some are within an applicant's control, such as whether an applicant has provided all required information and how long it takes for information to be received from external agencies (e.g. health, character, national security requirements).

Lead Division
 Immigration Program Division
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 Division: Immigration Program Division
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 Originating Source: MO

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 Action Officer: Steph McManus
 Date last Updated: 27/11/2022

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⁵ The number of full-time equivalent (FTE) employees directly employed by the Department at a point in time. Part-time employees are converted to full-time equivalent. Includes all active full-time and part-time, ongoing and non-ongoing employees engaged for a specified term or task paid through payroll. Excluded in the calculation are overtime, contractors and employees on unpaid leave.

⁶ Includes visa applications that are pending payment resolution and does not include second stage partner to avoid double counting.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SKILLED VISAS - SKILLS SHORTAGE

QUESTION: What is the Government doing in the migration space to address the current labour and skills shortages?

KEY TALKING POINTS:

- Australia has experienced a strong labour market recovery from the initial shock of COVID-19. In October 2022, the unemployment rate was 3.4 per cent, with over 13 and a half million Australians employed and over nine and a half million Australians in full-time work. At the same time, there are about 470,000 job vacancies.
 - Reducing the number of on-hand visa applications is a priority for the Australian Government so more skilled workers, both temporary and permanent, can contribute to economic growth and assist with labour shortages in a very tight market. (Refer QB22-000159 for the Department's progress on resolving visa backlogs)
 - The Jobs and Skills Summit (Summit), held on 1-2 September 2022, provided a critical opportunity to work with business, industry and unions to build momentum and broad support for action to address skill and labour shortages, including through migration.
 - The Government is actively progressing priority outcomes from the Summit.
 - As announced at the Summit, the 2022-23 permanent Migration Program planning ceiling will be increased to 195,000 visa places. (QB22-000188 refers)
 - While migration has a key role to play in addressing the skill and labour shortages, the Government is committed to ensuring that migration complements not replaces Australia's domestic labour force. Employment and training opportunities for Australians remain a key focus.
-
- Labour market analysis undertaken by the National Skills Commission shows that skill and labour shortages are currently affecting all industries and skill levels.
 - Higher skilled occupations saw increased employment through the pandemic, whereas employment levels across all lower skilled occupations decreased.
 - This suggests that skill shortages have been persistent over time, while lower skilled labour shortages are more closely related to COVID disruptions and a tight labour market.
 - The return of lower-skilled temporary migrants in the short term will have a greater impact in alleviating labour shortages.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SKILLED VISAS - SKILLS SHORTAGE

- On 6 October, the Commission published the 2022 Skills Priority List. This list provides a detailed view of occupations in shortage, nationally, and by state and territory, as well as the future demand for occupations in Australia. This list does not have a direct bearing on the Skilled Migration Occupation lists which are updated through a separate process.
- The temporary visa holder population in Australia is also recovering.
 - As at 11 November 2022, it had grown to over 2.22 million from a low of 1.61 million in December 2021. The pre-pandemic figure was 2.34 million in March 2020.
 - There are a further 3.53 million temporary and migration visa holders outside Australia who are able to travel to Australia. This includes nearly 263,700 temporary visa holders with some form of work rights.

If asked: How will the additional 35,000 places in the permanent Migration Program help to address workforce shortages?

- The 2022-23 program will have a strong focus on additional offshore skilled migrants, to help ease widespread, critical skill and workforce shortages where the skilling of Australians is not yet able to keep pace with industry demands.
- A larger program, with a focus on attracting migrants from outside Australia, aims to increase labour supply to assist businesses experiencing skill and labour shortages in what is currently a very tight labour market. It also sends a strong signal to the world that 'Australia is open for business'.

If asked: What is the Government's plan for housing, public transport infrastructure and local services to support this increase?

- Each year, consultation occurs across Government, including with states and territories, in determining the optimal size and composition of the Migration Program.
- Migration is key to ensuring our workforce is well-positioned to meet Australia's labour and skill needs including for the delivery of essential services, support services, housing and infrastructure.
- We will continue to work together across all levels of Government to ensure infrastructure, housing and social services are well-planned to meet the needs of a growing population.

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QUESTION TIME BRIEF (QTB)
SKILLED VISAS - SKILLS SHORTAGE

- At the Jobs and Skills Summit in September 2022, we announced that the remit of the National Housing Infrastructure Facility will be widened, making up to \$575 million available to invest in social and affordable housing. The funding can be used to partner with other tiers of government and social housing providers, and to attract private capital including from superannuation funds.

BACKGROUND AND CHRONOLOGY

- Skill shortages across Australia and globally have been exacerbated by COVID-related restrictions, illness, and an ageing population with a rapid growth in the number of people reaching retirement age.
- Skill shortages have had a severe impact on Australian businesses, especially small and family businesses that are more exposed to fluctuations in the labour market. They can create a range of negative impacts including restricting businesses from operating or producing at full capacity, lowering confidence in long-term business planning, and undermining innovation, growth and productivity gains. Migration has a key role to play in helping Australian businesses thrive by providing the labour, skills and talent needed for business to operate and grow.
- The national unemployment rate is low, and Australia currently has about 470,000 job vacancies, with the largest number of vacancies in health care and social assistance; accommodation and food services; professional, scientific and technical services; retail trade; administration and support services; construction; and manufacturing.
- In the current context of an expected sustained period of low unemployment and tight labour market conditions, some material relief to skill shortages will need to come from an injection of overseas workers. Improving workforce participation for family and humanitarian migrants already settled in Australia can also help address these shortages.

Lead Division

Contact: FAS David Wilden

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Date first prepared: 07 July 2022

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

**ALEXANDER LITIGATION CASE - TERRORISM-RELATED
CITIZENSHIP LOSS PROVISION**

KEY TALKING POINTS:

- The Government is committed to creating a constitutionally sound regime for citizenship cessation to address the High Court's judgment in *Alexander v Minister for Home Affairs & Commonwealth* and will do so informed by several related matters that are currently pending before the High Court.
- On 8 June 2022, the High Court declared that s36B of the *Australian Citizenship Act 2007* (Cth) is invalid and that Mr Alexander is an Australian citizen.

If pressed

- The Commonwealth accepts that in light of the High Court's judgement in *Alexander v Minister for Home Affairs* [2022] HCA 19 (*Alexander*) that ss 33AA and 35 of the *Australian Citizenship Act 2007* (Cth) are also invalid.
- As a result, the Commonwealth's position is that the cessation of Australian citizenship for individuals under those provisions was invalid, and they never ceased to be Australians.
- It would be inappropriate to comment further as this issue is before the High Court.

BACKGROUND AND CHRONOLOGY

- Mr Alexander was born in Australia on 5 August 1986. He acquired Australian citizenship at birth pursuant to s10(1) of the *Australian Citizenship Act 1948* (Cth). Both his parents were Turkish citizens, and as a result he also acquired Turkish citizenship at birth under Turkish law.
- In April 2013, Mr Alexander departed Australia for Turkey. In November 2017, Mr Alexander was apprehended by Kurdish militia, transferred to the custody of Syrian authorities and was subsequently charged by Syrian prosecutors with offences against the Syrian Penal Code. On 31 January 2019, Mr Alexander was convicted and sentenced by a Syrian court to a term of imprisonment for 15 years – subsequently reduced to five – on the strength of admissions he had made during an interrogation.
- In June 2021, the Australian Security Intelligence Organisation (ASIO) provided a "Qualified Security Assessment" to the Minister for Home Affairs which stated that Mr Alexander had joined the Islamic State of Iraq and the Levant, which was a designated "terrorist organisation", by August 2013, and that he had likely engaged

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

**ALEXANDER LITIGATION CASE - TERRORISM-RELATED
CITIZENSHIP LOSS PROVISION**

in foreign incursions and recruitment by entering or remaining in al-Raqqa Province in Syria, a "declared area", on or after 5 December 2014.

- On 2 July 2021, the then Minister for Home Affairs made a determination in writing under section 36B(1) of the *Australian Citizenship Act 2007* (Cth) (Citizenship Act) that Mr Alexander's Australian citizenship had ceased, as she was satisfied that he had engaged in foreign incursions in Syria, that such conduct demonstrated that he had repudiated his allegiance to Australia, that it was contrary to the public interest for him to remain an Australian citizen; and that the determination would not render him stateless as he was a citizen of Turkey.
- Section 36B was introduced into the Citizenship Act by the *Australian Citizenship Amendment (Citizenship Cessation) Act 2020*. Section 36B(1) empowered the Minister to determine in writing that a person aged 14 or older ceases to be an Australian citizen if satisfied that the person engaged in specified terrorism-related conduct outside Australia, the conduct demonstrates that the person repudiated their allegiance to Australia, it would be contrary to the public interest for the person to remain an Australian citizen; and the determination would not render the person stateless.
- On 23 July 2021, Mr Alexander (via his sister acting as his litigation guardian) filed an application against the Minister and the Commonwealth in the original jurisdiction of the High Court, seeking a declaration that section 36B of the Act was invalid and a declaration that he was an Australian citizen.
- On 8 June 2022, the High Court delivered judgment, declaring s36B of the Act invalid and that Mr Alexander is an Australian citizen. The majority of the High Court found that s36B was invalid because it reposed in the Minister for Home Affairs the exclusively judicial function of adjudging and punishing criminal guilt, contrary to Chapter III of the *Constitution*.
- There are several matters before the High Court concerning the validity of related citizenship loss provisions – see *Benbrika and Jones* in **QTB22-000172 Significant Litigation and Enquiries**.

Lead Division
Contact: Assistant Secretary Marian Agbinya
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Date first prepared: 01 July 2022
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Date last Updated: 1/12/2022

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

AIRPORT SCREENING AND PROCESSING DELAYS

QUESTION: Key facts in relation to recent media reporting on security screening processes and lengthy queues and action the Government is taking to address airport processing delays.

KEY TALKING POINTS:

- Aviation remains a target for those seeking to do us harm. The failed 2017 Sydney Airport plot is a stark reminder that there are persons with the intent to carry out terrorist acts targeting aviation.
 - To stay ahead of evolving threats to aviation, in 2018 the then Government announced all security controlled airports would be required to upgrade their security screening equipment to address evolving threats.
 - The Department of Home Affairs sets the broad requirements and outcomes for aviation security. This includes requirements for airport security screening of passengers (and their luggage). The delivery of aviation security services, such as passenger screening, is the direct responsibility of airports and their contractors.
 - Security screening measures are there to keep travellers safe and secure. The Government expects that all travellers are treated with respect and dignity during the screening process.
 - The Government's security posture has not changed. High volumes of passengers and the low number of airport staff compared to pre-COVID -19 staffing levels have contributed to the long queues at airports.
-
- The Department of Home Affairs (the Department) is aware of the incident that occurred at Brisbane Airport on Sunday 27 November 2022. The Department is working closely with Brisbane Airport on the incident.
 - The Department is aware of the four separate and unrelated sterile area breaches which occurred on 07 September 2022 at Sydney airport and 11 October 2022 at Melbourne, Adelaide and Gold Coast airports. These incidents led to passengers needing to be re-screened at Sydney, Melbourne and Adelaide airports, which caused delays to some services.
 - The Department investigates all incidents, as a matter of course. Investigations will focus on understanding how the sterile areas were compromised, what mitigations need to be enacted to prevent reoccurrence, and whether enforcement action should be considered by the Department.

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QUESTION TIME BRIEF (QTB)

AIRPORT SCREENING AND PROCESSING DELAYS

- The Department is working closely with the airports involved, and security matters are frequently discussed with industry.
- Airports are introducing body scanners for domestic passenger screening and advanced X-ray technology for baggage screening.
- Body scanners have been used for international screening in Australia since 2012.
- Body scanners are safe and will only generate a general avatar of a person highlighting areas for further resolution, such as an item in a pocket. No personal information is captured by a body scanner and the traveller's privacy is preserved.
- Travellers may be asked to consent to a frisk search if screening technology, such as a body scanner, indicates further screening is required.
- The Government expects that all travellers are treated equally, with dignity and have their privacy maintained during the screening process, particularly when subject to a frisk search.
- Passengers can raise any issues they encounter during the screening process directly with airport management or with the Department.
- The Department continues to work with industry to raise the capability of security screeners, including through the implementation of the Screener Accreditation Scheme. The Scheme commenced in the aviation sector on 16 June 2021 and introduced screener-specific qualification requirements.
- Stage two of the Scheme commenced 1 July 2022 and introduced continuous professional development and a mandatory period of on-the-job training. Annual accreditation testing under the Scheme will commence on 1 January 2023 to make certain screeners maintain their capabilities.
- These measures will improve screening performance and ensure employees are able to appropriately manage sensitivities when screening passengers.
- High volumes of passengers and the low number of airport staff compared to pre-COVID -19 staffing levels have contributed to the long queues at airports. Airports are undertaking recruitment activities to boost staffing numbers. Sydney Airport recently held a jobs expo to fill 5,000 vacancies across various roles, including security.
- The Department continues to work with industry to address these issues and streamline the screening process where possible.

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

AIRPORT SCREENING AND PROCESSING DELAYS**BACKGROUND AND CHRONOLOGY**

Recent media reports and social media posts by high profile individuals have highlighted concerns with security screening processes at Australian airports.

Complaints have related to: passengers being forced to remove articles of clothing; screening of transgender passengers; screening of passengers with assistance animals; feeling intimidated and harassed during frisk searches; and long wait times.

The challenges in recruiting screening staff remains a key contributing factor to the congestion at airports. Many screeners are new to the role, and lack experience and customer service skills. Domestic passenger volumes are up to 120% of pre-COVID-19 numbers, this has created long airport queues putting additional pressure on screeners.

The Department is working with industry to update and streamline the screening process to improve consistency and ensure all passengers are treated equally, and have their dignity and privacy maintained.

MEDIA

Date	Outlet	Reporting
27 November 2022	The Daily Mail Also reported in The Courier Mail and The West Australian	Brisbane Airport evacuated following 'security breach' as major flight delays are expected to cause havoc for passengers A security breach caused evacuation of the Virgin terminal at Brisbane airport. Brisbane airport said the breach had been 'contained' and there was no longer a threat, but warned passengers to expect delays to flights.
11 October 2022	ABC News	Melbourne Airport security breach sees passengers rescreened, flights delayed An individual gained access to the secure area at Melbourne Airport without being screened. A passenger arrived in Melbourne from Perth where they exited the sterile area of the terminal before walking back through a one-way security door and triggered an alarm. This required the rescreening of thousands of passengers and the disembarkation and rescreening of one flight.

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AIRPORT SCREENING AND PROCESSING DELAYS

11 October 2022	ABC News	<u>Passengers re-screened at Adelaide Airport after security breach, sending airport into chaos</u> A walk-through metal detector at Adelaide Airport was identified as not working while it had been in use. Approximately 2,000 passengers had to be rescreened to rectify the issue.
11 October 2022	Gold Coast Bulletin & KopDar	<u>Security scare at Gold Coast Airport</u> A security breach occurred at Gold Coast Airport which resulted in screening having to be paused for a 30 minute period.
8 September 2022	News.com.au	<u>Airport Security breach forces 200 passengers to be escorted by AFP</u> Passengers on QF487 from Sydney to Melbourne were forced to disembark and be escorted by AFP officers after it was discovered a passenger was not screened before boarding the plane.

Lead Division
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Date first prepared: 01 July 2022
Originating Source: Home Affairs

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Action Officer: s. 22(1)(a)(ii)
Date last Updated: 29/11/2022

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
REPORT ON SIEV 915 - PUBLIC STATEMENT

KEY TALKING POINTS:

- On Friday 23 July 2022, I released the report from the Secretary of the Department of Home Affairs which investigated the circumstances that led to the issuance of the public statement relating to the interception of the Suspected Illegal Entry Vessel (SIEV) 915 on the day of the Federal Election, Saturday 21 May 2022.
- The report assessed whether the actions taken by Departmental officials were in accordance with the Guidance on Caretaker Conventions 2021 (Conventions).
- The report found that all actions and engagements of the Department and its officials were consistent with the Conventions and the release of information to the former Minister for Home Affairs was lawful.
- However, the report highlights that significant pressure was placed on the Department by the former Australian Government to conduct itself in a way that could have contravened the Conventions and potentially undermined the protocols designed to protect the integrity of sensitive operational activities.

Background

- The Conventions, are not legally binding, nor hard and fast rules.
- During a caretaker period, Ministers are able to exercise non-delegable, non-compellable intervention powers, and can continue to seek factual material from agencies related to the day-to-day business of government, which should be supplied in the normal way.
- The responsibility for observing the Conventions ultimately rests with agency heads or, in cases where they are involved, with the Prime Minister and their ministers.
- The public announcement regarding SIEV 915 was a factual public statement posted to the Australian Border Force Newsroom website.

If asked:

Who requested and authorised the public statement?

- The chronology of events in the report clearly indicates that there was a degree of pressure placed on the Department by former Government.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
REPORT ON SIEV 915 - PUBLIC STATEMENT

- This pressure was exacerbated by the direction to draft and publish the statement within 15 minutes. This direction came from the former office of the Prime Minister, through the Office of the Minister for Home Affairs.
- All Departmental officers followed the direction of the former Minister for Home Affairs' office to publish a factual publication on the interception of the vessel.
- However – commendably – the Department refused to amplify the public statement by posting it on social media or sending it directly to selected journalists.

The public statement confirmed the interception of a people smuggling venture on the same day the interception occurred. Wasn't this unprecedented since the establishment of Operation Sovereign Borders?

- Since the establishment of Operation Sovereign Borders, monthly updates have been provided on the Australian Border Force Newsroom website reporting on relevant Operation Sovereign Borders activity from the preceding full calendar month
- The decision by the former Australian Government to request a public statement on 21 May 2022 was not consistent with the established approach to report on Operation Sovereign Borders matters monthly.
- There was no precedent previously established as this instance involved a people smuggling venture that had just been intercepted.
- Precedent does however exist where a former Minister for Home Affairs has published a media release confirming the safe return of those on board an intercepted vessel after the interception has taken place.
- While this raises questions for the former Australian Government, I am satisfied the Department conducted itself with integrity in relation to its handling of the Australian Government request.

Why did the Department notify the former Minister for Home Affairs about the interception?

- In the event of the declaration of a SIEV, it is routine to inform the Minister for Home Affairs.
- Notifying relevant Ministers of on-water issues is usual practice and necessary so that Ministers can give direction and consider exercising personal legislative powers.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
REPORT ON SIEV 915 - PUBLIC STATEMENT

Lead Division
Contact: Rheannon Nicholson, Assistant Secretary
Performance, Governance & Inquiries Branch
Group: Executive and International
Date first prepared: 4 July 2022
Originating Source: (HA)

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii) Director Inquiries
Section Date last Updated: 7/09/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DEPARTMENT KEY STATISTICS AND FACTS

KEY TALKING POINTS:

- The Department is responsible for central coordination, and strategy and policy leadership in relation to national security, border security, social cohesion, and the effective delivery of immigration, citizenship and humanitarian programs.
- The Department's total funding as at the October 2022–23 Budget is \$5.4 billion in 2022–23 and \$19.4 billion over the forward year estimates from 2022–23 and the estimated actual ASL for the Department for 2021–22 is 13,199. The estimated ASL for 2022–23 for the Department is 14,120.
- As at 30 September 2022, the Department continues to deliver strong outcomes for Government, for the Australian community and non-Government stakeholders with an enhanced focus on service delivery and strategic reform.

Achievements against the Department's key activities between the period 1 July 2022 and 30 September 2022 are below:

Immigration and Humanitarian Programs

- Delivered **over** 30,000 places under the 2022–23 Migration Program.
- Reduced the median processing time for visitor visa applications from 14 calendar days to 4 calendar days, and Working Holiday Maker visa applications from 60 days to less than 1 day, compared to Quarter 1 2021–22.
- Granted 2268 visas to Afghan nationals **from a total of 3987** under the Humanitarian Program.
- **Resolved 180 Unauthorised Maritime Arrival legacy cases, with 94 per cent of this cohort now having their cases resolved.**

National Security and Resilience

- Delivered six transport security capacity building activities with 736 participants across Vietnam, Thailand, Indonesia and Timor-Leste.
- Responded to 16 notifications received under the Telecommunications Sector Security reforms to the *Telecommunications Act 1997* within the service standard of 30 calendar days.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DEPARTMENT KEY STATISTICS AND FACTS

- 81 per cent of Department-led program elements of *Australia's Cyber Security Strategy 2020* demonstrated positive outcomes when evaluated against the initial program intentions.

Social Cohesion and Citizenship

- Conferred 50,820 people with Australian citizenship, and received 38,053 citizenship lodgement applications.
- Delivered a 19 per cent decrease in the number of on-hand citizenship by conferral applications when compared to the same period in 2021–22.

Border Management and Revenue Systems

- Undertook 298 assurance processes on Australian Trusted Traders, an increase of 98.7 per cent compared to the same period in 2021–22. 17 accredited ATTs were identified for targeted compliance activities or compliance monitoring, and eight had accreditation cancelled or withdrew from the program following identification that compliance requirements were not achieved.
- Provided advice to industry on tariff classification, valuation and rules of origin within service standards in more than 85 per cent of cases.
- Collected \$4.578 billion in Customs Duties, Import Processing and Passenger Movement Charges.
- Delivered decreases in clearance times both for outwards travellers (-6.35 per cent) and sea cargo (-2.38 per cent).

Border Security, Maritime Surveillance and Immigration Detention

- Delivered 649 maritime patrol days and 3356.28 aerial surveillance hours.
- Maintained a prioritised response to civil maritime security threats, including through 'educate and disembark' activities, a Search and Rescue event and legislative forfeitures involving illegal Foreign Fishing Vessels.

BACKGROUND

The Department's key activities for 2022–23 have been updated to reflect outcomes of the Machinery of Government and the establishment of the National Emergency Management Agency (NEMA). These are published in the Department of Home Affairs 2022–23 Corporate Plan.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DEPARTMENT KEY STATISTICS AND FACTS

Lead Division

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Date first prepared: 6 July 2022

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Date last Updated: 15/11/2022

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ABF

QUESTION TIME BRIEF (QTB)

AUSTRALIAN BORDER FORCE (ABF) KEY STATISTICS AND FACTS**KEY TALKING POINTS:**

- Air and sea traveller movements (arrivals and departures) from 1 July 2021 to 30 June 2022 are up 247 per cent when compared with the same reporting period the year before.
- For the period, 01 July 2022 to 31 October 2022, there has been a 1,212 per cent increase in air and sea traveller movements (arrivals and departures) when compared with the same reporting period the year before.
- As at **30 September 2022**, the ABF Full Time Equivalent (FTE) (Domestic and Offshore), including Irregular Intermittent Employees (IIE) is **5,441**.

Facilitation statistics

- During the 2022-23 financial year to date, 01 July 2022 to 31 October 2022, there was a 1,212 per cent increase in total air and sea movements (a difference of 8,359,311 movements) compared to the same year to date period in the previous year.
 - For the same year to date period in the previous year (1 July 2021 to 31 October 2021), the total air and sea movements (arrivals and departures) were 751,221;
 - For the period 1 July 2022 to 31 October 2022, total air and sea movements (arrivals and departures) was 9,110,532.
 - A 1,212 per cent increase.

Airline Liaison Program statistics

- During the 2022-23 financial year to date (01 July 2022 to 31 October 2022), the Airline Liaison program interdicted 156 improperly documented travellers, compared to 3 interdictions for the same period in the 2021-22 financial year. This increase reflects the increased volume of travellers coinciding with the reopening of international borders post-COVID.
- An interdiction occurs where a traveller is refused boarding by an airline, on advice from an Australian Border Force Airline Liaison Officer (ALO), as a result of the detection of intentional misrepresentation, malpractice or fraud involving a travel document or visa.

ABF

QUESTION TIME BRIEF (QTB)

AUSTRALIAN BORDER FORCE (ABF) KEY STATISTICS AND FACTS**Revenue statistics ***

- For financial year 2021-22 (FY21/22), the Department collected a total of \$17.6 billion from Customs Duties, Import Processing Charge and Passenger Movement Charges. This revenue was \$1.02 billion (5.68 per cent) lower than collections in financial years 2020-21 (\$18.6 billion).
- The \$1.02 billion decrease against total revenue is predominantly a decrease in:
 - Collected Customs duty (\$1.2 billion decrease) offset by minor positive impacts within Passenger Movement Charges and Import Processing Charges.
- Between 2020-21 and 2021-22 there was a \$141.8 million increase in Passenger Movement Charges (PMC).
 - \$38.8 million in 2020-21;
 - \$180.5 million in 2021-22, a 365 per cent increase.
- Between the financial years 2020-21 and 2021-22 there was a \$14.5 million increase in Import Processing Charges (IPC).
 - \$439.2 million in 2020-21;
 - \$453.8 million in 2021-22, a 3.32 per cent increase.

Background**Key Revenue statistics financial year 2021-22***

Headline figures	2020-21 (\$b)	2021-22 (\$b)	Difference (\$b)	As a % Change
Total Customs Revenue Collected* (Customs Duty, IPC & PMC)	18.6	17.6	-1.02	-5.5%

* Difference may not align due to rounding.

Key financial factors	2020-21 (\$m)	2021-22 (\$m)	Difference (\$m)	As a % Change
Visa Application Charge (VAC)	1,633.00	1,982.00	349.0	21.4%

ABF

QUESTION TIME BRIEF (QTB)

AUSTRALIAN BORDER FORCE (ABF) KEY STATISTICS AND FACTS

Import Processing Charge (IPC)	439.2	453.8	14.5	3.3%
Passenger Movement Charge (PMC)	38.8	180.5	141.8	365.7%
Customs Duty (Gross)	18,120.1	16,943.6	-1,176.5	-6.5%
Drawbacks^	-533.2	-573.4	-40.2	7.5%
Refund values	-231.3	-252.9	-21.6	9.3%

Note: Difference may not align due to rounding.

Key processing figures	2020-21	2021-22	Difference	As a %
Drawback claims	2,191	1,927	-264	-12.0%
Refunds processed	103,348	104,249	901	0.9%

Lead Division

Contact: Commander Sarah Nicolson

Division: Operational Coordination and Planning

Date first prepared: 3/11/2022 - 8:41 AM

Originating Source: MO

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Date last Updated: 17/11/2022

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ASIO

QUESTION TIME BRIEF (QTB)

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION
(ASIO) KEY STATISTICS AND FACTS

KEY TALKING POINTS:

- The Australian Security Intelligence Organisation (ASIO) is a statutory authority that operates under the *Australian Security Intelligence Organisation Act 1979* (ASIO Act).
- ASIO protects Australia and Australians from threats to their security. The security environment remains complex, challenging and changing.
- ASIO assesses espionage and foreign interference has supplanted terrorism as our principal national security concern. The scale, scope and persistence of these threats is demanding more of ASIO's attention and resources.
 - The ASIO-led, multi agency Counter Foreign Interference Task Force works to disrupt the threat and mitigate the harm from espionage and foreign interference.
 - ASIO continues to identify multiple compromises of Australian government and non-government organisations by state-sponsored cyber groups and works with the Australian Cyber Security Centre to counter these threats and protect sensitive information.
- Threat to life will always remain a priority—the threat is enduring. The current national terrorism threat level is **POSSIBLE**. While Australia remains a potential terrorist target, there are fewer extremists with the intention to conduct an attack onshore.
 - Religiously motivated violent extremism, in particular Sunni violent extremism, remains an ongoing source of terrorist threat in Australia but the threat has moderated. The threat from ideologically motivated violent extremism (specifically nationalist and racist extremists) persists, but these groups are more likely to focus on recruitment and radicalisation.
 - ASIO also remains concerned about young Australians being drawn into violent extremism.

ASIO's Funding

- ASIO's annual appropriation for 2022-23 as at Portfolio Budget Statements (PBS) is \$654.479m consisting of:
 - \$519.883m operating revenue from Government;

ASIO

QUESTION TIME BRIEF (QTB)

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION
(ASIO) KEY STATISTICS AND FACTS

- \$23.876m of s74 external revenue (includes security assessments, protective security and technical surveillance countermeasures services);
 - \$66.170m as an equity injection (capital); and
 - \$44.550m of Departmental Capital Budget for asset replacement.
- ASIO continues to invest in cutting-edge technical capabilities. This will improve ASIO's capacity to operate in a more complex threat environment, and to future-proof ASIO's ability to respond to security challenges.

Staffing

- ASIO is growing its workforce to respond to threats that are unprecedented in scale and sophistication. ASIO continues efforts to recruit staff across all levels, with diverse backgrounds and qualifications to help it achieve its mission.

Background

- ASIO became part of the Home Affairs' Portfolio in May 2018 and continues to operate as a statutory authority.
- ASIO is led by the Director-General of Security, Mike Burgess.

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HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)
CYBER SECURITY

KEY TALKING POINTS:

- Over the past two years the global cyber threat environment has intensified as more services and activities move online and new technologies emerge. Australia remains an attractive target for malicious actors and cybercriminals.
- It is therefore essential that we continue to strengthen Australia's domestic cyber ecosystem, in line with the complex and ever-changing cyber security landscape.
- Protecting Australia and Australians from cyber threats, while also ensuring a baseline level of cyber resilience across the economy, is a key priority for the Government.
- Reflecting this critical focus, the Government has appointed Australia's first dedicated Minister for Cyber Security to the Cabinet, providing an opportunity to enhance coordination across government on cyber policy, strategy and response mechanisms.
- The Minister for Cyber Security, the Hon Clare O'Neil MP, will be leading the development of a new 2023-2030 Australian Cyber Security Strategy, grounded in sovereign capability and developed in close consultation with industry.

FURTHER TALKING POINTS:

- The Government will continue to build **trusted** relationships between government, industry and community partners to grow the foundation set by Australia's Cyber Security Strategy 2020 and uplift our national cyber capabilities and resilience.

Annual Cyber Threat Report

- Cyber threats to Australia continued to increase over the 2021-22 financial year.
- The Australian Signal Directorate's (ASD) Australian Cyber Security Centre (ACSC) has seen broad targeting of Australians and rapid exploitation of technical vulnerabilities by state actors and cybercriminals seeking to exploit weaknesses and steal sensitive data.
- No Australian and no sector of the economy is immune to the impacts of cybercrime and other malicious cyber activity.
- Global conflict and competition are helping fuel the heightened threat environment with sophisticated state actors using cyber operations for strategic advantage, targeting government and critical infrastructure networks.
- Australia is at risk of being directly targeted, or impacted collaterally, by malicious cyber activity associated with military conflict.

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QUESTION TIME BRIEF (QTB)
CYBER SECURITY

- The targeting of Australia's critical infrastructure remains deeply concerning.
- Key Statistics:
 - Over 76,000 cybercrime reports were submitted to the ACSC, an increase of 13 per cent from the previous financial year.
 - A cybercrime was reported every 7 minutes on average, compared to one every 8 minutes in financial year 2020–21.
 - The ACSC answered over 25,000 calls to the Australian Cyber Security Hotline for advice and assistance—an average of 69 per day and an increase of 15 per cent from the previous financial year.
 - All sectors of the Australian economy were impacted by ransomware incidents, with the average cost per report increasing 14 per cent compared to last financial year.
 - Financial losses due to Business Email Compromise increased to over \$98 million, with an average loss of \$64,000 per report.

2023-2030 Australian Cyber Security Strategy

- While existing initiatives under Australia's Cyber Security Strategy 2020 have bolstered Australia's cyber resilience over the past two years, the global threat environment has only intensified.
- The Minister for Cyber Security, the Hon Clare O'Neil MP will be leading the development of a new, truly whole-of-nation Cyber Security Strategy, grounded in sovereign capability and developed in close consultation with industry. The Minister has stated the next strategy will focus on:
 - growing Australia's future workforce and thriving cyber ecosystem;
 - building Australia's cyber resilience through engagement and industry partnerships;
 - Australia's international partnerships, and international norms and standards; and
 - Australia's economic opportunities and security posture.

Australia's Cyber Security Strategy 2020

- The Government will continue to deliver on initiatives under Australia's Cyber Security Strategy 2020 as it engages deeply with industry and civil society to lay the framework for the next Cyber Security Strategy. Existing initiatives under Australia's Cyber Security Strategy 2020 include:

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QUESTION TIME BRIEF (QTB)
CYBER SECURITY

- working with critical infrastructure owners and operators to protect Australia's essential services;
- increasing the cyber resilience of small and medium sized businesses;
- rolling out Home Affairs Outreach Officers embedded in the Joint Cyber Security Centres;
- investing in the Cyber Security Connect and Protect Program;
- improving community awareness of cyber security threats, including through online resources;
- strengthening Australia's counter cybercrime capability by investing in the Australian Federal Police and launching the National Plan to Combat Cybercrime and the Joint Policing Cybercrime Coordination Centre (JPC3);
- growing Australia's cyber security skills and workforce through funding programs such as the Cyber Security Skills Partnership Innovation Fund (CSSPIF);
- funding support services for victims of identity theft and cybercrime through IDCARE; and
- expanding industry sign-up to ACSC's Cyber Threat Intelligence Sharing (CTIS) platform.

If asked: Will initiatives under Australia's Cyber Security Strategy 2020 be discontinued?

- The Government recognises the progress made under the Cyber Security Strategy 2020, including those initiatives which have been implemented and adopted by industry, such as the *Security of Critical Infrastructure Act 2018* reforms.
- The development of the 2023-2030 Australian Cyber Security Strategy will build on progress made to date on Australia's Cyber Security Strategy 2020 in:
 - addressing the threat of ransomware;
 - supporting small businesses;
 - protecting critical infrastructure and systems of national significance;
 - bolstering threat information sharing; and
 - raising cyber security awareness.

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QUESTION TIME BRIEF (QTB)
CYBER SECURITY

- The Government will continue to deliver on these important initiatives as it engages deeply with industry and civil society to lay the framework for the next, truly whole of nation Cyber Security Strategy.

Industry Advisory Committee Annual Report 2022

- The Government welcomes the release of the Industry Advisory Committee's (IAC) second Annual Report on Australia's Cyber Security Strategy 2020, which was published on 24 August 2022.
- The work of the IAC has been invaluable in providing an industry perspective on key cyber priorities for Government and industry to address together.
- Industry and civil society are key partners in developing an inclusive and comprehensive national digital security agenda.

If asked: What are the key recommendations of the Industry Advisory Committee and how is the Government responding?

- The IAC has noted that since its launch in August 2020, Australia's Cyber Security Strategy 2020 has established a solid framework and progress has been made in a number of key areas.
- However, in its report the IAC identified a number of areas in which progress needs to be accelerated, in particular:
 - hardening Australian Government IT Systems;
 - meaningful industry engagement on Critical Infrastructure and Systems of National Significance (CI-SONS) reforms;
 - measurement and evaluation of Australia's cyber security maturity, threat sharing and collaboration with industry;
 - provide feedback to industry on the conclusions of the Best Practice Regulation Taskforce; and
 - continued public awareness raising of the importance of good cyber hygiene.
- The Government is considering this feedback in the context of developing the 2023-2030 Australian Cyber Security Strategy.

If asked: How will the Government harden its ICT systems?

- The Government is committed to hardening its own ICT systems to be an exemplar for industry. Progress has been made but there is more to do.

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CYBER SECURITY

- Many government agencies, especially smaller ones, may not have the specialist cyber resources and skills to deal with increasingly sophisticated malicious cyber activity.
- Over the past year a pilot program of Cyber Hubs, a model for providing a centralised approach to cyber security for Commonwealth agencies, has been established.
 - During the October 2022 Budget, the Cyber Hubs Pilot was extended out to 30 June 2023.
- The Cyber Hubs model has four hubs (Department of Defence, Department of Home Affairs, Services Australia and the Australian Taxation Office), providing a centralised common approach to cyber security.
 - All four Cyber Hubs have a major role to play in the event of a major critical incident across government, and will have an integral role in a cyber security incident response operating model.
 - A centralised approach to cyber security is essential to keep pace with the evolving threat environment, especially considering the inherent complexity of Australian Government IT networks as they become more interconnected to deliver digital services.

If asked: What is the Government view on governance and evaluation?

- We acknowledge the IAC's call for the development and implementation of an empirical, data-driven evaluation and measurement system.
- While an approach to program-level evaluations has already been established (as noted in the Annual Report 2022), an overall integrated governance framework to monitor and manage the implementation progress of Australia's cyber initiatives will be critical to assess performance and make changes as and when they are required.
- We agree that without a rigorous evaluation and measurement system, government can only rely on anecdotes and commentary to determine the progress and effectiveness of the initiatives under the Australian Cyber Security Strategy 2020.
- Strong management and monitoring of the progress of the program and its initiatives are essential to ensure its success, and the 2023-2030 Australian Cyber Security Strategy will include this.

If asked: CTIS rollout

- Under Australia's Cyber Security Strategy 2020, in November 2021, ASD initiated a pilot bi-directional CTIS platform – a threat-sharing platform developed with

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QUESTION TIME BRIEF (QTB)
CYBER SECURITY

industry to assist the Australian Government and industry partners with sharing comprehensive threat intelligence, including international partner insights.

- ASD doubled the number of platform partners in the April to June 2022 quarter. Demand for CTIS remains strong.

If asked: Will the government release the remaining funding for round two of the CSSPIF?

- The Australia's Cyber Security Strategy 2020 allocated \$26.5m for the CSSPIF, which provides grants for innovative projects to improve the quality and availability of cyber security professionals in Australia.
 - The Digital Economy Strategy, led by the Department of Prime Minister and Cabinet, allocated an additional \$43.8 million to expanding the CSSPIF.
- Through the first round of CSSPIF grants, eight successful applicants were awarded a total of \$8.2 million in 2020-21.
- Round two outcomes of the CSSPIF have not been finalised by the Department of Industry, Science, and Resources (DISR), who administer the CSSPIF.

International Engagement

If asked: How is the Government engaging with international counterparts?

- The Government will continue to work closely with like-minded international partners on cyber security policy through key international forums and bilaterally, including in Australia's role leading the Quad Senior Cyber Group and the US-led Counter Ransomware Initiative; and the Ottawa Five Cyber Policy Group under the Five Country Ministerial group.

Ransomware

If asked: What is the Government doing to address the threat of ransomware?

- Ransomware remains a persistent global threat, and cybercriminals continue to pose significant risks to the safety of Australians and Australian businesses.
- The most effective defence to ransomware attacks is good cyber hygiene. Step-by-step guides and assistance are available www.cyber.gov.au.
- Australia has a leading role as the coordinator in the newly established International Counter Ransomware Taskforce as part of the International Counter-Ransomware Initiative.

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CYBER SECURITY

- The Australian Government will explore further initiatives to combat cybercrime threats, including ransomware, through the new 2023-2030 Australian Cyber Security Strategy.

Data Security Breaches - refer to QB22-000255

Priority Migration Skilled Occupation List – refer to QB22-000190

Skilled Visa Processing Priorities – refer to QB22-000265

MEDIA

Date	Outlet	Reporting
23 November 2022	The Mandarin	A study of 1,504 Australians has found customers feel left out of the debate on cyber attacks, data security, and have low confidence in national efforts to keep pace with threats. <u>Australian consumers dubious about government's cyber security capabilities</u>
23 November 2022	The Australian Financial Review	Australia's top cyber spies want companies to reward ethical hackers who find flaws in their web defences under a "bug bounty" initiative designed to help identify vulnerabilities to cyberattacks. The Australian Cyber Security Centre (ACSC), which is part of the Australian Signals Directorate, has launched guidelines for companies to set up Vulnerability Disclosure Programs (VDPs), commonly known as a bug bounties. <u>Cyber attacks: Reward ethical hackers with 'bug bounty', companies urged</u>
23 November 2022	The Australian Financial Review	Cybersecurity - After two serious data breaches and years of wrangling, the government is set to consider reforms to improve consumer safeguards, writes Tom Burton. After years of indifference to consumer interests, recommendations from leading regulators to ban unfair trading practices... TORTUOUS ROAD TO AN ONLINE SAFETY PLAN
22 November 2022	The Australian	It would be fair to say Australian business, governments and law enforcement are in the trenches when it comes to identifying and combating cybercrime. Apart from the major data breaches currently in the media, the Australian Cyber Security Centre's most recent Annual Cyber Threat Report revealed more than 76,000 cybercrimes were reported in the past 12 months, equating on average to one every seven minutes. <u>Tech-savvy federal police taking fight to cybercriminals</u>
22 November 2022	Sydney Morning Herald	Hackers gained access to children's charity The Smith Family's donors' confidential information, including credit card details. <u>The Smith Family hit by cyberattack (smh.com.au)</u>
22 November 2022	The West Australian	Australia's cyber intelligence chief has warned of the "pervasive and endemic" threat cyber attacks pose to the nation. In the latest Australian Signals Directorate annual report, director-general Rachel Noble laid out the challenges facing the country in the cyber security space. <u>Australia's wealth lures cybercriminals, says spy boss</u>
22 November 2022	Australian Financial Review	Companies who fork out money for ransoms when extorted by cybercriminals stealing their data or encrypting their computers are more likely to be attacked again because they've shown they will pay when under pressure. <u>Paying ransom 'encourages more'</u>
21 November 2022	Australian Financial Review	Partners at King & Wood Mallesons say the government should legislate to ban paying cyber ransoms but with a carefully considered 'safe-harbour' exception. We welcome Home Affairs Minister Clare O'Neil's recent statement that making it illegal to pay a ransom is now among the "really big policy questions" the

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QUESTION TIME BRIEF (QTB)
CYBER SECURITY

		government needs to "think about and consult on" in the context of its cyber strategy. <u>Making cyber ransom payments unlawful would help boards</u>
10 November 2022	The Australian	Defence told to use TAFE to train new cyber talent The ADF should train new recruits through technical colleges including TAFE to deal with growing cyber security issues, an expert company says. <u>Defence told to use TAFE for cyber security training (stroom.com.au)</u>
9 November 2022	InnovationAus.com	Australian Signals Directorate director-general Rachel Noble has backed calls for legal protections for companies that share information with the national cybersecurity agency while responding to a cyber-attack. https://www.innovationaus.com/asd-backs-safe-harbour-for-industry-govt-data-sharing-under-duress/
4 November 2022	ABC News	The Australia Cyber Security Centre says cybercrime reports jumped 13 per cent to 76,000 last financial year, meaning the agency is receiving a report every seven minutes compared to every eight minutes the year before. Cybercrime reports jump as criminal gangs target families and businesses, cybersecurity agency says
3 November 2022	The Australian Financial Review	Home Affairs Minister Clare O'Neil has stunned the technology industry by introducing skilled migration rules the peak body says will make it harder to bring in cyber experts, software engineers and technology developers, amid a cyber crisis and skills shortage. Downgrade to cyber visas worsens crisis
2 November 2022	The Daily Telegraph	Australia will spearhead a new international task force to take the fight up to ransomware gangs, crack down on hackers' illicit finance and identify emerging threats online. Australia to lead global countering ransomware task force after White House cyber crime summit
31 October 2022	ABC News	Department of Defence fears the personal data of personnel may have been compromised following a ransomware attack targeting the ADF's ForceNet service. Australian Defence Department caught up in ransomware attack - ABC News
27 October 2022	The Australian	Cyber security executives have criticised the relative lack of new funding for the sector in Tuesday's budget, with one describing it as "a joke", after the personal data of millions of Optus and Medibank customers was stolen. IT security funding 'laughable'

LEAD DIVISION

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 Division: Cyber Security Resilience
 Date first prepared: 4 July 2022

Phone: S. 22(1)(a)

1)

Date last Updated: 28/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
TERRORISM

KEY TALKING POINTS:

- The national terrorism threat level is currently at POSSIBLE.
 - The factors that contributed to raising the terrorism threat level to PROBABLE in September 2014 no longer exist, or persist to a lesser degree
 - The lowering of the threat level does not mean the threat from terrorism is extinguished. Australia remains a terrorist target.
 - A lower threat level does not mean a lower operational tempo for our security agencies.
- Identifying and preventing threats to life will always remain a priority for governments at every level, including our security and law enforcement agencies.
 - Religiously motivated violent extremism, in particular Sunni violent extremism, remains an ongoing source of terrorist threat in Australia. And the threat from ideologically motivated violent extremism (specifically nationalist and racist extremists) persists.
 - The Government also remains concerned about young Australians being drawn to violent extremism.
 - There have been **11** attacks and **21** major disruption operations in relation to imminent attack planning in Australia since September 2014.
 - In 2021, there were two terrorist attacks and two major disruptions. As the alleged terrorist offenders' cases are currently before the court it would be inappropriate to comment further.
- The Government keeps Commonwealth laws and arrangements under review in the face of emerging threats to the Australian community.
- The Government continues to monitor, where possible, Australians of counter-terrorism interest overseas.

Why has the national terrorism threat level changed?

- While Australia remains a potential terrorist target, there are fewer violent extremists with the intention to conduct an attack onshore than there were when the threat level was raised in 2014.
- The factors that contributed to raising the terrorism threat level to PROBABLE in September 2014 no longer exist, or persist to a lesser degree:
 - The threat from religiously motivated violent extremists has moderated.
 - The offshore networks, capabilities and allure of groups such as ISIL and al-Qa'ida have been degraded, with their support in Australia declining accordingly.

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QUESTION TIME BRIEF (QTB)
TERRORISM

- The Australian Security Intelligence Organisation (ASIO) assesses there are individuals in Australia who adhere to Religiously Motivated Violent Extremist (RMVE) ideologies and aspire to undertake attacks onshore, but they currently have limited genuine intention to act.
- While ideologically motivated violent extremist groups—and particularly nationalist and racist violent extremist groups—remain a threat to Australian security, they are more likely to focus on recruitment and radicalisation, rather than attack planning.

If asked: Should funding for countering terrorism be reduced or laws be repealed now the threat level has been lowered?

- As the Director-General noted, the lower terrorist threat reflects the maturity of Australia's counter-terrorism frameworks, laws and investments: "our assessment assumes there are no radical shifts in these policies, processes, investments or legislative frameworks."
- The Director-General also stated that "a lower threat level does not mean a lower operational tempo. Threat to life will remain a priority for me and my Organisation, and we will need to remain vigilant. In some ways, our counter-terrorism mission is becoming more challenging."

If asked: Matters relating to ISIL-linked Australians in Syria?

- Refer to Question Time Brief "Syria" QB22-000224 for details.

If asked: Citizenship Cessation Provisions and recent High Court judgment – Alexander v Minister for Home Affairs

- I cannot comment on individual cases.
- The Government has considered the implications of the judgement in *Alexander v Minister for Home Affairs & Commonwealth*.
- The Government has a range of measures available to manage Australians of Cth interest, including:
 - Temporary Exclusion Orders and Return Permits;
 - Prosecution; and
 - Control Orders.

If pressed

- The Commonwealth accepts that in light of the High Court's judgement in *Alexander v Minister for Home Affairs* [2022] HCA 19 (*Alexander*) that ss 33AA and 35 of the *Australian Citizenship Act 2007* (Cth) are also invalid.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
TERRORISM

- As a result, the Commonwealth's position is that the cessation of Australian citizenship for individuals under those provisions was invalid, and they never ceased to be Australians.

- It would be inappropriate to comment further as this issue is before the High Court.

If asked: Citizenship cessation provisions and current High Court challenge -
s. 42(1) *Duman and Ors v Commonwealth*

- This matter remains before the High Court so it would be inappropriate to comment.

If asked: Is the Government considering reforms to the citizenship cessation regime?

- I (Minister O'Neil) confirmed on 23 October 2022 in an article by The Weekend Australian that the government will introduce new citizenship cessation laws to empower a court to make a determination to cease a person's Australian citizenship for terrorism activities.
- The Government is committed to creating a constitutional regime for citizenship cessation to address the High Court's judgment in *Alexander v Minister for Home Affairs & Commonwealth* and will do so informed by several related matters that are currently pending before the High Court.

If asked: What are the Counter-Terrorism Statistics?

- 154** people have been charged as a result of **80** counter-terrorism operations since 2014.
 - There are **27** people currently before the courts for terrorism-related offences.
 - 1 person is currently before the Court of Appeal.
- 101** people have been convicted of terrorism-related offences since 2001.
 - 57** are currently serving custodial sentences.
- 23** Federal Court control orders have been issued since September 2014.
- Since July 2020, **9** people have been charged with breaching the conditions of their control orders.
- The Government has provided \$2.3 billion in additional funding since 2014, for law enforcement, intelligence and security agencies to counter-terrorism.

If asked: What is the Government doing to address terrorism threat drivers and activity in Australia?

- AFP, ASIO and state and territory police continue to take seriously all individuals or groups with extremist beliefs who show support for, or a tendency towards, violence.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
TERRORISM

- The Government is pursuing a package of targeted legislative and policy reforms to address the threat of ideologically motivated violent extremism, including the exploitation of the online environment.
- The Australian Government has referred an inquiry on Extremist Movements and Radicalism in Australia to the Parliamentary Joint Committee on Intelligence and Security and looks forward to the committee's findings.

If asked: What is the Government doing to protect Australians from high risk terrorist offenders at the end of their custodial sentence?

- Please refer to the Attorney-General as the AFP Minister.

If asked: Why has the Australian Government listed The Base and not listed The American Proud Boys (or another specified organisation)? [Under the AAOs the Attorney-General in his capacity as AFP Minister is the decision maker for prescribed entity listing under the Criminal Code. For detailed questions, refer to the Attorney-General.]

- The Department of Home Affairs and Commonwealth partners continue to identify and assess nationalist and racist violent extremist groups for possible listing under the criminal code.

Lead Division
Contact: Richard Feakes, First Assistant Secretary
Division: Counter-Terrorism Coordination Centre
Date first prepared: 01 July 2022
Originating Source: Home Affairs

Phone: s. 22(1)(a)
Action Officer: s. 22(1)(a)(ii) Date
last Updated: 1/12/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
FOREIGN INTERFERENCE

QUESTION: What is the Government doing to combat foreign interference?

KEY TALKING POINTS:

- Espionage and foreign interference represent a serious threat to Australia's sovereignty and security and the integrity of our national institutions.
 - Australia has a range of policies and programs to strengthen Australia's social cohesion and build community resilience, including from foreign interference.
 - Australia has criminal offences for espionage and foreign interference and a robust framework for strengthening our resilience.
 - The Commonwealth Counter Foreign Interference Taskforce works to identify, investigate and disrupt acts of foreign interference.
 - Within the Department of Home Affairs, the National Counter Foreign Interference Coordinator coordinates whole-of-nation efforts to counter foreign interference.
 - We will continue to act to deter foreign interference and uphold our laws and values.
-
- Espionage and foreign interference is Australia's principal security concern.
 - The threat is pervasive, multifaceted and, if left unchecked, could do serious damage to our sovereignty, values and national interest.
 - Espionage and foreign interference are offences under the *Criminal Code Act 1995*.
 - The Counter Foreign Interference Taskforce, led by ASIO, works to identify, investigate and disrupt foreign interference.
 - The Taskforce brings together a team of ASIO officers, Australian Federal Police investigators and representatives from AUSTRAC, the Australian Signals Directorate, the Australian Geospatial Intelligence Organisation, and the Office of National Intelligence.
 - We continue to work with domestic and international like-minded partners, as well as industry bodies, communities, universities, and others, to share information to inform best practices on how to counter and build resilience to foreign interference.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
FOREIGN INTERFERENCE

Support to Electoral Integrity

- The Electoral Integrity Assurance Taskforce (EIAT) addresses threats to our democracy from malicious cyber activity, physical means, electoral fraud, foreign interference or disinformation.
 - The EIAT is led by the AEC and the Department of Finance and comprises federal government agencies – including the Department of Home Affairs, AFP and ASIO – that provide guidance and expertise on this broad range of issues within the Australian electoral environment.
 - Taskforce agencies did not identify any foreign interference, or any other interference, that compromised the delivery of the 2022 Federal Election and would undermine the confidence of the Australian people in the results of the election.

If asked: What is the Government doing to protect Australia's higher education and research sector from foreign interference?

- The Australian Government works collaboratively with the Australian university sector through the University Foreign Interference Taskforce (UFIT).
- The UFIT has published Guidelines to counter foreign interference in the Australian university sector.
 - The Guidelines assist Australian universities to strengthen their resilience to foreign interference risks, while protecting students, staff and research that contributes to Australia's prosperity.

If asked: What is the Government doing to protect Australia's culturally and linguistically diverse communities from foreign interference?

- The Government maintains a range of policies and programs to strengthen Australia's social cohesion and build community resilience, including from foreign interference.
- The Commonwealth government, law enforcement and intelligence agencies, with jurisdictional law enforcement, work closely together to engage with, and support, communities concerned or affected by foreign interference.

Lead Division
Contact: Assistant Secretary David Chick
Division: Counter Foreign Interference Coordination Centre
Date first prepared: 08 July 2022
Originating Source: (MO/HA)

Phone: S. 22(1)(a)
Action Officer: S. 22(1)
Date last Updated: 3 November 2022

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HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)

OVERVIEW OF CRITICAL INFRASTRUCTURE REFORMS

KEY TALKING POINTS:

- The Australian Government is committed to protecting Australia's critical infrastructure to secure the essential services all Australians rely on.
- Reforms to the *Security of Critical Infrastructure Act 2018* (SOCI Act) have provided Australia with a preventative and responsive framework to uplift the security and resilience of critical infrastructure for Australians. The amended SOCI Act has several measures to enhance critical infrastructure security, including:
 - expanding the number of designated critical infrastructure sectors from four to 11;
 - provision of operational and ownership information to the register of critical infrastructure assets;
 - mandatory cyber incident reporting to the Australian Signals Directorate's Australian Cyber Security Centre (ACSC), with expedited reporting timeframes for incidents that impact the availability of essential goods or services;
 - the power to direct asset operators to establish, maintain, and comply with a risk management program to identify and mitigate 'material risks';
 - Government assistance measures enable the Government through the Australian Signals Directorate (ASD) to assist entities in responding to serious cyber security incidents that seriously prejudice Australia's social or economic stability, defence or national security as a measure of last resort; and
 - the power to declare Australia's most important critical infrastructure assets as Systems of National Significance (SoNS), which includes enhanced cyber security obligations, recognises the important role these assets play for Australia as a whole.
- On 30 June 2022, I exercised my powers under section 52B of the SOCI Act to privately declare 82 critical infrastructure assets to be Systems of National Significance.
- To support the expanded remit of the SOCI Act, the Trusted Information Sharing Network is being expanded to support industry and all levels of government in collaborating to enhance the security and resilience of critical infrastructure. For example, the Data Sector Group was established in August 2022, to support data-related businesses and critical infrastructure owners. It will assist them to improve their security and organisational resilience as well as supporting industry to comply with broader legislative obligations.
 - The Health Sector has also been reinvigorated, with active engagement from public and private entities across the health and medical sector.

HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)

OVERVIEW OF CRITICAL INFRASTRUCTURE REFORMS

s. 7(2A)

[For information on the Government's response to the Optus data breach see QB22-000255]

If asked: What are the names of the entities that have been listed as SoNS?

- The specific declaration of a system of national significance and any supporting documentation is protected information under the SOCI Act and cannot be shared publicly. Unauthorised use or disclosure of protected information is an offence under the SOCI Act.

If asked: When do the new obligations apply?

- Mandatory cyber incident reporting, and reporting to the Register of Critical Infrastructure Assets, commenced on 8 April 2022, but with grace periods to ensure industry has a sufficient transition period.
 - The grace period for mandatory cyber incident reporting ended on 8 July 2022.
 - In collaboration with the ASD, the Department held several virtual awareness sessions for industry leading up to this compliance date.
 - The grace period for reporting to the register of critical infrastructure assets ended on 8 October 2022.
- The Department continues to work closely with industry to refine educational and guidance material.

If asked: What consultation are you undertaking with affected stakeholders?

- On 29 August 2022, I hosted roundtables with senior industry representatives to seek their views on industry's experience of the critical infrastructure reform process and to support my consideration of the draft risk management program rules ahead of further consultation.
- The five round tables included representatives from the banking and finance, telecommunications, healthcare and medical, food and groceries, freight

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HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)

OVERVIEW OF CRITICAL INFRASTRUCTURE REFORMS

infrastructure and services, utilities (including gas, electricity, liquid fuels and water), and the data storage sectors.

If asked: What is the outcome of the recent Risk Management Program consultation?

- Consultation concluded on 18 November 2022.
- The 45 day period **was** longer than the 28 days mandated by the SOCI Act, and was intended to ensure entities have sufficient opportunity to consider the impact and benefit of these rules on their businesses.
- Throughout the consultation period, the Department held several roundtables, question and answer sessions, and bilateral meetings to provide opportunities for stakeholders to raise issues, or ask questions on these important obligations.
- I am now considering the submissions and will provide details of any changes to the Risk Management Program Rules soon.

If asked: What is the Department's response to the ANAO Audit?

- During 2021-22 the Australian National Audit Office (ANAO) conducted an audit of the Department of Home Affairs' approach to protecting Australia's critical infrastructure and systems of national significance.
- The audit was undertaken immediately prior to the finalisation of the reforms to the SOCI Act. Many of these reforms were designed to address the issues raised in the report.
- The Department has accepted the ANAO's seven recommendations and they are being addressed as a priority.

MEDIA

<u>Date</u>	<u>Outlet</u>	<u>Reporting</u>
4 October 2022	The Canberra Times	Inside the security fortress Describes the role of the Cyber and Infrastructure Security Centre and the requirements of the SOCI Act, particularly in relation to cyber security in the context of the Optus breach.
11 September 2022	ITWire	iWire - CyberArk explains what the critical infrastructure protection act means for you A representative from CyberArk explains mandatory cyber incident reporting requirements in detail, how this will improve Australia's cyber defences, and what it means for entities required to comply.
1 September 2022	Security Brief Australia	Keeping Australian hospitals safe from cyberattack (securitybrief.com.au)

**HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)**

OVERVIEW OF CRITICAL INFRASTRUCTURE REFORMS

		Describes the SOCI Act and the extension of its scope to include healthcare and the medical sector with the key focus described as hospitals with Intensive Care Units. "Hospitals now need to register their critical infrastructure assets, and any security incident in relation to these assets needs to comply with mandatory cyber incident reporting."
22 August 2022	Australian Financial Review	Australia's cyber shield boosted for 'jewel' assets Shares the number of entities and assets that have been declared as SoNS and the focus of the SOCI reforms on building the resilience of critical infrastructure.
27 July 2022	The Canberra Times	Is the govt doing enough to protect against cyber warfare? Describes the SOCI Legislation and also the importance of protecting critical infrastructure if and when Australia faces conflict.
22 Jul 2022	Australian Computer Society	You have 12 hours to report a cyberattack Information Age ACS Describes impact of SOCI legislation.. "Furthermore, these changes to the SOCI Act have arrived soon after an unprecedented, \$9.9 billion commitment towards cyber security by the Australian Government".

Lead Division

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Division: Partnerships, Policy and Capability Division

Date first prepared: 04 July 2022

Originating Source: Home Affairs

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Date last Updated: 28/11/2022

Contributing Division

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Date last Updated: 28/11/2022

Contributing Agency

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Date last Updated: 28/11/2022

Contributing Division

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Date last Updated: 28/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MARITIME AND AVIATION SECURITY

QUESTION: Maritime and aviation security key facts and statistics

KEY TALKING POINTS:

- As at 15 November 2022, the Department regulates 1,943 entities across the aviation, maritime and offshore oil and gas industries.
- The Department carried out 1,762 compliance activities in the 2021/22 financial year.
- As at 15 November 2022, the Department has carried out 592 compliance activities in the 2022/23 financial year.
- As at 15 November 2022, there are 33 aviation and maritime security identification card (ASIC and MSIC) scheme issuing bodies (20 ASIC and 13 MSIC issuing bodies).
- As of 11 November 2022, there are a total of 236,902 ASIC and MSIC holders (133,830 ASIC and 103,072 MSIC).
- To date, 15 cards have been cancelled as a result of new strengthened criminal intelligence and criminal history eligibility criteria, with more cancellations anticipated as card holders attempt to renew their ASICs and MSICs over the next two years using the new criteria.

Review of aviation and maritime transport security regulatory settings

- The report on the independent *Review into Australia's Aviation and Maritime Transport Security Settings* has been provided to me.
- The purpose of the review was to identify regulatory reform options across transport security frameworks to more efficiently achieve security outcomes.
- I am considering the report and its recommendations.

If asked whether you will be releasing a copy of the report and recommendations publicly?

- I will consider the report before making a decision about its release. Any commercial or security sensitive information will not be made publicly available.

BACKGROUND AND CHRONOLOGY:

- The Department administers the *Aviation Transport Security Act 2004*, the *Maritime Transport and Offshore Facilities Security Act 2003* and respective regulations, which require regulated entities to deliver security outcomes that safeguard against unlawful interference. The Department assesses and approves the security programs

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MARITIME AND AVIATION SECURITY

and plans and undertakes compliance assurance activities to ensure regulatory obligations are met.

- As at 15 November 2022, Regulated entities include:
 - 115 security controlled airports.
 - 505 regulated aircraft/airline operators.
 - 1,135 air cargo security supply chain entities (70 regulated air cargo agents, 720 accredited air cargo agents, and 345 known consignors).
 - 134 port operators and port facility operators, operating across 67 security regulated ports (some operating at multiple sites).
 - 7 regulated Australian ship operators (some operating multiple ships).
 - 14 regulated offshore oil and gas facilities (some operating multiple facilities).
 - 33 aviation and maritime security identification card (ASIC and MSIC) scheme issuing bodies, including 20 ASIC and 13 MSIC issuing bodies.
- In August 2021, new eligibility criteria were introduced to assess a person's eligibility to hold an ASIC or MSIC. From 22 June 2022, new applications include a criminal intelligence assessment as well as considering an applicant's criminal history, particularly offences related to aviation and maritime security.

Review of aviation and maritime transport security regulatory settings

- As part of the 2021-22 Budget, an independent review of aviation and maritime transport security regulatory settings was conducted by Ms Kerri Hartland, Principal Advisor at Proximity Advisory, former Secretary of the Department of Employment and Workplace Relations.
- The review was undertaken in three phases.
 - Phases I and II examined the appropriateness of aviation and maritime transport security settings in light of the, then imminent, reopening of international borders.
 - Phase III was completed in March 2022 and built on the findings of phases I and II by recommending longer term reform opportunities to address previously raised vulnerabilities and risks, optimise security outcomes and reduce unnecessary regulatory burden.

Lead Division

Contact: Richard Farmer

Division: Cyber and Infrastructure Security Operations

Date first prepared: 06 July 2022

Contact: Richard Farmer

Phone: s. 22(1)(a)(ii)

Action Officer: Michele Pearce

Date last Updated: 2/11/22

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

QUESTION: Is there significant litigation before the courts?

KEY TALKING POINTS:

- As these matters are still before the courts, or during their appeal period, it would not be appropriate to discuss them.

BACKGROUND AND CHRONOLOGY

Nearly all of the Department's migration and citizenship administrative law litigation caseload (approximately 99 per cent) involves matters initiated by individuals seeking to overturn departmental or tribunal decisions. A relatively small proportion of these matters are legally significant or sensitive.

Constitutional challenges to citizenship loss provisions

- On 8 June 2022, in *Alexander v Minister for Home Affairs (Alexander)*, the High Court held that s 36B of the *Australian Citizenship Act 2007* (Cth) (Citizenship Act) was invalid because it conferred on the Executive the exclusively judicial function of adjudging and punishing criminal guilt, in breach of Chapter III of the Constitution. The Department is managing several litigation proceedings in which applicants argue other citizenship loss provisions are invalid following *Alexander*.

s. 47F(1)

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

s. 47F(1)

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

s. 47F(1)

Benbrika v Minister for Home Affairs & Anor – Federal Court

- On 4 October 2022, Mr Benbrika filed an application in the Federal Court in which he seeks a declaration that s 36D of the Citizenship Act is invalid and a declaration that he is an Australian citizen.
- Mr Benbrika relies by analogy on *Alexander*, arguing that s 36D purports to confer on the Minister, a member of the Executive, the exclusively judicial function of punishing criminal guilt because it purports to authorise the Minister to impose the punishment of exile on a person by way of ceasing their citizenship.
- On 18 November 2022, the Attorney-General filed an application for removal of Mr Benbrika's application into the High Court as of right under s 40(1) of the *Judiciary Act 1903*.

Background

- Mr Benbrika is an Algerian national who arrived in Australia in 1989.
- On 13 January 1998, Mr Benbrika was conferred Australian citizenship.
- In February 2009, he was convicted for terrorism related offences under the *Criminal Code* (Cth) and sentenced to 15 years' imprisonment.
- On 20 November 2020, the then Minister for Home Affairs determined that Mr Benbrika ceased to be an Australian citizen under s 36D of the Citizenship Act. As a consequence of the Minister's decision, Mr Benbrika was granted, by operation of law, an Ex-citizen visa, which he continues to hold.
- Section 36D was introduced into the Citizenship Act by the *Australian Citizenship Amendment (Citizenship Cessation) Act 2020* (Cth). Subsection 36D(1) empowers the Minister to determine in writing that a person ceases to be an Australian citizen if

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

the person has been convicted of an offence, or offences, against one or more of the provisions specified in s 36D(5); the person has, in respect of the conviction or convictions, been sentenced to a period of imprisonment of at least 3 years, or to periods of imprisonment that total at least 3 years; the Minister is satisfied that the conduct of the person to which the conviction or convictions relate demonstrates that the person has repudiated their allegiance to Australia; and the Minister is satisfied that it would be contrary to the public interest for the person to remain an Australian citizen. However, the Minister must not make a determination if satisfied the person would, as a result of the determination, become a stateless person.

- On 24 December 2020, the Victorian Supreme Court made a Continuing Detention Order in relation to Mr Benbrika. As a consequence, Mr Benbrika continues to be detained in a Victorian correctional facility.

Challenges to citizenship revocation provisions for offences committed before becoming an Australian citizen.

Jones v Commonwealth of Australia & Ors – High Court

- On 7 October 2022, Mr Jones filed an application in the original jurisdiction of the High Court challenging the validity of s 34(2)(b)(ii) of the Citizenship Act so far as it purports to apply to him.
- Mr Jones argues that s 34(2)(b)(ii) cannot validly apply to him because it relies on Parliament's power to legislate with respect to 'naturalisation and aliens' in s 51(xix) of the Constitution and, he argues, he is not within scope of this power because he had been naturalised as an Australian citizen. Alternatively, that he has become so connected to the Australian body politic that Parliament cannot unilaterally alter this status and his conduct has not been such as to warrant exclusion from the Australian community.
- Mr Jones separately argues that s 34(2)(b)(ii) is unconstitutional as it purports to confer on the Executive the exclusively judicial function of punishing criminal guilt. He argues that the revocation of citizenship on the basis of offences for which he has already been convicted and punished amounts to additional punishment.
- The matter is yet to be listed.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

Background

- Phyllip John Jones is a 71-year-old citizen of the United Kingdom, who first arrived in Australia in 1966.
- In 1988, Mr Jones applied for and was granted a certificate of Australian citizenship under s 13 of the *Australian Citizenship Act 1948* (Cth) (the 1948 Act).
- In 2003, Mr Jones was convicted of two counts of *indecent treatment of a girl under 16 with circumstances of aggravation*, two counts of *indecent assault*, and one count of *indecent treatment of a child under 16 years (12 years) of a lineal descendant/guardian/carer* and was sentenced to two and a half years' imprisonment. The conduct constituting these offences occurred between 1980 and 2001.
- On 9 July 2018, the then Minister for Home Affairs revoked Mr Jones' Australian citizenship under s 34(2)(b)(ii) of the Citizenship Act. Upon revocation of Mr Jones' Australian citizenship, he was taken to have been granted an Ex-Citizen visa by operation of law.
- Section 34(2)(b)(ii) empowers the Minister to revoke a person's Australian citizenship in circumstances, relevantly here, where: the person has, at any time after furnishing their application for certificate for Australian citizenship (under the 1948 Act), been convicted of an offence for which the person has been sentenced to imprisonment for a period of not less than 12 months, being an offence committed at any time before the grant of the certificate; and the Minister is satisfied that it would be contrary to the public interest for the person to remain an Australian citizen.
- In 2021, the former Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs cancelled Mr Jones' Ex-Citizen visa under the character provisions of the *Migration Act 1958* (Cth) (the Migration Act). Mr Jones unsuccessfully sought judicial review of that cancellation decision before the Federal Court and Full Federal Court.

Spall v Minister for Home Affairs & Ors – Federal Court

- This is an appeal to the Federal Court from a decision of the Administrative Appeals Tribunal's (AAT) decision to affirm a decision of the then Minister for Home Affairs to revoke Mr Spall's Australian citizenship under s 34(2) of the Citizenship Act.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

- Mr Spall also seeks leave to raise a new ground involving a constitutional challenge to s 34(2)(b)(ii) of the Citizenship Act.
- The matter is currently in abeyance as the parties decide upon the future conduct of the proceedings.
- Mr Spall's arguments raise an argument similar to that raised in *Jones* in the High Court – the proposed challenge argues that s 34(2)(b)(ii) of the Citizenship Act is invalid as it purports to confer on the Executive the exclusively judicial function of punishing criminal guilt, in breach of the *Constitution*.
- The matter is currently in abeyance as the parties decide upon the future conduct of the proceedings, with a case management hearing listed in February 2023.

Background

- Mr Stephen Ronald Spall is a 56-year-old citizen of the United Kingdom, who first arrived in Australia in 1974.
- In 1997, Mr Spall applied for and was granted a certificate of Australian citizenship under s 13 of the 1948 Act.
- In 2018, Mr Spall was convicted of two counts of commit indecent act with a child under 16 and sentenced to 12 months' imprisonment. The convictions were for crimes that occurred in 1995 and 1996.
- On 7 May 2020, the then Minister for Home Affairs revoked Mr Spall's citizenship under s 34(2)(b)(ii).
- After his citizenship was revoked, Mr Spall was granted an Ex-Citizen visa by operation of law.

Plaintiff S111A/2018 v Minister for Home Affairs & Ors – Federal Court

- On 5 April 2022, the Federal Court delivered judgment in this matter, allowing Plaintiff S111A's application in part.
- The Federal Court found that the adverse security assessments (ASAs) made by the Australian Security Intelligence Organisation (ASIO) in 2018 and 2020 are invalid, and set aside the Minister for Home Affairs' decision to refuse Plaintiff S111A's protection visa based on these ASAs.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SIGNIFICANT LITIGATION AND ENQUIRIES

- On 19 May 2022, the Director General of Security, the Minister for Home Affairs and the Commonwealth (the respondents) appealed the decision. The Full Federal Court heard the appeal on 12 October 2022 and reserved judgment.

Background

- On 6 July 2021, pursuant to leave to amend granted by the Federal Court, Plaintiff S111A filed a Further Amended Statement of Claim. Plaintiff S111A challenged the validity of ASIO's 2018 and 2020 ASAs and the Minister's 13 June 2018 decision to refuse to grant him a Protection visa. He claimed that the 2018 and 2020 ASAs were invalid for various reasons, including that ASIO failed to consider his removal to Egypt as a consequence of the issuing of the ASAs; took into account evidence that was obtained under torture; and failed to provide him with procedural fairness.
- Plaintiff S111A had previously claimed that between July 2012 and May 2015, his detention under s 189 of the Migration Act was unlawful. He claimed that his detention was unlawful because the respondents did not act 'as soon as reasonably practicable' in considering whether to intervene and lift the visa application bar under s 46A of the Migration Act. Following the High Court's decision in *Commonwealth v AJL20 [2021] HCA 21*, S111A abandoned this claim.
- On 11 May 2012, Plaintiff S111A, an Egyptian national, arrived in Australia as an offshore entry person and was detained under s 189 of the Migration Act. He has never held a visa and is currently detained at Villawood Immigration Detention Centre (VIDC).
- The Department has worked closely with ASIO in managing this litigation.

Manus RPC Contractor Claims – Supreme Court of Victoria

- There is currently one active claim in this cohort involving G4S and the Commonwealth. The claimant, Andrew Smith, alleges that he sustained psychiatric injury as a result of the February 2014 riots at the Manus RPC in Papua New Guinea. The plaintiff was employed by G4S as a security officer between 2013 and 2014.
- Mr Smith filed proceedings against G4S only, however G4S filed a third party notice on 12 July 2022 seeking indemnification or contribution from the Commonwealth.
- The plaintiffs in this cohort (now one active, 19 settled) alleged that the Commonwealth had a duty to ensure that reasonable care was taken in the management of the premises in order to keep them safe from harm. The plaintiffs

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argued that the Commonwealth breached its duty of care, including by failing to provide adequate and safe infrastructure and failing to ensure sufficient numbers of security staff were engaged at the premises. They sought damages as a result of the Commonwealth's alleged negligence.

- The matter of *Smith* is listed for trial from 12 April 2023.

Medical Transfers negligence claims – various matters – various courts

- This cohort consists of around 90 claims, which were filed by transitory persons who were brought to Australia from a regional processing country for the temporary purpose of obtaining medical treatment.
- These individuals have subsequently filed proceedings seeking damages for an alleged breach of duty of care by the Commonwealth with respect to their time spent in regional processing countries.
- There are five matters that are more progressed than the rest of the cohort. The first matter, DQM19, is listed for mediations on 30 November 2022 and 7 December 2022. The remaining lead matters are listed for mediations from March 2023.
- There are currently no matters listed for final hearing.

Claim regarding the death of Reza Berati – Supreme Court of Victoria

- On 23 July 2021, Ms Baralak (under a litigation guardian) and Mr Berati commenced proceedings against the Commonwealth and G4S for negligence and assault.
- Ms Baralak and Mr Berati are the parents of Reza Berati, who died on 18 February 2014 after sustaining injuries during a disturbance at the Manus Regional Processing Centre from 16 to 18 February 2014.
- The plaintiffs allege that the Commonwealth and G4S owed and breached a duty of care to Mr Berati to ensure a safe and secure environment for him, and to provide reasonable protection from physical attack. They further claim that G4S is vicariously liable for the assault of Mr Berati by an employee of a G4S subcontractor. The plaintiffs claim damages, including exemplary damages, for psychiatric injury and mental harm suffered as a result of their son's death.

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- The matter is listed for a 15-day trial starting 8 May 2023.

Azimitabar v Commonwealth – Federal Court of Australia

- On 9 April 2021, Mr Azimitabar filed proceedings in the Federal Court alleging his detention was unlawful between 11 November 2019 and 21 January 2021 and seeking damages.
- Mr Azimitabar is a national of Iran who arrived in Australia in July 2013 as an unauthorised maritime arrival. On 11 November 2019, Mr Azimitabar was brought to Australia pursuant to the then s 198C of the Migration Act for the purpose of medical assessment or treatment, and was taken into immigration detention.
- From 11 November 2019 to 21 January 2021, Mr Azimitabar was detained at the Mantra Bell City Hotel and the Park Hotel in Victoria. On 21 January 2021, Mr Azimitabar was granted a Bridging E visa and released from immigration detention.
- Mr Azimitabar claims that the hotels were not lawfully approved as an ‘alternative place of detention’ (APOD) under the Migration Act because:
 - the Migration Act does not confer a power to approve an APOD;
 - alternatively, the power under s 5 of the Migration Act to approve another place of detention cannot be used to establish a place that has the same characteristics as an Immigration Detention Centre (IDC) within the meaning of s 273 of the Migration Act, and that they must be established under s 273 (which these APODS were not); and
 - the Commonwealth had no legislative authority to spend money in relation to the APODs.
- The Federal Court heard the matter on 19 and 20 July 2022 and reserved judgment.

Love & Thoms related litigation

- On 11 February 2020, the High Court delivered judgment in *Love v Commonwealth; Thoms v Commonwealth* (*Love & Thoms*), finding that Aboriginal Australians who meet the tripartite test, as formulated in *Mabo v Queensland [No. 2]*, are outside the scope of the ‘aliens power’ in s 51(xix) of the Constitution and cannot therefore be detained or removed under the Migration Act. The Department is currently managing several litigation proceedings that relate to the decision in *Love & Thoms*.

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Thoms v Commonwealth – High Court / Federal Court

- On 8 June 2022, the High Court handed down judgment in favour of the Commonwealth. The High Court unanimously held that Mr Thoms' immigration detention was lawful under s 189 of the Migration Act.
- On 22 September 2021, the Attorney-General applied to have part of the matter removed to the High Court for determination. On 11 October 2021, the High Court made orders removing the question 'was the detention of Mr Thoms between 28 September 2018 and 11 February 2020 unlawful?' from the Federal Court to the High Court.
- Mr Thoms is a citizen of New Zealand and held a Special Category visa to reside in Australia. On 27 September 2018, his visa was cancelled by a delegate of the Minister under s 501(3A) of the Migration Act. On 28 September 2018, Mr Thoms was taken into immigration detention pursuant to s 189 of the Migration Act.
- The High Court in *Love & Thoms* found that Mr Thoms is an Aboriginal Australian who meets the tripartite test. Mr Thoms was released from detention on 11 February 2020, shortly after the judgment was delivered.
- Mr Thoms sought damages in relation to the 502 days he spent in immigration detention. Mr Thoms claimed that his detention prior to the High Court's decision was unlawful. He argued that s 189 of the Migration Act can never authorise the detention of an Aboriginal Australian, and that the Commonwealth and its officers had no legislative authority to detain a non-citizen, non-alien under s 189 of the Migration Act.
- The High Court unanimously rejected Mr Thoms' argument and found that s 189 of the Migration Act authorised Mr Thoms' detention because he was reasonably suspected of being an unlawful non-citizen throughout the entirety of his detention.
- The Federal Court proceeding has been held in abeyance. The only issues that remain are the matter's finalisation in light of the High Court's judgment and the issue of costs.
- On 3 November 2022, Mr Thoms' legal representatives filed an interlocutory application seeking orders for Mr Thoms' mother to be appointed as litigation representative for the proceedings.

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Love v Commonwealth – Federal Court

- On 14 December 2021, the Federal Court ordered that this matter be stayed pending judgment in *Thoms v Commonwealth* and *Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor v Montgomery*.
- Given the High Court's decision in *Thoms* and that *Montgomery* is now finalised, on 13 October 2022 the Federal Court made further timetabling orders which require Mr Love to file an amended statement of claim by 2 December 2022, and the Commonwealth to file an amended defence by 18 January 2023.
- The High Court in *Love & Thoms* did not reach a conclusion on whether Mr Love is an Aboriginal Australian who meets the tripartite test and remitted this question to the Federal Court for determination.
- Mr Love is a citizen of Papua New Guinea. His father is an Australian citizen of Aboriginal heritage. On 25 May 2018, Mr Love was convicted of Assault Occasioning Bodily Harm and sentenced to 12 months imprisonment. His visa was cancelled on character grounds on 6 August 2018. Following his release on parole he was in held immigration detention from 10 August 2018 to 27 September 2018. He was released from detention following a decision of a delegate of the Minister to revoke the cancellation of his visa.
- Mr Love claims that his detention was unlawful and seeks damages for false imprisonment.

Martin v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs – Federal Court

- On 23 February 2022, Mr Martin made an application to the Federal Court under s 39B of the *Judiciary Act 1903 (Cth)* seeking a declaration that he meets the first and second limbs of the tripartite test, namely that he is biologically descended from an Aboriginal person and self-identifies as a member of an Aboriginal community.
- On 15 March 2022, the Minister filed a notice of objection to competency arguing the application does not engage the Federal Court's jurisdiction under s 39B because it does not raise a matter arising under the Constitution, or involving its interpretation.
- The Federal Court is yet to list the matter for a hearing.

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- Mr Martin claims biological descent from, and membership of, the Manegin people of North West Tasmania. He maintains he meets all three limbs of the tripartite test but implicitly accepts he does not yet have sufficient evidence with respect to the third limb, namely that he is recognised as a member of an Aboriginal community by elders or other persons enjoying traditional authority among those people.
- Mr Martin is a 53 year old citizen of New Zealand who first arrived in Australia in 1982. He presently holds a Special Category visa.

Thompson v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs – Federal Court

- On 21 November 2022, Mr Thompson filed an amended application in the Federal Court seeking judicial review of the Tribunal's decision to affirm the non-revocation of the mandatory cancellation of his Special Category visa under the character provisions of the Migration Act.
- Mr Thompson argues he is a 'non-alien' and therefore the Tribunal did not have jurisdiction. He argues that the High Court in *Love* did not exhaustively determine who is a non-citizen non-alien and that biological descent is not required for a person to be an Aboriginal Australian non-alien. Alternatively, he argues that he is otherwise a non-alien by reference to his circumstances, namely his connections to Australia and Aboriginal Australians.
- The matter is listed for hearing on 2 February 2023.
- Mr Thompson is a citizen of New Zealand who arrived in Australia in 1998, aged four. In 2019, Mr Thompson was convicted of numerous offences including *theft of vehicle, theft/shopsteal, dangerous driving, unlicensed driving, reckless conduct endanger life, fail stop vehicle, unlawful assault, threat to kill, intentionally destroy property and threat damage property* and sentenced to 27 months' imprisonment.
- In 2020, a delegate mandatorily cancelled Mr Thompson's Special Category visa under the character provisions of the Migration Act. Mr Thompson requested revocation and in 2021, a delegate of the Minister decided not to revoke the mandatory cancellation.
- Mr Thompson raised a claim in the Tribunal to be Aboriginal Australian but conceded he was not biologically descended from an Aboriginal Australian. Mr Thompson provided a letter to the Tribunal from a person describing himself as a

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Wemba-Wemba Yorta-Yorta Elder and describing Mr Thompson as 'a respected Yorta Yorta man'.

- The Tribunal found that Mr Thompson did not meet the tripartite test and so the question of jurisdiction if he was an Aboriginal Australian non-alien did not arise.

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v Nguyen as as litigation guardian of Lieu – Federal Court; Lieu by her litigation guardian Nguyen – Supreme Court of Victoria

Appeal in the Full Federal Court

- On 1 August 2022, the Minister filed an appeal in the Federal Court from the decision of the Federal Court (McElwaine J), setting aside the delegate's decision to refuse Miss Lieu's request for evidence of Australian citizenship under the the Citizenship Act, and remitting the application to the Minister for determination according to law.
- The Federal Court is yet to list the matter for a hearing.
- The Minister will argue that the primary judge was incorrect in finding that the delegate was required to give more weight to Miss Lieu's birth certificate than they did; that it was not open to consider the low rate of payment of child support in considering the weight to be given to that as evidence of parentage; in effect the delegate was required to give more weight to Miss Lieu's presence as a dependent on Mr Lieu's Medicare card than they did and that the delegate's failure to accept the matters outlined in Ms Nguyen's statutory declaration and photos of Mr Lieu at the hospital after Miss Lieu's birth were not contrived was legally unreasonable.
- In response, Miss Lieu is arguing that the primary judge should have found that the delegate erred in failing to consider a Newborn Child Declaration in respect of Miss Lieu as evidence of parentage, and should have found that the delegate's reasoning in respect of Ms Nguyen having Mr Lieu's Medicare card was illogical. Further, Miss Lieu argues that it was not necessary for the judge to consider whether the errors were material for relief to be granted under the *Administrative Decisions (Judicial Review) Act 1979* (ADJR Act).

Proceedings in the Supreme Court of Victoria

- On 15 November 2022, the Minister accepted the invitation from the Supreme Court of Victoria to be heard as a contradictor in Miss Lieu's application for a declaration

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of parentage under the *Status of Children Act 1974* (Vic). The matter is expected to be listed for a directions hearing in December 2022.

Background

- Oanh Thi Nguyen is a 37-year-old citizen of Vietnam who arrived in Australia in 2011 on a Higher Education Sector visa as a dependent of her then-husband.
- On 4 September 2015, Ms Nguyen gave birth to Charlotte An Nguyen Lieu. Miss Lieu's Victorian birth certificate lists Australian citizen Paul The Tan Lieu as her father. Ms Nguyen claims the relationship with Mr Lieu started in August 2014 and ended in December 2015. She claims she has lost contact with Mr Lieu, having last communicated in late 2016.
- From 2017 to 2020, the Department invited Ms Nguyen to apply for evidence of Australian citizenship to determine if Miss Lieu is a citizen by birth under the Citizenship Act, including by inviting Miss Lieu to undergo DNA testing to prove biological link between Mr Lieu and Miss Lieu. Ms Nguyen advised that she was willing to undergo testing but was unable to contact Mr Lieu. Ms Nguyen provided various materials based on self-reported information in support of the application.
- In May 2020, a delegate refused to issue evidence of Australian citizenship. The delegate found there was insufficient information to be satisfied of a parental link at birth, noting the material provided was based on self-reported information and there was no DNA evidence to prove Mr Lieu is the biological father. Ms Nguyen applied for judicial review of this decision under the ADJR Act.
- On 4 July 2022, the Federal Court set aside the decision, finding that the delegate misunderstood the legal effect as to evidentiary value of the birth certificate, Medicare card, and child support under State/Commonwealth legislation, and that the decision was legally unreasonable.
- On 15 June 2022, prior to the resolution of the Federal Court proceedings, Ms Nguyen filed an application in the Supreme Court of Victoria for a declaration of parentage under the *Status of Children Act 1974* (Vic), specifically that Mr Lieu was Miss Lieu's parent at her birth.
- On 10 October 2022, the Supreme Court of Victoria wrote to the Department advising that the Court may benefit from having a contradictor in the proceeding and

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that the Department may wish to be heard on the application, and seeking confirmation whether the Department intended to be heard or not.

SZRWS v Minister for Immigration, Citizenship, Migrant Services & Multicultural Affairs & Ors – Federal Circuit and Family Court

Appeal

- On 10 June 2022, the Federal Circuit and Family Court handed down its judgment. The Federal Circuit and Family Court made a declaration that the Department's policy about bringing outside food into immigration detention centres is not supported by the Migration Act and is invalid.
- On 8 July 2022, the Minister for Immigration, Citizenship and Multicultural Affairs, the Commonwealth and the Secretary, Department of Home Affairs (the respondents) appealed the decision.
- The appeal is listed to be heard by the Full Federal Court on 28 November 2022.

Further injunction application

- On 15 July 2022, SZRWS filed a further application for an interlocutory injunction and final relief seeking that the respondents be restrained from taking any step to prevent SZRWS from receiving food delivered from his family unless that step is authorised by a regulation made under s 273(2) of the Migration Act.
- On 2 August 2022, the Federal Circuit and Family Court refused to grant leave for SZRWS to amend his application and the orders sought by SZRWS were not made.

The claim

- SZRWS alleged that the outside food policy is invalid and that the Commonwealth has been negligent in applying the outside food policy to him without consideration of his personal circumstances. He also alleged that the food provided at the VIDC is of low quality and quantity and does not meet his dietary requirements for medical conditions and his religious convictions, including a concern the food provided is not Halal.
- The respondents argued that the outside food policy is within the Commonwealth's power, and relied upon the Commonwealth's common law rights as occupier of VIDC and on ss 189(1), 196(1) and 273 of the Migration Act.

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- The respondents contract Serco to provide food for detainees of the Islamic faith which meets the requirements of Halal meals by sourcing produce certified as Halal by a recognised Halal food certification organisation, and preventing any cross-contamination between Halal and non-Halal food storage areas. As part of these arrangements, VIDC has separate Halal storage and food preparation areas.
- The Department monitors and carries out audits of aspects of Serco's performance and compliance with its contract with the Commonwealth. Where failures have been detected, Action Plans have been developed to address them.
- The respondents conceded (consistently with case law) that the Commonwealth owes SZRWS a non-delegable duty of care but deny any negligence.

Background

- On 14 November 2017, SZRWS filed a claim seeking an injunction preventing the Department and Serco from implementing the outside food policy in respect of him. He was successful in obtaining the injunction which required:
 - *The first, second and third respondents are restrained from implementing or continuing to implement the decision evidenced in Australian Border Force Directive 016-2017, in relation to SZRWS, insofar as it prevents persons visiting the applicant at the Villawood Immigration Detention Centre from bringing home cooked food to be consumed in the visitors area of the Detention Centre, until the hearing of the principal proceedings herein (likely to be March 2021), or further order in any appellate proceedings arising from this order.*
- In practice, SZRWS did not receive outside food between March and December 2020 as a result of a new policy preventing all outside visitors to IDCs due to COVID-19. Further, SZRWS has not received outside food since 23 June 2021 as a result of the suspension of visits to VIDC due to COVID-19.
- SZRWS arrived as an Illegal Maritime Arrival with his family and has a long and complex history with the Department. Most recently, on 27 October 2020, a new ASA was furnished by ASIO.
- SZRWS is currently in held immigration detention at VIDC.
- The applicant in this matter is also the applicant in *Plaintiff S111A/2018 v Minister for Home Affairs & Ors* (above).

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Saadat v The Commonwealth of Australia – SCCIV 470 of 2018 - Supreme Court of South Australia

- Mr Saadat commenced his claim in the District Court of South Australia (SA) on 3 February 2012. He claims that the Commonwealth breached its duty of care to him while he was detained at Baxter Immigration Reception and Processing Centre (Baxter) on the basis that the Commonwealth knew, or ought to have known, that he was suffering from a psychiatric injury, or was vulnerable to the development of a psychiatric injury, and that the Commonwealth did not take steps to alleviate the risk of further harm. Mr Saadat also makes various allegations about the conditions in immigration detention, including that he was hit and taunted by guards, and subjected to frequent strip searches.
- The final hearing commenced on 6 April 2021. It ran for around 39 weeks before it was adjourned on 11 July 2022 until 14 November 2022. On 14 November 2022, the hearing resumed for the parties' closing submissions, which are scheduled to take four weeks.
- This is the first matter to go to trial in the SA cohort of 60 separate personal injury claims, for alleged psychiatric injury suffered as a result of being held in immigration detention centres in SA between 2000 and 2005.
- During this period, the relevant Ministers were Senator Philip Ruddock and, from 2003, Senator Amanda Vanstone.
- Mr Saadat called 25 witnesses, including other former detainees, medical staff, and others who visited Baxter. High profile witnesses that he called to testify included:
 - Mick Palmer AO APM: a former Australian Federal Police Commissioner and Chairman of the Cornelia Rau inquiry in 2005 which produced the 'Palmer Report'. Cornelia Rau is a German-speaking Australian citizen who was mistakenly detained at Baxter for four months in 2004 and whose mental illness remained undiagnosed during that period. Mr Palmer confirmed as per the Palmer report that:
 - The delay in the Department's response to urgent operational concerns adversely affected the welfare of detainees.
 - The lack of response and executive management involvement from the Department in Canberra in investigating the many concerns expressed by advocates and external parties have allowed poor practices to continue.

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Non-removal of transitory persons negligence claims – Federal Court and Federal Circuit and Family Court

- There are currently four related claims filed in the Federal Court brought by transitory persons who were taken to a regional processing country and were later transferred to Australia for a temporary purpose of receiving medical treatment or as an accompanying family member. They subsequently made a written request under s 198(1) of the Migration Act for return to a regional processing country. However, removal was allegedly not progressed.
- The applicants originally sought habeas corpus and damages for false imprisonment, in reliance on the Federal Court decision in *AJL20 v Commonwealth*.
- In light of the High Court's decision in *Commonwealth v AJL20*, the applicants amended their pleadings to seek damages for negligence. They allege that the Commonwealth owed a duty of care to limit the duration of their detention to the time required for removal of the applicants to PNG or Nauru as soon as reasonably practicable from the time of their written request to be returned.
- The applicants recently proposed further amended pleadings in all four matters. The only amendment of substance was in the matter of *AGP21 v Minister for Home Affairs & Ors*. AGP21 no longer claims the Commonwealth breached its duty of care by failing to comply with AGP21's request for removal. Instead, the breach alleged is connected with a failure of the Commonwealth to have the temporary medical purpose resolved in a timely manner.
- Justice Perry made orders on 18 October 2022 allowing the applicants in each matter to file the amended pleadings, and also set timetabling for the close of pleadings. The Commonwealth respondents are due to file amended defences by **6 December 2022**, and the matters are to be listed for case management **after 20 December 2022**.
- A fifth claim has recently been transferred to the Federal Court, however there is also a cohort of 58 similar claims filed in the Federal Circuit and Family Court. It is expected that these matters will soon be transferred to the Federal Court to be managed alongside the four lead matters.

Tony Sami v Minister for Migration, Citizenship, Migrant Services and Multicultural Affairs & Anor – Federal Court of Australia

- On 17 November 2021, Mr Sami commenced proceedings in the Federal Court seeking habeas corpus or a mandatory injunction for his release from immigration

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detention; and/or a declaration that his detention has been unlawful since 15 January 2020.

- Mr Sami argues that his detention is not for the purpose of removal (and therefore not authorised by the Migration Act) because there is no real likelihood of him being removed from Australia. He also argues that if the Migration Act were to be construed to authorise his detention, it would infringe on Chapter III of the Constitution and would therefore be invalid.
- The Commonwealth argues that Mr Sami's detention is authorised under the Migration Act, and that enquiries were, and continue to be made to source a travel document in order to remove him to Egypt, and that the Commonwealth can still pursue other options such as removal to third countries.
- Mr Sami is attempting to make arguments similar to those made in *Al-Kateb v Godwin* (2004) 219 CLR 562. In that matter, the High Court held that as long as the purpose of detention is the eventual removal of the unlawful non-citizen, detention is authorised and required even where removal is not reasonably practicable in the foreseeable future. The Commonwealth argues that the Federal Court is bound to follow the High Court's Al-Kateb decision in this matter and the case must be dismissed on that basis.
- On 8 and 9 August 2022, this matter was partly heard in the Federal Court (Mortimer J). The matter was adjourned for two weeks to enable the Commonwealth to consider a new argument presented by Mr Sami in closing submissions (with the submission being made that removal must be found to be 'probable' as opposed to there being 'no reasonable prospect' of removal).
- On 26 August 2022, a case management hearing was held. Orders were made granting leave for Mr Sami to re-open his evidentiary case. The matter is listed for further hearing on 9 November 2022.
- On 9 November 2022, this matter was heard in the Federal Court (Mortimer J). Judgment has been reserved.

Background

- Mr Sami is an Egyptian national. He arrived in Australia on 4 June 2000 on a tourist visa. In October 2003, Mr Sami was granted a Partner (Residence) visa. He has had numerous convictions for fraud and dishonesty offences for which he was imprisoned. On 20 March 2012, Mr Sami's visa was cancelled under s 501(2) of the Migration Act.

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- On 15 February 2013, Mr Sami was released from criminal custody and was taken into immigration detention. He remains detained in immigration detention.

Lead Division

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Phone: S. 22(1)(a)

Division: Legal Group

Date first prepared: 01 July 2022

Action Officer: S. 22(1)(a)

Date last Updated: 25/11/2022

Originating Source: HA

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
REGIONAL PROCESSING

QUESTION: What is Australia's regional processing policy and what resettlement options are available to transitory persons?

KEY TALKING POINTS:

- Australia remains committed to regional processing as a key pillar of Operation Sovereign Borders.
- We will take a strong stand against people smugglers who exploit vulnerable migrants selling irregular passage to Australia.
 - Australia's strong border policies have not changed: persons who arrive by irregular maritime means, will not settle here.
 - Transitory persons are encouraged to engage in durable migration options, such as resettlement in the United States or New Zealand, and depart Australia.
- As at 14 November 2022, there were 1,228 people under regional processing arrangements (98 in Nauru and 1,130 temporarily in Australia).
- Australia supports regional processing arrangements in Nauru only.
 - Regional processing arrangements in Nauru, and the management of transferees under those arrangements, is the responsibility of the Government of Nauru.
- Transitory persons brought to Australia from a regional processing country are here for a temporary purpose only.
 - Medical transfer to Australia is not a pathway to settlement.

Population statistics

- As at 14 November 2022, there were 1,228 persons under regional processing arrangements.
 - Nauru - 98 individuals (70 refugees, 16 failed asylum seekers and 12 still in refugee status determination).
 - Australia – 1,130 individuals (1,012 refugees, 75 failed asylum seekers and 43 still in refugee status determination). There are 244 children in the transitory persons caseload.

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REGIONAL PROCESSING

Nauru

- The Memorandum of Understanding on Enduring Capability commenced on 1 July 2022, providing a sustained regional processing capability in Nauru.
- The Department of Home Affairs supports the Government of Nauru to implement regional processing arrangements by contracting health and welfare services, providing transitory persons with access to a range of health and welfare services, including mental health care.

Durable migration outcomes

- Transitory persons in Nauru and Australia are encouraged to engage in third country migration options, which include:
 - resettlement in the United States (US) or New Zealand (NZ)
 - resettlement in another country, including Private Sponsorship in Canada; or
 - voluntary return home or to another country to which they have a right of entry.
- As at 14 November 2022, 1072 people have resettled in the US (410 from Nauru, 440 from Papua New Guinea and 222 from Australia).
- Expressions of interest for resettlement in NZ are open and the United Nations High Commissioner for Refugees is triaging expressions of interest and making referrals to NZ for resettlement assessment.
 - NZ expects to first resettlements by the end of 2022.
- Resettlement decisions are made by the receiving country, in line with their program priorities. Australia is not involved in these decision-making processes.

s. 33(a)(iii)

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Lead Division
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Date last Updated: 15 November 2022

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PERMISSIONS CAPABILITY

QUESTION: Can you please provide an overview of the Permissions Capability?

KEY TALKING POINTS:

- The development of a Whole-of-Government (WofG) Permissions Capability was designed to improve the efficiency of government service delivery through the use of flexibly reusable technology.
 - In September 2021, Accenture was engaged to collaboratively design and deliver a WofG Permissions Capability and first use case, the Digital Passenger Declaration (DPD).
 - The DPD supported the bio-secure re-opening of Australia's international border by collecting COVID-19 related health and quarantine information. It replaced the Australian Travel Declaration, and is intended to replace the paper-based Incoming Passenger Card (IPC).
-
- Transforming modern government service delivery using digital technologies and data, supports access to simple and reliable services designed around client needs, prioritising seamless service delivery through an embedded client-centric culture.
- If asked: How much will the WofG Permissions Capability cost?*
- Value for money is a key consideration of all procurements by the Department of Home Affairs, and is considered across the entire contract term.
 - Under a Deed of Standing Offer, Accenture was awarded \$61.2 million (GST inclusive) under five work orders.
 - Costs expended under those work orders were based on milestone deliverables. The amount paid as at 30 June 2022 was \$13.1 million (GST inclusive).

If asked: What has happened with Accenture's contract?

- The Department has concluded its contractual arrangements with Accenture regarding the Permissions Program and agreed a mutual separation. Delays encountered in achieving the planned objectives were a factor in this decision. Both the Department and Accenture have worked proactively and diligently to ensure that contractual arrangements have been concluded in a cost effective and equitable way.

If Asked: Did the Department Achieve Value for Money / Was the DPD a waste of taxpayer's money?

- The Digital Passenger Declaration supported the bio-secure re-opening of Australia's international border by collecting COVID-19 related health and quarantine information.

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PERMISSIONS CAPABILITY

If Asked: Was the Contract with Accenture terminated as a result of non-performance?

- The Department and Accenture have agreed a mutual separation from the contract arrangement. Delays encountered in achieving the planned objectives were a factor in this decision. Both the Department and Accenture have worked proactively and diligently to ensure that contractual arrangements have been concluded in a cost effective and equitable way.

If Pressed: During the contract term the Department raised quality and performance concerns with Accenture that contributed to progressing a mutual separation pathway from the contract.

If asked: When will the Government deliver the Permissions Capability?

- The Permissions Capability Program delivered the Digital Passenger Declaration in March 2022, which successfully supported the bio-secure reopening of Australia's international border.
- Following health advice from the Chief Medical Officer in July 2022, and subsequent changes to the Biosecurity Act, travellers arriving to Australia by air or sea no longer need to complete the DPD or the Maritime Travel Declaration (MTD).
- The future direction of the program of work for the Digital Passenger Declaration (DPD) and the Permissions Capability remains subject to Government consideration.

If asked: Is data captured through the Permissions Capability and the DPD securely stored?

- All data is stored onshore in secure and certified hosting arrangements and aligned with Government retention storage policies and guidelines.
- Deletion of data relating to the border and health declaration components of the DPD will be made in consultation with the responsible authority for the health records.

If asked: Will the next Permissions Capability use case be a Visa use case?

- Government will consider the Permissions Capability framework as part of broader considerations around the migration system.

If asked, Can the public be confident in the Permissions Capability procurement process?

- In 2020, the Department conducted a competitive procurement process for the Permissions Capability with the support of independent probity advisers.
- The Australian National Audit Office (ANAO) is conducting an audit into the Permissions Capability procurement process to assess whether the process employed

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PERMISSIONS CAPABILITY

open and effective competition and achieved value for money. The report is expected to be tabled in the summer session of Parliament.

If asked, what were the key usability issues with the DPD and what is being done to address them?

- Since its launch in February more than 2.8 million DPDs, including 1.2 million via mobile app have been lodged. While some travellers have experienced frustration in using the DPD, other passengers have noted they found the DPD easy to use.
- The Department actively monitors and actions feedback provided directly by travellers and industry and through the Departmental user research surveys completed by approximately 12,700 travellers.
- Key issues being addressed include biometric capture and passport scanning, development of a profile to re-use data entered on previous trips and family declarations.
- As the Department and ABF continue to focus on digitising the traveller experience at the border, including digitising the paper incoming passenger card, user feedback will be an important input to building on the initial DPD capability.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PERMISSIONS CAPABILITY

BACKGROUND AND CHRONOLOGY

As at 24 August 2022.

Permissions Capability	
20 March 2020	A new policy decision was made to develop a Whole-of-Government (WoG) Permissions Capability.
April 2020	Joint Permissions Capability taskforce established with representatives from Home Affairs and the DTA.
17 October 2020	A Permissions Capability Industry Information Paper and Notice of intent to procure was released to the market. https://immi.homeaffairs.gov.au/what-we-do/permissions-capability/request-for-tender-process
17 October 2020	Media release – Announcement of the Digital Passenger Declaration (DPD) as the first use case on the Permissions Capability Platform.
23 October 2020	The Permissions Capability Request for Tender was released to the market. https://immi.homeaffairs.gov.au/what-we-do/permissions-capability/request-for-tender-process
6 September 2021	Home Affairs signs a contract with Accenture for delivery of the base capability and the DPD.
13 September 2021	Media Release - Appointment of Accenture to deliver the DPD and Permissions Capability.
November 2021	Changes to health settings and the flow-on impact to border responses affected the Permissions Capability Program's (Program) ability to deliver the first release of the DPD on 13 December.
13 December 2021	A First Stage/Mid Stage Blended Gateway Review of the Program conducted by the Department of Finance commenced, and concluded on 17 December.
20 December 2021	Beta Trial of the DPD Web App commenced for selected passengers.
15 February 2022	The DPD web application was successfully deployed.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PERMISSIONS CAPABILITY

1 March 2022	The Apple iOS mobile application was successfully deployed.
9 March 2022	The Google Android application was successfully deployed.
1 June 2022	A Mid-Stage Shortform Gateway Review of the Program was conducted by the Department of Finance commencing 1 June and concluded 3 June 2022
6 July 2022	Following changes to the Biosecurity Act the DPD was hibernated from public use.
20 July 2022	The Department entered into discussions with Accenture as to the future direction of the program of work for the Digital Passenger Declaration and the Permissions Capability.
12 August 2022	The Department concluded its discussions with Accenture regarding the Permissions Program and agreed a mutual separation. Delays encountered in achieving the planned objectives were a factor in this decision. Both the Department and Accenture have worked proactively and diligently to ensure that contractual arrangements have been concluded in a cost effective and equitable way.

Lead Division
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Programs
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Originating Source: (MO/HA)

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Date last Updated: 25/11/2022

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OPERATION JARDENA - SUPPLY CHAIN VULNERABILITIES**QUESTION: Operation JARDENA and Supply Chain Integrity****KEY TALKING POINTS:**

- The Australian Border Force (ABF) continues to focus on disrupting criminal networks from infiltrating Australia's international supply chain to import harmful contraband into the country.
 - Organised criminals, such as outlaw motor cycle groups (OMCGs) and transnational and serious organised (TSOCs), and trusted insiders pose an insidious threat to the integrity of the nation's supply chains.
 - Recent onshore operational activity—alongside persistent all-source intelligence—shows criminality is deeply entrenched in Australia's international supply chains and key regulated border nodes.
 - National Operation JARDENA (Op JARDENA) was established to better coordinate and bolster ABF's holistic efforts to combat organised criminals and their insider partners in Australia's international supply chain—and to be a focal point for a bold, long-term supply chain governance reform agenda.
-
- JARDENA Strike Teams (JST) have been established across Australia to limit the ability of TSOC groups to exploit border vulnerabilities and to remove active threats through regulatory processes.
 - The operation has up to 90 officers working across the nation dedicated to supply chain operations, working hand in glove with partner law enforcement and regulatory agencies.
 - Op JARDENA has identified over 800 natural persons and 60 businesses operating in the supply chain who pose a threat to the integrity of Australia's border.
 - Early operational activity has identified concerning levels of offending and criminality in the supply chain, particularly in the licensed depot environment. **Trusted Insiders' are operating across the entire international supply chain, even embedding inside our regional and remote ports.**
 - For the 2022 calendar year, the JSTs have issued **69** infringement notices for breaches of the *Customs Act 1901*, totalling **\$659,340** in financial penalties. Our JSTs have provided education to **1098** businesses and issued **238** warning letters.
- If asked what is ABF's role in tackling OMCGs? How does the agency work with the AFP, and state police forces*
- A large proportion of OMCG-related crime involves the movement of illicit goods across the border, including drugs, illicit tobacco and firearms.

ABF

QUESTION TIME BRIEF (QTB)

OPERATION JARDENA - SUPPLY CHAIN VULNERABILITIES

- It is the ABF's role to manage the movement of people and goods across the international border. That includes air and sea ports, but in the case of goods, also places such as customs licensed depots and warehouse which are regulated by the Customs Act.
- When it comes to preventing or disrupting illicit importations and exportations, the ABF work in close partnership with the Australian Federal Police, state and territory police, intelligence agencies and international partners all over the globe.

BACKGROUND AND CHRONOLOGY

- In Australia, the international supply chain environment encompasses over 500 licensed depots, 160 licensed warehouses, 400 airports, seaports and cargo terminals, 2,100 licensed brokers and an unquantifiable number of freight forwarders and cargo reporters. It also covers all persons employed in the international aviation and maritime industries, including aircraft and vessel crew, caterers, engineers and baggage handlers.
- The integrity of Australia's international supply chain is a vital component of a prosperous, secure and safe Australia. Without it, the supply chain becomes a major vectors for harmful contraband entering the community, revenue from duty and taxes remains uncollected, corruption grows, and Australia's reputation as a well-regulated international trading partner is damaged.
- A trusted insider is a person who exploit their legitimate role in the supply chain to facilitate illicit activity. They do this by circumventing border controls, giving sensitive information or providing unlawful access to cargo.
- Op JARDENA seeks to work with industry—noting ABF is more successful securing supply chains with symbiotic participation from trusted industry partners.
- Moreover, in conjunction with other areas of ABF—and noting the transnational nature of criminal threats facing Australian supply chains—Op JARDENA is also positioning itself and broader ABF to be a champion of international cooperation and information sharing, and has established a number of overseas posts in key partner locations to promote bilateral and multilateral initiatives

Lead Division

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Division: Operation JARDENA

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Action: s. 22(1)(a)(ii)

Date last Updated: 28/11/2022

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ABF

QUESTION TIME BRIEF (QTB)

STATISTICS OF OVERALL SEIZURES OF ILLEGAL GOODS

KEY TALKING POINTS:

Illegal Goods Detected between 1 July 22 - 30 September 2022

- During the 1 July 2022 – 30 September 2022 period, the ABF made:
 - 21,422 detections of illegal drugs and precursors at Australia's border.
 - Of the 21,422 detections of illegal drugs and precursors, 12,167 detections were of major drugs and precursors at the border,¹ including:
 - precursors² – 329 detections with a total weight of 247kg
 - ATS³ – 600 detections with a total weight of 3,633kg
 - cocaine – 1,071 detections with a total weight of 1,250kg
 - cannabis – 9,417 detections with a total weight of 124kg
 - MDMA (Ecstasy) – 299 detections with a total weight of 44kg
 - Heroin – 54 detections with a total weight of 46kg
 - NPS – 397 detections
 - Others accounted for 9,255 detections.
 - 35,544 detections of illicit tobacco, equivalent to 381 tonnes
 - 164 detections of undeclared firearms, firearm parts, and accessories
 - 1 detection of childlike sex dolls and components
 - 0 detection of other child abuse material
 - 4 detections of other objectionable material.
- The Australian Border Force (ABF), works tirelessly with law enforcement and intelligence partners both domestically and internationally to protect the Australian community.
 - The Department spent \$62.2 million on air cargo intervention activities in financial year 2021-22 (FY21/22) and through successful detections, delivered a total benefit of \$2.1 billion in social harm reduction and prevention of duty evasion.
 - The ABF spent \$74.8 million on sea cargo intervention activities in FY21/22 and through successful detections, delivered a total benefit of \$3.9 billion in social harm reduction and prevention of duty evasion.

Illicit Tobacco

- For the 1 July 2022 – 30 September 2022 period, the number of tobacco detections comprised of approximately 168 tonnes of loose leaf tobacco and 303 million sticks (cigarettes).

¹ Major Drugs includes: ice, amphetamine, cannabis, cocaine, heroin, MDMA (Ecstasy), new psychoactive substances, and Precursors. It does not include ketamine.

² A Precursor detections refer to detections of chemical substances that are prohibited imports/exports that may be used in the manufacture of illicit drugs. Some precursors detected were likely not intended for the manufacture of illicit drugs but were active ingredients in health supplements, cold and flu preparations, herbal medicines and weight-loss products purchased on the internet.

³ ATS detections include methamphetamine and amphetamine but excludes MDMA (ecstasy).

ABF

QUESTION TIME BRIEF (QTB)

STATISTICS OF OVERALL SEIZURES OF ILLEGAL GOODS

- While the number of illicit tobacco detections made between in FY21/22 fell by 29.7 per cent compared to financial year 2020-21 (FY20/21), there was an overall increase of 34 per cent in volume equating to a \$760 million increase in evaded duty.
- The detections comprise of approximately 897.85 tonnes of loose leaf tobacco and 1,115 million sticks (cigarettes) in FY21/22.

Objectionable Material (Child Exploitation)

- For the 1 July 2022 – 30 September 2022, the sole detection of child sex doll was in air cargo, which was the predominant importation stream for objectionable material in FY2021-22. The four other objectionable materials detected were also in the air cargo stream.

Illegal Goods Detected in FY 21/22

- During FY 21/22, the ABF made:
 - 66,599 detections of illegal drugs and precursors at Australia's border.
 - Of the 66,599 detections of illegal drugs and precursors, 27,521 detections were of major drugs and precursors at the border.⁴ including:
 - precursors⁵ – 1,709 detections with a total weight of 1,526kg
 - ATS⁶ – 2,546 detections with a total weight of 7,319kg
 - cocaine – 2,289 detections with a total weight of 1,794kg
 - cannabis – 18,256 detections with a total weight of 570kg
 - MDMA (Ecstasy) – 1,249 detections with a total weight of 198kg
 - Heroin – 276 detections with a total weight of 787kg
 - NPS – 1,196 detections
 - other – counted for 39,078 detections
 - 150,782 detections of illicit tobacco, equivalent to 1,678.51 tonnes
 - 973 detections of undeclared firearms, firearm parts, and accessories
 - 92 detections of childlike sex dolls and components
 - 13 detections of other child abuse material
 - 104 detections of other objectionable material.

Lead Division

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Date last Updated: 4/11/2022 - 5:11 PM

⁴ Major Drugs includes: ice, amphetamine, cannabis, cocaine, heroin, MDMA (Ecstasy), new psychoactive substances, and Precursors. It does not include ketamine.

⁵ A Precursor detections refer to detections of chemical substances that are prohibited imports/exports that may be used in the manufacture of illicit drugs. Some precursors detected were likely not intended for the manufacture of illicit drugs but were active ingredients in health supplements, cold and flu preparations, herbal medicines and weight-loss products purchased on the internet.

⁶ ATS detections include methamphetamine and amphetamine but excludes MDMA (ecstasy).

ABF

QUESTION TIME BRIEF (QTB)
COVID-19 BORDER MEASURES**KEY TALKING POINTS:**

- Effective 6 July 2022, enforced travel restrictions implemented for COVID-19 under the *Biosecurity Act 2015* ceased.
- Incoming and outgoing travellers are no longer required to provide evidence of their vaccination status. Unvaccinated visa holders no longer require a travel exemption for travel to Australia.
- On 6 July 2022, the Digital Passenger Declaration (DPD) was hibernated.
- In relation to foot and mouth disease, the ABF remains committed to working with Department of Agriculture and Forestry (DAFF) as the lead agency in protecting the Australian community from biosecurity hazards. Such as the most recent foot and mouth disease outbreak which has occurred in our region (Indonesia).
- DAFF have deployed measures to mitigate the risk of a foot and mouth outbreak in Australia.

Foot and Mouth

- The Australian Border Force (ABF) continues to support the Department of Agriculture, Fisheries and Forestry biosecurity officers at all ports, screening travellers deemed a high risk for Foot and Mouth Disease (FMD).
- On 10 August 2022, Assistant Commissioner Erin Dale represented the ABF at the Senate Rural and Regional Affairs and Transport Public Hearing alongside other government agency representatives involved with the FMD outbreak in Indonesia.
- On 27 July 2022, DAFF introduced biosecurity measures at the international border primary lines and SmartGates. The ABF implemented changes to SmartGates that assist Biosecurity Officers in the identification of travellers who have been in Indonesia in the last seven days.

Air and Sea Arrivals

- As at **15 November 2022**, Australia's international travel settings are continuing to increase with some states returning to pre-pandemic arrangements by December 2022.

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ABF
QUESTION TIME BRIEF (QTB)
COVID-19 BORDER MEASURES

Total Arrivals via Air

Date	Australian citizens	Permanent residents	All other travellers	Crew	Transit visa holders	Total
01 February – 10 March 2020*	839,173	152,890	977,311	109,686	7,773	2,086,833
11 – 17 March 2020**	129,422	16,951	116,983	17,588	933	281,877
18 – 20 March 2020***	68,798	7,272	23,493	6,640	95	106,298
11 March 2020 to 31 October 2021	607,471	137,957	432,219	337,972	6,229	1,521,848
01 November 2021 – 30 June 2022****	1,429,558	337,516	1,371,862	274,633	7,815	3,421,384
01 – 31 July 2022	605,922	84,491	390,706	56,195	1,906	1,139,220
01 – 31 August 2022	537,276	81,197	335,120	57,346	3,017	1,013,956
01 – 30 September 2022	564,547	77,061	425,690	56,674	3,018	1,126,990
01 - 31 October 2022	642,326	81,040	473,927	61,297	4,256	1,262,846

ABF
QUESTION TIME BRIEF (QTB)
COVID-19 BORDER MEASURES

Total Arrivals via Sea

Date	Australian citizens	Permanent residents	All other travellers	Crew	Transit visa holders	Total
01 February – 10 March 2020*	12,688	367	25,954	64,916	8	103,933
11 – 17 March 2020**	153	7	3,143	10,408	0	13,711
18 – 20 March 2020***	1,103	33	1,763	6,041	5	8,945
11 March 2020 - 31 October 2021	3,000	97	6,102	638,141	6	647,346
1 November 2021 – 30 June 2022****	364	10	420	254,951	0	255,745
1 – 31 July 2022	40	2	125	30,099	1	30,267
01 – 31 August 2022	68	10	104	33,848	0	34,030
01 – 30 September 2022	653	24	2,104	33,900	5	36,686
01 – 31 October 2022	6,425	190	5,777	39,329	35	51,756

* 01 February 2020 – restrictions on travellers from China entering Australia for 14 days from the time the left or transited China. 1 March 2020 - restrictions on foreign nationals arriving from Iran. 5 March 2020 – restrictions on foreign nationals arriving from Republic of Korea.

** 11 March 2020 – restrictions on foreign nationals arriving from Italy and enhanced health screening and temperature checking

*** 18 March 2020 – Governor General declares a human biosecurity emergency -
 20 March 2020 – Foreign nationals banned from entering Australia without a Commissioner's exemption.

**** 01 November 2021 – resumption of international travel for fully vaccinated Australian citizens, PRs and their immediate family.

Vaccine Supply Chain

- As at 15 November 2022, approximately 160,993,360 COVID-19 vaccine doses, across four suppliers, were expedited through the ABF border clearance process.
- Given the establishment of a stable and secure supply chain for COVID-19 related goods over the last two years, ABF is transitioning COVID-19 related goods imports to standard therapeutic goods processes, with special treatment and reporting of these imports to cease as of 1 December 2022.

ABF
QUESTION TIME BRIEF (QTB)
COVID-19 BORDER MEASURES

Operation OVERARCH

- The ABF established Operation OVERARCH in response to the Australian Government's announcement in March 2020, to close Australia's border with Papua New Guinea (PNG) and give effect to Australian Government decisions to implement enhanced border measures in the Torres Strait.
- In July 2022, Australia lifted international travel restrictions under the *Biosecurity Act 2015*.
- On 1- 2 September 2022, the Traditional Inhabitants Meeting (TIM) and Joint Advisory Council (JAC) took place in Cairns. These meetings were conducted by representatives of the Torres Strait Island Regional Council (TSIRC) with PNG treaty village counterparts and facilitated by the Department of Foreign Affairs and Trade (DFAT).
- The JAC noted that the TIM reached mutual agreement for the resumption of traditional visits to occur in mid-October 2022. TSIRC have agreed to the resumption of treaty travel from 19 October 2022.
- ABF Border Monitoring Officers on treaty islands have been monitoring and recording the movement of treaty travel since 19 October 2022 without incident.
- Operation OVERARCH ceased on 31 October 2022.

BACKGROUND AND CHRONOLOGY

Digital Passenger Declaration

- The DPD web application launched on 15 February 2022 to support the re-opening of Australia's international borders. The DPD collected travel details, COVID-19 related health information and quarantine requirements from travellers ahead of departure to Australia.
- On 3 July 2022, the Minister for Health and Aged Care, the Hon Mark Butler MP, announced that as of 12.01am on 6 July 2022, people would be able to travel to and from Australia without being required to declare their COVID-19 vaccination status.
- Following this decision the DPD and Maritime Travel Declaration (MTD) were hibernated on 6 July 2022.
- ABF remain committed to delivering a digital incoming passenger card which will take into account lesson learnt from operation of the DPD and passenger and industry feedback.
 - Digitising the incoming passenger card is a key next step in the ABF program of border automation. A more automated and digital border is critical to

ABF
QUESTION TIME BRIEF (QTB)
COVID-19 BORDER MEASURES

manage ongoing growth in passenger volumes, border security and changing risks offshore, and to ensure our readiness to respond to future global events.

National Vaccination Compliance Assurance Program (VCAP)

- From 16 November 2021 to 25 May 2022, the VCAP provided ongoing assurance of passenger compliance where vaccination was a requirement for quarantine-free entry and ensured airlines met their obligations to only carry unvaccinated travellers within passenger cap allocations.
- The VCAP ceased on 25 May 2022.

Lead Division

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
NEW ZEALAND CITIZENS

QUESTION: What changes will occur for New Zealand citizens to move from temporary to permanent visas or Australian Citizenship?

KEY TALKING POINTS:

- The Australian Government acknowledges the impact of migration settings on New Zealand citizens, including barriers to the pathway to permanent residence and citizenship, access to social services benefits and the removal of New Zealand citizens long-term resident in Australia.
- The Department is priority processing on hand applications in the Skilled Independent (Subclass 189) visa – New Zealand stream.
- There are approximately 11,000 on hand Skilled Independent visa applications from New Zealand citizens. These applicants have been resident in Australia for several years, contributing to the economy, including during the pandemic.

Further Talking points.

- At the 2022 Australia New Zealand Leaders' meeting, the two governments committed to working together to achieve greater prosperity for our citizens. New Zealanders and Australians who choose to move between our countries represent our close ties and kinship.
- The Australian Government will develop options to provide New Zealand citizens with viable pathways to citizenship and will apply a common sense approach regarding the removal of New Zealand citizens long-term resident in Australia.
- Australia acknowledges concerns raised by New Zealand around the Skilled Independent (subclass 189) visa – New Zealand Stream, including the eligibility cut-off date, visa application charge, income threshold and residency requirements.
- The Australian Government is considering policy options to address New Zealand's concerns, including facilitating greater access to permanent residence for New Zealand citizens and creating viable pathways to Australian citizenship.
- Uptake of permanent residency and citizenship would provide New Zealand citizens additional opportunities including access to additional benefits, voting rights and employment in the public service and armed forces. It would also enable better integration into Australian society and the economy.
- The Prime Minister noted on 8 July 2022 after the Australia New Zealand Leaders' Meeting that the Government will ask the Joint Standing Committee on Electoral Matters to consider whether New Zealand citizens, who are living and working in Australia, can have voting rights, similar to arrangements in New Zealand for Australian citizens who have been resident for a year.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
NEW ZEALAND CITIZENS

- The Australian Government acknowledges New Zealand's concerns around the removal of New Zealand citizens who have spent most of their formative years in Australia and have no links to the New Zealand community.
- As the Prime Minister publicly stated, character-related visa refusal and cancellation legislation under section 501 of the *Migration Act 1958* "will stay in place". Where individuals pose a risk to the community, the Australian Government will continue to cancel their visas and remove them. However, Australia will apply common sense in considering cases where a non-citizen has lived in Australia for their entire life and has no links to New Zealand.
- The Australian Government will examine how current policy settings could be adjusted to give stronger consideration to individuals' long-term residence in Australia and links to the community.
- On 5 August 2022, the Special Minister of State, Senator the Hon Don Farrell asked the Joint Standing Committee on Electoral Matters to inquire into and report on all aspects of the conduct of the 2022 federal election and related matters, including consideration of voting rights for New Zealand citizens residing in Australia.

BACKGROUND AND CHRONOLOGY

There are approximately 670,000 New Zealand citizens resident in Australia and approximately 70,000 Australian citizens resident in New Zealand. New Zealand citizens who hold a Special Category Visa (subclass 444) visa may live and work in Australia indefinitely. On 1 July 2017, the Skilled Independent (subclass 189) visa – New Zealand Stream commenced for New Zealand citizens who have been usually resident in Australia for a continuous period of five years immediately prior to their visa application, and had commenced that period of residence on or before 19 February 2016. The Skilled Independent (subclass 189) visa – New Zealand Stream aims to provide a streamlined pathway to permanent residence for New Zealand citizens. The eligibility criteria include an income threshold of \$53,900, health and character checks and Visa Application Charge of \$4,240 for the primary applicant.

As with all applicants for Australian citizenship by conferral, New Zealand citizens are required to be permanent residents, meet residency requirements and satisfy character and identity checks to be eligible for Australian citizenship.

Since the introduction of mandatory cancellation grounds in the Migration Act in 2014, New Zealand citizens comprise approximately 49 per cent of the total visas cancelled on character grounds. A large proportion of these New Zealand citizens had arrived in Australia as children and resided in community long-term before their offending.

Lead Division

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
NEW ZEALAND CITIZENS

Date first prepared: 07/07/2022
Originating Source: MO/HA

Date last Updated: 24/11/2022

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

CRITICAL TECHNOLOGY VISA CHANGES

KEY TALKING POINTS:

- The university and research sectors alongside industry are key to our future economic success and our national security; however, some countries are seeking to undermine Australia's interests through foreign interference and active efforts to transfer sensitive research and innovation.
 - On 1 July 2022, the *Migration Amendment (Protecting Australia's Critical Technology) Regulations 2022* (the PACT Regulations) commenced, amending the *Migration Regulations 1994* to establish a framework to manage the risk of unwanted transfer of critical technologies. On 6 October 2022, the Regulations came into effect in full.
 - However, the regulations are not yet operational. This will occur once I have specified 'kinds of technology' in a legislative instrument, following additional Government policy consideration into the first half of 2023.
 - The Department of Home Affairs has consulted the higher education sector and industry stakeholders extensively in anticipation of the regulations going live.
-
- The *Migration Amendment (Protecting Australia's Critical Technology) Regulations 2022* (PACT Regulations) establish a framework to safeguard Australia's critical technology from the risk of unwanted transfer. The new regulations:
 - created a Public Interest Criterion (PIC) 4003B by which the Minister can refuse to grant certain visas if there is an unreasonable risk of unwanted transfer of critical technology by the visa applicant;
 - created a new condition, 8208, for Subclass 500 (Student) visa holders intending to undertake critical technology-related studies, that they must not change or commence their new course of study, unless approved by the Minister; and
 - provided for the cancellation of a visa where the Minister is satisfied that there is an unreasonable risk of unwanted transfer of critical technology by the visa holder.
 - The Department of Home Affairs has undertaken consultation with the higher education and technology sectors on the scope of technologies to be protected by the new screening requirements, to ensure we get the balance right between protecting and promoting Australia's critical technologies.
 - The Department of Home Affairs will provide further public and sector-specific updates ahead of the regulations going 'live.'

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
CRITICAL TECHNOLOGY VISA CHANGES

If asked: What is the current status of implementation/operationalisation?

- The amendments to the Migration Regulations to establish the new PIC and Student visa condition commenced in legislation on 1 July 2022, and extended to include additional visa subclasses and the cancellation power on 6 October 2022.
- However, these screening requirements will not be operational until I have specified 'kinds of technology' in a legislative instrument—these 'kinds of technology' have formed part of the Department's stakeholder consultation.

If asked: Why are these changes needed?

- Enhanced visa screening protects Australia's world-class science and technology institutions from malicious activities.
- Such activities can result in the transfer of knowledge or theft of intellectual property, undermining Australia's strategic and commercial advantage.
- These changes will help ensure that Australia remains a destination and partner of choice for international research and collaboration—while safeguarding our research, science, information and capabilities.

If asked: Do these regulations target any specific country?

- The PACT Regulations are country-agnostic and are designed to mitigate the risks of unwanted knowledge transfer irrespective of the place of origin.

Consultation

- The Department of Home Affairs engaged with a number of universities and higher education sector peak bodies (including the Group of Eight, Universities Australia, and Science and Technology Australia) on the implementation of the PACT Regulations and a list of 'kinds of critical technology' through bilateral discussions and the University Foreign Interference Taskforce.
- The Department of Home Affairs has also undertaken formal and ad hoc industry consultation, which included peak bodies and relevant businesses and organisations for the purpose of the non-Student visa classes that will be subject to PIC 4003B.

Lead Division
Contact: Brendan Dowling
Division: Cyber, Digital and Technology Policy
Date first prepared: 01 July 2022
Originating Source: HA

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)
Date last Updated: 28/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
LOVE AND THOMS

QUESTION: How many people have been released from immigration detention after they were found to meet the tripartite test?

KEY TALKING POINTS:

- The powers in the *Migration Act 1958* (the Migration Act) to detain and remove an unlawful non-citizen cannot apply to a person who meets the tripartite test endorsed in the High Court's judgment in *Love and Thoms*.
- Since the High Court's judgment and as at **17 November 2022**, 13 individuals (including Mr Thoms) have been released from immigration detention on the basis that they meet, or the detaining officer suspects they meet, the tripartite test.
- The Department of Home Affairs continues to manage individual cases that raise claims of meeting the tripartite test, with relevant information assessed as to whether the person meets each limb of the tripartite test.
- The Department continues to engage with key stakeholders across government in relation to the implications of this judgment.
- Five individuals have been released from immigration detention directly or indirectly as a result of Court decisions that it was no longer reasonable to hold a suspicion they were an alien, but did not involve a conclusion that they meet or are suspected to meet all three limbs of the tripartite test.

If asked: what are the implications of this judgment for the operation of the Migration Act?

- In *Love v Commonwealth; Thoms v Commonwealth* [2020] HCA 3 (*Love and Thoms*), a majority of the High Court held that an Aboriginal Australian non-citizen who meets the 'tripartite test' is not an 'alien' under s51(xix) of the Constitution.
 - This means that, for the purposes of the Migration Act, a non-citizen will be either an 'alien' or a 'non-alien'.
- The primary consequence is that a non-citizen non-alien cannot be detained or removed from Australia under the Migration Act.
 - If a person meets the 'tripartite test', the person must not be taken into, or kept in, immigration detention.
- Non-citizens who meet the 'tripartite test' continue to be subject to other substantive provisions such as the power to grant a visa and to require a non-citizen to undergo

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QUESTION TIME BRIEF (QTB)
LOVE AND THOMS

immigration clearance. The provisions in the Citizenship Act under which a person acquires citizenship (including by conferral) also continue to apply.

If asked: What has the Department done to implement the judgment?

- Where a non-citizen is identified as potentially in scope of the High Court's judgment, all the evidence available to the Department is assessed to consider whether the person meets each limb of the 'tripartite test'. Where evidence before the Department suggests it is possible the individual may meet the 'tripartite test', the case is referred to the Australian Government Solicitor for advice, as required.

If asked: What is the basis for people being released who do not meet the 'tripartite test'?

- Recent decisions of the Federal Court suggest that in some instances immigration detention may not be authorised **while** there are pending credible avenues of enquiry that might provide sufficient evidence of a person's non-alien status. This is so, even if, on further enquiry, it becomes apparent that they are, and have always been, an alien.

BACKGROUND AND CHRONOLOGY

Judgment

- On 11 February 2020, the High Court of Australia handed down its decision in *Love and Thoms*. The majority of the High Court decided against the Commonwealth to find that Aboriginal Australians understood according to the 'tripartite test' are not within the reach of the 'naturalisation and aliens' head of power under s51(xix) of the Constitution.
- Since that judgement, Mr Thom's court case has progressed independently addressing other issues. While references to "*Love and Thoms*" are still understood, to avoid confusion with further developments in Mr Thom's case, the accepted reference for the principle that a person who satisfies the tripartite test is not a constitutional alien is now *Love v Commonwealth* (2020) 270 CLR 152 and it is expected that this will become the norm in future.

Actions taken

- The Department has updated procedures around making (and reviewing) detention and removal decisions to take into account the High Court's judgment in *Love and Thoms*, and the Federal Court's judgments in *McHugh* and *Montgomery*.

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- Any non-citizen that raises claims of indigeneity is assessed to consider whether they meet each limb of the 'tripartite test'.

Next policy steps

The Department continues to consider the implications of the High Court's decision for Commonwealth programs in consultation with other Australian Government Departments – including the Attorney-General's Department, the National Indigenous Australians Agency, the Department of Finance and the Department of the Prime Minister and Cabinet.

Lead Division

Contact: Justine Jones

Division: Status Resolution and Visa Cancellation
Division

Date first prepared: 05 July 2022

Originating Source: MO

Phone: s. 22(1)(a)(ii)

Action Officer: Belinda Gill

Date last Updated: 28/11/2022

Contributing Divisions

Contact: Anton Bockwinkel

Division: AS Migration and Citizenship Law

Contact: s. 22(1)(a)(ii)

Division: A/g AS Compliance and Community
Protection

Related QTBs

QB22-000235 – *Montgomery High Court Case*

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PDR No. QB22-000180

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
COUNTERING VIOLENT EXTREMISM

KEY TALKING POINTS:

- The Government does not tolerate violent extremism of any kind.
- The Government works closely with state and territory partners to counter all-forms of violent extremism, including nationalist and racist extremism.

If asked – Why did the Government not publicly release the report into violent extremism risk assessment tools discussed by the Independent National Security Legislation Monitor at a public hearing on 21 November 2022?

- The Department of Home Affairs commissioned the report to support the strengthening of violent extremism risk assessment tools used by practitioners nationally.
- The report contains sensitive information that needs to be protected, to ensure terrorist offenders are not able to use this information to manipulate the outcomes of violent extremism risk assessments.
- The report made recommendations for further research and evaluation of the tools.
- The Department will continue to drive research and evaluation to ensure our frontline national security practitioners have the best possible risk assessment tools to do their jobs, and keep the community safe.

If asked – why was the Report not disclosed in High Risk Terrorism Offender (HRTTO) legal proceedings?

- After the Department of Home Affairs received the Report, the Department considered the disclosure obligations under Division 105A of the Criminal Code. Following this consideration the report was not disclosed.
- [*If pressed*] any legal advice obtained in this respect is the subject of legal professional privilege.

If asked – How does the Government approach CVE?

- The Government, working with states and territories, counters violent extremism through a range of programs that:
 - disengage people from violent extremism;
 - rehabilitate and reintegrate violent extremist offenders;

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
COUNTERING VIOLENT EXTREMISM

- prevent the circulation of extremist materials, especially online; and
- provide positive narratives to counter the appeal of extremism.
- Our firm focus is on addressing significant and emerging threats to our community, such as the rise of nationalist and racist violent extremism, and the increasing radicalisation of young people – especially online. This includes by:
 - **expanding** the national CVE intervention program, *Living Safe Together*, into regional and rural Australia;
 - **establishing** a national program to rehabilitate and reintegrate violent extremists in custody and in the community;
 - **delivering** a new CVE Grants Program to increase awareness and build community resilience to violent extremism;
 - **establishing** a CVE Centre of Excellence for Research, Risk Assessment and Training within the Department of Home Affairs that will drive national research and ensure frontline workers can access the best training and tools to do their jobs; and
 - **continuing** our ongoing efforts to combat terrorist propaganda online.

If asked – What is the Government doing to address threats from ideologically motivated violent extremists, including nationalist and racist extremists?

- The Government works closely with states and territories to ensure our CVE programs are fit for purpose and respond to evolving threats such as nationalist and racist violent extremism.
- The Government-funded *Living Safe Together* Intervention Program provides a national approach for the delivery of CVE intervention programs by states and territories, to disengage people at risk of violent extremism.
 - Program participants include both ideologically and religiously-motivated violent extremists.
 - The Government also works with states and territories to train prison officers to recognise indicators of violent extremism, including nationalist and racist violent extremism.
- The Government has funded a dedicated strategic communications program that aims to contest and undermine the appeal of nationalist and racist extremist narratives through the delivery of alternative messaging to vulnerable cohorts.

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COUNTERING VIOLENT EXTREMISM

If asked: what is the Government doing about the growth in radicalisation of Australian youth?

- The Government is committed to strengthening national cooperation to address the rise in Australian youth radicalising to violent extremism.
 - The Department of Home Affairs is working closely with state and territory partners to increase awareness of youth radicalisation and support disengagement activities.
- The Department has commissioned a body of research into youth radicalisation to violent extremism, to inform the design and delivery of policies and programs.

If asked – How is the Government tackling violent extremism online?

- The Government remains committed to combatting online terrorism and violent extremism to ensure a free, open and secure internet for all Australians.
- The Department of Home Affairs works together with global partners, allies and digital industry to identify and take down terrorist content, and deepen international norms, responses, and regulations to effectively counter this evolving threat.
- Australia is a founding supporter of the Christchurch Call to Action and an active member of the Global Internet Forum to Counter Terrorism. These groups bring together governments and digital industry to prevent the exploitation of the internet by terrorists and extremists.
- The Online Safety Act 2021 strengthens the Government's ability to instruct online platforms to take down harmful violent extremist content where somebody makes a complaint or where content has been identified as significantly harmful to the Australian community.
- Australia's ongoing, strategic communications programs counter and contest ideologically and religiously motivated violent extremist propaganda and hateful narratives online by providing alternative messaging to vulnerable cohorts.

If asked: what consideration is being given to the listing of extreme right wing groups as terrorist organisations under the Criminal Code?

- The Department of Home Affairs and Commonwealth partners continue to identify and assess extreme right wing groups for possible listing under the criminal code.

If asked: reintegration of returnees from foreign conflict zones

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COUNTERING VIOLENT EXTREMISM

- State and territory governments lead the onshore reintegration of returnees through support services such housing, health, education and access to relevant community organisations, including support designed to limit the risk of involvement in violent extremism.
- The Commonwealth and state and territory governments regularly review return and reintegration processes to ensure they remain fit for purpose.

Background

Report into violent extremism risk assessment tools

In May 2018, the Department commissioned the Australian National University to undertake an impact evaluation of the VERA-2R—the principal tool used by expert witnesses in High Risk Terrorism Offender proceedings to support an assessment an offender’s risk of engaging in violent extremism—and another risk assessment tool (RADAR).

In relation to the VERA-2R, the Report identified perceived limitations in the tool and recommended further research and evaluation be undertaken.

At a public hearing on 21 November 2022 held as part of the Independent National Security Legislation Monitor (INSLM)’s review of Division 105A of the Criminal Code, the INLSM expressed the view that, in his opinion, the report should have been disclosed in HRTTO proceedings, and indicated he will likely recommend that Criminal Code provisions dealing with exculpatory facts be amended to ensure such reports are disclosed in future.

Lead Division
Contact: Richard Feakes
Division: Counter Terrorism Coordination Centre
Date first prepared: 19 July 2021
Originating Source: HA

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QUESTION TIME BRIEF (QTB)
TIKTOK

KEY TALKING POINTS:

- The rise of social media and digital platforms has created new security and privacy challenges and risks. This underscores the importance of ensuring Australia's security and privacy settings remain fit for purpose in the digital age.
- Australians need to be mindful of the fact that they are sharing a lot of detailed information about themselves with apps that may not properly protect their information.
- It is also incumbent on Government to make sure that the regulatory and policy settings in Australia are fit for purpose to protect Australians and our national interests in the social media era.
- I have asked the Department to undertake a review of the security risks social media companies present and the settings which govern them.
 - The security review will consider all options to address data security risks as well as other national security concerns as they relate to social media companies.
 - I have asked for the review to be finalised by early 2023.
 - Data security concerns relating to non-social media platforms and applications will be considered as a part of the National Data Security Action Plan and the new Cyber Strategy currently under development.
- The Government will be taking a considered, deliberate approach to better regulating how digital platforms secure consumers' information, and to raise the baseline of data security settings in Australia.
- We can all take steps now to better protect our personal information online. It is important that all Australians take steps to inform themselves about what data an app may be accessing on their device and how it can be used online.
 - Australians can find updated guidance to better understand the privacy and security risks of social media platforms published on ASD's ACSC website, cyber.gov.au.
 - Australians can also find information on how to safely use social media applications by visiting www.esafety.gov.au.
- The review will complement the separate review of the *Privacy Act 1988* being led by the Attorney-General's Department to ensure that Australia's privacy laws are fit-for-purpose in the digital age and give users greater control over their personal information.

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QUESTION TIME BRIEF (QTB)
TIKTOK

BACKGROUND AND CHRONOLOGY

Social Media

- All social media and messaging applications carry risks associated with their use. The ACSC first published its social media and messaging application guidance in August 2011 and regularly updates it's guidance to ensure all Australians have access to current, easy-to-follow advice to mitigate risks common to a range of popular applications.

If Raised: Tik Tok

- The concerns about the security of Australian's data on social media are well-known, and are not limited to any one platform.

If Asked: Use of information to surveil citizens

- Social media and messaging apps typically collect extensive data as part of their business model. These apps may also collect additional data from individuals' devices, which extends beyond the content of messages, videos and voice recordings.

If Asked: Tik Tok in-app browser

- TikTok, as well as many other social media applications, allows users to click on links and visit websites from within the app.
 - Any sites visited, keystrokes or data shared through the in-app browser is accessible to the app.
 - While TikTok has stated that this functionality is only used for “debugging, troubleshooting, and performance monitoring”, all users should ensure they are well informed about how their data can be used online
 - This does not allow TikTok visibility of a users activity outside of the TikTok app.
 - While TikTok collects data from their in app web browser, like other social media apps also do, users can't easily elect to use alternative web browsers outside of the TikTok app when clicking on web links from within the TikTok app.

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If Asked: ASD advice to MPs on social media applications

- The Australian Signals Directorate has advised Members of Parliament that the more applications on a device, the greater the risk of malware allowing criminal and state actors to access sensitive information such as contacts or emails.
 - And for this reason, they might consider using a second phone for official use.

<u>Date</u>	<u>Outlet</u>	<u>Reporting</u>
25 November 2022	The Herald Sun	Senate eye on socials TikTok, WeChat and Twitter will come under the microscope of a re-established parliamentary committee investigating foreign interference through social media.
21 November 2022	The Australian Financial Review	TikTok's pitch: Sacked from Facebook or Twitter? Come work for us! https://www.afr.com/technology/tiktok-s-pitch-sacked-from-facebook-or-twitter-come-work-for-us-20221120-p5bz7
3 November 2022	The Guardian	TikTok tells European users its staff in China get access to their data. https://www.theguardian.com/technology/2022/nov/02/tiktok-tells-european-users-its-staff-in-china-get-access-to-their-data?CMP=oth_b-aplnews_d-3
2 November 2022	Axios	The Council on Foreign Investment in the U.S. (CFIUS) should take action to ban TikTok, Brendan Carr, one of five commissioners at the Federal Communications Commission, told Axios in an interview. https://www.axios.com/2022/11/01/interview-fcc-commissioner-says-government-should-ban-tiktok?utm_source=substack&utm_medium=email
25 October 2022	The Age	China's growing technological dominance could "scare the heck" out of democratic nations such as Australia and is a more worrying short-term threat than its rapid military build-up, says the head of the highpowered United States Senate intelligence committee. https://media.streem.com.au/restricted/aNREA vToje
24 October 2022	The Daily Telegraph	Labor has called on the Albanese government to strengthen laws protecting social media users after reports TikTok's Chinese-parent company planned to track the locations of some American users without their consent. https://media.streem.com.au/restricted/9jA67xidvL
23 October 2022	NT News	Reports have emerged claiming TikTok's Chinese parent company developed a project to track US citizens, raising "serious concerns" Aussies could be the next target. https://www.ntnews.com.au/news/national/serious-concern-australians-could-be-chinese-tiktok-owners-next-surveillance-target/news-story/daa89c818fa1bd07dd9fbc64356aba?btr=4569f53e677be4de7b934a366efe4ad4
21 October 2022	The Guardian	Chinese-based team at parent company ByteDance allegedly by Forbes to have planned to collect location information. https://www.theguardian.com/technology/2022/oct/21/tiktok-denies-report-data-used-to-track-or-target-us-citizens-bytedance
20 October 2022	Forbes	A China-based team at TikTok's parent company, ByteDance, planned to use the TikTok app to monitor the personal location of some specific American citizens. The project, assigned to a Beijing-led team, would have involved accessing location data from some U.S. users' devices without their knowledge or consent.

HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)
TIKTOK

		<u>TikTok Parent ByteDance Planned To Use TikTok To Monitor The Physical Location Of Specific American Citizens (forbes.com)</u>
30 September 2022	AFR	Home Affairs Minister Clare O'Neil rejected an invitation to meet TikTok's global chief counsel as the video app company sought to counter concerns about information security after revelations that staff in China have access to the data of millions of Australian users. <u>TikTok data: Home Affairs Minister Clare O'Neil declined meeting with China-owned video app company (afr.com)</u>
28 September 2022	Bloomberg	The Chinese video app has had little engagement with Republican naysayers-a strategy that could have serious consequences if national security concerns aren't resolved. <u>TikTok Ghosts Republican Lawmakers on China Data Issues - Bloomberg</u>
28 September 2022	New Zealand Herald	The Biden administration and TikTok have drafted a preliminary agreement to resolve national security concerns posed by the Chinese-owned video app but face hurdles over the terms as the platform negotiates to keep operating in US. <u>TikTok moving toward US security deal, but hurdles remain - NZ Herald</u>
27 September 2022	The Guardian	TikTok could face £27m fine for failing to protect children's privacy <u>https://www.theguardian.com/technology/2022/sep/26/tiktok-fine-protect-children-privacy-uk-data-protection</u>
26 September 2022	TechCrunch	TikTok faces \$29M fine in UK for 'failing to protect children's privacy' <u>https://techcrunch.com/2022/09/26/tiktok-faces-29m-fine-in-uk-for-failing-to-protect-childrens-privacy/</u>
26 September 2022	Reuters	TikTok inching toward U.S. security deal to avoid sale. U.S. lawmakers and TikTok are hammering out a plan, under which the short-form video app would make changes to its data security and governance without requiring its parent firm, China's ByteDance to sell it <u>https://www.reuters.com/technology/tiktok-inching-toward-us-security-deal-avoid-sale-nyt-2022-09-26/</u>
21 September 2022	TechCrunch	33% of U.S. TikTok users say they regularly get their news on the app, up from 22% in 2020 <u>https://techcrunch.com/2022/07/12/google-exec-suggests-instagram-and-tiktok-are-eating-into-googles-core-products-search-and-maps/</u>
20 September 2022	Bloomberg	The Biggest Question About a TikTok IPO Isn't When, But How. Notes the respective US and PRC positions on divestment and the options available to ByteDance/TikTok executives on the future of the platform. <u>https://www.bloomberg.com/news/newsletters/2022-09-20/tiktok-ipo-s-biggest-question-is-how-not-when</u>
20 September 2022	NewsGuard Tech Misinformation Monitor: September 2022	Beware the 'New Google:' TikTok's Search Engine Pumps Toxic Misinformation To Its Young Users <u>https://www.newsguardtech.com/misinformation-monitor/september-2022/</u>
20 September 2022	Business Insider	Gen Z is increasingly using TikTok videos instead of Google search, but 1 in 5 of them contain misinformation, a new study says

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HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)
TIKTOK

		https://www.businessinsider.com/gen-z-uses-tiktok-over-google-but-videos-contain-misinformation-2022-9
20 September 2022	Bloomberg	US Senator calls on CFIUS to require TikTok to sever all ties to China. TikTok response claims it will 'satisfy all national security concerns' https://www.bloomberg.com/news/articles/2022-09-19/yellen-pressed-on-tiktok-s-china-connections-by-gop-s-hawley
16 September 2022	Reuters	Biden tells foreign investment panel to screen deals for data, cyber risks https://www.reuters.com/world/us/biden-tells-foreign-investment-panel-screen-deals-data-cyber-risks-2022-09-15/
16 September 2022	New York Times	For Gen Z, TikTok is the new search engine. Need to find a restaurant or figure out how to do something? Young people are turning to TikTok for answers. Google has noticed. https://www.nytimes.com/2022/09/16/technology/gen-z-tiktok-search-engine.html
16 September 2022	TechCrunch	TikTok just launched a BeReal clone called TikTok Now. Which will be available in some markets as a separate application (it is not yet available on the iPhone app store at 20 SEP 22) https://techcrunch.com/2022/09/15/tiktok-just-launched-a-bereal-clone-called-tiktok-now/
16 September 2022	ABC News	Western countries such as Australia are considering what to do with China's social media apps, amid concerns personal data they collect could be accessed by Beijing. The article questions how should the federal government deal with technology linked to authoritarian countries such as China – including whether we should ban them completely. https://www.abc.net.au/news/2022-09-16/australia-ban-tiktok-wechat-china-censorship-law/101438254
15 September 2022	Bloomberg	Ex-Twitter, Facebook Executives Urge Lawmakers to Rein In Social-Media Platforms Brian Boland, a former vice president with Meta's Facebook, and Alex Roetter, Twitter's former senior vice president for engineering, warned the committee that social media companies have failed to address the harm their platforms can cause, including how their algorithms can amplify harmful content. https://www.bloomberg.com/news/articles/2022-09-14/former-social-media-executives-urge-senate-to-regulate-platforms?leadSource=uverify%20wall
14 September 2022	CNN Business	TikTok won't commit to stopping US data flows to China. TikTok repeatedly declined to commit to US lawmakers on Wednesday that the short-form video app will cut off flows of US user data to China, instead promising that the outcome of its negotiations with the US government "will satisfy all national security concerns." https://edition.cnn.com/2022/09/14/tech/tiktok-china-data/index.html
12 September 2022	Australian Financial Review	TikTok begins to lobby with Albanese Government six days into term – TikTok has moved its private campaign into the public light. https://www.afr.com/rear-window/tiktok-gets-its-lobby-on-20220909-p5bgvl
8 September 2022	The Age	TikTok is a "tool of espionage" for the Chinese communist party that should be outlawed by the West, the chief executive of German publishing giant Axel Springer has claimed.

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HOME AFFAIRS/ASD QUESTION TIME BRIEF (QTB)

TIKTOK

		https://www.theage.com.au/business/companies/tiktok-a-tool-of-espionage-for-china-says-boss-of-media-giant-20220908-p5bgb6.html
8 September 2022	Forbes	TikTok's Secret To Explosive Growth? 'Billions And Billions Of Dollars' Says Snap CEO Evan Spiegel https://www.forbes.com/sites/alexandralevine/2022/09/08/tiktok-evan-spiegel-snap-sundar-pichai-google-code-conference/?sh=56e26eb96995
7 September 2022	Sky News Australia	Recastled CEO Kosha Gada says there are many layers to issues governments have with the popular social media app TikTok – which is owned by a Chinese company and can have data accessed by the Communist Party. https://www.skynews.com.au/opinion/peta-credlin/review-into-chinese-social-media-app-tiktok-a-good-first-step/video/9793cf7f93cc11616ae06c3e396f1b81
7 September 2022	Australian Financial Review	Predictably, on Tuesday, TikTok rammed out a massive PR campaign to spruik its privacy credentials after O'Neil's comments to The Sun-Herald, including radio ads and a page-one advertisement in The Australian. https://www.afr.com/rear-window/tiktok-hits-back-against-an-argument-nobody-made-20220907-p5bg0h
6 September 2022	Wired	It's Time to Get Real About TikTok's Risks US lawmakers keep warning about the popular app. But until they can explain what makes it uniquely dangerous, it's difficult to tailor a resolution. https://www.wired.com/story/tiktok-national-security-threat-why/
6 September 2022	The Australian	Coalition targets TikTok, WeChat and Didi amid growing privacy concerns. Chinese-owned apps TikTok, Didi and WeChat are being targeted by the Coalition over concerns they may be harvesting users' data which could be used for foreign interference. The Opposition is seeking to revive its Online Privacy Bill. https://www.theaustralian.com.au/breaking-news/coalition-targets-tiktok-wechat-and-didi-amid-growing-privacy-concerns/news-story/b1bef3e5e330c07504f22aa9cb507370?btr=a570fc00bce50fe267adce793c406101
6 September 2022	Sky News Newsnight	Television 12:10AM: Government Under Pressure to Police TikTok https://www.skynews.com.au/australia-news/politics/government-under-pressure-to-police-tiktok/video/f4b5d48e677ca666a156c8e2f56b3766
5 September 2022	Crikey	DiDi Australia the latest Chinese app targeted for privacy investigation over Australian data practices https://www.crikey.com.au/2022/09/05/didi-australia-latest-chinese-app-targeted-for-privacy-investigation-over-australian-data-practices/
5 September 2022	Bleeping Computer	TikTok denies security breach after hackers leak user data, source code. https://www.bleepingcomputer.com/news/security/tiktok-denies-security-breach-after-hackers-leak-user-data-source-code/
5 September 2022	Innovation Aus.com	Senator asks for Didi privacy probe as TikTok review begins. Shadow Cybersecurity Minister James Patterson raised concerns about the company's data practices. https://www.innovationaus.com/senator-asks-for-didi-privacy-probe-as-tiktok-review-begins/
5 September 2022	Gizmodo	Home Affairs Could Be Looking Into TikTok's Alleged Aussie Data Harvesting. The Australian Department of Home Affairs is going to be looking into the data harvesting practices of both TikTok and WeChat.

HOME AFFAIRS/ASD
QUESTION TIME BRIEF (QTB)
TIKTOK

		https://www.gizmodo.com.au/2022/09/home-affairs-tiktok/
5 September 2022	2GB Sydney	Radio 11:33AM: Privacy concerns over social media companies headquartered in authoritarian countries.
5 September 2022	ABC Adelaide	Radio 9:03PM: TikTok is harvesting users data, 7 million Australians use the platform, which experts have warned could be forced to hand over personal data to the Chinese government, The Albanese government has launched a review into social media
4 September 2022	The Sydney Morning Herald	Home Affairs to review data harvesting by TikTok and WeChat. Home Affairs Minister Clare O'Neil has ordered her department to investigate the harvesting of data by social media giant TikTok amid growing concern that staff in China can access the personal information of Australians. https://www.smh.com.au/politics/federal/home-affairs-to-review-data-harvesting-by-tiktok-and-wechat-20220902-p5bf18.html
04 September 2022	ABC News Breaks fast	0702am: Interview with Minister O'Neil on TikTok.
5 September 2022	The Sydney Morning Herald	Call to keep TikTok ban on the table. The government shouldn't rule out banning TikTok and other China-based social media companies before a formal review of their alleged data-harvesting practices has been completed, Liberal senator James Paterson says – Page 12.
4 September 2022	The Age	The government shouldn't rule out banning TikTok and other China-based social media companies before a formal review of their alleged data-harvesting practices has been completed, Liberal senator James Paterson says. https://www.theage.com.au/politics/federal/don-t-rule-out-banning-tiktok-liberal-senator-tells-minister-20220904-p5bf9u.html
4 September 2022	The Age	Home Affairs Minister Clare O'Neil has ordered the Department of Home Affairs to investigate the harvesting of data by social media giant TikTok amid growing concern that staff in China can access the personal information of Australians. https://www.theage.com.au/politics/federal/home-affairs-to-review-data-harvesting-by-tiktok-and-wechat-20220902-p5bf18.html
4 September 2022	The Sydney Morning Herald	Social media, access all areas? Not on minister's watch. Home Affairs Minister Clare O'Neil has ordered her department to investigate harvesting of data by social media giant TikTok – Page 6.

Lead Division

Contact: Brendan Dowling
 Division: Cyber, Digital and Technology Policy

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

Date last Updated: 4/11/2022

Date first prepared: 22 July 2022

Originating Source: MO

Contributing Division/s

Contact: Jessica Hunter First Assistant Director-General
 Division: Cyber Security Resilience
 Date first prepared: 18 July 2022

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

Date last Updated: 28/11/2022

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

~~OFFICIAL~~
HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SYRIA

KEY TALKING POINTS:

- The Australian Government has repatriated four Australian women and their 13 Australian children to New South Wales from an internally displaced persons (IDP) camp in Syria.
- At all times, the focus has been on the safety and security of all Australians as well as the safety of those involved in the operation.
- Informed by national security advice, the Government has carefully considered the range of security, diplomatic, community, and welfare factors in making the decision to repatriate.
- Repatriating this group of four women and their 13 children reflects a managed approach that protects the public while also ensuring we protect these Australian children and their mothers and support them to return to life in Australia.
- Australia's domestic security is the Government's primary concern.
- The risk of leaving Australian citizen children to grow up in an IDP camp, without education and healthcare and where they are exposed to violent extremist ideology, must be balanced against the benefits repatriation brings to these children, including tailored reintegration support services and the opportunity to live in an Australian community, with Australian values.
- The Government's decision follows similar repatriations carried out by the Australian Government in 2019, as well as the United States, Italy, Germany, France, the Netherlands, Belgium, the United Kingdom and, most recently, Canada.
- No further details of the repatriation will be provided at this time to protect the safety and security of those involved.

If asked: Will the Government favour the welfare of ISIL-fighters' families, over the safety of the Australian community?

- The safety of Australians and the protection of Australia's national interests is our overriding priority.
- Repatriating this group of four women and their 13 children reflects a managed approach that protects the public while also ensuring we protect these Australian children and their mothers and support them to return to life in Australia.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SYRIA

- Where adults being repatriated have allegedly breached Australian law, they will be investigated by the Joint Counter Terrorism Teams and, where appropriate, may be subject to law enforcement action.

If asked: Do any of the women and children being repatriated pose a risk to Australia's safety? Why did you choose this cohort?

- Repatriations require a whole-of-government approach and the balancing of risks
 - This includes assessing security risks.
- The decision to repatriate these women and their children was informed by individual assessments following detailed work by national security agencies.
- Repatriating this group of four women and their 13 children reflects a managed approach that protects the public while also ensuring we protect these Australian children and their mothers and support them to return to life in Australia.

If asked: What support will be put in place to support the Australian women and children who have lived in the Syrian IDP camps?

- These families will be supported by a full range of services to assist them.
- The Australian Government does not comment on the circumstances of individuals due to privacy considerations.

If asked: Will the Government repatriate all the ISIL-linked Australians from the IDP camps in Syria? When will the next cohort of women and children come home?

- We remain concerned about the remaining Australia-linked women and children in the IDP camps.
- There are many security, diplomatic, community and welfare considerations that need to be addressed.
- Our approach is driven by national security and safety considerations, and as such, we cannot comment further.

If asked: What is this operation costing? Will taxpayers foot the bill?

- Government considers the implications of any decision it makes. This includes, but is not limited to, the immediate and long-term costs associated with a proposal.
- As this matter raises critical national security considerations and other sensitive matters, I cannot comment further.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SYRIA

If asked: Is the Government concerned about the welfare of Australian women and children in IDP camps following reports of Turkish airstrikes in the region?

- We remain concerned about the remaining Australia-linked women and children in the IDP camps.
- Our approach is driven by national security and safety considerations.
- The Australia Government's advice for any Australian considering travel to Syria is do not travel.

If asked: Can the Government provide any further detail regarding the media reporting about the repatriation of these women and children prior to Governments announcement?

- This matter has been referred by the Department of the Prime Minister and Cabinet to the appropriate law enforcement agency for consideration.
 - It would not be appropriate to comment further on an ongoing investigation.

If asked: why wasn't the community consulted about the return of these individuals?

- I have discussed the repatriation with a number of community leaders in Sydney.
- Repatriated women and children will resettle in Australia where their families live, this is not concentrated to one region in one state.
- Australia's security and the safety of the Australian community are paramount.
- Informed by national security advice, Government has carefully considered the range of security, diplomatic, community and welfare factors in making the decision to repatriate these women and children.
- This decision reflects the Government's desire to find effective long-term solutions that are in the best interests of all Australians.

If asked: has the lowering of Australia's national terrorism threat level to POSSIBLE taken into account the repatraion of women and children from Syriain IDP camps?

- The Director-General of Security considers all relevant factors when making a decision on Australia's threat level.
- This includes taking into account the repatriation of women and children from Syria of Australian women and their children.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SYRIA

BACKGROUND AND CHRONOLOGY

On 2 October, The Guardian reported that the Australian Government was planning to repatriate Australian women and children from northeast Syria. The Government declined to comment on national security matters.

On 18 October, the Australian reported that Home Affairs officials were present at al-Roj camp, northeast Syria to conduct DNA testing on Australian women and children. The Government declined to comment on national security matters.

On 28 October, during Senate Estimates, Secretary Home Affairs was asked to comment on information regarding an ongoing repatriation operation reported in the media. The Secretary noted this had been referred to the appropriate law enforcement agency for consideration by PMC.

On 29 October, Minister for Home Affairs, the Hon Clare O'Neil MP, confirmed that the Australian Government has repatriated four Australian women and 13 Australian children to New South Wales from an IDP camp in Syria.

The Government is not able to provide a definitive number of Australia-linked men, women and children in detention facilities and IDP camps in northeast Syria. Of the approximately 60 Australia-linked men and women known to still be offshore, it is difficult to confirm how many are in detention facilities and camps.

Children who were born outside Australia to an Australian citizen parent are not automatically Australian citizens. However, children in these circumstances may be eligible for Australian citizenship by descent, if they meet the legislative requirements of the *Australian Citizenship Act 2007*.

Media has reported airstrikes over northern regions of Syria and Iraq, targeting Kurdish groups following the recent bomb attack in Istanbul. These airstrikes have not targeted the IDP camps.

The Government has long advised Australians 'do not travel' to Syria due to the security situation.

Lead Division
Counter-Terrorism Coordination Centre
Contact: Richard Feakes, FAS CTCC
Division: Counter-Terrorism Coordination Centre
Date first prepared: 20 July 2022
Originating Source: HA

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)
Date last Updated: 30/11/2022

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

ABF

QUESTION TIME BRIEF (QTB)

EXAMINATION OF MOBILE DEVICES AT THE BORDER

KEY TALKING POINTS:

- Australian Border Force (ABF) officers can, **and are expected to**, question travellers and examine goods if they suspect a person or goods may be of interest for **national security** reasons – this includes immigration, customs, biosecurity, health and law-enforcement considerations.
- ‘Goods’ include electronic devices covering mobile devices or removable storage.
- The examination of goods by the ABF is based on risk indicators determined by the examining officers at Ports of Entry.
- Electronic devices are examined to determine whether they contain information relating to prohibited items, such as abhorrent or child abuse material.
- Where prohibited material is located, the electronic device is seized.
- Where statutory requirements are met, the data is copied and stored for later intelligence and investigation purposes.
- There is no legal compulsion for a traveller to provide a password/passcode or provide assistance to access an electronic device at the border.

Key Statistics

Calendar year	Mobile device examinations	Copies made	Seizures	Travellers	% travellers devices examined
2017	9662		266	21,514,638	0.045%
2018	12423		366	22,584,172	0.055%
2019	14927		367	23,060,324	0.065%
2020	3576	34	84	5,377,881	0.066%
2021	822	270	55	1,013,377	0.081%
2022	3251	905	55	17,213,094	0.019%

Note: Electronic data recorded after May 2020 is stored in a new system that is searchable. Prior to this period the data recorded is in free text. Calendar year 2022 up to 18 November.

Device examination at the border

- Based on risk indicators of an arriving or departing traveller, without a warrant an electronic device (only mobile devices or removable storage) can be examined using dedicated examination equipment.
- Data on the device is reviewed to locate any prohibited imports or information that meets statutory requirements to be copied.

ABF

QUESTION TIME BRIEF (QTB)

EXAMINATION OF MOBILE DEVICES AT THE BORDER**Legislative Framework**

- The ABF has powers under the *Customs Act 1901* (Customs Act), the *Migration Act 1958* (Migration Act) and the *Maritime Powers Act 2013* (Maritime Powers Act) to examine and copy electronic devices which includes mobile phones, computers and removable storage devices such as USB drives.

If asked: How do you decide when to examine a device and what is the process?

- The examination of devices by the ABF is based on risk indicators determined by the examining ABF officer at a Port of Entry.
- The examination process involves the connection of the device to examination equipment and the review of the data stored on the device to determine a subsequent course of action.
- There is no requirement for the traveller being present during an examination however the examination equipment is usually in a separate office and for operational and security reasons is not open to the public.

If asked: How does the device examination work in practice at the border?

- An example of this was in February 2022 an arriving traveller at Melbourne Airport was selected for baggage examination. Their mobile device was examined with information indicating that they were using a false identity to enter Australia. The person made full admissions to using a false identity and they subsequently had their visa cancelled and were removed from Australia.

If asked: Can a traveller refuse to provide their password/passcode?

- There is no legal compulsion for a traveller to provide a password/passcode or provide assistance to access an electronic device at the border.
- If an individual refuses to comply with a request or provide a password for an examination of their electronic device, and an ABF officer considers there to be a risk to the border, the ABF officer is authorised to hold that device for further examination prior to being returned.

If asked: What do you when you can't examine a device at the border?

- If an electronic device cannot be examined at the border for any reason, the device can be referred to the ABF Digital Forensics team for further examination.

If asked: What are the some of reasons why an electronic device cannot be examined?

- Reasons why an electronic device cannot be examined at the border include:
 - technical complexity,
 - equipment fault, or
 - refusal by owner to allow access to the device, e.g. if the device has a PIN or passcode.

ABF

QUESTION TIME BRIEF (QTB)

EXAMINATION OF MOBILE DEVICES AT THE BORDER

If asked: What do you do with the information found on a device?

- Most examinations undertaken by Digital Forensics support ABF search warrant activity for the investigation of offences against the Customs, Migration or other Commonwealth legislation.
- The seized electronic evidential material is securely stored on a dedicated Digital Forensic Network (DFN), which allows the material to be processed and reviewed by Investigators and other officers, and to be presented for court purposes.

Lead Division

Contact: Lauren Richardson

Division: Operational Coordination and Planning

Date first prepared: 22 July 2022

Originating Source: (MO)

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

Date last Updated: 28 November 2022

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

ABF
QUESTION TIME BRIEF (QTB)
VORACOVA AAT DECISION.

KEY TALKING POINTS:

- Ms Voracova is a professional tennis player.
- Ms Voracova had her visa to play at the Australian Open cancelled on 6 January 2022.
- Ms Voracova's visa was cancelled under Section 116(1)(e)(i) of the Migration Act 1958 as her presence in Australia '....is or may be, or would or might be, a risk to the health, safety or good order of the Australian community or a segment of the Australian community.'
- Ms Voracova sought a review of that decision in the Migration and Refugee Division (MRD) of the Administrative Appeals Tribunal (AAT) and, on 8 February 2022, it decided to set aside the visa cancellation and to substitute a decision to not cancel the visa.
- The MRD provided its written reasons to the Department on 1 April 2022. Those reasons are specific to the facts of case and as they applied at the time the MRD made its decision. The MRD's decision applies only to Ms Voracova's case and is not binding precedent.
- The MRD subsequently published its reasons for decision online, possibly on 20 May 2022.

The AAT decision

- On 8 February 2022, the MRD decided to set aside the visa cancellation and to substitute a decision to not cancel the visa. On 1 April 2022, the MRD provided the Department with its written reasons for its decision.
- The AAT subsequently published its reasons for the decision online, possibly on 20 May 2022.
- The MRD accepted that, at the time of the delegate's decision to cancel Ms Voracova's visa, there were concerns about the Omicron variant taking hold in Australia. However, it found that, by the time it made its decision on 8 February 2022, restrictions, including in Victoria, were being eased and so the MRD could not be satisfied at that time that Ms Voracova's presence in Australia might be a risk to the health of the Australian community.
- The MRD also concluded that, even if it had found that Ms Voracova's presence in Australia might be a risk to the health of the Australian community, the factors against cancelling her visa were so strong that it would not have exercised its discretion to cancel her visa.

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QUESTION TIME BRIEF (QTB)
VORACOVA AAT DECISION.

Ms Voracova's visa status

- Because the MRD set aside the cancellation of Ms Voracova's visa, the 3-year bar on being granted a subsequent visa will no longer apply to her.
- Ms Voracova's cancelled visa came back into effect on the Tribunal's decision on 8 February 2022, and ceased to be in effect on 30 March 2022, which is the end of the period of time for which it had been granted.

AAT process

- A non-citizen in Australia whose visa has been cancelled after they have been immigration cleared is generally entitled under law to seek merits review of the visa cancellation decision;
- Applications for merits review are made to the Migration and Refugee Division (the MRD) of the Administrative Appeals Tribunal;
- The MRD does not review the conduct of the original decision nor is it confined to the material before the visa cancellation decision-maker
- It makes a fresh decision based on the evidence before it;
- That evidence includes the material that was before the visa cancellation decision-maker and any subsequent material provided to it by the review applicant. That subsequent material may include material that was not available or known to the visa cancellation decision-maker;
- A decision by the MRD that is different to an original decision should not be read as a reflection on or criticism of the original decision-maker, rather, it is a reflection of the material before the MRD and the MRD's consideration of that material and the law.
- The Minister or the Department are not parties to merits review proceedings in the MRD.
- Decisions made by the AAT are binding only in respect to the case being considered and they do not create a binding precedent for other cases.

ABF
QUESTION TIME BRIEF (QTB)
VORACOVA AAT DECISION.

BACKGROUND AND CHRONOLOGY

Date	Event
17-11-2021	Applicant was granted a Subclass 408 visa to enter Australia. Her 'proposer' for the visa was Tennis Australia.
06-12-2021	Applicant tested positive for SARS-CoV-2. She remained in isolation in the Czech Republic until 20 December 2021.
23-12-2021	Applicant provided with confirmation from Tennis Australia (endorsed by the Victorian State Government) that she had a 'medical exemption from COVID vaccination'.
	Medical certificate issued from Czech Republic recommending that the applicant does not receive COVID-19 vaccination for 3 months following positive result due to 'increased thrombus values'.
26-12-2021	Applicant submitted Australian Travel Declaration.
27-12-2021	Department of Health Victoria granted exemption from vaccination and quarantine.
30-12-2021	Applicant arrived in Australia.
06-01-2022	8:30PM – Applicant and coach escorted to ABF offices.
	9:38PM – Tennis Australia Legal Representatives (x2) had arrived and interview commenced.
	9:55PM - Applicant issued with NOICC. Given 15 minutes to provide comments.

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ABF
QUESTION TIME BRIEF (QTB)
VORACOVA AAT DECISION.

Date (Cont.)	Event (Cont.)
06-01-2022 (Cont.)	10:14PM – NOICC interview recommenced and applicant invited to provide comment.
	11:12PM – Visa cancelled.
	11:36PM – Applicant signed decision.
	11:49PM – Applicant detained under s 189.
07-01-2022	Applicant requested 24 hours to make decision about next steps.
08-01-2022	Applicant granted Bridging Visa E (BVE) to enable lawful departure. Applicant departed at 9:10PM.
08-01-2022	Applicant lodges review of cancellation decision with AAT prior to departure
08-02-2022	The AAT decided to set aside the cancellation decision and substitute a decision to not cancel the visa. Ms Voracova's visa comes back into effect on 8 February 2022.
01-04-2022	The AAT provided its statement of reasons for its decision.
20-05-2022	The AAT published its statement of reasons.

Lead Division

Contact: Commander James Watson
Division: South
Date first prepared: 08 February 2022
Originating Source: (MO/HA)

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)
Date last Updated: 2/11/2022

Contributing Division

Contact: AS Anton Bockwinkel
Division: Legal
Date first prepared: 08 February 2022

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Action Officer: s. 22(1)(a)(ii)
Date last Updated: 2/11/2022

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

PROCUREMENT OF ENDURING CAPABILITY SERVICES

QUESTION: Has the Department finalised procurement of enduring regional processing capability services in Nauru?

KEY TALKING POINTS:

- Australia and Nauru have agreed to the establishment of an enduring regional processing capability in Nauru.
- Regional processing arrangements in Nauru is the responsibility of the Government of Nauru.
- The Department of Home Affairs supports the Government of Nauru to implement regional processing arrangements, including through the engagement of specialist service providers.
 - The Department of Home Affairs is finalising procurement processes for enduring regional processing capability services in Nauru.
 - On 1 October 2022, MTC Australia commenced delivery of Facilities, Garrison, Transferee Arrivals and Reception Services in Nauru under a Letter of Intent (LOI).
- The Nauru contract does not involve detention.
 - Individuals in Nauru reside in the community. This will not change.
 - If required, closed compound arrangements are implemented for the shortest possible period for the purposes of quarantine and induction.
- There was no degradation of services to transferees in Nauru during the periods of contract transition and new arrivals capability remains active.

Enduring Capability

- The Memorandum of Understanding on Enduring Capability commenced on 1 July 2022, providing a sustained regional processing capability in Nauru.
 - The enduring capability ensures regional processing arrangements remain ready to receive and process new unauthorised maritime arrivals.
 - Enduring capability demonstrates the deterrence value of regional processing and future-proofs Australia's response to maritime people smuggling in the region.

Procurement of Enduring Capability Services

- The Department of Home Affairs is finalising procurement processes for enduring capability services in Nauru.

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

PROCUREMENT OF ENDURING CAPABILITY SERVICES

- A preferred tenderer, Management & Training Corporation Pty Limited (MTC Australia) has been selected to deliver Facilities, Garrison, Transferee Arrivals and Reception Services in Nauru.
 - On 1 October 2022, Management and Training Corporation (MTC Australia) commenced delivery of Facilities, Garrison, Transferee Arrivals and Reception Services in Nauru under a Letter of Intent (LOI).
 - Negotiations with MTC regarding the Head contract continue.
 - There has been no degradation of services to transferees in Nauru during contract transition between Canstruct International Pty Ltd (Canstruct) and MTC Australia.
- The Department estimated that the LOI would cost up-to \$47,300,000 (consisting of transition-in fees, service fees through to 30 November 2022, pass-through costs and additional services requests that were not finalised by the incumbent provider).
 - As contract negotiations with MTC have not been finalised the LOI will be extended from 30 November 2022 to 31 January 2023 and increase the contract value by \$21,790,000.00 (including applicable GST) which will result in an updated contract value of \$69,090,000.00 (including applicable GST) to enable MTC Australia to continue service delivery beyond 30 November 2022.
 - Noting the scope and nature of the services (including the context and complex operational environment in which the services will be delivered), transitioning-in a new service provider to a remote environment with limited supply and transport options, under foreign laws, incurs costs.
- The procurement process has involved multiple layers of due diligence and governance.
 - Further information will be available on AusTender once contracts are executed.

If asked: Will Canstruct continue to deliver services in Nauru?

- The Canstruct International (Canstruct) contract ended on 30 September 2022.
- Transition of services to the preferred tenderer commenced in mid-August 2022.

If asked: Why has a prison provider been selected as the preferred tenderer?

- While some of MTC Australia's experience involves the management of corrections facilities, the Nauru contract does not involve detention.
 - Individuals in Nauru reside in the community and this will not change.

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

PROCUREMENT OF ENDURING CAPABILITY SERVICES

- MTC Australia also has extensive experience in running training and education programs for vulnerable people.
- Under the proposed contract, MTC Australia will be required to deliver services in a manner that is consistent with Nauru legislative requirements and in a manner that preserves individual human rights, dignity and the well-being of transferees.

If asked: Has a health services provider been identified?

- The Department has executed the health services contract with International Health and Medical Services (incumbent provider).
- Transferees have continued access to health services over the transition period.

BACKGROUND AND CHRONOLOGY

- On 26 October 2020, the Department undertook an Open Tender approach to market for Facilities Management and New Arrivals Services to support the implementation of an enduring capability in Nauru. No preferred tenderer was identified for Facilities Management and New Arrivals Services under the Open Tender process. On 10 December 2021, the Department released a Limited Tender for Facilities, Garrison, Transferee Arrivals and Reception Services, which closed on 28 March 2022.
- The Department is in negotiations with a preferred tenderer, MTC Australia. MTC Australia commenced transition under an LOI.
- Following transition, on 1 October 2022, MTC Australia commenced service delivery under a second LOI.
- MTC Australia is a subsidiary of MTC. MTC is headquartered in Centreville, Utah and employs nearly 8,500 people.
- MTC operates 23 Job Corps centres, 21 correctional facilities, 11 prison and detention medical departments, five detention centres, and two workforce development sites worldwide.
- MTC currently educates and trains more than 20,400 vulnerable young people in its Job Corps centres, which address barriers to employment faced by low-income youth.
- MTC also provides rehabilitation and transition services to over 22,000 prisoners. MTC also delivers industry-relevant training, tailored to local priorities and with the support of the local business community.

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

PROCUREMENT OF ENDURING CAPABILITY SERVICES**MTC Australian experience**

- Borallon Correctional Centre contract to manage and operate was awarded by Queensland Corrective Services in 2000, and in 2005 Queensland Corrective Services extended the contract for a further two (2) years.
- Parklea Correctional Centre contract, where MTC Australia is currently contracted by Corrective Services NSW to deliver a full range of operational services, including rehabilitation programs.
- The Department has not previously held contracts with MTC Australia

Lead Division

Contact: Michael Thomas, First Assistant Secretary

Division: People Smuggling Policy and Implementation Taskforce

Date first prepared: 09 August 2022

Originating Source: HA

Phone: S. 22(1)(a)(ii)

Action Officer: Jacob Cannon, Assistant Secretary
Regional Processing

Date last Updated: 28/11/2022

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

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

APPOINTMENTS TO ADMINISTER DEPARTMENT OF HOME AFFAIRS**KEY TALKING POINTS:**

- On Friday 25 November 2022, the Hon Virginia Bell AC delivered the report of her Inquiry into the Appointment of the former Prime Minister to Administer Multiple Departments to the Prime Minister, the Hon Anthony Albanese MP.
- The report made six recommendations to improve transparency, accountability and to restore public trust in Australian democracy.
- The report confirms the Solicitor-General's conclusion of 23 August 2022.
- The report confirmed the former Minister for Home Affairs was not advised of Mr Morrison's appointment to administer the Department of Home Affairs and the Secretary of the Department of Home Affairs, knew nothing of the appointment until 16 August 2022.
- A search of the Department of Home Affairs records revealed that it had not received notice of the appointment nor had any ministerial decision been made by Mr Morrison in his capacity as minister administering the Department of Home Affairs.
- The Prime Minister's media release on 25 November 2022, confirmed he would recommend to the next meeting of Cabinet that the Albanese Government accept all six recommendations.

BACKGROUND AND CHRONOLOGY

- On 16 August 2022, following revelations in the media, the Prime Minister the Hon Anthony Albanese MP announced that the Hon Scott Morrison MP had been appointed to administer five departments of State in addition to the Department of the Prime Minister and Cabinet (PM&C) during his term as Prime Minister. Mr Morrison was appointed to administer the Department of Home Affairs (the Department) on 6 May 2021.
- On 26 August 2022, the Hon Virginia Bell AC was appointed to conduct an inquiry into the appointment of former Prime Minister, the Hon Scott Morrison MP, to administer multiple departments.
- The terms of reference required the inquiry to examine and report on the facts and circumstances surrounding and implications arising from the appointments; and the practices and processes that apply to the appointment of ministers to administer departments under section 64 of the Constitution and directions that ministers hold certain offices under section 65 of the Constitution.

RECOMMENDATIONS

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

APPOINTMENTS TO ADMINISTER DEPARTMENT OF HOME AFFAIRS

1. Legislation should be enacted to require publication in the Commonwealth Gazette or in a notifiable instrument registered on the Federal Register of Legislation as soon as reasonably practicable following the fact of:
 - i. the swearing of an Executive Councillor under section 62 of the Constitution;
 - ii. the appointment of an officer to administer a department of State under section 64 of the Constitution;
 - iii. the direction to a Minister of State to hold an office under section 65 of the Constitution; and
 - iv. the revocation of membership of the Federal Executive Council, an appointment to administer a department, and a direction to hold an office, when effected by an instrument executed by the Governor-General.

The notice or notifiable instrument should include the name of the person and the date that he or she was sworn, appointed and/or directed, or the date that such membership, appointment and/or direction was revoked. It may also be convenient for a copy of the instrument to be included in the notification.

2. The authorisation of an acting minister for a period of two weeks or more should be published as soon as reasonably practicable in the Commonwealth Gazette or in a notifiable instrument on the Federal Register of Legislation.
3. A list of all acting arrangements should be published periodically on the Department of the Prime Minister and Cabinet's or each department's website.
4. A document identifying:
 - i. the ministers appointed to administer each department of State;
 - ii. the offices the ministers are directed to hold; and
 - iii. in the case of two or more ministers administering the one department, an outline of the division of responsibilities between the ministersshould be published on the Department of the Prime Minister and Cabinet's website.
5. A website concerning ministerial appointments should be established which contains explanatory materials and current and past records to enable the public to readily ascertain which minister is responsible for which particular matters.
6. All departments should publish a list of the ministers appointed to administer them on their website, and include in their annual report the name of all ministers appointed to administer the department in the reporting period.

Lead Division
Contact: Rheannon Nicholson
Division: Executive Coordination
Date first prepared: 23 August 2022
Originating Source: MO

Phone: S. 22(1)(a)
Action Officer: S. 22(1)(a)(ii)
Date last Updated: 25/11/22

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ABF

QUESTION TIME BRIEF (QTB)
INDONESIAN FISHERS IN WA**KEY TALKING POINTS:**

- Australia's maritime border remains secure.
- As part of our maritime security arrangements the Australian Border Force, through Maritime Border Command (MBC) regularly coordinates patrols across the north of Australia.
- The Australian Border Force has officers located around Australia undertaking patrol activities in a wide range of remote locations working closely with communities across Australia and assess and respond when reports of suspicious activity is received.
- We have a range of capabilities to detect, deter, and disrupt any unlawful activity in Australia's maritime environment, and respond to any incursions by foreign fishing vessels operating illegally in Australian waters.
- The Australian Fisheries Management Authority (AFMA) is the lead Australian Government agency responsible for the efficient management and sustainable use of Commonwealth fish resources on behalf of the Australian Community.
- MBC are responsible for on water enforcement activity on behalf of AFMA, decisions concerning legislative action taken against any Illegal Fisheries within Australian waters (including the decision to prosecute) are the responsibility of AFMA as lead agency.
- Illegal fishing is driven by a complex set of factors, and has the potential to undermine the sustainability of future fisheries and our marine ecosystems.
- With the Australian Fisheries Management Authority and Parks Australia, enforcement approaches are constantly reviewed and adjusted.
- Over the last 18 months, illegal fishing activity in Australian waters has increased.
- Australia has expanded on-water operations and the seizure of illegal catch and equipment and in some instances fishing vessels are destroyed at sea, where appropriate.
- Over the last weeks, joint operations between the Australian Border Force (ABF) and AFMA Authority disrupted alleged illegal foreign fishing activity off the north coast of Western Australia.
- The ABF, through Maritime Border Command (MBC) and under Operation Jawline, located and responded to two foreign fishing vessels suspected of fishing

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ABF
QUESTION TIME BRIEF (QTB)
INDONESIAN FISHERS IN WA

illegally in Australian waters. ABF Cutter Cape Jervis and ADV Cape Fourcroy intercepted the vessels and their crew conducted boarding operations.

- AFMA requested a legislative forfeiture of the illegal catch, the fishing gear and one of the vessels, which was subsequently destroyed after evidence of fisheries offences was detected. The second foreign fishing vessel sank due to its unseaworthiness and the weather conditions.
 - The masters and crew from the vessels are suspected of being repeat offenders and have been transported to Darwin as part of ongoing investigations of fisheries offences by AFMA.
 - Our message to illegal foreign fishers is simple: We will intercept you, you will lose your catch, your equipment and possibly even your vessel.
-
- The Australian Border Force (ABF), along with partner agencies, is committed to protecting Australian waters and our economically important marine environment from illegal fishing.
 - The Australian Border Force works closely with the lead agency for these matters, the Australian Fisheries Management Authority (AFMA), through Maritime Border Command (MBC) – a joint agency taskforce enabled by the Australian Border Force and the Australian Defence Force.
 - MBC acts to prevent Illegal, Unreported and Unregulated fishing (IUU), and safeguard Australia's fish stocks against exploitation by illegal foreign fishing vessels (FFV).
 - Illegal fishing is driven by a complex set of factors, and has the potential to undermine the sustainability of future fisheries and our marine ecosystems.
 - Our immediate priority is to halt the ongoing damage to Australia's marine environment and fisheries resources.
 - We have a multifaceted approach to combating illegal foreign fishing and with AFMA continue to work on new approaches to increase deterrence.
 - Australian agencies are working with relevant foreign partners to develop targeted information and communication campaigns at source ports.

If asked: Are any of these illegal foreign fishers engaged in people smuggling to Australia?

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**QUESTION TIME BRIEF (QTB)
INDONESIAN FISHERS IN WA**

- Australia maintains a robust capability to detect and intercept every maritime people smuggling venture attempting to target Australia.
- It has been more than eight years since the last successful people smuggling venture to Australia.

BACKGROUND AND CHRONOLOGY

- On 17 and 20 November, MBC surveillance aircraft operating along the Kimberly Coast, Western Australia sighted Indonesian vessels. In response ADF and ABF vessels interdicted two fishing vessels and their crew, on the 17 and 20 November. The masters and crew of the vessels were confirmed as being previously detected in the Australian Fishing Zone. They were subsequently transported to Darwin to enable AFMA to undertake an investigation which will inform potential prosecutions for fisheries offences.
- On 10 November 2022, the Australian published an article titled 'Illegal foreign fishing boats are off the scale', which reported on an increase in the number of illegal foreign fishing vessels intercepted in Australian waters.
- On 29 August 2022, the ABC reported an Indonesian fishing camp had been found on Sir Graham Moore Island off the Kimberley Coast

Lead Division
Contact Claire Rees
Division: Maritime Border Command
Date first prepared: 05 September 2022
Originating Source: MO

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)
Date last Updated: 29/11/2022

Contributing Division
Contact: s. 22(1)(a)(ii)
Division: JATF Operation Sovereign Borders
Date first prepared: 05 September 2022

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii) Date
last Updated: 29/11/2022

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ABF
QUESTION TIME BRIEF (QTB)
AUSTRALIA POST

QUESTION: Will Australia Post's decision to pause international sea mail mean delays at the border?

KEY TALKING POINTS:

- Australia Post (AP) paused sea mail arriving into Australia from all ports from 1 October 2022 to 28 February 2023. AP have recently made a decision to resume sea mail early from 21 November 2022 onwards.
 - The reason for the pause in sea mail was primarily due to congestion at the Sydney Gateway Facility (SGF) as up to 80 per cent of the national mail volume enters NSW.
 - The SGF processes 100 per cent of sea mail entering Australia as it is the only facility nationally that has the infrastructure to receive containerised mail.
 - The Australian Border Force (ABF) has seen an increase of up to 400 per cent in detections through the SGF since July 2019, mainly attributed to illicit tobacco products and Border Controlled Drugs.
 - The ABF have worked collaboratively with AP to implement immediate tactical strategies to ease congestion at the SGF, which has now resulted in the return to more manageable levels.
 - The ABF continues to work closely with AP to implement medium and longer term strategies to balance volumes of mail entering nationally with available resources.
-
- COVID-19 caused significant disruption to the global postal network, with postal operators around the world forced to suspend services due to transport disruptions and to protect the safety of their workers.
 - Reduced passenger flights to Australia significantly limited available aviation freight capacity and resulted in a doubling of inbound international mail sent by sea in containers. As aviation freight capacity increases nationally, a bounce back of mail arriving into those states has not been realised. AP are looking into ways they can redistribute air mail into other gateways.
 - AP have advised that the SGF is the only facility capable of docking and unpacking sea containers in an efficient way. As the volumes of sea mail increases into the SGF, this adds to congestion causing safety concerns, limits AP throughput into the facility as it is unable to keep up with the demand of sea mail containers arriving, and increases operating costs as charges are applied to AP for containers that remain

ABF
QUESTION TIME BRIEF (QTB)
AUSTRALIA POST

on the wharf awaiting processing. This can be significant and up to \$4,000 per day per container.

- Many sea mail containers arriving into Australia have been found to contain a significant amount of illicit goods, such as tobacco and border controlled drugs. This slows down ABF processing at the SGF due to the time it takes to physically examine and process the seizure notices before destruction. However, efficiencies have been implemented to streamline some of the processing procedures to reduce congestion.
- The ABF continues to work closely with AP to address the international mail volumes entering Australia. These include:
 - AP to realign the national volumes across the four gateways where border agencies are present, including Brisbane, Melbourne, Perth and Sydney.
 - AP to engage with universal postal union members in an attempt to educate and reduce the amount of prohibited imports entering Australia.
 - ABF to continue engagement with AP to increase the quality and take up of mail electronic data information that can be provided by overseas postal authorities. This will enable enhanced electronic screening of international mail and reduce congestion at the border.
 - AP have advised the ABF that on 18 November 2022 they intend to notify UPU member countries that the suspension on sea mail will be lifted and that sea mail will be accepted from 21 November 2022 onwards. The notification includes a request from AP for UPU member countries to:
 - Provide advanced electronic data in line with UPU regulations;
 - Provide at least 2-3 weeks' notice of the dispatch and its origin details; and
 - Encourage all countries to take all necessary steps to ensure that prohibited items are not sent.
 - AP have also informed the ABF that that they intend to engage with China Post bilaterally to seek their support to further minimise prohibited items being sent to Australia via sea mail through their "selected seller process".
 - AP to consider the set-up of alternative storage locations in line with appropriate Customs licensing agreements.

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ABF
QUESTION TIME BRIEF (QTB)
AUSTRALIA POST

BACKGROUND

- Australia Post receives more than 200 sea containers each month, a doubling of the pre-COVID volumes. This represents approximately 10 per cent of total inbound international mail volumes. Almost 80 per cent of sea mail containers are received from China and Hong Kong.
- The ABF estimates seizures of illicit goods have increased from 800 to over 5,000 each week since the introduction of tobacco as a prohibited import in July 2019. The high volume of seizures is due to a surge in illicit tobacco being sent by sea, namely from countries such as China. Many sea containers contain as much as 30 to 40 per cent prohibited tobacco items.
- A suspension in accepting sea mail is not an uncommon approach with other nations. Both the United States and United Kingdom have temporarily suspended sea mail in recent years in an attempt to re-set consumer behaviour around the importation of illicit goods.
- AP facilities have limited capacity in managing both air and sea mail concurrently due to space issues. AP has international mail gateways in Brisbane, Sydney, Melbourne, and Perth.

Lead Division
Contact: Assistant Commissioner Erin Dale
Division: East
Date first prepared: 06 September 2022
Originating Source: HA

Phone: s. 22(1)(a)(ii)
Action Officer: Commander Susan
Drennan Date last Updated: 28/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

KEY TALKING POINTS:

- On 21 September 2022, Optus submitted a webform report to the Australian Signals Directorate notifying a cyber incident which was auto-shared with Home Affairs.
 - o The Australian Signals Directorate's Australian Cyber Security Centre (ACSC) informed the Department of Home Affairs and the office of the Minister for Home Affairs.
- On 22 September 2022, Optus released a statement stating it had experienced a data breach involving millions of its current and former customers' personally identifiable information.
 - o This information includes the names, dates of birth, phone numbers and email addresses of as many as 9.8 million customers. For a sub-set of customers, it also includes their address and information about the credentials used to prove their identity.
- Optus has advised that:
 - o Payment details and account passwords have not been compromised.
 - o Optus services such as mobile, home internet and voice calls have not been affected.
- On 27 September 2022, 10,000 records were released on the 'Breached' online forum with a threat to continue to release data over the next four days until a \$1m payment was paid. The criminal has since deleted their post and claims to no longer wish to sell the data. It is possible that other criminals took copies of the data.
- Optus advises that it has been notifying customers deemed to have a 'heightened-risk'.

If asked: What is the government doing to protect Australians?

- Optus is working closely with the Australian Signals Directorate's Australian Cyber Security Centre (ACSC), the Office of the Australian Information Commissioner (OAIC), the Australian Federal Police (AFP), financial institutions and other government regulators.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

- Home Affairs response to the Optus data breach includes:
 - Establishing a Commonwealth Credential Protection Register (the Register) to help stop compromised identities from being used fraudulently.
 - The Register will prevent some compromised identity credentials from being verified through the Document Verification Service.
 - The Document Verification Service is used by some government agencies and businesses, such as banks, to verify an individual's identity online.
 - This will prevent credentials on the Register from being used fraudulently, such as taking out loans or setting up accounts. However, this means rightful owners will not be able to use these credentials to verify their identity online, and other credentials will be required to prove who they are. New credentials issued following the data breach will work as normal.
 - In the interim, impacted individuals should consider using alternative credentials or speak to service providers that ask for identification for other options, such as visiting the service in person to present the credential.
 - Working with Commonwealth, state and territory agencies to obtain data on exposed credentials that, through the Commonwealth Credential Protection Register, can be used to prevent identity theft and fraud.
 - Home Affairs is seeking only the minimum data required to identify an exposed credential, to avoid unnecessary collection of personal information.
 - Coordinating whole-of-government advice for affected Optus customers, which has been placed on relevant government websites.
- Home Affairs is working with key communities to ensure they are aware of the heightened risk of scams and identity crime in the wake of the Optus data breach.
- Home Affairs is considering regulatory levers available under the *Telecommunications Act 1997* and *Security of Critical Infrastructure Act 2018* to ascertain Optus' level of compliance with their obligations as a licenced carrier.
- The ACSC is supporting Optus with cyber security incident response and ongoing technical advice, and supporting other telecommunications providers that may be affected.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

- The AFP is working with Optus to obtain the crucial information and evidence needed to conduct this complex, criminal investigation.
- AFP has launched Operation HURRICANE to investigate the criminal aspects of the Optus data breach
- The AFP and state and territory police have also set up operation GUARDIAN to enable the protection of more than 10,000 customers whose identification credentials have been unlawfully released online.
- The OAIC is working with Optus to ensure they are complying with the requirements of the Notifiable Data Breaches scheme and providing advice on how Australians can respond and protect themselves from further harm.
- The Attorney General's Department is reviewing the *Privacy Act 1988* to ensure that Australia's privacy laws are fit for purpose in the digital age and that they accord with community expectations in light of the rise of digital platforms and other technological changes.
- The Government provides funding to IDCare, Australia's national identity support service. IDCare offers support to affected members of the community across Australia who have concerns about their identity or related cyber security.

If asked: What is Optus or the Government doing about the sale of that data?

- The matter has been referred to the AFP. The AFP is aware of reports alleging that stolen Optus customer data and credentials are being sold through illicit forums.
- The AFP has launched Operation HURRICANE to investigate the criminal aspects of the data breach.
- The AFP and state and territory police have set up operation GUARDIAN to enable the protection of more than 10,000 customers whose identification credentials have been unlawfully released online.
- The AFP is using specialist capability to monitor the dark web and other online forums, and will not hesitate to take action against those who are breaking the law.
- It is an offence to buy stolen credentials. Those who do face a penalty of up to 10 years' imprisonment.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

If asked: Do we know who perpetrated this attack? Was it a state actor?

- Cyber crime investigations are complex and while the impact of a breach may be immediate, understanding what has occurred takes time.
- The initial priority is helping Optus remediate their networks and recover as quickly as possible, and notifying those immediately impacted.
- The Government will only make a public attribution when it is clear and in our national interest to do so.

If asked: What steps has the government taken under the critical infrastructure reforms?

- Optus is a designated critical infrastructure provider and has made a mandatory report under the *Security of Critical Infrastructure Act 2018*.

The Department of Home Affairs regulates Optus under the *Telecommunications Act 1997* and the *Security of Critical Infrastructure Act 2018*.

If asked: Was this a ransomware attack?

- There are no indications this was a ransomware attack.

If asked: What is the government doing to keep our data safe?

- The Government is taking an all vectors approach to cyber and data security.
- Home Affairs has established a Commonwealth Credential Protection Register to help stop compromised identities from being used fraudulently.
 - The Register will prevent some compromised identity credentials from being verified through the Document Verification Service.
 - The Document Verification Service is used by some government agencies and businesses, such as banks, to verify an individual's identity online.
 - This will prevent credentials on the Register from being used fraudulently, such as taking out loans or setting up accounts. However, this means rightful owners will not be able to use these credentials to verify their identity online, and other credentials will be required to prove who they are. New credentials issued following the data breach will work as normal.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

- In the interim, impacted individuals should consider using alternative credentials or speak to service providers that ask for identification for other options, such as visiting the service in person to present the credential.
- The Government's new Cyber Security Strategy will build whole of nation resilience against these types of attacks and ensure our networks and devices are protected against malicious actors.
 - Home Affairs is developing Australia's first National Data Security Action Plan, which will map the nation's data security settings and provide measures to strengthen consistency and resilience against data security threats.
 - The Digital Transformation Agency, with the Department of Home Affairs, the Australian Taxation Office and Services Australia, is working on expanding the use of secure digital identities so that companies can meet their customer identification requirements while collecting less personally identifiable information. This will reduce the damage inflicted by these types of incidents.
 - The Attorney General's Department is reviewing the Privacy Act 1988 to ensure that Australia's privacy laws are fit for purpose in the digital age and that they accord with community expectations in light of the rise of digital platforms and other technological changes.
 - On 26 October, the Australian Government introduced the Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022 including amendments to significantly increase penalties for repeated or serious privacy breaches.
- The Australian Government works with industry to take action and address the possible consequences and harm relating to a serious data breach.
- Under the Notifiable Data Breaches scheme, entities regulated by the Privacy Act 1988 (Cth) must notify affected individuals and the OAIC when a data breach is likely to result in serious harm to an individual whose personal information is involved.
- The Government provides funding to IDCARE, a not-for-profit organisation providing identity support services. IDCARE is a not-for-profit agency that helps Australians to reduce the harm they experience from the compromise and misuse of their identity information.

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DATA SECURITY BREACHES

- In the October 2022 Budget, the Government announced additional funding of \$2.0 million in 2022-23 for IDCARE as part of the Government's commitment to fighting online scams. This is on top of \$6.1 million over four years under the Cyber Security Strategy 2020.
- Under section 313 of the *Telecommunications Act 1997*, Optus and other telecommunications carriers must do their best to protect their networks and facilities from unauthorised access and interference.
- Home Affairs regularly engages with Optus both formally and informally regarding their regulatory obligations.

If asked: Is the government concerned about the recent data breaches including Medibank Private, Woolworths and the Colombian government (potentially involving AFP confidential documents)?

- These data breaches are further reminders of the need for strong cyber security.
- Australians need to be confident their information is protected. Affected entities will continue to access appropriate advice and support from the ACSC and Home Affairs.

BACKGROUND AND CHRONOLOGY

- 21 September 2022 at 1959, Optus submitted a webform report to the Australian Signals Directorate notifying a cyber incident which is auto-shared with Home Affairs.
 - The Australian Signals Directorate's Australian Cyber Security Centre (ACSC) informed the Department of Home Affairs and the office of the Minister for Home Affairs.
- On 22 September 2022, Optus released a statement stating it had experienced a data breach involving millions of its current and former customers' personally identifiable information.
 - This information includes the names, dates of birth, phone numbers and email addresses of as many as 9.8 million customers. For a sub set of customers, it also includes their address and information about the credentials used to prove their identity.
- 22 September 2022, Office of the Australian Information Commissioner released a statement advising of the Optus data breach and provided advice about how Australians can respond to a data breach notification and protect themselves from further impacts of a data breach.

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- 26 September 2022, the Australian Federal Police launched Operation HURRICANE to investigate the criminal aspects of the breach.
- 27 September 2022, 10,000 records were released with a threat to continue to release data over the next four days until a \$1 million payment is paid.
- 27 September 2022, Minister O'Neil released a statement on the Optus data breach.
- 28 September 2022, Minister Wong contacted Optus to cover the cost for replacement passports.
- 28 September 2022, the Prime Minister confirmed that Optus had agreed to cover the cost for replacement passports.
- 28 September 2022, Optus made a further mandatory cyber incident report about a separate issue.
- 03 October 2022, Optus commissioned an independent external review of the cyberattack.
- 04 October 2022, Optus provided the Australian Government with the detailed information of customers who had Medicare cards, or other government credentials, exposed.
- 11 October 2022, the Office of the Australian Information Commissioner and Australian Communications and Media Authority commenced an investigation into the personal information handling practices of Singtel Optus Pty Ltd in regard to the data breach.

MEDIA ARTICLES

Date	Outlet	Reporting
20 November 2022	Australian Financial Review	Optus chief Kelly Bayer Rosmarin briefed the Home Affairs Minister Clare O'Neil on September 24 on its massive data breach – two days after the initial hack – but was unable to discuss the nature of the breach until September 26 as the minister was being interviewed on national television Optus hack: Company first briefed Minister Clare O'Neil on September 24
14 November 2022	The Conversation	Minister for Cyber Security Clare O'Neil has said the government is considering making ransom payments to cybercriminals illegal. The idea has picked up steam – but would this cure be worse than the disease? Australia is considering a ban on cyber ransom payments, but it could backfire. Here's another idea

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

12 November 2022	ABC News	The federal government says the Australian Federal Police will form a new permanent joint operation with the country's cyber spy agency, the Australian Signals Directorate, to target online criminals New task force to target 'scumbag' hackers following Medibank and Optus cyber attacks
10 November 2022	Nine News	Queensland has changed the way a resident's identity can be verified when using a driver's licence in light of major data breaches like Optus and Medibank. The new layer of protection means organisations like banks and telecommunication companies will use two-factor verification to confirm a person's identity. This verification will be done through the Australian government's document verification service Cyber security: New security measure for Queensland driver licence after Optus hack
10 November 2022	The Sydney Morning Herald	Optus chief executive Kelly Bayer Rosmarin has moved to defuse any lingering tensions with the Albanese government by praising its response to the Medibank cyberattack, as she revealed the carrier's own data breach will cost it at least \$140 million. Optus data breach: Kelly Bayer Rosmarin apologises; puts aside \$140m to replace identity documents
8 November 2022	ABC News	An unemployed Sydney teenager who tried to blackmail nearly 100 hacked Optus customers into transferring him thousands of dollars saw it as an opportunity to make "quick money", a court has been told. Sydney teenager Dennis Su pleads guilty to using Optus data breach information to blackmail customers
6 November 2022	The Age	Melbourne family loses \$40k from suspected identity theft after Optus data breach. Optus hack: Melbourne family loses \$40,000 in suspected identity theft
2 November 2022	ABC News	International computer-hacking syndicates will be eyeing off more Australian targets after a string of recent data breaches, a cybersecurity expert says Hackers could see Australia as weak target after Optus, Medibank data breaches, insider says
29 October 2022	The Age	Almost 1 million Victorians who were victims of the Optus data hack will receive a new driver's licence containing an additional number to protect them from identity theft VicRoads to issue second driver licence number to protect identities after Optus hack
25 October 2022	Australian Financial Review	Outrage over the Optus hack has failed to mobilise the government beyond earmarking \$5.5 million for the Australian Information Commissioner to investigate the breach, and pledging \$31.1 million to extend a program for securing government networks Budget 2022: Optus hack prompts \$5.5m for privacy commissioner
25 October 2022	itnews	The Office of the Australian Information Commissioner (OAIC) will be given an extra \$5.5 million spread over two years to fund its involvement in the response to the Optus data breach Optus data breach response lands OAIC an extra \$5.5m

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QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

24 October 2022	The Mandarin	It is anticipated that the government will tip even more money into cyber response in the Budget following the Optus and Medibank Private incidents, as well as boosting resources for the OAIC and ACCC. Fines skyrocket under new data breach crackdown laws
23 October 2022	The Guardian	The Department of Home Affairs had blocked the passport numbers of those affected from being used in the federal Document Verification System (DVS). Optus data breach: customers yet to be reimbursed for passport replacements
15 October 2022	ABC News	MyDeal.com.au, a subsidiary of the Woolworths Group, has announced that data was exposed when its customer relationship management system was accessed by a "compromised user credential". Woolworths MyDeal becomes latest target of cyber attack. What information was leaked and what can you do if you're affected?
14 October 2022	Nine News	The AFP are scrambling to ensure the safety of some of its secret agents and operations exposed in a massive cyberhack of Colombian government files. AFP concerned for safety of anti-drug agents exposed by data hack
13 October 2022	ABC News	Medibank Private says it has been hit by a cyberattack. The company said 'unusual activity' had been detected on its network, but there was not evidence that sensitive data had been accessed. Health insurer Medibank Private hit by cyber attack
13 October 2022	itNews	The Department of Home Affairs boss Michael Pezzullo has suggested the Optus breach, while driving much discussion about cybersecurity policy, isn't necessarily a good model for policy debates. Home Affairs: Optus breach is not a model for policy debate
11 October 2022	Sydney Morning Herald	The OAIC and the ACMA announced co-ordinated investigations to investigate whether Optus needed to keep extensive data on millions of its customers and understand how it was stored. OAIC launches investigation into telco
11 October 2022	Australian Financial Review	Experts who advise big companies on their data strategies say they are seeing a post-Optus surge in inquiries from executives who don't even understand existing rules, while tech chiefs at both Commonwealth Bank and ASX said companies had to review and ensure they were using data for valid reasons. Optus breach: Corporate Australia expects tough privacy laws, rushes to check data hoards
11 October 2022	ABC News	Optus customers who signed up using international identification say they feel abandoned by the company, and are unsure whether they need to replace documents or who will cover the cost. International students, visa holders feel 'abandoned' by company
7 October 2022	Daily Telegraph	An Australian law firm has formally started legal action against telco giant Optus to seek compensation for the millions of customers who had their personal information stolen in last month's cyberattack. Aussie law firm Maurice Blackburn files action against telco
6 October 2022	IDCARE	On 6 October 2022, IDCARE has responded to over 15,000 community engagements and the other cases involving identity compromise and misuse to result from scams, cybercrimes and identity theft have more than doubled. Optus DB response

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DATA SECURITY BREACHES

6 October 2022	ABC News	Operation Guardian the AFP investigation set up after 10,200 customer records were published online following the Optus cyberattack has arrested and charged a 19-year-old Sydney man. The AFP announce the first arrest linked to the Optus data breach.
6 October 2022	ABC News	The federal government has released planned changes to telecommunications laws following the Optus data breach, which affected nearly 10 million customers and former customers. Government strengthens powers for telcos to share affected data following Optus hack
4 October 2022	IDCARE	IDCARE had captured 121 alleged misuse / exploitation cases from community contacts. Optus DB response
3 October 2022	Daily Telegraph	Optus has informed current and former customers whether their driver licence and card numbers were exposed in the cyberattack - but has again come under fire over its poor communication and ongoing confusion. Problem with Victorian driver licence number text notification
2 October 2022	Optus	Optus Update on Medicare card and Driver Licence numbers. Cyberattack Support
30 Sep 2022	AGD	Attorney- General's Department release a statement regarding Optus data breach. Optus data breach Attorney-General's Department
29 Sep 2022	ABC News	Professor Asha Rao, Associate Dean of Mathematical Sciences at RMIT University, says Australia needs new laws to prohibit companies from engaging in unnecessary data harvesting. Too much data collection means we're more at risk of having personal details stolen, expert say
28 September 2022	Optus	Optus update on Medicare ID Number. Cyberattack Support
28 September 2022	Maurice Blackburn Lawyers	Maurice Blackburn investigates second legal claim over yet another Optus customer data breach. Maurice Blackburn investigates second legal claim over yet another Optus customer data breach
28 September 2022	The Guardian	Australians residing in New South Wales, Victoria, Queensland and South Australia who were affected by the data breach, will be able to change their driver's licence numbers and receive new cards. Optus is expected to bear the multimillion dollar cost of this changeover. Optus data breach: Australians will be able to change their driver's licence with telco to pay.
27 September 2022	Twitter	Chris O'Keefe, Political Reporter for 9News claims that victims are now receiving text messages from hackers demanding \$2000AUD be paid into a CBA bank account, with threats their data will be sold for "fraudulent activity within 2 days." Chris O'Keefe: Victims are now receiving text messages from hackers.
27 September 2022	ABC News	An online account that claims to be behind the Optus data breach says it has deleted its only copy of customers' information and it no longer cares about a ransom. Online account claiming to be behind data leak apologises, drops ransom threat.
27 September 2022	The Sydney Morning Herald	Fresh laws to constrain the use of facial recognition technology used by retailers, police and schools - are a step closer to reality after the Optus breach. New laws to tackle hackers head-on.

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DATA SECURITY BREACHES

27 September 2022	The West Australian	Anthony Albanese says companies will be forced to notify banks faster when they experience cyberattacks, after describing the hacking of the country's second-biggest telecoms firm as a "a huge wake-up call" for the corporate sector. Albanese puts banks on notice as AFP joins Optus hack probe.
27 September 2022	Australian Financial Review	The focus of the disastrous Optus data breach has shifted from the company's campus in Sydney's Macquarie Park to the Canberra office of Home Affairs and Cyber Security Minister Clare O'Neil. Optus breach needs federal response.
27 September 2022	Australian Financial Review	Companies may face multimillion dollar fines for failing to protect customer data from hackers, as Home Affairs Minister Clare O'Neil rebuked Optus over its data breach that has affected almost 10 million Australians. Labor scolds Optus, flags stricter laws.
26 September 2022	Optus	On 26 September 2022, 'OptusData' modified their original post, and published a data set comprising 10,000 rows of ex-filtrated data, as a result of Optus' failure to meet the ransom demands. The actor added that they will continue to post 10,000 rows of data each day, until the ransom is paid. Cyberattack Support
26 September 2022	The Canberra Times	Slater and Gordon is investigating a potential class action against Optus on behalf of current and former customers who have been affected. Optus: Class action under consideration for customers.
26 September 2022	7 News	Optus has announced it would offer 12 months of free credit monitoring from a credit reporting agency Equifax for their "most affected" current and former customers. Telco to offer credit monitoring program amid fears hack could lead to identity theft.
26 September 2022	ABC News	Home Affairs Minister said today that the massive breach of Optus customer data should not have happened, and urged the company to offer free services to monitor customer accounts for fraud. Home affairs minister points finger at Optus, saying hack should not have happened.
25 September 2022	The Age	News of the Optus cybersecurity attack is shocking. The millions of customers potentially impacted by the breach is mind-boggling. But the real startling question is how a breach of this magnitude is still occurring in 2022. No, Optus doesn't need to keep your sensitive information for so long.
25 September 2022	Mercury	A person claiming to be the evil genius responsible for the Optus data breach is demanding \$1.5 million in ransom money from the telco giant. Optus data breach: Hacker demands \$1.5 million ransom, customer info leaked on dark web.
25 September 2022	7NEWS	Optus customers whose passport or driver's licence numbers were stolen in a massive data breach are being contacted, amid warnings that scammers will try to profit from the cyberattack. Optus issues fresh warning as \$1.5m ransom threat is investigated: 'Do not click'.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

25 September 2022	ABC News	The Home Affairs Minister is soon expected to announce several new security measures following the massive Optus data breach that saw hackers steal the personal details of up to 9.8 million Australians. Federal government to unveil new security measures following massive Optus data breach.
24 September 2022	9news	Optus said today the attack could trigger illegitimate offers to sell customer details online as a user on a data breach forum has claimed two files containing sensitive customer information will be sold if a \$1.53 million ransom is not paid within a week. Optus cyber attack investigation amid alleged ransom threat.
24 September 2022	SBS News	Optus has admitted it is likely that criminals will make claims capitalising financially on the leak, after the company announced it was a victim of a major cyberattack, but says it won't comment on the veracity of the claims its customer data is being sold online. Federal police monitoring reports of stolen Optus data being sold on the dark web.
24 September 2022	Guardian	Attorney general Mark Dreyfus has been briefed by the privacy commissioner about hack and is seeking 'urgent' meeting with telco. AFP investigates \$1m ransom demand posted online for allegedly hacked Optus data.
23 September 2022	Australian Cyber Security Magazine	A threat actor registered an account on popular forum Breach Forums as 'OptusData'. This actor had no prior history on Breach Forums under that username, or any other repositories frequently monitored by IDCARE analysts. Optus Customer Data Posted on Dark Web as Hacker Demands \$1 million
23 September 2022	ABC News	Anonymous senior Optus figurehead offers confidential insights into the early findings of the investigation. Breach likely down to human error. 'Human error' emerges as factor in Optus hack affecting millions of Australians.
23 September 2022	The Guardian	Peter Dutton criticises Government's handling of Optus breach and emphasises the need for Ministers to provide information and assurances to the public. Australia news live: Dutton reiterates support for national anti-corruption commission; stranded whale rescue operation continues.
23 September 2022	Newcastle Herald	Senator Sarah Henderson has urged Labor to deliver tougher online privacy and data protection laws and to adopt the Coalition's Online Privacy Bill. Laws questioned after Optus cyber attack.
22 September 2022	Optus	Optus notifies customers of cyberattack compromising customer information. Optus indicated that approximately 9.8 million records containing customer data was exfiltrated but did not indicate corporate systems had been impacted by an encryption (indicative of a ransomware attack). Optus notifies customers of cyberattack compromising customer information
21 September 2022	Cyberknow	Optus suffered a cyberattack. Up to 11.2 million past and present Optus, customers are likely impacted. https://cyberknow.medium.com/optus-data-breach-timeline-c02d8c5298c4 Optus Data Breach Timeline

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
DATA SECURITY BREACHES

Lead Division

Cyber and Critical Technology Coordination Centre Division,
Department of Home Affairs

Contact: First Assistant Secretary Brendan Dowling Mobile: s. 22(1)(a)(ii)
Division: Cyber and Critical Technology Coordination Action Officer: s. 22(1)(a)(ii)
Centre Cyber Digital and Technology Policy

Date first prepared: 23 September 2022

Date last Updated: 25/11/2022

Originating Source: MO

s. 22(1)(a)(ii), Australian Signals Directorate

Contact: First Assistant Secretary s. 22(1)(a)(ii) Phone: s. 22(1)(a)(ii)
Division: s. 22(1)(a)(ii) Action Officer: s. 22(1)(a)(ii)
Date first prepared: 23 September 2022 Date last Updated: 25/11/2022
Originating Source: 24/7 Operations

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
RESETTLEMENT LETTER

KEY TALKING POINTS:

- In September 2022, the Department commenced direct engagement with transitory persons to encourage participation in third country migration pathways.
 - Letters were sent to 490 individuals who did not have current a third country migration pathway.
- The letter reinforces Government policy settings that transitory persons will not settle in Australia and asks individuals to confirm their third country migration plans.
 - I did not authorise the letter and am concerned with the tone of the letter, recognising the recipients are vulnerable people.
 - I have said the letters were sent in error because they contained an administrative error, and were also not consistent with the appropriate tone and approach.
 - The Department noted that the letter was not sent in error; however, were only confirming the fact that the letters were sent to individuals.
 - The Department does not dispute that the tone and style of the letter is inappropriate under my direction and preferences for engaging with transitory persons, and has confirmed it will not use this approach in future.

Why is the Department sending letters?

- The Government is keen to resolve the transitory persons caseload through third country migration outcomes as soon as possible.
 - However, only approximately 48 per cent of transitory persons in Australia are actively engaged in third country migration outcomes.
- The Department of Home Affairs is actively engaging with transitory persons in Nauru and Australia to explain their migration options and encourage participation in third country options to assist their departure from Australia.
 - In mid-September 2022, letters were sent to individuals temporarily in Australia who do not currently have a third country migration pathway, have withdrawn from a resettlement process or whom the Department did not have details of a resettlement pathway.
 - The letters were designed to help the Department understand transitory persons who may need additional support to engage with third country migration options.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
RESETTLEMENT LETTER

- Government policy has not changed since 2013 – transitory persons under regional processing arrangements will not settle in Australia and are expected to engage in third country migration outcomes and depart Australia.
- Third country migration outcomes provide individuals with the opportunity for permanent migration – an option that is not available in Australia.
- Individuals are encouraged to engage with available migration options and take steps to depart Australia:
 - Resettlement in the United States (US) or New Zealand (NZ);
 - Canadian Private Sponsorship or other self-identified third country resettlement; or
 - Assisted voluntary return home or to another country in which they have right of entry.

If asked: Who received the letters?

- Letters were sent to 490 individuals who did not have a third country migration pathway, or whom the Department did not know to be pursuing a third country migration pathway.
 - Letters were not sent to individuals the Department knew were actively engaged in third country migration pathways.
- Information about settlement support services in the US and NZ is available on the Home Affairs website and through US and NZ Government websites.
 - Individuals have support to engage with third country options.
- Ongoing engagement will occur with transitory persons over the coming weeks and months to encourage them onto third country migration pathways.

If asked: How often does the Department engage with transitory persons?

- The Department engages regularly with transitory persons across a variety of media.
- Bulk formal correspondence has not been sent for some time.
- The letters encouraged individuals to engage in US or NZ resettlement or explore assisted voluntary return and are targeted to individuals by cohorts:
 - Recently disengaged from US resettlement (since May 2022)
 - Never engaged in third country migration
 - Disengaged from US resettlement after received positive outcomes
 - Disengaged from US resettlement before receiving a decision
 - US resettlement denial.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
RESETTLEMENT LETTER

- Details were tailored to the options available to each group, noting some individuals continue to be eligible for US resettlement and other are not.

If asked: Did you authorise the letters?

- Although I am aware that the Department engages with transitory persons on third country migration options, I did not approve these letters.
- I corresponded with a small number of constituents stating that the letters were not sent with my authority or knowledge, and were not appropriate or constructive. I did not clear or authorise the letters.
 - I was concerned by the tone of the letters and have asked the Department not to engage in this way with vulnerable people.

If asked: Were the letters sent in error?

- Physical letters were sent to individuals in the five groups across a two week period.
 - Letters were manually produced by the Department.
 - Electronic copies of the letters were sent via email approximately 2-3 days after mailing.
- A number of emails, while sent to the correct recipient, contained an incorrect addressee line in the attached letter ('Dear << INSERT NAME >>') instead of their actual name – caused by a mail merge field not being removed).
- This was identified on publication of a letter on Twitter on 23 September 2022.
- Emailed letters were re-sent in the correct format, together with an apology to the persons affected by the administrative error.
 - Approximately 1/3 of email recipients received an email containing the administrative error.
 - All physical letters sent by mail were correctly addressed, as were a number of emailed letters.

Contact: Michael Thomas
Division: People Smuggling Policy and
Implementation Taskforce
Date first prepared: 26 September 2022
Originating Source: MO

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)

Date last Updated: 28/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

KEY TALKING POINTS:

- Medibank Private Limited (Medibank Private) will act as a one stop shop for Australians seeking advice and support.
 - The National Coordination Mechanism is coordinating government support nationally.
- On 12 October 2022, the Australian Signals Directorate advised Medibank Private of a potential cyber incident affecting Medibank Private's network.
- On 20 October 2022, Medibank Private released a statement advising that it had been contacted by a criminal claiming to have stolen data. The criminal provided a sample of records for 100 policies which Medibank Private believe came from its ahm and international student systems.
- Medibank Private has provided multiple updates on the release of customer data believed to have been stolen from Medibank Private. At this stage, released customer data includes:
 - Personal data such as names, addresses, dates of birth, phone numbers, email addresses, Medicare numbers (not expiry dates), some international student passport numbers (not expiry dates).
 - Highly sensitive personal information understood to include policy numbers relating to termination of pregnancies, mental health and alcohol conditions, and chronic conditions.
 - This includes heart disease, diabetes and asthma, people with cancer, people with dementia, people with infections and people who have sustained injuries, amongst other conditions.
 - The criminal claims to have stolen other information, including data related to credit card security, which has not yet been verified by Medibank Private's investigations.
- On 1 December 2022, the criminal released further data on the dark web. It is assessed that the release contains all the data the criminal has stolen.
 - Medibank Private released a statement advising that while their investigation continues there are currently no signs that financial or banking data has been taken. And the personal data stolen, in itself, is not sufficient to enable identify and financial fraud. The raw data we have analysed today so far is incomplete and hard to understand.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- It is incredibly important that no one access the data, including the media.
 - It is an offence to buy stolen information online, which could include a penalty of up to 10 years' imprisonment. It is also an offence to blackmail or menace customers.
 - Blackmail is an offence and those who misuse stolen personal information for financial gain face a penalty of up to 10 years' imprisonment.
- The Australian Federal Police held a press conference to advise it believes those responsible for the breach are in Russia - a group of loosely affiliated cyber criminals, who are likely responsible for past significant breaches in countries across the world.
 - The Australian Federal Police launched Operation PALLIDUS to investigate the Medibank Private Data breach.
 - The Australian Federal Police extended Operation GUARDIAN to protect Medibank Private customers whose personal information was unlawfully released online.
- The Australian Government has announced a joint standing AFP and ASD operation to investigate, target and disrupt cyber criminal syndicates with a priority on ransomware threat groups.
- On 22 October 2022, the National Coordination Mechanism (NCM) was activated to bring together agencies across the Government to ensure all possible support is being provided – to Medibank Private and to those Australians affected.
- On 16 November 2022, Medibank Private commissioned Deloitte to undertake an external review on the cyber attack.
- On 28 November 2022, Australian Prudential Regulation Authority (APRA) released a statement confirming it had informed the scope of the external review by Deloitte to ensure that it will meet APRA's requirements.
 - The review will examine the incident itself, control effectiveness and the response of Medibank Private.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- APRA will consider whether further regulatory action is needed when findings of the report become clear. The Australian Government is working closely with Medibank Private to provide all the support possible to help resolve this situation and protect those customers who may have been affected.
 - Medibank Private is receiving ongoing technical advice and assistance from Australian Government agencies, including the Australian Signals Directorate and the Australian Federal Police.
- Medibank Private advises that it has begun making direct contact with affected customers to provide support and guidance on what to do next. Medibank Private has also announced publicly that it is taking steps to remediate the exploited vulnerability and assess other networks.

If asked: What is the government's advice for impacted Australians?

1. **Monitor all your devices and accounts for unusual activity.** Report unusual activity to cyber.gov.au, IDCARE (1800 595 160), and your bank.
2. **Be alert for scams that make reference to Medibank Private.** Do not click on links in suspicious emails or messages that reference Medibank Private. Visit scamwatch.gov.au for help.
3. **Ensure your devices and accounts have the latest security updates.** This includes ensuring your devices and accounts have multi-factor authentication enabled. Visit cyber.gov.au for help.
4. **Replace your Medicare card if you believe it has been exposed.** This can be done at no cost through MyGov.

If asked: What is the government doing to protect Australians?

- Medibank Private is working closely with the Australian Signals Directorate's Australian Cyber Security Centre (ACSC), the Office of the Australian Information Commissioner (OAIC), the Australian Federal Police (AFP) and other government regulators.
- The Department of Home Affairs is coordinating whole-of-government efforts to work with Medibank Private on protecting Australian citizens' information.
 - On 22 October 2022, the National Coordination Mechanism (NCM) was activated to bring together agencies across the Government to ensure all possible support is being provided to both Medibank Private and to those Australians affected.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- The NCM first met on Sunday 23 October and has met nine times since [the NCM is scheduled to meet again at 12pm on 1 December]. The first two meetings consisted of Australian Government agencies. The remainder included representatives from state and territory governments and Medibank Private.
- The ACSC is supporting Medibank Private with a cyber security incident response and ongoing technical advice, and supporting other providers that may be affected.
- The AFP is working with Medibank Private to obtain the crucial information and evidence needed to conduct these complex criminal investigations.
- On 20 October 2022, the AFP launched Operation PALLIDUS to investigate this cyber incident.
- On 9 November 2022, the AFP has extended Operation GUARDIAN to protect Medibank Private customers whose personal information was unlawfully released online.
- Medibank Private has notified the Office of the Australian Information Commissioner (OAIC) under the Notifiable Data Breaches scheme. The OAIC is working with other government regulators and agencies in relation to the Medibank Private cyber incident.
- Services Australia and the Department of Health and Aged Care have also been in contact with Medibank Private to understand the implications for privately insured consumers, and to understand and support Medibank Private's strategy to communicate with affected customers.
- Services Australia has put in place additional security measures on the datasets to protect Australians' personal information. It is important to note that people can't access Medicare details with just a Medicare card number.
- The Attorney General's Department is reviewing the *Privacy Act 1988* (Privacy Act) to ensure that Australia's privacy laws are fit for purpose in the digital age and that they accord with community expectations in light of the rise of digital platforms and other technological changes.
- The Government provides funding to IDCARE, a not-for-profit organisation providing identity support services that help Australians to reduce the harm they experience from the compromise and misuse of their identity information.

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- In the October 2022 Budget, the Government announced additional funding of \$2.0 million in 2022-23 for IDCARE as part of the Government's commitment to fighting online scams. This is on top of \$6.1 million over four years under the *Cyber Security Strategy 2020*.

If asked: Is Medibank Private's network now secure?

- Medibank Private has announced publicly that it is taking steps to remediate the exploited vulnerability and assess other networks, as necessary.
- The ACSC is providing cyber security advice and technical assistance, and continues to work with Medibank Private to assess the extent of the incident.

If asked: Has any personal information been compromised?

- Medibank Private has provided multiple updates on the release of customer data believed to have been stolen from Medibank Private. At this stage, released customer data includes:
 - 9 November 2022, personal data such as names, addresses, dates of birth, phone numbers, email addresses, Medicare numbers for AHM customers (not expiry dates), some international student passport numbers (not expiry dates), and some health claims data.
 - 10 November 2022, highly sensitive personal information understood to include policy numbers relating to termination of pregnancies.
 - 11 November 2022, highly sensitive personal information understood to include mental health and alcohol conditions.
 - 20 November 2022, highly sensitive personal information understood to include chronic conditions such as heart disease, diabetes and asthma, people with cancer, people with dementia, people with mental health conditions, people with infections and people who have sustained injuries, amongst other conditions.
- It is incredibly important that no one access the data, including the media.
 - It is an offence to buy stolen information online, which could include a penalty of up to 10 years' imprisonment. It is also an offence to blackmail or menace customers.
 - Blackmail is an offence and those who misuse stolen personal information for financial gain face a penalty of up to 10 years' imprisonment.

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QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- On 7 November 2022, Medibank Private provided an update detailing the customer data it believes may have been stolen by the criminal. The current Medibank Private investigation shows that the criminal:
 - Accessed the name, date of birth, address, phone number and email address for around 9.7 million current and former customers.
 - Did not access primary identity documents, such as drivers' licences.
 - Accessed Medicare numbers (but not expiry dates) for AHM customers.
 - Accessed passport numbers (but not expiry dates) and visa details for international student customers.
 - Accessed health claims data for around 160,000 Medibank Private customers, around 300,000 AHM customers and around 20,000 international customers.
 - This includes service provider name and location, where customers received certain medical services, and codes associated with diagnosis and procedures administered.
 - Additionally, around 5,200 My Home Hospital patients have had some personal and health claims data accessed and around 2,900 next of kin of these patients have had some contact details accessed.
 - Accessed health provider details, including names, provider numbers and addresses.
 - Did not access credit card and banking details.
- The criminal claims to have stolen other information, including data related to credit card security, which has not yet been verified by Medibank Private's investigations.
- The Government is working closely with Medibank Private to understand what data may have been compromised.

If asked: Was this a ransomware incident?

- As investigations are still underway, it would be inappropriate to comment at this time.
- Ensuring Australians' data and personal information is secure is the Government's highest priority, and we will work with Medibank Private to do all that we can to minimise harm to those who may have been impacted.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

If asked: What ransom has been asked for? Is Medibank Private going to pay the ransom?

- On 10 November 2022, the suspected criminals claimed they demanded \$15 million (\$US10 million or US\$1 per customer) ransom from Medibank Private.
- On 7 November 2022, Medibank Private announced that no ransom payment will be made to the criminal responsible for this data theft.
- Further questions about the ransom request should be directed to Medibank Private.
- The ACSC does not recommend payment of ransoms to cyber criminals.
- There is no guarantee cyber criminals will restore systems or refrain from selling stolen data to third parties.

If asked: Do we know who perpetrated this cyber incident? Was it a state actor?

- Cyber incident investigations are complex and while the impact of a breach may be immediate, understanding what has occurred takes time.
- On 11 November 2022, the Australian Federal Police held a press conference to advise it believes those responsible for the breach are in Russia - a group of loosely affiliated cyber criminals, who are likely responsible for past significant breaches in countries across the world.
- The individual identity of the attacker has not been revealed, but Medibank Private advise they have received messages from the alleged threat actor.
- The initial priority is helping Medibank Private remediate its networks and recover as quickly as possible, and to minimise harm to those who may have been impacted.
- The Government will only make a public attribution when it is clear and in our national interest to do so.

If asked: Is this Russian state sponsored cyber activity?

- On 11 November 2022, the Australian Federal Police held a press conference to advise it believes those responsible for the breach are in Russia - a group of loosely affiliated cyber criminals, who are likely responsible for past significant breaches in countries across the world.
- As the investigation is ongoing it would be inappropriate to comment further.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
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If asked: Is this linked to Australia's prior attribution of Russian activity earlier this year?

- Australia believes that those responsible for this activity are loosely affiliated cyber criminals who are in Russia.
- As the investigation is ongoing it would be inappropriate to comment further.

If asked: Is this retaliation for Australia's actions against Russia following its invasion of Ukraine?

- Australia condemns Russia's unilateral, illegal and immoral aggression against the people of Ukraine
 - The invasion is a gross violation of international law, including the Charter of the United Nations.
- As the investigation is ongoing it would be inappropriate to comment further.

If asked: What are we asking Russia to do?

- We call on Russia to stop cybercrime emanating from within its territory. Russia should not be a safe haven for this deplorable activity.
- We call on Russia to cooperate fully with AFP's investigation.

If asked: What is the government doing to keep our data safe?

- The Government is taking an all vectors approach to cyber and data security.
- The Government's new Cyber Strategy will build whole of nation resilience against these types of attacks and ensure our networks and devices are protected against malicious actors.
 - The Department of Home Affairs is developing Australia's first National Data Security Action Plan, which will map the nations' data security settings and provide measures to strengthen consistency and resilience against data security threats.
 - The Digital Transformation Agency, with the Department of Home Affairs, the Australian Taxation Office and Services Australia, is working on expanding the use of secure digital identities so that companies can meet their customer identification requirements while collecting less personally identifiable information. This will reduce the damage inflicted by these types of incidents.

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MEDIBANK DATA SECURITY BREACH

- On 26 October, the Australian Government introduced the Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022 to significantly increase penalties for repeated or serious privacy breaches. The Australian Government works with industry to take action and address the possible consequences and harm relating to a serious data breach.
- Under the Notifiable Data Breaches scheme, entities regulated by the Privacy Act must notify affected individuals and the OAIC when a data breach is likely to result in serious harm to an individual whose personal information is involved.
- The Government provides funding to IDCARE, a not-for-profit organisation providing identity support services that help Australians to reduce the harm they experience from the compromise and misuse of their identity information.
- In the October 2022 Budget, the Government announced additional funding of \$2.0 million in 2022 23 for IDCARE as part of the Government's commitment to fighting online scams. This is on top of \$6.1 million over four years under the *Cyber Security Strategy 2020*.

If asked: What steps has the government taken under the critical infrastructure reforms?

- Medibank Private is a designated critical infrastructure asset (as a provider of insurance) and has made a mandatory report to the Department of Home Affairs under the *Security of Critical Infrastructure (SOCI) Act 2018*.

If asked: Why has Australia attributed this malicious cyber activity?

- Calling out the behaviour is just one tool available to the Australian Government in responding to malicious cyber activity
- We assess each incident, and calibrate our responses, on a case-by-case basis. Our responses may include publicly or privately calling out unacceptable behaviour. But they could also include other measures, both public and private.
- Regardless of the context, Australia's responses will always be proportionate, comply with domestic law, and be consistent with international law and the norms of responsible state behaviour that we expect all countries to follow.
 - This puts Australia at the forefront of efforts to promote a peaceful and stable online environment.

Proposed Privacy Act Changes

- On 26 October 2022, the Australian Government introduced legislation to significantly increase penalties for repeated or serious privacy breaches.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- The Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022 will increase maximum penalties that can be applied under the Privacy Act for serious or repeated privacy breaches from the current \$2.22 million penalty to whichever is the greater of:
 - \$50 million,
 - three times the value of any benefit obtained through the misuse of information, or
 - 30 per cent of a company's adjusted turnover in the relevant period.
- The Bill will also:
 - provide the Australian Information Commissioner with greater powers to resolve privacy breaches,
 - strengthen the Notifiable Data Breaches scheme to ensure the Australian Information Commissioner has comprehensive knowledge and understanding of information compromised in a breach to assess the risk of harm to individuals, and
 - equip the Australian Information Commissioner and the Australian Communications and Media Authority with greater information sharing powers.

BACKGROUND AND CHRONOLOGY

- 12 October 2022, the Australian Signals Directorate advised Medibank Private of a potential cyber incident affecting Medibank's network.
- 13 October 2022 at 1418, Medibank Private wrote to Home Affairs outlining that there had been a cyber incident, and to seek a meeting.
- 13 October 2022 at 1547, Medibank Private submitted a webform report to the Australian Signals Directorate notifying a cyber incident is affecting its network, which is auto-shared with Home Affairs.
- 13 October 2022, Medibank Private released a statement advising that they had detected unusual activity on their network. Medibank Private advised that:
 - there was no evidence that any sensitive data, including customer data, had been accessed;

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- it would be isolating and removing access to some customer-facing systems to reduce the likelihood of damage to systems or data loss;
- it had been proactive in reaching out to Government agencies, including Australian Cyber Security Centre, Australian Prudential Regulation Authority, Office of the Australian Information Commissioner, Private Health Insurance Ombudsman, the Department of Health and Aged Care and the Department of Home Affairs over the course of the day to ensure that their regulators and other key stakeholders are informed; and
- it had begun the process of communicating to its customers about the incident
- 14 October 2022, Medibank Private released a statement advising that access to ahm and international student policy systems had been restored.
 - Medibank Private also advised that while their investigation was ongoing, at this stage there was no evidence that its customer data has been accessed.
- 19 October 2022, Medibank Private released a statement advising it had received messages from a group that wishes to negotiate regarding their alleged removal of customer data.
 - Medibank Private is undertaking urgent work to establish if the claim is true, although based on their ongoing forensic investigation they are treating the matter seriously at this time.
 - Medibank Private confirmed that their systems had not been encrypted by ransomware, which means usual activities for customers continues. Medibank Private also advised that its ongoing response to safeguard its networks and systems may cause necessary temporary disruptions to its services.
- 19 October 2022, Minister O’Neil released a statement on the Medibank Private cyber incident.
- 20 October 2022, Medibank Private released a statement advising that it had been contacted by a criminal claiming to have stolen 200GB of data.
 - The criminal has provided a sample of records for 100 policies which Medibank Private believes has come from its AHM and international student systems.
 - The data includes first names and surnames, addresses, dates of birth, Medicare card numbers, policy numbers, phone numbers, and some claims data.

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- The claims data includes the location of where a customer received medical services and codes relating to their diagnosis and procedures.
- The criminal claims to have stolen other information, including data related to credit card security, which has not yet been verified by Medibank Private's investigations.
- Medibank Private is continuing to work closely with government departments and organisations, as well as specialised cybersecurity firms, and have advised the Australian Cyber Security Centre.
- 20 October 2022, the Australian Federal Police launched Operation PALLIDUS to investigate this cyber incident.
- 20 October 2022, Minister O'Neil gave a press conference on the Medibank Private cyber incident.
- 22 October 2022, the National Coordination Mechanism was activated to bring together agencies across the Government to ensure all possible support is being provided.
- 25 October 2022, Medibank released a public announcement stating that they have received additional files from the criminal including a further 1,000 ahm policy records (which includes personal and health claims data).
- 25 October 2022, Minister O'Neil released a statement on the Medibank Private cyber incident.
- 26 October 2022, Medibank Private released a statement advising that the criminal had access to all Medibank Private, ahm and international student customers' personal data and significant amounts of health claims data.
- 7 November 2022, Medibank Private released a statement advising that it will not pay any ransom for the data theft and provided a detailed analysis on what customer data was impacted.
- 7 November 2022, Minister O'Neil released a statement advising that Medibank Private would not pay a ransom to the cyber criminals and that this decision is consistent with Australian Government advice.
- 8 November 2022, Medibank Private released a statement advising it was aware of media reports of a purported threat from a criminal to begin publishing stolen Medibank customer data online in 24 hours.

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QUESTION TIME BRIEF (QTB)
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- 9 November 2022, Medibank Private released a statement advising it was aware that the criminal released files on a dark web forum containing customer data that is believed to have been stolen from its systems.
 - This data includes personal data such as names, addresses, dates of birth, phone numbers, email addresses, Medicare numbers for ahm (not expiry dates), in some cases passport numbers for international students (not expiry dates), and some health claims data.
- 10 November 2022, Medibank Private released a statement advising that the criminal had released an additional file on a dark web forum containing customer data that is believed to have been stolen from Medibank Private's systems.
- 10 November 2022, the suspected criminals claimed they demanded \$15 million (\$US10 million or US\$1 per customer) ransom from Medibank Private.
- 11 November 2022, Medibank Private released a statement advising the criminal has released an additional file on a dark web forum containing customer data that is believed to have been stolen from Medibank's systems.
- 11 November 2022, the Australian Federal Police held a press conference to advise it believes those responsible for the breach are in Russia - a group of loosely affiliated cyber criminals, who are likely responsible for past significant breaches in countries across the world.
- 12 November 2022, the Australian Government announced a joint standing AFP and ASD operation to investigate, target and disrupt cyber criminal syndicates with a priority on ransomware threat groups.
- 14 November 2022, Medibank Private released a statement advising that it would be in contact with customers following the continued release of stolen data to the dark web.
- On 16 November 2022, Medibank Private commissioned an external review on the cyber attack. The scope of this review will be determined through consultation with APRA.
- 20 November 2022, Medibank Private released a statement advising further stolen data has been released on the dark web.
 - This data includes people with chronic conditions such as heart disease, diabetes and asthma, people with cancer, people with dementia, people with mental health conditions, people with infections and people who have sustained injuries, amongst other conditions.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

- On 28 November 2022, APRA released a statement to advise it had informed the scope of the external review announced by Medibank Private to ensure that it will meet APRA's requirements. The review will examine the incident itself, control effectiveness and the response of Medibank Private.
- On 1 December 2022, the criminal released further data on the dark web. It is assessed that the release contains all the data the criminal has stolen.

MEDIA ARTICLES

Date	Outlet	Reporting
13 October 2022	ABC News	Medibank Private says it has been hit by a cyberattack. The company said 'unusual activity' had been detected on its network, but there was no evidence that sensitive data had been accessed. Health insurer Medibank Private hit by cyber attack
13 October 2022	Medibank Private	We confirm we have successfully taken offline the AHM and international student policy systems and its data, and we are in the process of methodically and safely restarting the systems. Medibank cyber incident update
13 October 2022	The West Australian	There may be a wait of weeks to determine what information was accessed in cyberattack. Medibank Private's 3.9 million customers face wait to learn if top secret information stolen in cyber attack
14 October 2022	Cairns Post	Medibank says no customer data was compromised. Medibank suffers 'cyber incident', crashes systems
19 October 2022	The Sydney Morning Herald	Cybersecurity Minister Clare O'Neil's office released a statement on Wednesday night. "A significant cybersecurity incident has occurred within Medibank. The facts are continuing to be established", she said. The minister said she had spoken to the company's chief executive, the AFP and the ASD. Medibank Private hackers threaten to sell customer data in ransom demand
20 October 2022	ABC	Minister O'Neil says a ransomware attack on Medibank and the alleged removal of customer data has been referred to the AFP for investigation. Ms O'Neil confirmed the company was working with the Australian Cyber Security Agency and the ASD over the alleged ransom request. Medibank cyber attack and ransom demand referred to Australian Federal Police - ABC News
20 October 2022	The Guardian	Medibank says sample of stolen customer data includes details of medical procedures. "Combined with Optus, this is a huge wake-up call for the country. And [it] certainly gives the government a really clear

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

		mandate to do some things that, frankly, probably should have been done five years ago, "The threat that is being made here, to make the private personal health information of Australians made available to the public, is a dog act." Medibank says sample of stolen customer data includes details of medical procedures
21 October 2022	Yahoo News	Cyber Security Minister Clare O'Neil has described the country as being "behind the eight ball" on data theft, "at the end of the day, you can replace a credit card. This is health information, it is private and personal information of people that has no place being put into the public realm," she said. Medibank hack exposed cyber flaws: O'Neil
21 October 2022	9 News	Home Affairs Minister Clare O'Neil has warned the damage could be irreparable". Medibank CEO apologises for 'horrendous crime' as customers remain in the dark about extent of hack
22 October 2022	The Sydney Morning herald	The government yesterday gave formal notice it was investigating which <i>Medibank</i> customers have had their Medicare card information exposed in the hack that has put up to 1 million people's details at risk. Online breach fines to hit \$50m
26 October 2022	The Sydney Morning Herald	Emergency action as scale of Medibank breach widens. "Home Affairs Minister Clare O'Neil told parliament yesterday that she had activated the NCM". "What we can see is <i>Medibank</i> is just as complex and urgent as some of what was dealt with [during the pandemic]". Emergency action as scale of Medibank breach widens
26 October 2022	The Australian	Medibank hack: all 3.9m customers hit by cyberattack. All 3.9m customers hit by cyber attack
26 October 2022	News.com.au	The federal government has undertaken emergency procedures to coordinate a response to the Medibank data breach. The national framework is empowered to organise all relevant agencies to respond to the hack. Medibank data breach prompts emergency action by govt
28 October 2022	The Advertiser	Medibank hack spills to SA non-members, After The Advertiser began inquiries on Monday, Medibank finally confirmed more than 4400 South Australians who had care under SA Health's My Home Hospital project, which began in January 2021, have had their records stolen. https://links.streem.com.au/the-advertiser-20221027-G6Lr4osZzzh3HWPh2?keywords[]=Medibank
7 November 2022	ABC News	Medibank says no ransom payment will be made to the criminal responsible for the recent data hack as the private health provider put a further head figure in data losses. Medibank refuses to pay ransom for hacked data as affected customer number doubles
7 November 2022	itnews	Medibank has published a granular analysis of what data was impacted and for which customers as a result of last month's cyber attack , and says it won't pay a ransom to the attackers.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

		Medibank says it won't pay ransom - Security
8 November 2022	Australian Financial Review	Criminals claiming to have stolen the personal information of about 10 million Australians from Medibank, including sensitive health data, are claiming that they will release it in the next 24 hours in a post on website linked to Russia-backed cybercriminal group REvil. Medibank data breach: REvil post threatens to release information in 24 hours
8 November 2022	Sydney Morning Herald	Australia's largest private faces its first class action over the hacking incident that exposed the personal information of 9.7 million current and former customers. It comes as threats have emerged on the dark web to release the customer data. Class action announced; hackers threaten to release data
9 November 2022	The Age	A ransomware group has begun posting customer data stolen from Australia's largest health insurer, Medibank Private. Medibank data breach: Hackers post data on dark web
9 November 2022	SBS News	Hundreds of names, addresses, birth dates and Medicare details are included in the leaked Medibank data, posted under "good-list" and "naughty-list" on the hackers' dark web group. Medibank hackers begin posting stolen customer data on dark web SBS News
10 November 2022	SBS News	The hackers believed to be behind the Medibank data breach have released customers' sensitive health data online, including a file on abortions. 'We can make discount': New details on Medibank ransom
10 November 2022	The Sydney Morning Herald	The suspected hackers behind the theft of Medibank data linked to 9.7 million customers have claimed they demanded a \$US10 million (\$15 million) ransom from the health insurer. Medibank data breach ransom demands revealed
11 November 2022	The Guardian	The hackers allegedly behind the Medibank data theft have released another file of apparently stolen medical records despite being warned the "smartest and toughest" people in Australia are coming after them. Medibank data theft: hackers release records they claim are related to mental health and alcohol issues
11 November 2022	Australian Financial Review	AFP commissioner Reece Kershaw says a Russian hacking group is responsible for the Medibank data hack. He said the AFP believed it knew which particular group was behind the hack, but would "not be naming them" for now. Medibank data hack updates LIVE: 'We know who you are', AFP confirms Russians behind Medibank hack
11 November 2022	ABC News	Russia's embassy in Australia has criticised a statement by Australian Federal Police Commissioner Reece Kershaw that those responsible for the Medibank hack are based in Russia, saying the announcement was made before the AFP contacted Russian law enforcement agencies. Russia responds after AFP Commissioner says Medibank hackers based in Russia - ABC News
12 November 2022	Australian Financial Review	Cybersecurity Minister Claire O'Neil has vowed to bring the Russian hackers believed to be behind the Medibank data breach to justice. Ms O'Neil said the government was

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

		launching a new cybersecurity policing operation to break networks of hackers stealing private information. Medibank data breach: Australia to 'hack the hackers' behind attack, says Clare O'Neill
13 November 2022	ABC News	Cyber Security Minister Clare O'Neil says Australia needs to "wake up out of the cyber-slumber", flagging a slew of reforms designed to protect personal data including making it illegal to meet ransom demands. Cyber Security Minister Clare O'Neil flags multiple reforms to protect personal data after Medibank data leaks
14 November 2022	The Guardian	Medibank customer data related to claims for mental health treatment are the latest to be posted on the dark web by the Russian hacker group. Medibank mental health data posted on dark web as Russian hackers vow to 'keep our word' Medibank
15 November 2022	The Sydney Morning Herald	The Australian Federal Police are stepping up efforts to contain the fallout of the Medibank hack amid emerging evidence that the sensitive health data leaked by the criminals is becoming more publicly available. Medibank data breach deepens as staff information hack revealed
16 November 2022	The Guardian	Medibank faced anger from its shareholders at the company's annual general meeting on Wednesday over the Australian health insurance giant's massive cyber-attack. Medibank chief defends company's security processes amid shareholder anger at AGM
18 November 2022	ABC News	Medibank customers whose personal details have been uploaded online say they have been left without support and compensation, while also being told to pay their premiums or lose cover. Medibank customers left to endure anxiety and fear without 'right support' after data breach
20 November 2022	ABC News	Hackers have released more stolen Medibank data, with the medical records of almost 1,500 customers released on Sunday on the dark web. More stolen Medibank data released, containing information about mental health and chronic conditions
22 November 2022	The Sydney Morning Herald	Medibank should have negotiated and paid the ransom demanded by hackers after its data systems were breached exposing the details of almost 10 million current and former customers, argues a cybersecurity expert. Medibank data breach ransom should have been paid, says cybersecurity expert

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
MEDIBANK DATA SECURITY BREACH

Date first prepared: 24 October 2022
Originating Source: MO

Date last Updated: 1/12/2022

Contributing Division/s

s. 22(1)(a)(ii), Australian Signals Directorate

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Date first prepared: 23 September 2022

Date last Updated: 1/12/2022

Originating Source: 24/7 Operations

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

QUESTION: What are the key measures for the Department of Home Affairs in the October 2022-23 Budget?

KEY TALKING POINTS:

- Through the measures in the October 2022-23 Budget, the Australian Government is supporting a stronger, more responsive Migration Program and keeping Australians safe from cyber threats.
- These measures respond to the challenges Australians face today and help to build a stronger Australia into the future.

Migration program measures

- Planning levels for the 2022-23 Migration Program will increase to 195,000 places from 160,000 last year to ease workforce skill shortages that many industries are experiencing as a result of the pandemic.
- With a strong focus on the Skill stream, this year's Migration Program is estimated to have a positive impact of \$448 million over four years from 2022-23 on the Budget.
- An extra \$36.1 million over two years, announced at the Jobs and Skills Summit, will help the Department of Home Affairs to recruit an additional 500 staff to boost processing capacity.
- A further \$6.2 million over two years from 2022-23 will fund outreach and communications, including an international marketing campaign to promote migration to Australia.
- A Pacific Engagement visa (PEV) will be introduced from July next year to boost Pacific permanent migration to Australia.
- There will be 3,000 places available each year by a ballot process for eligible migrants from Pacific countries and Timor Leste. Places for the PEV will be in addition to the permanent Migration Program.
- Student visa holders will continue to be able to work more than 40 hours per fortnight until 30 June 2023.
- There will be \$20 million in additional funding over four years from 2022-23 for the Adult Migrant English Program (AMEP) to support individual learners with flexible delivery and case management.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

- The Government is committed to supporting migrants to attain a level of English that will enable them to fully participate socially and economically in Australia.

Cyber security measures

- The October 2022-23 Budget provides \$31.3 million in additional funding in 2022-23 for cyber security services to agencies with fewer resources as part of its whole-of-Government Cyber Hub program uplift package. This includes \$8.6 million for the Department of Home Affairs.
- The Australian Government will provide additional funding of \$2 million in 2022-23 to assist scam victims to recover their identity.
- The funding allocation is part of fulfilling the Government's election commitment to combat scams and online fraud.

Local multicultural projects

- The Government is investing in local multicultural projects through \$6.2 million for 66 projects in the Local Multicultural Projects initiative.
- These will strengthen our multicultural society by improving community infrastructure, provide support for events and activities in targeted locations across Australia.
- This measure will assist multicultural communities in accessing high quality, culturally appropriate facilities, services and places of worship.

Community Language Schools Grants Program

- The Government is investing \$18.2 million to enable community language schools to expand the delivery of language classes to more school-aged children, including pre-schoolers.
- The Program will strengthen the cohesion and prosperity of Australia's successful multicultural society by supporting more young Australians to acquire a second language:
 - connecting them to the languages of their parents, grandparents and broader communities; and
 - enabling their participation in a broader range of jobs in an economy closely integrated into a global market of diverse trading partners.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

Multicultural Policy Review

- The Government has committed \$1 million for a Multicultural Policy Review to ensure Australia has a policy framework, which is fit for purpose in building Australia's social cohesion, supporting our multicultural society, and harnessing the talents of all Australians.
- The Review will examine the policy settings and institutional arrangements required to strengthen our social cohesion and meet the needs of Australia's multicultural society at the Commonwealth level.

Australian Border Force commitments to the future Western Sydney Airport

- The Government has committed \$10.3 million for the Department to undertake the necessary design and planning activities through to December 2023 to support operations at the Western Sydney International (Nancy-Bird Walton) Airport.
- This is the first greenfield build of a major international airport in many decades, with operations scheduled to commence in 2026.
- The construction of Western Sydney International Airport provides the Department of Home Affairs and the Australian Border Force with an opportunity to co-design, coordinate and deliver an airport experience that enhances the facilitation of cargo and travellers, while continuing to protect our border from current and future security risks.

Key Budget Questions

If asked: How is the Home Affairs Portfolio contributing to Budget repair?

- In the October 2022-23 Budget, the Home Affairs Portfolio will contribute \$78.7 million for Budget repairs. This includes:
 - \$57.4 million in 2022-23 to the Government's election commitment savings from external labour, travel, advertising and legal expenses;
 - \$15.2 million over two years from 2022-23 from the Department of Home Affairs by harvesting uncommitted monies from measures from past Budget rounds as part of the Government's Spending Audit; and
 - \$6.1 million over three years from 2022-23 contribution to the Government's *Ambitious and Enduring APS Reform Plan*

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

If asked: What is the funding movement between 2021-22 and 2022-23 in Outcome 2?

- As per page 40 of the October 2022-23 Portfolio Budget Statement, the total funding and associated expenses have **not decreased** between 2021-22 and 2022-23. They are estimated to **increase** by \$34.2 million (from \$2.117 billion in 2021-22 to \$2.151 billion in 2022-23) primarily due to measures and estimates variations.

If asked: What is the funding movement between 2021-22 and 2023-24 in Outcome 2?

- As per page 40 of the October 2022-23 Portfolio Budget Statement, the total funding and associated expenses are estimated to **decrease** by **\$394.2 million** (from \$2.117 billion in 2021-22 to \$1.722 billion in 2023-24) primarily due to a **decrease in administered funding** in the UMA Offshore Management program (**-\$301.8 million**) reflective of the conclusion of offshore processing in Papua New Guinea on 31 December 2021 and the establishment of an enduring capability in Nauru in a contingent state from 1 July 2023, which is **unrelated to the funding provided for visa processing functions**.

s. 47(1)(b)

If asked: Why does the resource statement at Table 1.1 on page 14 of the October 2022-23 Portfolio Budget Statement indicate a reduction in the estimate for Outcome 2 administered funding of approx. by \$410 million in 2022-23 noting the expenditure table for this outcome shows an increase?

- Table 1.1 reflects total appropriations available to the Department and is developed on a cash basis, inclusive of prior year available appropriation.
- As such, this can cause variances to the expenditure tables which are prepared on accrual basis and includes movement of funds (**\$153.0 million**) where the Department can use prior year funding for expenses incurred over the forward estimates; and appropriation amounts relating to underspends yet to be quarantined (**UMA Offshore Management program \$226.0 million**).

If asked: Migration Program measures - Why has the planning level for the 2022-23 permanent Migration Program increased, given the significant ongoing visa processing backlog?

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

- A larger program in 2022-23 is aligned with stakeholder expectations that migration can help ease critical skills and workforce shortages where the skilling of Australians is not yet able to keep pace with industry demands.
- To enhance the delivery of a permanent Migration Program level of 195,000 visa places without impacting ongoing efforts to reduce visa backlogs across all visa caseloads, the Government has provided additional funding of \$36.1 million over a nine month period to 30 June 2023, as a one-off injection of funds, to allow Home Affairs to recruit and train staff to increase its processing capacity.
- This will cover 500 additional visa processing staff, as well as staff to support related functions such as health and character checks.

If asked: Cyber Security measures - How does the Cyber Hub model align with Government ambitions?

- To uplift its cyber security, the Government is piloting the implementation of four Cyber Hubs (Australian Taxation Office, Department of Defence, Department of Home Affairs, and Services Australia).
- A Cyber Hub is a centralised provider of cyber security services to other government entities.
- This centralisation will improve the Government's resilience through better methods of detecting and mitigating cyber-attacks, as well as better incident response capabilities. Centralisation will also increase opportunities to focus the Australian Government's cyber security investment, and streamline information sharing with the Australian Signals Directorate (ASD).

If asked: Cyber Security measures - Why is the Government only committing \$2.0 million to protect scam victims, given how much personal information was exposed in the Optus data breach?

- The Government has made clear that Optus is responsible for meeting the costs of the data breach, not taxpayers.
- The Government's additional funding will assist in meeting unmet caseload demand and increase support for victims of scams and identity crime generally through Home Affairs' contract with IDCARE. IDCARE is currently scoping the establishment of a new office in Perth and has commenced recruitment activities.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

If asked: Local Multicultural Projects - How will this initiative support multicultural communities?

This initiative reflects the Australian Government's commitment to supporting Australia's inclusive national identity and fostering civic participation, connections and belonging, as important building blocks of our social cohesion and liberal democracy.

- Multicultural communities across Australia are integral and valued members of Australian society.
- The initiative will invest in community organisations and infrastructure, which play a crucial role in maintaining the fabric of our multicultural society and supporting multicultural communities, including by reinforcing their sense of belonging.

If asked: Community Language Schools - Why is the Government funding eligible not-for-profit community language schools?

- The linguistic diversity of Australian communities is a key national strength, built on the success of Australia's well-managed migration system.
- By bolstering language learning opportunities for young Australians, the Community Language Schools Program will harness our multilingual strength, help to preserve it across generations and share its benefits with the whole of society.

If asked: Multicultural Policy Review - Why is the Government undertaking the Multicultural Policy Review?

- Australia is one of the most successful and cohesive liberal democracies and multicultural societies in the world. Culturally and linguistically diverse communities (CALD) are integral members of our vibrant, multicultural society.
- The Review will strengthen the cohesion and prosperity of Australia's successful multicultural society by:
 - positioning Australia to capitalise on the benefits of our diversity and inclusive national identity;
 - better understanding the aspirations of all Australians, including our successful CALD communities, to shape the framework for government policies and services; and
 - determining what Commonwealth level institutional arrangements are required to better meet the needs of Australia's increasingly diverse society.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO BUDGET MEASURES

If asked: Australian Border Force (ABF) commitments to the future Western Sydney Airport - Why is ABF's involvement required for the design of Western Sydney Airport?

- ABF's involvement is essential to ensure current and future needs are identified and incorporated into the final designs and construction of the airport within the planned timeframes.
- Early and ongoing ABF and Home Affairs engagement will help ensure the facilities are fit for purpose for day one operations.

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO FUNDING

KEY TALKING POINTS:

Portfolio Funding Narrative

- Portfolio departmental funding¹ has increased over the period from 2013-14 (\$3.2 billion) to 2022-23 (\$3.8 billion), averaging \$3.6 billion year on year.
- Portfolio administered funding has increased over the period from 2013-14 (\$3.5 billion) to 2022-23 (\$4.7 billion), mainly reflecting increasing costs associated with the Pandemic Support Payments related to the National Emergency Management Agency.
- The Portfolio's Average Staffing Level (ASL)¹ has remained relatively stable over the period, with 14,322 in 2013-14 to 14,454 in 2022-23.

Department of Home Affairs

- Departmental funding (including departmental capital and own source revenue) has increased from \$2.8 billion in 2013-14 to \$3.2 billion in 2022-23.
- Administered funding (including administered capital) has decreased from \$3.5 billion in 2013-14 to \$2.2 billion in 2022-23, noting that administered funding relates to expenses managed on behalf of government and are beyond the control of the Department.
 - Key factors in this reduction are the establishment of an enduring regional processing capability in Nauru from 2022-23; and
 - the end of regional processing arrangements in Papua New Guinea (PNG) on 31 December 2021, with the PNG Government assuming full and independent management of the residual caseload from 1 January 2022.
- The Department's ASL has remained stable over the period, averaging approximately 13,885, with the 2022-23 estimated ASL being 14,120.

Australian Security Intelligence Organisation (ASIO)

- Funding for ASIO has increased from \$421 million in 2013-14 to \$544 million in 2022-23, with funding across the forward estimates from 2022-23 maintained at over \$500 million.

¹ Analysis excludes ASIO departmental capital and ASL, as relevant details are excluded from Budget publications from 2021-22 to balance transparency regarding the Government's allocation of resources with the management of national security risk, in line with exemptions allowed under section 105 D of the *Public Governance Performance and Accountability (PGPA) Act 2013*.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO FUNDING

- *If asked: why are ASIO not reporting departmental capital or ASL?*
 - ASIO's Departmental Capital and ASL from 2021-22 are not for disclosure to balance transparency regarding the Government's allocation of resources with the management of national security risk. This is in line with recent exemptions allowed under section 105 D of the *Public Governance Performance and Accountability (PGPA) Act 2013*.

National Emergency Management Agency (NEMA)

- Departmental funding (including departmental capital and own source revenue) has increased from \$37 million in 2020-21 for NEMA's predecessor (the National Recovery and Resilience Agency) to \$102 million in 2022-23, noting that this is mainly attributable to Machinery of Government (MoG) changes which came into effect on 1 September 2022, and included the transfer of relevant functions from Emergency Management Australia.
- Administered funding (including administered capital) has significantly decreased from \$17,044 million in 2021-22 to \$2,549 million in 2022-23, noting that administered funding relates to expenses managed on behalf of government and are beyond the control of NEMA. Further, these expenses are mainly associated with Pandemic Support Payments and are effectively demand driven.
- NEMA ASL has increased over the period, mainly attributable to MoG changes as noted above, with 82 in 2020-21 to 334 in 2022-23.

ATTACHMENTS

Attachment A – Home Affairs Portfolio Funding

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO FUNDING

Attachment A – Home Affairs Portfolio Funding

(\$'million)	2013-14 Actuals	2014-15 Actuals	2015-16 Actuals	2016-17 Actuals	2017-18 Actuals	2018-19 Actuals	2019-20 Actuals	2020-21 Actuals	2021-22 Estimated Actuals	2022-23 Estimates	2023-24 Estimates	2024-25 Estimates	2025-26 Estimates	4 Yr Total (2022-23 to 2025-26)
Department of Home Affairs*														
Departmental operating funding	2,481	2,408	2,495	2,460	2,505	2,664	2,724	2,754	2,771	2,794	2,562	2,660	2,650	10,666
Departmental capital	240	283	344	304	392	250	236	275	302	200	161	155	163	679
Own-source revenue (s 74)	126	186	181	174	185	242	230	217	215	209	210	208	207	834
Departmental	2,847	2,876	3,019	2,939	3,082	3,156	3,190	3,246	3,288	3,203	2,933	3,023	3,020	12,178
Administered funding	2,881	2,347	2,142	1,945	2,135	1,903	2,406	2,478	2,047	2,161	1,856	1,561	1,520	7,098
Administered capital	572	239	166	83	75	47	22	48	29	37	26	24	25	112
Administered	3,453	2,586	2,308	2,028	2,210	1,949	2,428	2,526	2,076	2,198	1,882	1,585	1,545	7,210
Total Department Of Home Affairs	6,301	5,462	5,327	4,967	5,292	5,105	5,618	5,771	5,364	5,401	4,815	4,608	4,565	19,388
Average Staffing Level	14,322	13,728	13,832	13,972	13,892	13,959	13,751	13,778	13,199	14,120				
National Emergency Management Agency~														
Departmental operating funding	-	-	-	-	-	-	-	36	57	96	74	67	62	299
Departmental capital	-	-	-	-	-	-	-	..	3	6	1	0	0	8
Own-source revenue (s 74)	-	-	-	-	-	-	-	1	-
Departmental	-	-	-	-	-	-	-	37	61	102	75	67	62	306
Administered funding									17,044	2,549	211	89	72	2,921
Administered	-	-	-	-	-	-	-	-	17,044	2,549	211	89	72	2,921
Total NEMA	-	-	-	-	-	-	-	37	17,105	2,651	286	156	134	3,227
Average Staffing Level								82	206	334				
Australian Security Intelligence Organisation														
Departmental operating funding	346	368	381	403	422	435	473	455	480	520	527	527	530	2,104
Departmental capital	60	49	49	42	84	91	72	93	nfp	nfp	nfp	nfp	nfp	nfp
Own-source revenue (s 74)	14	20	18	20	28	22	24	16	18	24	25	25	25	99
Departmental	421	438	449	465	533	548	569	564	498	544	552	552	555	2,203
Total Departmental ASIO	421	438	449	465	533	548	569	564	498	544	552	552	555	2,203
Average Staffing Level	1,750	1,693	1,740	1,772	1,777	1,846	1,913	1,875	nfp	nfp				

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
PORTFOLIO FUNDING

Attachment A – Home Affairs Portfolio Funding (cont.)

(\$'million)	2013-14 Actuals	2014-15 Actuals	2015-16 Actuals	2016-17 Actuals	2017-18 Actuals	2018-19 Actuals	2019-20 Actuals	2020-21 Actuals	2021-22 Estimated Actuals	2022-23 Estimates	2023-24 Estimates	2024-25 Estimates	2025-26 Estimates	4 Yr Total (2022-23 to 2025-26)
Total Home Affairs Portfolio Funding														
Departmental operating funding	2,827	2,776	2,876	2,863	2,927	3,099	3,197	3,245	3,309	3,410	3,163	3,254	3,241	13,068
Departmental capital	301	332	393	347	475	341	309	367	305	206	163	155	163	686
Own-source revenue (s 74)	140	206	199	194	213	265	253	234	232	233	235	233	233	933
Total Departmental	3,268	3,314	3,468	3,404	3,616	3,705	3,759	3,846	3,846	3,849	3,560	3,642	3,637	14,688
Administered funding	2,881	2,347	2,142	1,945	2,135	1,903	2,406	2,478	19,091	4,710	2,067	1,650	1,592	10,019
Administered capital	572	239	166	83	75	47	22	48	29	37	26	24	25	112
Total Administered	3,453	2,586	2,308	2,028	2,210	1,949	2,428	2,526	19,120	4,747	2,093	1,674	1,617	10,131
Grand Total	6,721	5,900	5,776	5,432	5,825	5,654	6,186	6,372	22,966	8,596	5,653	5,316	5,254	24,818
Average Staffing Level	16,072	15,421	15,572	15,744	15,669	15,805	15,664	15,735	13,405	14,454	-	-	-	-

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SKILLED VISA PROCESSING PRIORITIES

QUESTION: Why did the Government update Ministerial Directions for processing skilled visas?

KEY TALKING POINTS:

- The new Ministerial Direction, introduced 28 October 2022, simplifies the visa process and will deliver more efficient visa processing for the benefit of skilled applicants and their sponsors across industries.
 - The new Ministerial Direction builds on work to clear visa backlogs.
 - We have finalised over 43,000 temporary skilled and 47,000 permanent skilled visa applications since 1 June 2022.
 - Temporary skilled visa grants in 2022-23 are up 120% compared to the same time last year.
 - These delivery numbers have only been possible because there are 260 more staff working on visa processing than there were at the start of May.
 - The new Ministerial Direction reduces complexity and allows the Department of Home Affairs to process more skilled applications faster.
 - It removes a time-consuming and complex assessment which was only necessary because of the backlog of applications that had built up while travel restrictions were in place.
 - Now that the backlog for the Temporary Skill Shortage program has been reduced by almost 40%, it is time for a more efficient approach to skilled visa processing to benefit all.
 - There are now 13, 000 on hand sponsorship, nomination and primary visa applications, compared to over 22,000 on 31 July 2022.
-
- This change will see more applications processed faster, particularly for the critical Temporary Skill Shortage visa, which is designed to respond quickly to labour market needs.
 - The direction means the Department will prioritise skilled visas in the health and education sectors.
 - These applications are now being assessed in 3 days.
 - But it also means the entire caseload will move faster.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SKILLED VISA PROCESSING PRIORITIES

- The Department expects processing times for complete new applications will fall in coming months as a result of this direction and the additional staffing for visa processing.
- This change will also help small businesses seeking to recruit overseas workers. It speeds up processing for all occupations and makes the process less complicated.
- Prioritising offshore permanent and provisional skilled visa applications will also enable more workers to enter Australia and contribute to the economy and ease labour shortages.
- Applications relating to occupations in regional Australia continue to have priority, helping to support agricultural and other regional work force needs.

If asked about the PMSOL

- The Priority Migration Skilled Occupation List (PMSOL) and critical sectors implemented in September 2020 involved time-consuming and complex assessments. These were only necessary while travel restrictions were in place and contributed to the backlog of skilled visa applications.
- The PMSOL was out-dated – recent National Skills Commission labour market analysis has shown that almost a quarter of occupations on the PMSOL are not in national shortage.
- The PMSOL consisted of occupations already on the Skilled Migration Occupation Lists (SMOL). Its removal does not change the composition of SMOL.

If asked about the cyber sector

- There are more than 30 IT and cyber related occupations available for skilled migration. Only five of these were available on the PMSOL. All IT occupations will see an improvement in their visa processing times.
- From 1 July to 30 September 2022, there has been 4,095 temporary skilled visas granted to IT professionals.
- The number of applications on-hand for this sector has also decreased 32 per cent in this period.
- This includes 119 ICT Security Specialists, with a decrease to only 32 on hand applications.
- IT Business and Systems Analyst is the biggest single occupational group for temporary visas granted in this period (2,960) across all sectors, followed by Medical Practitioners (1,066).

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
SKILLED VISA PROCESSING PRIORITIES

If asked about Accredited Sponsors

- The new direction by the Government restores priority for Accredited Sponsors in all sectors who are trusted employers and key businesses that drive economic productivity. Efficient processing of these applications allows the Department to have more capacity to handle other applications as well.
- Assessment of applications from Accredited Sponsors has reduced from 56 calendar days in July to 21 days in October and will continue to improve.
- The Department will continue to prioritise skilled visas in the health and education sectors to help fill critical shortages in those industries, with these applications now being assessed in 3 days compared to 35 days in July.

BACKGROUND AND CHRONOLOGY

Minsiterial Direction 100 commenced on 28 October 2022.

A separate QTB focusing on the removal is at QB22-000190. This responds to negative media on the effect on the cyber security industry.

Lead Division
Contact: Karin Maier, AS Skilled Visas Branch
Division: Immigration Programs
Date first prepared: 03 November 2022
Originating Source: MO

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)
Date last Updated: 25/11/2022

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

60 MINUTES - VISA ARRANGEMENTS FOR VICTIMS OF CRIME

QUESTION: What is the Government doing to address allegations raised by 60 Minutes that Australia's visa system is being abused to facilitate human trafficking?

KEY TALKING POINTS:

- The Government is committed to addressing the full cycle of modern slavery, including by supporting, protecting and empowering victims and survivors of this crime.
 - Special visa arrangements are in place to enable suspected victims of human trafficking and slavery to remain in Australia and support the investigation and prosecution of offences.
 - The Australian Border Force (ABF) has a team of Human Trafficking Contact Officers located in each state and territory and coordinated at a national level. This team refers individuals to the Australian Federal Police (AFP) if there are any indicators of human trafficking.
 - The AFP are responsible for investigating all human trafficking, slavery and slavery-like offences.
 - Upon receipt of a recommendation from the AFP the Department of Home Affairs is able to grant a suspected victim a visa to remain in Australia, including for an initial period of rest and recovery, to assist with criminal justice processes, and in some circumstances, to remain in Australia permanently.
 - There is a dedicated Government-funded Support for Trafficked People Program, which provides individualised case managed support for victims.
 - Specific allegations about individuals raised in recent media reports are being investigated by the Department and the Australian Border Force, in conjunction with other federal agencies.
 - The broader issues of systemic abuse of Australia's visa system to facilitate human trafficking and other criminality will be addressed by an independent inquiry.
-
- On 27 June 2013, the Australian Parliament passed the *Vulnerable Witness Act*, which provides protections to vulnerable witnesses giving evidence in Commonwealth criminal proceedings, including victims of slavery, slavery-like and human trafficking offences.

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

60 MINUTES - VISA ARRANGEMENTS FOR VICTIMS OF CRIME

- The network of Australian Border Force (ABF) Human Trafficking Contact Officers (HTCO) are responsible for assessing and referring individuals to the Australian Federal Police (AFP) if there are any indicators of human trafficking.
- The AFP are responsible for investigating all human trafficking, slavery and slavery-like offences.
- Upon receipt of a recommendation from the AFP the Department is able to grant a suspected victim a visa to remain in Australia, including for an initial period of rest and recovery, to assist with criminal justice processes, and in some circumstances, to remain in Australia permanently.
- The Support for Trafficked People Program (STPP) is administered by the Department of Social Services and delivered nationally by the Australian Red Cross.
 - Case managers are responsible for supporting clients to access services to meet their individual needs, which may include:
 - case management support
 - suitable accommodation that meets the Australian Federal Police's (AFP) security and safety requirements
 - medical treatment (through Medicare and the Pharmaceuticals Benefits Scheme, or as approved);
 - counselling
 - referral to legal and migration advice
 - skills development training, including English-language classes and vocational guidance; and
 - social support

If asked: If relevant add a few supplementary questions

If someone suspects human trafficking is occurring what should they do?

- We encourage anyone who sees something they think is suspicious border-related behaviour or activity to flag it with ABF via Border Watch at www.borderwatch.gov.au.
- If anyone suspects someone may be a victim of human trafficking and slavery, or something is not quite right, they should immediately contact the AFP on 131AFP (131 237).
- Signs that someone may be a victim of human trafficking include:
 - The person appears reluctant to travel, and/or their movements appear to be controlled by another person;
 - The person does not have a passport or another form of identity or the person can't access them;

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

60 MINUTES - VISA ARRANGEMENTS FOR VICTIMS OF CRIME

- The person is subject to poor living or working conditions;
- The person never or rarely leaves their house for non-work reasons;
- The person has little or no money or no access to their earnings;
- The person has physical injuries which may have resulted from assault, harsh treatment or unsafe work practices; or
- The person is always in the presence of their employer or another person, who does not want or allow them to socialise with others.

Can you speak further of the Government's approach to Human Trafficking?

- Australia has had a comprehensive, whole-of-government strategy to combat modern slavery since 2004.
- The Australian Government recently launched the National Action Plan to Combat Modern Slavery 2020-25 which provides the strategic framework to combat modern slavery over the next five years.
- Under the National Action Plan, the Government has committed to five National Strategic Priorities: prevent; disrupt, investigate and prosecute; support and protect; partner; and research.

BACKGROUND AND CHRONOLOGY**The Human Trafficking Visa Framework**

The Department has in place a comprehensive Human Trafficking Visa Framework (HTVF) to facilitate the regularisation of the immigration status of unlawful non-citizens who are assessed by the Australian Federal Police (AFP) as suspected victims of trafficking.

Upon receipt of a certificate from the AFP, the Department is able to grant the victim a visa to permit lawful stay for the purpose of assisting the AFP with their investigations. The HTVF facilitates either the temporary or permanent stay of suspected trafficked persons, depending on the person's circumstances.

The HTVF consists of the Subclass 060 (Bridging F) visa (the BVF), and the Subclass 852 (Referred Stay (Permanent)) visa (the RSV).

Bridging F visa (BVF)

A person assessed by the AFP as a suspected victim may be eligible for a BVF for up to 45 days for an initial period of rest and recovery. A BVF can also be granted to immediate family members in Australia. There is also an option to grant a second BVF for a further 45 days (making up to 90 days available) for additional rest and recovery.

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QUESTION TIME BRIEF (QTB)

60 MINUTES - VISA ARRANGEMENTS FOR VICTIMS OF CRIME

If a victim is required to remain in Australia to assist authorities with an investigation or prosecution, another longer-term BVF can be granted for the duration of the criminal justice process. People granted this BVF are permitted to work. These BVF holders may depart Australia and re-enter, provided they are still required to assist authorities with the criminal justice process.

Referred Stay (Permanent) visa (RSV)

A victim may be eligible for a RSV if they have made a contribution to, and cooperated closely with, an investigation into a human trafficking, slavery or slavery-like offence, and would be in danger if returned to their home country. This visa allows the holder to remain in Australia permanently, and immediate family members may be included in the visa application

The HTVF supports suspected victims of human trafficking, slavery and slavery-like practise who are unlawful non-citizens. Those victims of trafficking and modern slavery who are able to maintain their lawful visa status do not require the HTVF to regularise their immigration status.

A reporting protocol exists between the Department (including the ABF) and the AFP to guide referral of suspected cases of human trafficking to the AFP for assessment. Human Trafficking Contact Officers (HTCO) are ABF officers located in each state and territory and coordinated at a national level, who are responsible for referring individual cases to the AFP. The reporting protocol sets a low threshold for referral to the AFP, who are responsible for assessing all referrals and formally investigating all human trafficking, slavery and slavery-like offences.

Lead Division

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Compliance and Community Protection Policy Branch
Division: Immigration Policy, Integrity and Assurance
Date first prepared: 07 November 2022
Originating Source: Home Affairs

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)
Date last Updated: 21/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
NEIL PRAKASH

KEY TALKING POINTS:

- The Australian Government is aware that Mr Neil Prakash was released from prison in Türkiye on 16 November 2021 and **was placed** in Turkish immigration detention.
- On 15 March 2019, Mr Prakash was convicted by a Turkish court of being a member of a terrorist organisation, namely Islamic State.

If asked: Is Mr Prakash an Australian citizen?

- It would be inappropriate to comment on individual cases.

If pressed

- The Commonwealth accepts that in light of the High Court's judgement in *Alexander v Minister for Home Affairs* [2022] HCA 19 (*Alexander*) that ss 33AA and 35 of the *Australian Citizenship Act 2007* (Cth) are also invalid.
- As a result, the Commonwealth's position is that the cessation of Australian citizenship for individuals under those provisions was invalid, and they never ceased to be Australians.
- It would be inappropriate to comment further as this issue is before the High Court.

If asked: Has the Commonwealth Government changed its position on citizenship cessation?

- The Australian Government intends to introduce new citizenship cessation laws to empower a court to make a determination to cease a person's Australian citizenship for terrorism activities.
- **The Government is committed to creating a constitutional regime for citizenship cessation to address the High Court's judgment in *Alexander v Minister for Home Affairs & Commonwealth* and will do so informed by several related matters that are currently pending before the High Court.**
- The Australian Government has a range of measures available to manage Australians of Counter-Terrorism interest, including:
 - Temporary Exclusion Orders which prevent a person entering Australia for a specified period which may be up to two years, and Return Permits which permit the person to enter Australia and may contain a range of pre and/or post

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
NEIL PRAKASH

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entry conditions. The maximum penalty for failing to comply with a Temporary Exclusion Order or with Return Permit conditions is two years' imprisonment.

- Subject to sufficient evidence, prosecution of a person of interest who returns to Australia. Where this does not exist, an assessment of an individual's domestic threat is undertaken and an appropriate preventative treatment or other form of disruption is applied.
- An application for a Control Order for the purposes of protecting Australia and Australians from terrorist acts. Control Orders are judicial instruments that place certain prohibitions and restrictions on what an individual can do. They can last for up to 12 months, but can be sought on multiple occasions.

If asked: Has the lowering of Australia's national terrorism threat level to POSSIBLE taken into account Australains who were previously subject to citizenship cessation provisions?

- The Director-General of Security considers all relevant factors when making a decision on Australia's national terrorism threat level.

If asked: What engagement has Australia had with the Government of Turkiye on the potential return of Mr Prakash?

- Turkiye remains a valued partner for us and we maintain cooperative engagement on a broad range of issues.
- We do not comment on individual cases or on Australian Government discussions with other Governments.
- Decisions related to deportation from Turkiye are a matter for Turkiye.

If asked: Are you aware of reporting Mr Neil Prakash will be returned to Australia to face terrorism charges? (for example, [Islamic State kingpin Neil Prakash to be returned to Australia to face terrorism charges \(theaustralian.com.au\)](https://www.theaustralian.com.au/news/terrorism/islamic-state-kingpin-neil-prakash-to-be-returned-to-australia-to-face-terrorism-charges))

- Decisions related to deportation from Turkiye are a matter for Turkiye.
- If Mr Prakash returns to Australia, he faces prosecution for a number of serious terrorism offences.
- Questions in relation to prosecution are a matter for the AFP.

If asked: Is Mr Prakash on a pathway for a return to Australia?

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QUESTION TIME BRIEF (QTB)
NEIL PRAKASH

- Mr Prakash was subject to a formal extradition request from Australia on 23 November 2016. A Turkish court declined this request in July 2018. An appeal of the decision was lodged by Turkish authorities in September 2018 and on 29 December 2021 the appeal was denied by the Turkish court, exhausting all avenues for extradition.
- Decisions related to deportation from Türkiye are a matter for Türkiye.

If asked: What charges would Mr Prakash face if he returns to Australia?

- Mr Prakash faces prosecution in Australia for a number of serious terrorism offences.
- Questions in relation to prosecution are a matter for the AFP.

BACKGROUND AND CHRONOLOGY

Mr Prakash departed Australia in 2013 and travelled to Syria where he allegedly joined Islamic State.

In 2016 Mr Prakash was arrested by Turkish Police and was convicted by a Turkish court of being a member of a terrorist organisation, namely Islamic State, and sentenced to seven and a half years in prison, including time served.

Australia made an extradition request to Türkiye for Mr Prakash in November 2016, which was rejected by a Turkish court in July 2018. Turkish authorities appealed that decision in September 2018 and on 29 December 2021 the appeal was denied, exhausting all avenues for extradition.

On 1 August 2018, the then-Minister for Home Affairs became aware that Mr Prakash's Australian citizenship had purportedly ceased by operation of law under former section 35 of the *Australian Citizenship Act 2007* effective 6 May 2016. Mr Prakash was provided notice of the cessation of his Australian citizenship in Türkiye on 21 December 2018.

Based on advice received from the Solicitor-General in June 2022 the Commonwealth accepts that in light of the High Court's judgement in *Alexander v Minister for Home Affairs* [2022] HCA 19 (Alexander) that ss 33AA and 35 of the *Australian Citizenship Act 2007* (Cth) are also invalid. As a result, the Commonwealth's position is that the cessation of Australian citizenship for individuals under those provisions was invalid, and they never ceased to be Australians.

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QUESTION TIME BRIEF (QTB)
NEIL PRAKASH

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Prakash was released from prison in Turkiye on 16 November 2021 and is now in Turkish immigration detention.

This issue has been reported in detail in various national newspapers over the weekend, including [The Australian](#).

Media reporting includes Mr Prakash's citizenship status, immigration status and prosecution efforts, as well as the potential for Turkish authorities to deport Mr Prakash in the near future.

CTCC

Contact: Richard Feakes

Division: CTCC

Date first prepared: 28 November 2022

Originating Source: (HA)

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Action Officer: s. 22(1)(a)(ii)

Date last Updated: 1/12/2022 - 9:36 AM

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

UN REPORT - IMMIGRATION DETENTION POLICIES

KEY TALKING POINTS:

Was Australia planning to end the mandatory immigration detention of all refugee, stateless and asylum-seeking children?

- Detention in an immigration detention centre is a last resort for the management of unlawful non-citizens and is for the shortest time practicable.
- Under section 4AA of the Migration Act 1958, the Australian Parliament affirms as a principle that a minor shall only be detained as a measure of last resort.
- The Government has made it a priority to remove children from immigration detention facilities and accommodate them with their families in residential settings in the community under section 197AB of the Migration Act.

Was Australia planning to use immigration detention of adult asylum seekers, refugees and stateless persons as a measure of last resort?

- Detention in an immigration detention centre is a last resort for the management of unlawful non-citizens and is for the shortest time practicable.
- The Australian Government is committed to a managed and equitable system of migration, consistent with our international obligations and respect for the human rights of migrants, refugees and asylum seekers.
- The Government actively seeks to discourage people smuggling which represents a significant risk to Australian security and puts lives at risk.
- Immigration detention is part of strong border control and supports the integrity of Australia's migration program.
- It is a requirement that unlawful non-citizens in Australia's migration zone are detained unless they have been afforded lawful status through the grant of a visa.

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

UN REPORT - IMMIGRATION DETENTION POLICIES**Was Australia planning to prevent arbitrary and indefinite detention?**

- The Government is committed to humane and risk-based immigration detention policies.
- The Government is committed to ensuring that detention is used as a last resort and to exploring alternatives to held detention including the use of Residence Determinations which allow non-citizens without a visa to live in the community.
- The Government is committed to ensuring that asylum seekers are detained for as short a time as possible as necessary for the management of health, identity and security risks.
- Australia takes its human rights obligations seriously, including those related to the rights of personal liberty and freedom from arbitrary detention.
- The Australian Government's position is that arbitrary immigration detention is not acceptable.
- Immigration detention of an individual on the basis that they are an unlawful non-citizen is not arbitrary under international law if it is reasonable, necessary and proportionate in light of the circumstances and reassessed as it extends in time. Under the Migration Act, detention is not limited by a set timeframe. It ends when the person is either granted a visa or is removed from Australia. The timeframe associated with either of these events is dependent upon a number of factors.

Was Australia planning to remove the character test requirement for asylum seekers?

- The Prime Minister has publicly stated, character-related visa refusal and cancellation legislation under section 501 of the Migration Act 1958 "will stay in place".

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

UN REPORT - IMMIGRATION DETENTION POLICIES

- Where non-citizens pose a risk to the community, the Australian Government will continue to cancel their visas and remove them.

Was Australia planning to transfer all asylum seekers, refugees and stateless persons detained on Christmas Island to mainland Australia?

- Decisions in relation to appropriate detainee placements are undertaken after careful consideration of a number of factors, including the operational capacity of each facility and the need to ensure the safety and security of all detainees in immigration detention.
- In considering the placement of an individual, the safety and good order of the broader immigration detention network is also considered. There is finite capacity in each of the ABF's Immigration Detention Facilities and there is often an operational need to transfer detainees to rebalance the immigration detention network.
- Detainees placed at North West Point Immigration Detention Centre consist of those who have been convicted of crimes involving assault, sexual offences, drugs and other violent offences. The cohort have had their visas cancelled (including mandatory cancellation) under the *Migration Act 1958* because they have failed to pass the character test or they pose a risk to the health, safety or good order of the Australian community, or to an individual within the Australian community.

Was Australia planning to amend domestic laws to uphold Australia's international non-refoulement obligations?

- A non-citizen whose visa has been refused or cancelled, or which has expired, and who has exhausted review options, is subject to being removed from Australia under the Migration Act as an unlawful non-citizen, as soon as reasonably practicable.

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QUESTION TIME BRIEF (QTB)

UN REPORT - IMMIGRATION DETENTION POLICIES

- However, a range of mechanisms are available to ensure Australia does not remove a person in contravention of its non-refoulement obligations.
- The specific mechanisms available will depend on the circumstances of the case.
- The *Migration Amendment (Clarifying International Obligations for Removal) Act 2021* (the CIOR Act), which commenced on 25 May 2021, amended the Migration Act, to strengthen Australia's ability to uphold its non-refoulement obligations.
- The amendments made by the CIOR Act ensure that the Migration Act does not require or authorise the removal of a person to a country in relation to which a protection finding has been made in the course of assessing their protection visa application, even if the visa was refused on grounds such as character or national security.
- These amendments ensure that the Government is not obliged to remove an unlawful non-citizen if that removal would result in a breach of non-refoulement obligations.
- In addition, if a non-citizen who has not previously applied for or held a protection visa has a visa which expires or is cancelled, or has a visa application refused, and they become subject to removal as an unlawful non-citizen, there are mechanisms to ensure they are not removed from Australia in breach of Australia's non refoulement obligations.
- These mechanisms include pre-removal clearances and the possibility of lodging a protection visa application.

If Asked – international obligations

- The Clarifying International Obligations for Removal Bill 2021 (the Bill) modified section 197C to ensure Australia's non-refoulment obligations are considered in any

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

UN REPORT - IMMIGRATION DETENTION POLICIES

decision regarding removal of un-lawful non-citizens under section 198 of the Migration Act 1958.

- This amendment stopped the misinterpretation of the original s197C, which was introduced to deter the making of unmeritorious protection claims as a means to delay an applicant's departure from Australia where the Department had already found the person did not engage non-refoulement obligations.
- It is not the intent of these amendments to the Migration Act to create a system that permits indefinite detention. Rather, there are safeguards to clarify that detainees are not required to be removed in breach of Australia's international protection obligations.

If asked – detention oversight

- Australia's immigration status resolution practices ensure that any person who is detained understands the reason for their detention and the options available to them, including choosing to return to their country of origin or legal remedies.
- The Department conducts monthly reviews of persons held in detention. The purpose of these reviews is to ensure that:
 - where a person is managed in a held detention environment, that the detention remains lawful and reasonable;
 - the location of detention remains appropriate to their individual circumstances and conducive to status resolution and departmental activity is underway to reach a status resolution outcome;
 - if it is identified through these reviews that detention is no longer appropriate to an individual's circumstances, or if there are vulnerabilities identified, their case is considered for assessment against the Minister's intervention guidelines.
- Where a person is detained for a period greater than 2 years, the Secretary of the Department must give the Commonwealth Ombudsman a report every six months on the circumstances of the person's detention.
- Under Australian law, immigration detainees have the capacity to take proceedings before a court to determine the legality of their detention.
- The Australian Government regularly engages with external scrutiny bodies, including the Australian Human Rights Commission, and considers all the communications and reports it receives in good faith.
- Once all domestic remedies are exhausted, individuals may also submit a complaint to relevant United Nation bodies such as the United Nations Committee against

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HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

UN REPORT - IMMIGRATION DETENTION POLICIES

Torture, the UN Human Rights Committee and the Working Group on Arbitrary Detention.

BACKGROUND AND CHRONOLOGY

The UN Committee against Torture concluded its consideration of the sixth periodic report of Australia on 16 November 2022.

Erdogan Iscan, Committee Expert and Country Co-Rapporteur, said the legislative and policy framework for immigration detention in Australia raised significant concerns.

Was Australia planning to end the mandatory immigration detention of all refugee, stateless and asylum-seeking children; use immigration detention of adult asylum seekers, refugees and stateless persons as a measure of last resort; prevent arbitrary and indefinite detention; remove the character test requirement for asylum seekers; transfer all asylum seekers, refugees and stateless persons detained on Christmas Island to mainland Australia; and amend domestic laws to uphold Australia's international non-refoulement obligations?

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Policy Branch, s. 22(1)(a)
Division: Immigration Integrity Assurance and Policy
Division
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Originating Source: MO

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Date last Updated: 30/11/2022

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HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
UK BAN ON TECH COMPANIES

QUESTION: Will Australia follow the UK and US bans on tech companies.

KEY TALKING POINTS:

- The Australian Government is committed to keeping Australians safe and will not shy away from making tough decisions to amend our security settings if and when appropriate.
- My Department is continuing to assess Australia's technology security policy settings to ensure they remain fit for purpose.
- However, it is important that individual users and businesses apply their own prudence when considering whether a product or service is appropriate for their network.
- The Australian Government has developed a range of products and services to assist individuals and organisations to both assess and manage the potential risks posed by individual products and vendors. These include:
 - my Department's Critical Technology Supply Chain Principles which assist industry to identify and build resilience to potential vulnerabilities, and
 - the Australian Cyber Security Centre's Cyber Supply Chain Guidance available on [cyber.gov.au](https://www.cyber.gov.au).
- The Attorney-General's Department oversees protective security policy for Australian Government agencies and mandates that each agency analyses, allocates and treat risks throughout the procurement lifecycle.
 - All devices included in Australian Government networks are subject to a security risk assessment by the relevant agency.

If Asked: Is the Australian Government considering a ban?

- The UK and the US have made sovereign decisions based on their own assessment of their specific needs, and according to their national interests.
- My Department is continuing to assess Australia's security policy settings to ensure they remain fit for purpose and will not shy away from taking steps to keep Australians safe.
 - The Australian Government's approach will be considered, deliberate and in the best interests of the Australian public, our values and national security.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
UK BAN ON TECH COMPANIES

If Asked: Are there any devices from the US ban list included in Australian Government networks?

- Procurement decisions are ultimately the responsible of each Australian Government agency.

[If pressed]

- Broader questions on Australian Government protective security policy should be directed to the Attorney-General.

If Asked: Has the Australian Government undertaken a security risk assessment of any of the vendors listed by the US FCC?

- My Department is continuing to assess Australia's security policy settings to ensure they remain fit for purpose and will not shy away from taking steps to keep Australians safe.

If Asked: Was Home Affairs notified by the US and UK Government prior to the announcement?

- The Department was not notified but this is not unusual. The UK and the US have made sovereign decisions based on their own assessment of their specific needs, and according to their national interests.

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under the Freedom of Information Act 1982

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
UK BAN ON TECH COMPANIES

BACKGROUND AND CHRONOLOGY

United States ban on the sale and importation of specified devices

On 25 November 2022, the United States Federal Communications Commission (FCC) adopted new rules prohibiting communications equipment deemed to pose an unacceptable risk to national security from being authorised for importation or sale in the United States.

- The decision follows public reports in October that the FCC commissioners would vote on the rules.

The new rules prohibit the authorisation of equipment through the FCC's Certification process, and makes clear that such equipment cannot be authorised under the Supplier's Declaration of Conformity process or be imported or marketed under rules that allow exemption from an equipment authorization.

The Covered List (which lists both equipment and services) currently includes communications equipment produced by Huawei Technologies, ZTE Corporation, Hytera Communications, Hangzhou Hikvision Digital Technology, and Dahua Technology (and their subsidiaries and affiliates).

UK ban on installation of Chinese visual surveillance systems on government estate

On 24 November 2022, UK Government instructed all Departments to cease deployment of visual surveillance equipment subject to the Chinese National Intelligence Law.

Additionally, departments have been advised that no such equipment should be connected to departmental core networks and that they should consider whether they should remove and replace such equipment where it is deployed on sensitive sites.

Departments have also been advised to consider whether there are sites outside the definition of sensitive sites to which they would wish to extend the same risk mitigation.

Hikvision and Dahua cameras on Departmental premises

There are no Hikvision or Dahua cameras in the Department's operational CCTV network.

HOME AFFAIRS
QUESTION TIME BRIEF (QTB)
UK BAN ON TECH COMPANIES

The Department does however, occupy two privately owned buildings where the landlord/building owner has Dahua Closed Circuit Television (CCTV) cameras installed as part of base security systems for what are multi-tenanted buildings.

Building owners have confirmed the cameras are not connected to the internet, and in their current set-up, cannot be connected to the internet.

The buildings are located at 4 National Circuit, Barton and 70 Franklin Street, Adelaide.

Contact: A/g AS s. 22(1)(a)(ii)

Phone: s. 22(1)(a)(ii)

Division: Cyber and Critical Technology Coordination
Centre

Action Officer: s. 22(1)(a)(ii)

Date first prepared: 29 November 2022

Date last Updated: 1/12/2022

Originating Source: HA

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

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

CHARGES AGAINST FORMER HOME AFFAIRS EMPLOYEE

KEY TALKING POINTS:

- This matter relates to an investigation led by ACT Policing. All questions in relation to this matter should be referred to ACT Policing.
- The individual ^{s. 47F(1)} [REDACTED] has since resigned from their employment.
- The Department has no tolerance for serious misconduct, corrupt conduct or criminal conduct.
- The Department works in close cooperation with other law enforcement agencies.
- Questions relating to the individual's Security Clearance should be referred to the Australian Government Security Vetting Agency.

BACKGROUND AND CHRONOLOGY

In December 2021, ACT Policing notified the Department of Home Affairs Integrity and Professional Standards (I&PS) branch of an investigation into alleged historical acts committed against young persons by then departmental employee, Mr Stephen Mitchell.

At the time of notification from ACT Policing Mr Mitchell was deployed offshore as First Secretary (Transport) at the Australian Embassy, Jakarta. At the request of ACT Policing, I&PS did not take any action that would alert Mr Mitchell to the investigation.

On 16 February 2022, Mr Mitchell returned to Australia from his posting.

On 19 February 2022, ACT Policing executed a search warrant at the residence of Mr Mitchell. Mr Mitchell was arrested and charged at the ACT Watch House with the following offences:

- 2 x Sexual conduct involving child under 16 (overseas), Sect 50BC(a) *Crimes Act 1914* (Cth)
- 1 x Act of indecency upon person under 16 years, Sect 61(2) *Crimes Act 1900* (ACT)
- 4 x Act of indecency upon person under 16 years, Sect 92K(2) *Crimes Act 1900* (ACT)

On 20 February 2022 Mr Mitchell ^{s. 47F(1)} [REDACTED]

On 21 February 2022, Mr Mitchell appeared in the ACT Magistrates Court for bail hearing. At that time he entered not guilty pleas to the charges and was bailed to appear for mention in May 2022.

HOME AFFAIRS

QUESTION TIME BRIEF (QTB)

CHARGES AGAINST FORMER HOME AFFAIRS EMPLOYEE

On 5 May 2022, Mr Mitchell tendered his resignation from the Department, effective 20 May 2022.

On 5 September 2022, Mr Mitchell appeared in the ACT Magistrates Court where charges for further alleged historical offending were laid. A charge was also laid for the alleged provision of false/misleading information in order to obtain his security clearance. Mr Mitchell faced a total of 26 charges.

On 29 November 2022, Mr Mitchell pleaded guilty to historical child sex charges and admitted to providing false information to obtain a security clearance. A date for sentencing (in the ACT Supreme Court) has not been scheduled.

Mr Mitchell pleaded not guilty to one sexual abuse charge, which will be heard in the Magistrates Court in August 2023.

This matter was reported in the Media on 29 November 2022 (Canberra Times, ABC).

Lead Division
Contact: s. 22(1)(a)(ii) a/g ASI&PS
Division: Integrity, Security and Assurance
Date first prepared: 30 November 2022
Originating Source: MO

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)
Date last Updated: 30/11/2022

ABF

QUESTION TIME BRIEF (QTB)

DARYL MAGUIRE'S 'CASH-FOR-VISAS' SCHEME

KEY TALKING POINTS:

- In **October 2020**, the Australian Border Force (ABF) initiated an investigation into an alleged 'cash for visa' scheme associated with former NSW MP Daryl MAGUIRE.
- Following an extensive investigation into the alleged 'cash for visa' scheme, the ABF submitted a Brief of Evidence to the Commonwealth Director of Public Prosecutions (CDPP) on **16 April 2021**.
- Three individuals were presented within the brief being; Daryl MAGUIRE, Maggie LOGAN (nee WANG) and Former Registered Migration Agent Yueming (Monica) HAO.
- On **3 November 2022**, formal written advice was received from the CDPP that the ABF should proceed with charging both MAGUIRE and WANG.
- On **4 November 2022**, WANG was subsequently charged by the ABF with 12 x charges section 234 *Migration Act 1958*, provision of false documents and false or misleading information relating to non-citizens. Maximum penalty of imprisonment for 10 years or 1,000 penalty units, or both.
- On **7 November 2022**, Daryl MAGUIRE was charged with one count of conspiracy to commit an offence contrary to section 234(1)(c) *Migration Act 1958*, aiding and abetting the provision of false documents or misleading information in relation to non-citizens (read with section 11.2 Criminal Code Act 1995). Maximum penalty of imprisonment for 10 years or 1,000 penalty units, or both.
- Yueming (Monica) HAO departed Australia 19 August 2021, and has not returned since that date.
- On **29 November 2022**, both MAGUIRE (via AVL from his home address) and WANG appeared before the Downing Centre Local Court. Their matters were both adjourned to reappear before the same court on 7 February 2023.

If asked: A Migration Agent was identified within the September 2020 Independent Commission Against Corruption (ICAC) public inquiry associated with Daryl MAGUIRE; what action has been taken against this Migration Agent?

- The Office of the Migration Agents Registration Authority (OMARA) has investigated the Registered Migration Agent in question and taken appropriate action to protect consumers as a result of that investigation.
- There is a public Register on the OMARA website which lists all Registered Migration Agents. The agent in question is no longer on the register.

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ABF

QUESTION TIME BRIEF (QTB)

DARYL MAGUIRE'S 'CASH-FOR-VISAS' SCHEME

If asked: Did the Migration Agent identified within the September 2020 ICAC inquiry depart Australia in August 2021?

- The ABF can confirm that an individual identified within the September 2020 ICAC inquiry has departed Australia.
- All persons identified within the ABF investigation remain subject to notation within ABF/Department of Home Affairs systems.
- ABF notifications are not an instrument intended to prevent departure from Australia unless an individual is subject to arrest warrant and/or if criminal charges have been laid and relevant bail conditions have been imposed.
- At this time, charges have not been laid in relation to this matter.

If asked: If an individual provided public testimony during the ICAC hearings that they received cash to facilitate a visa applicant to enter Australia, why have those individuals not been prosecuted?

- It is incumbent on the ABF to investigate suspected instances of criminality associated with the alleged 'cash for visa' scheme to independently obtain evidentiary material which supports criminal prosecution if/where appropriate.

BACKGROUND AND CHRONOLOGY

- The ABF submitted a complete Brief of Evidence to the CDPP on 16 April 2021, in relation to the alleged 'cash for visa' scheme implicating former NSW MP Daryl MAGUIRE.
- The eighteen (18) month CDPP assessment of this Brief of Evidence has been attributed to the complexity of compulsorily obtained material that has been subject to review by external Counsel.
- On 4 November 2022, the ABF and Australian Federal Police (AFP) arrested primary person of interest, Maggie WANG (nee LOGAN), charging her with twelve (12) x section 234 *Migration Act 1958* offences, being the provision of false documents and false or misleading information relating to non-citizens. Maximum penalty of imprisonment for 10 years or 1,000 penalty units, or both.
- On 7 November 2022, the CDPP served the solicitor of Daryl MAGUIRE with a Court Attendance Notice, charged with one (1) count of section 234(1)(c) *Migration Act 1958*, aiding and abetting the provision of false documents or misleading information in relation to non-citizens (read with section 11.2 *Criminal Code Act 1995*). Maximum penalty of imprisonment for 10 years or 1,000 penalty units, or both.
- Both Daryl MAGUIRE and Maggie WANG appeared before court on 29 November 2022.
- The matter was adjourned to February 2023.

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ABF

QUESTION TIME BRIEF (QTB)

DARYL MAGUIRE'S 'CASH-FOR-VISAS' SCHEME

ABF Operations East

Contact: A/g commander s. 22(1)(a)(ii)

Division: ABF Operations East

Date first prepared: 30 November 2022

Originating Source: MO

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

Date last Updated: 30/11/2022

Contributing Division/s

Contact: A/g Commander s. 22(1)(a)(ii)

Division: ABF Operations East

Date first prepared: 30/11/2022

Phone: s. 22(1)(a)(ii)

Action Officer: A/g Superintendent s. 22(1)(a)(ii)

Date last Updated: 30/11/2022

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under the Freedom of Information Act 1982

HOME AFFAIRS/ABF/ASIO [Delete as appropriate]

QUESTION TIME BRIEF (QTB)

THIRD COUNTRY RESETTLEMENT**QUESTION: Update on third country resettlement****KEY TALKING POINTS:**

- The Government is committed to identifying third country migration options for individuals under regional processing arrangements.
 - Resettlement in a third country, such as the United States (US), New Zealand or Canada, provides a permanent migration outcome that is not available in Australia for individuals under regional processing arrangements.
 - Third country resettlement provides the best available opportunity for individuals to build a path to a new life.
 - The US resettlement arrangement continues to deliver resettlement outcomes, with 1,075 individuals already resettled under this arrangement.
 - First resettlements under the New Zealand resettlement arrangement occurred on 22 November 2022, with six refugees departing Nauru for a new home in New Zealand.
 - Many individuals under regional processing arrangements are pursuing resettlement through private sponsorship in Canada.
 - I expect many more positive decisions and departures to the US, New Zealand and Canada in the coming weeks and months and encourage individuals to engage.
- I met with my New Zealand counterpart, Minister for Immigration the Hon Michael Wood, in New Zealand on 17-18 November 2022 to discuss opportunities to resettle individuals under regional processing arrangements as quickly as possible.
 - Minister Wood has agreed to assist Australia resolve the regional processing caseload where possible, with priority focus on individuals in Nauru.

If asked: Update on New Zealand resettlement

- New Zealand officials will travel to Australia to conduct resettlement interviews with 80 transitory persons in Brisbane and Sydney between 5-9 December 2022.
 - United Nations High Commissioner for Refugees (UNHCR) continues to triage approximately 350 expressions of interest from individuals in Nauru and Australia and has made approximately 70 referrals to New Zealand for resettlement assessment. More referrals are expected in 2022.

HOME AFFAIRS/ABF/ASIO [Delete as appropriate]

QUESTION TIME BRIEF (QTB)

THIRD COUNTRY RESETTLEMENT*If asked: Update on US resettlement*

- Approximately 200 individuals remain actively engaged in US resettlement.
- The US Government is committed to finalising all cases under the arrangement in the coming months. Departures generally occur every week from Australia and further departures are expected from Nauru in 2022.

If asked: Update on Canada

- While Australia does not have a resettlement arrangement with the Government of Canada, the Department is assisting Canada with interview and travel logistics for individuals in Nauru and Australia pursuing resettlement through private sponsorship in Canada.
- Canada is expected to deliver decisions and effect departures in the coming weeks.

If asked: Why has resettlement taken so long?

- Resettlement assessment is undertaken by resettlement countries in accordance with their extant humanitarian programs and in line with their assessment processes.
- Each case is considered on its merits and the time it takes to reach an outcome depends on the complexity of the case. Resettlement assessment is subject to various considerations including refugee claims, character and security vetting and medicals.
- COVID-19 has negatively impacted the rate at which cases have progressed.
- The first New Zealand outcomes have occurred very quickly – most refugee resettlement processes take substantially longer.

If asked: Will all individuals under regional processing be resettled?

- Government policy remains in place – individuals under regional processing will not settle in Australia.
- The Government is committed to finding durable migration outcomes for all individuals under regional processing arrangements.
- The Department of Home Affairs is exploring other resettlement opportunities.

BACKGROUND AND CHRONOLOGY

- The US resettlement arrangement was announced in November 2016 and provides for up to 1,250 refugees to be resettled in the US. The New Zealand resettlement arrangement was announced in March 2022 and provides for 150 refugees to be resettled each year for three years. US and New Zealand operate on referrals from the UNHCR and conduct resettlement assessment under their extant programs.

Contact: FAS Michael Thomas
Division: People Smuggling Policy and Implementation Taskforce
Date first prepared: 30 November 2022
Originating Source: MO

Phone: s. 22(1)(a)(ii)
Action Officer: s. 22(1)(a)(ii)
Date last Updated: 30/11/2022

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

TREATMENT OF REFUGEES AND KIDS IN DETENTION**KEY TALKING POINTS:****Minors in Detention**

- The Department complies with its legislative obligation under section 4AA of the Migration Act 1958, which affirms the principle that children will only be accommodated in an Immigration Detention Facility (IDF) as a last resort, for the shortest possible time and, where possible, in Alternative Places of Detention (APODs).

Regional Processing

- No one in Nauru is detained. All individuals reside in the Nauruan community, with full freedom of movement and work rights.
- Since February 2019, there is no children under regional processing arrangements in Nauru.

United Nations (UN) Subcommittee on Prevention of Torture (SPT) Visits

- The UNSPT delegation conducted unannounced visits to five IDFs in October 2022.
 - 21 October 2022 - Melbourne Immigration Transit Accommodation (ITA), Melbourne Alternative Place of Detention (APOD) and Brisbane ITA
 - 22 October 2022 - Brisbane APOD
 - 23 October 2022 - Villawood Immigration Detention Centre (VIDC)
- The ABF facilitated each visit, and provided the delegation members with access to the IDFs and detainees.
- On 23 October 2022 the UN published a press release indicating the UN STP had decided to suspend its visit to Australia due to obstructions it encountered in carrying out its mandate under the OPCAT and declaring Australia to have breached its obligations under OPCAT. The ABF were not mentioned in this press release.

Minors in Detention

- Children are only accommodated in APODs for very few purposes and for short periods, mainly due to airport turnarounds, transfers on medical grounds or being in the final stages of removal to their country of origin.
- It is a priority to accommodate children and their families in the least restrictive form of appropriate accommodation. Where the Department detains a family, it will accommodate the family group together, whenever possible.
- Children and families in immigration detention are provided with regular nutritious meals, including age-appropriate food for minors, and fresh fruit and other healthy snacks. Children are not restricted to a limited time outside. Dental health and hygiene products are provided to all detainees at no cost.
- The ABF and the Department's child wellbeing officers regularly engage with parents in detention facilities to confirm that their cooking, grocery and development needs are being addressed so that they can adequately provide for their children.

ABF

QUESTION TIME BRIEF (QTB)

TREATMENT OF REFUGEES AND KIDS IN DETENTION

- The Department arranges access to age appropriate schooling for school-aged children in immigration detention if they are in APODs for more than 10 weeks. For children younger than school-age, the Department's service providers are able to arrange for them to attend early childhood activities and play groups in line with state and territory provisions and Australian community standards.
- It is mandatory for all officers and contracted service providers in child-related roles to have relevant working with children checks in place and to have completed a Child Protection Mandatory Behaviours Declaration, in addition to having completed relevant child safe-guarding training.

Lead Division

Contact: A/g Commander s. 22(1)(a)(ii)

Division: North & Detention

Date first prepared: 01 December 2022

Originating Source: (MO)

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

Date last Updated: 1/12/2022

Contributing Division/s

Contact: Michael Thomas

Division: People Smuggling Policy and Implementation

Taskforce

Date first prepared: 01 December 2022

Phone: s. 22(1)(a)(ii)

Action Officer: s. 22(1)(a)(ii)

Date last Updated: 1/12/2022

REGIONAL PROCESSING POLICY

QUESTION: Why did some unauthorised maritime arrivals end up in Nauru and others on visas in Australia?

KEY TALKING POINTS:

- The application of pre-departure assessment processes and legislative amendments in December 2014 has meant that some UMAs were taken to a regional processing country, while others were permitted to remain in Australia and apply for Australian visas.
 - The *Migration Act 1958* provides that an unauthorised maritime arrival (UMA) must be taken to a regional processing country as soon as reasonably practicable.
 - The Department undertakes a pre-transfer assessment of each UMA to determine whether there are any obstacles to it being reasonably practicable to take the UMA to a regional processing country.
 - Various factors are considered in undertaking the pre-transfer assessment, including health, legal, capacity and capability in the regional processing country.
 - Where it was not reasonably practicable to take an individual to a regional processing country at the time of assessment, they were side-lined from being taken and generally subject to future assessment.
 - Legislative amendment in December 2014 also permitted UMAs arriving on or after 19 July 2013 who had not been taken to a regional processing country to remain in Australia and later be invited to lodge a temporary protection or safe haven enterprise visa through the fast track application process.
 - Those individuals were no longer subject to regional processing.
 - The Government remains committed to resolving the status of individuals under regional processing arrangements in Nauru through third country outcomes.
 - Third country resettlement provides the best available opportunity for individuals to build a path to a new life.
- 5,191 UMAs arrived on or after 19 July 2013.
 - Of those, 2,074 were not taken to a regional processing country and have subsequently been invited to lodge a temporary protection or safe haven enterprise visa in Australia.
 - Individuals under regional processing arrangements will be resolved through third country migration outcomes, notably resettlement.

HOME AFFAIRS/ABF/ASIO [Delete as appropriate]
QUESTION TIME BRIEF (QTB)
REGIONAL PROCESSING POLICY

If asked: Why were some UMAs taken to a regional processing country and others allowed to lodge visas in Australia?

- For some UMAs, it was not reasonably practicable to take them to a regional processing country at the time of the pre-transfer assessment due to health, legal, capacity or capability issues.
 - Individuals sidelined were generally re-assessed for transfer at a later date.
- Under the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*, individuals who had arrived since 19 July 2013 but who had not been taken to a regional processing country by December 2014 were allowed to apply for temporary protection or safe haven enterprise haven visas in Australia.

If asked: Why has Government wiped its hands of individuals remaining under regional processing arrangements in Nauru and PNG?

- As at 1 December 2022, there are 92 UMAs remaining under regional processing arrangements in Nauru.
- On 31 December 2021, the former Government ended Australia's regional processing association with Papua New Guinea (PNG), with support for individuals remaining in PNG transitioning to the full and independent management of the PNG Government.
 - As at 31 December 2021, 105 individuals were remaining in PNG.
 - The Department of Home Affairs is aware of some resettlement outflow since 1 January 2022. Resettlement assessment by the United States, Canada and New Zealand for individuals in PNG continues.
- The PNG Government has committed to providing a range of settlement, welfare and health supports to individuals remaining in PNG pursuing permanent settlement in PNG or pending their resettlement in a third country.
 - The PNG Government contracted specialist providers to deliver support services and the Australian Government provided funding to support the PNG Government's independent management.

Contact: FAS Michael Thomas
Division: People Smuggling Policy and Implementation Taskforce
Date first prepared: 1 December 2022
Originating Source: MO

Phone: s. 22(1)(a)(ii)
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