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501 Referral Steps for Losses

Tribunal Assessment Team (Alpha Team)

This document to be read alongside the *MJR - Standard Operating Procedures - ART Set Aside and JR Loss* document located at ADD2025/5493509.

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1. Administrative Review Tribunal (ART) Losses

1.1. Steps for Processing Referrals (Cancellations & Refusals)

ALPHA TEAM: SET ASIDE REFERRALS – COMMENCING A CASE

1. 1. Receive Minister Loss Notification

Upon receiving a litigation email from the ART, forward the notification to the EL1 for awareness and oversight.

2. 2. Determine Whether the Minister's Powers Are Enlivened

Assess the case to identify whether the Minister's intervention powers apply.

If No

(e.g., the reviewed visa has ceased, or the non-citizen has been granted a different visa):

- Update the Tracker (ADD2025/1570414):
 - Status: *NFA*
 - Reason: Provide concise justification (e.g., *Visa ceased on [date]*)
- Add the appropriate PAL entry using the approved system narrative template (see appendix/end of document).
- No further action required.

➤ **If Yes**

Proceed to Step 3

3. Add to the Tracker: Record the case in the Tracker and complete all relevant fields.

- Set Status = Escalation Brief.

4. Add system notes: Enter the required notes in the client record:

- **PAL narrative**
- **Client of Interest note**
(Ensure wording aligns with system guidance.)

After updating the notes:

- Apply the **relevant labels** in the TAT mailbox to confirm system notes have been actioned.

- | | | |
|--------------------------|-------------------------------------|------------------------------|
| ☐ | ☒ | Save to TRIM and file |
| ☐ | ☒ | System Notes have been added |

5. Commence new service

When progressing the matter, commence the appropriate new service in the system:

- **CANX** – for cancellation matters
 - Follow instructions in **ADD2024/8082415**.

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ALPHA TEAM: SET ASIDE REFERRALS – COMMENCING A CASE

- **CCMD** – for refusal matters
 - Follow instructions in **ADD2025/1770420**

6. Work Management (WMAN)

- **Allocate the matter to MJR** in WMAN.
- For **CCMD** cases, transfer the case from **ICSE** to **WMAN** and then allocate it to **MJR** to ensure correct workflow management.

7. Checklist and Progression Record

- Save the Checklist and Progression Record (ADD2025/2054901) into the client's new TRIM container, **ensuring it is saved as the first document in the container.**
- Continue to update this checklist throughout the administrative process to maintain an accurate and complete case record.
- **Record a note in WMAN** when **ART written Reasons and Decision** documents are received. include the **TRIM ID** and **date**.

8. Request a National Criminal History Check (NCHC) at time of commencing a service

- All requests are submitted as 'standard' – 'urgent requests are done by exception.
- If the most recent NCHC is less than one month old – check with EL1 if a new NCHC is required
- Add a note to the NCHC column in the Tracker to advise the date NCHC was requested

9. 10. Save Documents to the New TRIM Container and Update the Checklist

Save all relevant documents to the **new client TRIM container** and ensure the Checklist and Progression Record is updated accordingly. The following documents must be added (when available):

- **ART written reasons**
- **ART Minister Loss notification email** received from Litigation
- **NCHC results**
- **Sentencing Remarks**
 - *Retrieve from the previous cancellation TRIM file, only if available*
- **Media articles**
 - *Retrieve from the previous cancellation TRIM file, only if available*

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ASSESSMENT CASE OFFICER: SET ASIDE REFERRALS – ESCALATION BRIEF (EB)**1. Assign a case from WMAN**

Use the 'Get Next' filter to retrieve a new case from the *Escalation Brief pending – APS6* folder

2. Save the Draft Threshold Assessment

- Prepare the draft Threshold Assessment using the approved template located at ADD2024/8891646.
- Save the completed draft to the "DRAFT Set Aside Threshold Assessments" folder in TRIM (ADF2024/411176).
- Naming Convention:
- DRAFT - MD110 Threshold Assessment - ART [YearMonthDay] - SURNAME First Name - CID XXX
- (Example: DRAFT - MD110 Threshold Assessment - ART 20260211 - SMITH John - CID 123456)

3. Managing Delays with the Escalation Brief (EB)

- When there are delays in progressing the Escalation Brief:
- Assign an appropriate label in WMAN to clearly record the reason for the delay.
- Use labels that provide transparent and consistent explanations, such as:
- Examples:
- 25210: MJR - Initial EB created - Pending Tribunal written reasons (1S)
- 25210: MJR - Initial EB created - Pending Tribunal written reasons (1S) (I)
- These labels ensure clear visibility of outstanding dependencies and support accurate workflow management.

4. Complete the Draft Escalation Brief (EB)

- Ensure **all required checks have been completed**, referring to the **Threshold Assessment Guide (ADD2025/2597643)** for detailed instructions.
- Save any **media articles** or **other relevant documents** referenced in the assessment to the **new client TRIM container** to maintain a complete evidentiary record.
- **Allocate the case to the EL1** for review of the draft Escalation Brief

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EL1 and ADMIN TEAM: SET ASIDE REFERRALS – REVIEWS & ENDORSEMENT**1. EL1: Review**

- Review the draft Escalation Brief (EB)
- **Request updates or corrections from the case officer**, where required, to address any gaps, inconsistencies, or clarification needs.
- **Email the EB to the EL2 for endorsement**, ensuring the **Tribunal Assessment Team mailbox is cc'd** for visibility and recordkeeping
- In **WMAN**, move the case to the “**EB – EL2**” folder to reflect the current workflow stage.

EL2 endorsed EB received**2. ALPHA TEAM – Save Endorsed EB Email**

- Save the endorsed EB email to the client's TRIM container to ensure proper recordkeeping and traceability.
- Add note in CANX (for cancellations only) to advise of TRIM reference
- Update the Checklist and Progression Record
- Record all relevant information in the **Tracker**, including dates, endorsed by, update case officer name.

3. Next steps: go to relevant table**1.2. Cases To Progress To Ministerial Client Brief****EL1 and CASE OFFICER: CLIENT BRIEF****1. EL1: EL1 – WMAN Allocation.**

Apply the relevant Minister's label in WMAN:

- **26022 – Minister Thistlethwaite**
- **26024 – Minister Hill**
- Allocate **alternating between the Ministers**, ensuring balanced distribution.
- **State-based allocation rules:**
 - **Do not allocate NSW cases to Minister Thistlethwaite.**
 - **Do not allocate VIC cases to Minister Hill.**
- Allocate the case to the Case Officer for client brief creation.

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EL1 and CASE OFFICER: CLIENT BRIEF**2. CASE OFFICER – Create the Client Brief**

- Prepare the client brief using the **PDMS instructions** located in **TRIM (ADD2024/7579047)**.
- Add the **PDMS reference** to the spreadsheet and progression checklist for tracking and recordkeeping.
- Assign to EL1 for review in PDMS
- Move case to Client Brief QC – EL1 folder in WMAN

3. EL1: Review

- Quality check (QC) the client brief and **assign it to** EL2 in PDMS for endorsement.
- Move case to *Client Brief clearance – EL2* folder in WMAN
- Move to *Client Brief clearance – AS and Pending Minister Consideration* folders, when applicable

MO Meeting Outcomes.

Outcomes from MO (Minister's Office) meetings outline the matters discussed and the decisions made. These outcomes are sent to the Tribunal Assessment Team mailbox, indicating whether a case should:

- Progress to a Ministerial Submission (Min Sub), or
- Be managed by the Department.

A. Progress to Ministerial Submission

If the MO outcome indicates the matter should progress:

- Proceed to the **"Cases to Progress to Ministerial Submission"** table for the next steps in the workflow.

B. ADMIN TEAM – Managed by the Department

If the matter is to be managed by the Department:

- Finalise the entry in the spreadsheet, updating status and any relevant notes.
- Add system notes indicating that *the person is no longer of interest to our section*.
- Administrative Finalisation:
 - **Finalise the** cancellation service **or**
 - **Finalise the** CCMD service and return the service in WMAN to the relevant processing area.
- Email the relevant areas to confirm finalisation and ensure visibility across teams. (ADD2026/746541)

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1.3. Cases To Progress To Ministerial Submission

EL1: MINISTERIAL SUBMISSION

1. WMAN

- **Apply the relevant Minister's label** in WMAN:
- **26022 – Minister Thistlethwaite**
- **26024 – Minister Hill**

State-based allocation rules:

- Do not allocate **NSW** cases to Minister Thistlethwaite.
- Do not allocate **VIC** cases to Minister Hill.

Allocate **alternating between the two Ministers** to maintain an even distribution.

Allocate the case to the relevant MJR team:

- **Bravo Team** – *all refusal (CCMD) matters*
 - (Allocate to the team, **not to an individual**)
- **Charlie (Andrea) and Delta (Brendan)** – *all cancellation (CANX) matters*
 - Split allocation evenly between the two cancellation teams

2. Notification of Min Sub referral

- Send email

To: s. 22(1)(a)(ii) @homeaffairs.gov.au

CC: Tribunal Assessment Team mailbox and the s. 22(1)(a)(ii) @homeaffairs.gov.au). Use the below template:

Subject: Min Sub: s501BA/A – [Name (DOB)] - CID XXX – [TRIM ref#]

Hi CACB RT,

The below matter has progressed to min sub (at the Minister's request – no escalation brief conducted).

ART DECISION DATE	NAME	CID	POWER	TRIM REFERENCE	MINISTER
01/01/2025	SMITH, John (01/01/2001, M)	12345678912	s501BA/A	XXX	AMI or AMCCMA

CHARLIE Team – FYA

Kind regards,

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EL1: MINISTERIAL SUBMISSION

ALPHA TEAM will save this email in the client's TRIM container

3. **Update Spreadsheet**

- **Date referred for Min Sub** – record the exact date the case was referred.
- **Update status** – reflect the new workflow stage in the tracker or spreadsheet.
- **Add responsible Minister** – identify and record the Minister assigned (Thistlethwaite or Hill).
- **Add responsible MJR team** – record which MJR team is managing the matter (**Bravo, Charlie, or Delta**).

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2. System Notes

2.1. Commencement of referral

System	Narrative
Client of Interest Note	Contact s. 22(1)(a)(ii) @homeaffairs.gov.au prior to any visa/citizenship grant. A submission may be referred to the Minister. Refer this case to NCCC if the non-citizen engages in further conduct of concern.
CMAL - PAL	Please contact the s. 22(1)(a)(ii) @homeaffairs.gov.au prior to any visa/citizenship grant. A submission may be referred to the Minister seeking views as to whether they wish to consider setting aside the decision of the ART. Please refer this case to the NCCC should the non-citizen engage in any further conduct of concern.

We stopped adding case notes on 28 February 2025 – all cases entered/received prior to this date **may** need to have case notes closed on finalisation of a matter, using the below narratives. **Check ICSE for a note in the RID indicating the case is of interest to us.**

2.2. On finalisation and the individual is ONSHORE

For matters that are found to be non-adverse / dept to manage

s. 47E(d)

System	Narrative
Client of Interest Note / ICSE Case note for pre 28/02/2025 matters	CCB is not currently reviewing this matter. Consider non-citizen's criminal background to determine if a visa cancellation process should be applied, on the basis that their presence in Aus may represent a risk to the safety of the community.
CMAL - PAL	Character Cancellation Branch is not currently reviewing this matter. Please consider this non-citizen's criminal background to determine whether a visa cancellation process should be applied, on the basis that their presence in Australia may represent a risk to the safety of the Australian community.

2.3. Client OFFSHORE – regardless if Minister's powers enlivened

For matters that are found to be non-adverse / dept to manage

s. 47E(d)

System	Narrative
CMAL - PAL	Border delegates, notwithstanding the Character and ART processes that have occurred, if this non-citizen attempts to re-enter Australia, please consider their criminal background to determine

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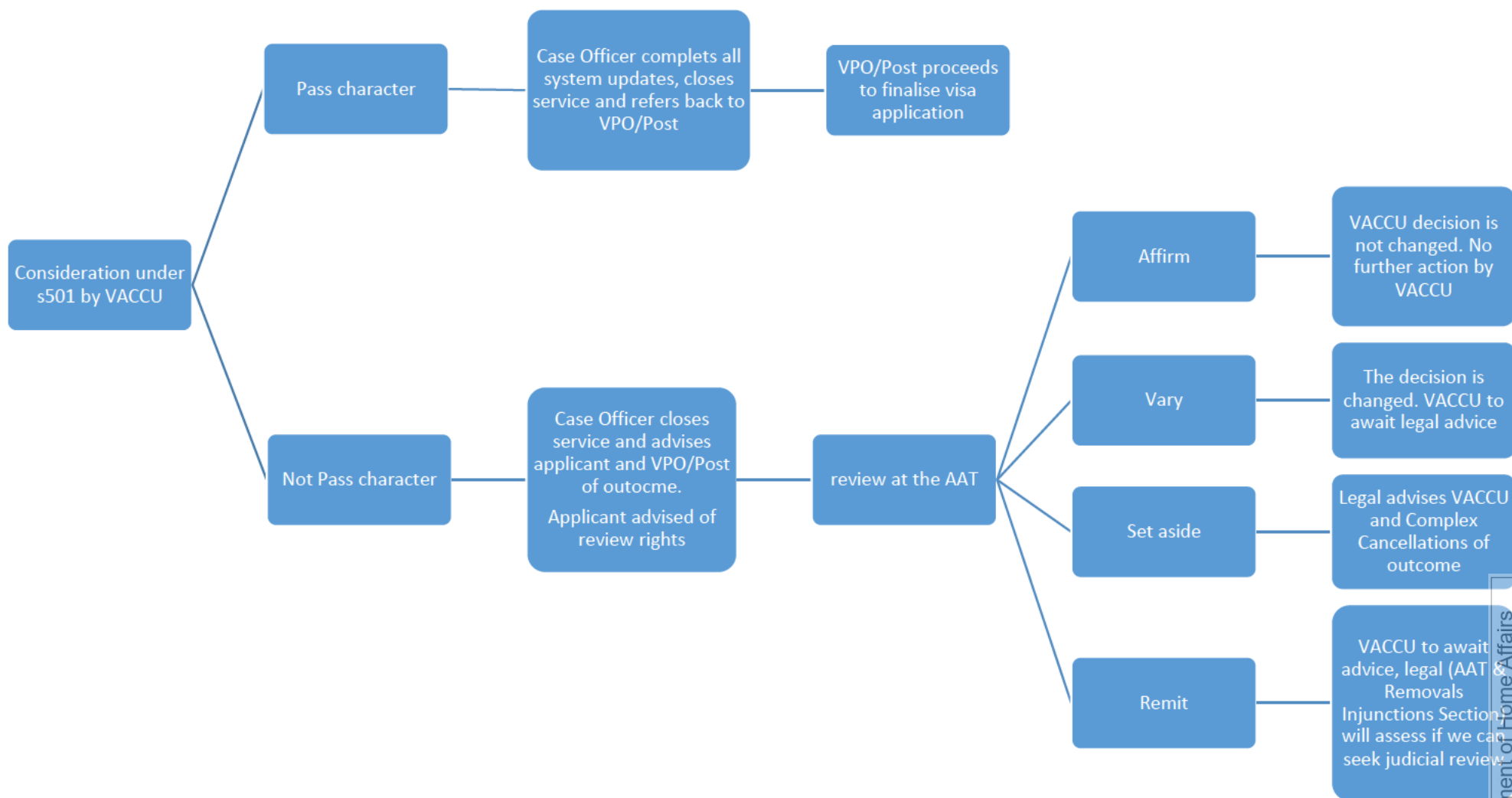
	whether a visa cancellation process should be applied, on the basis that the person's presence in Australia may represent a risk to the safety of the Australian community.
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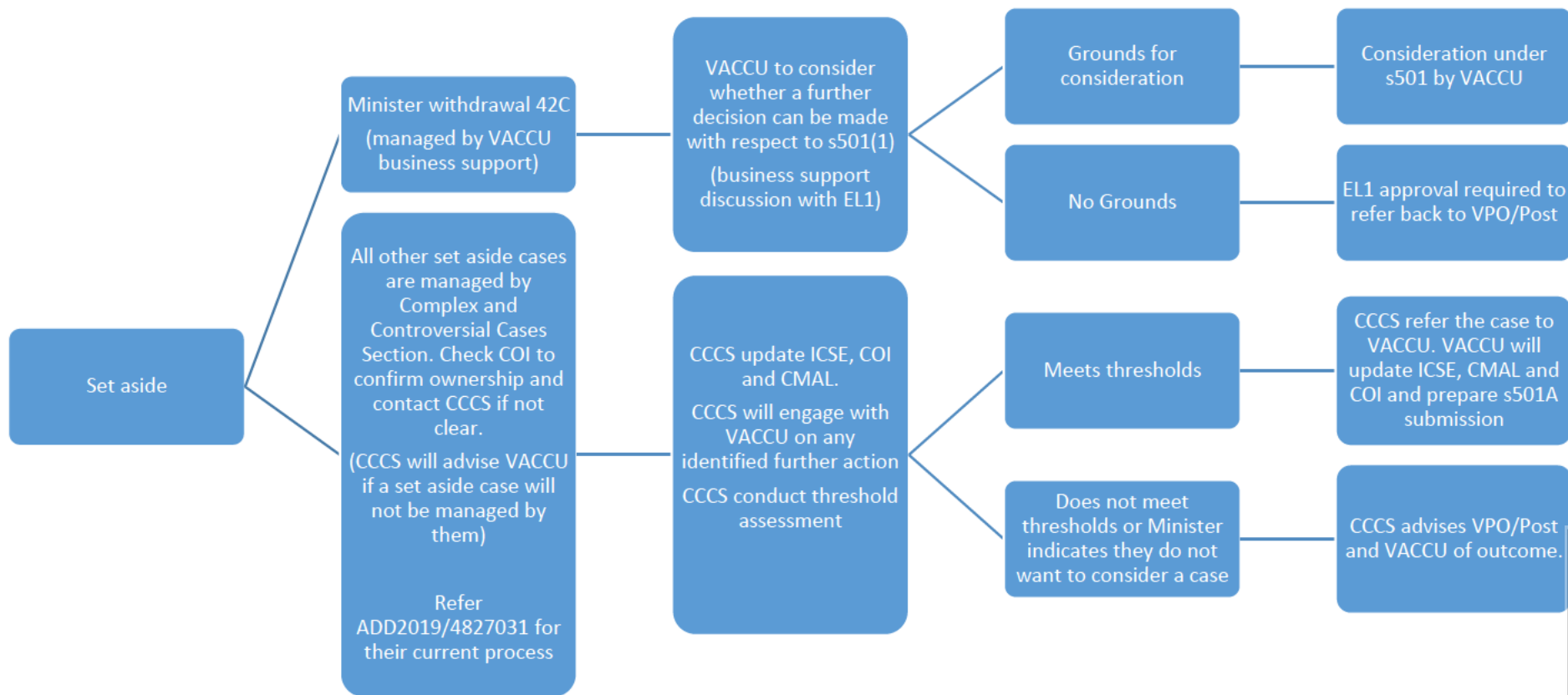
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AAT set aside referral thresholds

ENDORSED 22 October 2024

s. 47E(d)





VACCU steps to manage AAT caseload:

1. Read all AAT emails that come through and 'tick' once read/actioned. DSU should send AAT emails to all AMs and then put in s. 22(1)(a)(iii) - VACCU AAT' folder.
2. Often VACCU is cc'd in but there is no action for us to take, for example when legal are requesting guidance from policy. Read email to confirm and 'tick'.
3. If the case has been set-aside, confirm that Complex Cancellations are managing the case by looking at the COI. You can send them an email to confirm they are managing a case if no COI.
4. Where legal are asking questions from VACCU, discuss with EL1 as you may need to investigate and assist.
5. If a case is a 42C Withdrawal case, VACCU are to manage. Look to see what the court outcome is and if there is any new offending or character concerns. Consider against other character limbs and discuss with EL1. If no other limb relevant, no further offending or AAT decision is that the applicant does not fail the character test under s501, with EL1 approval we can refer back to Visa Processing Area (VPA). In most cases we refer back to VPA.
6. To refer a case back use the template on SharePoint. [Return to post following court outcomes](#) and TRIM sent email. Update the CMAL and COI.

EXAMPLE COI and CMAL:

On 27 July 2022, the AAT set aside the decision to refuse the applicant's Protection (Class XA) visa application and remitted the matter to the Department for determination with a direction that the application should not be refused under s 501(1). Applicant is no longer of interest to VACCU.

Or

On 23 November 2022, the AAT set aside the decision to refuse the applicants Regional Sponsored Migration Scheme (Class RN) 187 visa and remitted the matter to the department. Applicant is no longer of interest to VACCU.

EXAMPLE Return to post following court outcomes email:**Outcome of Character Assessment under s501 of the *Migration Act 1958***

Dear XXXXX,

Full name of applicant: Name SURNAME
 Date of birth: dd Month Year
 Client ID: XXXXXXXXXX
 File Number: CLF2020/XXXXXXX
 Country of citizenship: Country
 Visa Class: Name (Class XX) visa

Regarding your referral under s501 of the *Migration Act 1958* for the above named visa applicant.

Following court outcomes, the applicant's case is remitted to the Department for further processing. The court has found that XXXXX (e.g the applicant passes the character test).

The VACCU no longer has an interest in this case and it is returned to your area for further processing.

The VACCU considers this referral finalised.

Regards,

Case Officer Name

Visa Applicant Character Consideration Unit (VACCU)

National Character Consideration Centre (NCCC)

Department of Home Affairs

Email: vaccu@homeaffairs.gov.au