

HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Legal and Constitutional Affairs Legislation Committee

Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 1

Subject: Breach of Bridging Visa R (BVR)

Asked by: Michaelia Cash

Question:

Senator CASH: Do you know, at this point in time, the physical location—and I don't mean if they are in a particular state; we know that—of each of these 354 people?

Ms Sharp: As part of the bridging visa R conditions, they're required to report their residential address to us and their place of work. There are quite detailed reporting requirements built into the bridging visa R conditions.

Senator CASH: Of the caseload of 354, has anyone breached that, or is anyone currently in breach of that?

Ms Sharp: We would need to take that on notice. I didn't bring that kind of data.

Answer:

The breakdown of NZYQ cohort data requested by the Senate Committee is undertaken manually and takes many days to prepare. Given the complexity of this data and the manual effort to extract it, the Department is unable to provide it with short timeframes.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 2

Subject: TCXM v Minister for Immigration and Multicultural Affairs

Asked by: Michaelia Cash

Question:

Senator CASH: I just want to close off on some evidence so I don't need to come back to it and I can move onto other lines of questioning. If I could just go back to where I started in relation to the High Court—could I just summarise the position on the court hearings and the need for urgency in this way?

Ms Sharp: Yep.

Senator CASH: So, the government, if I recall the evidence, has applied for the removal of the TCXM matter to the High Court? Yes? Do you have a date on which that was done?

Mr Frank: I'd have to take that on notice, Senator. But it was in the last few weeks; I just don't recall the specific date.

Answer:

The removal application was made on 18 August 2025.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 3

Subject: Memorandum of Understanding (MOU)

Asked by: Michaelia Cash

Question:

Senator CASH: Thank you. That's all I needed to get to. Can I go back to exploring the memorandum of understanding. Is that a public document?

Ms Sharp: No, not currently.

Senator CASH: Can you table it then or not?

Ms Sharp: I think we would need to take that on notice. I understand an order for the production of it was issued.

Answer:

The Minister for Home Affairs made a Public Interest Immunity claim over the Memorandum of Understanding on 4 September 2025.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 4

Subject: Security Services Provided on Nauru

Asked by: David Pocock

Question:

Senator DAVID POCOCK: Are the Safe Hands Group or the Black Dog Group Services still engaged to provide security services on Nauru with Australian taxpayer money?

Ms Sharp: I don't have that information. Mr Biddington?

Mr Biddington: I don't have that information either.

Senator DAVID POCOCK: On notice then, can you provide the value of those contracts. My understanding is that was reported in Nine newspapers on 6 August this year. I was just wondering if there's been any due diligence or investigation off the back of those allegations, given that those two companies are controlled by Finks bkie gang leader, Ali Bilal.

Answer:

This is a matter for the Government of Nauru.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 5

Subject: Memorandum of Understanding (MOU)

Asked by: David Shoebridge

Question:

Senator SHOEBRIDGE: Ms Sharp, I'm going to again ask you to please table the MOU.

Ms Sharp: I need to take that on notice and discuss it with the minister.

Senator SHOEBRIDGE: Alright. I think the questions will have to be provided on notice, I think, by 10 am tomorrow morning, so—

Answer:

The Minister for Home Affairs made a Public Interest Immunity claim over the Memorandum of Understanding on 4 September 2025.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 6

Subject: Memorandum of Understanding (MOU)

Asked by: David Shoebridge

Question:

Senator SHOEBRIDGE: Does the MOU reference, explicitly, the refugee convention?

Ms Sharp: We'll need to take that on notice.

Senator SHOEBRIDGE: I think, Mr Biddington, you indicated earlier it didn't. Is that position going to change now?

Senator COX: I've a point of order, Chair. I think that Ms Sharp had taken that question on notice.

Answer:

The Minister for Home Affairs made a Public Interest Immunity claim over the Memorandum of Understanding on 4 September 2025.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 7

Subject: Memorandum of Understanding (MOU)

Asked by: David Pocock

Question:

Senator DAVID POCOCK: So you can confirm that there is no other condition of this agreement when it comes to no—

Ms Sharp: Again, I would want to carefully review the MOU and take that on notice. 'Any other condition' is quite a broad—

Senator DAVID POCOCK: Sure, if you can take that on notice, as well as any other conditions and anything to do with an assurance around security or an agreement not to enter into agreements with another foreign country around policing or anything else. To come back to Senator Cash's questioning about the interest—and forgive the layman's terms—is this money just going to be put into a high-interest account, or is it going to be actively invested in, say, the Future Fund? Which one is it?

Answer:

The Minister for Home Affairs made a Public Interest Immunity claim over the Memorandum of Understanding on 4 September 2025.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 8

Subject: Australian Border Force Intervention

Asked by: Michaelia Cash

Question:

Senator CASH: Why wasn't he subject to a preventive detention order?

Ms Sharp: Again, you're asking us to comment on a particular individual's case and facts, which I would need to take on notice.

Senator CASH: Can you advise how many times this man had been charged with offences since being released from detention, including any charges that had fallen over?

Ms Sharp: I'm going to take that on notice too.

Senator CASH: Was he on bail at the time of the alleged assault?

Ms Sharp: I'd need to take that on notice. I don't have any information about that case with me.

Senator CASH: The reason I need to ask these questions, and press them, is that it's been put to us, I understand, that this murder is one of the reasons for passing the bill urgently. I will put a whole lot of questions on notice to get the answers overnight.

Answer:

The Department does not comment on individual cases.

The thresholds for a court to make a Community Safety Order (CSO) (being either a supervision order or a detention order) are high, particularly in relation to detention orders:

A court may only make a Community Safety Detention Order where the Court is satisfied:

- To a high degree of probability, on the basis of admissible evidence, that the serious offender poses an unacceptable risk of seriously harming the community by committing a serious violent or sexual offence.

- That there is no other less restrictive measure (such as a community supervision order) that would be effective in protecting the community from serious harm.
- That where the offender is subject to a visa with conditions – the conditions would not be effective in protecting the community from serious harm by addressing the unacceptable risk.
- The threshold for detention orders was modelled on existing Commonwealth and state preventative detention regimes that have been upheld as valid by the High Court, such as the continuing detention order framework for high-risk terrorist offenders.
- Any potential application for a CSO would need to be assessed against the thresholds in the CSO Scheme, including ensuring there is admissible evidence to establish them to the required standard. The assessment of a case and the preparation of a potential application and the required evidence in support of it is a complex and lengthy process.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 9

Subject: Meetings with the Minister

Asked by: Michaelia Cash

Question:

Senator CASH: How many times has the department met with the minister regarding possible applications under the preventive detention order regime?

Ms Sharp: For clarity, the regime is the community safety order scheme. It provides for two types of orders: community safety detention orders and community safety supervision orders. When we look at a case, we look at the full spectrum. The law requires us to do that.

Senator CASH: That's understood.

Ms Sharp: I know you are zeroing in on detention, but I wouldn't zero in on it like that. I would need to take on notice—I definitely do not have a list of every meeting I've had with the minister with me.

Answer:

The Department has discussed with the Minister a range of issues relating to the Community Safety Order scheme, in the context of legislative options to strengthen the management of individuals affected by the NZYQ decision.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 10

Subject: Threshold to Apply for Community Safety Order

Asked by: Michaelia Cash

Question:

Senator CASH: Going back to my question then, has the government contemplated legislative changes to lower the threshold, given the statements by Minister Burke that no-one has come close to reaching the threshold that is in the legislation and given—we have to be honest here—there have been some devastating incidents as a result of people not being in detention, including in my home state of Western Australia but, unfortunately, also more recently the murder of this gentleman?

Ms Sharp: I agree with you. It is devastating and a really difficult thing. For us to manage this scheme, we have parameters that are pretty closely scrutinised by the court. Every set of rules we put in place is challenged in the courts. Going to your question, I'll need to take on notice the precision of your question—have we considered legislative amendments to that scheme?—but we are constantly looking at where the law will allow us to strengthen it. Our focus at the moment is on the third-country reception arrangement as a way of tackling the community safety question.

Answer:

The safety of the Australian community is the highest priority of the Government, in managing the NZYQ cohort. The Community Safety Order (CSO) Scheme is one measure that has been enacted to support community safety, alongside stringent visa conditions, available through the Bridging Visa R, including electronic monitoring and curfew, and monitoring through Operation Aegis.

The Department has discussed with the Minister a range of issues relating to the CSO scheme, in the context of legislative options to strengthen the management of individuals affected by the NZYQ decision.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 11

Subject: NZYQ Cohort – Electronic Monitoring

Asked by: Michaelia Cash

Question:

Senator CASH: How many NZYQ affected detainees on the BVRs are, as of today, subject to electronic monitoring conditions?

Mr Burke: I have the figures from the end of July.

Senator CASH: I'm happy with the end of July.

Mr Burke: There are 90 subject to electronic monitoring.

Senator CASH: How many are subject to a specified curfew?

Mr Burke: There are 45.

Senator CASH: How many are subject to both electronic monitoring and specified curfew conditions?

Mr Burke: I don't have a figure for the overlap, I'm sorry.

Senator CASH: That's okay. I'll put that on notice. I will get that tonight.

Answer:

The breakdown of NZYQ cohort data requested by the Senate Committee is undertaken manually and takes many days to prepare. Given the complexity of this data and the manual effort to extract it, the Department is unable to provide it with short timeframes.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 12

Subject: Threshold to Apply for Community Safety Order

Asked by: Michaelia Cash

Question:

Ms Sharp: I think you're asking me to comment on government policy and the approach. Minister Burke has been very clear that his first and best option is removal of this cohort from Australia. That's what this bill is seeking to make more effective.

Senator CASH: Would it be possible to lower the threshold, and, if so, how would you go about doing that?

Ms Sharp: I would need take that on notice. I think you're asking something that is a pretty detailed legal question. The scheme has been designed to fit within parameters that have been approved by the High Court. Lowering the threshold would require pretty detailed advice.

Answer:

The threshold for a Court making a Community Detention Safety Order under the Community Safety Order Scheme was modelled on the threshold for a continuing detention order under the existing Commonwealth post-sentence order scheme for high-risk terrorist offenders.

The high-risk terrorist offenders' scheme has been upheld as valid by the High Court.

Amendments to reduce the thresholds would need to be carefully considered.

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3 September 2025

QoN Number: 13

Subject: Costings

Asked by: Michaelia Cash

Question:

Senator CASH: What is the total cost, to date, of administering the Community Safety Order Scheme?

Ms Sharp: I don't have figures on the Committee Safety Order Scheme with me at this hearing.

Senator CASH: I'll get them overnight then. We'll put them on notice for you. Thank you very much. What is the total cost of managing the NZYQ cohort, including legal and operational costs and any other costs?

Ms Sharp: Again, we did not come prepared to answer that. We need to take it on notice.

Answer:

Compiling expenditure related to the implementation of the Community Safety Order Scheme and in response to the NZYQ High Court decision could not be completed within short timeframes.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 14

Subject: Solicitor-General Consideration

Asked by: Michaelia Cash

Question:

Senator CASH: Has the bill gone to the Solicitor-General for his consideration?

Ms Sharp: No. Well—

Senator CASH: If the answer's no, it's no. We're looking at this bill tomorrow.

Ms Sharp: I don't want to mislead the committee, so I'll frame that and say, 'Not to my knowledge.'

Senator CASH: We'll put that on notice just so you can confirm it overnight.

Answer:

The Australian Government Solicitor has provided advice to the Department to inform development of the Bill, including in the course of drafting. The Bill has not been provided to the Solicitor-General for his consideration.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 15

Subject: Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

Asked by: Michaelia Cash

Question:

1. When did the Department commence drafting this Bill?
2. When was the Minister briefed on the draft of this Bill and when did the Minister sign off on the Bill?
3. Was this Bill provided to the Solicitor-General for his consideration? If so, when?
4. How many NZYQ-affected BVR holders are there as of today?
5. Of the total number of NZYQ-affected individuals currently in the community, as of today, how many have a criminal offending history of:
 - a. murder and attempted murder?
 - b. sexually based offending, including child sex offending?
 - c. assault and violent offending, kidnapping, and armed robbery?
 - d. domestic violence and stalking?
 - e. serious drug offending?
 - f. people smuggling, crimes of serious international concern?
 - g. low level or no criminality?
6. How many individuals with a history of murder/attempted murder are not wearing an electronic monitoring device or subject to curfew?
7. How many sex offenders – including child sex offenders – are not wearing an electronic devices or are not subject to curfew?
8. How many NZYQ-affected individuals have been charged with a state or territory criminal offence as of today?
 - a. Provide a breakdown on the types of reoffending across the cohort, and how many have been convicted and sentenced as a result.

9. How many in the cohort have been charged with other Commonwealth offences including charges for visa breaches? How many have been convicted and sentenced as a result?
10. How many of the individuals been released from custody following the completion of a sentence?
11. Provide a breakdown of all costs to date incurred by the Commonwealth in managing the NZYQ cohort, including law enforcement costs, payments to the Community Protection Board, and any government assistance such as social services and Medicare.
12. What is the total cost to date of administering the community safety order scheme? Please provide a breakdown by financial year.
13. What is the total cost of managing the NZYQ cohort, including legal and operational costs, and any other costs?

Answer:

1. The Department received the first draft of the amendments in the Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025 from the Office of Parliamentary Counsel (OPC) on 15 July 2025. The initial drafting instructions for these amendments were provided to OPC by the Department on 27 June 2025.
2. Minister Burke signed:
 - The policy authority submission on 10 July 2025.
 - Text approval submission on 25 August 2025.
3. The Australian Government Solicitor has provided advice to the Department to inform development of the Bill, including in the course of drafting. The Bill has not been provided to the Solicitor-General for his consideration.
4. The breakdown of NZYQ cohort data requested by the Senate Committee is undertaken manually and takes many days to prepare. Given the complexity of this data and the manual effort to extract it, the Department is unable to provide it with short timeframes.
5. See response to Question 4.
6. See response to Question 4.
7. See response to Question 4.
8. See response to Question 4.
9. See response to Question 4.
10. See response to Question 4.
11. See response to Question 4.

12. Compiling expenditure related to the implementation of the Community Safety Order Scheme and in response to the NZYQ High Court decision could not be completed within short timeframes.

13. See response to Question 12.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 16

Subject: Bridging Visa R (BVR)

Asked by: David Pocock

Question:

1. How many people on BVRs, Bridging Visa R on removal grounds, or other non-citizens on removal pathways who would be affected by this Bill have Australian citizen family members including children?
2. In the hearing, the Department informed me that the contracts held by Safe Hands Group and Black Dog Group Services (controlled by Finks bikie gang leader Ali Bilal) were not related to offshore processing. However, the media report published by Nine newspapers on August 6, 2025, says that the businesses have been engaged by Nauru Community Safety, which according to its website was established to provide 'escort security services to the detention centre, community safety and surveillance on the island' according to its website. Can you confirm that these contracts are not being paid with money given to Nauru by Australia?
3. What are the reception arrangements? Will any processing or quarantine-related detention occur on arrival? Will the accommodation be in an RPC or elsewhere? What security arrangements are in place for transferees' safety?
4. Can you please list all the visa categories that could be subject to removal to Nauru or another third country in the future? Can the Department confirm whether the arrangements with Nauru could allow for or include people from the Fast Track or Transitory Persons cohorts in the future should the government decide? Is the Department aware of any intention or have they been asked for any briefings on using these arrangements for those cohorts in the future?

Answer:

1. The Department is unable to compile up to date data on the current number of individuals who meet the definition of a 'removal pathway non-citizen' in the time available.

2. Arrangements between the Government of Nauru and other entities are a matter for them. Nauru Community Safety is not involved with regional processing activities on Nauru, nor does the Department of Home Affairs have any form of direct or subcontracted arrangement with them. Management and Training Corporation (MTC) Australia deliver facilities, garrison, transferee arrivals and reception services at the Regional Processing Centre in Nauru. As of 5 September 2025, no money has been paid to Nauru with respect to the Third Country reception Arrangement Memorandum of Understanding signed by both countries on 29 August 2025.
3. Consistent with the Republic of Nauru Immigration (Long term Stay Visa) Regulations, individuals granted a long-term stay visa by the Government of Nauru, will be entitled to freedom and movement permitted under Nauru Constitution and will have access to appropriate accommodation, health services and reasonable living allowances. This arrangement is unrelated to regional processing arrangements.
4. Unlawful non-citizens can be subject to removal through third country reception arrangements. As unlawful non-citizens at the time of removal, they do not hold a visa. The Department has not provided any briefings related to applying third country reception arrangements for the fast track or transitory cohort.

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Review into Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025

3 September 2025

QoN Number: 17

Subject: NYZQ Cohort - Travel Documents

Asked by: David Pocock

Question:

What provision under the agreement has been made for the cohort to be furnished with travel documents?

Answer:

Under the Republic of Nauru Immigration (Long Term Stay Visa) Regulations, holders of a long term stay visa granted by the Government of Nauru are allowed to depart and re-enter Nauru. The Australian Government will issue a statement of identity to facilitate the travel of long term stay visa holders from Australia to Nauru.