

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 27 June 2018

HOME AFFAIRS PORTFOLIO

(ERMA/001) – Statistics of prosecutions of unregistered migration agents

Asked:

Mr NEUMANN: Where would we find information on how many unregistered migration agents have been prosecuted over the last 12 months?

Ms Dalton: If they are unregistered, they don't fall within OMARA's jurisdiction.

Mr NEUMANN: Who would have that? The department? Border Force? Where would we get that information?

Ms Dacey: I suspect it is a data gap. We might have individual cases.

Mr Copeman: We have individual cases of allegations that come through and we work them up to see where we can go with them. Where we sometimes struggle with that is the translation of intelligence into evidence. The people who may have been exploited by those individuals are very hesitant to come forward because they think it might affect their own migration status.

Mr NEUMANN: How can we fix that data gap?

Ms Dacey: I assumed what you are asking for is a holistic picture.

Mr NEUMANN: That's right.

Ms Dacey: We would absolutely have anecdotal things that are referred to us. I don't have a ready answer for you. I would liken it to how big the tax gap is—how do you measure something that you don't regulate? I think you would have to come up with some sort of methodology for it. We deal with agents. It is a global business. So there are onshore and offshore issues as well.

Ms Dalton: There is some data around the number of complaints against unregistered practice—and I believe it is in the submission. And we can provide you with some data on the number of prosecutions that we commenced over the last couple of years—and the ABF will hold that. As to having a complete picture: complaints come in all forms, with the majority of them not being substantiated—both within the OMARA space and also within the ABF prosecutorial space.

Answer:

For the 2017-18 financial year, the ABF pursued three prosecutions in relation to unlawful providers of immigration assistance (unregistered Migration Agents).

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(ERMA/002) – Financial delegations relating to enforcement activity -

Asked:

Mr NEUMANN: In paragraph 4.1.3 you mention 'significant resources to detect and investigate'. How many people have we got? How much money is put towards that? What resources are you referring to and do you need more?

Mr Copeman: I am always going to say I would love some more resources to be able—

Mr NEUMANN: It's a leading question!

Mr Copeman: I would welcome that. We have just over 150 investigators in the Australian Border Force. They investigate border related crimes. It is goods and people and that sort of thing, so it is a big gamut. Around that case selection and prioritisation model—

Mr NEUMANN: In these areas?

Mr Copeman: Again, it is suited to those sorts of models. An investigator is able to investigate a range of different offences; it is not bespoke to a specific aim.

Mr NEUMANN: In the same way that a police officer would investigate a variety of different crimes?

Mr Copeman: Exactly the same approach. I would suggest some of the focus at the moment might be towards things like firearms and other sorts of goods, as opposed to some of the alleged offences that come through.

Mr NEUMANN: How many dollars and cents are we spending on this? Do we have any idea of how much money in the department's budget is allocated towards the detection, prosecution and investigation of these challenges?

Mr Copeman: I am happy to take that notice. I don't have those figures in front of me.

Answer:

Migration Agents suspected of breaching Migration Act 1958 regulations in relation to Australia's visa migration program, are investigated by Australian Border Force (ABF) Enforcement Command Investigators;

The national footprint of ABF Enforcement Command Investigators is approximately 213 officers;

ABF Enforcement Command Investigations annual expenditure for the 2017-18 financial year was approximately \$32 million;

ABF Enforcement Command Investigators are responsible for the detection, deterrence, and disruption of multiple operational priorities in the budgeted financial allocation and staffing footprint. The ABF Enforcement Command operational priorities include:

- Counter Terrorism
- Illicit tobacco
- Exploitation of foreign workers
- Narcotics
- Trade based money laundering
- Serious and systemic revenue evasion
- Weapons of mass destruction

QUESTION TAKEN ON NOTICE

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HOME AFFAIRS PORTFOLIO

(ERMA/003) – Malaysian ETA holders - Number of protection applications

Asked:

CHAIR: Could you take on notice the increase over the last three years in how many people apply for a protection visa? The other reason I was told was that it's basically that in Australia the wages are a lot higher—

Ms Dacey: Correct.

CHAIR: compared to Malaysia. Do they receive benefits if they apply for a protection visa?

Ms Dacey: I'm not an expert, but I think that's right. I will take that on notice, though.

CHAIR: Just take that on notice.

Answer:

Permanent Protection Visa (866) applications lodged by Malaysian nationals	
FY 2015-2016	4809
FY 2016-2017	8596
FY 2017-2018	9065

When a person who is in Australia lawfully applies for a permanent visa in Australia, the application is also an application for a Bridging Visa A (BVA). Visa applicants granted a BVA would usually be eligible to work in Australia and would normally be eligible for Medicare benefits.

QUESTION TAKEN ON NOTICE

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HOME AFFAIRS PORTFOLIO

(ERMA/004) – Malaysian ETA holders - Cost of appeals process -

Asked:

CHAIR: Just take that on notice. The other aspect is how much it's costing the taxpayer when it comes to the appeals process. I believe they can go to administrative appeals—

Ms Dacey: They can.

CHAIR: federal or district court. Can they take it to the High Court too?

Ms Dacey: I don't know. We'll get you that advice.

Answer:

Persons whose Protection visa application has been refused by the Department may apply for review of that decision by the Administrative Appeals Tribunal.

- An application for judicial review can be made to the Federal Circuit Court and sometimes directly to the High Court.
- An appeal of a decision by the Federal Circuit Court on errors of law can be made to the Federal Court and the Full Court of the Federal Court.
- Applications for special leave to appeal a decision of the Federal Court may be made to the High Court where there is asserted to be an error of law and there is a public interest to have the case heard or there is a special question of law for the High Court to consider.

Cost information about appeals processes should be referred to the Attorney-General's Department.

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HOME AFFAIRS PORTFOLIO

(ERMA/005) – Malaysian ETA holders - Claim process

Asked:

CHAIR: Has the minister got any say if he makes a direction, or, because a protection order is in place, does it have to go through the system?

Ms Dacey: Once a protection claim is made, a process is quite properly underway, but I'm not an expert on that.

CHAIR: I understand, and that's why I'd like you to take it on notice.

Answer:

Refer to ERMA/004.