

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 05 September 2018

HOME AFFAIRS PORTFOLIO

(IEMP/001) – 25 Intervention cases

Asked:

Senator WATT: Okay. Let's focus on these 25. Can you confirm the dates of these 25 interventions?

Mr Pezzullo: Not each of the 25, no.

Senator WATT: You'd be able to take that on notice, though, and come back to us?

Mr Pezzullo: Yes.

Senator WATT: They all have to be tabled in parliament, don't they?

Mr Pezzullo: That's right.

Senator WATT: Do you know the first time Minister Dutton intervened to grant someone a tourist visa?

Mr Pezzullo: Ms Golightly?

Ms Golightly: No, I'll take that notice.

Mr Pezzullo: It would be a matter of public record, because the statements are tabled. But neither of us know offhand, no.

Senator WATT: Would I be right in saying that the very first time Minister Dutton used his ministerial intervention powers to grant someone a tourist visa was on 17 June 2015?

Mr Pezzullo: You're possibly correct. He was sworn in as immigration minister in December of 2014. You might well be right. It's a matter of public record. You just have to check the public record, because he's got to table a statement on each and every occasion when he does it.

Senator WATT: We have done a bit of research ourselves, and it appears to us that the very first time Minister Dutton intervened to use his ministerial intervention powers to grant a tourist visa was on 17 June 2015, which just happens to be the date of what you've referred to as the 'Brisbane incident'.

Mr Pezzullo: 'Case'.

Senator WATT: The 'Brisbane case', of an au pair arriving in Brisbane seeking ministerial intervention. That was the first time that the minister ever exercised this power to grant a tourist visa.

Mr Pezzullo: That might well be the case. It's just a matter of checking the record.

Senator WATT: Would you be able to get someone to do that while we're here today? I wouldn't have thought that'd be very difficult.

Mr Pezzullo: Ms Golightly, how well placed are we to do that?

Ms Golightly: We've got people on stand-by, so we'll go and check.

CHAIR: I'm just seeking a point of clarification: it's 25 since what date? We've had previous reports that it's 14.

Mr Pezzullo: Over his term as minister.

CHAIR: Thank you.

Mr Pezzullo: Inclusive of both being the immigration minister and subsequently being the home affairs minister, but also sworn as the immigration minister.

Answer:

Minister Dutton first granted a Visitor visa using his section 195A ministerial intervention power on 17 June 2015.

The evidence given to the inquiry on 5 September 2018 stated there were 25 Visitor visas granted by Minister Dutton. While the Department's tracking system indicated that submissions relating to these 25 visa grants were referred to Minister Dutton, on checking the individual submissions, it was found that one had been allocated to, and signed by, the then Assistant Minister for Multicultural Affairs.

Through further searches of case files and manually reviewing Departmental systems, the Department has located additional cases of Visitor (subclass 600) visas granted during the Minister's time in office under section 195A.

Between 23 December 2014 and 31 August 2018, Minister Dutton granted 31 Visitor (subclass 600) visas using his section 195A intervention power. Grants were made on the following dates (noting that some dates feature multiple grants):

Date
17 June 2015
15 September 2015
6 October 2015
1 November 2015
24 March 2016
17 June 2016
23 August 2016
7 September 2016
7 October 2016
8 February 2017
11 May 2017
10 August 2017
21 September 2017
22 November 2017
15 February 2018
12 April 2018
10 May 2018
24 May 2018

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HOME AFFAIRS PORTFOLIO

(IEMP/002) – 25 intervention cases - breakdown

Asked:

Senator KITCHING: Could I get a breakdown of those 25 cases by subclass?

Ms Golightly: Yes. I'd have to take that on notice.

Senator KITCHING: Thank you.

Senator WATT: The reason we're keen to get that is that, obviously, these two cases—the Brisbane case and the Adelaide case—and perhaps more that we don't yet know about involve people coming here or being granted a subclass 600 visa, which is a type of tourist visa, and our understanding is that the number is even lower than Minister Dutton has intervened to grant, and that is that, by at least 30 June 2018, there were only 14 subclass 600 visas granted by Minister Dutton. Can you check that?

Mr Pezzullo: It's a function of checking the statements that have been tabled plus—to Senator Kitching's point—any statements that are yet to be tabled within the stipulated time period.

Senator WATT: For all the talk we've seen over recent days about thousands of cases where Minister Dutton has compassionately, generously, intervened to assist people, sometimes at the request of Labor MPs and senators, it could be that it's as few as 14 times that he's intervened to grant someone this type of visa, the first being the Brisbane case, when an au pair turns up at the airport and gets the minister to intervene to let her stay?

Mr Pezzullo: It's a matter of checking the record.

Senator WATT: Okay, and you're going to do your best to come back to us about that today?

Mr Pezzullo: Yes.

Answer:

The evidence given to the inquiry on 5 September 2018 stated there were 25 Visitor visas granted by Minister Dutton. While the Department's tracking system indicated that submissions relating to these 25 visa grants were referred to Minister Dutton, on checking the individual submissions, it was found that one had been allocated to, and signed by, the then Assistant Minister for Multicultural Affairs.

Through further searches of case files and manually reviewing through Departmental systems, the Department has located additional cases of Visitor (subclass 600) visas granted during the Minister's time in office under section 195A.

Between 23 December 2014 and 31 August 2018, Minister Dutton granted 31 Visitor visas (subclass 600) using his section 195A intervention power.

QUESTION TAKEN ON NOTICE

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HOME AFFAIRS PORTFOLIO

(IEMP/003) – Intervention cases - previous visa cancellations

Asked:

Senator WATT: I think we've been able to establish that there wasn't any compliance work undertaken. Now, just going back to these 14 interventions, that we know of, where the minister has approved the granting of a visa despite evidence that someone intended to breach it: I think when I was last asking questions you agreed to check whether any of the other 14 involved au pairs or any other description similar to that.

Mr Pezzullo: Well, I agreed to look at the circumstances.

Senator WATT: What we know is that by its very nature, under section 195A, every one of those 14 interventions has occurred for someone who's in detention.

Mr Pezzullo: Yes, by definition, that has to—

Senator WATT: Yes, because they have to. We don't know how many of them occurred involving someone who was in an airport?

Mr Pezzullo: Typically they would be at an airport.

Senator WATT: 'Typically'—but it could be taken on notice, to establish that?

Mr Pezzullo: Yes.

Senator WATT: Do you know how many of those 14 involved people whose visas had been cancelled, as these two had had their visas cancelled?

Mr Pezzullo: We'll have to take that on notice, but typically the visa either has been cancelled or is in the process of being cancelled. The person has to be on a removal pathway, because otherwise—

Senator WATT: Sure. I'm just going back to your opening statement, which talked about the fact that sometimes, or typically—whatever the word was—these involved people who were at an airport, had their visas cancelled. I'd be interested to know, for these 14, how many actually did involve that?

Ms Golightly: They could be in detention because they're IMAs. We'd have to check each case.

Mr Pezzullo: That's true.

Answer:

Between 23 December 2014 and 31 August 2018, Minister Dutton granted 31 Visitor (subclass 600) visas using his section 195A intervention power. Of these grants:

- a. Three involved persons who had visas cancelled upon arrival at the airport
 - i. These include the two non-citizens discussed at the hearing (Brisbane and Adelaide cases) who had their visas cancelled.

- ii. The other had a visa cancelled and sought protection at the airport on arrival.
- b. 21 persons were overstayers in the community and were granted Visitor (subclass 600) visas to enable them to lodge substantive visa applications onshore to resolve their immigration status
- c. One in the community was granted a Visitor (subclass 600) visa to give them lawful status, while their substantive visa application was being assessed.
- d. Five persons of one family were granted Visitor (subclass 600) visas under compassionate grounds due to the death of a family member, to enable them to travel out of the country and return again lawfully.
- e. One person was granted a Visitor (subclass 600) visa under section 195A as they were part of a family unit, the rest of whom had Ministerial intervention under section 351 available to them. The rest of the family were granted Visitor (subclass 600) visas under section 351.

Based on the information available, there were two of the 31 Visitor visa (subclass 600) grants where there were indications that the visa holders may have been engaged in work related activity as an au pair (being the Brisbane and Adelaide cases).

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(IEMP/004) – intervention cases - average turnaround

Asked:

Senator WATT: Just to wrap up this section, what is the average turnaround time for a request for ministerial intervention? Of those 14 cases, what was the average?

Mr Pezzullo: We could establish that mathematically—unless Ms Dunn knows?

Ms Dunn: No, we don't have that information before us.

Senator WATT: Could you also come back to us on notice as to the fastest and longest turnaround time. And, without going into the content of the emails—

Mr Pezzullo: Can we define terms, Senator? When you say 'turnaround time': from the moment that the department either escalates the matter under the guidelines or is requested to escalate the matter—

Senator WATT: Let's go with both.

Mr Pezzullo: All right; we'll do both. Until the point at which the minister signs the submission, at which point the visa is granted—shall we define that as the—

Senator WATT: Sure.

Answer:

In relation to the 31 Visitor visa (subclass 600) cases, based on the time a submission was requested by the Minister's Office, or from the time the Department provides a submission to the Minister in cases where the Department has initiated the submission under the relevant guidelines, to the time of visa grant:

- The shortest turnaround time was 2 hours and 40 minutes.
- The longest turnaround time was 5 months.

QUESTION TAKEN ON NOTICE

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HOME AFFAIRS PORTFOLIO

(IEMP/005) – Intervention cases - submissions within an hour

Asked:

Senator WATT: Sure. I can make my question really simple. Senator O'Sullivan is very eager to get some questions in. All I want to know is: are there any other incidents, of the 14 where Minister Dutton has personally intervened to grant someone a subclass 600 tourist visa, where the minister requested a submission from the department enabling him to approve that intervention within an hour of the department relaying facts to the minister? That's what happened here. The department relayed facts to the minister, via his chief of staff, and, within an hour, Minister Dutton has requested a submission enabling him to approve that. I want to know: are there other instances where someone got that level of service on a Sunday afternoon?

Mr Pezzullo: Setting aside references to emails—we've talked about that—as part of the comeback to this committee, we've already taken on notice to look at those equivalent cases, be it the 25 or the 14, and we'll go through the visa classes, Senator Kitching, to make sure that we're on completely common ground. It might be different variances of oranges and mandarins, I suppose. But, whether it's 14 or 25, we'll go through the circumstances of the submission, whether it was escalated by the department under the guidelines or otherwise, and I'll take on notice the question of the time period. You've already asked Ms Dunn about the turnaround times.

Answer:

Departmental systems do not record the relevant data required to respond to this question.

Systems do, however, allow the Department to identify the time between a submission being requested by the Minister and the visa grant. In cases where the submission is initiated by the Department under the relevant guidelines, the systems allow the Department to identify the time between the submission being provided to the Minister and the visa grant.

Of the 31 Visitor visas (subclass 600) granted by Minister Dutton, the shortest time period between these two points in time was 2 hours and 40 minutes.

QUESTION TAKEN ON NOTICE

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HOME AFFAIRS PORTFOLIO

(IEMP/006) – Interventions cases - last five years

Asked:

Senator McKIM: Good morning, Mr Pezzullo and your officers. I'm aware that questions similar to my first tranche have been asked already this morning, but I don't believe the specific questions that I'm going to put to you have been asked. If you believe they have, please say so. I wanted to start by asking how many ministerial interventions relating to visas have occurred—and perhaps we could go on a year-by-year basis back five years—which involved people who claimed that they intended to stay in Australia as tourists?

Mr Pezzullo: We've taken that question materially on notice, but I'll just see if Ms Golightly has anything that can assist. It is not quite the question asked by Senator Watt, but it's very similar.

Senator McKIM: That's my understanding.

Ms Golightly: No, Senator McKim, I would have to take that on notice because it involves, if I've understood your question correctly, going through each of their claims and I don't have all of that here for all of those cases.

Senator McKIM: So you're happy to take that on notice, Mr Pezzullo?

Mr Pezzullo: Yes.

Answer:

Because of the large number of submissions that need to be reviewed and the manual nature of checks, the Department is unable to provide five years of data.

Of the 31 Visitor visas (subclass 600) granted by Minister Dutton under section 195A since December 2014, two were granted to persons wishing to remain in Australia for tourism purposes. Both were granted in 2015.

The remaining 29 people were granted Visitor visas in order to make them lawful while they applied for another type of visa, as they had indicated at the time of the intervention that they wished to remain in Australia for purposes other than tourism (for example, people who had overstayed their visa and wished to remain in Australia), or they were granted Visitor visas under compassionate grounds.

The Visitor Visa is granted in these circumstances as an interim visa, due to its temporary nature and that it does not generally attract work rights or allow access to social security and health benefits.

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 05 September 2018

HOME AFFAIRS PORTFOLIO

(IEMP/008) – Ministerial intervention - brief request stats

Asked:

Senator McKIM: Could I ask you, if it hasn't been asked already, to have a look at those 25 cases and provide advice back to the committee around how many of those cases involved a request from the minister's office to the department for a brief compared to briefs being volunteered.

Mr Pezzullo: If memory serves, I think that was essentially the question that Senator Kitching asked, so we'll wrap that into the same response on notice.

Answer:

- 1) The evidence given to the inquiry on 5 September 2018 stated there were 25 Visitor visas granted by Minister Dutton. While the Department's tracking system indicated that submissions relating to these 25 visa grants were referred to Minister Dutton, on checking the individual submissions, it was found that one had been allocated to, and signed by, the Assistant Minister for Multicultural Affairs.
- 2) Following further searches of case files and manually reviewing Departmental systems, the Department has established that:
- 3) Between 23 December 2014 and 31 August 2018, 21 submissions were referred to Minister Dutton where he intervened under section 195A and granted Visitor visas (subclass 600) (31 visas in total). Of these:
 - a. 13 submissions, covering 22 persons, were requested by Minister Dutton's office; and
 - b. Eight submissions, covering nine persons, were initiated by the Department.