

## QUESTION TAKEN ON NOTICE

**Parliamentary Inquiry : 10 November 2016**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(ARS007) – Parliamentary Inquiry - Investigation of SPS Dhaliwal -**

CHAIR: Mr Gray, can I come in there—I appreciate that; we are just thinking of the time. I am going to cut straight to the chase. It was discovered in Queensland—let us make this very clear: I am savage with the people who are exploiting these Indian drivers. We found, through our investigations and whatnot, that 91 Indian drivers received heavy vehicle licences that were based in New South Wales, but, through recognition of prior—whatever they call it—with Queensland, they got licences because there was a crooked Indian assessor and trainer. I am not going to sit here for one minute and think that this is only a one-off, that that one fella was here. This one poor bopper was being exploited by someone along the transport chain, whoever it may be. When you investigated with that one company you called SPS Dhaliwal, did you go through their other drivers, or was it just that you looked at the case of that one driver and said to the employer, 'Don't do it again'? Was there a thorough investigation? I know how they hunt in these packs, these people. Let's not fool ourselves; we have seen it in horticulture, Senator O'Sullivan, haven't we? Something crooked is going on.

Mr Gray: I would have to take on notice whether we actually explored with them the other people in their employ and whether they might be visa holders. The point is, in relation to these cases, we do follow up where we have credible information that suggests that somebody is in breach of their visa conditions.

*Answer:*

The Department conducted investigations that involved the truck driver and staff of SPS Dhaliwal Pty Ltd. This included all other truck drivers employed by the company.

As part of the investigations, the Directors of the company were also educated on their legal obligations to ensure any foreign national working for them holds a valid visa with appropriate permission to work.

SPS Dhaliwal Pty Ltd has since subscribed to the Department's free Visa Entitlement Verification Online (VEVO) service, which enables them to fulfil their legal obligation to undertake work entitlement checks of prospective and current employees.

Following the investigation, the Department referred the Queensland registered training organisation that provided training to the truck driver involved in the incident to the Queensland Department of Transport and Main Roads for their possible investigation.

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**(ARS008) – Parliamentary Inquiry - testing of applicant's statements and declarations -**

Senator O'Sullivan Asked:

Senator O'SULLIVAN: No—I will repeat myself to assist you. Of 100 applications, how many would go through a serious due diligence examination? Let us use the 2,000 students. How many of those who have a transcript from an educational facility in another country would you go through and satisfy yourself absolutely about the bona fides of that certificate?

Mr Martin: I guess it depends on a range of factors. Depending on the level of risk and our internal risk settings, it is possible that there are applications that may be considered low risk—

Senator O'SULLIVAN: Mr Martin, we have a saying here—we can go until the bells go, if you want to, but mine was a mathematical question and if you do not know the answer say so and we will take it on notice.

Mr Martin: Okay, understood.

Senator O'SULLIVAN: Of 100 applications, or make it 1,000 or whatever sample you like, I need to know on average with how many would all elements of the applicant's statements and declarations be subject to test.

Mr Martin: With student visa applications, can I clarify? I will take that on notice.

*Answer:*

The Department collects detailed information from 100 per cent of student visa applicants including information about their:

- identity
- travel
- family
- past employment
- past studies
- proposed study in Australia
- future plans
- health and character.

The level of scrutiny that is placed on an application depends on the risk involved. The Department considers the individual circumstances of the applicant to determine the risk associated.

All student visa applications are scrutinised. In the quarter 1 July 2016 to 30 September 2016, over 80 per cent of student visa applications were subject to higher scrutiny.

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**(ARS009) – Parliamentary Inquiry - applicants dealt with on the papers -**

Asked:

Senator O'SULLIVAN: Now help me a bit here. Of every 100 applications that come forward—I am sure there are heavy days and light days—how many do you think are dealt with on the papers?

Mr Martin: Purely based on papers I would say about 30 per cent. But I would like to take that on notice to confirm.

Senator O'SULLIVAN: Let us take that on notice. I promise you I will not accept your answer prima facie either, so ask the people who provide you with the advice not to be clever and start to reduce that number if there is some little check like making one phone call to an aunty. I am interested in the intense examination of these applications. It would seem to us—I put a question before to the department of transport and I will put it to you—that in the due process, in the journey that someone might take to get behind the wheel of one of these, what do you call them; I am not a truckie—

*Answer:*

Please refer to the response to ARS008.

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**(ARS010) – Parliamentary Inquiry - students arrived on false documentation -**

Senator O’Sullivan Asked:

Senator O’SULLIVAN: One final thing I want you to take on notice is the question about this very, very broad, widescale alleged fraud where thousands—if they are not thousands, you can put it in the dustbin—of students arrived here on false documentation upon which we relied to allow them to come to our country. Would you take that question on notice.

Mr Martin: Yes.

*Answer:*

Student Visa programme policy settings and visa assessment processes aim to strike an effective balance between delivering a high level of integrity within the programme while facilitating the entry and stay of genuine students.

These policy settings and integrity measures have been adjusted over the past decade in response to concerns about fraud within the Student programme, including the increase in questionable education providers acting as so-called “visa shops” around 2008 to 2010, targeting non genuine students, particularly from countries such as India and Nepal.

Analysis undertaken by the Department during that time identified a number of fraud and non-genuine trends within the Indian and Nepalese student visa caseloads.

The Department implemented a number of measures over this period in response to the integrity concerns. These included:

- tightening the risk profiles for the identified higher risk cohorts to ensure greater scrutiny of claims through increased interview rates of visa applications;
- undertaking a greater level of verification of documents provided in support of student visa applications;
- and for agents with higher levels of visa refusals and detected fraud, moving access to online lodgement.

Additional support was provided to New Delhi post during that period to assist with the implementation of these measures.

The Department continues to monitor the Student programme and ensures that appropriate strategies are in place to prevent, detect, and deter fraud in the

caseload. Where fraud is detected during the processing of the application, that application would generally be refused.

Where fraud is detected after a student visa holder has arrived in Australia, that visa may be cancelled. Section 109 of the *Migration Act 1958* provides grounds for discretionary cancellations of a visa if a visa holder has provided false documentation or incorrect information on their visa application or passenger card.

**Table 1: Instances of identified fraud in the student visa programme from 2009-10 to 31 October 2016, where citizenship is Indian and Nepalese\***

<b>Programme year</b>	<b>India</b>	<b>Nepal</b>	<b>ALL</b>
2009-10	8,625	526	13,211
2010-11	1,693	238	4,411
2011-12	1,791	111	4,494
2012-13	917	82	2,555
2013-14	1,200	104	3,260
2014-15	1,970	53	3,781
2015-16	1,204	36	3,073
2016-17 to 31/10/2016	134	7	517

*\* Not all fraud events may be captured, as applications may have been refused on other grounds, without specifically recording the detection of fraud. Different processing systems in different locations also pose a challenge in extracting a consistent picture of fraud within the programme.*

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**(ARS011) – Parliamentary Inquiry - cancellation powers -**

CHAIR: May I ask, is there a certain trend or class of these that is keeping you more busy than others?

Ms Andrew: We have general cancellation powers, which are the powers that we used for our particular truck drivers here. Last year, we cancelled 55,000 visas across a number of streams and for varying reasons. We are quite busy.

CHAIR: What about student visas?

Ms Andrew: I cannot give you the exact breakdown, but I can take that on notice.

CHAIR: I would be interested, if you could take that on notice, if there is any trend in the trucking industry. Thanks, Ms Andrew from CAC. If there are no further questions, thank you very much to Ms Dale and the department officers.

*Answer:*

In the 2015-16 programme year, there were 1,970 illegal workers located across all industries and States. Non-citizens who arrived on Student visas accounted for the second highest group of illegal workers located (26 per cent), with the majority being on Visitor visas (56 per cent).

Of the above total illegal worker locations, 38 involved Indian nationals working illegally in the 'Transport, Postal and Warehousing' industry. Of those Indian nationals, 12 had student visas cancelled.