

## QUESTION TAKEN ON NOTICE

**ADDITIONAL ESTIMATES HEARING : 23 February 2015**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(AE15/132) - 457 Visa's - Programme 1.2 Visa and Citizenship (Administered)**

Senator Carr, Kim (L&CA) written:

a. Please outline the steps the Department takes to verify employers' claims (if any) in relation to 'adverse information' about the applicant or a person associated with the applicant.

a. In particular, what action does the Department take to confirm with other regulators (e.g. the FWO) that the applicant employer:

- has not been found guilty by a court of an offence under the FWA or other relevant legislation;
- has not been found to have acted in contravention of the law by a competent authority;
- has not been the subject of administrative action (including being issued with a warning) by a competent authority; or
- is not under investigation, subject to disciplinary action or subject to legal proceedings?

*Answer:*

- a) Adverse information in relation to the subclass 457 programme is defined in the *Migration Regulations 1994* under subregulation 2.57(3). Adverse information has specific regard to a sponsor in the subclass 457 programme, not a subclass 457 visa applicant. This subregulation refers to a "person", that is the business/employer, and their suitability to become an approved sponsor.

Adverse information may include, but is not limited to, information about a person contravening a Commonwealth, State or Territory law, including whether they have previously complied with their standard business sponsorship obligations under the 457 programme.

Potential adverse information arising from the department's monitoring and investigation of sponsors is recorded in departmental systems for consideration when assessing sponsorship applicants. The department considers known adverse information as part of the sponsorship assessment process, such as the information on departmental systems. In accordance with the legislative requirement, the department is only required to assess any adverse information that is known, rather than be satisfied there is no adverse information in existence.

- b) Where adverse information has been supplied by another agency, such as the Fair Work Ombudsman with which the department works closely, the department gives careful consideration to the nature and relevance of the information and where appropriate verifies the information with the source prior to deciding the sponsorship application.

Sponsors are required to advise the department in their sponsorship application form of any adverse information relating to their business background including any breaches of sponsorship obligations or a contravention of Australian law.

In its response to the Independent Review into Integrity in the 457 Programme, the Australian Government has supported the recommendation to strengthen the adverse information criteria by requiring sponsors to certify that there has been no change to the information they provided on this criteria in their sponsorship application when they lodge a nomination application. The Government has also supported the recommendation to improve information exchange between government agencies, including monitoring decisions made by the Fair Work Commission to determine whether a sponsor has breached their obligations or has provided false or misleading information.