

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING : 08 February 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(AE16/037) - s501 revocations - Programme 1.3: Compliance and Detention

Senator Carr, Kim (L&CA 65) asked:

Senator KIM CARR: What were the grounds for the 36 who had their applications upheld?

Mr Pezzullo: We are starting to get to a point where—I am not saying that individual cases will be easily discerned, but—

Senator KIM CARR: They must have grounds, though.

Mr Pezzullo: There would be grounds. I think the best course of action would be to take that on notice as part of a subset of your more general questions, which are: how many have been cancelled and how many revocations have been upheld? In answering those questions, we will, as best we can, describe the grounds.

Answer:

A Non-citizen whose visa is mandatorily cancelled under section 501(3A) of *the Migration Act 1958* (the Migration Act) can request revocation of the mandatory cancellation decision. Decisions whether or not to revoke a mandatory cancellation decision are discretionary and are made in accordance with section 501CA of the Migration Act.

In exercising the discretion, delegates must have regard to both the primary and ancillary considerations set out in Ministerial Direction 65 (the Direction). The Minister is not bound by any Ministerial Direction, however may have regard to the same considerations.

For a copy of the Direction, please see the following link:

<https://www.border.gov.au/visas/Documents/ministerial-direction-65.pdf>. Both the primary and other considerations may weigh in favour of, or against, revocation of a mandatory cancellation decision. One or more primary considerations may outweigh other considerations.