

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO**

Program: Administrative Appeals Tribunal

Question No. AE17/018

Senator Hinch asked the following question at the hearing on 28 February 2017:

Senator HINCH: ... At the same time, this might not even have anything to do with you, but I noticed in the last year the number of student visas that have been cancelled from overseas has gone from 5,000 in 2010 to 17,000 in 2015-16. Do they have any manner in which they could make any appeal to you? They could not, because it would have to come through a court in Australia first, wouldn't it?

Ms Leatham: We certainly do have jurisdiction to review a number of those visas.

Senator HINCH: This is for students who apply overseas and are cancelled by the immigration department. Can they somehow get access to you?

Ms Leatham: Yes. There is a right of appeal in relation to a number of visas that may be declined or cancelled by the department. Certainly the numbers that you have quoted, though, I think might relate to primary decisions by the department rather than appeals by the tribunal.

Senator HINCH: Yes, I think so. If you could take those two issues on notice, I would appreciate it.

Ms Leatham: So the number of student visa appeals that we receive?

Senator HINCH: Yes, and the earlier question. That is all from me. Thank you.

The answer to the honourable senator's question is as follows:

The Migration & Refugee Division of the Administrative Appeals Tribunal (AAT) generally has the power to review the following types of decisions made under the *Migration Act 1958* about student visas:

- to refuse to grant a student visa where the visa could be granted while the non-citizen is in Australia and the non-citizen made the application for the visa while in Australia, and
- to cancel a student visa where the non-citizen is in Australia at the time of the cancellation.

The AAT cannot review the cancellation of a student visa if the non-citizen is overseas at the time of the cancellation, regardless of whether the visa was granted while the holder was in Australia or overseas.

The following table sets out the number of applications lodged with the AAT's Migration & Refugee Division for the review of decisions to refuse or cancel student visas in each of the noted years.

Decision type	Lodgements - Review of decisions relating to student visas						
	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17 to 28 Feb 2017
Decision to refuse visa	3,138	3,820	3,454	2,854	2,841	2,374	2,528
Decision to cancel visa	1,107	1,043	726	593	879	436	714
TOTAL	4,245	4,863	4,180	3,447	3,720	2,810	3,242