

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING : 17 October 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(SE16/049) - 4600 matters currently being litigated - Programme 2.3: Visas

Senator Reynolds, Linda (L&CA 123) asked:

Senator REYNOLDS: Chair, I notice the buzzer has gone off and I am out of time, but Ms de Veau is here. Ms de Veau, you might have to take this on notice, but my question is about a breakdown of the 4,600 matters currently being litigated. Have you got a breakdown of what they relate to?

Ms de Veau: Yes, I do. The total figure, as at 30 September 2016, is that we are managing an active immigration or administrative law caseload of 4,492 matters. That does not include merits reviews before the migration or refugee division of the AAT, so it is only judicial review matters. The bulk of them, 2,333, relate to refugee decisions, but overall it includes bridging visas, business visas, character or citizenship, detention decisions, family visas, fast-track matters, FOI decisions and so on. The list goes on. There are removal decisions, skilled visas, student visas and visitors visas. Perhaps on notice we can provide you with a table of—

Senator REYNOLDS: You could give me a breakdown of them but also some idea for each of those cases an average time frame that it takes at each stage of those matters. If you are able to provide that breakdown, it would be appreciated.

Ms de Veau: Yes, we have that information. We can also indicate—

CHAIR: It might be better on notice.

Senator REYNOLDS: That is what I was asking.

CHAIR: Take that on notice, because we are out of time.

Senator REYNOLDS: Thank you, Ms de Veau.

Answer:

Table 1 provides a breakdown of the 4492 migration and citizenship administrative law matters that departmental records show the Department was managing at 30 September 2016. This caseload includes judicial review matters before the courts and merits review matters before the General Division of the Administrative Appeals Tribunal. The caseload does not include merits review matters before the Migration and Refugee Division of the AAT. Broadly, the categories set out in Table 1 reflect visa, citizenship and compliance programme lines.

Table 2 sets out the average number of days it took to resolve a migration and citizenship administrative law matter (as described above) from commencement to the making of final orders by the AAT or relevant court. The average resolution times set out in Table 2 relate specifically to matters resolved during the period 1 January 2016 to 30 September 2016.

Table 1

| | Administrative Appeals Tribunal | Federal Circuit Court | Federal Court | Full Federal Court | High Court – Original Jurisdiction | High Court – Special Leave/Substantive Appeal | Supreme Court | Other | Total | Percentage (%) of Total Caseload |
|----------------------------|---------------------------------|-----------------------|---------------|--------------------|------------------------------------|---|----------------|-------|-------|----------------------------------|
| Bridging Visa | | 13 | | | | | 1 ¹ | | 14 | 0.3% |
| Business | | 19 | | | | 1 | | | 20 | 0.4% |
| Character | 71 | 11 | 30 | 5 | 3 | | | | 120 | 2.7% |
| Citizenship | 116 | | 2 | 1 | | | | | 119 | 2.6% |
| Detention | | | 2 | | | | | | 2 | 0.1% |
| Family | | 479 | | 25 | 4 | 3 | | | 511 | 11.4% |
| Fast Track | | 191 | | 1 | | | | | 192 | 4.3% |
| FOI² | 12 | | | 1 | | | | | 13 | 0.3% |
| Migration Agents | 9 | | 2 | | | | | | 11 | 0.2% |
| Other³ | | | | | 1 | | | 1 | 2 | 0.1% |
| Refugee⁴ | 3 | 2,047 | 11 | 225 | 11 | 43 | | | 2,340 | 52% |
| Removal | | 1 | | | | | | | 1 | 0.1% |
| Skilled | | 372 | 1 | 43 | | 3 | | | 419 | 9.3% |
| Students | | 570 | | 36 | 3 | 5 | | | 614 | 13.7% |
| Visitors | | 110 | | 4 | | | | | 114 | 2.5% |
| Total | 211 | 3,813 | 48 | 341 | 22 | 55 | 1 | 1 | 4,492 | 100% |

¹ Application commenced in the wrong jurisdiction.

² Freedom of Information.

³ Does not fall within a recorded category.

⁴ Refugee includes review of Migration and Refugee Division - AAT decisions (previously Refugee Review Tribunal decisions), Independent Merits Review decisions under non-statutory assessment processes, primary Protection visa decisions, Article 1F Refugees Convention decisions, International Treaties Obligations Assessment /Post Review Protection Claims, Ministerial Intervention and website disclosure matters.

Table 2

| | Administrative Appeals Tribunal | Federal Circuit Court | Federal Court | Full Federal Court | High Court¹ | All Combined |
|---|--|------------------------------|----------------------|---------------------------|-------------------------------|---------------------|
| Average number of days to resolve per matter | 190 | 333 | 148 | 145 | 143 | 288 |

¹ Combined average resolution time for original jurisdiction, special leave and substantive appeal matters.