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Arrivals without a visa

Procedural Instruction

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1. Purpose

1.1. Background

Australia has a universal visa system for non-citizens wishing to travel to and stay in Australia. Only a few categories of non-citizens are exempt from holding a visa for travel to Australia, see Arrival, immigration clearance and entry – Immigration clearance at airports and seaports – PI (BC-536).

Special arrangements exist for New Zealand citizens in immigration clearance see Special Category Visas in Immigration Clearance - SOP (BC-2470).

Similarly for processing of non-citizens to whom Special Purpose visas (SPV) apply, see Special Purpose visa in immigration clearance – SOP (BC-5857). For aircrew, see Aircrew processing – Procedural Instruction – (BC-663).

Where a traveller arrives on a foreign passport without a visa claiming to be an Australian citizen, see Immigration Clearance of Australian citizens – PI (BC-2536).

Where the traveller does not hold a valid visa and uplift was not authorised by the Border Operations Centre (BOC) which may occur under limited circumstances, the Australian Border Force (ABF) officer must determine, in consultation with a supervisor, whether an offence under Section 229 of the *Migration Act 1958* (Migration Act) has occurred and whether it is appropriate in the circumstances to issue an infringement notice to the airline who transported the person to Australia, see Section 229 Infringements at the border – PI (BC-2565).

Where a non-citizen presents in immigration clearance without a valid visa or arrives and seeks to engage Australia's protection obligations, see Protection Claims at the Border – PI (BC-2436).

2. Scope

2.1. In Scope

This Procedural Instruction (PI) covers referrals of non-citizen travellers in immigration clearance who do not appear to hold a visa.

This PI applies to Border Clearance Officers (BCO) in the Aviation environment providing immigration clearance under the Migration Act.

2.2. Out of Scope

This PI does not cover:

- immigration clearance of non-citizens who hold a visa including imposters who appear to hold a visa, or apply for a visa whilst in clearance
- immigration clearance of non-citizens without a visa in the Maritime environment
- immigration clearance of Australian citizens
- Clearance of travellers and / or goods under the *Customs Act 1901* (Customs Act).

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3. Procedural Instruction

3.1. Immigration clearance requirements

Among other requirements, under s166 of the Migration Act, a valid visa is required to enter and remain in Australia. In accordance with section 166 (1)(a) of the Migration Act, a traveller must present the following to satisfy entry requirements:

- evidence of their identity (a valid travel document e.g. passport), see *Types of Documentary Evidence required for Immigration Clearance – PI (BC-666)*
- a valid visa to enter Australia for non-citizens. Presentation of a travel document would enable the clearance authority to check the validity of their visa on departmental systems unless;
 - they have a prescribed status for a Special Purpose Visa (SPV), for further information refer to the *Migration Regulations 1994* (the Regulations) Reg 2.40 - *Persons having a prescribed status - special purpose visas (Act, s33(2)(a))*; or
 - if the traveller is an Australian citizen, evidence of Australian citizenship, see *Immigration Clearance of Australian Citizens – PI (BC-2536)* and *Immigration Clearance of Australian Citizens without an Australian Passport – PI (BC-2458)*.
- a completed and accurate Incoming Passenger Card (IPC). For information on exemptions to the IPC requirement, see *Arrival, immigration clearance and entry - Incoming Passenger Card – PI (BC-639)*.

3.2. Reason for referrals

Primary line

Where a Primary Line officer (PLO) cannot confirm that the traveller holds a visa by scanning or entering the accurate passport/travel document details into the Passenger Analysis Clearance Evaluation (PACE) system presented by a traveller, the traveller should be processed by the passport/travel document presented which will generate a referral in PACE and then referred to a BCO for secondary clearance.

Where a traveller presents two passports/travel documents (with the same bio-data) and one is valid and the other has expired, the PLO must:

- scan the valid passport/travel document first, both to confirm its genuineness and if a visa is attached
- continue processing on the valid passport/travel document if there is a valid visa attached
- if a visa record against the valid passport/travel document is not located, the traveller should be processed on their expired passport/travel document and if it holds a valid visa (other than an Electronic Travel Authority (ETA)), the PLO should manually referred to the BCO
- if by following the above process, the PLO verifies that the visa linked to the expired passport/travel document was an ETA, the relevant movement should be cancelled in PACE and then the PLO must process the traveller on the new passport/travel document and refer to the BCO for secondary clearance. This is because an ETA is linked to the passport/travel document it is granted to. If the passport/travel document has expired or the traveller is travelling on another passport/travel document, the ETA is no longer valid.

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In some limited cases, where a traveller presents two valid passports/travel documents with the different bio-data, the PLO must process the traveller with more recently issued passport/travel document and then refer to the BCO.


Actioning referrals

The BCO is to request from the PLO:

- a manual referral if a system referral is not generated
- the traveller's passport/travel document and incoming passenger card (IPC) with the code I placed at the bottom left hand corner on the front of the IPC near the word 'declaration'. For more information, see Passenger Card Coding – PI (BC-667).

The BCO should determine why the traveller has arrived without a visa. Under these circumstances, travellers will typically be referred for the following referral reason codes:

s. 47E(d)



The BCO should note that travellers arriving without a valid visa may be the result of an unresolved visa status issue, such as:

- the visa cannot be located due to data discrepancies
- the passport/travel document against which the visa was granted has expired
- the passport/travel document against which the visa was granted has been lost or stolen
- the person holds two passports/travel documents, one valid and one expired.

In these instances, the officer is to:

- confirm the traveller's visa status by interrogating departmental systems
- look for evidence of a visa grant, for example, an ETA slip, a visa grant letter which may assist in locating the current visa.

3.3. Immigration status and identity checks

The BCO must be satisfied as to:

- the visa holder's identity
- visa status
- visa conditions.

The BCO must confirm the traveller's:

- identity through departmental systems including the Integrated Client Services Environment (ICSE) or Client Search Portal (CSP)
 - including aliases or any other names the traveller is known by
 - other forms of identity document e.g. Australian driver's licence or foreign government issued National Identification.
- immigration status:
 - establish the traveller is not an Australian citizen or permanent resident
 - s. 47E(d)

S [REDACTED]

- previous travel to Australia by conducting TRIM search (name & Date of Birth search may locate a previous refused entry record and slightly modified name e.g. give name with or without a hyphen)
- previous referrals to ABF (details of M304 reports)
- Movement Alerts Listing (MAL) listing narratives, if applicable
- removal history, if applicable
- outstanding visa applications.

During preliminary discussion the BCO is to:

- introduce themselves to the traveller and state that they are from the ABF
- consider the traveller's level of understanding of the English language
 - if required, and telephone access is available, contact the Automated Telephone Interpreters Service (ATIS) 131 450 or engage an ABF officer, fluent in the traveller's language, to assist in translating preliminary questions
- advise the traveller the reason for referral
- examine the traveller's passport for travel movements, visas and indications of tampering and alteration. For more information, see Document Examination at the border – SOP (BC-2703).
- if required, photocopy the traveller's IPC, passport bio-data page and relevant documents
- consider if the traveller is a minor, if so, see Managing Minors in Immigration Clearance – PI (BC-2676).

3.4. Actioning referrals

Valid visa not found at the primary line

Where the passport details have been correctly entered into systems at the primary line and no visa record is returned, the BCO must check the traveller's visa history and status.

Where the traveller's visa history indicates that the traveller was granted a visa that is in effect, the BCO is to check whether the visa was granted with the same bio-data as presented in the traveller's passport.

Where a record of a visa grant exists against the passport, and so long as the traveller meets all other entry requirements, the BCO is to:

- immigration clear the traveller
- amend the data in the Utilities (UT) system in Mainframe
- s. 47E(d) [REDACTED]

Traveller does not hold a valid visa

Following interrogation of departmental systems, if the BCO is satisfied that the traveller does not hold a valid visa, they must consider:

- whether Transit Without Visa (TWOV) arrangements apply to the traveller if the traveller is a national of a specified country who is not required to apply for a visa in advance of arriving in Australia for the purpose of transiting Australia, provided the traveller:

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- enters Australia by aircraft
 - holds a confirmed onward booking to leave Australia to travel to a third country on the same or another aircraft within 8 hours of arrival in Australia
 - holds documentation necessary to enter the country of destination
 - not leave the airport transit lounge except to continue their journey, that is, the traveller will not be immigration cleared. If the traveller needs to clear immigration, for example to collect baggage or to board an onwards flight, they will need to have an Australian visa and be immigration cleared. **Note:** To ensure that the traveller is not immigration cleared, it is essential that the TWOV eligible traveller is not allowed to proceed past the primary line and instead redirected to the Transit Area. The way to redirect the traveller to the Transit Area may vary from airport to airport however the standard practice is to contact the airline the traveller is travelling with and request the airline representative to escort the traveller to the Transit Area.
 - The passengers (travellers) who are eligible to TWOV are specified by legislative instrument IMMI 17/053.
- assess the traveller's bona fides, including reasons for travelling to Australia, their ability to fund their intended activities, and their proposed period of stay. A traveller is assessed as bona fide if the traveller's purpose for travel to Australia is genuine and consistent with the type of visa held and grounds for visa cancellation do not exist, or where the evidence does not justify visa cancellation, see Bona fides – PI (BC-2461).
 - If the traveller is a genuine traveller, consider an ETA or, in limited circumstances a Border Visa, subject to the criteria for grant being met - see Border Visas grant in Immigration Clearance – PI (BC-2538).
 - permit parents to apply for a visa on behalf of the child, where a minor arrives without a visa and the minor is eligible to be granted an ETA or Border visa, see Managing Minors in Immigration Clearance – PI (BC-2676).
 - photocopy the bio-data page of the passport, boarding pass, airline ticket/baggage tags, as these documents will assist with making a decision about whether to infringe the carrier
 - confirm that Advance Passenger Processing (APP) was received for the traveller using APP system or alternatively, use the ETA Audit Facility to confirm if an APP Boarding Request or TIETAQ was performed.
 - discuss with the Border Force Supervisor whether or not to infringe the airline carrier, see Section 229 Infringements at the border – PI (BC-2565).

Where the BCO is satisfied that the traveller does not hold a valid visa, does not fit the definition of TWOV and is ineligible for the grant of a visa, the officer must refuse immigration clearance. For further information, see Visa Cancellation at the border – SOP (BC-2482).

4. Statement of Expectation

The APS Code of Conduct states that an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction under subsection 13(5) of the *Public Service Act 1999* (the Public Service Act).

Failure by an APS employee to comply with any direction contained in this PI document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions under subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015*, (the ABF Act) requires all Immigration and Border Protection (IBP) workers who are not employed under the Public Service Act to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in this PI document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

All IBP workers who make decisions or exercise powers or functions under legislation have a duty to do so in accordance with the requirements of the legislation and legal principles.

5. Accountabilities and Responsibilities

Role	Description
Document author	Responsible for: <ul style="list-style-type: none">Drafting policies and procedures in compliance with the Policy and Procedure Control Framework (PPCF)Using the approved PPCF templatesAddressing the key requirement of the policy or procedurePrior to drafting or reviewing, engage with their Divisional Coordinator.
Document owner	As the framework document owner, approves PIs and verify that appropriate stakeholder consultations have been completed.
Superintendent, Traveller Operational Policy section	As the framework document owner, the Superintendent is responsible for: <ul style="list-style-type: none">regularly evaluating each PI document to ensure that it is still achieves its intended purposedetermining whether a document requires editing or retirementmonitoring change and amendments to legislation or other legal requirements, business operations or risk profiles which may have an adverse effect on PI documents.
ABF border officers	Participate in the PI evaluation and feedback processes and provide suggestions on effectiveness and usability of the document
Legal Division	Provide legal subject matter expertise. Act as a key stakeholder during the PI development process. Review PI and provide legal clearance
Stakeholder	Advise author on policy and procedure relevant to business area. Attend stakeholder consultation workshop. Identify other stakeholders that should be consulted. Review draft documents and provide solution focussed feedback within the specified timeframe. Verify that a completed PI

Role	Description
	complies with policy and procedure related to the business area by endorsing completed PI.

6. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	20 April 2017	s. 22(1)(a)(ii)	Cleared Legal review (C29849)
1.1	23 May 2018		SES Band 1 approval
2.0	27 July 2021		Full review and redraft of the document
2.1	12 October 2021		All staff consultation and incorporating feedback
2.2	15 December 2021	Commander Workforce Capability	SES Band 1 approval

Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Advanced Passenger Processing	APP	<p>Is a traveller processing system. All travellers travelling to Australia, including all transit travellers, must be processed through APP.</p> <p>Note: Infringement notices may be issued to operators who fail to comply with APP obligations.</p>
Australian Border Force	ABF	The Australian Border Force is an agency within the Home Affairs portfolio responsible for offshore and onshore border control enforcement, investigations, compliance and detention operations in Australia.
Australian Border Force officer	ABF officer	An ABF officer is an Immigration and Border Protection worker (see section 4 of the <i>Australian Border Force Act 2015</i>) authorised to perform border clearance duties.
Automated Telephone Interpreters Service	ATIS	Is an automated immediate interpreting service for agency clients who need to access a phone interpreter.
Bona Fide		Is Latin for “in good faith”. The term mean ‘genuine’ or ‘real’. A Bona fide passport is a genuine document; a bona fide identity is the real identity of a person. A traveller is assessed as bona fide if the traveller’s purpose for travel to Australia is genuine and consistent with the type of visa held and grounds for visa cancellation do not exist or where the evidence does not justify visa cancellation.
Border Clearance officer	BCO	Is an ABF officer who has a delegated authority to undertake primary Customs, Immigration and Biosecurity (CIB) clearance.
Border Operations Centre	BOC	Is one of the ABF’s operational capabilities. The BOC works closely with the ABF’s Airline Liaison (offshore) Network, Ports Command, Commonwealth and State Agencies, international Airlines and Shipping companies to form part of our layered approach applied across the border continuum to protect the border whilst facilitating the movement of people across it.
Border visa	TA-773	<p>Is a visa available in limited circumstances to certain persons who:</p> <ul style="list-style-type: none"> • arrive in Australia not holding a visa or whose visa is cancelled in immigration clearance • are not exempt from Australian visa requirements • are seeking immigration clearance.

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Term	Acronym (if applicable)	Definition
Electronic Travel Authority	ETA	A subclass 601 visa is an electronically issued and stored authority for travel to Australia.
ETA System	ETAS	Is the Australian Governments system used by travel agents / airlines to submit applications for an Electronic Travel Authority (ETA).
Immigration clearance		Immigration clearance is the process, defined in section 172 of the Migration Act, to regulate the entry of persons into Australia and to ensure that those who enter have authority to do so in accordance with the Migration Act, that they are who they claim to be and that they provide other information (namely, an incoming passenger card (IPC)) if required to do so.
Immigration officer's report	M304	Is a report consisting of components, such as personal and flight details, narrative and coding, which together form a unified client record in the event a traveller is referred for secondary clearance
Incoming Passenger Card	IPC	Is a card including personal particulars and a declaration of incoming travellers are required to present to a clearance officer under Regulation 3.01(3) to the <i>Migration Regulations 1994</i> (Migration Regulations).
Movement Alerts List	MAL	Is a computer database containing electronic records of identities of concern. People are checked against MAL records to assist decision makers processes including: <ul style="list-style-type: none">• visa and citizenship applications• travellers at overseas check-in points, such as airports and seaports• people through border clearance at the Australian Border.
s. 47E(d)		
Primary Line officer	PLO	Is an ABF officer who has a delegated authority to undertake primary Customs, Immigration and Biosecurity clearance.
TIETAC		An Electronic Travel Authority System (ETAS) command used by airlines to check the traveller's authority to enter Australia. The TIETAC command should only be used: <ul style="list-style-type: none">• when APP is unavailable to check a traveller has a valid visa for Australia T• when a 'Do No Board' directive is received.

Term	Acronym (if applicable)	Definition
		IETAC can be used during the check-in process. This query does not replace Advance Passenger Processing (APP) requirements
Transit Without visa	TWOV	<p>A transit traveller (also known as "transit without visa") is defined in Regulation 1.03 of the Migration Regulations to be a person who:</p> <ul style="list-style-type: none">• enters Australia by aircraft• holds a confirmed onward booking to travel to a third country on an aircraft within, and up to, 8 hours of the person's arrival in Australia• holds documentation necessary to enter the country of their destination.• the travellers who are eligible to TWOV are specified by legislative instrument made under Regulation 2.40(1)(n) of the Migration Regulations.
Travel and Immigration Processing System	TRIPS	Is a collection of mainframe systems that support the Department's computerised border clearance processing.

Attachment B – Assurance and Control Matrix

1.1. Powers and Obligations

Please Note: Staff exercising any powers, delegations or authorisations outlined in this PI (listed here) must check the latest delegation advice on the Intranet or the relevant instrument in LEGEND to ensure they currently hold the applicable power, delegation or authorisation.

Legislative Provision			Is this power delegated?	If delegated, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Section heading/provision description		
<i>Migration Act 1958</i>	Section 166	outlines the evidence that must be presented to a clearance officer or an authorised system upon entry to Australia.	No	
<i>Migration Act 1958</i>	Schedule 172	outlines a person's immigration clearance status, that is, whether the person has been immigration cleared, is in immigration clearance, has been refused immigration clearance or has bypassed immigration clearance	No	
<i>Migration Act 1958</i>	Section 175	outlines the evidence that may be required to be given to a clearance officer upon a person's departure from Australia.	No	

1.2. Controls and Assurance

Related Policy	Border Clearance – PS (TT-2983)
Procedures / Supporting Materials	<p>Arrival, immigration clearance and entry - Immigration clearance at airports and seaports – PI (BC-536)</p> <p>Arrival, immigration clearance and entry – Incoming Passenger Card – PI (BC-639)</p> <p>Special Category Visas in Immigration Clearance SOP (BC-2470)</p> <p>Special Purpose visa in immigration clearance – SOP (BC-5857)</p> <p>Aircrew processing – Procedural Instruction – (BC-663)</p> <p>Immigration Clearance of Australian citizens – PI (BC-2536)</p> <p>Immigration Clearance of Australian Citizens without an Australian Passport – PI (BC-2458)</p> <p>Types of Documentary Evidence required for Immigration Clearance – PI (BC-666)</p> <p>Document Examination at the border – SOP (BC-2703)</p> <p>Passenger Card Coding – PI (BC-667)</p> <p>Bona fides – PI (BC-2461)</p> <p>Border Visas grant in Immigration Clearance – PI (BC-2538)</p> <p>Managing minors in immigration clearance – PI (BC-2676)</p> <p>Visa Cancellation at the border – SOP (BC-2482)</p> <p>Protection claims at the border – PI (BC-2436)</p> <p>Section 229 Infringements at the border – PI (BC-2565)</p> <p>Events after refusal of immigration clearance – PI (BC-2671)</p>
Training/Certification or Accreditation	ABF Officer undertaking secondary immigration clearance function must have Secondary Immigration Clearance qualification/experience.
Other required job role requirements	Nil
Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction)	<p>Advice and outreach on this document can be provided by the Traveller Operational Policy Section:</p> <p>s. 22(1)(a)(ii)</p>
Escalation arrangements	<p>Any concerns with this document, or an issue requires escalation can be sent to the Superintendent, Traveller Operational Policy Section via email:</p> <p>s. 22(1)(a)(ii)</p>

Recordkeeping (e.g. system based facilities to record decisions)	TRIM - Approved departmental electronic document and records management system used to record any supporting documentation and official correspondence in relation to the management of day-to-day tasks.
Program or Framework (i.e. overarching Policy Framework or Business Program)	The Border Clearance Policy Statement – PS (BC-2983) provides overarching principles of assurance and control. A specific Quality Framework is currently under development.
Job Vocational Framework Role	Border Enforcement Operations

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Attachment C – Consultation

1.1. Internal Consultation

- Port Operations

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Subclass 773 (Border) visa grant in Immigration Clearance

Procedural Instruction

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1. Purpose

The Border (Temporary) (Class TA) (Subclass 773) visa (the Border visa) provides, in very limited circumstances, an option for non-citizen travellers who arrive in Australia without holding a visa or whose visa has been cancelled in immigration clearance to enter Australia.

Border visas are intended for travellers who will be able to regularise their visa status through the application and grant of another substantive visa, shortly after they enter Australia. Border visas, however, are not intended as a substitute for other visas in circumstances where the traveller has not obtained a visa prior to travelling to Australia; there should always be some mitigating factor justifying granting a Border visa.

If the reason for travelling to Australia is compelling, subject to meeting the prescribed requirements, a traveller may be considered for a Border visa while they are in immigration clearance.

For more information on the legal requirements and related policies that apply to the Border visa, see Subclass 773 (Border) visa – PI (VM-4830).

This Procedural Instruction (PI) provides information on operationalising the legal requirements and related policies and procedures that apply to the Subclass 773 (Border) visa (the Border visa).

2. Scope

2.1. In Scope

This PI applies to Australian Border Force (ABF) Border Clearance Officers (BCO) in the airports and, in limited circumstances, seaports providing immigration clearance under the *Migration Act 1958* (Migration Act).

2.2. Out of Scope

This PI does not cover:

- consideration and grant of a border visa after immigration clearance
- clearance of travellers and/or goods under the *Customs Act 1901* (Customs Act).

3. Procedural Instruction

3.1. Reasons for considering a Border visa

The Border visa provides a pathway in limited circumstance to certain non-citizen travellers who:

- arrive in Australia not holding a visa where there is a 'good reason' for them not holding a visa;
or
- whose visa is cancelled in immigration clearance; and
- are seeking to be immigration cleared.

BCOs are not obliged to advise travellers in immigration clearance of the existence of the Border visa. However, they should turn their mind to this visa type prior to making a determination that a traveller is otherwise unable to satisfy immigration clearance requirements.

Before considering a Border visa for a traveller, the officer must turn their mind to:

- the traveller's eligibility for a Border visa
- with the exception of a person to whom sub-clause 773.213(1)(c) of the *Migration Regulations 1994* (the Regulations) applies, whether the traveller has:
 - compelling reasons for granting a Border visa to the traveller;
 - the traveller's presence in Australia would not be contrary to Australia's interests;
 - has a good reason for not holding a visa on arrival.

The decisions to consider a Border visa for a traveller must be determined on a case-by-case basis having considered all of the traveller's circumstances.

3.2. Ineligible persons

The following classes of travellers are ineligible for the grant of a Border visa:

- protection claimants – travellers who seek to engage Australia's protection obligations and to remain in Australia on humanitarian grounds on arrival are unable to satisfy the criteria for the grant of a Border visa (clause 773.212) of the Regulations
- traveller subject to 5-year exclusion period - previous Border visa holders who are prescribed under sub-clauses 773.213(1)(e), (f) or (g) of the Regulations – if a person had been granted a Border visa in the last five years they will be ineligible for a further visa of the same type unless compelling reasons exist and meet the sub-clause 773.216(2) - see section Assessing Five-year exclusion period
- travellers who are affected by an exclusion period such as Special Return Criteria (SRC) 5001 (where the person's visa was previously cancelled under section 501 of the Migration Act) or SRC 5002 (where the person has previously been removed from Australia), see section 3.9 – Assessing application
- travellers who have been advised to not travel to Australia pending their section 501 assessment. For further information regarding the section 501 character test, please refer to s501 The character test, visa refusal and visa cancellation – PI (VM-1001).

3.3. Eligible categories

For full details of the legal requirements and related policies that apply to the Border visa, see Subclass 773 (Border) visa – PI (VM-4830).

In summary, under clause 773.213 of the Regulations, the following travellers may be eligible for a Border visa:

- Spouse/de facto partner (whether of the same sex or opposite sex) of an Australian citizen, Australian permanent resident or an eligible New Zealand citizen
- a traveller who is apparently eligible for a Return (Residence) visa or Resident Return (Temporary) visa

- accompanying dependent children of an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen or the holder of a prescribed visa (specified in sub-clauses 773.213(2), (3) or (4))
- certain returning former holders of visas specified in sub-clauses 773.213(3) or (4) who have a close relative in Australia
- returning former student visa holders (there are special requirements for Foreign Affairs recipients or Foreign Affairs students that they are required to have the support of the Foreign Minister)
- traveller who seeks to remain in Australia on a temporary basis and who, from the visa application information, appears to be a person who is eligible for grant of a:
 - Visitor visas (Subclass 651 (eVisitor) or Subclass 600 (Visitor))
 - Subclass 771 (Transit) visa for a traveller seeking to transit through Australia
 - Temporary Work (Short Stay Specialist / subclass 400).

Sub-clause 773.213(1)(c) particularly applies to:

- a traveller who has entered Australia with a visa that has been cancelled on presentation in immigration clearance because the traveller has breached a condition 8502 *"the holder of the visa must not enter Australia before the entry to Australia of a person specified in the visa (generally the primary visa holder)"*

3.4. Compelling and good reasons

Compelling reasons that may warrant a Border visa application consideration could include (but are not limited to) the following examples:

- the urgency and the reason of the travel, for example:
 - pre-arranged business schedule where an inadvertent visa irregularity has occurred
 - death or illness of a close family member overseas or in Australia
 - medevac emergencies - If a Medevac patient is the holder of ETA eligible passport, the client should be granted an ETA to avoid delays in accessing medical care.
- the personal circumstances of the traveller and/or those of their Australian contacts and whether the refusal to grant a Border visa may cause unnecessary inconvenience or distress.

In these cases, it may be considered that the traveller has a 'good reason' for not holding a visa on arrival as it was not reasonably practicable for the traveller to have obtained a visa to re-enter Australia prior to departure. As such, there may be compelling reasons for granting them a Border visa on their return. The term 'good reason' is not a defined term under the Migration Act and will be assessed on a case-by-case basis.

3.5. The traveller's presence in Australia not be contrary to Australia's interests

In assessing whether a traveller can be considered for a Border visa, BCOs must give regard to the following considerations:

- Community protection issues (health, safety, good order, and character) are relevant to the assessment of 'Australia's interests' such interests should generally outweigh the interests of the

individual where a traveller is of character concern. **Attachment D - Statement regarding Australia's interest** provides information on a number of community protection principles that can also be applied in the context of decision-making relating to Border visas

- If the traveller is a Behaviour Concern Non-Citizen (BCNC) or if they have a substantial criminal history that falls within the scope of section 501 of the Act (refusal or cancellation of visa on character grounds), their presence may be contrary to Australia's interests. If the traveller's presence is going to be contrary to Australia's interests then possibility for the traveller to apply for a Border visa must not be a consideration. For details, see Behaviour Concern Non-Citizen travellers at the border – PI (BC-2454).

If a decision is made that an application for a Border visa is not appropriate because the traveller would not satisfy the criteria for a grant of a Border visa, the traveller would be refused immigration clearance, prevented under law from entering Australia, subsequently detained under s189 of the Migration Act and removed from Australia as soon as practical – see Events after refusal of immigration clearance – PI (BC-2671).

3.6. Primary line assessment

On referral from a Primary Line Officer (PLO) at the primary line, the BCO must:

- confirm the traveller's details are displayed as a system referral on Passenger Analysis Clearance Evaluation (PACE). Under these circumstances, travellers will typically be referred with the following referral reason codes:

s. 47E(d)

- ensure the PLO provides both the traveller's travel document and Incoming Passenger Card (IPC).

The BCO must not finalise the immigration clearance of the traveller until the visa matter has been resolved.

During preliminary discussion, the BCO is to:

- introduce themselves to the traveller and state that they are from the ABF
- consider the travellers level of understanding of English and if required and telephone access is available, contact the Automated Telephone Interpreters Service (ATIS) or engage an ABF officer fluent in the traveller's language, to assist in translating preliminary questions
- advise the traveller of the reason for referral
- examine the traveller's passport/travel document to examine its authenticity and indications of tampering and alteration
- where required, photocopy the traveller's IPC, passport bio-data page and relevant documents.

3.7. Identity and immigration status

Establishing the traveller's correct identity and immigration status is critical. Prior to considering a Border visa, the BCO must carefully interrogate all departmental systems available to them including the Integrated Client Services Environment (ICSE) or Client Search Portal (CSP) to establish this information.

Initial system checks

Using departmental systems, the BCO is to:

- confirm the traveller is **not an Australian citizen** or permanent resident travelling on another travel document/passport
- confirm no other visa is held
- s. 47E(d)
- check for previous M304 reports about the person and consider the information where previous reports exist
- check Central Movement Alert List (CMAL) for a possible listings
- check whether the traveller has ever been removed from Australia or has ever been subject to section 501 cancellation or refusal consideration
- review and confirm the person's identity and immigration history before proceeding
- check if an uplift approval (if any) has been given by the Border Operations Centre (BOC). Permission to uplift and carry a passenger, in consideration with section 42 requirements, will be decided by the BOC only in limited circumstances. Typical examples may include a non-citizen's unanticipated arrival when a flight is diverted to Australia unexpectedly. When an uplift is given, the reasons can be viewed by selecting 'List Authorised 'G' Overrides' within the Referrals mainframe system (RF). For further details, see [Uplift Approval – SOP \(BC-2524\)](#).

3.8. Border Visa application

- Border visa applicants must be in immigration clearance when applying for the visa in order to meet the Schedule 1 requirement, with the exception of a dependent child. For further information on the dependent's application, see [Subclass 773 \(Border\) visa – PI \(VM-4830\)](#)
- An application for a Border visa is made on [Form 871 - Application for a Border visa \(subclass 773\)](#) which is available in Legend, parts A and B must be completed by the traveller. Members of a family unit may combine their applications and be included on the one form
 - If an uplift approval has been given by the BOC and therefore the traveller's arrival is expected, the traveller's personal particulars at Part A of the form can be prepopulated using the ICSE record prior to the traveller's arrival in order to expedite the process
 - The officer must complete the results of their actions and decisions on Form 871 including the outcome of the decision, period of stay granted and whether or not to serve an airline infringement notice.
- Special requirement under [Clause 773.215](#) - the traveller whose visa is cancelled for breaching this visa condition following entry into Australia must provide a written statement that demonstrates the following criteria in sub-clauses 773.215(a)-(c). The traveller may provide this written statement when completing their [Form 871](#) in addition to the information they have already provided during the interview process. The BCO must take this information into consideration in assessing the applicant's eligibility for a Border visa:
 - the traveller must have reasonable grounds for having failed to comply with that condition

- The traveller must provide the compelling reasons for being allowed to leave the place of immigration clearance with the permission of the clearance officer
- the traveller must state that the specified person referred to in their visa (usually the primary visa holder or sponsor) will arrive in Australia within 30 days of the traveller being allowed to leave the place of immigration clearance with the permission of the BCO.

3.9. Assessing application


Upon the traveller's submission of Form 871, the BCO must assess the application against the following eligibility criteria:

- Schedule 2 Part 773 of the Migration Regulations
 - In principle, Schedule 2 requirements can only be assessed on lodgement of an application, however, the BCO should carefully consider the traveller's eligibility for a Border visa before deciding to accept a Border visa application based on all of the traveller's circumstances
 - There is no secondary criteria, therefore, all primary criteria of Schedule 2 must be met by each applicant for the grant of a visa.
- adverse declaration(s) or response(s) on the Border visa application form
- Schedule 4 - Public Interest Criteria considerations:
 - health, character or security concerns
 - debts to the Commonwealth
 - exclusions such as cancellations or overstay
 - consideration of minors - If the traveller is a minor, a decision to grant should be based on the best interests of the child, see Managing Minors in Immigration Clearance – PI (BC-2676).
- Schedule 5 - Special Return (SRC) criteria considerations if the traveller has previously been removed from Australia include:
 - 5001 – the traveller is not a person who left Australia while the subject of a deportation order, or where the person's visa was previously cancelled under section 501 of the Migration Act - for more information see Section 501 The Character test, visa refusal and visa cancellation – PI (VM-1001); and Exclusion Periods – PI (VM-990)
 - 5002 - where the person has previously been removed from Australia under sections 198, 199 or 205 of the Migration Act.

Assessing Public Interest Criterion 4001

Amongst other Public Interest Criteria (PICs), PIC 4001 relates to the Minister being satisfied that the traveller passes the character test.

- In assessing a traveller's ability to satisfy PIC 4001, a decision maker must give regard to the character test provisions under section 501 of the Migration Act and whether the traveller would likely fail the character test. BCOs must consider the following:
 - the nature/seriousness of the crime or conduct
 - the frequency and 'age' of the crime or conduct

- whether there is an escalation in offending conduct
 - whether there is information to suggest that the person may have been rehabilitated.
- It is important to consider criminal history that resulted in a custodial sentence, and other s. 47E(d)

- The general view should be taken that violent and sexual offences or conduct is serious, as they constitute national security matters
- A traveller who has deliberately not declared their criminal history on the application form or on their completed IPC, this conduct would generally be viewed as deceptive such behaviour may work against the traveller in terms of being invited to apply for a Border visa.

For further information on other PICs, please see Subclass 773 (Border) visa – PI (VM-4830).

Assessing the Five-year exclusion period

A five-year exclusion period applies to previous Border visa holders who are prescribed under sub-clauses 773.213(1)(e), (f) or (g) of the Migration Regulations if a traveller had been granted a Border visa in the last five years and they will be ineligible for a further Border visa unless they meet the criteria specified under 773.216(2)(b):

- the 5-year exclusion period does not apply to their subsequent Border visa applications if the traveller is a passenger on a vessel (which includes an aircraft or an installation) that has entered Australia because of matters beyond the control of the person in charge of the vessel (sub-clause 773.216(2)(a));
 - An example of this is may be where a vessel not destined for Australia is diverted from the original port of destination to Australia, due to a mechanical difficulties or inclement weather
 - This also applies to other similar situations where a departing vessel is not able to depart due to unforeseen circumstances such as a mechanical issue and the traveller who was scheduled to depart on board the particular vessel has a visa expiring on the day of the scheduled departure. In these cases, the BCO must consider evidence and/or information available to them to determine whether the five-year exclusion period applies.
- to be granted a Border visa within the five-year exclusion period under other circumstances the applicant must have compelling reasons for the Border visa grant, that the presence of the applicant in Australia would not be contrary to Australia's interests and the applicant has a good reason for not having a visa (sub-clause 773.216(2)(b)).

3.10. Granting a border visa

If the BCO makes an assessment that the traveller may be granted a Border visa, they should grant the visa in either Mainframe RF or Border Security Portal. All relevant fields with the exception of Visa Period and Visa Conditions should be prepopulated by the systems.

Visa Period

The maximum period of validity for a Border visa is 30 days and there is no travel component. The decision maker must weigh up the validity period (when a decision to grant has been made) by taking into account the circumstances that underpin the traveller's arrival. For example:

- a Border visa need only covers the visa holder until the applicant's scheduled date of departure from Australia (if known). A business, non-citizen visitor, for example, often has a pre-arranged schedule with the departure flight booked in advance. This schedule must be used to determine the visa period granted
- a transit passenger who misses a connecting outgoing flight, due to the late arrival of their incoming flight, may need to remain in Australia until another connection can be made. In such circumstances, the Border visa grant must be sufficient to cover the period of stay necessary for the applicant to remain in Australia
- a traveller who is apparently eligible for a Return (Residence) visa or Resident Return (Temporary) visa, a Border visa can be granted for the validity of 30 days to afford the traveller a maximum period of time to apply for a new Return (Residence) or Resident Return (Temporary) visa.

Visa Conditions

Any conditions that are to be imposed must mirror those of the visa for which the traveller is apparently eligible which means mandatory conditions must be applied in all cases and discretionary conditions may be applied when determined to be appropriate by the delegate on a case-by-case basis and in line visa policy. For example, if a visa holder prima facie meets the eligibility requirements for a Resident Return visa (RRV), the same conditions should be replicated on the Border visa grant and notification, i.e. nil conditions (clause 773.611). For further information on visa conditions, please refer to:

- Sch8 - Visa conditions - About visa conditions – PI (LS-1857):
- Schedule 8 Visa conditions;
- Subclass 773 (Border) visa – PI (VM-4830).

Border visa grant notification

- The traveller should be provided with the visa grant notification except in an emergency or time limited situation where a verbal notice may be given. The BCO must ensure that all the client fields are completed, including the following visa details:
 - visa grant number (this would be generated by the departmental system when the visa is granted either through Mainframe RF or Border Security Portal)
 - visa conditions attached to the visa
 - period of stay granted.
- The later version of the Border visa grant notice template can be found on Border Procedural Instruction Toolkit intranet page
- BCO must manually record the grant decision on the notification, retain a signed copy for your record and give it to the traveller together with the detached the cover sheet of Form 871
- All document pertaining to the grant of the Border visa must be saved in Content Manager (formally known as TRIM).

Counselling the person about the visa

In addition to the notice, the BCO must verbally counsel all travellers of the following:

- visa validity
- visa conditions
- that the visa is not valid for travel (no subsequent entry) and will cease on their departure
- should they travel to Australia again, they must obtain an appropriate visa prior to travel

- that they will be ineligible to be granted a further Border visa for five years, unless exceptional circumstances exist.

Further stay

- The traveller who was granted a Border visa that it is a temporary visa must be advised that if they require further stay beyond the Border visa validity period, then they must apply for an appropriate visa prior to their Border visa expiring otherwise they will become an unlawful non-citizen subject to subsection 14(1) of the Act
- The traveller must similarly be informed that if they wish to remain in Australia as permanent residents (subject to their eligibility), receive social benefits and entitlements and be eligible for Australian employment, they must regularise their permanent resident status as soon as possible by applying for a Return (Residence) or Resident Return (Temporary) visa. The BCO must also advise the traveller that if they do not regularise their status before the Border visa ceases to be in effect, they will become unlawful non-citizens under the Act. Subsequently, becoming an unlawful non-citizen will mean not only they are subject to detention and removal from Australia but it may also impact their future eligibility for Australian citizenship
- Those traveller must also be advised that onshore applications have an associated visa application charge.

3.11. Refusing immigration clearance

If the circumstances do not warrant inviting a Border visa or the traveller is ineligible for grant of a visa in clearance, the traveller will be unable to satisfy immigration clearance requirements and will be refused immigration clearance, see Arrival, immigration clearance and entry - Immigration clearance at airports and seaports – PI (BC-536).

When a traveller is refused immigration clearance, the traveller becomes an unlawful non-citizen (UNC) and is liable to being taken into immigration detention and removed from Australia – see Events after refusal of immigration clearance PI (BC-2671).

- for the detention process, see s189 Detention at the border - PI (BC-2446)
- for the removal process, see Summary removal – PI (BC-2460).

3.12. Carrier obligations and infringement

International Carriers entering Australia from overseas must comply with obligations under the Migration Act and the Migration Regulations in relation to their vessels and the travellers on-board.

If the airline has brought a traveller to Australia without a visa in contravention of the Migration Act, BCO must determine whether an offence under Section 229 of the Migration Act has occurred and whether it is appropriate in the circumstances to issue an infringement notice to the airline who transported the person to Australia, see Section 229 Infringements at the border – PI (BC-2565).

4. Accountabilities and Responsibilities

Role	Description
Document author	Responsible for:

Role	Description
	<ul style="list-style-type: none">Drafting policies and procedures in compliance with the Policy and Procedure Control Framework (PPCF)Using the approved PPCF templatesAddressing the key requirement of the policy or procedure.
Commander, Workforce Capability	As the framework document owner, the Superintendent is responsible for: <ul style="list-style-type: none">regularly evaluating each PI document to ensure that it is still achieves its intended purposedetermining whether a document requires editing or retirementmonitoring change and amendments to legislation or other legal requirements, business operations or risk profiles which may have an adverse effect on PI documents.
ABF border officers	Participate in the PI evaluation and feedback processes and provide suggestions on effectiveness and usability of the document
Legal Division	Provide legal subject matter expertise. Act as a key stakeholder during the PI development process. Review PI and provide legal clearance.
Stakeholder	Advise author on policy and procedure relevant to business area. Attend stakeholder consultation workshop. Identify other stakeholders that should be consulted. Review draft documents and provide solution focussed feedback within the specified timeframe. Verify that a completed PI complies with policy and procedure related to the business area by endorsing completed PI.
Subject Matter Expert	A generic term for a departmental staff member or contractor who possesses specific expertise on the processes detailed in that PI.

5. Version Control

Version number	Date of issue	Author(s)	Brief description of change
1.0	28 May 2017	National Border Programme	Cleared Legal Review (C30493)
1.1	16 May 2018	National Border Programme	Converted into Home Affairs template and approved by SES
2.0	15 December 2021	s. 22(1)(a)(ii)	Reviewed and transferred to a new template
2.1	18 February 2022	Commander Workforce Capability	SES Band 1 approval

Attachment A – Definitions

Term	Acronym (if applicable)	Definition
Australian Border Force officer	ABF officer	An ABF officer is an Immigration and Border Protection worker (see section 4 Australian Border Force Act) authorised to perform border clearance duties.
Automated Telephone Interpreters Service	ATIS	Is an automated immediate interpreting service for agency clients who need to access a phone interpreter.
Border Clearance Officer	BCO	Is an ABF officer who has a delegated authority to undertake primary Customs, Immigration and Biosecurity (CIB) clearance.
Border Operations Centre	BOC	Is one of the ABF's operational capabilities. The BOC works closely with the ABFs Airline Liaison (offshore) Network, Strategic Border Command Centre, Commonwealth and State Agencies, international Airlines and Shipping companies to form part of our layered approach applied across the border continuum to protect the border whilst facilitating the movement of people across it.
Central Movement Alert List	CMAL	Is a system used to store, maintain and access a central repository of identities and documents of concern.
Electronic Travel Authority	ETA	A subclass 601 visa is an electronically issued and stored authority for travel to Australia.
Passenger Analysis Clearance Evaluation	PACE	Is a system used to process travellers at Australia's international air and seaports.
Person Identification Digit	PID	Is a unique number assigned to a record within the Travel and Immigration Processing System (TRIPS) database.
Primary Line Officer	PLO	Is an ABF officer who has a delegated authority to undertake primary Customs, Immigration and Biosecurity clearance.
Public Interest Criteria	PIC	Means a criterion set out in a clause of Schedule 4 of the Migration Regulations 1994 (<i>Migration Regulations</i>), and a reference to a public interest criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule.
Referrals – mainframe system	RF	<p>The referrals system is a sub system of the TRIPS mainframe platform. It is used in international airports and seaports when a traveller requires additional processing.</p> <p>A referral records the departments dealings with travellers at the border and a referral must be created whenever an ABF officer has any dealings with a client on entry or departure.</p>

Term	Acronym (if applicable)	Definition
Resident Return visa	RRV	A visa which allows certain people who are or have been permanent residents or citizens of Australia to travel internationally and return to Australia as permanent residents.
Special Category visa	SCV	A class of visa for which eligibility is derived from section 32(2)(a) or section 32(2)(c) of the <i>Migration Act 1958</i> (Migration Act) and can only be granted to New Zealand citizens.
Special Return Criteria	SRC	Has the meaning given by Regulation 1.03 of the <i>Migration Regulations 1994</i> (Migration Regulations) as meaning a criterion set out in a clause of Schedule 5, and a reference to a special return criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule.
Travel and Immigration Processing System	TRIPS	Is a collection of mainframe systems that support the Department's computerised border clearance processing.

Attachment B – Assurance and Control Matrix

1.1 Powers and Obligations

Please Note: Staff exercising any powers, delegations or authorisations outlined in this PI (listed here) must check the latest delegation advice on the Intranet or the relevant instrument in LEGEND to ensure they currently hold the applicable power, delegation or authorisation.

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
<i>Migration Act 1958</i>	s.166	Outlines the evidence that must be presented to a clearance officer or an authorised system upon entry to Australia.	No	
<i>Migration Act 1958</i>	s. 42	<p>Subsection <u>42(1)</u> of the Act provides that a non-citizen must not travel to Australia without a visa that is in effect except in certain specified circumstances which are set out in subsections <u>42(2)</u>, <u>(2A)</u> and <u>(3)</u> of the Act. This includes (amongst other circumstances):</p> <ul style="list-style-type: none"> allowed inhabitant of the Protected Zone travelling to a protected area regarding traditional activities; a New Zealand citizen who holds and produces a New Zealand passport that is in force; and the non-citizen is brought to the migration zone under subsection <u>245F(9)</u> of the Act or under Division 7 or 8 of Part 3 of the <u>Maritime Powers Act 2013</u>. 	No	
<i>Migration Act 1958</i>	s.65	Decision to grant or refuse to grant visa	Yes	Migration (Minister) (Instrument-making and decision making powers) Amendment Delegation 2021 (ADMIN 21/090)

Legislative Provision			Is this a delegable power?	If delegable, list the relevant instruments of delegation
Legislation	Reference (e.g. section)	Provision		
<i>Migration Regulations</i>	Sch 1	Class of visa, in particular: Item 1201 Border (Temporary) (Class TA)	No	
<i>Migration Regulations</i>	Sch 2	Provision with respect to the grant of a Subclasses of visas, in particular: Subclass 773 – Border	No	
<i>Migration Regulations</i>	Sch 4	Public Interest Criteria and related provisions, in particular: PIC 4001	No	
<i>Migration Regulations</i>	Sch 5	Special Return Criteria, in particular: <ul style="list-style-type: none">• SRC 5001• SRC 5002	No	
<i>Migration Regulations</i>	Sch 8	Visa conditions, in particular: Condition 8502	No	

1.2 Controls and Assurance

Related Policy	Border Clearance – PS (TT-2983)
Procedures / Supporting Materials	<p>Subclass 773 (Border) visa – PI (VM-4830)</p> <p>Form 871 – Application for a Border visa (subclass 773)</p> <p>Section 229 Infringements at the border – PI (BC-2565)</p> <p>Uplift Approval – SOP (BC-2524)</p> <p>Behaviour Concern Non-Citizen travellers at the border – PI (BC-2454)</p> <p>Section 501 The Character test, visa refusal and visa cancellation – PI (VM-1001)</p> <p>Exclusion Periods – PI (VM-990)</p> <p>s. 47E(d)</p> <p>Sch 8 – Visa conditions – About visa conditions – PI (LS-1857)</p> <p>s189 Detention at the border – PI (BC-2446)</p> <p>Managing minors in immigration clearance – PI (BC-2676)</p> <p>Arrival, immigration clearance and entry - Immigration clearance at airports and seaports – PI (BC-536)</p> <p>Events after refusal of immigration clearance – PI (BC-2671)</p>
Training/Certification or Accreditation	<p>Secondary Immigration Clearance (SIC) course</p> <p>Peer support and on the job training</p>
Other required job role requirements	Access to ICSE, Mainframe, BSP, CSP, PACE and TRIM
Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction)	<p>Advice and outreach on this document can be provided by the Traveller Operational Policy Section:</p> <p>s. 22(1)(a)(ii)</p>
Escalation arrangements	<p>Any concerns with this document, or an issue requires escalation can be sent to the Superintendent, Traveller Operational Policy Section via email:</p> <p>s. 22(1)(a)(ii)</p>
Recordkeeping (e.g. system based facilities to record decisions)	<p>Content Manager (TRIM) - Approved departmental electronic document and records management system used to record any supporting documentation and official correspondence in relation to the management of day-to-day tasks.</p> <p>ICSE, CSP, Mainframe, Border Security Portal (BSP)</p>
Control Frameworks (please refer to a specific document outlining QA or QC arrangements)	The Border Clearance - PS (BC-2983) provide over-arching principles of assurance and control. A specific Quality Framework is currently under development.
Job Vocational Framework Role	Border Enforcement Operations

Attachment C – Consultation

1.1 Internal Consultation

- Border and Events Visas section
- Port Operations

Attachment D – Statement regarding Australia's interest

Australia's interests encompass community safety, economic, social and health factors. The Government has articulated a number of community protection principles that can also be applied in the context of decision-making relating to Border visas:

- Coming to or remaining in Australia is a privilege conferred with the expectation that persons are and have been, law abiding, will respect important societal institutions (such as Australia's law enforcement framework) and will not cause or threaten harm to individuals or the Australian community;
- The Australian community expects Government can and should refuse entry to persons, or cancel their visas, if they commit serious crimes in Australia or elsewhere;
- Persons who commit serious crimes, including of a violent or sexual nature; or against vulnerable members of the community such as minors, elderly, disabled or against government officials; should generally be expected to be denied the privilege of coming to, or to forfeit the privilege of staying in Australia;
- In some circumstances, criminal offending or other misconduct, and the harm that would be caused if repeated, may be so serious that any risk of it being repeated will outweigh other considerations.
- Australia has a low tolerance of any criminal or other serious conduct by people who have been participating in, and contributing to, the Australian community for a short period of time. A higher level of criminal or other serious misconduct may be tolerated to a degree for persons who have lived in the Australian community for most of their life or from a very young age;
- The length of time making a positive contribution to the community, and consequences of cancellation or refusal on minor children and immediate family members, are consideration in determining appropriateness of cancellation or refusal.

On the whole Australia's interests, including those of the community and their protection from risk that a person may pose, should outweigh the interests of the individual. In assessing this, Leading Border Force Officers (BCOs) should determine community protection risk factors such as the nature and seriousness of the offending, the frequency and age of the offending, whether the offending has escalated over time, whether the offending occurred against vulnerable people such as minors, the elderly or disabled and if false information has been provided on either the visa application or Incoming Passenger Card.

Due diligence must be applied when determining the circumstances of the case including verification of the person's criminal history through systems checks and obtaining information from Character. Statements of the person should not be taken at face value but tested wherever possible by exploring all reasonable avenues for investigation.

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under the Freedom of Information Act 1982



Australian
BORDER FORCE

Air standard operating procedure

2.2 Uplift approval

This Standard Operating Procedure (SOP) applies to uplift approval which may be sought by airlines prior to a client boarding a plane.

Key procedural points

Prior to a client boarding an aircraft, the airline check-in agents are required to provide DIBP with advance passenger information for each client travelling to Australia.

DIBP receives this information through the Advance Passenger Processing (APP) system, see SOP 2.1 *Pre-arrival passenger assessment*.

Uplift approval is authorisation from the Border Operations Centre (BOC) to an airline check-in agent to allow a client, who is either an improperly documented Australian citizen or non-citizen, receiving a Do Not Board message from the APP system to travel to Australia.

Procedure

1. Pre-arrival check-in

Airline check-in agents enter the client details via the APP system. The details entered are checked against departmental systems to determine if the client has authority to travel to Australia.

Where the client has authority to travel, the airline check-in agent will receive an 'OK to Board' response, and an expected movement record will be generated.

Where the client may have authority to travel but the airline check-in receives a 'Do Not Board' response or the client is an Australian citizen who does not hold a travel document, the airline may liaise with the BOC to confirm the client's identity and immigration status. The BOC may resolve the issue so that the airline receives an 'OK to Board' response or the BOC may grant uplift approval by providing the airline with a Government Override (G Override) system code that authorises the airline to carry the passenger to Australia.

The airline must contact the BOC to advise when the APP system is down and that they are implementing their System Down procedures (manual check-in procedures).

The airline may be subject to an infringement notice if a client arrives without a visa and the airline has not followed the systems down procedures by informing the BOC and either gaining a G-override for that client or providing notification to the BOC that the airline is reverting to systems down procedures

BOC action for boarding response

If an airline enters advance passenger information for a client and they receive a 'Do Not Board' or 'contact EOC' response, the check-in agent may contact the BOC.

When the BOC is called by an airline, the BOC will investigate the case and provide one of the following outcomes:

- correcting visa data which is incorrectly inhibiting an 'OK to Board' response allowing the correct response to be received
- deny boarding due to not having authority to travel to Australia
- s. 47E(d)
- approve uplift by authorising a Government override.

Uplift approval and immigration clearance

Where the BOC have given uplift approval to a client, an entry is made in TRIPS' Denied Movement transaction explaining the reason for the Government override.

Where the BOC have given uplift approval to a client that does not hold a visa, an email should be sent by the BOC to the relevant port mailbox advising of the reasons for uplift approval. Entry officers must consider issuing the client with an appropriate visa on arrival in carrying out immigration clearance procedures.

Entry officers will be to be advised of the arrival details of a client with uplift approval according to local airport procedures and will be required to undertake immigration status and identity checks on referral of the client.

During preliminary discussion with the client, the entry officer should:

- introduce them self and state that they are from DIBP
- ask what visa or citizenship the client believes they hold
- consider the client's level of understanding of English:
 - if required, and telephone access is available, contact the Automated Telephone Interpreters Service (ATIS) or engage a DIBP or ACBPS officer, fluent in the client's language, to assist in preliminary questioning
- advise of the reason for referral
- examine any travel document or visas and indications of tampering and alteration
- if required, photocopy the Incoming Passenger Card (IPC), passport bio-data page and relevant documents
- consider if the client is a minor, if so, see SOP 5.2 *Managing Minors in Immigration Clearance*.

Uplift approval granted on basis of Australian Citizenship

Where the client claims to be an Australian Citizen the entry officer must confirm the client's:

- identity through DIBP systems s. 47E(d)

- [redacted]
 - [redacted]
 - [redacted]
- [redacted]

Uplift approval granted on basis of visa eligibility

Where a client has travelled without a visa but may be eligible for the grant of a visa in immigration clearance refer to SOP 3.10 *Arrival Without Visa*, 'Actioning referrals'.

2. Changes to the expected movement record

Further immigration directive processing is carried out on the expected movement record during the flight, which may affect the processing of the passenger in immigration clearance; see SOPs 9.3 *CMAL & Remote Input Function* and 3.16 *Pre-arrival Screening*.

3. Airline infringement notices

Airlines may be infringed where clients arrive in Australia without having received:

- an 'Ok to Board' directive from the APP system
- s. 47E(d)

Communication

'Sit Rep' reporting

A Notifiable Event (NE) is an activity, incident or occurrence that may:

- have a minor, major or critical impact upon personnel (including third party providers and clients) and DIBP business, operations, facilities or systems,
- require an operational response and/or DIBP resources and management effort to resolve, and/or
- draw media attention and impact upon the reputation of DIBP.

NEs that affect the airport and seaport networks are to be reported to the relevant Regional Command Centre (RCC).

NE categories include:

- Category 1 (Minor) – report in accordance with current business requirements (before end of shift)
- Category 2 (Major) – report within 12 hours
- Category 3 (Critical) – report within 1 hour

- Hot Issues Brief (Critical) – report within 3 hours.

The NE must be actioned according to the relevant category, see *Borders Immigration Notifiable Event Categories* spreadsheet at ADD2015/255118.

The duty manager will email the accurate and completed template to the relevant RCC for distribution, see *SITREP Template* at ADD2015/255109.

Please continue to monitor the situation and report as further details are received.

Feedback

If the content of this SOP requires updating or amending please contact:

s. 22(1)(a)(ii)

Legislative/Policy References

Topic	Reference
Reporting on passengers and crew of aircraft and ships	The Migration Act 1958 – (Division 12B)
Information about passengers and crew to be given before arrival of international passenger aircraft	Migration Regulations 1994 – (Regulations 3.13A & 3.13B)
Approval of primary reporting systems	Instruments of Approval – (Sections 245J and 245K of the Act)
APP Reporting & Infringement Notices	PAM3: Act - Arrival, immigration clearance & entry - Advance Passenger Information & Processing (Air)

Document Control

Version No.	Version Date	Approval Officer	Approval Reference
1.00	December 2014	s. 22(1)(a)(ii), Acting Director, Border Operations Support Section.	ADD2014/1496703

Attachments

No.	Attachment Description	Reference/Source
Nil		