

# Mandatory visa cancellation on character grounds



This information is for you if you are currently serving a sentence of imprisonment, on a full time basis, in a custodial institution for an offence against a law of the Commonwealth, a State or Territory, and your visa has been cancelled on character grounds.

There is a **STRICT TIME LIMIT** of 28 days after the official notice of visa cancellation in which you have to write to the Minister to explain why the decision to cancel your visa should be revoked.

## Why is my visa being cancelled?

Your visa will be automatically cancelled if you meet the following criteria:

- You are **not** a citizen of Australia AND
  - You are currently serving a sentence of imprisonment in a custodial institution, on a full time basis for an offence against a law of the Commonwealth, State or Territory AND
    - while you have been in Australia you have been sentenced to a term of imprisonment for 12 months or more.
- OR
- you have ever been convicted of a sexual offence against a child.

## Will I be told if my visa is about to be cancelled?

You may first receive a **warning** letter advising you that your visa will be cancelled soon and you can expect a *second* letter which will be your **official notice** that your visa has been cancelled. Do not confuse your warning letter with your official notice. Make sure you read the letter carefully.

When you receive official notice that your visa has been cancelled you will also receive information from the Department of Home Affairs ("the Department", formerly the Department of Immigration and Border Protection) on what to do next.

## What happens if my visa is cancelled?

You may be transferred to an immigration detention centre because you do not have a valid visa to remain lawfully in Australia.

## What do I do if my visa is cancelled?

If your visa is cancelled on character grounds you will have 28 days from the date of official notice to write to the Minister explaining why the decision to cancel your visa should be revoked.

## What should I include in my letter to the Minister?

You should provide supporting information and ensure you cover all the relevant information that the Department may consider. You should also try to provide independent support documents such as:

- character references from family, friends, employers, community leaders and others; and
- reports from doctors or counsellors, pre-sentencing or pre-release reports and other letters or reports from qualified people.

You must make sure that your response reaches the Department in time. **You must complete the Request for Revocation of a Mandatory Cancellation Under 501(3A) form within 28 days.** You can provide your supporting material at the same time OR any time before the Department

make a decision. It is recommended you send the supporting material together with your form.

### Why can the Minister cancel my visa under the character test?

The Minister for Immigration and Border Protection (“the Minister”) has the power to cancel any visa where the person does not pass the character test. The recent changes to the law currently separate the general power that the Minister has to cancel a visa where a person fails the character test, and the new power where the Minister **must** cancel a visa where a person is currently serving a term of imprisonment, on a full time basis, in a custodial institution, for an offence against a law against the Commonwealth, State or Territory.

### Where can I get more information?

- Contact the **National Character Consideration Centre** on **1300 722 061** or email: [nccc@homeaffairs.gov.au](mailto:nccc@homeaffairs.gov.au).
- If you need to use an interpreter over the phone contact **Translating and Interpreting Service** (TIS) on **131 450**.
- The **Australian Human Rights Commission** website at: <https://www.humanrights.gov.au/visa-cancellation-character-grounds>.
- The **Department of Home Affairs** has a factsheet – The Character Requirement which can be downloaded from its website at: <http://www.homeaffairs.gov.au/about/corporate/information/fact-sheets/79character>

## Legal Aid WA Offices

**TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)**  
Infoline open Monday to Friday 9.00 am to 4.00 pm  
(Australian Western Standard Time) except public holidays

Translating and Interpreting Service 131 450  
National Relay Service (for hearing and speech impaired) 133 677

[www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

### Perth Office

32 St Georges Terrace, Perth, WA 6000  
1300 650 579  
(08) 9261 6222

### Southwest Regional Office

7<sup>th</sup> Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230  
(08) 9721 2277

### Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330  
(08) 9892 9700

### Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430  
(08) 9025 1300

### Midwest & Gascoyne Regional Office

Unit 8, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530  
(08) 9921 0200

### Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722  
(08) 9172 3733

### West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725  
(08) 9195 5888

### East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743  
(08) 9166 5800

### Indian Ocean Office

Administration Building, 20 Jalan Pantai  
Christmas Island, Indian Ocean, WA 6798  
(08) 9164 7529

This information contains a summary of the law and is correct at the date of publication. It is not legal advice. You should always seek legal advice about your individual situation. Any services referred to which are not operated by Legal Aid Western Australia are not endorsed or approved by Legal Aid Western Australia.

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