

# 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, 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 the 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 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.

You must complete the Request for Revocation of a Mandatory Cancellation form within 28 days.

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

The Minister for Home Affairs, or one of their delegates, has the power to cancel any visa where the person does not pass the character test.

The character test relates to a person's criminal record either while in Australia or in a foreign

country and/or their association to criminally associated groups or organisations.

The Minister has a general power to cancel a visa where a person fails the character test.

There is also a power where the Minister **must** cancel a visa where a person has a substantial criminal record. This means the 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 for the reasons set out above under the heading *Why is my visa being cancelled?*

## 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). You can contact the NCCC if you are not sure if your visa has been cancelled.

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 information on its website: <https://immi.homeaffairs.gov.au/help-support/meeting-our-requirements/character>.

# LEGAL AID WA OFFICES



**Infoline:** 1300 650 579



**Translating & Interpreting Service:**  
131 450



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



**National Relay Service:** 133 677  
(for hearing and speech impaired)

## **Perth Office**

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

## **Midwest & Gascoyne Office**

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

## **West Kimberley Office**

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

## **Great Southern Office**

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

## **Goldfields Office**

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

## **East Kimberley Office**

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

## **Southwest Office**

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

## **Pilbara Office**

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

## **Indian Ocean Office**

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

**CMS ID: 2561489v2**

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. ©Legal Aid Western Australia. This information sheet may be copied, reproduced or adapted to meet local needs by community based organisations without permission from Legal Aid Western Australia provided the copies are distributed free or at cost (not for profit) and the source is fully acknowledged. For any reproduction with commercial ends, or by Government departments, permission must first be obtained from Legal Aid Western Australia.