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Visa applicant character consideration

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The character consideration of a visa applicant is managed by the Visa Applicant Character Consideration Unit (VACCU). The VACCU is a unit within the National Character Consideration Centre (NCCC).

Determining whether a section 501 assessment is appropriate

A non-citizen's conduct may fall within the scope of the character test but this does not necessarily mean the case requires s501 consideration in the first instance. In view of the serious consequences for the client of a decision under s501, visa refusal under s501 should only be considered where other possible approaches have been ruled out.

A visa application should be assessed according to the 'core' Schedule 2 criteria for the visa before refusal under s501 is considered. For example,

where a visa applicant provides fraudulent documentation in relation to a visa application, their visa application should, where possible, be refused on the basis that they are unable to demonstrate that they pass the relevant visa criteria, rather than under s501.

How to refer a client to VACCU

1. Complete relevant referral minute under the 'Who to refer' section below.
2. Scan the client's penal any other information relevant to s501 consideration.
Note: Referring officer must sight client's original penal clearance certificate.
3. Attach the scanned documents and the referral minute in an email to vaccu@homeaffairs.gov.au. You are not required to send the hard copy file.

Who to refer

A visa applicant should be referred to VACCU if the following circumstances are present.

Applicant circumstance	Action required
<p>Substantial Criminal Record: Section 501 (6)(a)</p> <p><i>a substantial criminal record</i> as defined by s501(7):</p> <ul style="list-style-type: none"> • the person has been sentenced to death • the person has been sentenced to imprisonment for life • the person has been sentenced to a term of imprisonment of 12 months or more (a suspended sentence is considered a prison sentence) • the person has been sentenced to 2 or more terms of imprisonment, where the 	<p>Refer to VACCU for consideration under s401 of the <i>Migration Act 1958</i>, using the s501(6)(a) - Substantial Criminal Record form (43KB DOCX).</p> <p>Refer to PAM3: Act - Character –s501- The character test, visa refusal and visa cancellation.</p>

<p>total of those terms is 12 months or more</p> <ul style="list-style-type: none"> the person has been acquitted of an offence on the grounds of unsoundness of mind or insanity, and as a result the person has been detained in a facility or institution. the person has: <ul style="list-style-type: none"> been found by a court to not be fit to plead, in relation to an offence the court has nonetheless found that on the evidence available the person committed the offence, and as a result, the person has been detained in a facility or institution. 	
<p>Immigration Detention related criminal convictions: Sections 501(6)(aa), 501 (6)(ab)</p> <p>The applicant has been convicted of an offence that was committed:</p> <ul style="list-style-type: none"> while the applicant was in immigration detention during an escape by the person from immigration detention after the person escaped from immigration detention but before the person was taken into immigration detention again, or the applicant has been convicted of escaping from immigration detention. 	<p>Refer to VACCU for consideration under s501 of the <i>Migration Act 1958</i>, using the s501(6)(aa)(ab) - Immigration Detention Offences form (42KB DOCX).</p>
<p>Association and membership: Section 501 (6)(b)</p>	<p>Refer to VACCU for consideration under s501 of the <i>Migration Act 1958</i>,</p>

The Minister reasonably suspects that the applicant has been or is a member of a group or organisation, or has had or has an association with a group, organisation or person and that group, organisation or person has been or is involved in criminal conduct.

Note: Evidence must be provided that clearly indicates the nature of the applicant's association with the identified person, group or organisation and the degree, frequency and duration of the association. Failure of this limb of the character test does not require the applicant to have been sympathetic with, supportive of, or involved in the criminal conduct of the group or organisation.

using the [s501\(6\)\(b\) - Association form \(43KB DOCX\)](#).

People smuggling, human trafficking, international crimes: (Sections 501(6)(ba) and (f))

Where a person has been charged or indicted with one or more of the following, or there is reasonable suspicion that the applicant has been involved in:

- people smuggling
- people trafficking
- the crime of genocide
- a crime against humanity
- a war crime
- a crime involving torture or slavery
- a crime that is otherwise of serious international concern.

Consider advice provided in Ministerial Direction 65 for further information.

Refer to VACCU for consideration under s501 of the *Migration Act 1958*, using the [s501\(6\)\(ba\) and \(f\) - people smuggling human trafficking international crimes form \(46KB DOCX\)](#).

<p>Conduct: Section 501(6)(c) Having regard to either or both of the following to determine the character of the applicant:</p> <ul style="list-style-type: none"> • the person's past and present criminal conduct • the person's past and present general conduct. 	<p>Consider advice provided in Ministerial Direction 65 (437KB PDF). You can refer to VACCU for consideration under s501 of the <i>Migration Act 1958</i> using the s501(6)(c)(i) and (ii) - Past and present criminal or general conduct form (43KB DOCX).</p>
<p>Unacceptable Risk: Section 501(6)(d)</p> <p>In the event the person were allowed to enter or to remain in Australia, there is a risk that the person would:</p> <ul style="list-style-type: none"> • engage in criminal conduct in Australia • harass, molest, intimidate or stalk another person in Australia • vilify a segment of the Australian community • incite discord in the Australian community or in a segment of that community, or • represent a danger to the Australian community or to a segment of that community, whether by way of being liable to become involved in activities that are disruptive to, or in violence threatening harm to, that community or segment or in any other way. 	<p>Consider advice provided in Ministerial Direction 65 (437KB PDF). You can refer to VACCU for consideration under s501 of the <i>Migration Act 1958</i> using the s501(6)(d) Unacceptable risk form (43KB DOCX).</p>
<p>Sexually based offences involving a child: Section 501(6)(e)</p> <p>A court in Australia or a foreign country has convicted the applicant of one or more sexually</p>	<p>Refer to VACCU for consideration under s501 of the <i>Migration Act 1958</i> using the s501(6)(e) -</p>

based offences involving a child, or found the applicant guilty, or found a charge proven against the applicant for such an offence.

- A conviction, charge proven or finding of guilt relating to persons under the age of 18 and including but not limited to:
 - child sex offences, child abuse, possession/distribution of child pornography, solicitation or grooming of a minor, incest, indecent dealings with children, and other non-contract carriage offences.
- Charges which have been acquitted or are yet to be resolved

[child sex offences form \(40KB DOCX\)](#).

Adverse Security Assessments: Section 501(6)(g)

The applicant has been assessed by the Australian Security Intelligence Organisation (ASIO) to be directly or indirectly a risk to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*) and PIC 4002 is not a criterion of the visa the applicant has applied for.

Note: Protection visa applicants who have been issued with an adverse security assessment can be refused under section 36(1B) of the Act and do not need to be referred to VACCU.

Consider advice provided in [Ministerial Direction 65 \(437KB PDF\)](#). You can refer to VACCU for consideration under s501 of the *Migration Act 1958* using the [s501\(6\)\(g\)and\(h\) - ASIO assessment Interpol notice form \(40KB DOCX\)](#).

Interpol notices: Section 501(6)(h)

Consider advice provided in [Ministerial Direction 65 \(437KB PDF\)](#). Refer to

<p>An Interpol notice in relation to the applicant, from which it is reasonable to infer that the person would present a risk to the Australian community or a segment of that community, is in force.</p>	<p>VACCU for consideration under s501 of the <i>Migration Act 1958</i> using the s501(6)(g)and(h) - ASIO assessment Interpol notice form (40KB DOCX).</p>
<p>PIC 4001 assessments</p> <ul style="list-style-type: none"> • Eligible New Zealand citizen sponsors who may not satisfy PIC 4001 • Non-migrating dependants who are required to satisfy PIC 4001 where there is evidence to suggest they may not. 	<p>Consider advice provided in Ministerial Direction 65 (437KB PDF). You can refer to VACCU for consideration, using the PIC4001 form (44KB DOCX).</p>
<p>PIC 4016 and 4018 and Regulation 1.20KB</p> <p>Australian citizen, Australian permanent resident or eligible New Zealand citizen sponsors of minor visa applicants for child, partner and extended eligibility category visas who have:</p> <ul style="list-style-type: none"> • a conviction or outstanding charge/s relating to persons under the age of 18 and including but not limited to child sex offences or child abuse, including possession of child pornography • any conviction for sex offences against an adult that resulted in a sentence of imprisonment (for example, rape, indecent assault) or any outstanding charges for sex offences against an adult • other criminal convictions that you consider may constitute a compelling reason to believe that the grant of the visa would not be in the best interests of a minor applicant. 	<p>Consider advice provided in PAM3: Div 1.4 - Form 40 sponsorship - Protection of children - Sponsors of concern. The NCCC requests that urgent or critical cases are signed off by the PMO or EL1 of the visa processing area. See also Referral for applications with sponsor of concern (50KB DOCX).</p> <p>You can also use the Request for comment checklist (69KB DOCX).</p>

Document 1

The NCCC requests that urgent or critical cases are signed off by the PMO or EL1 of the visa processing area.

Further assistance

The VACCU does not provide pre-referral assessments. If unsure, you can refer to the VACCU using the appropriate template provided or contact cancellation.support@homeaffairs.gov.au.

Contact us

To contact VACCU:

- **Phone:** +61 3 8682 2466 (overseas) or 1300 835 524 (in Australia)
- **Email:** vaccu@homeaffairs.gov.au



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Request for Comment Checklist

Surname: _____

Given Name: _____

Date of Birth: _____

Reference: _____

The table below provides some examples of the type of supporting documents you may provide for consideration. This list is not exhaustive.

After completing this checklist, please attach it to the front of your reply. Do not provide original documents unless requested. Documents not in English must be accompanied by accredited English translations.

Types of Documents	
Sentencing remarks / Court reports / Victim Impact Statements. You may provide judicial orders, including parole probation reports, bail, bonds, suspended sentences or any other relevant undertakings or conditions imposed by the courts.	
STATEMENT DESCRIBING THE CIRCUMSTANCES AND FACTORS THAT INFLUENCED YOUR CONDUCT AND CONTRIBUTED TO YOUR OFFENDING. PLEASE ADDRESS EACH CONVICTION SEPARATELY.	
Psychological / Medical reports.	
Have you completed any rehabilitation programs, sought assistance or received treatment in dealing with issues leading to your offending? Please detail any rehabilitation or treatment you have undergone and attach supporting documentation where possible. You may provide parole reports, employment reports, course completion documents etc	
HAVE YOU COMPLETED ANY COMMUNITY ORDERS, VOLUNTARY COMMUNITY WORK OR OTHER ACTIVITIES THAT GO TOWARDS RECTIFYING YOUR CONDUCT? PLEASE PROVIDE DETAILS AND ATTACH SUPPORTING DOCUMENTS WHERE POSSIBLE.	
In relation to the minor visa applicant/s, does a child welfare authority have a management plan in place? Please provide documentation.	

<h2>Types of Documents</h2>	✓
<p>Are one or more third parties aware of the issues around your offending and willing and able to monitor the minor's welfare? Please provide documentation.</p>	
<p>Are there court orders relating to parental access and care arrangements of the minor visa applicant? Please provide documentation.</p>	
<p>Are there other persons in Australia who fulfil a parental role or support role in relation to the minor visa applicant? If yes, please detail role.</p>	
<p>Please detail the relationship between you and the minor visa applicant. What role do you have in the minor visa applicant's life?</p>	
<p>Does the minor visa applicant have a relationship with siblings or other relatives in Australia? If yes, provide details.</p>	
<p>Do you have any other parental role? Please describe your contact with the child/ren.</p>	
<p>You may wish to discuss the length of time the minor visa applicant has been living in Australia. Are there any hardship factors affecting the child should they be required to leave Australia or not be granted a visa to live in Australia?</p> <p>In relation to the minor visa applicant, are there issues of the protection pursuant to the Convention and the Protocol relating status if refugees or the Convention Against Torture (CAT)?</p>	
<p>Any other matters you wish to provide for consideration.</p>	

**Visa Applicant Character Consideration Unit (VACCU)
Child Protection and Sponsors of Concern Case Referral Pro-forma**

IMPORTANT PRE-REFERRAL REQUIREMENTS

- Determine whether your referral falls within the VACCU's referral guidelines
- Ensure that relevant information on this form is completed and all mandatory documents are attached
- If any mandatory documents are not included, the case will be returned. The VACCU do not retain information and referrals must be resent in full
- Referrals must be emailed to vaccu@homeaffairs.gov.au and cc: to Family Policy at mvp.helpdesk@homeaffairs.gov.au
- The transfer of physical CLF/OSF files are not required unless specifically requested by VACCU
- Please contact the VACCU on 1300 835 524 or vaccu@homeaffairs.gov.au if your case falls outside these requirements

Urgent <input type="checkbox"/>	Sensitive <input type="checkbox"/>	EL1/PMO Cleared YES NO <input type="checkbox"/>
<i>Comments: (If any of the above apply, please provide details and attach relevant documentation)</i>		
Application Date:		Processing Office:
Prospective Marriage (Temporary) (Class TO) visa <input type="checkbox"/>		Extended Eligibility (Temporary) (Class TK) visa <input type="checkbox"/>
Partner (Provisional) (Class UF) visa <input type="checkbox"/>		Child (Migrant) (Class AH) visa <input type="checkbox"/>
Partner (Migrant) (Class BC) visa <input type="checkbox"/>		Child (Residence) (Class BT) visa <input type="checkbox"/>
Partner (Temporary) (Class UK) visa <input type="checkbox"/>		
Partner (Residence) (Class BS) visa <input type="checkbox"/>		
SPONSOR/ SPONSOR'S PARTNER'S DETAILS		
Given Name(s):	Family Name:	Date of Birth:
Client ID:	IRIS Family ID:	Natural Parent: <input type="checkbox"/>
Australian Citizen <input type="checkbox"/>	Australian Permanent Resident <input type="checkbox"/> Country of Citizenship	
Sponsor agreed to email contact YES <input type="checkbox"/> Email address: NO <input type="checkbox"/> Postal address:		
PRIMARY APPLICANT DETAILS		
Client ID:	IRIS Family ID:	
Applicant under 18 years of age YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, please provide details of non-migrating person with parental responsibility:		
Given Name(s):	Family Name:	Date of Birth:
Country of Citizenship:	Country of Residence (if different):	
Onshore <input type="checkbox"/>	Offshore <input type="checkbox"/>	
Current visa held: <i>Visa Class (Subclass XX)</i>	Previous travel to Australia: YES <input type="checkbox"/> NO <input type="checkbox"/>	
ADDITIONAL APPLICANT DETAILS		
Client ID:	IRIS Family ID:	
Applicant under 18 years of age YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, please provide details of non-migrating person with parental responsibility:		
Given Name(s):	Family Name:	Date of Birth:
Country of Citizenship:	Country of Residence (if different):	
Onshore <input type="checkbox"/>	Offshore <input type="checkbox"/>	
Current visa held: <i>Visa Class (Subclass XX)</i>	Previous travel to Australia: YES <input type="checkbox"/> NO <input type="checkbox"/>	
ADDITIONAL APPLICANT DETAILS		
Client ID:	IRIS Family ID:	
Applicant under 18 years of age YES <input type="checkbox"/> NO <input type="checkbox"/> If yes, please provide details of non-migrating person with parental responsibility:		
Given Name(s):	Family Name:	Date of Birth:
Country of Citizenship:	Country of Residence (if different):	
Onshore <input type="checkbox"/>	Offshore <input type="checkbox"/>	
Current visa held: <i>Visa Class (Subclass XX)</i>	Previous travel to Australia: YES <input type="checkbox"/> NO <input type="checkbox"/>	

RELEVANT REGULATION FOR CONSIDERATION OF REFUSAL OF VISA SPONSORSHIP (Check as applicable)	
<input type="checkbox"/>	PIC 4016: Requires that the Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the additional applicant.
<input type="checkbox"/>	PIC 4018: Requires that the Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the applicant.
<input type="checkbox"/>	<p>Regulation 1.20KB - Limitation on approval of sponsorship:</p> <p>Indicate if referral is for 'Mandatory refusal of Sponsorship' under Regulation 1.20 KB</p> <p><input type="checkbox"/> The sponsor or partner has not completed the sentence imposed for the Registrable Offence (including any period of release under recognisance, parole, or licence) more than 5 years before the date the sponsorship application was lodged.</p> <p><input type="checkbox"/> Outstanding charges for a Registrable Offence.</p> <p>Regulation 1.20 KB Sponsorship Bar Waiver Provisions:</p> <p><input type="checkbox"/> The sponsor or partner completed the sentence imposed for the registrable offence (including any period of release under recognisance, parole, or licence) more than 5 years before the date the sponsorship application was lodged)</p> <p><input type="checkbox"/> There must be compelling circumstances affecting the sponsor or the visa applicant. It is the responsibility of the sponsor or applicant to demonstrate that there are compelling circumstances. Please scan statement/documents detailing compelling reasons.</p> <p>Note: If the VACCU decision maker accepts there are 'compelling circumstances' affecting the sponsor or the applicant, they will then consider whether to approve the sponsorship under the discretionary power in regulations 1.20KB(4), (5), (9) and (10).</p>
BASIS FOR REFERRAL OF SPONSOR	
<input type="checkbox"/>	Registrable Offence: Refer 1.20 KB (13) for definition. Generally, any conviction or outstanding charges for child sex offences or child abuse, including possession of child pornography;
<input type="checkbox"/>	Any conviction or outstanding charges for child sex offences or child abuse, including possession of child pornography;
<input type="checkbox"/>	Any conviction for sex offences against an adult that resulted in a sentence of imprisonment (for example, rape, indecent assault) or outstanding charges for sex offences against an adult;
<input type="checkbox"/>	Offences involving assault or violence against the person that resulted in a sentence of imprisonment and the conviction occurred less than 10 years ago;
<input type="checkbox"/>	Offences involving the trafficking or manufacture of drugs that resulted in a sentence of imprisonment and the conviction occurred less than 10 years ago;
<input type="checkbox"/>	Any other criminal convictions which you consider could be capable of constituting a compelling reason to believe that the grant of the visa would not be in the best interests of a minor applicant;
Summary of the sponsor's conduct:	
MANDATORY DOCUMENTS CHECKLIST	
<input type="checkbox"/>	All Schedule 2 criteria are met (excluding PIC 4002 and health PIC 4005-4007)
<input type="checkbox"/>	Checked PAM and if required, fulfilled 'disclosure Requirements'. Scan any responses received to disclosure.
<input type="checkbox"/>	A full disclosure Australian National Police Certificate with a 12 month validity period should be requested of any sponsor who has spent a total of 12 months or more in Australia since turning 16 years of age
<input type="checkbox"/>	An offshore penal certificate/police check with at least a 12 month validity period should be requested of any sponsor who is not required to provide an Australian National Police Certificate. This is to include all countries sponsor has resided in for longer than 12 months over the age of 16 years in the last 10 years See: Character and police certificate requirements
<input type="checkbox"/>	Failure to provide Police Clearance: Attach initial request, reminder notice and evidence of refusal to provide checks Penal clearance waivers: If applicable, contact Family & RRV Section at: mvp.helpdesk@homeaffairs.gov.au and attach penal clearance waiver
<input type="checkbox"/>	USA sponsor/applicant only: State penal certificates must accompany FBI identification record if records are incomplete Chinese sponsor/applicant only: Court dispositions/sentencing remarks

RELEVANT REGULATION FOR CONSIDERATION OF REFUSAL OF VISA SPONSORSHIP (Check as applicable)	
<input type="checkbox"/>	Natural Justice: Please scan sponsor's submission as per 'Request for Comment Checklist.' Detailed statement from sponsor outlining the circumstances of their conduct/offending. Note: If sponsor has not responded to request for comment, please scan a copy of the Request for Comment letter.
<input type="checkbox"/>	Any claims of rehabilitation undertaken by the sponsor need to be supported by documentary evidence as applicable (e.g. probation reports, completion of programmes, community service etc.)
<input type="checkbox"/>	All documents in a language other than English must be accompanied with an official translation
<input type="checkbox"/>	Visa application and/or sponsorship forms including where applicable, Form 80 and Form 956
<input type="checkbox"/>	Add/Update MAL Record for <u>all child applicants</u> : Use Code 08 (Child Custody). MAL narrative should indicate referral to VACCU for PIC 4016/4018 assessment due to sponsor's convictions. Briefly record conviction detail <i>i.e. Rape of Minor or drug trafficking related offences</i>
External agency checks, if applicable, has been completed and attached YES <input type="checkbox"/> NO <input type="checkbox"/>	Relevant 503A protected information attached <input type="checkbox"/> Relevant non-disclosable information attached <input type="checkbox"/>
IMPORTANT POST REFERRAL ADVICE: Please advise VACCU of any change in circumstances eg. Domestic Violence claims etc.	
OTHER INFORMATION	
Supplementary information may include the following:	
<input type="checkbox"/>	Sentencing Remarks / Court Reports / Victim Impact Statements
<input type="checkbox"/>	Character References
<input type="checkbox"/>	Compassionate circumstances detailed (identified physical/mental health issues to be accompanied by medical or psychologists reports where possible)
<input type="checkbox"/>	Minor applicants whose interests may be adversely affected in the event of visa refusal
<input type="checkbox"/>	Assessment of applicant as being owed international obligations (CAT, Refugees Convention, ICCPR)
Comments: <i>If any of the above apply, please provide details and attach relevant documentation</i>	

REFERRAL SOURCE	
Contact Officer(s):	
Email Address:	
Phone:	
Processing Office:	
VACCU USE ONLY	
<input type="checkbox"/> Referral acknowledged	<input type="checkbox"/> Travel date noted in CCMD Portal
<input type="checkbox"/> TRIM record created against primary applicant	<input type="checkbox"/> MAL entry recorded against primary applicant
<input type="checkbox"/> Full Issues Paper/Streamlined	<input type="checkbox"/> NOICR ADF