



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY
Ms Leanne Castley MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),
Mr Johnathan Davis MLA

Inquiry into Annual and Financial Reports 2020-2021 ANSWER TO QUESTION TAKEN ON NOTICE 3 March 2022

Asked by Leanne Castley MLA on 3 March 2022: Josh Rynehart, Executive Branch Manager, Access Canberra took on notice the following question(s):

[Ref: Hansard Uncorrected Proof Transcript 3 March 2022, Pages 63-65]

In relation to:

THE CHAIR: I have got some supplementaries. I am concerned. So that I understand, a brand new applicant, who currently does not have a working with vulnerable people card, they put their application in online and get some kind of notification to say thank you, your application is going to be processed. From that point, are they able to work under supervision in the vulnerable situation?

Mr Rynehart: As long as they are being supervised by a person with a registration, then yes, they can. So the ACT has a scheme which requires that once you have applied, you make a form of that regulated activity if another person who holds a registration is supervising your activity, you may work or perform that service prior to the registration being decided.

So that has been—and that is managed by each employer, or agency, and that is a risk management choice that they make at that point. But people can perform the function under supervision, while the application is being considered. Existing registrants can continue to perform unrestricted activities while the registration renewal is being considered.

THE CHAIR: And do you have—so do you have flags on the system for sex offenders and things like that, so that if they do register and manage to work away that they can be supervised or whatever, that they are flagged immediately and their application is withdrawn.

And so—and then following on from that, do the employees then get—employers get notified because I imagine someone could be in a situation where they have put their application in, we do not know for whatever time frame, I did not quite understand how long it takes on average to get the application process through to completion, so they could be working that whole time knowing that they have been rejected but the business owner, the employer, might not know. I am worried about this air gap in between here.

Mr Rynehart: Yes. So firstly, I will just cover off, currently there is a 35 day average processing for applications. With your question relating to—when a person applies, they provide an online application and the system says, thank you very much, please come to the contact centre and provide your identity.

Once they have provided their identity, then that is when an application is considered to have been received, rather than when they put it online. So we cannot start the process until that occurs. The—once we send the information to the ACIC and we receive information such as you are describing, whether a person has been convicted, or changed with what is called a category A offence.

The commissioner has the power to issue what is referred to as an interim bar which is—prevents that person from performing the function while the application is being considered so that gap is dealt with through that management. So as soon as we become aware of that information, which ordinarily is within days of the application, not the extended period, that we can ensure an interim bar which stops the person performing that function until we process the application and make a decision.

We have access to information, criminal history information, and we have information which is shared nationally between the working with children sectors in particular, which came out of the royal commission. And we also have information to—other information available to the commissioner which is not criminal in nature but may be relevant to the decision.

So there are ways for us to prevent a person who may be a risk from performing—working under supervision while the application is being decided. However, at the same time, that supervision requirement is there partly to manage that risk in any case. So there are certainly a range of controls to deal with that risk.

THE CHAIR: Have anyone that is in this supervised working scenario had their cards rejected, had their applications rejected?

Mr Rynehart: I am not—I am sorry, I am not—are you asking about people that we became aware of, or any—or how many refusals there have been overall?

THE CHAIR: Both actually, I am happy for you to take that on notice if—the amount of refusals all together, or mid-way through the process, they have had that card rejected. And then one further, going on from that, throughout—I know your extending from three years to five years, how you become aware in that time as to whether or not someone needs their card revoked?

Mr Rynehart: Okay. So firstly yes, I will take on notice the total number of negative notices that have been issued under the scheme. I will say, at the general level, we—around 88 to 90 per cent of applications that come through require no further consideration and then most of those remaining are very low level and minor issues. So it is a very small number of people we are talking about. The second part, I am sorry, I have forgotten the second part of your question.

THE CHAIR: Just wondering any revoked over their three year time or—and now you are extending it to five, what checks and balances are in place?

Mr Rynehart: Yes, certainly, sorry, so one of the main drivers for enabling that shift from a three year, to a five year registration, is that we now have daily data matching available to us so that we can monitor registrants behaviour throughout their registration.

Previously, we had point in time assessments which is why the registration period would be shorter, we now have significant more information available and more contemporaneous information available to the commissioner. So the registration can period can be extended. So there are ways that information sources, where we can become aware of a registrant, and then we would commence what is called a revised risk assessment, which is effectively, we notify the applicant that we are undertaking another risk assessment about their application and

depending on the severity of the information, that may or may not impact their currency of their registration.

THE CHAIR: Thank you. So just to be clear, the question on notice is how many are rejected and the—whilst working in this caretaker period, if that has been rejected and also, over the time period when you are aware of somebody, and then, I guess, the last one is—yes, those rejections due to a criminal record.

MINISTER CHEYNE: The answer to the Member’s question is as follows:–

The [Working with Vulnerable People \(Background Checking\) Act 2011](#) allows for the following registration decision outcomes:

- **Positive registration (section 41)** - the Commissioner for Fair Trading (the Commissioner) must issue a positive registration when after conducting a risk assessment they are satisfied that the person does not pose an unacceptable risk of harm to a vulnerable person;
- **Cancellation of application (section 19)** - the Commissioner refuses to consider the application further, due to the applicant failing to comply with the Commissioner’s request for additional information necessary to decide an application;
- **Negative notice (section 37)** - when the Commissioner is satisfied that the person poses an unacceptable risk of harm to vulnerable people whilst engaging in a regulated activity;
- **Conditional registration (section 42)** - the Commissioner may register a person subject to a condition that reasonably mitigates an identified risk that the person poses to a vulnerable person;
- **Cancel registration (section 57)** - the Commissioner may cancel a registration when after conducting an additional risk assessment they are satisfied that the person poses an unacceptable risk of harm to a vulnerable person.

	2020-21	2021-22 (as of 28 Feb 2022)	Since the commencement of the Scheme in 2012
Refusals (cancellation (s19 & s57) & negative notice combined)	196	164	2,335
Conditional Registration (s42)	76	135	772
Negative Notices (s37)	11	12	76
Cancel registration (s57)	9	17	66
Cancel application (s19)	176	135	2,193
Positive registration (s41)	20,265	23,089	316,806

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature: 

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By the Minister for Business and Better Regulation, Tara Cheyne MLA