Decision and Reasons for Decision

Administrative Review Tribunal

Applicant/s:	**Malachy Okoli**
Respondent:	**Minister for Immigration and Citizenship**
Tribunal Number:	**2025/6027**
Tribunal:	**General Member S. Fenwick**
Place:	**Melbourne**
Date:	**19 January 2026**
Decision:	The Tribunal affirms the decision under review.

.....[SGD].....

General Member S. Fenwick

Catchwords

MIGRATION – mandatory visa cancellation – citizen of Nigeria – Class BC Subclass 100 Spouse visa – serious repeat drug offending – failure to pass character test – whether another reason mandatory cancellation should be revoked – Direction No. 100 applied – decision affirmed

Legislation

Migration Act 1958 (Cth)

Secondary Materials

Direction No. 110 – Migration Act 1958 – Direction under section 499: Visa refusal and cancellation under section 501 and revocation of a mandatory cancellation of a visa under section 501CA

Statement of Reasons

BACKGROUND

1. Mr Okoli applied on 4 November 2025 for the review by the Tribunal of the decision by a delegate of the Respondent Minister dated 27 October 2025 not to revoke the mandatory cancellation of the Applicant's visa. The Applicant's Class BC Subclass 100 Spouse visa was subject to the mandatory cancellation provisions under s 501 of the Migration Act 1958 (Cth) (the Act) on character grounds.

2. Mr Okoli was born and raised in Nigeria, and was 51 years of age at the time of the hearing. He first came to Australia at the age of 32 in April 2006 after having met his wife, Ms Merysse Bloem, online and marrying her in Singapore. Mr Okoli lost his mother when young. His father subsequently remarried but passed away in 2018. The Applicant has a total of seven siblings on both sides of his family. Mr Okoli and his wife have a son who recently turned 18.

3. Mr Okoli has been sentenced to two terms of imprisonment since his arrival in Australia. The first sentence, which commenced in late 2006, was in respect of drug importation, and the Applicant was released on parole after serving four years. Mr Okoli was again sentenced with effect from late 2015 in respect of drug trafficking. For this offence, Mr Okoli received a minimum non-parole period of nine years and six months. He remained in prison at the time of the hearing after the refusal of parole in mid-2025.

4. During the process of applying for a partner visa (the subject of mandatory cancellation in this matter) Mr Okoli was required to make submissions as to why that visa should not be refused on the basis of his criminal record. The visa was granted to him in May 2012, and he was warned as to the possible consequences of further character related conduct.

5. Mr Okoli was represented at the hearing and lodged a Statement of Facts, Issues and Contentions (ASFIC) together with a statement from the Applicant, dated 8 December 2025, and a statement of Ms Bloem, dated 9 December 2025. The Respondent lodged a Statement of Facts, Issues and Contentions (RSFIC), documents pursuant to the requirements of the Act (G), and a bundle of supplementary G documents. The Respondent also prepared and lodged a Hearing Book (HB).

6. Evidence was given at the hearing by Mr Okoli, Ms Bloem, and their son.

LEGISLATION

7. Under s 501(3A) of the Act, the Minister must cancel the visa of a person if satisfied that the person does not pass the character test. One of the specified grounds of cancellation is that the person has a substantial criminal record, defined, relevantly, as having been sentenced to a term of imprisonment of 12 months or more (s 501(6) and s 501(7)).

8. The Act also provides that mandatory cancellation may be revoked in circumstances where a person passes the character test, or the decision-maker is satisfied that there is another reason why that decision should be revoked (s 501CA(4)). The primary and other considerations set out in Direction No 110 (the Direction) (made under s 499 of the Act) must be taken into account in a revocation decision. In considering the statutory test, a decision-maker may identify other factors.

9. The Direction provides that decision-makers should use the following principles as a framework for making a decision in character-related matters:

(1) Australia has a sovereign right to determine whether non-citizens who are of character concern are allowed to enter and/or remain in Australia. Being able to come to or remain in Australia is a privilege Australia confers on non-citizens in the expectation that they are, and have been, law-abiding, will respect important institutions, such as Australia's law enforcement framework, and will not cause or threaten harm to individuals or the Australian community.

(2) The safety of the Australian Community is the highest priority of the Australian Government.

(3) Non-citizens who engage or have engaged in criminal or other serious conduct should expect to be denied the privilege of coming to, or to forfeit the privilege of staying in, Australia.

(4) The Australian community expects that the Australian Government can and should refuse entry to non-citizens, or cancel their visas, if they engaged in conduct, in Australia or elsewhere, that raises serious character concerns. This expectation of the Australian community applies regardless of whether the noncitizen poses a measureable risk of causing physical harm to the Australian community.

(5) Australia has a low tolerance of any criminal or other serious conduct by visa applicants or those holding a limited stay visa, or by other non-citizens who have been participating in, and contributing to, the Australian community only for a short period of time.

(6) With respect to decisions to refuse, cancel, and revoke cancellation of a visa, Australia may afford a higher level of tolerance of criminal or other serious conduct by non-citizens who have lived in the Australian community for most of their life, or from a very young age.

(7) Decision-makers must take into account the primary and other considerations relevant to the individual case. In some circumstances, the nature of the non-citizen's conduct, or the harm that would be caused if the conduct were to be repeated, may be so serious that even strong countervailing considerations

may be insufficient to justify not cancelling or refusing the visa, or revoking a mandatory cancellation.

(8) The inherent nature of certain conduct such as family violence is so serious that even strong countervailing considerations may be insufficient to justify not cancelling or refusing the visa, or revoking a mandatory cancellation, even if the information available at the time of consideration suggests that the noncitizen does not pose a measureable risk of causing physical harm to the Australian community.

ISSUES

10. The first issue to be addressed is whether Mr Okoli passes the character test. Relying upon the national criminal history results report (G6) and consistent with the submissions of the parties, I find that he does not, due to the imposition of multiple sentences of imprisonment in excess of 12 months.

11. The second issue arising for consideration therefore is whether, taking into account the guidance found in the Direction and any other factor identified for consideration, there is another reason to revoke the mandatory cancellation or Mr Okoli's visa. I will rely upon the structure of the Direction in my considerations set out below.

PRIMARY CONSIDERATIONS

12. I note that of the specified primary considerations, the factor of family violence committed by the non-citizen is not engaged in this matter and accordingly weighs neutrally.

Protection of the Australian community

Nature and seriousness of conduct

13. I refer first to the remarks of the sentencing judge on 26 October 2007 in respect of Mr Okoli's first instance of drug offending (G7). The judge noted that Mr Okoli plead guilty to one offence of importing a marketable quantity of heroin. The quantity in question was 497 grams gross, equating to a pure weight of 227 grams, which the Applicant brought back to Australia from Nigeria concealed in his shoes.

14. The offence was detected upon arrival at the airport on 24 December 2006. Mr Okoli claimed that he had been travelling in relation to a plan to establish a used car parts business, and that he had been coerced to import the drugs by others. It appears the judge was presented with material supporting the Applicant's interest in exporting car parts from Australia. Mr Okoli also explained a number of international trips he had undertaken in 2006 as related to this enterprise.

15. The sentencing judge was not impressed by the Applicant's story in relation to his offending, and rejected the claim of duress. The offence was described as objectively serious but the judge was unable to find that Mr Okoli was more than a courier and described the evidence on his precise role as difficult to interpret. The judge acknowledged the Applicant's prior good character, early plea, and the hardship likely to be felt by his young family. A head sentence of six years was imposed with a non-parole period of four years.

16. As noted briefly above, a parole order was made in Mr Okoli's favour on 23 December 2010 (G40, 427). As also noted, Mr Okoli applied for a partner visa on 5 August 2005 and was informed on 1 June 2011 that the Respondent Minister intended to consider whether to refuse this application under s 501(1) of the Act on character grounds (G38). Following the making of submissions by the Applicant on this issue, a decision was made to grant the visa, and Mr Okoli was warned that if he engages in any further conduct that might bring him *'within the scope of section 501, cancellation or any visa that you hold … may be considered'* (G38, 412).

17. In respect of the second instance of drug offending, Mr Okoli was sentenced on 27 May 2016 on the basis that he and other unidentified persons overseas engaged in an import enterprise between February 2013 and June 2014 (G8). Authorities intercepted 14 packages sent from six different locations around the globe, with each containing a marketable quantity of methamphetamine, cocaine or heroin. Some of the packages were addressed to a PO Box in the name of the Applicant, though the balance were addressed to a property close to the Applicant's residence.

18. Mr Okoli was to arrange to collect the packages either personally or via a third party. He had in his possession a drivers license under another name, to which some packages had been consigned. He also had a number of mobile phones subscribed in other names in his possession. The Applicant had remitted over $60,000 in funds and police found just over

$100,000 in a shoebox concealed under his house, and a further sum of $5,200 with some of the material in other identities in his bedroom.

19. At trial, the Applicant's representative did not take issue with much of the factual background, but the judge declined to find that other persons were involved and was satisfied that Mr Okoli was the principal importer. The judge described Mr Okoli's moral culpability in respect of the specific offence of importation as high. The offence involved a reasonable degree of sophistication and was undertaken for financial gain. As Mr Okoli plead not guilty, he was found not to have demonstrated contrition or remorse, and the offending was objectively serious. The judge also found that the prior drug offending indicated the importation was not aberrant or isolated, and his prospects of rehabilitation were described as poor.

20. Ultimately, Mr Okoli was sentenced to an aggregate 14 years and six months with a non-parole period of nine years and six months on the following: 11 separate counts each carrying an indicative sentence of five years; two counts each carrying an indicative sentence of seven years; one count carrying an indicative sentence of nine years; and, a single count in respect of possess property being proceeds of crime carrying an indicative sentence of 18 months.

21. The sentencing judge noted that only some packages were assessed as to the purity of drugs concealed. The bulk weight of 11 packages totalled just under 2.2 kg of methamphetamine and just over 750 grams of cocaine. The heroin in the balance of packages weighed in excess of 2.3 kg, equating to a pure weight of just over 1.3 kg.

22. In cross-examination, Mr Okoli was asked about a written statement he had made in March 2019, in which he stated that he had not been involved in fights or incidents of harm in prison (G10, 81). He responded that 'down the line' he had been involved in two fights. Both had resulted in him going into 'segro', which I understood to mean segregation from the general population. The penalties were of one week and two-weeks' duration. He clarified in re-examination that in one instance he had been asked to speak with another inmate which resulted in them initiating a fight. The other he stated arose from a dispute with an argumentative colleague on kitchen duties who had tried to stab another inmate.

23. Submissions for Mr Okoli essentially conceded that his repeat offending was very serious, noting the high moral culpability assigned in the second sentencing. It was noted that the total effective sentence across both instances was over 28 years' in total, that there had been clear escalation in the offending, and that accordingly this record carried substantial cumulative impact. It was also conceded that the two fights in custody were not a matter favourable to Mr Okoli's interests.

24. The Respondent's submissions noted the substantial quantities of drugs imported, observing that the amount of heroin alone imported in the second instance was some five times greater than in the first. Submissions also addressed the overall total effective sentences and the cumulative impact of the crimes. The Respondent also stressed the formal warning provided to Mr Okoli in 2011. The chronology indicates that he commenced reoffending some two and a half years following this warning, and some 18 months after the grant of his visa.

25. The Direction provides specific guidance as to the types of conduct that might be categorised as 'very serious' or 'serious' without confining a decision-maker to any finding [8.1.1(1) a) and b)]. Owing to the quite substantial volume of drugs imported across the two instances, but particularly in the second instance, which was a sustained enterprise in which Mr Okoli was the principal importer, and consistent with the parties' submissions, I find that his conduct is to be considered very serious.

26. Mr Okoli received very substantial sentences of imprisonment that well exceed the 12 month threshold for a substantial record under the character provisions of the Act and I consider this to be a matter of real significance and deserving of real weight [8.1.1(1) c)].

27. I consider that, consistent also with the parties' submissions, that Mr Okoli's repeat offending and its objectively greater seriousness on the second occasion to warrant weight under the Direction [8.1.1(1) e)]. In this respect, it is also a matter of concern that Mr Okoli was on parole after the first offence until the end of sentence in December 2012, and was found to have commenced the second drug enterprise no later than February 2013. I also consider that the overall cumulative impact attracts weight [8.1.1(1) f)].

28. It is apparent, and accepted by Mr Okoli, that he was formally warned about the consequences for his immigration status of further offending and this is a matter of some

importance here [8.1.1(1) h)]. This is because the warning came as part of the application for a partner visa which was granted after the making of substantive submission by the Applicant, a matter addressed further below.

Risk to the Australian community

29. In a statement forming part of submission on the issue of visa revocation in March 2019 (G10), Mr Okoli presents an apology to the Australian community, as well as to his wife and son, for his offending. The Applicant states that the years he has spent in jail have allowed him to focus on the importance of family including awareness of the need for his son to have a good role model. Mr Okoli also states that he has put *'a lot of effort into proper rehabilitation'* and pursued a lot of education. In short, the Applicant expresses a desire to contribute to the community and to prove himself and states that he has learned his lesson.

30. In his statement lodged with the Tribunal, Mr Okoli also states that he accepts his offending is very serious and that drug offending causes serious harm [7] and notes his wife has a number of medical conditions and is recovering from breast cancer [12]. The Applicant describes his relationship with his son as very important to him [13], and observes that both have been diagnosed with mental health problems [14].

31. In evidence, Mr Okoli was asked to expand upon the employment history referenced in his statement lodged with the Tribunal. He outlined a number of jobs over his time in Australia which he reckoned to total some five to six years of mainly fulltime employment. This included several storeman roles. He also cited an extensive work history in prison. Mr Okoli also stated that he had several health complaints including high blood pressure and fibromyalgia, for both of which he received medication. He described his diagnosis and treatment for fibromyalgia in prison, and accompanying constant pain in joints and muscles. However, the Applicant also acknowledged this had not prevented him from engaging in prison work, which presently was in the form of welding.

32. Some time was taken in cross-examination to review Mr Okoli's educational and vocational activities in prison, as well as his work history in the community. This has included education in literacy and numeracy (during his present term in prison), and a diverse range of vocational experience, some of which led to forms of certification. Some of this evidence appeared to be directed at determining whether Mr Okoli considered himself prepared for

the community from is first period in prison. Fundamentally, the Applicant expressed a desire in the future to return to TAFE and establish himself in welding.

33. Another particular focus during cross-examination was the level of insight Mr Okoli had into drug offending, informed in particular by reference to his experience in prison after the first offence, and also the response provided in response to the advice about the possible refusal of this visa. In respect of the latter, Mr Okoli acknowledged his August 2011 statutory declaration in which he: acknowledged the impact of his first offence upon his family [8]-[9]; expresses deep sorrow and shame, and states he has matured and rehabilitated [12]-[13]; and, declares that he is certain he will never repeat the offending and will never be a risk to the Australian community again [14].

34. When questioned further about his reoffending, Mr Okoli stated that he plead not guilty on legal advice, but accepted that no one else is to blame. The Applicant stated that the offending was motivated by financial problems and the influence of those around him. Mr Okoli stated that he had accumulated USD$35,000 in debt from his planned spare parts business, and his father had experienced a stroke. The Applicant stated that he planned to work upon release but also had a plot of land in Nigeria he could sell to help clear his debt.

35. Mr Okoli confirmed that he had discussed his land ownership and debt issue during a mental health consultation in prison in mid-2025 (G16, 122). In further questioning I understood the Applicant to say that he hoped to find a way to travel to 'release the land' to help resolve his debt, and agreed he had previously stated the land may not be sufficient for this. Mr Okoli added that he also owed $10,000 arising from the drug importation enterprise and he confirmed his intention to attempt to repay his debts. The Applicant also stated that he needed to go back to Nigeria to organise his family, though he later clarified that this would only occur if safe to do so.

36. Mr Okoli also stated in evidence that he understood his parole had been denied in mid-2025 due to his involvement in assaults, the absence of counselling, and the lack of firm employment prospects.

37. I note the material lodged demonstrating numerous the diverse education and training undertaken by Mr Okoli (G17; HB/S3, 700-701). I note also the summary statement of employment, education and financial documents annexed to submissions made in respect

of the consideration of visa refusal (HB/S3, 647). I note further the reports of Mr Okoli's taxable income prepared by the Australian Federal Police in is statement of facts in respect of the second offending (HB/S2, 582).

38. Ms Bloem gave evidence consistent with her recent statement. She stated that she is in remission from breast cancer, but has other medical conditions, and is working fulltime as a Registered Nurse. Ms Bloem confirmed that she has downsized the family home once, and is preparing to do so again, with the aim of reducing the financial burden. She expressed her desire to have the help of her husband to assist with living expenses and spoke about the close family bond, and the need for her son to have his father in his life.

39. In cross-examination, Ms Bloem was asked about matters including her husband's previous expressions of remorse and about statements she made in respect of the possible visa refusal (HB/S3, 690). She stated that the family's circumstances have changed now with the passing of her mother and her son now working, but also emphasised that her cancer diagnosis had shaken them. Ms Bloem also said a second reason Mr Okoli would not offend again was his fear that their son would be left alone should he be deported. She explained that the Applicant was keen to obtain vocational qualifications and that they had discussed this as a family and confirmed his interest in welding, which she said a relative with experience could assist with.

40. Having mentioned her husband's parole situation, Ms Bloem added (in response to a question from myself) that she had met with a parole officer prior to Christmas at the family unit and she understood 'everything to be good her end'. I understood her to say that the parole board will be in contact with them again. Ms Bloem also stated that she believed financial pressures had been a factor in Mr Okoli's second offending, but was not aware of the debts he had reported in his own evidence. She confirmed the family's strong observant Catholic faith and also that she had some ongoing contact with her own wider family group, principally with the children and grandchildren of one of her aunts. Ms Bloem also gave evidence as to the likely state of the mortgage on her home subject to a further move, and as to her superannuation balance.

41. Mr Okoli's son confirmed the provision of several statements in the past (G26-27). The statements and evidence confirm the strong family ties and also consistent with Ms Bloem's evidence about her husband's plans if returned to the community.

42. Submissions for the Applicant included the concession that further repeat offending of the kind undertaken previously would have significant consequences for the community. It was contended that no particular weighting as to its likelihood is required, but the principal inquiry should be whether the risk is unacceptable. It was submitted that significant time has passed since the sentencing judge considered the prospects of rehabilitation to be poor, that Mr Okoli has reflected on his offending and the Applicant will return to a safe, stable and protective environment. While it was submitted this consideration weighs against the Applicant, note was made of his expressions of remorse and appreciation of the seriousness of his offending.

43. The Respondent submitted that the Tribunal cannot be satisfied the Applicant does not present a risk of reoffending. It was also contended that the evidence supports the view that Mr Okoli may offend in another manner besides repeat drug offending. The Respondent submitted that given the second offending was clearly driven by financial gain, should the family face dire financial circumstances at some time in the future the Applicant may be motivated to reoffend, including out of his love for his family. The Respondent further submitted, as I understood it, that Mr Okoli was not substantially better qualified to work now as compared to his first time in prison, and as a result is not less likely to reoffend. Moreover, he has no firm offer of employment.

44. The Respondent submitted that Mr Okoli's evidence as to his insight into his offending should be rejected, based in part upon his prior similar expressions not preventing his repeat drug offending. It was also put that he continues to exhibit elements of minimisation. It was also contended that family support did not operate as a protective factor between instances of prior offending. Finally it was contended that there is some ongoing doubt about the underlying causes of prior offending, leaving doubt about the effectiveness of rehabilitation.

45. This part of this primary consideration draws the attention of decision-makers to the Government's view that the Australian community's tolerance for any risk of future offending lowers with the increasing seriousness of harm, and that some harm should be considered unacceptable [8.1.2(1)]. The starting point is consideration of the nature of harm ([8.1.2(2) a)]) and I accept that parties' submissions that repeat drug offending of the scale Mr Okoli has engaged in previously has the potential to cause serious and possibly substantial harm to individuals and the public. On the basis that the Respondent was relying on the

Applicant's short record of misconduct in prison to support its argument about a risk of other offending, I do not accept that it is sufficient to draw such a conclusion.

46. There is no clinical evidence supporting a particular view, or measure, of the risk of recidivism [8.1.2(2) b) i]. The approach of the parties in submissions appears to largely follow the commonly accepted position that a history of previous offending is an indicator of a risk of similar future offending, which is the position I adopt.

47. There is some merit in the argument that, despite the pessimism of the sentencing judge as to rehabilitation, Mr Okoli has indeed had a substantial amount of time to reflect upon his conduct. I consider the evidence shows that past declarations of reform, remorse and insight proved hollow. However, his evidence, combined with that of Ms Bloem, indicates that this time Mr Okoli has come to appreciate the fragility of his situation. This, together with the view I have of the overall strength of the family unit despite many years of separation, stands as evidence of rehabilitation [8.1.2(2) b) ii]. There is further and quite ample evidence of Mr Okoli's work throughout his confinement as well as the numerous certifications. This is indicative of a person who has the capacity to contribute productively in the community in the way asserted as an objective in evidence.

48. Given the lack of professional opinion and relatively scant material from the Applicant's time in prison (beyond certifications) there is limited information on which to venture a specific assessment of the risk of recidivism. Overall, however, I consider that there remains some risk of further reoffending. Based on Mr Okoli's record of reoffending, I consider that the risk sits somewhat above what might be described as the limited, low, or 'actuarial', level of risk typically indicated by the fact of a historical record of offending.

49. The Applicant has submitted that it is important to determine whether or not this level of risk is unacceptable. The principles in the Direction indicate that some matters of serious character concern should lead to cancellation regardless of whether there is a measurable risk of physical harm to the community. They also indicate there may be a higher tolerance of criminal conduct for those who have contributed to the community for longer periods. They further indicate strong countervailing considerations may not justify revocation of mandatory cancellation in respect of some kinds of harm.

50. Returning to the factors in this specific sub-consideration, the Direction provides that I should have regard to the view that the Australian community's tolerance for any risk of future harm becomes lower as its potential seriousness increases. I have found that the nature of harm of reoffending could be serious and possibly substantial, and I have found that there remains a real risk of future reoffending. It appears to me that it is not necessary the case that I must assess in all cases whether there is an 'unacceptable' risk, but rather that I must determine the nature of the harm and whether a risk exists.

Summary finding

51. I have found that Mr Okoli's past offending is to be considered a very serious form of offending. As noted, I have found there is a risk of future reoffending, somewhere above a low level of risk, and that this is a risk of serious and possibly substantial harm to the community.

52. Overall, I find that this primary consideration weighs heavily against revocation.

The strength, nature and duration of ties to Australia

53. I have already addressed at a relatively general level above the nature of the family relationships, and Mr Okoli's appreciation of the affect his offending has had on the family. In his most recent statement, the Applicant draws attention to the potential long-term effects upon Ms Bloem of her recent experience of cancer, the impact upon his son, and also their mental health concerns as identified by a psychologist [12]-[14].

54. Ms Bloem confirms in some additional detail the possible nature of impacts of her cancer over the longer term, and states that his deportation will leave her as sole parent while managing her own health situation [10]-[14]. She states that her son has long hoped for the chance to spend meaningful time with Mr Okoli and fears for his wellbeing were the Applicant deported [17]-[18].

55. While not addressed in evidence, I note the report of Mr Anthony Diment, clinical psychologist, dated 25 May 2025 (G32) in respect of Ms Bloem and her son. It refers to a professional relationship dating back to 2019 and describes the administration of clinical assessments over this period. Dr Diment observes that Ms Bloem's clinical profile reflects turmoil in her life and he appears to diagnose Adjustment Disorder. Her son is also

considered to have indicators above average for certain measures of mental health and to fit the criteria for mild-moderate Persistent Depressive Disorder. Dr Diment concludes that Mr Okoli's return to the family would significantly improve the psychological state of his wife and son.

56. I note there are, broadly, two sets of supporting references provided by members of Ms Bloem's family dated in 2011 and 2019 (HB/S3, 191-200; G34-37). I have noted above some aspects of Mr Okoli's employment and I note in addition supporting documents in the materials (G18). I have not had recourse to any of the more detailed medical record for Ms Bloem, but do note the relative extensive supporting material (G22).

57. For the Applicant it was submitted that he has accumulated a period of nearly 20 years' residence in Australia and his strong emotional relationship with his immediate family was noted. It was contended that deportation would carry serious human consequences for the family together with potential practical financial hardship. This was based on the extraordinary fact of a close continuing bond despite long periods of imprisonment. Mr Okoli's ties to his wife's family was also identified.

58. It was conceded that the Applicant commenced offending shortly after arrival in Australia and that this moderates the positive impact of this consideration. Some weight, it was submitted, should be given to Mr Okoli's employment record, but that his significant time in prison must be acknowledged. Overall, it was contended that this consideration weighs in favour of revocation due to the substantial length of time the Applicant has been in Australia. Written submissions ascribed heavy weight in favour of revocation.

59. The Respondent accepted that the immediate family unit has persisted and remained strong and that substantial effort had been made to the personal development of Mr Okoli's son. However, the significant impact upon them was only one factor in this primary consideration. That is, the overall weight in Mr Okoli's favour was severely diminished due to the time his offending commenced and his periods in prison. It was contended that the Applicant had only spent a period of less than three years in total out of prison and contributing to the community. Written submissions put the weight in favour of revocation as only limited weight.

60. I must give consideration to the impact of the decision on Mr Okoli's immediate family, who are Australian citizens [8.3(1)]. I must also give consideration to the strength, nature and duration of the Applicant's other ties to the Australian community having regard to the length of time he has resided and the strength of other family or social links [8.3(2)].

61. I agree with the submissions overall that the Applicant's wife and son would likely suffer quite significantly emotional impact from his deportation. The likelihood of other practical effects is difficult to determine. The key qualification here is the unknown chance of Ms Bloem or her son experiencing physical or mental health consequences that affect their livelihood. The picture that emerges from the evidence overall is that the family has managed during long periods of incarceration, albeit I accept some financial contribution arose from Mr Okoli's prison work. The family also managed financially during Ms Bloem's treatment, however this came with the important lifestyle change of downsizing property.

62. Both parties accurately reflected the guidance of the Direction in that adjustments to weighting in favour of the Applicant arises from his first offending in the year of his arrival, and the relatively brief period of some few years where he appears to have had employment and not offended. The parties' written submissions both note the relatively limited periods of formal employment that finds support in written evidence. I accept that Mr Okoli has some further connection to his wife's family.

63. Overall, I consider that this primary consideration weighs to a moderate extent in favour of the Applicant and revocation.

Best interests of minor children affected by the decision

64. This factor was not initially addressed in written submissions, however it became relevantly engaged as a result of evidence given by Ms Bloehm in response to a question from myself. In her evidence about the extent of her extended family, she stated that there are two minor grandchildren to an aunt of her late mother. Ms Bloem stated that one is aged ten years old and this child has had very limited contact with the Applicant. However, another child who is soon to turn 17 years of age, has had relatively close contact with Mr Okoli over the years.

65. It was submitted for Mr Okoli that some marginal weight might be given to the relationship with the second child, on the basis that it had only emerged at the hearing and there was a lack of probative evidence as to the nature and extent of the relationship. The Respondent

submitted that on the basis of the evidence the Tribunal can place some limited weight upon the relationship, noting that the relationship has and will not involve a parental role.

66. On the basis of the limited evidence, and consistent with the parties' submissions, I find that some very limited weight be given to the interests of the one child of Ms Bloem's extended family who has previously had contact with Mr Okoli.

Expectations of the Australian community

67. This primary consideration essentially reflects the expectations identified in the principles set out in the Direction. These are that the Australian community expects non-citizens to obey the law, and that serous conduct in breach of this expectation, or an unacceptable risk of further misconduct, means that the Australian community also expects the Government not to allow the non-citizen to remain [8.5(1)]. It may be that non-revocation is appropriate simply due to the nature of the character concerns or offences [8.5(2)].

68. It was submitted for Mr Okoli that this consideration is understood as a deemed expectation which the evidence shows he has broken repetitively, and in a serious manner, and that it therefore weighs against him. The Respondent submitted that this primary considerations weighs heavily against revocation in light of the very serious nature of Mr Okoli's drug importation offences.

69. I have indeed found above that Mr Okoli's criminal offending is a form of very serious conduct. I also accept the tenor of the Applicant's own concession, being that each instance of importation was quite serious as reflected in the penalties imposed. Moreover, Mr Okoli was warned about the possible consequences of further offending and chose to pursue a second enterprise.

70. Notwithstanding that his conduct dos not fall within one of the specified categories of serous character concern, I consider that his repeat serious misconduct does merit this characterisation. Overall, I consider that on the evidence it is appropriate to find that this primary consideration weighs heavily against revocation.

OTHER CONSIDERATIONS

71. Of the specified other considerations, impact on Australian business interests is not engaged in this matter and accordingly weighs neutrally.

Legal consequences of the decision

72. The consideration provides that decision-makers be mindful of the legislative pathway set out in the Act for unlawful non-citizens including detention and removal as soon as reasonably practicable [9.1(1)]. This framework is described as applying regardless of any non-refoulment obligations, described in terms of the 'protection obligations' also set out in the Act [9.1(2)]. This is, in essence, an obligation not to forcibly return a person to a place where they face harm. Mr Okoli is not covered by a protection finding and has made claims which must be considered [9.1.2(1)].

73. In his latest statement, the Applicant declares his Christian faith and states his genuine belief that he *'would face a real risk of persecution because of* [his] *religious faith'* [22]. In evidence, Mr Okoli confirmed his Catholic faith, and I have noted supporting evidence about this in the evidence of Ms Bloem. Mr Okoli also stated that he '100%' had concerns about returning to Nigeria stating that with what is going on, being a Christian is a death sentence. The Applicant described this as a 'Christian genocide' and 'very, very, bad'. He stated that he knew about this from the media.

74. In cross-examination, Mr Okoli confirmed that he did not leave Nigeria because of this fear and that he considered things had started to 'go bad' some time from 2015. He added that he had heard news last week that 70 individuals had been killed in his own village and that he considered the whole country to be dangerous.

75. In submissions for the Applicant, it was stressed that his Christianity was addressed as a separate consideration (another reason). It was contended that in addition to the specified legislative pathway, it was likely that the effect of regulations would be to substantially reduce the opportunities for future visa grants, and have the effect of permanent exile. It was submitted that a proper reading of the authorities pointed to the Tribunal having the option of finding this other consideration has neutral weight, or some weight in favour. Given the Applicant's evidence that he would apply for a Protection Visa, the immediate result of a negative outcome would be that he would remain in Australia until his status is resolved.

The Applicant contends it is open to the Tribunal to give some weight to the prospect of a further period of detention.

76. The Respondent submitted that neutral weight be afforded the legal consequences as these are intended by statute. It was also submitted that the claims to harm raised by Mr Okoli have apparent depth and need to be explored further. Accordingly, it would be appropriate to defer such assessment to the Protection Visa process.

77. The country information in the materials (HB/S4, 278) is now some five years old. It does point very clearly to religiously-based violence involving Christians and Muslims and details the well-known Boko Haram insurgency. Conflict appears to be largely, but not exclusively, defined by a geographic distribution of Muslims in the north and Christians in the south, and the evidence indicates that Mr Okoli originates from a southern region. There is information indicating particular difficulties in the so-called 'middle-belt'.

78. I informed the parties during submissions that I had noted Mr Okoli's reference to recent violence in his home region and that this appeared to be supported by a quick search of publicly available information online. Reporting indicates an attack on a church in December 2025 in his home state, but no clear indication of motive is available.

79. Looking at the materials as a whole, it appears Mr Okoli's claim to harm is recent. As noted, the country information supplied to the Tribunal is not current. I have just dealt with the Applicant's evidence of recent violence against a church community. The Direction indeed provides the option, consistent with prior authority, for a deferment of assessment of non-refoulement claims, and for the preceding reasons I consider this to be the appropriate approach in this matter.

80. However, I do not consider that neutral weight is appropriate in the circumstances. Mr Okoli has been in prison for a substantial period and has a diagnosed mental health condition, which is further considered below. Additional time and uncertainty will come with any further immigration processes pursued and, on this basis, I afford moderate weight in favour of revocation under this other consideration.

Extent of impediments if removed

81. Mr Okoli addresses this consideration in his recent statement, noting his current age and various health issues, as well as a mental health diagnosis [17]. The Applicant acknowledges that he grew up in Nigeria and is unlikely to face substantial cultural or language barriers, but states this does not detract from the impediments formed by his health conditions and lack of support [18]. Mr Okoli observes that his family will not follow him, and he adds that he has lost contact with his own family in Nigeria [19]-[20]. The support available to him as a citizen is insufficient due to his particular circumstances [21].

82. In his evidence, Mr Okoli stated that he last spoke to his own family after his sentencing and confirmed his view that Nigeria would not be good for his Australian family who will probably stay here.

83. Mr Diment prepared a separate report in respect of the Applicant, dated 23 September 2025 (G33). In clinical assessment, Mr Okoli was found to rate well above average for anxiety and depression, with evidence of a longer-standing emotional distress arising from his early life in Nigeria. Mr Diment diagnoses Persistent Depressive Disorder with Anxiety. The materials also include notes from psychology consultations undertaken by Mr Okoli in prison during June and July 2025 (G16). These generally reflect the Applicant's own evidence that he had not engaged with this service prior to the refusal of parole. It appears from notes of the latest session reported that Mr Okoli was concerned about the impact of the failure of the Applicant's parole upon his son and also about sums owed to people in Nigeria. Mr Okoli reported an adverse impact on his mood.

84. It was submitted at the hearing that Mr Okoli would face very serious impediments if returned to Nigeria. This was based upon his age, health conditions and the absence of personal support, as well as the potential deterioration of his mental health. It was contended that any evidence of family land in Nigeria was insufficient to contribute meaningfully to this consideration, and further reference was made to Mr Okoli's Christian faith. The country information supports the view that Mr Okoli's options for work and employment are restricted to the south of the country. Some additional consideration might be given to the possible consequences of ongoing debts. Written submissions contend that this consideration be given meaningful weight.

85. The Respondent's contentions centred generally upon the low threshold identified in the Direction of a person establishing a standard of living commensurate with local conditions. It was submitted that his Christian faith was not a relevant factor should Mr Okoli return to his home location and that only minimal weight in favour of revocation should be given to impediments.

86. As seen from submissions, I must consider here the impediments Mr Okoli may face in establishing himself and maintaining a basic standard of living in the context of what is generally available to other citizens [9.2(1)]. Some due consideration should be given to the Applicant's age and health, but the evidence indicates Mr Okoli's various health conditions have not prevented him from working throughout his time in prison. I am prepared to accept that he may face some challenges in maintaining his health and welfare, including in respect of his mental health. In particular, he would face these challenges in the absence of the more immediate and proximate support of his own family unit that has made efforts to support him during his imprisonment.

87. I do not have particularly substantive evidence about how Mr Okoli would in reality make a living for himself nor how he would manage specifically in establishing himself, having spent a substantial period of time outside of Nigeria. He has of course travelled there and maintained some contact (including with his family) but I consider there are likely to be some important practical obstacles at least in the short term.

88. Overall, I consider this other consideration weighs in favour of revocation.

Christian faith

89. As noted, it is the Applicant's position that this factor be addressed as a separate, other consideration and it is contended the Tribunal has broad discretion to take such a factor into account. The Respondent accepts that the Tribunal should acknowledge this claim, but that it is properly dealt with under the other consideration legal consequences of a decision. Accordingly, it should be afforded neutral weight.

90. I have addressed this claim at a reasonable degree of detail above. I note that country information indicates that the Nigerian population identifies as Christian and Muslim in roughly equal degree, and I have already identified the Applicant as originating from a region broadly identified as more Christian than not. Considering the sincere but still general nature

of the claim in the context of the available country information in this matter, it is challenging to find any residual force that might support any specific findings.

91. On this basis I find that this other consideration weighs neutrally in the circumstances.

CONCLUSION

92. Of the primary considerations, I have found that protection of the Australian community and expectations of the Australian community weigh heavily against revocation. I have found that the strength, nature and duration of ties to Australia weighs to a moderate extent in favour of revocation, and that best interest of minor children attracts very limited weight in favour of revocation. The remaining primary consideration weighs neutrally.

93. Of the other considerations I have found that legal consequences of a decision weighs to a moderate extent in favour of revocation and the extent of impediments of returned also weighs in favour of revocation. The other considerations arising weigh neutrally.

94. In summary, it was contended for the Applicant that it is open to find that the two primary considerations that weigh against Mr Okoli should be outweighed by those factors in his favour, and that therefore there is another reason to revoke the mandatory cancellation decision. The Respondent contends to the contrary noting that primary considerations generally carry greater weight, and the Direction provides that the first primary consideration generally carry greater weight than other primary considerations.

95. The submissions reflect the guidance provided in the Direction as to the relative emphasis on considerations arising in the making of a decision [7]. I have already noted the role played by the principles set out in the Direction. In this matter I consider that there are insufficiently strong countervailing considerations to overcome the nature of Mr Okoli's conduct such as to justify revoking the mandatory cancellation decision.

96. Of particular importance are his mature age upon arrival, his limited time spent contributing productively to the community, and his repeat offending at a more serious level than previously in a harmful and dangerous form of criminal enterprise. Mr Okoli was also clearly on notice that further offending may have consequences for his immigration status. I consider this is a matter in which the generally greater weight afforded to the first primary consideration prevails.

DECISION

97. For the reasons given above, the Tribunal affirms the decision under review.

Dates of hearing:	**8 and 9 January 2026**
Solicitor for the Applicant:	**Dr Jason Donnelly, Latham Chambers**
Solicitor for the Respondent:	**Mr Matthew Wong, MinterEllison**