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Australian Government

Department of Immigration and Border Protection

Report on people detained and later released as lawful non-citizens

1. Introduction

This report to the Commonwealth Ombudsman documents the number of people detained and later released as lawful non-citizens during the period 01 January 2016 to 30 June 2016. People included in the report were released from immigration detention on the basis that there was no longer reasonable suspicion, as required by section 189 of the *Migration Act 1958* (the Act), that they were unlawful non-citizens.

For this reporting period, there were a total of 3,197 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). Out of 3,197 people detained, 10 people are included in this report, which represents less than one-third of one per cent of the total people detained.

The 'current status' of each case is current as at 28 July 2016.

2. How cases are identified

The cases included in this report are identified through a system report and data entered into the Compliance Case Management Detention and Settlement (CCMDS) Portal.

There are nine release types that are used as descriptors to record the reasons for a person's release from immigration detention. This report includes cases where one of the five following descriptors has been used to record the circumstances surrounding a person's release from detention. The use of one of these descriptors by departmental officers may signify a risk that the detention of the person did not accord with the Act.

Identity confirmed Reasonable suspicion that the person was an unlawful non-citizen was held, even though identity and/or immigration status could not be confirmed at the time of detention.

Litigation consequence Person was released as a result of a court judgment.

Operation of law Person was released as a result of a determination that the person is an absorbed person, or a determination that the person acquired citizenship, or the person was granted a Bridging visa E through operation of law under section 75 of the Act.

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- 2 -

- Process incorrect** The Department of Immigration and Border Protection failed to properly administer the person's case, and/or failed to properly notify a person of a negative visa decision, resulting in a person showing incorrectly in departmental systems as unlawful.
- Records incorrect** The person was detained because of inaccurate or incorrect information on departmental systems.

Cases where the following four release descriptors are used are not included in the report as they do not signify a risk of unlawful detention:

- Change to detention power
- Departure from Australia
- Visa grant
- Other

3. Case risk assessments

In preparing this report, each case has been assessed to identify the likelihood that the detention did not occur and/or was not maintained in accordance with the Act. The likelihood is assessed as high, medium or low risk. The Department identifies and implements remedial action at both a case specific and systemic level where required and particularly where the risk of inappropriate detention is assessed as medium or high.

4. This report

For the period 01 January 2016 to 30 June 2016, 10 cases have been identified where people have been released from immigration detention on the basis that reasonable suspicion could no longer be maintained that they were unlawful non-citizens (as required by section 189 of the Act). The 10 cases in this report have been assessed as medium risk.

5. Previous report

The last report covered the period 01 July 2015 to 31 December 2015, and included 14 cases where people had been released from immigration detention as reasonable suspicion could no longer be maintained that they were unlawful non-citizens. 12 of the cases were considered to be low risk and 2 were considered to be high risk.

6. Percentage comparison

For the period 01 January 2016 to 30 June 2016, there were a total of 3,197 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). The total number of people detained, then later released as reasonable suspicion could no longer be maintained that they were unlawful non-citizens, represents less than one-third of one per cent of the total number of people detained.

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- 3 -

7. Specific Cases

Breakdown of cases for this reporting period follow.

Name	Release Descriptor	Attachment
s47F	Process incorrect Defective notification	Attachment A
	Process incorrect Defective notification	Attachment B
	Litigation consequence Jurisdictional error	Attachment C
	Process incorrect Defective notification	Attachment D
	Process incorrect Defective notification	Attachment E
	Process incorrect Defective notification	Attachment F
	Process incorrect Defective notification	Attachment G
	Process incorrect Administrative Deficiency	Attachment H
	Process incorrect Administrative Deficiency	Attachment I
	Process incorrect Defective notification	Attachment J

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- 4 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT A****Process Incorrect**

Defective notification

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of Detention
Date of Release
Number of days in detention

s47F

Summary

On s47F June 2016, s47F was located at s47F Airport by Australian Federal Police (AFP) officers. s47F was referred to the Department's Immigration Status Service (ISS) for a visa status check. After conducting a preliminary check, the ISS officer held reasonable suspicion that s47F was an unlawful non-citizen and s47F was detained under section 189(1) of the *Migration Act 1958* (the Act) at s47F. The ISS officer then interviewed s47F.

On s47F June 2016, at 0 s47F, the ISS interviewing officer was unable to maintain reasonable suspicion s47F was an unlawful non-citizen and s47F was released from immigration detention.

s47F was detained for less than 4 hours.

Background

s47F December 2015, s47F arrived in Australia as the holder of an s47F visa.

s47F February 2016, s47F lodged a s47F visa application.

s47F March 2016, s47F was granted a s47F visa in association with s47F s47F visa application.

s47F March 2016, s47F s47F visa application was determined to be invalid. s47F was notified by mail of the decision.

s47F May 2016, s47F associated s47F visa granted in association with the s47F visa application ceased.

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- 5 -

June 2016, [redacted] was located at [redacted] Airport by AFP officers and detained under section 189(1) of the Act. [redacted] was then interviewed by an ISS officer, who also reviewed the decision that [redacted] application for a [redacted] visa was invalid. During the ISS interview, [redacted] advised the ISS officer that [redacted] had not received notification that [redacted] visa application was invalid. The ISS officer also noted that the [redacted] March 2016 notification to [redacted] that [redacted] visa application was invalid included an incorrect address.

At that point, the ISS officer could no longer maintain reasonable suspicion that [redacted] was an unlawful non-citizen as [redacted], granted to [redacted] in association with [redacted] visa application, had not ceased. [redacted] was released from immigration detention.

Actions

The Department is improving existing procedures to ensure that clients are effectively notified when they lodge invalid applications. This is particularly important when [redacted] visas are granted [redacted] and where cessation of such [redacted] visas is only triggered upon confirmation a client has received valid notification.

The Department's Legal Framework and Training Section is progressing changes to the Generic Guide A in LEGEND, the Department's electronic legal and policy database. The changes will advise decision makers that where a notice of invalid application is not successfully transmitted via e-mail, or returned to sender, further attempts to notify the client of the invalid application either orally or in person should be made.

Current Status

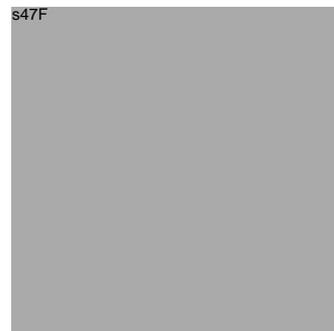
June 2016, [redacted] was advised orally that [redacted] visa application was invalid.

June 2016 [redacted] was granted a [redacted] which remains in effect.

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- 6 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT B****Process incorrect****Defective notification****Family name****Given name****Alias****Nationality****DOB****ICSE Client id****Date of detention****Date of release****Number of days in detention****Summary**

On ^{s47F} March 2016, ^{s47F} was located by Australian Border Force (ABF) officers at ^{s47F} family home at ^{s47F}. An ABF officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was subsequently detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} facility (^{s47F}) was detained together with ^{s47F}

On ^{s47F} March 2016, the Department's Status Resolution Operational Support Section confirmed ^{s47F} had not been correctly notified of the decision to refuse ^{s47F} ^{s47F} visa application made on ^{s47F}. As a result, ^{s47F} continued to hold a ^{s47F} visa (^{s47F} granted to ^{s47F} in association with the ^{s47F} visa application.

^{s47F} was released from detention on ^{s47F} March 2016.

Background

^{s47F} September 2006, ^{s47F} was born in ^{s47F} ^{s47F} was taken to hold a ^{s47F} at birth.

^{s47F} June 2010, ^{s47F} lodged a valid application for a ^{s47F} visa and was granted a further ^{s47F}

^{s47F} November 2010, ^{s47F} visa application was refused.

^{s47F} December 2010, the ^{s47F} granted on ^{s47F} June 2010 ceased.

^{s47F} March 2011, the refusal notification sent to ^{s47F} on ^{s47F} November 2010 was returned unclaimed to the Department.

^{s47F} March 2016, ^{s47F} was located by ABF officers at ^{s47F} family home at ^{s47F} and detained under section 189(1) of the Act.

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- 7 -

§47 F March 2016, a Detention Review Manager (DRM) review was conducted. The address provided in §47 F application on §47 F June 2010 differed from the address provided by §47 F parents when they lodged §47 F applications on §47 F September 2010, for themselves and §47 F .

§47 F March 2016, Status Resolution Operational Support Section requested advice from the Department's Legal Framework and Training Section.

§47 F March 2016, Legal Framework and Training Section confirmed §47 F §47 F visa refusal notification was defective and the notification should have been sent to the address provided by §47 F parents on §47 F September 2010. As a result, §47 F continued to hold a §47 F visa granted to §47 F in association with the §47 F visa application.

§47 F was released from detention on § 4 March 2016.

Actions

The error in §47 F notification is not a systemic one.

Departmental record keeping requirements in this case were not met. The Department provides regular training to decision makers on how to record and monitor client addresses. The training advises delegates to be particularly vigilant in cases involving minors. The training counsels decision makers to comprehensively search departmental systems to identify all addresses provided by a minor's parents/carers. Decision makers must then seek advice on the appropriate address to use when contacting the minor.

Current Status

§47 F is currently residing in the community with §47 F family. §47 F §47 F granted on §47 F June 2010 is still in effect.

§47 F March 2016, §47 F was re-notified of the §47 F visa refusal notification of §47 F November 2010.

§47 F March 2016, §47 F lodged an application for review with the Administrative Appeals Tribunal (AAT). This application is ongoing.

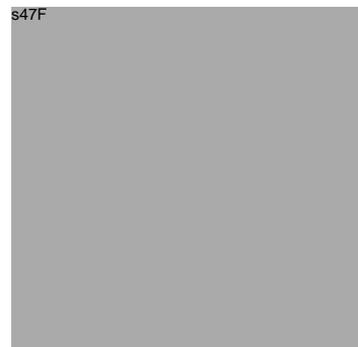
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- 8 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT C****Litigation consequence****Jurisdiction error**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F April 2016, ^{s47}_F was located by Australian Border Force (ABF) officers on ^{s47}_F release from criminal custody at the County Court of ^{s47}_F. ^{s47}_F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47}_F Immigration Detention Centre (^{s47}_F).

^{s47}_F April 2016, ^{s47}_F lodged judicial review application with Federal Circuit Court regarding the cancellation of ^{s47}_F ^{s47}_F visa. On ^{s47}_F May 2016, the Department conceded the decision to cancel ^{s47}_F ^{s47}_F visa on ^{s47}_F November 2015 was affected by a jurisdictional error.

Subsequently, ^{s47}_F was released from immigration detention on ^{s47}_F May 2016 and ^{s47}_F ^{s47}_F visa was reinstated.

Background

^{s47}_F August 2013, ^{s47}_F arrived in Australia as the holder of ^{s47}_F visa.

^{s47}_F November 2015, ^{s47}_F ^{s47}_F visa (was cancelled under section 116(1)(b) of the Act on the grounds ^{s47}_F was not enrolled in a registered course.

^{s47}_F April 2016, ^{s47}_F was located by ABF officers on ^{s47}_F release from criminal custody at the County Court of ^{s47}_F. ^{s47}_F was detained under section 189(1) of the Act and transferred to the ^{s47}_F.

^{s47}_F April 2016, a Detention Review Manager (DRM) review was conducted. The DRM considered the grounds on which ^{s47}_F visa was cancelled and failed to identify any error in the decision.

^{s47}_F April 2016, ^{s47}_F lodged judicial review application with Federal Circuit Court regarding the cancellation of ^{s47}_F ^{s47}_F visa.

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- 9 -

On ^{s47}_F May 2016, the Department conceded the decision to cancel ^{s47F} ^{s47F} ^{s47F} visa on ^{s47}_F November 2015 was affected by a jurisdictional error. The Department withdrew from the Judicial Review proceedings initiated by ^{s47F}. Subsequently, ^{s47F} was released from immigration detention on ^{s47}_F May 2016 and ^{s47F} visa was reinstated.

Actions

Although, the detaining officer and the DRM reviewed the cancellation of ^{s47F} ^{s47F} visa, the error in the decision was a complex legal matter beyond the review of either the detaining officer or the DRM.

The cancellations processing area responsible for the error has been advised and Litigations Branch will work with relevant stakeholders on the implications this error has for future cancellations decision making.

Current Status

^{s47F} is currently in the community as the holder of a ^{s47F} visa that is valid till ^{s47}_F August 2017.

^{s47}_F May 2016, the Department commenced considering ^{s47F} ^{s47F} visa for cancellation under section 116 of the Act. This remains ongoing.

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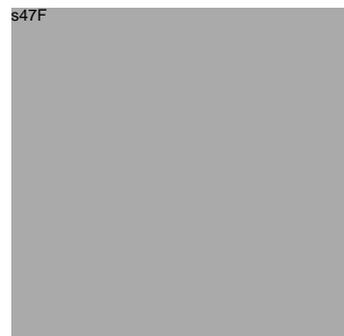
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- 10 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT D****Process incorrect****Defective notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F June 2016 ^{s47F} was located by ^{s47F} Police while ^{s47F} ^{s47F} was referred to the Immigration Status Service (ISS) for a visa status check. The ISS officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen, ^{s47}_F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} Immigration Detention Centre (^{s47F}).

On ^{s47}_F June 2016, the Status Resolution Operational Support Section confirmed that ^{s47F} had not been correctly notified of the decision to refuse ^{s47F} two ^{s47F} ^{s47F} visa applications that ^{s47}_F had lodged on ^{s47}_F July 2007. As a result ^{s47F} continued to hold two ^{s47F} (^{s47F} granted to ^{s47F} in association with the two ^{s47F} visa applications.

^{s47F} was consequently released from detention on ^{s47}_F June 2016.

Background

^{s47}_F May 2007, ^{s47F} last arrived in Australia as the holder of a ^{s47F} ^{s47F} visa.

^{s47}_F July 2007, ^{s47F} lodged two applications for a ^{s47F} ^{s47F} visa and ^{s47}_F was granted two associated ^{s47F} to maintain ^{s47F} lawful status during the processing of each application.

^{s47}_F February 2008, ^{s47F} first application for a ^{s47F} ^{s47F} visa was refused. As ^{s47F} had consented to receive communication electronically from the Department the refusal notification was emailed to ^{s47F}. This refusal notification was defective as the delegate failed to accurately describe the timeframe in which the applicant could have sought review of the decision to refuse ^{s47F} application.

^{s47}_F March 2008, ^{s47F} first ^{s47F} granted to ^{s47F} in association with the ^{s47F} ^{s47F} visa that was refused on ^{s47}_F February 2008, ceased.

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- 11 -

July 2008, [redacted] was located by [redacted] Police and referred to the ISS for a visa status check. The status check confirmed [redacted] was a lawful non-citizen and that [redacted] second [redacted] visa application was ongoing.

[redacted] Police also provided verbal advice, that [redacted] current address was [redacted] (the [redacted] address). Notwithstanding departmental requirement that address updates must be submitted using form 929, the [redacted] address was recorded in departmental systems.

July 2008, [redacted] was asked to undertake a health check in relation to [redacted] second [redacted] visa application. This request was made by email. Departmental records indicate delivery of this email failed.

October 2008, [redacted] second [redacted] visa application was refused. The notification was sent by email and a copy sent by registered post to the [redacted] address provided by [redacted] Police on [redacted].

October 2008, the refusal notification sent by post to the [redacted] address was returned to the Department unclaimed.

October 2008, [redacted] was re-notified of the decision to refuse [redacted] second [redacted] visa application by post. This notification was sent to a second address, [redacted] (the [redacted] address). This address had similarly been provided verbally by [redacted] police to an ISS officer on [redacted].

October 2008, the refusal notification sent by post to the [redacted] address was returned to the Department as unclaimed.

June 2016, [redacted] was located by [redacted] Police while trespassing. [redacted] was referred to ISS for a visa status check. The ISS officer held reasonable suspicion that [redacted] was an unlawful non-citizen, [redacted] was detained under section 189(1) of the Act and transferred to the [redacted] Immigration Detention Centre ([redacted]).

June 2016, a Detention Review Manager (DRM) review was conducted, including an assessment of the two decisions taken to refuse [redacted] a [redacted] visa. The DRM identified errors in the notification of both visa refusals and referred the matter to the Status Resolution Operational Support Section. It was confirmed that [redacted] had not been effectively notified of the two decisions taken to refuse [redacted] [redacted] visa applications. On this basis, [redacted] continued to hold two [redacted] visas and needed to be released from immigration detention as soon as practicable.

[redacted] was consequently released from immigration detention on [redacted] June 2016.

Actions

The appropriate process on both occasions when the [redacted] Police provided verbal advice of [redacted] current address would have been to obtain the updated address through departmental form 929, which would have allowed [redacted] to provide [redacted] address for service of documents. Any notification sent to an address obtained verbally, rather than through form 929, is defective.

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- 12 -

Departmental officers are trained in the use of the form 929 to obtain a person's address for service and its use is monitored as part of ongoing visa processing audits. Failure of the officers in this case to use the correct form was a serious but not systemic error. ISS and the relevant visa processing area responsible for the error have been advised and the responsible officers counselled.

Current Status

s47F is currently in the community as the holder of two s47F visas.

On s47F July 2016, s47F was re-notified of the two decisions taken to refuse s47F s47F visa applications.

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- 13 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT E****Process incorrect****Defective notification**

Family name
Given name
Alias

Nationality
DOB

Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F June 2016, ^{s47F} was detained by the Department under section 189(1) of the *Migration Act 1958* (the Act) at ^{s47F} Magistrate's Court where ^{s47}_F was released on bail. ^{s47F} had been charged with ^{s47F} ^{s47F} was transferred to the ^{s47F} Immigration Transit Accommodation facility (^{s47F}).

On ^{s47}_F June 2016, Status Resolution Operational Support Section confirmed that ^{s47F} held a ^{s47F} granted to ^{s47F} when ^{s47}_F lodged ^{s47F} ^{s47F} application on ^{s47}_F August 2001.

^{s47F} was subsequently released from immigration detention on ^{s47F}.

Background

^{s47}_F October 1996, ^{s47F} first arrived in Australia as the holder of a ^{s47F} visa.

^{s47}_F September 1997, ^{s47F} was granted a ^{s47F} visa onshore. The visa would remain in effect until ^{s47}_F September 2001.

^{s47}_F August 2001, ^{s47F} lodged a first ^{s47F} visa application onshore.

^{s47}_F August 2001, ^{s47F} was granted a ^{s47F} as ^{s47}_F intended to travel offshore and submit a second ^{s47F} visa application offshore.

^{s47}_F August 2001, ^{s47F} lodged a second ^{s47F} visa application offshore.

^{s47}_F September 2001, ^{s47F} returned to Australia on ^{s47F} ^{s47F}

^{s47}_F October 2001, ^{s47F} was granted a second ^{s47F} as ^{s47}_F intended to travel offshore and await a decision on the second ^{s47F} visa application ^{s47}_F lodged on ^{s47}_F August 2001. The legislation at the time prescribed that if a ^{s47F} visa application was lodged offshore, the applicant was required to be offshore at the time of grant of the visa.

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- 14 -

§47 F October 2001, §47 F was granted a §47 F visa in relation to the second §47 F visa application which had been lodged offshore.

§47 F October 2001, §47 F returned to Australia on §47 F second §47 F visa.

§47 F October 2002, §47 F first §47 F visa application, lodged on §47 F, was finalised by a delegate as 'otherwise determined.' This finalisation was an error based on an incorrect interpretation of written advice §47 F had provided the Department requesting to *withdraw* the first §47 F visa application once the second §47 F visa application had been finalised.

In July 2007, departmental Compliance officers sought legal advice to confirm if §47 F first §47 F visa application had been finally determined or remained ongoing.

§47 F August 2007, the Department's Legal Opinions Helpdesk confirmed that §47 F first §47 F visa application lodged on §47 F August 2001 was invalid. Under the Regulations at the time, §47 F could only have lodged a valid §47 F visa application if §47 F was outside Australia on §47 F August 2001. §47 F was in Australia on that date.

§47 F September 2007, a letter was sent by the Department to §47 F migration agent, advising §47 F that the first §47 F visa application was invalid. §47 F was also notified the §47 F granted in association with the application would cease 28 days after §47 F was taken to have been notified that the application was invalid.

§47 F September 2007, the invalid notification was returned to the Department unclaimed.

§47 F then remained in Australia and pursued a number of immigration options until §47 F May 2011 when the last visa §47 F held, a §47 F ceased and §47 F remained unlawfully in the community.

§47 F June 2016, §47 F was detained by the Department under section 189(1) of the Act at §47 F Magistrate's Court where §47 F was released on bail. §47 F had been charged with §47 F was transferred to the §47 F Immigration Transit Accommodation facility (§47 F

§47 F June 2016, a Detention Review Manager (DRM) review was conducted. The DRM identified an error in notification as the notification had been returned unclaimed when sent to §47 F migration agent. Status Resolution Operational Support Section referred to Legal Framework and Training Section for advice.

§47 F June 2016, Legal Framework and Training Section advised that §47 F had not been first effectively notified of §47 F invalid §47 F visa application. The advice confirmed §47 F continued to hold a §47 F granted to §47 F in association with the invalid first §47 F application.

At §47 F on the §47 F June 2016 §47 F was released from immigration detention.

Actions

The Department is improving existing procedures to ensure that clients are effectively notified when they lodge invalid applications. This is important when §47 F visas are granted in association with any invalid application and where cessation of such §47 F visas is only triggered when there is confirmation a client has received the valid notification.

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- 15 -

The Department's Legal Framework and Training Section is progressing changes to the Generic Guide A in LEGEND, the Department's electronic legal and policy database. The changes will advise decision makers that where a notice of invalid application is not successfully transmitted via email, or returned to sender, further attempts to notify the client of the invalid application either orally or in person should be made.

Current status

After ^{s47F} release on ^{s47F} June 2016, ^{s47F} was considered for cancellation under section 116 of the Act as it had been granted to ^{s47F} on the grounds ^{s47F} had made a valid first ^{s47F} visa application. ^{s47F} was advised that those grounds no longer existed and was provided with an opportunity to comment prior to a cancellation decision being made.

^{s47F} ^{s47F} was subsequently cancelled on ^{s47F} June 2016 and ^{s47F} was detained under section 189(1) of the Act. ^{s47F} is scheduled for a committal hearing at ^{s47F} Magistrate's Court on ^{s47F} August 2016.

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- 16 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT F****Process incorrect****Family Name****Given Name****Alias****Nationality****DOB****ISCE Client ID****Date of detention****Date of release****Number of days in detention**

s47F

Summary

On ^{s47}_F May 2016, ^{s47F} was located by ^{s47F} Police during a routine traffic stop. ^{s47F} was referred to the Immigration Status Service (ISS) for a visa status check. The ISS officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} Immigration Detention Centre (^{s47F}).

On ^{s47}_F June 2016, Status Resolution Operational Support Section confirmed that the visa application lodged by ^{s47F} on ^{s47}_F January 2014 had not been effectively withdrawn. As a result, ^{s47F} continued to hold a ^{s47F} and was released from detention at ^{s47F} on ^{s47}_F June 2016.

Background

^{s47}_F February 2013, ^{s47F} last arrived in Australia as the holder of a ^{s47F} visa.

^{s47}_F January 2014, ^{s47F} was included as a dependant applicant in a ^{s47F} visa application lodged by ^{s47F} then ^{s47F} was granted an associated ^{s47F} on the date of lodgement.

^{s47}_F October 2015, a written request for withdrawal was received from ^{s47F}. The request to withdraw the application made no direct reference to the ^{s47F} applicant, ^{s47F}, nor to ^{s47F} application.

^{s47}_F October 2015, the ^{s47F} visa application of both ^{s47F} and ^{s47F} were withdrawn. However, it is not open to a ^{s47F} applicant to withdraw an application on an ^{s47F} applicant's behalf, unless they are acting with the express authority of the ^{s47F} applicant. On this basis, the Department erred in withdrawing ^{s47F} application based on the request of ^{s47F}.

^{s47}_F November 2015, ^{s47F} ^{s47F} ceased.

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- 17 -

s47 F May 2016, s47 F was located by s47 F Police and detained after being referred to the ISS for a status check. s47 F was detained and streamed incorrectly as a s47 F client. Detainees streamed as s47 F clients are generally at low risk of unlawful or inappropriate detention and in accordance with the Detention Related Decision Making Framework (DRDM) such detainees are only reviewed by the Detention Review Manager (DRM) after 28 days.

s47 F June 2016, a DRM review was conducted and identified that s47 F s47 F visa application may have been withdrawn in error as it was based on the written request of then s47 F Status Resolution Operational Support Section confirmed the error and that s47 F had an ongoing s47 F visa application. The advice also confirmed s47 F was the holder of a s47 F

s47 F was released from detention at s47 F on s47 F June 2016.

Actions

s47 F was streamed as a s47 F client which resulted in s47 F detention not being reviewed until 28 days had passed. To mitigate against the possibility of this re-occurring the DRM is now subjecting all people streamed as RR to a Quality Assurance (QA) assessment within 24 hours of detention. The QA assessment ensures that any detainee who may be the holder of a visa, regardless of which stream they are placed in, is identified as early as possible.

The decision to withdraw s47 F s47 F visa application was an error. The visa processing area responsible for the error has been advised and the issue has been flagged for inclusion in future training.

When advice was obtained that s47 F was a lawful non-citizen, the Department took immediate steps to release s47 F from detention. s47 F detention was reviewed on s47 F June 2016 and s47 F was released on the same day.

Current Status

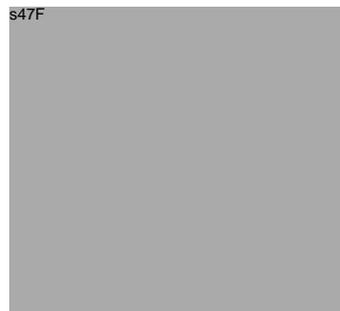
s47 F is currently residing in the community while holding a s47 F

On s47 F July 2016, s47 F was invited to provide further information in connection with s47 F ongoing s47 F visa application. If s47 F elects to withdraw s47 F application, s47 F s47 F will cease 28 days after s47 F request to withdraw is received by the delegate.

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- 18 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT G****Process incorrect****Defective notification****Family Name****Given name****Alias****Nationality****DOB****ICSE Client id****Date of detention****Date of release****Number of days in detention****Summary**

On ^{s47F} May 2016 ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) by an Australian Border Force (ABF) officer during the execution of a s251 search warrant at a residential unit in ^{s47F}.

On ^{s47F}, the Department's Status Resolution Operational Support Section confirmed that ^{s47F} was the holder of a ^{s47F} granted in association with a ^{s47F} visa application ^{s47F} had made on ^{s47F} January 2014.

^{s47F} was released from detention on ^{s47F} May 2016.

Background

^{s47F} January 2013, ^{s47F} arrived in Australia on a ^{s47F} visa.

^{s47F} January 2014, ^{s47F} lodged an application online for a further ^{s47F} visa and was granted a ^{s47F} in association with the application.

^{s47F} February 2014, the Department emailed ^{s47F} to request additional information in relation to the visa extension application.

^{s47F} February 2014, the Department's electronic database ICSE was updated to reflect the transmission failure of the email sent on ^{s47F} February 2014.

^{s47F} March 2014, ^{s47F} was notified by email of the refusal of ^{s47F} ^{s47F} visa.

^{s47F} May 2016, ^{s47F} was detained under section 189(1) of the Act and transferred to the ^{s47F} Immigration Detention Centre (^{s47F}).

^{s47F} May 2016, an ABF officer reviewed the notification of the decision to refuse ^{s47F} visa, and concluded that the notification of the visa refusal was effective.

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- 19 -

^{s47}_F May 2016, a Detention Review Manager (DRM) review was conducted. The refusal notification of ^{s47}_F March 2014 was sent by email to the same email address used to correspond with ^{s47}_F on ^{s47}_F February 2014. There was evidence that documents previously sent to that email address had been undeliverable. Status Resolution Operational Support Section obtained legal advice from Legal Framework and Training Section. Advice confirmed that ^{s47}_F was the holder of a ^{s47}_F as the notification of ^{s47}_F ^{s47}_F visa refusal was defective.

^{s47}_F was released from detention on the same day.

Actions

The error in this case was not a systematic one. The notification defect that lead to the error has been recorded and will be considered as part of future training.

Current Status

^{s47}_F May 2016, ^{s47}_F was re-notified of the decision to refuse ^{s47}_F ^{s47}_F visa.

^{s47}_F July 2016, ^{s47}_F lodged a valid application for a ^{s47}_F visa.

^{s47}_F July 2016, ^{s47}_F was granted a ^{s47}_F in association with ^{s47}_F ^{s47}_F visa application and remains in the community holding that visa.

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- 20 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT H****Process incorrect**

Administrative deficiency

Family Name**Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Number of days in detention**

s47F

Summary

On ^{s47}_F May 2016 ^{s47F} was located by Australian Border Force (ABF) officers at the ^{s47F} state office of the Department. The detaining officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen, ^{s47}_F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} Immigration Detention Centre (^{s47F}).

On ^{s4}_F June 2016, the Department's Status Resolution Operational Support Section confirmed that ^{s47F} held two ^{s47F}. One ^{s47F} had been granted in association with a further ^{s47F} entry permit application ^{s47F} lodged on ^{s47}_F December 1989. The second ^{s47F} was granted in association with a further ^{s47F} entry permit lodged on ^{s47F}.

As a result, ^{s47F} continued to hold two ^{s47F} and was released from detention on ^{s4}_F June 2016.

Background

^{s47}_F December 1988, ^{s47F} arrived in Australia as the holder of a ^{s47F} entry permit.

^{s47}_F May 1989, ^{s47F} was granted an extension of stay to remain in Australia until ^{s47}_F December 1989.

^{s47}_F December 1989, ^{s47F} submitted an application for a further ^{s47F} entry permit (first entry permit application). No further substantive progress was made on the first entry permit application and it remained unfinalised at the time of ^{s47F} detention on ^{s47}_F May 2016.

^{s47}_F November 1990, the Department wrote to ^{s47F} advising ^{s47F} the Department of Employment, Education and Training no longer supported ^{s47F} stay in Australia.

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- 21 -

^{s47}_F August 1994, ^{s47F submitted an application for a further entry permit on the basis of ^{s47F (second entry permit application).}}

^{s47}_F September 1994 the application for a second entry permit was taken by a departmental delegate, erroneously, to have transitioned into an application for a ^{s47F visa.}

^{s47}_F November 1994, ^{s47F} was granted a further ^{s47F} to maintain ^{s47F} lawful status while the second entry permit was ongoing.

^{s47}_F December 1995, the Department refused to grant ^{s47F} a ^{s47F} visa. This was an error as ^{s47F} did not have an ongoing application for a ^{s47F} visa.

^{s47}_F June 1996, ^{s47F} made an application for merits review of the decision to refuse at the (then) ^{s47F}. The Tribunal decided it did not have jurisdiction to hear the application as the application for review was made out of time.

^{s47}_F December 2012, ^{s47F} made a request under s351 of the Act for the Minister to intervene and grant ^{s47F} a visa.

^{s47}_F January 2013, advice was provided by Status Resolution Operational Support Section that the decision to refuse ^{s47F} a ^{s47F} visa was effected by a second error (known as a *SREY* error) and that ^{s47F} needed to be re-notified of the decision to refuse ^{s47F} a ^{s47F} visa.

^{s47F} April 2013, ^{s47F} was granted the ^{s47F} while ^{s47F} request for Ministerial Intervention under section 351 of the Act was considered and while ^{s47F} was making arrangements to depart Australia voluntarily.

^{s47}_F May 2016, ^{s47F} ^{s47F} was cancelled under section 116 of the Act and ^{s47F} was detained.

^{s47}_F May 2016, a Detention Review Manager (DRM) review was conducted and a referral for further assessment was made to the Status Resolution Operational Support Section who sought legal advice from the Department's Legal Opinions Helpdesk.

^{s47}_F June 2016, the Legal Opinions Helpdesk confirmed that ^{s47F} held two ^{s47F} visas. One ^{s47F} had been granted to ^{s47F} in association with the unfinalised first ^{s47F} application ^{s47F} lodged on ^{s47F} December 1989. The second ^{s47F} had been granted to ^{s47F} in association with the unfinalised second ^{s47F} application lodged on ^{s47F}. The advice confirmed the second entry permit had transitioned to two applications on 01 September 1994, an application for a ^{s47F} visa and an application for a ^{s47F} visa.

As a result, ^{s47F} continued to hold two ^{s47F} and was released from detention on ^{s47}_F June 2016.

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- 22 -

Actions

The delegate who decided the second entry permit application made by §47F erred in refusing §47F a §47F visa. The delegate failed to identify that §47F had two ongoing applications - a §47F visa and §47F visa – that needed to be decided. This was not picked up by the detaining officer on §47F May 2016 or the DRM on §47F May 2016. It was identified by the Status Resolution Operational Support Section after consideration of all §47F records and legislative frameworks in place at different points since 1994. This failure is serious but not systemic. Visa decision makers are now trained in the transitional arrangements relating to the 01 September 1994 changes to the Act.

§47F case has been included in future Notifications and Visa Compliance Essentials training courses.

Current Status

§47F is residing in the community on a §47F

The Department is preparing advice on how to progress §47F two ongoing entry permit applications.

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- 23 -

Medium Risk Case**1 January 2016 – 30 June 2016****ATTACHMENT I****Process incorrect**

Administrative deficiency

Family Name**Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Number of days in detention**

s47F

Summary

On ^{s47F} May 2016, ^{s47F} was located by ^{s47F} Police during a routine traffic stop. ^{s47F} was referred to the Immigration Status Service (ISS) for a visa status check. The ISS officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was detained under Section 189(1) of the Migration Act 1958 (the Act) and transferred to the ^{s47F} Immigration Detention Centre (^{s47F}).

On ^{s47F} June 2016, the Department's Status Resolution Operational Support Section confirmed that the ^{s47F} visa application lodged by ^{s47F} ^{s47F} June 2013 had not been effectively withdrawn.

As a result, ^{s47F} continued to hold a ^{s47F} and was released from detention on ^{s47F} June 2016.

Background

^{s47F} March 2013, ^{s47F} last arrived in Australia as the holder of a ^{s47F} visa.

^{s47F} June 2013, ^{s47F} was included as a dependant applicant in a ^{s47F} visa application lodged by ^{s47F}. ^{s47F} was granted an associated ^{s47F} on the date of lodgement.

^{s47F} February 2014, a written request for withdrawal was received from ^{s47F}. The request to withdraw the application made no direct reference to ^{s47F} dependant application but it did state the relationship between ^{s47F} was no longer ongoing.

^{s47F}, the ^{s47F} visa application of ^{s47F} was withdrawn.

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- 24 -

February 2014, case was transferred to the office for finalisation and guidance was sought by the delegate on how application should be finalised.

March 2014, visa application was withdrawn by the delegate. This withdrawal of application by the Department was an error. It is not open to a primary applicant to withdraw an application on an adult dependant applicant's behalf, unless they are acting with the express authority of the dependant applicant. The written request to withdraw the visa application was provided by and the Department held no evidence that the dependant applicant ever submitted a written (or other) request to withdraw visa application in own right.

May 2016, was located by Police during a routine traffic stop. was referred to the ISS for a visa status check. The ISS officer held reasonable suspicion that was an unlawful non-citizen, was detained under section 189(1) of the Act and transferred to the Immigration Detention Centre (

June 2016, a Detention Review Manager (DRM) review was conducted. The DRM identified that visa application had been withdrawn in error based on the written request of Status Resolution Operational Support Section confirmed the error and that had an ongoing visa application. The advice also confirmed was the holder of a and needed to be released from detention as soon as practicable.

was released from detention on June 2016.

June 2016, the Department issued with a letter requesting further information in connection with visa application.

June 2016, lodged visa application and was granted associated .

June 2016, requested withdrawal of visa application and application was withdrawn on the same day.

Actions

The issue of how to finalise application was correctly raised by the delegate who withdrew the visa application lodged by . At this point, the opportunity was missed to obtain advice and to finalise application appropriately.

The decision of the departmental delegate to withdraw visa application was an error. The relevant visa processing areas responsible for the error have been advised.

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- 25 -

Departmental officers are trained in the lawful requirements that must be met to withdraw an application. The requirements are included in the Level 1 and Level 2 courses of Good Decision Making Learning Pathway – Migration. Completion of these two courses is compulsory for all departmental staff making visa decisions.

The error made in this case will be highlighted in future training enhancements.

Current Status

s47F [redacted] is currently residing in the community while holding a s47F [redacted]

s47F [redacted] s47F [redacted] visa application remains ongoing.

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- 26 -

Medium Risk Case

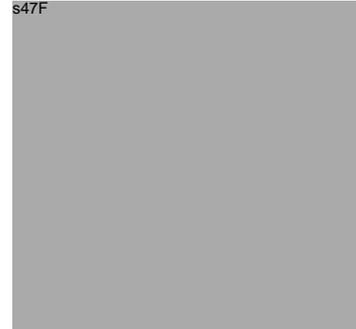
1 January 2016 – 30 June 2016

ATTACHMENT J

Process incorrect

Defective notification

- Family Name**
- Given Name**
- Alias**
- Nationality**
- DOB**
- ICSE Client ID**
- Date of detention**
- Date of release**
- Number of days in detention**



Summary

On ^{s47}_F June 2016, ^{s47F} was located by Australian Border Force (ABF) officers in ^{s47F} was interviewed by an ABF officer who held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was then detained under Section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} Immigration Transit Accommodation (^{s47F}).

On ^{s47}_F June 2016, the Status Resolution Operational Support Section confirmed that ^{s47F} held a ^{s47F} granted in association with the application ^{s47F} lodged on ^{s47F} for a ^{s47F} visa application.

As a result, ^{s47F} was released from detention on ^{s47F}.

Background

^{s47}_F January 2010, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa.

^{s47}_F June 2011, ^{s47F} applied for a ^{s47F} visa and was granted an associated ^{s47F}.

^{s47}_F February 2012, ^{s47F} was sent a natural justice letter by email inviting ^{s47F} to provide further information relating to the application. ^{s47F} was asked to comment on departmental evidence that ^{s47F} had submitted a fraudulent skills assessment with the assistance of the firm ^{s47F}. ^{s47F} failed to respond to the letter.

^{s47}_F April 2012, ^{s47F} visa application was refused and ^{s47F} was notified by email. ^{s47F} failed to seek review and ^{s47F} associated ^{s47F} ceased on ^{s47F}.

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- 27 -

s47 June 2016, s47F was located by ABF officers in s47F and detained under section 189(1) of the Act. On the same day, an ABF officer completed an assessment of the notification of the decision to refuse s47F a s47F visa. The officer noted in the assessment that s47F application was submitted by s47F. In relation to applications lodged by s47F, departmental staff are instructed to review applicants' email addresses to confirm that these are not tainted by error. This was not done.

s47 June 2016, a Detention Review Manager (DRM) review was conducted. The DRM considered there was a possible error in the refusal notification emailed to s47F on s47F April 2012 as the refusal notification was dispatched to an email address that was not provided directly by the applicant.

s47 June 2016, the Status Resolution Operational Support Section confirmed that notification of the decision to refuse s47F a s47F visa was defective as it had been dispatched to an email address not directly provided by s47F.

s47F continued to hold a s47F and was released from detention on s47F June 2016.

Actions

On s47 June 2016, an error was made when the ABF officer assessed the validity of the notification of the decision to refuse s47F a s47F visa. The officer failed to consider the departmental position regarding applications submitted by the firm, s47F.

Advice relating to s47F is integrated in to the Department's ongoing training on notification requirements. The Status Resolution Operational Support Section that administers the Notifications training is aware of the error and will use it to inform future iterations of Notifications training.

The error in this case is not a systemic one. The officer who completed the assessment has been notified of the error and on s47F July 2016 further information on the matter was distributed to the officer's manager.

Current Status

s47F is currently in the community as the holder of associated s47F that is valid until s47F July 2016.

s47F was re-notified of the decision to refuse s47F s47F visa application on s47F June 2016.

On s47 July 2016, s47F made an application to the Administrative Appeals Tribunal (AAT) seeking review of that decision.



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Report on people detained and later released as not unlawful non-citizens – out of cycle report

1. Introduction

This report to the Commonwealth Ombudsman documents two people detained and later released as not unlawful non-citizens during the period 01 January 2016 to 30 June 2016, who were not previously included in the report provided in September 2016.

People included in the report were released from immigration detention on the basis that reasonable suspicion could not be maintained, as required by section 189 of the *Migration Act 1958* (the Act), that they were unlawful non-citizens.

The 'current status' of each case is current as at 31 October 2017.

2. How cases are identified

The cases included in this report were identified through the Department's Detention Assurance Team.

There are nine release types that are used as descriptors to record the reasons for a person's release from immigration detention. This report includes cases where one of the five following descriptors has been used to record the circumstances surrounding a person's release from detention. The use of one of these descriptors by departmental officers may signify a risk that the detention of the person did not accord with the Act.

Identity confirmed	Reasonable suspicion that the person was an unlawful non-citizen was held, even though identity and/or immigration status could not be confirmed at the time of detention.
Litigation consequence	Person was released as a result of a court judgment.
Operation of law	Person was released as a result of a determination that the person is an absorbed person, or a determination that the person acquired Australian citizenship, or the person was granted a Bridging visa E through operation of law under section 75 of the Act.
Process incorrect	The Department of Home Affairs failed to properly administer the person's case, and/or failed to properly notify a person of a negative visa decision, resulting in a person showing incorrectly in departmental systems as unlawful.
Records incorrect	The person was detained because of inaccurate or incorrect information on departmental systems.

Cases where the following four release descriptors are used are not included in the report as they do not signify a risk of unlawful detention:

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- Change to detention power
- Departure from Australia
- Visa grant
- Other

3. Case risk assessments

In preparing this report, each case has been assessed to identify the likelihood that the detention did not occur and/or was not maintained in accordance with the Act. The likelihood is assessed as high, medium or low risk. The Department identifies and implements remedial action at both a case specific and systemic level where required and particularly where the risk of inappropriate detention is assessed as medium or high.

4. Specific Cases

A breakdown of cases for this report is as follows:

Name	Release Descriptor	Attachment
Medium Risk		
s47F	Process Incorrect Administrative deficiency	Attachment A
	Process Incorrect Administrative deficiency	Attachment B

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Medium Risk Case

ATTACHMENT A

Process Incorrect

Administrative deficiency

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention as not an unlawful non-citizen



Summary

On s47F December 2015, s47F was detained under section 189 of the *Migration Act 1958* (the Act) when s47F attended the Department of Home Affairs (DIBP) s47F office as s47F s47F s47F visa had been cancelled on s47F December 2015 and s47F was an unlawful non-citizen. s47F was detained and transferred to the s47F Immigration Transit Accommodation s47F. s47F was subsequently transferred to criminal custody on s47F January 2016. On s47F February 2016, s47F was granted bail and again detained under section 189 of the Act and transferred to the s47F

On s47F October 2015, s47F s47F visa was cancelled under section 109 of the Act. On s47F October 2015, s47F lodged an appeal of the cancellation decision with the Administrative Appeals Tribunal (AAT). On s47F March 2016, the AAT set aside the Department's decision to cancel s47F s47F visa bringing the visa back into effect on s47F March 2016.

On s47F March 2016, a routine report was produced by the s47F Status Resolution Section showing that s47F was a lawful non-citizen in detention.

On s47F March 2016, s47F was released from immigration detention.

Background

s47F November 2004, s47F was granted a s47F visa offshore.

s47F February 2005, s47F arrived in Australia as the holder of a s47F visa.

s47F October 2015, s47F s47F visa was cancelled under section 109 of the Act, on the grounds that s47F had provided false information regarding s47F relationship status.

s47F October 2015, s47F lodged an application for review of the s47F visa cancellation with the AAT.

s47F October 2015, s47F was granted a s47F visa in association with the AAT

Report on people detained and later released as not unlawful non-citizens – out of cycle report

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appeal.

December 2015, as a consequence of criminal charges, visa was cancelled.

December 2015, lodged an application for review of the cancellation of the visa with the AAT.

December 2015, was detained under section 189 of the Act when presented to the DIBP office.

January 2016, appeared before the Magistrate's Court in relation to outstanding criminal charges. bail was revoked on the same day and was remanded into criminal custody.

February 2016, made an application for bail through the Magistrate's Court. On the grant of bail, was detained by departmental officers under section 189 of the Act and placed into immigration detention at the facility.

March 2016, the AAT 'set aside' the Department's decision to cancel visa resulting in the reinstatement of the visa. legal representative for immigration matters was notified via email of the AAT decision on that date. The AAT had not been advised that had been taken into detention subsequent to lodging the request for review, and this resulted in the Department not being immediately notified of the AAT decision.

March 2016, the Status Resolution Section ran a routine report which showed that remained in detention as the holder of a visa.

March 2016, at approximately was released from immigration detention.

Actions

The Department has implemented an automatic data load of AAT decisions sent directly by the AAT to the Detention Review Manager (DRM) mailbox each day, to ensure the DRM is made aware of decisions which may affect the immigration status of an individual in detention. Since 2016, the daily AAT finalisations list is also emailed to all Status Resolution group mailboxes in the detention network.

Since August 2016, the DRM team has commenced a daily quality assurance process which includes checking the CCMDS portal (the database holding details of all persons held in immigration detention). This process was implemented to identify any cases in which a person is recorded as being both in immigration detention and the holder of a visa. This check ensures that where a person is recorded on departmental systems as 'lawful' and 'in detention' are identified within 24 hours of a visa grant being recorded on departmental systems.

Current Status

is currently residing lawfully in the community, as the holder of a visa.

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Medium Risk Case

ATTACHMENT B

Process Incorrect

Administrative deficiency

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention as not an unlawful non-citizen



Summary

On ^{s47}_F May 2016, ^{s47}_F was detained by ^{s47}_F Police. The police referred the case to the Department's Immigration Status Service (ISS) for an immigration status assessment. ISS advised that ^{s47}_F was an unlawful non-citizen as departmental systems showed that ^{s47}_F ^{s47}_F visa had ceased on ^{s47}_F August 2013. Based on information from the Department, a ^{s47}_F police officer held reasonable suspicion that ^{s47}_F was unlawful and ^{s47}_F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47}_F Immigration Transit Accommodation (^{s47}_F facility).

On ^{s47}_F June 2016, ^{s47}_F lodged an application for a ^{s47}_F visa. On ^{s47}_F June 2016, ^{s47}_F was incorrectly granted a ^{s47}_F visa. Under Item 1303(3) (e) of the *Migration Regulations 1994* (the Regulations), a valid application for a ^{s47}_F visa cannot be made by a person in immigration detention.

On ^{s47}_F June 2017, an Australian Border Force (ABF) Compliance officer checked ^{s47}_F status on departmental systems and noted that ^{s47}_F remained in detention although ^{s47}_F was the holder of a ^{s47}_F visa.

^{s47}_F was released from immigration detention on ^{s47}_F June 2016 at ^{s47}_F hours.

Background

^{s47}_F May 2013, ^{s47}_F was granted a ^{s47}_F visa offshore.

^{s47}_F May 2013, ^{s47}_F arrived in Australia as the holder a of a ^{s47}_F visa.

^{s47}_F August 2013, ^{s47}_F ^{s47}_F visa ceased.

^{s47}_F May 2016, ^{s47}_F was detained under section 189(1) of the Act by ^{s47}_F Police, and referred to ISS for an immigration status check. ^{s47}_F was found to be an unlawful non-citizen and transferred to the ^{s47}_F

^{s47}_F June 2016, an application for a ^{s47}_F visa was lodged by ^{s47}_F migration agent on ^{s47}_F behalf.

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§47 June 2016, an ABF Compliance officer incorrectly granted §47F a §47F visa in association with §47F §47F visa application. Under Schedule 1, Item 1303(3) (e), of the Regulations, an application for a §47F visa cannot be made in immigration detention. Although the regulations do not allow a valid application for a §47F visa to be made when a person is in immigration detention, once a visa is granted, the person becomes the holder of a visa.

§47 June 2016, an ABF Compliance officer checked §47F status on departmental systems and noted that §47F was the holder of a §47F visa. An officer at the §47F detention facility was contacted and it was established that §47F was a lawful non-citizen and that §47F had to be released from immigration detention.

§47 June 2016, §47F was released from immigration detention at §47F hours.

Actions

Procedural guidance for officers considering grant of associated §47F visa has been updated to clearly direct processing officers to seek guidance from a team leader or manager where the applicant is in immigration detention.

Since August 2016, the DRM team has commenced a daily quality assurance process which includes checking the CCMDS portal (the database holding details of all persons held in immigration detention). This process was implemented to identify any cases in which a person is recorded as being both in immigration detention and the holder of a visa. This check ensures that cases where a person is recorded on departmental systems as 'lawful' and 'in detention' are identified within 24 hours of a visa grant being recorded on departmental systems.

Current Status

§47F application for a §47F visa was refused by the Department on §47F September 2016. §47F lodged an application for review with the Administrative Appeals Tribunal (AAT) on §47F November 2016. On §47F December 2016, the AAT found that it had no jurisdiction to review the application as it had been lodged outside the statutory prescribed timeframe. §47F associated §47F visa ceased on §47F October 2016, 28 days after notification of the primary decision.

§47F is currently residing unlawfully in the community.

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Australian Government

Department of Immigration and Border Protection

Report on people detained and later released as lawful non-citizens

1. Introduction

This report to the Commonwealth Ombudsman documents the number of people detained and later released as lawful non-citizens during the period 01 July 2016 to 31 December 2016. People included in the report were released from immigration detention on the basis that reasonable suspicion could not be maintained, as required by section 189 of the *Migration Act 1958* (the Act), that they were unlawful non-citizens.

For this reporting period, there were a total of 3,679 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). Out of 3,679 people detained, 14 people are included in this report, which represents 0.38 of one per cent of the total people detained.

The 'current status' of each case is current as at 06 January 2017.

2. How cases are identified

The cases included in this report are identified through a system report and data entered into the Compliance Case Management Detention and Settlement (CCMDS) Portal.

There are nine release types that are used as descriptors to record the reasons for a person's release from immigration detention. This report includes cases where one of the five following descriptors has been used to record the circumstances surrounding a person's release from detention. The use of one of these descriptors by departmental officers may signify a risk that the detention of the person did not accord with the Act.

Identity confirmed	Reasonable suspicion that the person was an unlawful non-citizen was held, even though identity and/or immigration status could not be confirmed at the time of detention.
Litigation consequence	Person was released as a result of a court judgment.
Operation of law	Person was released as a result of a determination that the person is an absorbed person, or a determination that the person acquired citizenship, or the person was granted a Bridging visa E through operation of law under section 75 of the Act.

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- 2 -

- Process incorrect** The Department of Immigration and Border Protection failed to properly administer the person's case, and/or failed to properly notify a person of a negative visa decision, resulting in a person showing incorrectly in departmental systems as unlawful.
- Records incorrect** The person was detained because of inaccurate or incorrect information on departmental systems.

Cases where the following four release descriptors are used are not included in the report as they do not signify a risk of unlawful detention:

- Change to detention power
- Departure from Australia
- Visa grant
- Other

3. Case risk assessments

In preparing this report, each case has been assessed to identify the likelihood that the detention did not occur and/or was not maintained in accordance with the Act. The likelihood is assessed as high, medium or low risk. The Department identifies and implements remedial action at both a case specific and systemic level where required and particularly where the risk of inappropriate detention is assessed as medium or high.

For the period 01 July 2016 to 31 December 2016, 14 cases have been identified where people have been released from immigration detention on the basis that reasonable suspicion could no longer be maintained that they were unlawful non-citizens (as required by section 189 of the Act). The 14 cases in this report have been assessed to be medium risk.

The last report covered the period 01 January 2016 to 01 July 2016, and included 10 cases where people had been released from immigration detention as reasonable suspicion could no longer be maintained that they were unlawful non-citizens. All 10 cases were considered to be medium risk.

For the period 01 July 2016 to 31 December 2016, there were a total of 3,197 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). The total number of people detained, then later released as reasonable suspicion could no longer be maintained that they were unlawful non-citizens, represents 0.38 of one per cent of the total number of people detained.

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- 3 -

4. Specific Cases

Breakdown of cases for this reporting period follow.

Name	Release Descriptor	Attachment
Medium Risk		
§47F	Process Incorrect Defective Notification	Attachment A
	Process Incorrect Defective Notification	Attachment B
	Process Incorrect Administrative Deficiency	Attachment C
	Process Incorrect Defective Notification	Attachment D
	Litigation Consequence Federal Court	Attachment E
	Process Incorrect Administrative Deficiency	Attachment F
	Process Incorrect Administrative Deficiency	Attachment G
	Process Incorrect Administrative Deficiency	Attachment H
	Process Incorrect Defective Notification	Attachment I
	Process Incorrect Administrative Deficiency	Attachment J
	Process Incorrect Defective Notification	Attachment K
	Process Incorrect Administrative Deficiency	Attachment L
	Process Incorrect Administrative Deficiency	Attachment M
	Process Incorrect Administrative Deficiency	Attachment N

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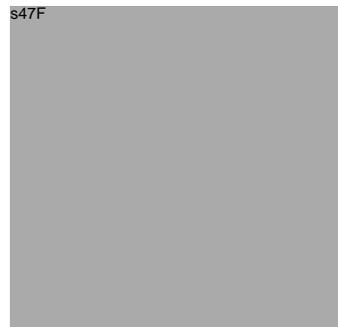
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- 4 -

Medium Risk Case 01 July 2016 – 31 December 2016

ATTACHMENT A**Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47F} November 2016, ^{s47F} was located at ^{s47F} residential address in ^{s47F} by Australian Border Force (ABF) officers as part of a targeted field visit.

^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) as the detaining ABF officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was subsequently transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47F} November 2016, the Department's Status Resolution Operational Support Section confirmed that ^{s47F} was the holder of a ^{s47F} visa.

^{s47F} was released from immigration detention on ^{s47F} November 2016.

Background

^{s47F} September 2008, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa granted as a ^{s47F}.

^{s47F} May 2011, the sponsor for the ^{s47F} visa advised the Department in writing, via a migration agent, of a relationship breakdown.

^{s47F} October 2011, the ^{s47F} visa application, on which ^{s47F} was a ^{s47F} was refused. ^{s47F}

Usually the ^{s47F} visa held by an individual would cease in the wake of their being notified that their application for a ^{s47F} has been refused, with the timing of the cessation determined by the means of notification. If the refusal notification was emailed to the individual or their authorised recipient, the ^{s47F} visa would cease at the end of the day on which they received the email. If the notification of the decision to refuse the ^{s47F} visa was sent by mail, then the ^{s47F} visa would cease seven days after the date of the refusal decision (which should be the date on the notification

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- 5 -

letter). As per standard practice s47F was granted a s47F visa on s47F October 2011, the date on which s47F application for a s47F visa was refused. The standard validity period for s47F visas granted in these circumstances is s47F. Given the circumstances of s47F case, s47F visa is currently out of effect.

s47F November 2011, the notification to the s47F applicant was returned to the Department unclaimed and the s47F applicant did not seek review of this decision at the Migration Review Tribunal (MRT).

s47F June 2012, s47F was granted a s47F visa. s47F was granted a total of s47F visas between s47F June 2012 and s47F September 2016.

s47F July 2012, s47F lodged an application for a s47F visa as a s47F applicant. s47F was granted an associated s47F visa the same day.

s47F October 2012, s47F application for a s47F visa was refused.

s47F November 2012, s47F lodged an application for review of the s47F visa refusal with the then Refugee Review Tribunal (RRT).

s47F June 2013, the RRT affirmed the primary decision.

s47F June 2013, the RRT initiated a Ministerial Intervention request under section 417 of the Act.

s47F June 2016, the section 417 Ministerial Intervention request initiated by the RRT on s47F June 2013 was finalised. s47F was referred to the Minister on a first stage submission, however, the Minister declined to consider intervening under section 417 of the Act.

s47F September 2016, s47F was included on a repeat request for Ministerial Intervention under section 417 of the Act. This request was finalised the following day, s47F September 2016, as 'not referred', as it was assessed as not satisfying the Minister's guidelines for referral under section 417 of the Act.

s47F September 2016, the s47F visa granted to s47F on s47F September 2016 ceased.

s47F September 2016, s47F appeared to be unlawful on departmental systems.

s47F November 2016, s47F was detained under section 189(1) of the Act as an ABF officer held reasonable suspicion that s47F was an unlawful non-citizen, and transferred to s47F IDC.

s47F November 2016, an Australian Border Force (ABF) officer assessed the validity of the notification refusal of the s47F visa and concluded on the basis of advice received from Status Resolution Operational Support Section in 2012 (then known as the Compliance Helpdesk), that the notification of the s47F visa was effective. The Compliance Field officer also completed a case law assessment for the

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- 6 -

RRT notification and found that the notification was effective.

^{s47}_F November 2016, a Detention Review Manager (DRM) review was conducted and a referral for further assessment of ^{s47F} status was made to the Status Resolution Operational Support Section.

^{s47}_F November 2016, Status Resolution Operational Support Section confirmed that the decision to refuse the ^{s47F} visa was affected by jurisdictional error because the decision-maker failed to have regard to relevant information in the form of a ^{s47F} statement and a statutory declaration by a supporting witness when making a decision on the visa application.

As the ^{s47F} visa refusal was affected by a jurisdictional error, the ^{s47F} visa had not ceased and the ^{s47F} applicant and the ^{s47F} applicants continued to be holders of the ^{s47F} visa. A fresh decision on the ^{s47F} visa is now required.

^{s47}_F November 2016, ^{s47F} was released from detention.

Actions

The error is not a systemic one. The advice from the Status Resolution Operational Support Section was made available to the original visa processing area and to relevant program areas to ensure that all relevant information is considered prior to an application being decided.

The records for the ^{s47F} applicant and ^{s47F} applicants have been updated on departmental systems to reflect that each is currently the holder of a ^{s47F} visa and that their ^{s47F} visa has not been finalised.

Current Status

^{s47}_F December 2016, the ^{s47F} Processing team in the ^{s47F} office wrote to ^{s47F} by registered post to advise ^{s47F} that the Department required ^{s47F} authorisation to make a fresh decision on the ^{s47F} visa as the earlier decision to refuse this visa on ^{s47F} 4 October 2011 was affected by a jurisdictional error. This correspondence asked ^{s47F} whether ^{s47F} wished to have fresh decision made or whether ^{s47F} would instead choose to withdraw the application for a ^{s47F} visa). The same request was sent to the ^{s47F} applicant and the ^{s47F}.

^{s47}_F December 2016, ^{s47F} lodged an application for a ^{s47F} visa and this application is ongoing. ^{s47F} was granted an associated ^{s47F} visa the same day, which is currently out of effect.

^{s47}_F January 2017, ^{s47F} currently resides in the community as the holder of a ^{s47F} visa. ^{s47F} also holds two associated ^{s47F} visas, one associated with ^{s47F} ^{s47F} visa application, and one associated with ^{s47F} ^{s47F} visa application.

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- 7 -

Medium Risk Case 01 July 2016 – 31 December 2016

ATTACHMENT B**Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47F} November 2016, ^{s47F} was located by ^{s47F} Police during a random roadside stop. ^{s47F} was referred to the Department's Immigration Status Service (ISS) for a visa status check. ^{s47F} appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department, a ^{s47F} Police officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47F} November 2016, the Status Resolution Operational Support Section confirmed that ^{s47F} was the holder of a ^{s47F} visa granted in association with a ^{s47F} visa application lodged on ^{s47F} July 2016.

^{s47F} was subsequently released from detention on ^{s47F} November 2016.

Background

^{s47F} April 2016, ^{s47F} arrived in Australia as the holder of an ^{s47F} visa.

^{s47F} July 2016, the ^{s47F} visa ceased.

^{s47F} July 2016, ^{s47F} lodged an application for a ^{s47F} visa and was granted a ^{s47F} visa in association with the application.

^{s47F} September 2016, ^{s47F} application for a ^{s47F} visa was assessed as invalid because it did not satisfy section 46(2A) of the Act, as ^{s47F} did not provide the required personal identifiers in relation to ^{s47F} application. ^{s47F} was sent a letter, notifying ^{s47F} that ^{s47F} application was invalid, by registered post on the same day.

^{s47F} September 2016, the letter notifying ^{s47F} that ^{s47F} application for a ^{s47F} visa was invalid was 'returned to sender' unclaimed.

^{s47F} October 2016, the ^{s47F} visa granted in association with the ^{s47F} visa application appeared to cease according to

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- 8 -

departmental systems.

^{s47}_F October 2016, ^{s47F} appeared as unlawful on departmental systems.

^{s47}_F November 2016, ^{s47F} was located by ^{s47F} Police during a random roadside stop. Based on information from the Department, a ^{s47F} Police officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen, and ^{s47F} was detained under section 189(1) of the Act. Subsequent to being detained under section 189(1) of the Act, ^{s47F} was re-notified by ABF that ^{s47F} application for a ^{s47F} visa, lodged on ^{s47}_F July 2016, was invalid.

^{s47}_F November 2016, a Detention Review Manager (DRM) review was conducted and identified a possible error as the letter notifying ^{s47F} that ^{s47F} application for a ^{s47F} visa was invalid was 'returned to sender' and there was no evidence of actual notification. A referral for further assessment was made to the Status Resolution Operational Support Section.

^{s47}_F November 2016, the Status Resolution Operational Support Section confirmed that there was a defective notification and therefore ^{s47F} was the holder of a ^{s47F} visa granted in association with the ^{s47F} visa application, and should be released from immigration detention as soon as practicable.

^{s47F} was released from immigration detention on ^{s47}_F November 2016. The same day ^{s47F} provided written acknowledgement that ^{s47}_F had been notified (by ABF on ^{s47}_F November 2016) that ^{s47F} application for a ^{s47F} visa was invalid.

Actions

The Department is improving existing procedures to ensure that clients are effectively notified when the Department assesses that an application that they have lodged is invalid. This is particularly important when ^{s47F} visas are granted in association with visa applications and when a ^{s47F} visa only ceases upon confirmation that a client has been correctly notified.

The Notifications Procedure Advice Manual (PAM) in LEGEND, the Department's electronic legal and policy database was updated in April 2015, October 2015 and November 2016.

The Status Resolution Operational Support Section liaises with the Legal Framework and Training Section to highlight recurrent errors and the training needs identified will inform the review currently being undertaken to update LEGEND. Pending the finalisation of the review, interim updates to visa processing areas from the Status Resolution Operational Support Section to ensure that correct notification procedures are improved. In addition, as of 19 November 2016, the delinking of visas from notification related events will ensure that ^{s47F} visas granted in association with a substantive visa application process will cease 35 days after the relevant decision or withdrawal occurs.

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Current Status

s47F [redacted] was released from immigration detention as the holder of an associated
s47F [redacted] visa on s47F [redacted] November 2016. This visa ceased on
s47F [redacted] December 2016 as s47F [redacted] was notified on s47F [redacted] November 2016 that s47F [redacted] application for a
s47F [redacted] visa was invalid. s47F [redacted] has not lodged any further
visa applications.

On s47F [redacted] December 2016, s47F [redacted] became unlawful. Departmental records indicate s47F [redacted]
has not engaged with the Department since s47F [redacted] release from immigration detention.

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- 10 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT C****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F November 2016, ^{s47}_F was located by the Australian Border Force (ABF) working in breach of visa condition ^{s47}_F and ^{s47}_F ^{s47}_F visa was cancelled under section 116 of the *Migration Act 1958* (the Act). The detaining ABF officer held reasonable suspicion that ^{s47}_F was an unlawful non-citizen and ^{s47}_F was detained under section 189(1) of the Act and transferred to the ^{s47}_F Immigration Transit Accommodation (ITA).

On ^{s47}_F November 2016, the Status Resolution Operational Support Section identified that condition ^{s47}_F could not lawfully have been imposed on the ^{s47}_F visa granted to ^{s47}_F on ^{s47}_F October 2016 in association with ^{s47}_F application for a ^{s47}_F visa. As a consequence, the ground on which ^{s47}_F visa had been cancelled under section 116 of the Act did not exist, and ^{s47}_F visa was still in effect. ^{s47}_F was released from immigration detention on ^{s47}_F November 2016.

Background

^{s47}_F February 2014, ^{s47}_F arrived in Australia as the holder of an ^{s47}_F visa.

^{s47}_F May 2014, ^{s47}_F ^{s47}_F visa ceased.

^{s47}_F January 2015, ^{s47}_F lodged an application for a ^{s47}_F visa which was found to be invalid as ^{s47}_F did not pay the visa application charge.

^{s47}_F January 2015, ^{s47}_F lodged a valid ^{s47}_F visa application and on ^{s47}_F January 2015, ^{s47}_F was granted an associated ^{s47}_F visa.

^{s47}_F July 2015, ^{s47}_F applied for ^{s47}_F by lodging ^{s47}_F with the Department.

^{s47}_F August 2015, ^{s47}_F application for a ^{s47}_F visa was refused.

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- 11 -

§47 F August 2015, §47 F was granted a §47 F visa with permission to work.

§47 F September 2015, §47 F lodged an application for review of the decision to refuse §47 F application for a §47 F visa at the then Refugee Review Tribunal (RRT).

§47 F September 2015, §47 F applied for §47 F by lodging §47 F with the Department.

§47 F September 2015, §47 F was advised by the Department that there were no conditions imposed on §47 F §47 F visa granted on §47 F August 2015, as such condition §47 F was not imposed.

§47 F September 2016, the Refugee Review Tribunal (RRT) affirmed the decision to refuse §47 F §47 F visa application.

§47 F October 2016, §47 F lodged an application for review at the Federal Court.

§47 F October 2016, §47 F lodged §47 F with the Department to obtain §47 F.

§47 F October 2016, a §47 F visa with condition §47 F imposed was granted in association with the application for judicial review.

§47 F November 2016, §47 F was located by ABF officers working in breach of visa condition §47 F §47 F §47 F visa was cancelled under section 116 of the Act and §47 F was detained under section 189(1) of the Act.

§47 F November 2016, a Detention Review Manager (DRM) review was conducted, the review identified that §47 F §47 F lodged on §47 F September 2015 was still pending a decision. A referral for further assessment was made to the Status Resolution Operational Support Section which identified that the §47 F visa granted to §47 F on §47 F October 2016 was incorrectly granted with condition §47 F

Condition §47 F could not be lawfully imposed on §47 F §47 F visa because a §47 F visa applicant seeking judicial review can only have condition §47 F imposed on their associated §47 F if the previous visa held by the person also had condition §47 F imposed on it. As §47 F did not have condition §47 F imposed on the last visa held, it was not open to the delegate to impose this condition.

As §47 F §47 F visa was cancelled under section 116 of the Act on the grounds that §47 F had breached condition §47 F which could not lawfully be imposed on §47 F visa, the cancellation decision was affected by a jurisdictional error as the departmental officer made a mistake of fact which was critical to the decision.

§47 F November 2016, the DRM received advice from Status Resolution Operational Support Section advising that §47 F was the holder of a §47 F visa with permission to work and needed to be released from immigration detention as soon as practicable.

§47 F November 2016, §47 F was released from immigration detention.

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- 12 -

Actions

Onshore Protection has been made aware of §47F circumstances to ensure that departmental decision makers who consider §47F visa applications receive appropriate training to mitigate against any recurrence of the error.

The error identified is not a systemic one. Both ABF officers and Status Resolution officers are also provided with regular training on §47F visas to ensure that departmental officers have appropriate training prior to cancellation of §47F visas.

Current Status

On §47F November 2016, five days after §47F release from detention, a decision was made on the §47F which §47F lodged on §47F September 2015. §47F was granted a further §47F visa with no conditions imposed.

§47F is currently residing in the community awaiting the outcome of §47F application for judicial review of the decision to refuse §47F application for a §47F visa.

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- 13 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT D****Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
ICSE Client ID #2
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F November 2016, ^{s47}_F was located by the Australian Border Force (ABF), working in breach of ^{s47}_F visa conditions. ^{s47}_F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to ^{s47}_F Immigration Detention Centre (IDC).

On ^{s47}_F November 2016, the Status Resolution Operational Support Section confirmed that the Department was not able to establish that ^{s47}_F had received actual notification (either in writing or orally) from the Department that ^{s47}_F visa was determined to be invalid. As a consequence, ^{s47}_F continued to hold the ^{s47}_F visa granted in association with ^{s47}_F ^{s47}_F visa lodged on ^{s47}_F November 2015.

^{s47}_F was subsequently released from immigration detention on ^{s47}_F November 2016.

Background

^{s47}_F May 2008, ^{s47}_F arrived in Australia as the holder of an ^{s47}_F visa valid to ^{s47}_F August 2008, using the identity of ^{s47}_F, date of birth ^{s47}_F.

^{s47}_F August 2008, ^{s47}_F became unlawful as ^{s47}_F visa had ceased.

^{s47}_F July 2009, ^{s47}_F lodged an application (^{s47}_F first) for a ^{s47}_F visa.

^{s47}_F July 2009, ^{s47}_F was granted a ^{s47}_F visa in association with ^{s47}_F visa application.

^{s47}_F September 2009, ^{s47}_F application for a ^{s47}_F visa was refused.

^{s47}_F October 2009, ^{s47}_F lodged an application for review of the Department's decision to

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- 14 -

refuse ^{s47F} ^{s47F} visa application with the then Refugee Review Tribunal (RRT).

^{s47F} December 2009, the RRT affirmed the Department's decision to refuse ^{s47F} visa application.

^{s47F} January 2010, the ^{s47F} visa granted in association with ^{s47F} first visa application ceased.

^{s47F} January 2010, ^{s47F} became unlawful.

^{s47F} February 2010, ^{s47F} lodged a Ministerial Intervention request under section 417 of the Act.

^{s47F} April 2010, the section 417 Ministerial Intervention request was finalised. ^{s47F} was assessed as not meeting the guidelines for referral. As this was an initial request for Ministerial Intervention under section 417 of the Act, ^{s47F} case was referred to the Minister on a schedule, and the Minister declined to consider ^{s47F} case.

^{s47F} April 2011, ^{s47F} departed Australia as an unlawful non-citizen. ^{s47F} was subject to an exclusion period preventing ^{s47F} re-entry to Australia for a period of three years.

^{s47F} July 2012, ^{s47F} arrived in Australia using the identity of ^{s47F}, date of birth of ^{s47F}, as the holder of an ^{s47F} visa, valid until ^{s47F}.

^{s47F} October 2012, ^{s47F} lodged a ^{s47F} visa application and was granted a ^{s47F} visa in association with the application.

^{s47F} December 2012, a request for withdrawal of ^{s47F} ^{s47F} visa application was received via ^{s47F} authorised agent. The Department actioned the request to withdraw the ^{s47F} visa application the same day.

^{s47F} January 2013, ^{s47F} was notified through ^{s47F} authorised agent that the Department had withdrawn ^{s47F} application.

^{s47F} January 2013, ^{s47F} ^{s47F} visa, granted in association with the ^{s47F} visa application, ceased.

^{s47F} January 2013, ^{s47F} became unlawful.

^{s47F} November 2015, ^{s47F} lodged a second ^{s47F} visa application.

^{s47F} November 2015, ^{s47F} was granted a ^{s47F} visa in association with ^{s47F} ^{s47F} visa application

^{s47F} April 2016, an acknowledgement of lodgement of ^{s47F} ^{s47F} visa application was sent to ^{s47F} by registered post.

^{s47F} May 2016, ^{s47F} ^{s47F} visa application was assessed as invalid as ^{s47F} had not provided personal identifiers (as stipulated by section

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- 15 -

46(2A) of the Act). §47F was notified of the decision via email.

§47F June 2016, the letter of acknowledgement of lodgement of §47F §47F visa application was returned to the Department.

§47F June 2016, §47F §47F visa granted in association with §47F §47F visa application appeared to cease according to departmental systems.

§47F June 2016, §47F lodged a §47F visa application.

§47F June 2016, §47F was granted a §47F visa in association with §47F §47F visa application.

§47F November 2016, §47F was located by the ABF, working in breach of the conditions imposed on §47F §47F visa.

§47F November 2016, §47F §47F visa associated with §47F §47F application was cancelled under section 116 of the Act. §47F, who was now reasonably suspected to be an unlawful non-citizen, was detained under section 189(1) of the Act and transferred to §47F IDC.

§47F November 2016, a Detention Review Manager (DRM) review was conducted and identified possible errors in the notification dated §47F May 2016, informing §47F that §47F §47F visa application was invalid.

§47F had provided consent for the Department to communicate with §47F electronically. However, it appeared that the email address was entered incorrectly into departmental systems. The incorrectly entered email address was used when the decision maker sent a letter through the Department's Enterprise Correspondence System (ECS). As there was no evidence on file of failure of transmission of the email no further checks were conducted by the business area.

The DRM made a referral for further assessment of §47F status to the Status Resolution Operational Support Section on §47F November 2016.

§47F November 2016, the Status Resolution Operational Support Section advised that the Department was unable to establish that §47F was actually notified (in writing or orally) by the Department that §47F §47F visa application (lodged on §47F November 2015) was determined to be invalid.

As a consequence §47F continued to be the holder of the §47F visa granted in association with §47F §47F application lodged on §47F November 2015, as no other event in Regulation 050.511(b) had occurred to trigger the cessation of the associated §47F visa. §47F therefore needed to be released from immigration detention as soon as practicable.

§47F November 2016, §47F was released from immigration detention.

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- 16 -

Actions

s47F was detained during an ABF operation targeted at locating over stayers whose visas had ceased, and who were working whilst unlawful.

The s47F visa processing area has confirmed that their quality assurance processes include checks for accuracy in email addresses. In addition, their administrative officers who process and record data when claims are lodged have been counselled on the significant consequences of recording errors and notification defects.

Current Status

On s47F November 2016, after s47F release from immigration detention, s47F s47F visa was cancelled under section 116 of the Act for breach of condition s47F and s47F was re-detained at s47F IDC.

On s47F November 2016, s47F withdrew s47F s47F visa application lodged on s47F 2016 and requested removal from Australia.

s47F departed Australia on s47F November 2016.

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- 17 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT E****Litigation Consequence****Federal Court**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F June 2016, ^{s47F} returned to Australia as the holder of a ^{s47F} ^{s47F} visa granted offshore on ^{s47}_F April 2014. ^{s47F} had first arrived Australia on ^{s47}_F June 2014, as the holder of the ^{s47F} ^{s47F} visa.

^{s47F} was questioned by an Australian Border Force (ABF) officer at ^{s47F} airport. The officer conducted a preliminary interview and identified that there were possible grounds for cancellation of the visa. ^{s47F} was issued with a Notice of Intention to Consider Cancellation (NOICC) of ^{s47F} ^{s47F} ^{s47F} visa. ^{s47F} ^{s47F} ^{s47F} visa was subsequently cancelled under section 116 of the *Migration Act 1958* (the Act) for failure to comply with ^{s47F} as ^{s47F} was ^{s47F} ^{s47F}.

On ^{s47}_F June 2016, ^{s47F} was taken into immigration detention at ^{s47F} Immigration Detention Centre (IDC) pending ^{s47F} removal from Australia.

^{s47F} applied to the Federal Circuit Court for judicial review of the delegate's cancellation decision and also sought an injunction to prevent ^{s47F} removal from Australia. ^{s47F} claimed that the delegate's decision was affected by apprehended bias as ^{s47}_F was denied the opportunity to respond meaningfully to the NOICC.

The Federal Circuit Court refused to grant the injunction, but did not decide the substantive judicial review application which challenged the cancellation of ^{s47F} ^{s47F} visa.

^{s47F} appealed the injunction decision to the Federal Court. The matter was heard on ^{s47}_F July 2016, and on ^{s47}_F July 2016, the Federal Court judge, reserved judgement on the case.

On ^{s47}_F July 2016, ^{s47F} was released from detention. The Department reviewed the transcript of the delegate's interview and listened to the audio recording and came to the view that ^{s47F} had not been afforded a fair opportunity to respond to the NOICC. The Department entered into consent orders with ^{s47F} and conceded the Federal Circuit Court and Federal Court proceedings. The Court made orders setting aside the delegate's decision on the basis that it was affected by jurisdictional error, which had the effect that ^{s47F} ^{s47F} visa was taken not to be cancelled.

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- 18 -

Background

^{s47}_F June 2014, ^{s47F} first arrived Australia on a ^{s47F} visa granted on ^{s47}_F April 2014.

^{s47}_F April 2016, ^{s47F} departed Australia.

^{s47}_F June 2016, ^{s47F(1)} returned to Australia on a ^{s47F} visa. This visa was cancelled under section 116 of the Act, in immigration clearance at ^{s47F} Airport, after ^{s47F} was issued with a NOICC of ^{s47F} ^{s47F} visa and interviewed by an ABF officer.

^{s47}_F June 2016, ^{s47F} applied to the Federal Circuit Court for judicial review of the delegate's cancellation decision and also sought an injunction to prevent ^{s47F} removal from Australia.

^{s47}_F July 2016, the Federal Circuit Court refused to grant the injunction to prevent ^{s47F} removal from Australia, on the basis that the conduct of the interview did not compromise ^{s47F} ability to respond to the NOICC. The Federal Circuit Court did not decide the substantive judicial review application which challenged the cancellation of ^{s47F} ^{s47F} visa.

^{s47}_F July 2016, ^{s47F} applied to the Full Federal Court for judicial review of the Federal Circuit Court's decision not to grant an injunction preventing ^{s47F} removal from Australia.

Subsequent to ^{s47F} appealing the cancellation decision at the Federal Circuit Court and the Federal Court, the Department on reviewing the delegate's interview and listening to the audio recording came to the view that the delegate's comments during the preliminary interview arguably indicated to ^{s47F} that ^{s47F} opportunity to comment on the NOICC was a pointless exercise, as it appeared that the delegate had already made up ^{s47F} mind.

Specifically, the delegate's interpretation of the information on ^{s47F} ^{s47F} records, in the ^{s47F} database PRISMS was presented as a 'fact' regardless of ^{s47F} attempts to explain what had happened to ^{s47F} since 2014. The delegate appeared to be conducting the preliminary interview with the view that ^{s47F} story did not make sense because ^{s47F} was not telling the truth.

^{s47}_F July 2016, once it was accepted that ^{s47F} continued to hold a ^{s47F} visa, an officer could no longer hold reasonable suspicion that ^{s47F} was an unlawful non-citizen and ^{s47F} was released from immigration detention.

Actions

ABF at ^{s47F} airport have been appraised of the issues arising from the way in which the interview was conducted and the subsequent cancellation of ^{s47F} ^{s47F} visa, and further training for, and counselling of, the ABF officer involved has been recommended.

The error is not a systemic one. The circumstances leading to the jurisdictional error in this matter are confined to the particular facts of this case where it appeared that the delegate had already made up ^{s47F} mind and may not have had a mind open to persuasion. This case

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- 19 -

is not expected to be a precedent or have a wider general impact. Any future risk can be mitigated through appropriate interview training for ABF airport officers.

ABF Duty Managers at ^{s47F} [REDACTED] Airport have identified this as a learning opportunity and continue to coach officers to carry out interviews in a reasonable, just and objective manner, providing passengers with a fair opportunity to respond to a NOICC.

Current Status

^{s47F} [REDACTED] continues to reside in the community as the holder of a ^{s47F} [REDACTED] visa.

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- 20 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT F****Process Incorrect****Administrative deficiency****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Number of days in detention**

s47F

Summary

On s47F October 2016, s47F was located by s47F police, and was referred to the Department's Immigration Status Service (ISS) for a visa status check. s47F appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department a s47F Police officer held reasonable suspicion that s47F was an unlawful non-citizen. s47F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to s47F Immigration Detention Centre (IDC).

On s47F November 2016, the Department's Status Resolution Operational Support Section confirmed that s47F was the holder of a s47F visa which would cease naturally on s47F March 2018.

As a result, s47F was released from immigration detention on s47F November 2016.

Background

s47F March 2013, s47F arrived in Australia as the holder of a s47F visa, with a lawful until date of s47F 2018.

s47F January 2014, s47F s47F visa was cancelled under section 116 of the Act by the Department's s47F Integrity Unit as s47F was s47F.

s47F October 2016, s47F was located by s47F Police and referred to ISS for a visa status check. Based on information from the Department, a s47F Police officer held reasonable suspicion that s47F was an unlawful non-citizen, and s47F was detained under section 189(1) of the Act.

s47F October 2016, a Detention Review Manager (DRM) review was commenced. Preliminary checks with the Department's Mail Centre confirmed that both the Notice of Intention to Consider Cancellation (NOICC) and the Notice of Cancellation (NOC) had been dispatched by registered mail within three working days of the date of each letter.

s47F October 2016, the DRM contacted the Status Resolution Operational Support Section to

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- 21 -

seek clarification as to whether the NOICC and the NOC had been sent to the address last known to the Minister as per Regulation 2.55 of the *Migration Regulations 1994*.

s47F correspondence relating to the cancellation had been sent to the last known address provided by the s47F provider, and was returned unclaimed to the Department. There was no evidence that attempts had been made to contact s47F via the email address and phone number provided to the Department to seek confirmation of s47F mailing address, following the return of the NOICC. The NOC was subsequently sent to the same address as the NOICC, notwithstanding that the mail appeared to be undeliverable to that address.

Additionally, while s47F did not appear to satisfy the conditions of the grant of s47F s47F visa because s47F was not s47F, this information was not explicitly stated in the NOICC. However, it was included in the NOC sent to s47F.

s47F November 2016, Status Resolution Operational Support Section confirmed that the cancellation of s47F s47F visa under section 116 of the Act was affected by jurisdictional error as the NOICC did not comply with section 119(1)(a) of the Act as the particulars of the information upon which the cancellation grounds appeared to exist were not provided in the notice. As the cancellation was not effective, s47F continued to hold the s47F visa granted to s47F on s47F 2013.

s47F November 2016, s47F was released from immigration detention.

Actions

Status Resolution Operational Support Section's confirmation that the cancellation of s47F s47F visa under section 116 of the Act was affected by jurisdictional error was provided to the General Cancellations network and the General Cancellations Support Section, who are responsible for policy guidance on general cancellation powers within the Act. General Cancellations Support Section will work with relevant stakeholders to mitigate against the recurrence of such errors in future cancellation decisions.

Current Status

After s47F release from detention on s47F November 2016, s47F s47F visa was considered for cancellation under section 116 of the Act. s47F had provided the Department with s47F updated address details including s47F email address and s47F mobile phone number using the prescribed form 929, prior to s47F release from detention.

s47F November 2016, s47F s47F visa was cancelled under section 116 of the Act as s47F had not complied with s47F because s47F had not been enrolled in s47F since s47F July 2013.

s47F did not seek review of the Department's decision at the Administrative Appeals Tribunal (AAT).

s47F is residing in the community as an unlawful non-citizen and has not maintained contact with the Department subsequent to the cancellation of s47F visa.

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- 22 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT G****Process Incorrect****Administrative deficiency****Family Name****Given Name****Alias****Nationality****DOB****ICSE Client ID****Date of detention****Date of release****Number of days in detention not unlawful**

s47F

Summary

On s47F August 2016, s47F presented to the s47F State office after being asked by an Australian Border Force (ABF) officer via telephone call to report to the Department.

An initial check of Departmental systems indicated s47F was not the holder of a visa, as s47F last s47F visa was cancelled under section 501F(3) of the *Migration Act 1958* (the Act) on s47F July 2016. Subsequently s47F was detained by an ABF Officer under section 189(1) of the Act.

On s47F September 2016, the decision to refuse s47F application for a s47F visa was 'set-aside' by the Administrative Appeals Tribunal (AAT). The AAT remitted the application for reconsideration with a direction that s47F satisfied the character test in section 501 of the Act, at the time of refusal of the s47F visa. s47F held a s47F visa and as a result of the AAT decision, the s47F visa had come back into effect.

s47F continued to hold a valid s47F visa from s47F September 2016 until s47F October 2016 whilst remaining in immigration detention in s47F Immigration Detention Centre (s47F Arrangements for s47F immediate release from immigration detention should have ensued following notification of the section 42C decision received by the Department on s47F September 2016. However, due to inadvertence, s47F was not released from detention until s47F October 2016.

On s47F October 2016, an email was received by s47F Case Management advising of the AAT decision and outcome. The email also stated s47F must be released from immigration detention immediately.

On s47F October 2016, s47F was released from immigration detention as the holder of a s47F visa.

Background

s47F February 2015, s47F arrived in Australia as the holder of a s47F visa granted offshore on s47F August 2014.

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- 23 -

s47 F May 2015, s47F lodged a s47F visa application and was granted an associated s47F visa.

s47F 2016, s47F s47F visa application was refused under the Character provision at section 501(1). Subsequently all visas in effect were cancelled under section 501F(3) of the Act, including the s47F visa granted in association with the s47F visa application.

s47F 2016, s47F sought merits review of the refusal decision by lodging an application with the Administrative Appeals Tribunal (AAT).

s47F 2016, the Department's Character and Integrity Policy Section instructed that the Department withdraw from the case.

The Department's Litigation Case Officer instructed the parcel firm of the Department's decision and instructed the firm to negotiate a section 42C (of the AAT Act) agreement to set aside the delegate's decision and remittal of the application for re-determination by the Department.

s47F 2016, the AAT set-aside the delegate's decision and remitted the application for reconsideration with a direction that s47F satisfied the character test in section 501 of the Act.

At the time of refusal of the s47F visa, s47F held a s47F visa and as a result of the AAT decision, the s47F visa had come back into effect.

s47F remained in immigration detention from s47F September 2016 until s47F October 2016 whilst holding a valid s47F visa.

s47F 2016, the AAT notified the Department's parcel firm solicitor of its section 42C determination made on s47F September 2016.

At s47F the parcel firm solicitor notified the Department's Litigation Case Officer by email of the AAT outcome. The Department's Litigation Case Officer responded to the parcel firm solicitor at s47F the same day, in acknowledgement.

s47F 2016, at s47F the Department's Litigation Case Officer emailed the Department client areas advising them of the Department's withdrawal from the case and attached a copy of the AAT section 42C determination document.

s47F 2016, at s47F s47F solicitor emailed the parcel firm solicitor asking that s47F be released from immigration detention in light of the AAT's section 42C determination, dated s47F September 2016, which set aside the delegate's refusal decision. At s47F on the same day, the parcel firm solicitor emailed the Department's Litigation Case Officer and the Department's Litigation administration inbox, passing on s47F solicitor's email. The parcel firm solicitor sought instructions to respond to s47F lawyer as follows:

"Dear s47F

Thank you for your correspondence.

In light of the fact that the decision to refuse s47F application for a s47F visa

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- 24 -

has been set aside by the Tribunal and remitted back to the Department for reconsideration, the issue of §47F detention is now a matter for the Department.

Any issues you have in relation to §47F detention should be directed to the Department directly, however, we note that we have forwarded your below email to the Department. “

There is no record of a response to this email.

§47F 2016, an email was received by §47F Case Management advising of the AAT decision and outcome. The email also stated §47F must be released from detention immediately.

§47F, §47F was released from immigration detention as the holder of a §47F visa.

Issues

It appears that a combination of factors led to the delay in §47F release from immigration detention, as set out below:

- (i) **The type of AAT outcome** – The DIBP Litigation Case Officer had only worked in the AAT and Removals Injunction Section for a relatively short time. While §22(1)(a)(ii) had managed section 501 character matters in the AAT and courts prior to §47F case and had applied the usual practice and procedure in terms of notifying detention and other stakeholders in the past, §22(1)(a)(ii) inadvertently did not do so on this occasion.

This may have been due to the manner in which §47F case was resolved in the AAT. The majority of section 501 cases in the AAT are resolved by way of final decision following a contested hearing. However, in §47F case, the Department decided to withdraw from defending the case. The case was finally resolved by the AAT making a decision under section 42C of the AAT Act whereby the parties agreed to the decision being set aside and remitted back to the Department for reconsideration of §47F §47F visa application. As this is a very rare occurrence in the section 501 caseload, it appears the Litigation Case Officer was not cognisant of the fact that a section 42C determination had the same effect as that of a loss, that is, that setting aside of the section 501 refusal decision meant that §47F associated §47F visa came back into effect, which required §47F immediate release from immigration detention.

- (ii) **Parcel Firm** – The parcel firm solicitor who had carriage of the case on behalf of the Department, received an email from §47F solicitor at §47F on §47F 2016, which sought §47F immediate release from immigration detention. However, the parcel firm solicitor did not notify the DIBP Litigation Case Officer of this communication until §47F same day. Had the Department been made aware of §47F lawyer's communication earlier in the day, §47F would most likely have been released from immigration detention the same day.
- (iii) §47F 2016 was a public holiday in the ACT. The email received from the parcel firm solicitor on the evening of §47F 2016, remained un-actioned on the §47F As evident from the above chronology, the email was actioned the following morning

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- 25 -

(s47F) 2016) upon the Litigation Case Officer and Litigation Admin staff returning to work.

The decision to detain (s47F) was a reasonable one. Based on preliminary checks of Department systems, (s47F) was not the holder of a visa.

The AAT decision to set aside the (s47F) visa, remitting the application for reconsideration with a direction that (s47F) satisfies the character test in section 501 of the Act, was not recorded in departmental systems in a timely manner along with communicating this outcome to the required areas to ensure appropriate release of (s47F) from immigration detention.

As soon as the relevant areas were notified of this outcome on (s47F) 2016, (s47F) was released from section 189(1) immigration detention in a timely manner.

Actions

On (s47F) 2016 at (s47F) (s47F) was released from immigration detention as the holder of a (s47F) visa.

To mitigate against a similar occurrence in the future, the following measures have been implemented by the AAT and Removals Injunction Section:

- (i) The Detention Review Managers' (DRM) mailbox (s47E(d)) @border.gov.au has been included in the distribution list for notification emails regarding AAT and judicial review outcomes. This complements the DRM's existing procedures for mitigating against the risk of individuals being held in immigration detention while holding a visa.
- (ii) Enhance training of new Litigation Officers who join the AAT and Removals Injunction Section – to ensure that new Litigation Case Officers are aware that a departmental withdrawal from a section 501 character case pursuant to section 42C of the AAT Act (or other Tribunal or court process), can have the effect of reinstating a visa. In these circumstances, stakeholders need to be notified in order to arrange a person's immediate release from immigration detention and reinstatement of the visa in departmental systems.
- (iii) Advising the Department's parcel firms that in the future, where they receive requests from applicant's lawyers for the release of their clients from immigration detention, that the AAT and Removals Injunction Section is immediately notified not only by email, but also by telephone (including out of hours contacts), to ensure the matter is immediately investigated and actioned. The AAT and Removals Injunction Section has raised this in particular, with a Partner in the parcel firm that was instructed in (s47F) case. The (s47F) gave (s47F) assurance that appropriate measures will be implemented in the future.

Current Status

On (s47F) 2016 at (s47F) (s47F) was released from immigration detention as the holder of a (s47F) visa and continues to remain lawfully within the community while (s47F) (s47F) visa application is being processed.

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- 26 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT H****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47F} July 2016, ^{s47F} was located during the execution of a search warrant by the Australian Border Force (ABF) at ^{s47F} place of work. As ^{s47F} was unlawful at the time of ^{s47F} location ^{s47F} was detained under section 189 of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} Immigration Transit Accommodation (ITA).

On ^{s47F} July 2016, ^{s47F} lodged an application for a ^{s47F} visa whilst in immigration detention and was incorrectly granted a ^{s47F} visa, although the application for the ^{s47F} visa was invalid.

On ^{s47F} August 2016, a Case Manager at the ^{s47F} ITA identified that ^{s47F} was the holder of a ^{s47F} visa and reported this to the Detention Review Manager (DRM) and to ABF officers.

On ^{s47F} August 2016, ^{s47F} was released from immigration detention.

Background

^{s47F} August 2009, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa which was valid to ^{s47F} August 2011.

^{s47F} August 2011, ^{s47F} became unlawful following the cessation of ^{s47F} ^{s47F} visa on ^{s47F} August 2011. ^{s47F} did not contact the Department subsequent to the cessation of ^{s47F} visa.

^{s47F} July 2016, ^{s47F} was located during the execution of a search warrant by the ABF at ^{s47F} place of work. As ^{s47F} was unlawful at the time of ^{s47F} location ^{s47F} was detained under section 189 of the Act and transferred to the ^{s47F} ITA.

^{s47F} July 2016, ^{s47F} lodged an application for a ^{s47F} visa via a migration agent.

^{s47F} July 2016, a visa processing officer incorrectly granted a ^{s47F} visa to ^{s47F}. However, the application was not a valid application for a ^{s47F} visa due to the operation of ^{s47F} of Schedule 1 of the *Migration*

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- 27 -

Regulations 1994, which stipulates that the applicant must not [REDACTED] at the time of lodgement of the application.

[REDACTED] August 2016, a [REDACTED] Case Manager identified that [REDACTED] was the holder of a [REDACTED] visa and reported this to the DRM and the ABF officers and arrangements were put in place to release [REDACTED] from immigration detention.

[REDACTED] August 2016, [REDACTED] was released from immigration detention.

Actions

As [REDACTED] was granted a visa incorrectly, the responsible processing area has subsequently implemented the following processes to mitigate against the risk of a person being incorrectly granted a visa whilst they are [REDACTED]:

- a. All newly lodged applications for a [REDACTED] visa are triaged by a senior officer.
- b. A checklist has been developed and the first question on the checklist directs the triage officer to confirm whether or not the client is in [REDACTED].
- c. If an applicant is identified as being [REDACTED], a specific officer is assigned with the task of determining the validity requirements for the [REDACTED]. This officer must also notify the network that an applicant [REDACTED] has lodged an application for a [REDACTED] visa and is responsible for establishing contact with relevant officers in the ABF for consideration of a [REDACTED] visa as required.
- d. A [REDACTED] visa matrix has also been developed to guide visa processing officers when making [REDACTED] visa decisions. All visa processing officers are required to use the [REDACTED] visa matrix for each [REDACTED] visa decision.
- e. The responsible processing area were provided with specific instructions to enable them to correctly interrogate departmental systems to establish whether an applicant is [REDACTED].

Since August 2016 the DRMs have commenced a daily quality assurance process, which includes checking of departmental systems, and the Administrative Appeals Tribunals daily finalisations spreadsheet. This process was implemented to identify any cases in which a person is recorded as being both in immigration detention and the holder of a visa. The DRMs also conduct this process on weekends and public holidays to ensure that cases where a client is recorded on departmental systems as 'lawful' and 'in detention' are identified within 24 hours of a visa grant being recorded on departmental systems.

Current Status

[REDACTED] August 2016, [REDACTED] was released from immigration detention at [REDACTED] ABF officers then issued [REDACTED] with a Notice of Intention to Consider Cancellation (NOICC) of [REDACTED] visa under section 116 of the Act as it had been granted in contravention of the Act.

[REDACTED] August 2016, [REDACTED] visa was cancelled under section 116 of the Act at [REDACTED] [REDACTED] was issued a Notice of Cancellation (NOC) and again detained under section 189 of the Act.

[REDACTED] August 2016, [REDACTED] was released from detention upon grant of a [REDACTED] visa in association with [REDACTED] application for a [REDACTED] visa, subject to the payment of a security bond.

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- 28 -

s47 F [redacted] September 2016, s47F [redacted] application for a s47F [redacted] visa was refused by the Department.

s47 F [redacted] September 2016, s47F [redacted] lodged an application for review of the decision to refuse s47F [redacted] visa application with the Administrative Appeals Tribunal (AAT).

s47F [redacted] is currently residing in the community on a s47F [redacted] visa and is awaiting the outcome of the application review with the AAT.

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- 29 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT I****Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47F} July 2016, ^{s47F} was detained under section 189 of the *Migration Act 1958* (the Act) by an Australian Border Force (ABF) officer on ^{s47F} release from the ^{s47F}, a facility of Corrective Services ^{s47F} located at ^{s47F}.

The detaining ABF officer held reasonable suspicion ^{s47F} was an unlawful non-citizen, based on information on departmental systems. ^{s47F} was subsequently transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47F} July 2016, the Department's Status Resolution Operational Support Section confirmed that ^{s47F} was the holder of a ^{s47F} visa granted in association with a ^{s47F} visa application lodged on ^{s47F} September 2010.

Background

^{s47F} June 2008, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa which remained in effect until ^{s47F} September 2010.

^{s47F} September 2010, ^{s47F} lodged a valid application for a ^{s47F} visa and was granted a ^{s47F} visa in association with the application. ^{s47F} also appointed a migration agent to act as ^{s47F} authorised recipient for the purpose of ^{s47F} ^{s47F} application.

^{s47F} September 2010, ^{s47F} ^{s47F} visa ceased and ^{s47F} ^{s47F} visa came into effect.

^{s47F} March 2011, ^{s47F} application for a ^{s47F} visa was refused by the delegate.

As ^{s47F} had appointed an authorised recipient, notification of the decision to refuse ^{s47F} visa should have been sent to the authorised recipient in accordance with section ^{s47F} of the Act. There is no record in Department systems that the refusal notification of the ^{s47F} visa was dispatched to the migration agent as required by section ^{s47F} of the Act.

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- 30 -

There is some evidence to suggest that correspondence was dispatched directly to §47F. However, there is insufficient evidence to infer that the correspondence sent was the refusal notification.

§47F April 2011, §47F §47F visa appeared to cease according to departmental systems and §47F remained in Australia as an apparent unlawful non-citizen. Departmental records indicate §47F did not engage with the Department from this time onwards.

§47F September 2013, §47F was arrested and charged with §47F

§47F September 2013, §47F was held in remand at the §47F at §47F

§47F October 2013, the ABF in §47F commenced monitoring §47F, which continued for the duration of §47F remand until §47F release from correctional custody into immigration detention.

§47F October 2013, an ABF officer completed the first review of the notification of the decision to refuse §47F a §47F visa on §47F March 2011. The ABF officer failed to identify that the notification of the §47F visa was not dispatched to the migration agent as required by section §47F of the Act.

§47F June 2015, the §47F Office of the Director of Public Prosecutions contacted the Department and indicated that §47F could apply for bail on §47F June 2015.

§47F June 2015, §47F was refused bail.

§47F June 2015, an ABF officer assessed the validity of the notification of the §47F visa refusal of §47F March 2011 and identified a possible error. The officer reviewed §47F file and contacted the Convergia Mail Centre and §47F was unable to establish whether the notification of the decision to refuse §47F a §47F visa application had been dispatched to §47F authorised recipient. The ABF officer escalated the matter to a second ABF officer, their supervisor.

§47F July 2015, the second ABF officer completed their assessment of the notification of the decision to refuse §47F application for a §47F. The second ABF officer's assessment referenced discussing the potential error with an unnamed Detention Review Manager (DRM) and that verbal advice had been provided indicating §47F was an unlawful non-citizen.

The ABF supervisor's assessment asserted that the DRM considered there was sufficient evidence to infer the refusal notification the §47F visa application was sent directly to §47F, that §47F obtained it and that was sufficient to cure any error in failing to send the refusal notification to §47F migration agent.

§47F July 2016, §47F was granted bail, released from the §47F and ordered to re-appear in Court on §47F July 2016.

§47F July 2016, §47F was detained under section 189 of the Act by an ABF officer who held reasonable suspicion that §47F was an unlawful non-citizen, based on information on departmental systems.

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- 31 -

^{s47}_F July 2016, a third ABF Officer, who also detained ^{s47F} under section 189 of the Act, completed a review of the notification of the decision to refuse ^{s47F} application for a ^{s47F} visa.

The third ABF officer's review perpetuated the findings of earlier reviews, referencing verbal advice obtained and conclusions drawn by the ABF officer who completed the second review.

^{s47}_F July 2016, a Detention Review Manager (DRM) Review was commenced. The Convergema Mail Centre provided the same advice initially provided at the time of the second review on ^{s47}_F June 2015. The Mail Centre could not confirm that notification of the decision to refuse ^{s47F} a ^{s47F} visa application was dispatched to ^{s47F} authorised recipient. The DRM identified a possible error and a referral for a further assessment of ^{s47F} status was sent to the Status Resolution Operational Support Section.

^{s47}_F July 2016, the Status Resolution Operational Support Section advised that ^{s47F} visa refusal notification was not dispatched to the migration agent as required by sec ^{s47F} of the Act. The advice confirmed ^{s47F} had not been effectively notified of this decision, and that ^{s47}_F continued to hold a ^{s47F} visa and needed to be released from immigration detention as soon as practicable.

^{s47}_F July 2016, ^{s47F} was released from detention. ABF officers issued ^{s47F} with a Notice of intention to consider cancellation (NOICC) of ^{s47F} ^{s47F} visa under section 116 of the Act. After ^{s47}_F was given an opportunity to respond to the NOICC, ^{s47F} ^{s47F} visa was cancelled under section 116 of the Act, and ^{s47}_F was again detained under Section 189(1) of the Act and placed in the ^{s47F} IDC

^{s47}_F July 2016, ^{s47F} was re-notified of the decision to refuse ^{s47F} ^{s47F} visa application. ^{s47F} was provided the notice by hand in the ^{s47F} IDC.

Actions

ABF Officers are trained in the lawful requirements to notify a person of the decision to refuse them a visa. The training is both initial and ongoing in nature. Status Resolution Operational Support Section schedules training at regular intervals including refresher training and the DRM has raised the issues from this case for inclusion in future training iterations.

Current Status

^{s47}_F July 2016, ^{s47F} was released from immigration detention. At ^{s47F} on ^{s47}_F July 2016 ABF officers issued ^{s47F} with a Notice of intention to consider cancellation (NOICC) of ^{s47F} ^{s47F} visa under section 116 of the Act as ^{s47}_F was considered a risk to the Australian community. At ^{s47F} after ^{s47}_F was given an opportunity to respond to the NOICC, ^{s47F} ^{s47F} visa was cancelled under section 116 of the Act, and ^{s47}_F was again detained under Section 189(1) of the Act and placed in the ^{s47F} IDC.

^{s47F} remained in immigration detention until ^{s47}_F November 2016 when ^{s47}_F was transferred into the custody of corrective services. ^{s47F} remains unlawful.

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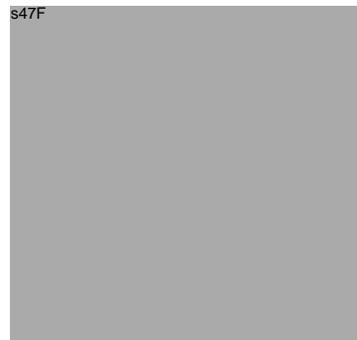
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Sensitive: Personal

- 32 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT J****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F October 2016, ^{s47}_F was detained by Status Resolution officers at the ^{s47}_F state office of the Department, after ^{s47}_F presented to the counter voluntarily following the cancellation of ^{s47}_F ^{s47}_F visa on ^{s47}_F September 2016. The detaining officer held reasonable suspicion that ^{s47}_F was an unlawful non-citizen, based on information on departmental systems, and ^{s47}_F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47}_F Immigration Detention Centre (IDC).

On ^{s47}_F October 2016, the Department's Status Resolution Operational Support Section confirmed that ^{s47}_F held a ^{s47}_F visa.

^{s47}_F was released from immigration detention on ^{s4}₄ October 2016.

Background

^{s47}_F ^{s47}_F September 2008, ^{s47}_F arrived in Australia as the holder of a ^{s47}_F visa, which remained in effect until ^{s47}_F March 2011.

^{s47}_F ^{s47}_F April 2011, ^{s47}_F was granted a ^{s47}_F visa which ceased on ^{s47}_F March 2012.

^{s47}_F ^{s47}_F June 2013, ^{s47}_F was included as a ^{s47}_F applicant on a ^{s47}_F visa lodged by ^{s47}_F (DoB ^{s47}_F). ^{s47}_F was granted a ^{s47}_F visa in association with this application on ^{s47}_F July 2013.

^{s47}_F ^{s47}_F January 2014, a written request for withdrawal was received from ^{s47}_F. The request to withdraw the application made no direct reference to the dependent applicant, ^{s47}_F, nor to ^{s47}_F application for a ^{s47}_F visa.

^{s47}_F ^{s47}_F January 2014, the Department actioned the withdrawal of both ^{s47}_F and ^{s47}_F application for the ^{s47}_F visa. A ^{s47}_F applicant is not able to withdraw an application on behalf of an ^{s47}_F applicant, unless they are acting with the express authority of the ^{s47}_F applicant. The

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- 33 -

processing officer erred in withdrawing ^{s47F} application based on the request of ^{s47F}.

^{s47F} January 2014, ^{s47F} ^{s47F} visa granted in association with the application for the ^{s47F} visa ceased.

^{s47F} September 2015, ^{s47F} was included as a ^{s47F} applicant on ^{s47F} application for a ^{s47F} visa. Both ^{s47F} and ^{s47F} were granted a ^{s47F} visa in association with this application.

^{s47F} December 2015, ^{s47F} commenced an ^{s47F} issued following a conviction for ^{s47F}. The ^{s47F} requires that ^{s47F} engage in ^{s47F} as directed.

^{s47F} February 2016, ^{s47F} and ^{s47F} application for a ^{s47F} visa was refused.

^{s47F} February 2016, an application for review of the decision to refuse the ^{s47F} visa was lodged at the Administrative Appeals Tribunal (AAT). This application has not been finally determined.

^{s47F} August 2016, ^{s47F} was granted a ^{s47F} visa in association with application for AAT review of the decision to refuse ^{s47F} application for a ^{s47F} visa. ^{s47F} visa, ^{s47F} visa, granted on 31 January 2014 in association with the application for a ^{s47F} visa, ceased the same day.

^{s47F} August 2016, a Notice of Intention to Consider Cancellation (NOICC) of ^{s47F} visa under section 116 of the Act was sent to ^{s47F} via registered post. ^{s47F} subsequently appointed a migration agent, who provided the Department with a response to the NOICC on ^{s47F} September 2016.

^{s47F} September 2016, ^{s47F} visa was cancelled under section 116 of the Act, as ^{s47F} had been convicted of ^{s47F}. The Notice of Cancellation was emailed to ^{s47F} migration agent the same day.

^{s47F} October 2016, ^{s47F} was detained by departmental officers at the ^{s47F} state office of the Department, after ^{s47F} presented to the counter voluntarily following the cancellation of ^{s47F} visa under section 116 of the Act on ^{s47F} September 2016.

^{s47F} October 2016, a Detention Review Manager (DRM) review was conducted. The DRM identified that ^{s47F} ^{s47F} visa had been withdrawn in error based on the written request of ^{s47F}. Status Resolution Operational Support Section confirmed that ^{s47F} was the holder of an associated ^{s47F} visa as ^{s47F} had an ongoing ^{s47F} visa application, and needed to be released from immigration detention as soon as practicable.

^{s47F} was released from immigration detention on ^{s47F} October 2016.

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- 34 -

Actions

The visa processing area responsible for this error has been advised. Correct procedures for processing withdrawals, including withdrawals in combined applications involving dependent applicants are clearly outlined in LEGEND, the Department's electronic legal and policy database. The error in ^{s47F} case is not a systemic one.

Current Status

^{s47F} did not seek review of the decision to cancel ^{s47F} ^{s47F} visa at the AAT.

^{s47F} November 2016, the AAT set aside the decision to cancel ^{s47F} ^{s47F} visa under section 116 of the Act on ^{s47F} September 2016. This ^{s47F} visa was granted in association with ^{s47F} application for AAT review of the decision to refuse ^{s47F} application for a ^{s47F} visa, which is still under consideration by the AAT.

The AAT set aside the Department's cancellation decision because it found that while grounds for cancellation existed under section 116 of the Act, the power was not a mandatory cancellation power, and there were factors which weighed in favour of the visa not being cancelled.

^{s47F} November 2016, ^{s47F} was released from immigration detention and is currently residing in the community as the holder of a ^{s47F} visa which will stay in effect until ^{s47F} application for review of the ^{s47F} visa is determined by the AAT.

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- 35 -

Medium Risk Case**01 July 2016 – 31 December 2016****ATTACHMENT K****Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F October 2016, ^{s47F} was located by the Australian Border Force (ABF) as part of a targeted field visit to ^{s47F} residential address. ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47}_F October 2016, the Status Resolution Operational Support Section confirmed that the Department was not able to establish that ^{s47F} had received actual notification from the Refugee Review Tribunal (RRT) that ^{s47F} application for review was invalid.

As a consequence, ^{s47F} continued to hold the ^{s47F} visa granted in association with ^{s47F} application for review at the RRT of the Department's decision to refuse ^{s47F} application for a ^{s47F} visa.

The Department provided ^{s47F} with a copy of the RRT notice. ^{s47F} subsequently requested that ^{s47F} ^{s47F} visa be cancelled as ^{s47F} wished to remain in ^{s47F} IDC ^{s47F} until arrangements were made for ^{s47F} return to ^{s47F}.

Background

^{s47}_F February 2007, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa that was valid until ^{s47}_F February 2007.

^{s47}_F February 2007, ^{s47F} lodged an application for a ^{s47F} visa. ^{s47F} was granted a ^{s47F} visa in association with this application.

^{s47}_F April 2007, ^{s47F} application for a ^{s47F} visa was refused.

^{s47}_F June 2007, the ^{s47F} visa ceased.

^{s47}_F August 2007, ^{s47F} was granted a ^{s47F} visa on departure grounds, which ceased naturally on ^{s47}_F August 2007.

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- 36 -

§47 F August 2007, §47 F lodged an application for review of the Department's decision to refuse §47 F application for a §47 F visa with the RRT. §47 F was represented by a migration agent in relation to this review.

§47 F August 2007, §47 F was granted a second §47 F visa in association with §47 F application for review with the RRT.

§47 F September 2007, the RRT made a finding that it had no jurisdiction to review the decision to refuse §47 F a §47 F visa, as the application for review was lodged outside the prescribed timeframe.

§47 F October 2007, the §47 F visa granted in association with §47 F application for review, appeared to cease according to departmental systems.

§47 F October 2016, §47 F was detained as §47 F was reasonably suspected to be unlawful because §47 F §47 F visa appeared to have ceased on departmental systems.

§47 F October 2016, a Detention Review Manager (DRM) review was conducted and a referral for further assessment of §47 F status was made to the Status Resolution Operational Support Section.

§47 F October 2016 the Status Resolution Operational Support Section confirmed that the notification from the RRT was defective. The notification explained that the RRT did not have the jurisdiction to review §47 F application because the application for review had not been lodged within the prescribed timeframes.

The 'No jurisdiction' notice from the RRT was sent to §47 F authorised recipient. In *SZJDS vs Minister for Immigration and Citizenship [2012]* the Full Federal Court determined that when an application to a review tribunal is not valid, there is no valid appointment of an authorised recipient. As such the RRT 'No jurisdiction' notification of §47 F September 2007 which was only sent to §47 F authorised recipient, and not §47 F, is defective.

§47 F confirmed to ABF officers that §47 F had not received a copy of the RRT notification letter. The RRT also confirmed that there was no record of a copy of the notification being dispatched to §47 F. As a consequence, §47 F continued to hold the §47 F visa granted in association with §47 F application for review of the Department's decision to refuse §47 F §47 F visa application.

Actions

Senior ABF officers in the relevant office have been advised of the error and appropriate training has been provided to mitigate against the recurrence of similar errors. In addition the Framework and Training Section regularly conducts training in relation to notification procedures which covers, among other things, case law relating to notification defects.

Current Status

§47 F §47 F visa was cancelled under section 116 of the Act at §47 F request on §47 F October 2016, so that §47 F could remain in §47 F IDC with §47 F §47 F and §47 F departed Australia on §47 F November 2016.

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- 37 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT L****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

s47F


Summary

On s47F July 2016 s47F was located by s47F Police who contacted the Department's Immigration Status Service (ISS) to conduct a visa status check. s47F appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department, the s47F Police officer held reasonable suspicion that s47F was an unlawful non-citizen. s47F was detained under section 189 of the *Migration Act 1958* (the Act) and transferred to the s47F Immigration Transit Accommodation (ITA).

On the night s47F was detained, ISS had conducted status checks in relation to several people who appeared to be unlawful non-citizens. During the period in which ISS conducted these status checks, access to departmental systems was limited for a short time due to problems with IT systems. In the early morning of s47F July 2016, the ISS officer who had provided information to the s47F Police conducted a notification assessment and concluded that reasonable suspicion could no longer be maintained that s47F was an unlawful non-citizen.

The ISS officer contacted the Australian Border Force (ABF) at the s47F on s47F July 2016 by telephone, and followed up in writing at s47F and advised that s47F appeared to be the holder of a s47F visa granted in association with s47F application for a s47F visa and that s47F needed to be released from detention as soon as practicable.

s47F was released from detention on s47F July 2016.

Background

s47F March 2007, s47F arrived in Australia as the holder of a s47F visa granted to s47F as a dependent applicant.

s47F March 2011, s47F s47F visa ceased.

s47F April 2011, s47F lodged an application onshore for a s47F visa, as a s47F applicant. s47F was granted a s47F visa in association with the s47F visa application on the same day.

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- 38 -

§47 F April 2011, §47 F was granted a §47 F visa.

§47 F November 2011, §47 F §47 F visa application was withdrawn, in accordance with an email from §47 F migration agent requesting that the application be withdrawn.

§47 F December 2011, §47 F §47 F visa granted in association with §47 F §47 F visa application appeared to cease.

§47 F October 2014, §47 F §47 F visa was cancelled under section 116 of the Act, as §47 F was no longer in a relationship with the primary visa holder. §47 F appeared to become an unlawful non-citizen.

§47 F July 2016, §47 F was detained under section 189 of the Act.

Actions

On §47 F July 2016, the ISS officer who had conducted the status check on §47 F reviewed the information available on departmental systems regarding the withdrawal of §47 F §47 F visa application.

The ISS officer found that the request to withdraw the application was made by a registered migration agent on §47 F November 2011 via email. The email listed several applicants represented by the agent, with each withdrawing their respective individual applications. §47 F the §47 F applicant on §47 F §47 F visa application, was listed in the email but §47 F was not.

The ISS officer concluded that the withdrawal of §47 F §47 F visa application was not effective and that §47 F may still be the holder of a §47 F visa granted in association with that application.

The ISS officer noted that the cancellation of §47 F §47 F visa under section 116 of the Act on §47 F October 2014 would not have resulted in the cessation of §47 F §47 F visa granted in association with §47 F §47 F visa application, as §47 F was not the holder of a substantive visa when §47 F was granted the §47 F visa. The ceasing provision in Regulation 030.511(b)(viii) of the *Migration Regulations 1994* only operates to cease a §47 F visa, in the event of cancellation of a §47 F visa that was held at the time of grant.

§47 F §47 F visa was granted on §47 F April 2011, subsequent to the grant of the §47 F visa on §47 F April 2011, as such the cancellation of the §47 F visa on §47 F October 2014 did not result in the cessation of the §47 F visa.

The ISS officer was satisfied that there was sufficient information to conclude that §47 F was lawful. §47 F was released from immigration detention on §47 F July 2016.

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- 39 -

Current Status

^{s47F} [REDACTED] is currently in the community as the holder of ^{s47F} [REDACTED] visa, and is awaiting the processing of ^{s47F} [REDACTED] ^{s47F} [REDACTED] visa application.

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- 40 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT M****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47F} September 2016, ^{s47F} was located by ^{s47F} Police during a random breath test. ^{s47F} was referred to the Department's Immigration Status Service (ISS) for a visa status check. ^{s47F} appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department, a ^{s47F} Police officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47F} September 2016, the Status Resolution Operational Support Section advised that ^{s47F} visa application remained outstanding and must be decided and the client notified accordingly. ^{s47F} consequently continued to hold the ^{s47F} visa granted to ^{s47F} in association with ^{s47F} ^{s47F} visa application.

^{s47F} was released from immigration detention on ^{s47F} September 2016.

Background

^{s47F} October 2010, ^{s47F} arrived in Australia using the identity of ^{s47F}. ^{s47F} was the holder of an ^{s47F} visa that was valid until ^{s47F} January 2011.

^{s47F} January 2011, ^{s47F} lodged a ^{s47F} visa application and was granted a ^{s47F} visa in association with the application.

^{s47F} March 2011, ^{s47F} ^{s47F} visa application was refused.

^{s47F} April 2011, ^{s47F} lodged an application for merits review of the decision to refuse ^{s47F} application for a ^{s47F} visa with the then Refugee Review Tribunal (RRT).

^{s47F} July 2011, the RRT affirmed the Department's decision to refuse ^{s47F} application for a ^{s47F} visa application.

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- 41 -

s47 August 2011, s47F associated s47F visa ceased.

s47 January 2013, s47F departed Australia as an unlawful non-citizen. s47F was subject to an exclusion period, restricting s47F further entry to Australia for three years, as per Public Interest Criterion 4014.

s47 May 2013, s47F arrived in Australia using the identity of s47F. s47F was the holder of an s47F visa valid to s47F August 2013.

s47 August 2013, s47F lodged an application for a s47F visa and was granted an associated s47F visa with the application.

s47 September 2013, s47F was granted a s47F visa valid to November 2013.

s47 November 2013, s47F lodged a combined s47F visa application. This consists of applications for s47F visas, a s47F visa, and a s47F visa.

s47 November 2013, s47F was granted a s47F visa in association with s47F combined s47F visa application.

s47 January 2015, s47F s47F visa application was refused.

s47 January 2015, s47F lodged a application for review of the decision to refuse s47F s47F visa application with the then Merits Review Tribunal (MRT). The MRT review related to the s47F visa only and did not include a review of s47F visa.

s47 April 2016, the MRT affirmed the Department's decision to refuse s47F application for a s47F visa.

s47 May 2016, s47F associated s47F visa appeared to cease according to departmental systems.

s47 September 2016, s47F was located by s47F Police who contacted ISS to conduct a status check. Based on information from the Department, a s47F Police officer held reasonable suspicion that s47F was an unlawful non-citizen. s47F was detained under section 189(1) of the Act and transferred to s47F IDC.

s47 September 2016, a Detention Review Manager (DRM) review was conducted. The DRM identified possible errors in the decision to refuse s47F combined s47F visa application. However, the DRM could not conclude the DRM review without examining s47F combined s47F visa application hard copy file (stored offsite).

s47 September 2016, the DRM received s47F combined s47F visa application file and concluded that a decision on the s47F visa might still be pending as the refusal decision record only referenced s47F application for a s47F visa, and did not include a decision on s47F application for a s47F visa. The refusal notification letter did not identify the criterion that was not satisfied or provide reasons why that criterion was not satisfied as required by s47F of the Act.

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- 42 -

The DRM made a referral for further assessment of s47F status to the Status Resolution Operational Support Section.

s47F September 2016, the Status Resolution Operational Support Section advised that s47F visa application remained ongoing. This meant that s47F continued to hold the s47F visa granted to s47F in association with s47F s47F visa application and s47F needed to be released from immigration detention as soon as practicable.

s47F was released from immigration detention on s47F September 2016.

Actions

s47F case was referred to the relevant visa processing section to make a decision on the outstanding s47F visa application and to ensure that training is provided to mitigate against any possible recurrence of the error. The error is not a systemic one.

The notification defect that led to the error has been recorded and will be considered as part of future training needs. The Procedures Advice Manual in LEGEND, the Department's electronic legal and policy database, has detailed and current instructions in relation to notification of s47F visa applications. Templates for notification letters are regularly updated and cleared by the Department's Legal section and available in the Department's central record storage system TRIM.

Current Status

s47F s47F visa application was refused on s47F September 2016. The notification of the refusal decision was sent to s47F by registered post in accordance with departmental procedures, to the address provided to the Department by s47F on s47F September 2016 on a form 929, the prescribed form for the purpose of provision of the address for service of documents.

The notification was returned to the Department unclaimed on s47F October 2016. s47F did not seek review of the decision at the AAT. s47F has not maintained contact with the Department since s47F release from immigration detention on s47F September 2016.

s47F s47F ceased on s47F November 2016.

s47F is currently unlawful in the community.

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- 43 -

Medium Risk Case 01 July 2016 – 31 December 2016**ATTACHMENT N****Process Incorrect****Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47F} December 2016, ^{s47F} was located by ^{s47F} Police during a routine traffic stop and was referred to the Department's Immigration Status Service (ISS) for a visa status check. ^{s47F} appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department, a ^{s47F} Police officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen. ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47F} December 2016, the Department's Status Resolution Operational Support Section confirmed that ^{s47F} was the holder of a ^{s47F} visa as the decision on ^{s47F} application for a ^{s47F} visa was tainted by jurisdictional error.

^{s47F} was released from immigration detention as the holder of a ^{s47F} visa on ^{s47F} December 2016.

Background

^{s47F} April 2006, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa that ceased on 28 July 2006. ^{s47F} visa had condition ^{s47F} imposed.

^{s47F} July 2006, ^{s47F} applied for a ^{s47F} visa, and also requested a waiver of condition 8503 (No Further Stay). The request for a waiver was approved on ^{s47F} July 2006.

^{s47F} August 2006, ^{s47F} was granted a ^{s47F} visa which was valid until ^{s47F} November 2006.

^{s47F} October 2006, ^{s47F} departed Australia.

^{s47F} September 2007, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa. This visa ceased on ^{s47F} May 2008 and ^{s47F} became unlawful on ^{s47F} May 2008.

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- 44 -

^{s47}_F May 2008, ^{s47F was located by ^{s47F Police and referred to the Department's Immigration Status Service (ISS) for a visa status check. ^{s47F was granted a ^{s47F visa and was required to apply for a substantive visa by ^{s47_F May 2008.}}}}}

^{s47}_F May 2008, ^{s47F lodged an application for a ^{s47F visa, and was granted a ^{s47F visa on the same day. ^{s47F was also granted an ^{s47F visa on the same day.}}}}}

^{s47}_F January 2010 the Department received a completed Form 929 (change of address) from ^{s47F updating ^{s47F residential and postal addresses.}}

^{s47}_F April 2010, ^{s47F provided the Department with two statutory declarations. ^{s47F residential address provided in the statutory declarations was different to the address provided with the form 929 on ^{s47_F January 2010.}}}

^{s47}_F June 2010, the Department sent a section 56 notice to ^{s47F at the residential address provided in the statutory declarations requesting further information.}

^{s47}_F August 2010, a reminder notice was sent to ^{s47F at the residential address provided in the statutory declarations.}

^{s47}_F August 2010, ^{s47F ^{s47F visa application was refused and the refusal notification was sent to the address provided in the statutory declarations.}}

^{s47}_F October 2010, ^{s47F ^{s47F visa appeared to cease according to departmental systems.}}

^{s47}_F December 2010, ^{s47F lodged an application for merits review of the decision to refuse ^{s47F application for a ^{s47F visa with the then Migration Review Tribunal (MRT).}}}

^{s47}_F May 2011, the MRT notified ^{s47F authorised recipient that it had no jurisdiction to review the refusal of the ^{s47F visa as the application for review was not lodged within the statutory timeframes.}}

^{s47}_F June 2011, ^{s47F sponsor for ^{s47F application for ^{s47F visa application contacted the Department and advised of ^{s47F. The sponsor was asked to provide written confirmation of this information.}}}}

^{s47}_F May 2012, the MRT advised that the 'No jurisdiction' notification was released to ^{s47F as part of an FOI request. This meant that the MRT's notification to ^{s47F that it had no jurisdiction to review the refusal of ^{s47F application for a ^{s47F visa was not defective. In *SZJDS vs Minister for Immigration and Citizenship [2012]* the Full Federal Court determined that when an application to a review tribunal is not properly made, there is no valid appointment of an authorised recipient. As such a visa applicant must be notified directly where a review tribunal has 'No jurisdiction' and not through an authorised recipient.}}}}

^{s47}_F December 2016, ^{s47F was located by ^{s47F Police during a roadside stop, who contacted ISS to conduct a visa status check. ^{s47F appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department, a ^{s47F Police officer held reasonable suspicion that ^{s47F was an unlawful non-citizen, and ^{s47_F was detained under section 189 of the Act.}}}}}}

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- 45 -

^{s47} December 2016, a departmental officer from the Identity team consulted with the Department's Status Resolution Operational Support Section regarding ^{s47F}. A Detention Review Manager (DRM) review was also commenced.

^{s47} December 2016, the Detention Review Manager referred ^{s47F} case to Status Resolution Operational Support Section for further assessment of ^{s47F} status.

^{s47} December 2016, the Status Resolution Operational Support Section confirmed that the decision to refuse ^{s47F} application for a ^{s47F} visa was tainted by jurisdictional error.

The jurisdictional error arose because the delegate failed to have regard to all the information that was provided to the Department in relation to ^{s47F} application for a ^{s47F} visa.

^{s47} December 2016, ^{s47F} consent was sought and obtained to revisit the decision to refuse ^{s47F} application for a ^{s47F} visa). ^{s47F} was released from immigration detention as the holder of a ^{s47F} visa.

Actions

The processing area has been advised that errors in processing applications for the ^{s47F} visa can affect whether the visa applicant continues to hold the ^{s47F} visa. This was disseminated to the centralised partner processing centre to mitigate against the possible recurrence of such errors.

Current Status

^{s47F} is currently residing in the community as the holder of a ^{s47F} visa. ^{s47F} is awaiting a decision on ^{s47F} visa application which is still under consideration by the Department.

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Australian Government

Department of Immigration and Border Protection



Report on people detained and later released as not unlawful non-citizens

1. Introduction

This report to the Commonwealth Ombudsman documents the number of people detained and later released as not unlawful non-citizens during the period 01 January 2017 to 30 June 2017. People included in the report were released from immigration detention on the basis that reasonable suspicion could not be maintained, as required by section 189 of the *Migration Act 1958* (the Act), that they were unlawful non-citizens.

For this reporting period, there were a total of 3931 people detained as suspected unlawful non-citizens (excluding Illegal Maritime Arrivals). Out of 3931 people detained, 13 people are included in this report, which represents 0.33 of one per cent of the total people detained.

The 'current status' of each case is current as at 03 July 2017.

2. How cases are identified

The cases included in this report are identified through a system report and data entered into the Compliance Case Management Detention and Settlement (CCMDS) Portal.

There are nine release types that are used as descriptors to record the reasons for a person's release from immigration detention. This report includes cases where one of the five following descriptors has been used to record the circumstances surrounding a person's release from detention. The use of one of these descriptors by departmental officers may signify a risk that the detention of the person did not accord with the Act.

Identity confirmed	Reasonable suspicion that the person was an unlawful non-citizen was held, even though identity and/or immigration status could not be confirmed at the time of detention.
Litigation consequence	Person was released as a result of a court judgment.
Operation of law	Person was released as a result of a determination that the person is an absorbed person, or a determination that the person acquired Australian citizenship, or the person was granted a Bridging visa E through operation of law under section 75 of the Act.

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- 2 -

- Process incorrect** The Department of Immigration and Border Protection failed to properly administer the person's case, and/or failed to properly notify a person of a negative visa decision, resulting in a person showing incorrectly in departmental systems as unlawful.
- Records incorrect** The person was detained because of inaccurate or incorrect information on departmental systems.

Cases where the following four release descriptors are used are not included in the report as they do not signify a risk of unlawful detention:

- Change to detention power
- Departure from Australia
- Visa grant
- Other

3. Case risk assessments

In preparing this report, each case has been assessed to identify the likelihood that the detention did not occur and/or was not maintained in accordance with the Act. The likelihood is assessed as high, medium or low risk. The Department identifies and implements remedial action at both a case specific and systemic level where required and particularly where the risk of inappropriate detention is assessed as medium or high.

For the period 01 January 2017 to 30 June 2017, 13 cases have been identified where people have been released from immigration detention on the basis that reasonable suspicion could no longer be maintained that they were unlawful non-citizens (as required by section 189 of the Act). Of the 13 cases in this report, three have been assessed to be high risk and 10 have been assessed to be medium risk.

The last report covered the period 01 July 2016 to 31 December 2016, and included 14 cases where people had been released from immigration detention as reasonable suspicion could no longer be maintained that they were unlawful non-citizens. All 14 cases were considered to be medium risk.

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- 3 -

4. Specific Cases

Breakdown of cases for this reporting period follow.

Name	Release Descriptor	Attachment
High Risk		
s47F	Process Incorrect Defective Notification	Attachment A
	Operation of Law Citizenship acquired	Attachment B
	Operation of Law Citizenship acquired	Attachment C
Medium Risk		
s47F	Process Incorrect Defective Notification	Attachment D
	Process Incorrect Defective Notification	Attachment E
	Process Incorrect Defective Notification	Attachment F
	Process Incorrect Administrative Deficiency	Attachment G
	Process Incorrect Defective Notification	Attachment H
	Process Incorrect Defective Notification	Attachment I
	Process Incorrect Defective Notification	Attachment J
	Process Incorrect Defective Notification	Attachment K
	Process Incorrect Administrative Deficiency	Attachment L
	Process Incorrect Administrative Deficiency	Attachment M

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- 4 -

High Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT A**Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

s47F is an s47F national who entered Australia on an s47F on s47F June 2009. An s47F is a s47F visa.

While in Australia, s47F applied for a s47F visa which is a two stage application process s47F was subsequently granted two s47F in connection with this application, on s47F June 2009 s47F and s47F December 2011 (s47F). s47F ceased when s47F was granted.

The s47F visa applications were refused and notified on s47F July 2012. The s47F visa application was refused on the basis that the applicant and s47F does not meet the definition of s47F and the associated s47F application was refused on the basis that s47F had not been granted the s47F visa (that is, has failed to meet the first stage requirement).

s47F sought merits review of the s47F decision. The tribunal affirmed the s47F decision on s47F November 2013, and notification of this decision appeared to cease s47F.

s47F then sought judicial review of the s47F decision and was granted a s47F visa in association with the judicial review proceedings on s47F November 2013 (s47F). Before the judicial review proceedings were completed, an officer made a decision to cancel s47F on the basis that s47F had been charged with criminal offences on s47F October 2015.

As s47F appeared to be an unlawful non-citizen, s47F was asked to approach the s47F Immigration office and when s47F complied with that request, s47F was taken into immigration detention under s189(1) of the Act on s47F October 2015.

The judicial review application of the s47F decision was subsequently dismissed in the Minister's favour.

At approximately s47F January 2017, s47F Removals referred the case to the Status Resolution Helpdesk for advice regarding whether s47F had been effectively notified of an s47F refusal decision.

On review, it was identified that the s47F refusal notification was defective. This is because the delegate failed to provide reasons for this decision. As a result, it meant that the view that (s47F) had naturally ceased after notification of the tribunal decision on the s47F was in error and s47F was actually still holding s47F.

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- 5 -

As a result, §47 F was released from detention on §47 F January 2017 as the Department could no longer maintain reasonable suspicion that §47 F was an unlawful non-citizen.

Background

§47 F June 2009, §47 F arrived in Australia using an §47 F passport issued to a third party, on an §47 F visa issued to the same third party, and was immigration cleared.

§47 F August 2009, the §47 F visa ceased.

§47 F August 2009, §47 F was granted a §47 F visa in Australia.

§47 F December 2009, §47 F §47 F visa ceased.

§47 F December 2009, §47 F became unlawful.

§47 F February 2010, §47 F lodged an application for a §47 F visa.

§47 F February 2010, §47 F was granted a §47 F visa in association with §47 F application for a §47 F visa.

§47 F May 2010, §47 F application for a §47 F visa was refused.

§47 F May 2010, §47 F lodged an application for review with the Refugee Review Tribunal (RRT).

§47 F July 2010, the §47 F visa granted in association with the application for a §47 F visa ceased.

§47 F, the RRT affirmed the decision to refuse the application for a §47 F visa. §47 F was granted several §47 F visas during this period. The last §47 F visa granted in association with the §47 F visa application ceased on §47 F October 2010.

§47 F June 2011, §47 F lodged an application for a §47 F visa and was granted an associated §47 F visa with this application.

§47 F December 2011, the first §47 F visa granted in association with the §47 F visa application ceased.

§47 F December 2011, the second §47 F visa granted in association with the §47 F visa application was granted.

§47 F July 2012, §47 F application for a §47 F visa was refused and §47 F authorised recipient was notified of this refusal.

§47 F July 2012, §47 F lodged an application for review of the decision to refuse the §47 F visa application only. When an application for review is lodged at the Tribunal, (the MRT in this instance), for a combined visa, a separate review application must be lodged for each application and the prescribed fee paid in relation to each application.

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- 6 -

§47 November 2013, the Tribunal affirmed the decision to refuse the §47 visa application.

Between §47 November 2013 and 2015, §47 applied for judicial review of the Tribunal decision at the Federal Court, the Full Federal Court and the High Court successively and was granted a third §47 visa.

§47 October 2015, §47 visa was cancelled under section §47 because, on §47 May 2015, §47 had been charged with an offence against the Commonwealth.

§47 October 2015, §47 lodged an application for review of the §47 visa cancellation with the MRT.

§47 October 2015, §47 reported to the DIBP office in §47 at the request of the ABF and was detained because §47 appeared to be unlawful on departmental systems. Prior to detaining §47 an ABF officer completed a review of the RRT Decision and the §47 visa refusal using the Comprehensive Assessment Tool, but did not realise that a separate assessment had to be completed in relation to refusal of the §47 visa.

§47 October 2015, the ABF made a referral to the Detention Review Manager (DRM) who completed reviews for the §47 visa application refusal, the cancellation of the §47 visa and a review of the §47 visa application. The DRM did not complete a separate review of the §47 visa application decision although this was required. The DRM had mistakenly formed the view that the review had been affirmed for both the subclass §47 and the §47 visa applications although the Tribunal notice stated that it was in respect of the subclass §47 visa application decision alone.

§47 March 2016, the MRT affirmed the decision to cancel the §47 visa.

§47 April 2016, §47 lodged an application for review of the MRT decision with the Federal Court.

§47 January 2017, a Removals officer in §47 commenced a pre-removal assessment of §47 case and requested advice from Status Resolution Helpdesk as to whether the §47 visa refusal was effective.

§47 January 2017, Status Resolution Helpdesk advised that the refusal of the §47 visa application was defective because the delegate notice did not comply with the requirements of §47 of the *Migration Act 1958* (the Act) with respect to the refusal of the §47 visa. As the reasons for the refusal of the §47 visa were not articulated using a prescribed form of words in accordance with the regulations, the refusal of the §47 visa application was defective and as §47 had not sought review of the decision with the then MRT, §47 was still the holder of the §47 visa granted in association with the application. The §47 visa granted in association with the application is held in connection with both the subclass §47 and the subclass §47 visa application and the associated §47 visa will not cease until a cessation event as stipulated in regulation §47 occurs in respect of both the subclass §47 and the subclass §47 application.

Status Resolution Helpdesk advised that §47 would have to be renotified of the §47 visa application refusal decision.

§47 January 2017, §47 was released from immigration detention as the holder of a §47

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- 7 -

§47F visa.

§47F February 2017, the Federal Court affirmed the decision to cancel §47F §47F visa.

Actions

In approximately March 2014, a suite of errors were identified in the standard templates used to refuse the §47F applications together. The errors emanate from officers undertaking a very cursory assessment of the related §47F visa application in circumstances where they have already refused the §47F application, as it is inevitable that the §47F application consequently needs to be refused.

Given the volume of cases affected, scale of the errors and status implications, it took approximately six months to come to standard departmental position. The network was notified of this issue in May 2014 (and the CAT updated to reflect these issues).

Further details on the error, consequences for status and a number of examples of what would be considered 'defective' were provided to the status resolution and compliance networks on 2 January 2015. The advice requested that any cases identified as possible defective §47F visa notifications should be sent to the Status Resolution Helpdesk (then the Compliance Helpdesk) for confirmation and advice on the necessary remedial action.

Refresher training in notifications is conducted at regular intervals by Status Resolution Helpdesk, and this includes training on §47F visa notifications. Subsequent to the error being identified in the §47F visa refusal, the DRM team has developed a detailed check list to be used when conducting reviews of §47F visa refusals to address the risk of this error not being identified.

Current Status

§47F January 2017, the renotification of the §47F refusal was sent to §47F migration agent.

On §47F January 2017, §47F sought merits review of the §47F decision.

On §47F April 2017, the AAT affirmed the decision to refuse the §47F visa application.

On §47F May 2017, §47F applied for judicial review of the Tribunal's decision to affirm the refusal of the §47F refusal. This application is pending.

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- 8 -

High Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT B**Operation of Law Citizenship Acquired**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F March 2017 ^{s47F} was detained under s189 of the *Migration Act 1958* (the Act) by the Australian Border Force (ABF) upon ^{s47F} release from criminal custody from ^{s47F} Correctional Centre in ^{s47F} ^{s47F} was subsequently transferred to ^{s47F} Immigration Detention Centre (IDC).

The Department's electronic database showed that ^{s47F} ^{s47F} visa was cancelled under the mandatory cancellation provisions of section 501(3A) on ^{s47}_F February 2017.

On ^{s47}_F March 2017, the Director of Status Resolution ^{s47F} wrote to the Citizenship Helpdesk at the request of the Status Resolution officer to seek an urgent citizenship status assessment for ^{s47F}. The referral was made on the basis that ^{s47F} was born in Papua New Guinea (PNG) on ^{s47F} at a time when Papua New Guinea was an Australian territory (External Territory of Papua). There was evidence on the Department's electronic database that ^{s47F} had arrived Australia in 1978 with ^{s47F} family, but there were insufficient documents relating to ^{s47F} and ^{s47F} family on departmental systems to establish ^{s47F} citizenship.

People born in PNG prior to 16 September 1975 were Australian citizens by birth who automatically acquired PNG citizenship at birth. They lost Australian citizenship when PNG gained independence on 16 September 1975, however if certain conditions were met, including holding citizenship of a third country, Australian citizenship was retained.

On ^{s47}_F March 2017, the Citizenship Helpdesk requested additional information in relation to ^{s47F} family. In response to this request, ^{s47F} informed the Department that ^{s47F} paternal grandparents were British citizens and that ^{s47F} father was also a British citizen who was born in the United Kingdom.

On ^{s47}_F April 2017, after conducting additional checks, the Citizenship Helpdesk confirmed that ^{s47F} had retained ^{s47F} Australian citizenship when PNG gained independence because ^{s47F} had acquired British citizenship by descent at birth. ^{s47F} was not aware that ^{s47}_F was a British national and that ^{s47}_F had also retained ^{s47F} Australian citizenship at the time PNG gained independence.

^{s47}_F April 2017, ^{s47F} was released from immigration detention.

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- 9 -

Background

s47 April 1978, s47F arrived in Australia as a minor, as the holder of a s47F visa.

s47 February 1992, s47F was granted a Permanent Resident Return s47F visa.

s47 February 1992, s47F departed Australia on a PNG passport, as the holder of a Permanent Resident Return s47F visa. On s47F outgoing passenger card, s47F stated that s47F country of citizenship was PNG.

s47 August 1992, s47F returned to Australia on the Permanent Resident Return s47F visa), using s47F PNG passport, and on s47F incoming passenger card stated that s47F was a PNG national.

s47 September 1994, s47F Permanent Resident return s47F visa was converted to a Transitional Permanent s47F visa by operation of law.

s47 November 2000, s47F was convicted at s47F District Court and sentenced to three years imprisonment.

s47 December 2000, consideration of cancellation of s47F Transitional Permanent s47F visa under the character provisions of section 501 commenced.

s47 June 2001, a Notice of Intention to Consider Cancellation (NOICC) of s47F Transitional Permanent (s47F visa under section 501 was sent to s47F.

s47 July 2001, s47F response to the NOICC was received by the Department. In the response to the notice, s47F refers to s47F as a Papua New Guinean national.

s47 August 2001, the section 501 delegate made a decision to give s47F a warning and not to cancel s47F visa.

s47 July 2010, s47F requested evidence of s47F residential status in Australia. As part of this process s47F presented s47F birth certificate and s47F PNG passport. A Certificate of evidence of residential status was issued to s47F by the Department.

s47 November 2016, s47F was convicted at s47F Magistrate's court of s47F and was sentenced to three months and 12 months imprisonment to be served concurrently.

s47 November 2016, details relating to s47F imprisonment, earliest date of release, convictions and an AFP check were requested by the Department.

s47 November 2016, s47F sentence calculation report, location and earliest date of release was requested and received from s47F Corrective Services and s47F case was referred to the NCCC.

s47 November 2016, cancellation consideration of s47F Transitional Permanent s47F visa under section 501 commenced.

s47 February 2017, s47F Transitional Permanent s47F visa was mandatorily cancelled under section 501(3A) of the Act.

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- 10 -

§47 F March 2017, a form 956 was received in relation to the appointment of a migration agent. The migration agent also supplied documents in support of a revocation request, however no actual revocation request was made. The documentation included §47 F family tree, statements and birth certificates from friends and family. The documentation also included a statement from §47 F that §47 F, §47 F father was a naturalised British citizen who held an expired British passport. This information was stored electronically in §47 F cancellation file on §47 F March 2017.

The information in the revocation request in relation to §47 F father's citizenship was not considered by the Department prior to a decision by the ABF to detain §47 F.

§47 F March 2017, §47 F was located by the ABF upon §47 F release from criminal custody from §47 F Correctional Centre and §47 F was detained under s189 of the Act and transferred to §47 F IDC.

§47 F March 2017, Status Resolution at §47 F IDC made an urgent referral for a citizenship status assessment to the Citizenship Helpdesk.

§47 F March 2017, a referral was made to the Detention Review Manager (DRM). The DRM reviewed §47 F case and checked §47 F responses in the Compliance Client Interview (CCI) form. In the CCI, the boxes 'No' were ticked in response to questions as to whether §47 F had made claims to Australian citizenship at interview. The DRM included the date that a revocation request had been received by the Department (§47 F March 2017), when outlining §47 F immigration history, but does not appear to have checked the revocation documents which referred to §47 F father's British citizenship.

The DRM did not consider that §47 F might be an Australian citizen and the Detention Review was completed on §47 F March 2017.

§47 F March 2017, Status Resolution Helpdesk advised the Detention Review team that a referral for a citizenship status assessment had been made by Status Resolution §47 F.

Between §47 F March 2017 and §4 April 2017, the Citizenship Helpdesk checked records for §47 F family and liaised with Status Resolution to obtain additional information from §47 F and §47 F who was authorised to provide information on §47 F behalf.

§47 F April 2017, the Citizenship Help Desk confirmed that §47 F was an Australian citizen, and that §47 F should be released from immigration detention as soon as practicable.

§47 F April 2017, §47 F was released from immigration detention.

Actions

An Independent Reviewer, Dr Vivienne Thom AM, has conducted a review into §47 F case and §47 F case. The following remedial measures have been implemented subsequent to §47 F and §47 F being identified as citizens.

The NCCC has reviewed caseloads with characteristics similar to those identified in §47 F and §47 F cases. Actions taken include:

- Review of cases with country of birth recorded as "unknown" in ICSE to establish and record the country of birth. None of these persons were identified as being born in Australia.

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- 11 -

- Provision of instructions to officers that they must verify and update country of birth if this information is not available on departmental systems.
- Identification and investigation of cases of clients in detention who were born in PNG prior to PNG gaining independence on 16 September 1975. Citizenship assessments had been completed by the Citizenship Helpdesk for all cases (and no issues identified) prior to cancellation.
- Review of the entire held detention population to ensure that citizenship related records are accurate and clearly documented. In addition, all cases in cohorts with a high risk of citizenship issues were specifically discussed at Detention Review Committees to confirm citizenship status and that it has been recorded clearly.
- Update of NCCC mandatory checklists to ensure that officers focus on the following elements prior to cancellation:
 - citizenship;
 - ensuring that the correct visa is cancelled; and
 - that the correct visa has been identified on departmental systems and records in accordance with the *Migration Reform (Transitional Provisions) Regulations 1994*.

NCCC officers participated in face to face training delivered by Citizenship Operations Section on 23 June 2017.

All Detention Review managers participated in Notifications training in April and May 2017; all five Detention Review managers completed online Citizenship training in early April 2017 and the Detention Review team received Citizenship training on 23 June 2017. The DRM team has incorporated Citizenship training as a mandatory module.

Network advice was released on 16 March 2017 to Regional Directors, Regional Commanders, Directors (Status Resolution), Superintendents (Compliance and Removals). The advice identifies the types of issues officers that should be taking into consideration as part of any assessment of whether a person is an Australian citizen. Officers were also provided references for further advice and contact information for relevant Helpdesks. The advice was also provided to teams responsible for training and policy.

Current Status

§47F is currently residing in the community. On §47 April 2017, departmental records were updated to show that §47F acquired Australian citizenship at birth.

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- 12 -

High Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT C

Operation of Law**Citizenship Acquired**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On s47F December 2016, s47F was detained by ABF officers at s47F Correctional Complex in s47F upon release from criminal custody. s47F appeared to be unlawful according to the immigration history recorded on departmental systems. s47F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to s47F Immigration Detention Centre (IDC). s47F was subsequently transferred to s47F IDC on s47F on s47F March 2017.

On s47F March 2017, the Citizenship Helpdesk confirmed that s47F was an Australian citizen on the basis that s47F had been ordinarily resident in Australia for the first 10 years of s47F life and s47F was released from detention.

Background

s47F September 1990, s47F was born in Australia, to New Zealand citizen parents.

s47F September 2000, s47F acquired Australian citizenship by operation of law on s47F 10th birthday under section 10 of the *Australian Citizenship Act 1948* and continues to be an Australian citizen as defined in section 4 of the *Australian Citizenship Act 2007*.

s47F April 2010, s47F departed Australia on a New Zealand passport.

s47F April 2010 s47F returned to Australia using s47F New Zealand passport and was granted a Special Category (subclass 444) visa on arrival. A Special Category (subclass 444) visa is granted to holders of New Zealand passports on arrival to Australia in immigration clearance or subsequent to being immigration cleared, when they are not of behaviour and or health concern. The Special Category (subclass 444) visa ceases to be in force when the holder leaves Australia.

A record was first created on the Department's electronic data base ICSE for s47F at this stage to record the grant of this visa. The movement records section of ICSE and the movement records on the Department's Mainframe database did not show a movement record for first arrival, as s47F was born in Australia. ICSE records were not updated at this time to show s47F birth country as Australia. On ICSE, s47F country of birth was recorded as 'unknown'.

s47F November 2016, the NCCC commenced cancellation consideration of s47F Special Category (subclass 444) visa under the mandatory cancellation provisions of section 501(3A) of the Act. s47F had been convicted and sentenced to a period of six months on s47F June 2016.

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- 13 -

§47F had also been convicted on §47F January 2011 of several charges, and sentenced to 12 months imprisonment suspended upon entering a 12 month good behavior bond with a 12 month supervised probation service.

It appears that the cancellation delegate had not established a date of first arrival in Australia for §47F. The first movement record in the Department's database shows a departure date from Australia of §47F April 2010, however there is no prior arrival movement record. Although §47F country of birth was recorded as 'unknown' on ICSE, the cancellation delegate did not make enquiries to determine §47F country of birth. §47F was recorded as the holder of a New Zealand passport on ICSE and consideration was not given to the possibility that §47F may also have been an Australian citizen.

§47F November 2016, §47F purported Special Category (subclass 444) visa was cancelled under the mandatory cancellation provisions of section 501(3A) of the Act. §47F was notified of the cancellation of §47F visa at §47F Correctional Centre and §47F signed an acknowledgement of receipt of the cancellation notice on §47F November 2016.

Several days after §47F was notified of the cancellation (the exact date cannot be provided by the NCCC), a prison officer contacted the NCCC and advised an officer that §47F had stated that §47F was an Australian citizen. The NCCC team leader considered §47F circumstances, examined a chart for 'Determining visa status of New Zealand citizens' and made a determination that §47F was not an Australian citizen. A record of these discussions was not recorded on departmental records.

§47F November 2016, Removals officers completed an assessment in the Brief Assessment Tool to review §47F case and did not identify any matters of concern.

§47F November 2016, §47F lodged an application for revocation of the cancellation decision. In the 'Revocation Request', §47F stated that §47F country of citizenship was Australia, and §47F also stated that the cancellation decision should be revoked because §47F was born in Australia, had resided in Australia throughout §47F life apart from visiting New Zealand once and that §47F had §47F children, all of whom were born in Australia.

§47F December 2016, a telephone interview was conducted with §47F by a §47F Removals officer. In the record of interview, the Removals officer noted that §47F claimed to have been born in Australia and also claimed to be an Australian citizen. This information was not escalated or investigated further.

§47F December 2016, a 'Compliance Client Interview' (CCI) was conducted by an ABF officer at the §47F Correctional Complex. On the CCI document, §47F country of birth is noted as Australia and §47F country of citizenship is noted as New Zealand. In response to a question as to whether §47F has claimed to be an Australian citizen, the answer 'Does not know' has been written on the interview form by the interviewing officer. This matter was not escalated or considered further.

§47F December 2016, §47F was detained by ABF officers at §47F Correctional Complex upon release from criminal custody.

§47F December, 2016, a Detention Review Manager (DRM) reviewed §47F case and did not identify §47F as an Australian citizen. The DRM did not view the 'Revocation request' in which s. 47F(1) §47F claimed to be an Australian citizen. The DRM finalised the review at §47F hours AEDT on §47F December 2016.

§47F had been interviewed by a Status Resolution officer at §47F IDC as part of the

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- 14 -

Day 1 interview between §47F and §47F hours AEDT on §47F December 2016. During this interview, when asked whether §47F had any documents of identity available, §47F had indicated that §47F had a birth certificate available. The Status Resolution officer did not sight the birth certificate. A record of the interview was saved on §47F December 2016 at §47F hours, by which time the DRM had finalised the review and consequently was not aware that §47F had a birth certificate available.

The DRM was aware that §47F was born in Australia, but did not realise that §47F had acquired Australian citizenship by operation of law on §47F 10th birthday as §47F had been ordinarily resident in Australia. The DRM did not check the legislation relating to Citizenship in the electronic legislative and Policy Framework database, LEGEND, and the Policy and Procedure Control Register. The DRM did not escalate this case to their manager or the Status Resolution Helpdesk. The DRM team did not refer the case to the Citizenship Helpdesk.

§47F December 2016, the Status Resolution officer in §47F completed the Community Protection Assessment Tool, but did not realise that §47F was an Australian citizen. While the officer was aware that §47F had spent an extended period in Australia, the officer did not consider the possibility that §47F may have acquired Australian citizenship by operation of law.

§47F March 2017, §47F was transferred to §47F IDC on §47F.

On being transferred to §47F, §47F once again stated that §47F was an Australian citizen, this time to §47F §47F Status Resolution officer. The §47F Status Resolution officer checked documents provided by §47F in the property list maintained by the detention service provider and requested access to a document listed as a birth certificate. The §47F Status Resolution officer sighted §47F birth certificate and was able to confirm that §47F was born in Australia. The §47F Status Resolution officer checked §47F immigration history and examined the Citizenship legislation on the department's LEGEND database.

§47F March 2017, the §47F Case Manager referred §47F case to the Citizenship Helpdesk for an urgent referral to determine whether §47F was an Australian citizen. The §47F Status Resolution officer also escalated the case to the Director Status Resolution for §47F and §47F

The §47F Status Resolution officer forwarded a copy of the referral to the DRM for information. The DRM contacted the Status Resolution Helpdesk which then liaised with the Citizenship Helpdesk.

§47F March 2017, the Status Resolution Helpdesk confirmed, upon receipt of advice from the Citizenship Helpdesk, that §47F was an Australian citizen and should be released from immigration detention as soon as practicable.

§47F was released from immigration detention on §47F March 2017.

Actions

An Independent Reviewer, Dr Vivienne Thom AM, has conducted a review into §47F case and §47F case. The following remedial measures have been implemented subsequent to §47F and §47F being identified as citizens.

The NCCC has reviewed caseloads with characteristics similar to those identified in §47F and §47F cases. Actions taken include:

- Review of cases with country of birth recorded as "unknown" in ICSE to establish and

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- 15 -

record the country of birth. None of these persons were identified as being born in Australia.

- Provision of instructions to officers that they must verify and update country of birth if this information is not available on departmental systems.
- Identification and investigation of cases of clients in detention who were born in PNG prior to PNG gaining independence on 16 September 1975. Citizenship assessments had been completed by the Citizenship Helpdesk for all cases (and no issues identified) prior to cancellation.
- Review of the entire held detention population to ensure that citizenship related records are accurate and clearly documented. In addition, all cases in cohorts with a high risk of citizenship issues were specifically discussed at Detention Review Committees to confirm citizenship status and that it has been recorded clearly.
- Update of NCCC mandatory checklists to ensure that officers focus on the following elements prior to cancellation:
 - citizenship;
 - ensuring that the correct visa is cancelled; and
 - that the correct visa has been identified on departmental systems and records in accordance with the *Migration Reform (Transitional Provisions) Regulations 1994*.

NCCC officers participated in face to face training delivered by Citizenship Operations Section on 23 June 2017.

All Detention Review managers participated in Notifications training in April and May 2017; all five Detention Review managers completed online Citizenship training in early April 2017 and the Detention Review team received Citizenship training on 23 June 2017. The DRM team has incorporated Citizenship training as a mandatory module.

Network advice was released on 16 March 2017 to Regional Directors, Regional Commanders, Directors (Status Resolution), Superintendents (Compliance and Removals). The advice identifies the types of issues officers that should be taking into consideration as part of any assessment of whether a person is an Australian citizen. Officers were also provided references for further advice and contact information for relevant Helpdesks. The advice was also provided to teams responsible for training and policy.

Current Status

§47F is currently residing in Australia. Departmental records were updated on §47F March 2017 to show that §47F acquired Australian citizenship on §47F on §47F 10th birthday.

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- 16 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT D

Process Incorrect**Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On s47F May 2017, s47F was located at a private residence in s47F following the issue of a warrant by the ABF under section 251 of the *Migration Act 1958* (the Act).

On s47F June 2017, the Status Resolution Helpdesk confirmed that the cancellation of s47F visa was affected by jurisdictional error and that the cancellation should be revisited with s47F consent.

s47F consented to the cancellation being revisited. As a result the cancellation decision had no legal effect and s47F was released from immigration detention on s47F June 2017 as the holder of a s47F visa with a lawful until date of s47F May 2018.

Background

s47F April 2016, s47F arrived in Australia as the holder of a s47F visa, with a lawful until date of s47F May 2018.

s47F February 2017, a Notice of Intention to Consider Cancellation (NOICC) of the s47F visa under section 116 of the Act was sent to s47F last known residential address. As s47F had not provided an address for correspondence in Australia, the NOICC was dispatched to s47F overseas address in s47F. A copy of the NOICC was also sent to two email addresses the Department had recorded for s47F.

Sections 119 and 120 of the Act stipulate that, when a visa is to be cancelled under section 116, the visa holder must be invited to comment on certain matters as per sections 119 and 120 of the Act. If the invitation to respond is provided otherwise than at an interview, (as occurred in s47F case), the response must be provided in a prescribed period. Regulation 2.44(2) of the *Migration Regulations 1994* (the Regulations) provides that the prescribed period for the response for the purposes of section 121(2), if the visa holder is in Australia (as was applicable in s47F case) is five working days from when the visa holder is notified under section 119(2) or receives an invitation under section 120(2) of the Act.

The NOICC sent to s47F address in s47F stated that s47F response to the NOICC was required by the Department within five working days after s47F was taken to have received the letter. The NOICC further stated that, as the letter was mailed to an Australian address from within Australia, s47F was taken to have received the NOICC within seven

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- 17 -

working days after the date of the letter.

Regulation 2.55 (7) of the Regulations provides that if mail is dispatched to an address outside Australia, a person is taken to have received the mail 21 days after the date of the document. As the NOICC set out a shorter timeframe for response and did not comply for the purposes of section 119 of the Act with the procedure for cancelling visas in Part 2, Subdivision E of the Act, the cancellation decision was affected by jurisdictional error. §47F suffered practical detriment because §47F was led to believe that §47F had less time for response than was prescribed in the Regulations to respond to the NOICC.

§47F April 2017, in preparation for the targeted visit, an ABF officer completed a document known as the Comprehensive Assessment Tool to determine whether §47F was effectively notified of the cancellation of §47F §47F visa. The content defect in the NOICC was not identified.

§47F May 2017, §47F was detained by the ABF in §47F following action pursuant to the issue of a warrant under s251 of the Act by the ABF.

§47F May 2017, a referral was made to the Detention Review Manager (DRM). §47F case was categorised as a rapid removal case by the ABF as §47F was on a voluntary removal pathway and anticipated to depart Australia within 28 days.

§47F May 2017, §47F signed a voluntary request for removal.

Although this case was a rapid removal, §47F was not identified by the DRM team as a case to be prioritised and processed within the agreed 24 to 48 hour timeframe for rapid removals.

§47F June 2017, §47F case was allocated within the DRM team on the 28th day following §47F detention and a DRM review commenced on §47F June 2017.

§47F June 2017, the DRM requested confirmation from the mail service provider that the NOICC and the Notice of Cancellation (NOC) were dispatched within three working days of the date of the letters. As a result of a change of contract in service providers, the response was not received until §47F June 2017.

§47F June 2017, the DRM wrote to the Status Resolution Helpdesk to seek urgent advice as to whether the cancellation was effective as incorrect deemed receipt provisions were stated in the NOICC.

§47F June 2017, the Status Resolution Helpdesk advised that the cancellation of §47F §47F visa was defective and had to be revisited with §47F consent. In the event that §47F provided §47F consent for the decision to be revisited, the cancellation would have no legal effect, §47F would continue to hold the §47F visa.

§47F June 2017, §47F provided consent for the cancellation to be revisited and was released from detention.

Actions

The ABF officers in §47F have been provided with the advice from the Status Resolution Helpdesk and have been instructed to check both the NOICC and NOC when reviewing a visa

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- 18 -

cancellation. Structured notification and cancellations training is scheduled for the relevant ABF teams in the near future.

Status Resolution Helpdesk has provided feedback to Cancellations Policy Sections in relation to the types of errors identified in the Status Resolution network, with the aim of sharing information strategically to reduce errors and improve decision making in the Cancellations network.

Current Status

s47 June 2017, s47F departed Australia as the holder of a s47F visa with a lawful until date of s47F May 2018.

s47 June 2017, s47F visa was cancelled under section 128 of the Act without notice, and the grounds for cancellation were identified under paragraph 116(1)(b) as s47F had not complied with paragraph s47F of condition s47F of s47F s47F visa because s47F was not s47F.

As the decision to cancel s47F visa was made when s47F was outside the migration zone, this decision is not subject to merits review.

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- 19 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT E**Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F April 2017, ^{s47F} was detained by the Australian Border Force (ABF) following ^{s47F} release from criminal custody from ^{s47F} Correctional Complex in ^{s47F}

^{s47F} was subsequently transferred to ^{s47F} Immigration Detention Centre (^{s47F})

On ^{s47}_F May 2017, Status Resolution Helpdesk confirmed that the decision to cancel ^{s47F} ^{s47F} visa was affected by jurisdictional error and should be revisited with ^{s47F} consent.

^{s47F} was released from immigration detention on ^{s47}_F May 2017.

Background

^{s47}_F August 2013, ^{s47F} arrived in Australia as the holder of a ^{s47F} ^{s47F} visa.

^{s47}_F November 2014, ^{s47F} was sent a Notice of Intention to Consider Cancellation (NOICC) of ^{s47F} ^{s47F} visa to a residential address in ^{s47F}. A copy of the NOICC was sent to an email address. ^{s47F} was sent the NOICC because there appeared to be grounds for cancellation under section ^{s47F} of the Act, as ^{s47F} appeared not to have complied with condition ^{s47F} of ^{s47F} visa, which required ^{s47F} to be ^{s47F}. ^{s47F} did not respond to the NOICC.

The NOICC failed to provide ^{s47F} with a timeframe within which to provide a response.

^{s47}_F February 2015, ^{s47F} was sent a Notice of Cancellation (NOC) and ^{s47F} ^{s47F} visa was cancelled under section 116 of the Act.

^{s47}_F October 2016, ^{s47F} was arrested and sentenced to six months imprisonment.

^{s47}_F April 2017, ^{s47F} was detained by the ABF following ^{s47F} release from criminal custody.

^{s47}_F April 2017, ^{s47F} case was referred to a Detention Review Manager (DRM). The Detention Review Manager checked incoming passenger cards and the cancellation file and also requested the Department's mail service provider to confirm dispatch of the NOICC and the NOC from the Department within three working days of the date of the letter to ensure that the Department had complied with the requirements of Regulation 2.55.

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- 20 -

§47 F May 2017, the DRM sent a request for advice to the Status Resolution Helpdesk as the mail service provider was unable to confirm dispatch of the NOICC by registered mail on §47 F November 2014.

§47 F May 2017, Status Resolution Helpdesk confirmed that §47 F cancellation decision was affected by jurisdictional error as the NOICC did not provide §47 F with a timeframe within which to respond to information provided by the Department. As a result, the cancellation decision was made in contravention of section 124 of the Act. Status Resolution Helpdesk also advised that the cancellation decision should be revisited with §47 F consent.

§47 F May 2017, §47 F provided consent for the cancellation decision to be revisited.

§47 F May 2017, §47 F was released from immigration detention as the holder of a §47 F visa lawful until §47 F July 2017.

Actions

The defects identified in cancellation notifications by Status Resolution Helpdesk are immediately conveyed to the General Cancellation Network (GCN) which provides oversight for cancellation teams across all states. The GCN ensures that training is scheduled on a regular basis for cancellations officers. In addition, Status Resolution Helpdesk works closely with Cancellations Policy sections to ensure that training needs are identified and appropriate training developed for Status Resolution officers and officers within the ABF.

The DRM team has included refresher cancellation training on a 12 monthly basis to ensure that cancellation notifications are effectively reviewed by the DRM.

Current Status

§47 F was released from detention on §47 F May 2017 as the holder of a §47 F visa, valid to §47 F July 2017.

On §47 F June 2017, §47 F migration agent was notified that §47 F §47 F visa was cancelled under section 116(g) of the Act.

On §47 F June 2017, §47 F lodged an application for review of the cancellation at the AAT within the prescribed timeframe.

Departmental records show that §47 F has not engaged with the Department since §47 F became unlawful on §47 F June 2017.

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- 21 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT F

Process Incorrect**Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On s47F January 2017, at s47F hours, s47F was located by s47F police. s47F was referred to the Department's Immigration Status Service (ISS) for a visa status check. After conducting an interview, the ISS officer held reasonable suspicion that s47F was an unlawful non-citizen and s47F detention was continued at s47F hours on s47F January 2017. s47F was transferred to s47F Immigration Detention Centre (s47F). ISS referred the case to Detention Review and highlighted the need to recall the paper files to determine the last known address provided to the Department by s47F for the purpose of correspondence. ISS also referred the case to the Status Resolution Helpdesk for advice.

On s47F April 2017, the Status Resolution Helpdesk provided advice that s47F was still the holder of a s47F visa and that the Department should revisit the decision to refuse s47F application for a s47F visa with s47F consent.

On s47F April 2017, s47F was released from detention after providing consent to revisit the refusal of s47F s47F visa application.

Background

s47F March 1999, s47F lodged an application for a s47F visa.

s47F July 2000, s47F was granted a s47F visa while offshore.

s47F July 2000, s47F address details were updated on departmental systems.

s47F July 2000, s47F arrived in Australia.

s47F August 2001, s47F was granted a s47F visa in association with s47F application and the s47F application was refused (Decision 1). The notification was sent by post (Notification 1 relating to Decision 1) to the address recorded on departmental systems.

s47F October 2001, the delegate appears to have identified a notification defect and recommended consideration of the application. A request for information was sent to s47F care of s47F migration agent.

s47F January 2002, a response was received from the migration agent.

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- 22 -

December 2002, a letter from the Department was sent to asking to comment on adverse information under section 57 of the Act. This letter was sent to six different addresses. No response was received in relation to this letter.

January 2003, application was refused (Decision 2) and the notification (Notification 2) was sent by post to four different addresses.

January 2011, was located by Police and provided a further address to them, and indicated that still spent time at one of the addresses to which the refusal notification of January 2003 had been sent. The Processing area referred the case to the Legal Framework and Notification Section which provided advice that the previous notifications were defective and that should be renotified of Decision 1.

April 2015, the application refusal notification (Notification 3, second notification in relation to Decision 1) was sent by post to

April 2015, visa appeared to cease on departmental systems.

May 2015, the visa granted in association with the visa application appeared to cease on departmental systems.

January 2017, was located by ISS and taken into immigration detention. ISS advised that the Detention Review Manager (DRM) would be required to complete a detailed assessment of visa refusal. ISS also referred the case to the Status Resolution Helpdesk for advice.

January 2017, the DRM completed a Phase 1 review and determined that more information would be required in order to confirm whether the April 2015 notification was effective.

January 2017, the DRM requested advice from Status Resolution Helpdesk regarding whether the notification of the refusal of the visa of April 2015 was effective.

February 2017, Status Resolution Helpdesk requested internal legal advice regarding whether there were errors in both Decision 1 and Decision 2 and whether previous advice was still effective.

April 2017, Status Resolution Helpdesk provided advice that both decisions were tainted by error and all notifications were defective. As a consequence was still the holder of a visa as well as the visa granted in association with application for a visa.

April 2017, was released from detention. consented to the Department revisiting the decision and provided updated address details.

Actions

Status Resolution Helpdesk has provided advice to the business area regarding the legal errors in the refusal decisions, for their future reference. The Helpdesk will continue to work with this business area to ensure that good decision-making practices are observed. It is also noted that it is now common practice for the Status Resolution Helpdesk to review visa refusal

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- 23 -

decisions, in addition to any notification defects, when providing advice on immigration status in an effort to ensure that as many errors as possible are proactively identified, prior to any compliance action being taken.

Current Status

s47F remains in the community as the holder of a s47F visa.

On s47F June 2017, the s47F withdrew the s47F for the new application lodged on s47F April 2017.

On s47F June 2017, the Department wrote to s47F through s47F migration agent and advised that information available to the Department indicates that the s47F on which s47F visa application was based has ceased. s47F has been advised that this is likely to result in a refusal of the application. s47F responded to this correspondence on s47F July 2017. The Department is currently considering this response.

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- 24 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT G

Process Incorrect**Administrative deficiency**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F April 2017, ^{s47F} was located by ^{s47F} Police and detained under section 189(1) of the *Migration Act 1958* (the Act). ^{s47F} was referred by the police to the Department's Immigration Status Service (ISS) for a visa status check.

The ISS officer finalised the interview at ^{s47F} on ^{s47} April 2017 and identified that ^{s47F} was the holder of a ^{s47F} visa granted in association with ^{s47F} application for a ^{s47F} visa lodged on ^{s47} October 2015.

^{s47F} was released from detention on ^{s47} April 2017 at ^{s47F}

Background

^{s47} October 2015, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa.

^{s47} October 2015, ^{s47F} lodged an application for a ^{s47F} visa and was granted a ^{s47F} visa in association with the application.

^{s47} October 2015, the ^{s47F} visa ceased.

^{s47} November 2015, ^{s47F} application for a ^{s47F} visa was assessed as invalid. ^{s47F} was sent an email, notifying ^{s47F} that ^{s47F} application was invalid.

^{s47} December 2015, the ^{s47F} visa granted in association with the ^{s47F} visa application appeared to cease according to departmental systems.

^{s47} December 2015, ^{s47F} appeared as unlawful on departmental systems.

^{s47} April 2016, ^{s47F} was located by ^{s47F} Police at ^{s47F} and was detained under section 189(1) of the *Migration Act 1958* (the Act). ^{s47F} was referred by police to the Department's Immigration Status Service (ISS) for a visa status check.

During the interview with ISS, ^{s47F} stated that ^{s47} had not received any notification from the department in relation to ^{s47F} application for a ^{s47F} visa.

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- 25 -

The ISS officer checked information on the department's electronic database ICSE which included information in the client's record to the effect that emails sent by the Department between §47 November and §47 November 2015 could not be opened by a group of clients.

The problem identified by departmental technical analysts advised that it was related to configuration of email reading software and a solution was implemented on §47 November 2015.

Clients affected were sent an email on §47 December 2015 advising them of a simple method to ensure that attachments were visible. Where clients were notified of a visa outcome during this period, they were contacted to confirm receipt of the request. Where contact could not be established, the visa outcomes were administratively reversed and the clients renotified.

A data fix was implemented to ensure that records of all clients impacted by this issue were updated to reflect the situation. §47 record was updated on §47 December 2015 with an electronic note in the Department's electronic database, ICSE.

After conducting an interview which was finalised at §47 on §47 April 2017, the ISS officer no longer held reasonable suspicion that §47 was an unlawful non-citizen as §47 was found to be the holder of a §47 visa due to defective notification of the §47 visa assessment.

§47 was subsequently released from detention on §47 April 2017 at §47 hours.

Actions

The Department is improving existing procedures to ensure that clients are effectively notified when the Department assesses that an application that they have lodged is invalid. This is particularly relevant when §47 visas are granted in association with visa applications and when a §47 visa only ceases upon confirmation that a client has been correctly notified.

Current Status

§47 was released from immigration detention as the holder of an associated §47 visa on §47 April 2017 at §47. This visa ceased on §47 May 2017 as §47 did not seek merits review of the decision to refuse §47 application for a §47 visa. §47 has not lodged any further visa applications.

On §47 April 2017, §47 became unlawful. Departmental records indicate §47 has not engaged with the Department since §47 release from immigration detention.

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- 26 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT H

Process Incorrect**Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F April 2017, ^{s47F} was located by ^{s47F} Police and referred to the Department's Immigration Status Services (ISS) for a visa status check. ISS confirmed that ^{s47F} appeared to be unlawful according to the immigration history recorded on departmental systems. Based on information from the Department, a ^{s47F} Police officer held reasonable suspicion that ^{s47F} was unlawful and ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the ^{s47F} Immigration Transit Accommodation (^{s47F} detention facility).

On ^{s47}_F May 2017, Status Resolution Operation Support Section confirmed that ^{s47F} remained the holder of a ^{s47F} visa granted in association with a ^{s47F} visa application that was lodged on ^{s47}_F September 2015.

^{s47F} was subsequently released from detention on ^{s47}_F May 2017.

Background

^{s47}_F July 2015, ^{s47F} arrived in Australia as the holder of ^{s47F} visa.

^{s47}_F October 2015, the ^{s47F} visa ceased.

^{s47}_F October 2015, ^{s47F} was included in ^{s47F} application for a ^{s47F} visa and ^{s47}_F was granted a ^{s47F} visa in association with the application.

^{s47}_F May 2016, ^{s47F} departed Australia.

^{s47}_F July 2016, the ^{s47F} visa application on which ^{s47F} was a ^{s47F} applicant was refused and a letter was sent by registered post on the same day, notifying ^{s47F} of the refusal. The refusal letter was addressed to ^{s47F} who had departed Australia and the letter stated that the refusal notification related to both ^{s47F} and ^{s47F}. The letter advised that as ^{s47F} were outside Australia they were not entitled to apply to the Administrative Appeals Tribunal (AAT) for a review of the decision.

As ^{s47F} was physically present in the migration zone at the time ^{s47F} ^{s47F} visa application was refused, ^{s47F} refusal decision was merits-reviewable. The refusal of the

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- 27 -

§47F visa was defective as it failed to provide §47F with the relevant merits review information required under section §47F) of the Act.

§47 September 2016, the §47F visa granted in associated with the §47F visa application appeared to cease according to departmental systems.

§47 September 2016, §47F appeared as unlawful on departmental systems.

§47 April 2017, §47F was located by §47F Police. §47F police contacted ISS to establish §47F immigration status and §47F was detained under section 189(1) of the Act.

§47 April 2017, a Detention Review Manager (DRM) review was conducted and the DRM identified a possible error as the relevant merits review information was not provided with the refusal notification for the §47F visa application.

§47 May 2017, the DRM made a request for §47F file and upon receipt of the file made a referral for advice to Status Resolution Helpdesk.

§47 May 2017, Status Resolution Helpdesk confirmed that the notification refusal decision of the §47F visa was defective as it failed to provide the relevant merits review information as required by section §47F of the Act.

As the refusal of §47F application for a §47F visa was defective, §47F continued to be the holder of a §47F visa granted in association with the §47F visa application.

§47F was released from immigration detention on §47F May 2017.

§47 May 2017, §47F lodged an application for merits review of the §47F visa refusal decision with the AAT. This application is still pending.

Actions

§47 May 2017, an email was sent to the visa processing area, advising that the original notification was defective and §47F should be renotified. §47F was renotified on §47F May 2017.

Current Status

§47F was released from immigration detention as the holder of an associated §47F visa on §47F May 2017. This §47F visa continues to be in effect.

On §47F May 2017, §47F was renotified of the §47F visa refusal decision.

On §47F May 2017, §47F lodged a merits review application with the AAT and the review process is still ongoing.

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- 28 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT I**Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On ^{s47}_F January 2017, ^{s47F} was located by ^{s47F} Police and referred to the Department's Immigration Status Service (ISS) for a visa status check. After conducting a preliminary review, the ISS officer held reasonable suspicion that ^{s47F} was an unlawful non-citizen and ^{s47F} was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to ^{s47F} Immigration Detention Centre (IDC).

On ^{s47}_F January 2017, Status Resolution Helpdesk confirmed that ^{s47F} was the holder of a ^{s47F} visa granted in association with a ^{s47F} visa application lodged on ^{s47}_F August 2013.

^{s47F} was subsequently released from detention on ^{s47}_F January 2017.

Background

^{s47}_F March 2008, ^{s47F} arrived in Australia as the holder of a ^{s47F} visa.

^{s47}_F April 2008, ^{s47F} was granted a further ^{s47F} visa with ^{s47F}.

^{s47}_F January 2010, ^{s47F} departed Australia.

^{s47}_F February 2010, ^{s47F} returned to Australia on the same ^{s47F} visa, valid to ^{s47}_F August 2013.

^{s47}_F June 2013, ^{s47F} ^{s47F} visa was cancelled under section 116 of the Act.

^{s47}_F August 2013, ^{s47F} lodged an application for a ^{s47F} visa and was granted a ^{s47F} visa in association with the application. ^{s47F} submitted a ^{s47F} with the application as evidence of ^{s47F} appointment of an authorised recipient for the purpose of this application.

^{s47}_F August 2013, ^{s47F} application for a ^{s47F} was refused and ^{s47F} was sent an email on the same day, notifying ^{s47F} that ^{s47F} application was refused.

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- 29 -

§47 F September 2013, the §47 F visa granted in association with the §47 F visa application appeared to cease according to departmental systems.

§47 F September 2013, §47 F appeared as unlawful on departmental systems.

§47 F January 2017, §47 F was located by §47 F Police and detained under section 189(1) of the Act. The ISS advised §47 F Police that on the basis of the information available on departmental systems, §47 F was an unlawful non-citizen. §47 F was taken to §47 F IDC.

§47 F January 2017, a Detention Review Manager (DRM) review was conducted and the DRM identified a possible error, as an email notifying §47 F that §47 F application for a §47 F visa was refused was sent directly to §47 F rather than to the authorized recipient. The DRM recalled the file and identified that there was no evidence that the refusal notification was sent to the authorised recipient as is required by section 494D of the Act.

§47 F January 2017, the DRM made a referral for further assessment to Status Resolution Helpdesk. §47 F was interviewed to establish whether §47 F had received the notification. §47 F confirmed to the Status Resolution officer that §47 F had not received the refusal notification.

§47 F January 2017, the Status Resolution Helpdesk confirmed that §47 F was the holder of a §47 F visa granted in association with the §47 F visa application and should be released from immigration detention as soon as practicable.

§47 F was released from immigration detention on §47 F January 2017.

Actions

The Notifications Procedure Advice Manual (PAM) in LEGEND provides clear guidance in relation to notifications, including the notification error identified in §47 F case.

When a person is referred to ISS, ISS in many instances does not have access to paper files which are stored offsite, however the ISS officers in their written referrals should alert the DRM officers that it is necessary to recall the paper file as further information is required in order to establish a person's immigration status. The ISS officer in this instance was new and did not realise that further information was required in order to maintain reasonable suspicion that §47 F was unlawful. The ISS officer has since received additional training.

Current Status

§47 F was released from immigration detention as the holder of an associated §47 F visa on §47 F January 2017.

On §47 F February 2017, §47 F departed Australia and §47 F associated §47 F visa ceased with §47 F departure.

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- 30 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT J

Process Incorrect**Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On s47F March 2017, s47F was located by Australian Border Force (ABF) officers during an Employer Awareness visit to s47F place of work. s47F was detained under section 189 of the Migration Act 1958 (the Act) and taken to the s47F Immigration Detention Centre (IDC). Departmental systems showed at the time that s47F was not the holder of a visa following the cancellation of s47F s47F visa on s47F August 2011 and that s47F application for a s47F visa had been refused on s47F May 2012.

On s47F March 2017, Status Resolution Helpdesk provided advice that there were errors in the notifications of both the cancellation decision of the s47F visa and the refusal of the s47F visa. The Status Resolution Helpdesk advised that the cancellation of s47F s47F visa could be revisited with s47F consent which would result in s47F s47F visa granted at the time of lodgment of s47F application coming back into effect.

On s47F March 2017, s47F consented to the Department revisiting the cancellation of s47F s47F visa and s47F was released from detention.

Background

s47F September 2009, s47F arrived in Australia as the holder of a s47F visa which was valid until s47F November 2011.

s47F April 2011, s47F lodged an application for a s47F visa and was granted a s47F visa in association with this application.

s47F August 2011, s47F s47F visa was cancelled under section 116 of the Act. This decision triggered the s47F visa granted in association with the s47F visa to cease under the provisions of Regulation s47F. This regulation provides that if a s47F visa is held at the time of grant of a s47F then if the s47F visa is cancelled, the s47F visa will cease at the time of cancellation of the s47F visa.

s47F May 2012, s47F s47F visa application was refused, and the notification was sent by email to the address provided on the application form.

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- 31 -

§47 F March 2017, §47 F was located by ABF officers who identified that §47 F was not the holder of a visa and §47 F was detained.

§47 F March 2017, a Detention Review Manager (DRM) review was conducted which identified §47 F as belonging to a cohort of visa applicants whose applications had been affected by the fraudulent conduct of a migration agent. The business practice of the agent involved the submission of email addresses to the Department that were not known to the applicants but were presented to the Department as their address for correspondence.

In §47 F case the fraudulent email address provided by the migration agent was used by the Department both for the processing of §47 F §47 F visa application and also to send the notifications in relation to the cancellation of §47 F §47 F visa.

§47 F March 2017, the DRM made a referral to Status Resolution Helpdesk, to determine whether the cancellation decision was affected by jurisdictional error, and whether §47 F needed to be renotified of the refusal of the §47 F visa application.

§47 F March 2017, Status Resolution Helpdesk advised that §47 F needed to be renotified of the refusal decision of §47 F §47 F visa and that the cancellation decision of §47 F §47 F visa was affected by jurisdictional error and could be revisited with §47 F consent. §47 F consented to the cancellation decision being revisited, and as a result the §47 F visa came back into effect and §47 F was released from detention.

Actions

Departmental and ABF staff are aware that the Department's electronic legislative and policy framework database, LEGEND, and the Policy and Procedure Control Register contains detailed information in relation to identifying cases where the migration agent may have been implicated.

Current Status

§47 F was released from immigration detention as the holder of an associated §47 F visa on §47 F March 2017. §47 F was renotified of the decision to refuse §47 F visa application on §47 F April 2017 and applied for merits review of the decision on §47 F May 2017 at the Administrative Appeals Tribunal (AAT). This application has not yet been decided and §47 F continues to reside in the community as the holder of a §47 F visa.

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- 32 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT K

Process Incorrect**Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

**Summary**

On s47 June 2017, s47F was detained at s47F place of employment due to a targeted visit by the Australian Border Force (ABF). On s47 June, 2017, at the request of the ABF, s47F employers had confirmed that s47F worked in their company and consented to the ABF interviewing s47F on their premises. Departmental systems at the time showed that s47F was not the holder of a visa as s47F s47F visa was cancelled on s47F May 2010 and the two s47F visas associated with a previous application for a s47F visa appeared to have ceased subsequent to the refusal of the visa application on s47F May 2007.

On s47 June 2017, Status Resolution Helpdesk provided advice that the notification of the refusal of s47F application for a s47F visa on s47F May 2007 was defective and that as a result s47F continued to hold a s47F visa.

On s47 June 2017, s47F was released from immigration detention.

Background

s47F January 2007, s47F was granted a s47F visa with a cease date of s47F March 2011.

s47F January 2007, s47F arrived in Australia

s47F May 2007, s47F lodged an application for a further s47F visa to s47F s47F was granted a s47F visa in association with this application, and this was recorded twice in DIBP systems. The second grant related to the correction of an administrative error and to impose condition s47F, a s47F condition, to the s47F visa.

s47F May 2007, the application for a s47F visa was refused and the notification was sent to s47F by registered post.

s47F November 2007, s47F lodged an application for a further s47F visa without the s47F condition. s47F was granted the s47F visa the same day. This visa had a cease date of s47F March 2011.

s47F June 2009, s47F was issued with a notice under section s47F

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- 33 -

§47F advising that §47F §47F visa would be cancelled under section §47F for failure to §47F if §47F did not attend the Department.

§47 June 2009, §47F presented to the Department and §47F was issued with a Notice of Intent to Consider Cancellation under section 116.

§47 May 2010, §47F §47F visa was cancelled under section §47F

§47 May 2017, the ABF obtained details of §47F employer through the Australian Taxation Office.

§47 June 2017, ABF officers contacted §47F employers who confirmed that §47F was employed with their company.

§47 June 2017, the ABF obtained authorization from §47F employer to interview §47F on their premises.

§47 June 2017, documentation to support the compliance visit was completed. As part of the documentation an immigration history was completed that failed to identify that §47F application for a §47F visa was refused on §47F May 2007.

§47 June 2017, §47F was detained at the premises of §47F employer.

§47 June 2017, the case was referred to the Detention Review Manager (DRM) for review. Using information from departmental systems, the DRM identified that §47F immigration history included an application for a §47F visa which was refused on §47F May 2007. The DRM also noted that §47F had been granted a §47F visa in association with that application and that effective notification of the refusal was the only event which would have triggered the cessation of the §47F visa.

The DRM requested that the file be recalled on §47F June 2017. The DRM identified that the notification of the decision to refuse the application did not provide the applicant with the correct information in relation to §47F rights to seek merits review of the decision. The DRM referred the notification to Status Resolution Helpdesk for advice on §47F June 2017.

§47 June 2017, Status Resolution Helpdesk provided advice that the notification of the decision to refuse §47F application for a §47F visa was defective and that, as a result, §47F was still the holder of the §47F visa granted in association with that application.

§47 June 2017, §47F was released from detention.

Actions

The ABF Superintendent for Compliance in §47F has advised the network of the importance of recalling the paper file prior to proceeding with a targeted detention and has instructed officers ensure that the file is recalled and the immigration history reviewed prior to conducting a targeted visit. The Inspector who leads the ABF Compliance Field team has spoken individually with the officers involved in the case and is confident that the error is understood and that appropriate steps have been taken to mitigate the recurrence of such errors in future.

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- 34 -

Current Status

s47F [redacted] has been renotified of the refusal of s47F [redacted] application for a s47F [redacted] visa on s47F [redacted] July 2017 and the notification has been confirmed as effective. On s47F [redacted] July 2017, s47F [redacted] sought merits review of the refusal decision. s47F [redacted] continues to hold a s47F [redacted] visa while this review is underway.

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- 35 -

Medium Risk Case 1 January 2017 – 30 June 2017

ATTACHMENT L

Process Incorrect Administrative deficiency

Family Name
 Given Name
 Alias
 Nationality
 DOB
 ICSE Client ID
 Date of detention
 Date of release
 Number of days in detention



Note: s47F was lawfully detained between s47F October 2012 and s47F May 2013 subsequent to s47F arrival in Australia s47F. s47F was also lawfully detained for s47F days between s47F July 2015 and s47F February 2017.

Summary

On s47F July 2015, s47F reported to the DIBP office in s47F and approached the Australian Border Force (ABF) counter voluntarily. At the time, s47F had been unlawful since s47F November 2013, subsequent to the cessation of s47F s47F visa. s47F was detained under section 189(1) of the *Migration Act 1958* (the Act) and transferred to the s47F Immigration Detention Centre (s47F).

s47F continued to be detained at the s47F until s47F was granted a s47F visa on s47F February 2017 at s47F hours.

On s47F February 2017, the Detention Review Manager (DRM), as per established procedure, conducted a global search in the Department's CCMDs portal. The DRM, using information on departmental systems and through consultation with Director, Status Resolution, confirmed that s47F had been granted a s47F visa on s47F February 2017 and was not immediately released from immigration detention. s47F was released from detention on s47F February 2017 at s47F hours.

Background

s47F October 2012, s47F arrived in Australia s47F and was detained under section 189(3) of the Act.

s47F May 2013, the Minister intervened under section 195A and s47F was granted a s47F visa valid for a period of six months. s47F was released from detention on s47F May 2013.

s47F November 2013, s47F s47F visa ceased and s47F became unlawful.

s47F July 2015, s47F reported to the Department of Immigration and Border Protection office in s47F s47F was detained under section 189(1) by the ABF NSW and transferred to the s47F IDC.

s47F June 2016, s47F lodged an application for a s47F visa.

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- 36 -

§47 F [REDACTED] February 2017, §47 F [REDACTED] was granted a §47 F [REDACTED] visa at §47 F [REDACTED] hours.

§47 F [REDACTED] February 2017, the Detention Review Manager (DRM) on call, as per established procedure, ran a global query in the CCMDS portal and found that §47 F [REDACTED] was recorded in systems as being 'lawful' whilst in detention. The case was escalated to the DRM manager, who contacted the Director, Status Resolution, §47 F [REDACTED]. The Director, Status Resolution liaised with Status Resolution officers who confirmed that §47 F [REDACTED] was still held in detention.

§47 F [REDACTED] February 2017, §47 F [REDACTED] authorised recipient contacted §47 F [REDACTED] to advise of the grant of the visa.

§47 F [REDACTED] February 2017, it was established that the Decision Assurance team in the §47 F [REDACTED] Support Section had not followed established protocol and had failed to advise the Status Resolution team at §47 F [REDACTED] IDC that §47 F [REDACTED] was to be granted a visa on §47 F [REDACTED] February 2017.

Actions

The Director of the §47 F [REDACTED] Support Section advised that, following the identification of the error in §47 F [REDACTED] case, a team leader was appointed to centrally manage and maintain oversight of all detention cases. A quality control measure was also introduced by the Director of the §47 F [REDACTED] Support Section to ensure that a quality control check would be initiated prior to visa grant. Delegates in the Decision Assurance team in the §47 F [REDACTED] Support Section who record the grant on the Department's electronic database ICSE, also use a checklist to confirm that Case Management arrangements are in place, prior to recording the grant.

The error identified in §47 F [REDACTED] case is also included in training material used by the §47 F [REDACTED] Support Section for delegates who grant visas, to avoid the recurrence of similar errors in the future.

Since August 2016, the Detention Review team has commenced a daily quality assurance process, which includes checking the CCMDS portal and the Administrative Appeal Tribunal's daily finalisation spreadsheets. This process was implemented to identify any cases in which a person is recorded as being both in immigration detention and the holder of a visa. These checks are also conducted on weekends and public holidays to ensure that cases where a client is recorded on departmental systems as 'lawful' and 'in detention' are identified within 24 hours of a visa grant being recorded on departmental systems.

Current Status

§47 F [REDACTED] currently resides in the community as the holder of a §47 F [REDACTED] visa, which will remain in effect until §47 F [REDACTED] February 2022.

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- 37 -

Medium Risk Case

1 January 2017 – 30 June 2017

ATTACHMENT M**Process Incorrect****Defective Notification**

Family Name
Given Name
Alias
Nationality
DOB
ICSE Client ID
Date of detention
Date of release
Number of days in detention

s47F

Summary

On s47F March 2017, s47F was released on bail by s47F Police from s47F Police Station and the case was referred to the Department's Immigration Status Service (ISS) for an immigration status check. s47F was detained at s47F hours by ISS. s47F s47F visa granted in association with s47F s47F visa application appeared to have ceased, and s47F was detained at s47F Police Watch house pending s47F transfer to the s47F Immigration Transit Accommodation (s47F)

On s47F March 2017, Status Resolution Helpdesk confirmed that s47F was still the holder of a s47F visa granted in association with s47F s47F application, because s47F had not been correctly notified of the refusal of s47F s47F visa application.

On s47F March 2017, s47F was released from immigration detention at the s47F Police Watch House.

Background

s47F July 2015, s47F arrived in Australia as the holder of a s47F visa.

s47F September 2015, s47F lodged an application for a s47F visa.

s47F October 2015, s47F s47F visa ceased.

s47F October 2015, s47F was granted a s47F visa in association with s47F application for a s47F visa.

s47F November 2016, s47F updated s47F address by submitting a Form 929 to the Department. This form included details of s47F residential address and a separate address for correspondence by post.

s47F November 2016, s47F application for a s47F visa was refused, however the refusal correspondence was not sent to the postal address provided by s47F on

s47F November 2016.

s47F January 2017, s47F was sent a renotification of the refusal of the s47F

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- 38 -

visa to §47F updated postal address, however this letter did not contain any information in relation to merits review rights. Section 66(2)(d) of the Act requires that information in relation to merits review is included within the body of the refusal letter. This requirement was not complied with, and there was no evidence that information relating to review rights was enclosed separately in the refusal notification correspondence.

§47F March 2017, §47F was detained. The ISS officer referred §47F case to Status Resolution Helpdesk for advice and indicated that there was an need to recall the file to determine whether the refusal notification stored electronically on the Department's electronic record database TRIM, was in fact the original letter which had been dispatched to §47F

§47F March 2017, §47F case was referred to a Detention Review Manager (DRM). The DRM noted that ISS had recommended that §47F file be recalled. The DRM recalled the file and confirmed that the notification in the Department's electronic database corresponded to the notification in the paper file. The DRM provided all relevant documentation to Status Resolution Helpdesk.

§47F March 2017, Status Resolution Helpdesk confirmed that §47F was the holder of a §47F visa granted in association with §47F §47F visa application and that §47F had to be released from detention. Status Resolution Helpdesk also advised that §47F would have to be renotified of the decision to refuse §47F application for a §47F visa because it had not yet been finally determined.

§47F March 2017, §47F was issued with a Notice of Intention to Consider Cancellation of §47F §47F visa as there appeared to be grounds for cancellation under section §47F of the *Migration Act 1958* (the Act) as §47F presence appeared to constitute a risk to persons in the community.

§47F March 2017, §47F was released from detention.

Actions

Both the ISS officer and the DRM identified the error promptly and liaised with Status Resolution Helpdesk to secure §47F release from detention.

The visa processing areas have been informed of the error and training has been implemented to address such issues. In addition, steps have been taken across the network to ensure that team leaders oversee the renotification process to avoid the recurrence of similar errors.

Current Status

§47F April 2017, §47F §47F visa granted in association with §47F §47F visa application was cancelled and §47F was detained.

§47F April 2017, §47F lodged an application for review of the cancellation at the AAT.

§47F April 2017, §47F lodged an application for review of the refusal of §47F §47F visa application. This review application is ongoing.

§47F May 2017, the AAT set aside the decision to cancel §47F §47F visa. As the AAT decision was made on a §47F §47F consented to stay at the §47F Immigration Detention Centre (IDC) overnight and was released from detention on §47F May 2017.

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