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Report on people detained and later released as not unlawful

1 July 2020 – 31 December 2020

1. Introduction

This report documents people detained who were later released during the period 1 July 2020 to 31 December 2020 on the basis that reasonable suspicion could not be maintained that they were unlawful non-citizens, as required by section 189 of the *Migration Act 1958* (the Act). The details of each case provided in this report are current as at 31 December 2020.

This report also sets out actions the Department of Home Affairs (the Department) has taken to improve quality controls and mitigate risks.

During this reporting period, 721 people were detained as suspected unlawful non-citizens (excluding Unauthorised Maritime Arrivals). Of the 721 people detained, this report documents seven cases where people were detained and later released. This represents 0.97 percent of people detained in the current reporting period.

2. Corrective Actions Analysis

Analysis of the last four reports over the period 1 July 2018 to 30 June 2020 identifies three categories of procedural error giving rise to inappropriate detention outcomes. These were errors arising from visa cancellations or notification processes associated with visa grants and Administrative Appeals Tribunal (AAT) decisions. These have been the focus of remediation action in previous reporting periods.

In this reporting period only one of the seven errors falls within the three previously identified categories.

The remaining six errors have identified a further category which has been the focus of remediation action in this reporting period. Further detail regarding corrective actions implemented to address these errors and analysis of effectiveness is as follows:

Communication of Ministerial Decisions

Of the seven cases in this reporting period, six cases arose from delays in communication of Ministerial Decisions. In one of the six cases, the Minister made a decision to revoke the cancellation of a non-citizen's visa on a Friday evening and the Department was not notified until the following Monday. For the remaining five cases, the Minister made decisions to grant visas to five non-citizens and in each case, the Department was not notified until the following day.

The Department has briefed Departmental Liaison Officers and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

AAT Process Errors

For the current reporting period, one case arose from delays in notification of AAT set-aside decisions; no reduction from the previous report where there was also one case.

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In this particular case, the AAT advised the Department that a decision would be handed down the following day, however the AAT handed down their decision the same afternoon. The AAT advised the Department of their decision after normal business hours and staff at the relevant immigration detention facility were no longer monitoring the mailbox.

The Department's litigation area has updated distribution lists to include a wider group of recipients to provide greater assurance that emails received out of hours will be received and actioned immediately.

The Department engages the AAT about each notification delay by the AAT where a decision may have led to an inappropriate detention. On each occasion, the Department requests an explanation and reiterates the importance of timely notification of set aside cancellation decisions for persons in detention.

The Department has been working with the AAT to prevent any future instances. The Department has arranged for the AAT to send an automated report every Friday, identifying all hearings listed for that day. The Department extracts the hearings relating to detention cases and monitors these cases, if necessary following up with the AAT.

Visa Cancellation Errors

The Department previously implemented a number of corrective actions to address the ongoing section 501 and section 116 cancellation process errors. These corrective actions assisted in reducing the number of visa cancellation errors. There have been no errors of this type in the last two reporting periods.

Visa Notification Errors

The Department previously implemented corrective actions to address visa notification errors. There are no errors of this type in this reporting period; down from four in the previous report.

Specific Cases

A breakdown of cases for the July to December 2020 reporting period is as follows:

Name	Release Descriptor	Attachment
S. 47F(1)	Process Incorrect Administration Deficiency	Attachment A
	Process Incorrect Administration Deficiency	Attachment B
	Process Incorrect Administration Deficiency	Attachment C
	Process Incorrect Administration Deficiency	Attachment D
	Process Incorrect Administration Deficiency	Attachment E
	Process Incorrect Administration Deficiency	Attachment F
	Process Incorrect Administration Deficiency	Attachment G

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OFFICIAL: Sensitive**ATTACHMENT A****Process Incorrect****Administrative deficiency**

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F} December 2019, ^{s. 47F(1)} was detained under section 189 of the *Migration Act 1958* (the Act) following ^{s. 47F(1)} release from criminal custody. At the time of ^{s. 47F(1)} detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as ^{s. 47F(1)} visa, had been cancelled under section ^{s. 47F(1)} of the Act on ^{s. 47} October 2019.

On ^{s. 47F} August 2020, the Administrative Appeals Tribunal (AAT) set aside the decision to cancel of ^{s. 47F(1)} visa.

On ^{s. 47F} September 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa.

Background

On ^{s. 47} November 1994, ^{s. 47F(1)} arrived in Australia as the holder of a ^{s. 47F(1)} visa.

On ^{s. 47} October 2019, ^{s. 47F(1)} visa was cancelled under section ^{s. 47F(1)} of the Act.

On ^{s. 47F} September 2020, ^{s. 47F(1)} was released from criminal custody and detained under section 189 of the Act.

Actions

On ^{s. 47} June 2020, ^{s. 47F(1)} lodged an application for review of the decision to cancel ^{s. 47F(1)} visa with the AAT.

On ^{s. 47F} August 2020, the AAT advised the Department that the decision would be handed down on ^{s. 47F} September 2020. Based on this information, the Department's litigation area advised ^{s. 47F(1)} Immigration Detention Centre ^{s. 47F(1)} staff that there was no longer a requirement to remain on standby beyond normal business hours. Without further notice, at 1745 AEST hours on ^{s. 47F} August 2020, the AAT set aside the decision to cancel of ^{s. 47F(1)} visa, bringing ^{s. 47F(1)} visa back into effect immediately.

Following the AAT's decision, the Department's litigation area notified ^{s. 47F(1)} staff by email. The relevant mailbox was not being monitored at this time on the basis of the prior advice that no decision would be forthcoming. The notification of the AAT's decision was first sighted on the morning of ^{s. 47} September 2020 and arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention.

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The Department's litigation area has updated their distribution list to include a wider group of recipients so that if a similar error does occur in the future, there is a greater assurance the email will be received and actioned immediately. Further, the Department's litigation staff have been reminded that in these circumstances, it is critical that they obtain prompt confirmation that the relevant staff have received the notification.

Current Status

On ^{s. 47F} September 2020, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa and continues to reside lawfully in the community.

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OFFICIAL: Sensitive**ATTACHMENT B****Process Incorrect****Administrative deficiency**

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} August 2020, ^{s. 47F(1)} was detained under section 189 of the *Migration Act 1958* (the Act) following ^{s. 47F(1)} release from criminal custody. At the time of ^{s. 47F(1)} detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as ^{s. 47F(1)} ^{s. 47F(1)} visa, had been cancelled under section ^{s. 47F(1)} of the Act on ^{s. 47F(1)} November 2019.

On ^{s. 47F(1)} October 2020, the Minister for Home Affairs made a decision to revoke the cancellation of ^{s. 47F(1)} ^{s. 47F(1)} visa.

On ^{s. 47F(1)} October 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} visa.

Background

On ^{s. 47F(1)} February 2006, ^{s. 47F(1)} last arrived in Australia as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} visa.

On ^{s. 47F(1)} November 2019, ^{s. 47F(1)} ^{s. 47F(1)} visa was cancelled under section ^{s. 47F(1)} of the Act.

On ^{s. 47F(1)} August 2020, ^{s. 47F(1)} was released from criminal custody and detained under section 189 of the Act.

Actions

On ^{s. 47F(1)} October 2020, the Minister for Home Affairs made a decision to revoke the cancellation of ^{s. 47F(1)} ^{s. 47F(1)} visa.

On ^{s. 47F(1)} October 2020, the Minister's Office forwarded the revocation decision to the Department. On the same day, ^{s. 47F(1)} was released from immigration detention.

On ^{s. 47F(1)} November 2020, the Department briefed the Departmental Liaison Officers (DLOs) on ^{s. 47F(1)} case concerning the Ministers decision to revoke the cancellation decision on a Friday which was not made available to the Department until the following Monday.

The Department has briefed DLOs and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

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Current Status

On ^{s. 47F(1)} October 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa and continues to reside lawfully in the community.

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OFFICIAL: Sensitive**ATTACHMENT C****Process Incorrect****Administrative deficiency**

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} August 2019, s. 47F(1) was transferred from a Regional Processing Centre (RPC) to Australia for s. 47F(1). Upon arrival in Australia, s. 47F(1) was detained under section 189(1) of the *Migration Act 1958* (the Act).

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant s. 47F(1) visa (s. 47F(1)) and a s. 47F(1) visa s. 47F(1).

On ^{s. 47F(1)} December 2020, s. 47F(1) was released from immigration detention as the holder of an s. 47F(1).

Background

On ^{s. 47F(1)} September 2013, s. 47F(1) arrived in Australia at s. 47F(1) as an s. 47F(1) and was detained under section 189(3) of the Act. On ^{s. 47F(1)} October 2013, s. 47F(1) was transferred to an RPC.

On ^{s. 47F(1)} August 2019, s. 47F(1) was transferred from an RPC to Australia for s. 47F(1) and was detained under section 189(1) of the Act.

Actions

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs made a decision to grant s. 47F(1).

On ^{s. 47F(1)} December 2020, the Minister's Office forwarded the Minister's decision to grant s. 47F(1) to the Department. On the same day, s. 47F(1) was released from immigration detention.

The Department has briefed Departmental Liaison Officers and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

Current Status

On ^{s. 47F(1)} December 2020, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) and continues to reside lawfully in the community.

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} July 2019, s. 47F(1) was transferred from a Regional Processing Centre (RPC) to Australia for s. 47F(1). Upon arrival in Australia, s. 47F(1) was detained under section 189(1) of the *Migration Act 1958* (the Act).

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant s. 47F(1) visa s. 47F(1).

On ^{s. 47F(1)} December 2020, s. 47F(1) was released from immigration detention as the holder of an s. 47F(1).

Background

On ^{s. 47F(1)} July 2013, s. 47F(1) arrived in Australia at s. 47F(1) as s. 47F(1) and was detained under section 189(3) of the Act. On ^{s. 47F(1)} August 2013, s. 47F(1) was transferred to an RPC.

On ^{s. 47F(1)} July 2019, s. 47F(1) was transferred from an RPC to Australia for s. 47F(1) and was detained under section 189(1) of the Act.

Actions

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs made a decision to grant s. 47F(1).

On ^{s. 47F(1)} December 2020, the Minister's Office forwarded the Minister's decision to grant s. 47F(1) to the Department. On the same day, s. 47F(1) was released from immigration detention.

The Department has briefed Departmental Liaison Officers and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

Current Status

On ^{s. 47F(1)} December 2020, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) and s. 47F(1) and continues to reside lawfully in the community.

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was transferred from a Regional Processing Centre (RPC) to Australia for ^{s. 47F(1)}. Upon arrival in Australia, ^{s. 47F(1)} was detained under section 189(1) of the *Migration Act 1958* (the Act).

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} and a ^{s. 47F(1)}.

On ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was released from immigration detention as the holder of an ^{s. 47F(1)}.

Background

On ^{s. 47F(1)} July 2013, ^{s. 47F(1)} arrived in Australia at ^{s. 47F(1)} as ^{s. 47F(1)} and was detained under section 189(3) of the Act. On ^{s. 47F(1)} January 2014, ^{s. 47F(1)} was transferred to an RPC.

On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was transferred from an RPC to Australia for ^{s. 47F(1)} and was detained under section 189(1) of the Act.

Actions

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs made a decision to grant ^{s. 47F(1)}.

On ^{s. 47F(1)} December 2020, the Minister's Office forwarded the Minister's decision to grant ^{s. 47F(1)} to the Department. On the same day, ^{s. 47F(1)} was released from immigration detention.

The Department has briefed Departmental Liaison Officers and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

Current Status

On ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and continues to reside lawfully in the community.

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was transferred from a Regional Processing Centre (RPC) to Australia for ^{s. 47F(1)}. Upon arrival in Australia, ^{s. 47F(1)} was detained under section 189(1) of the *Migration Act 1958* (the Act).

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant ^{s. 47F(1)} visa ^{s. 47F(1)}.

On ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was released from immigration detention as the holder of an ^{s. 47F(1)}.

Background

On ^{s. 47F(1)} December 2013, ^{s. 47F(1)} arrived in Australia at ^{s. 47F(1)} as ^{s. 47F(1)} and was detained under section 189(3) of the Act. On ^{s. 47F(1)} December 2013, ^{s. 47F(1)} was transferred to an RPC.

On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was transferred from an RPC to Australia for ^{s. 47F(1)} and was detained under section 189(1) of the Act.

Actions

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs made a decision to grant ^{s. 47F(1)}.

On ^{s. 47F(1)} December 2020, the Minister's Office forwarded the Minister's decision to grant ^{s. 47F(1)} to the Department. On the same day, ^{s. 47F(1)} was released from immigration detention.

The Department has briefed Departmental Liaison Officers and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

Current Status

On ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and continues to reside lawfully in the community.

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OFFICIAL: Sensitive**ATTACHMENT G****Process Incorrect****Administrative deficiency**

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

s. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} August 2019, s. 47F(1) was transferred from a Regional Processing Centre (RPC) to Australia for s. 47F(1). Upon arrival in Australia, s. 47F(1) was detained under section 189(1) of the *Migration Act 1958* (the Act).

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant s. 47F(1) visa s. 47F(1).

On ^{s. 47F(1)} December 2020, s. 47F(1) was released from immigration detention as the holder of an s. 47F(1)

Background

On ^{s. 47F(1)} July 2013, s. 47F(1) arrived in Australia at s. 47F(1) as an s. 47F(1) and was detained under section 189(3) of the Act. On ^{s. 47F(1)} August 2013 s. 47F(1) was transferred to an RPC.

On ^{s. 47F(1)} August 2019, s. 47F(1) was transferred from an RPC to Australia for s. 47F(1) and was detained under section 189(1) of the Act.

Actions

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs made a decision to grant s. 47F(1)

On ^{s. 47F(1)} December 2020, the Minister's Office forwarded the Minister's decision to grant s. 47F(1) to the Department. On the same day, s. 47F(1) was released from immigration detention.

The Department has briefed Departmental Liaison Officers and reiterated the importance of notifying the Department of any Ministerial decisions that affect a person's immigration status, particularly in relation to non-citizens in immigration detention, on the same day the decision is made.

Current Status

On ^{s. 47F(1)} December 2020, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) and continues to reside lawfully in the community.

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Report on people detained and later released as not unlawful

1 January 2020 – 30 June 2020

1. Introduction

This report documents people detained who were later released during the period 1 January 2020 to 30 June 2020. The cases in the report are where people were released from immigration detention on the basis that reasonable suspicion could not be maintained that they were unlawful non-citizens, as required by section 189 of the *Migration Act 1958* (the Act). This report sets out actions the Department of Home Affairs (the Department) has taken to improve quality controls and mitigate risks.

For the current reporting period, as at 30 June 2020, there have been a total of 1,263 people detained as suspected unlawful non-citizens. This figure excludes Unauthorised Maritime Arrivals (UMA). Of the 1,263 people detained, this report documents seven cases where people were detained and later released. This represents 0.55 percent of people detained in the current reporting period. The status of each case is current as at 30 June 2020.

Analysis of the last four reports over the period 1 July 2018 to 30 June 2020 was undertaken, and identified three categories where errors broadly occurred. These were errors with visa cancellations, visa notifications and Administrative Appeals Tribunal (AAT) processes. Further detail regarding corrective actions implemented to address these errors are provided in this report.

2. Case risk assessments

In this report, each case was assessed to determine whether the detention was in accordance with the Act. Each case is assessed as high, medium or low risk. The Department identifies and implements corrective action for individual cases and across the system focusing its efforts where the risk of inappropriate detention is assessed as medium or high.

For the period 1 January 2020 to 30 June 2020, all seven of the cases identified have been assessed as medium risk.

3. Corrective Actions Analysis: 1 July 2018 – 30 June 2020

For the previous reports, the Department identified three categories where errors occurred resulting in a person's release from immigration detention. They cover five of the seven errors identified in the report. These categories are as follows:

- **Visa cancellation errors:**
 - cancellation on character grounds under section 501
 - general cancellations under sections 116 and 109.

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- **Visa notification errors:**
 - Combined Partner (subclasses 309 and 100, and 820 and 801) visas
 - Protection (subclass 866) visas
 - Student (subclass 572) visas
 - Errors resulting from visa application withdrawals.
- **AAT process errors:**
 - Delays in notification of AAT decisions to the Department.

Corrective measures across the three categories were implemented to address these errors. Analysis of their effectiveness follows.

Visa Cancellation Errors

The Department previously implemented a number of corrective actions to address the ongoing section 501 and section 116 cancellation process errors. These corrective actions assisted in reducing the number of visa cancellation errors. The current reporting period has no errors of this type, compared to four in the previous report.

Visa Notification Errors

In the last three reports, the Department advised the Ombudsman of the following corrective actions:

- Improved quality assurance processes
- Creation and use of flowcharts
- Creation and use of checklists
- Revision of the Comprehensive Assessment Tool (CAT)
- Applications which are withdrawn are included in random quality control checks conducted by team leaders in the student visa processing teams
- Conducting random and targeted quality control checks to inform individual and group training needs
- Visa processing officers instructed to check forms to ensure that authorised recipients have been correctly appointed in accordance with section 494D(1) of the Act
- Standard operating procedures, processes and training have been reviewed specifically in relation to correct notification procedures

The Department continues to demonstrate improvement regarding visa notification errors since the July to December 2018 report, which included eight visa notification errors. In the January to June 2019 reporting period, this was reduced to five cases. In the July to December 2019 reporting period, this was further reduced to three.

For the current reporting period, there were four visa notification errors. ^{s. 47F(1)} cases arose from ^{s. 47F(1)} visa application refusals, ^{s. 47F(1)} case arose from a ^{s. 47F(1)} refusal notification letter which did not comply with section 66(2)(d)(iv) of the Act, and ^{s. 47F(1)} arose from a ^{s. 47F(1)} refusal notification that was not given in accordance with section 494B(5) of the Act.

Each of these errors were considered isolated and the Department can advise the following additional corrective actions have been implemented:

- Compliance with section 57 of the Act has been included in the Department's centralised quality management tool that enables quality assurance checking of decisions and decision making processes

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- A notification was disseminated outlining the specific issues with the s. 47F(1) defective visa notification and staff have been instructed to closely scrutinise the specific section of notifications in future cases
- Officers were advised of the s. 47F(1) visa defective refusal notification, highlighting the specific points to be aware of in future in relation to section 66(2)(d)(iv) of the Act
- Officers were advised of the s. 47F(1) defective refusal notification, highlighting and reminding them of the specific points to be aware of in future in which would generate a further assessment of the case in relation to section 494B(5) of the Act.

AAT Process Errors

The Department engages the AAT about each notification delay by the AAT where a decision may have led to an inappropriate detention. On each occasion, the Department requests an explanation and reiterates the importance of timely notification of set aside cancellation decisions for persons in detention.

The Department has been working with the AAT to prevent any future inappropriate detentions occurring. The Department has arranged for the AAT to send an automated report every Friday, identifying all hearings listed for that day. The Department extracts the hearings relating to detention cases and monitors these cases, if necessary following up with the AAT.

For the current reporting period, there was s. 47F(1) case of inappropriate detention arising from delays in notification of AAT set-aside decisions, compared to s. 47F(1) in the July to December 2019 report.

The AAT advised internal procedures had not been correctly followed when notifying the Department of the AAT decision. The AAT undertook to investigate the circumstances that gave rise to this occurrence and has reminded staff of the importance of following the correct process.

Other Errors

Of the s. 47F(1) errors in this reporting period, the s. 47F(1) case arose from the deemed grant of a s. 47F(1) visa (s. 47F(1)) under section 75 of the Act as a delegate of the Minister did not decide the s. 47F(1) application within two working days. It is unknown why this s. 47F(1) application was not identified using departmental systems.

To address this error, the Department implemented the following corrective actions:

- Amendment of procedures to include that upon receiving a s. 47F(1) application, officers must conduct a manual review of the non-citizens records in departmental systems to confirm if they are held in immigration detention
- Creation of a checklist to guide officers through the correct process and ensure all necessary checks are undertaken. The checklist will be scrutinised as part of a quality assurance process
- Regular quality assurance activities over all s. 47F(1) applications 'on-hand' in departmental systems.

The s. 47F(1) case arose as a s. 47F(1) granted in association with Federal Court proceedings appeared to have ceased in departmental systems following the Minister's win in the Federal Circuit Court. The Department was notified by a legal representative that their client had submitted a further Full Federal Court application. Therefore the Department could not take the view the judicial proceedings were completed and the s. 47F(1) was still in effect. The Department has not implemented any further corrective actions for this case, as the officer appropriately referred and escalated the case within an appropriate timeframe.

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OFFICIAL: Sensitive**Specific Cases**

A breakdown of cases for the January to June 2020 reporting period is as follows:

Name	Release Descriptor	Attachment
S. 47F(1)	Process Incorrect Defective Notification	Attachment A
	Process Incorrect Defective Notification	Attachment B
	Process Incorrect Defective Notification	Attachment C
	Process Incorrect Administration Deficiency	Attachment D
	Process Incorrect Section 75 grant	Attachment E
	Process Incorrect Defective Notification	Attachment F
	Process Incorrect Administration Deficiency	Attachment G

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Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT A

Process Incorrect

Defective Notification

Family Name

Given Name

Alias

Nationality

DOB

ICSE Client ID

Date of detention

Date of release

Days detained while
not unlawful

s. 47F(1)

Summary

On ^{s. 47F} March 2020, s. 47F(1) was detained under section 189 of the *Migration Act 1958* (the Act) by the s. 47F(1) Police, following confirmation from Australian Border Force's (ABF) Immigration Status Service that s. 47F(1) was an unlawful non-citizen. According to departmental systems, s. 47F(1) visa s. 47F(1), granted in association with a s. 47F(1) visa application, appeared to have ceased on ^{s. 47} May 2012.

On ^{s. 47} March 2020, a determination was made that s. 47F(1) remained the holder of a s. 47F(1) and ^{s. 47F} was released from immigration detention.

Background

On ^{s. 47F} July 2008 s. 47F(1) arrived in Australia as the holder of a s. 47F(1) visa, granted on ^{s. 47F} May 2008.

On ^{s. 47F} October 2009 and ^{s. 47F} January 2011, s. 47F(1) was granted a s. 47F(1). The s. 47F(1) visa ceased on ^{s. 47F} November 2011.

On ^{s. 47F} September 2011, s. 47F(1) lodged a s. 47F(1) visa application and was granted an associated s. 47F(1).

On ^{s. 47F} April 2012, s. 47F(1) visa was refused.

On ^{s. 47} May 2012, s. 47F(1) appeared to have ceased in departmental systems.

On ^{s. 47F} May 2012, s. 47F(1) lodged a s. 47F(1) visa application and on ^{s. 47F} May 2012 was granted an associated s. 47F(1) visa.

On ^{s. 47F} July 2012, s. 47F(1) visa was refused and on ^{s. 47F} May 2013, s. 47F(1) associated s. 47F(1) ceased.

On ^{s. 47F} March 2020, s. 47F(1) was located by s. 47F(1) Police and detained under section 189 of the Act.

Actions

On ^{s. 47} March 2020, the Department commenced a review of s. 47F(1) case and identified a potential error in the refusal notification of the s. 47F(1) visa application.

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On ^{s. 47F} March 2020, the Department determined that the refusal notification of ^{s. 47F(1)} ^{s. 47F(1)} visa application was defective and therefore ^{s. 47F(1)} continued to hold an associated ^{s. 47F(1)}. The error occurred due to the involvement of a migration agent who provided an email address, not known to ^{s. 47F(1)} within the application form to receive electronic communication. There was no evidence of the appointment of an authorised recipient as part of the ^{s. 47F(1)} visa application. As a result, the Department was unable to rely on deemed receipt in respect of this notice, as it was not given in accordance with s494B(5) of the Act and therefore, ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} associated with the ^{s. 47F(1)} visa application.

Officers were advised via email of the defective notification, highlighting and reminding them of the specific points to be aware of in future, including checking email addresses ending in a particular domain name. This case is not considered a systemic issue as similar potential defective notifications have been escalated appropriately.

Current Status

On ^{s. 47F} March 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and continues to reside lawfully in the community.

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OFFICIAL: Sensitive

Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT B

Process Incorrect

Defective Notification

Family Name

Given Name

Alias

Nationality

DOB

ICSE Client ID

Date of detention

Date of release

Days detained while
not unlawful

s. 47F(1)

Summary

On ^{s. 47F(1)} December 2019, ^{s. 47F(1)} was detained under section 189 of the *Migration Act 1958* (the Act) by the ^{s. 47F(1)} Police, following confirmation from Australian Border Force's (ABF) Immigration Status Service (ISS) that ^{s. 47F(1)} was an unlawful non-citizen. According to departmental systems, ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} appeared to have ceased on ^{s. 47F(1)} June 2009.

On ^{s. 47F(1)} January 2020, a determination was made that ^{s. 47F(1)} remained the holder of a ^{s. 47F(1)} and ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}.

Background

On ^{s. 47F(1)} January 2007, ^{s. 47F(1)} arrived in Australia as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} visa, granted on ^{s. 47F(1)} October 2006.

On ^{s. 47F(1)} January 2007, ^{s. 47F(1)} was granted a ^{s. 47F(1)} visa and the ^{s. 47F(1)} visa ceased.

On ^{s. 47F(1)} November 2008, ^{s. 47F(1)} lodged an application for a ^{s. 47F(1)} visa and was granted an associated ^{s. 47F(1)}.

On ^{s. 47F(1)} November 2008, ^{s. 47F(1)} visa ceased.

On ^{s. 47F(1)} April 2009, ^{s. 47F(1)} visa was refused.

On ^{s. 47F(1)} June 2009, ^{s. 47F(1)} appeared to have ceased in departmental systems.

On ^{s. 47F(1)} December 2019, ^{s. 47F(1)} was detained under section 189 of the Act.

Actions

On ^{s. 47F(1)} December 2019, the Department commenced a review of ^{s. 47F(1)} case and identified a potential error in the refusal notification of the ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} January 2020, the Department determined that the refusal notification of ^{s. 47F(1)} visa application was defective and therefore ^{s. 47F(1)} continued to hold an associated ^{s. 47F(1)}. The refusal notification did not include the street address of the relevant tribunal in the body of the letter. Further, there was insufficient evidence to infer that a tribunal brochure had been enclosed with the refusal notification letter. Therefore, the notification letter did not comply with section 66(2)(d)(iv) of the Act.

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Section 66(2)(d)(iv) of the Act requires that a notification of a decision to refuse a visa must state where the application for review can be made. In accordance with the decision in *s. 47F(1) v MIAC* [2008], when a notification of a reviewable decision fails to state the street addresses of the review tribunal, the notification is defective. In accordance with the decision in *SZOFE v MIAC* [2010], where the street addresses of the tribunal are not provided in the body of the notification letter, there must be evidence that the tribunal brochure was enclosed with the notification letter. In the absence of such evidence, it is departmental policy that there must be at least two or more separate references to the tribunal brochure being enclosed with the notification letter.

Officers were advised via email of the defective notification, highlighting the specific points to be aware of in future. This case is not considered a systemic issue.

The Department notes there was a delay resolving *s. 47F(1)* case. On *s. 47F(1)* December 2019, an officer commenced a review of *s. 47F(1)* case, however the case was not escalated until the potential error was identified on *s. 47F(1)* January 2020 (the date of *s. 47F(1)* release). This administrative delay was due to reduced staff numbers and a high volume of referrals during the Christmas period. To mitigate the risk of similar errors occurring in the future, additional staff are being upskilled on the reviewing officers' functions to ensure there is adequate staffing coverage during holiday and peak periods.

Current Status

On *s. 47F* January 2020, *s. 47F(1)* was released from immigration detention as the holder of a *s. 47F(1)* and continues to reside lawfully in the community.

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OFFICIAL: Sensitive

Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT C

Process Incorrect

Defective Notification

Family Name

Given Name

Alias

Nationality

DOB

ICSE Client ID

Date of detention

Date of release

Days detained while
not unlawful

s. 47F(1)

Summary

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was detained under section 189 of the *Migration Act 1958* (the Act), following ^{s. 47F(1)} release from criminal custody. At the time of his detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as al ^{s. 47F(1)} and ^{s. 47F(1)} visa appeared to have ceased.

On ^{s. 47F(1)} May 2020, a determination was made that ^{s. 47F(1)} remained the holder of a ^{s. 47F(1)} visa.

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa.

Background

On ^{s. 47F(1)} October 2010, ^{s. 47F(1)} lodged a ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} October 2011, ^{s. 47F(1)} was granted ^{s. 47F(1)} in association with the ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} November 2011, ^{s. 47F(1)} was granted a ^{s. 47F(1)} visa.

On ^{s. 47F(1)} May 2012, ^{s. 47F(1)} last arrived in Australia on a ^{s. 47F(1)} visa.

On ^{s. 47F(1)} August 2013, ^{s. 47F(1)} ceased and ^{s. 47F(1)} was granted a ^{s. 47F(1)} visa ^{s. 47F(1)} in association with the ^{s. 47F(1)} visa application.

On ^{s. 47F(1)} August 2013, ^{s. 47F(1)} visa application was refused.

Between ^{s. 47F(1)} August 2013 and ^{s. 47F(1)} February 2019, ^{s. 47F(1)} lodged ^{s. 47F(1)} visa applications and ^{s. 47F(1)} application. During this time, ^{s. 47F(1)} was granted ^{s. 47F(1)} ^{s. 47F(1)}.

On ^{s. 47F(1)} February 2019, ^{s. 47F(1)} ceased.

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was released from criminal custody and detained under section 189 of the Act.

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OFFICIAL: Sensitive**Actions**

On ^{s. 47F(1)} May 2020, the Department determined that the refusal decision of ^{s. 47F(1)}) visa application was defective due to a jurisdictional error and therefore, ^{s. 47F(1)} was the holder of a ^{s. 47F(1)} visa. This was because the delegate took account of information provided by the ^{s. 47F(1)}

The error in this case is considered to be isolated and not systemic. The Department has specific training for decision makers on natural justice obligations and the provisions of section 57 the Act. The provisions are clearly set out in the Department's policy and procedural guidelines. Natural justice principles and notification issues are also addressed as required in on-the-job training and weekly team discussions. Compliance with section 57 of the Act has been included in the Department's centralised quality management tool. The tool provides for identification and centralised reporting of errors across program areas and offices, and facilitates timely targeting of areas of concern.

Current Status

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa and continues to reside lawfully in the community.

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OFFICIAL: Sensitive

Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT D

Process Incorrect

Administrative deficiency

Family Name

Given Name

Alias

Nationality

DOB

ICSE Client ID

Date of detention

Date of release

Days detained while
not unlawful

s. 47F(1)

Summary

On ^{s. 47F(1)} September 2019, ^{s. 47F(1)} visa was cancelled under ^{s. 47F(1)} of the *Migration Act 1958* (the Act) whilst he was in criminal custody and as a consequence, ^{s. 47F(1)} became an unlawful non-citizen.

On ^{s. 47F(1)} September 2019, ^{s. 47F(1)} was released from criminal custody and detained under section 189 of the Act.

On ^{s. 47F(1)} February 2020, the Administrative Appeals Tribunal (AAT) set aside the decision to cancel of ^{s. 47F(1)} visa.

On ^{s. 47F(1)} February 2020, the Department was notified of the decision and ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa.

Background

On ^{s. 47F(1)} September 2012, ^{s. 47F(1)} arrived in Australia as an ^{s. 47F(1)}.

On ^{s. 47F(1)} October 2017, ^{s. 47F(1)} was granted a ^{s. 47F(1)} visa.

On ^{s. 47F(1)} September 2019, ^{s. 47F(1)} visa was cancelled under section ^{s. 47F(1)} of the Act, whilst ^{s. 47F(1)} was in criminal custody.

On ^{s. 47F(1)} September 2019, ^{s. 47F(1)} was released from criminal custody and detained under section 189 of the Act.

Actions

On ^{s. 47F(1)} October 2019, ^{s. 47F(1)} lodged an application for review of the decision to cancel ^{s. 47F(1)} visa with the AAT.

On ^{s. 47F(1)} February 2020, the AAT set aside the decision to cancel of ^{s. 47F(1)} visa, bringing ^{s. 47F(1)} visa back into effect immediately. The AAT did not notify the Department until ^{s. 47F(1)} February 2020. On ^{s. 47F(1)} February 2020, departmental officers promptly actioned the notification and ^{s. 47F(1)} was released from immigration detention.

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The Department queried with the AAT the reasons for the delay in notification. The AAT inferred that their internal Detention Notification Procedures document had not been correctly followed when notifying the Department. The AAT undertook to investigate the circumstances that gave rise to this occurrence and has reminded staff of the importance of following the correct process.

Current Status

On ^{s. 47F(1)} February 2020, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa and continues to reside lawfully in the community.

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OFFICIAL: Sensitive

Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT E

Process Incorrect

Section 75 visa grant

Family Name

Given Name

Alias

Nationality

DOB

ICSE Client ID

Date of detention

Date of release

Days detained while
not unlawful

s. 47F(1)

Summary

On ^{s. 47F(1)} January 2020, ^{s. 47F(1)} visa, granted on ^{s. 47F(1)} September 2019, was cancelled under section ^{s. 47F(1)} of the *Migration Act 1958* (the Act). On the same day, ^{s. 47F(1)} was located by the Australian Border Force (ABF) and detained under section 189 of the Act.

On ^{s. 47F(1)} March 2020, a determination was made that ^{s. 47F(1)} deemed to have been granted a ^{s. 47F(1)} visa ^{s. 47F(1)} by section 75 of Act on ^{s. 47F(1)} March 2020.

On ^{s. 47F(1)} March 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}

Background

On ^{s. 47F(1)} September 2019, ^{s. 47F(1)} last arrived in Australia and was granted a ^{s. 47F(1)} visa.

On ^{s. 47F(1)} January 2020 ^{s. 47F(1)} visa was cancelled under section ^{s. 47F(1)} of the Act. ^{s. 47F(1)} was located by the ABF and detained under section 189 of the Act.

On ^{s. 47F(1)} March 2020, while in immigration detention, ^{s. 47F(1)} lodged a ^{s. 47F(1)} application.

On ^{s. 47F(1)} March 2020, the Department was notified in writing of the ^{s. 47F(1)} application, following receipt of an email that provided the transaction number reference for an officer to sight the application form.

Actions

On ^{s. 47F(1)} March 2020, the Department determined that ^{s. 47F(1)} deemed to have been granted a ^{s. 47F(1)} by section 75 of the Act as a delegate of the Minister did not decide the ^{s. 47F(1)} application within two working days. The ^{s. 47F(1)} was taken to be granted from ^{s. 47F(1)} March 2020 and held for five working days (that is until ^{s. 47F(1)} March 2020).

It is unknown why this ^{s. 47F(1)} application was not identified using departmental systems and ^{s. 47F(1)} record has been referred to the appropriate business support team for further investigation.

The Department has amended relevant procedures to include the requirement that, upon receipt of a ^{s. 47F(1)} application, a manual review of the non-citizens records in departmental systems must be undertaken to confirm if they are held in immigration detention. A checklist has been created to guide officers through the correct process and ensure all necessary checks are undertaken. The checklist will be stored on the Departments record keeping system and scrutinised as part of a quality assurance process. Further, regular

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quality assurance of all s. 47F(1) applications 'on-hand' in departmental systems has been implemented.

This error is not considered systemic and the risk of reoccurrence can be adequately mitigated with the actions already taken.

Current Status

On s. 47F(1) March 2020 s. 47F(1) was released from immigration detention as the holder of a s. 47F(1). Following s. 47F(1) release from immigration detention, s. 47F(1) was cancelled under section s. 47F(1) of the Act and s. 47F(1) was re-detained. s. 47F(1) is currently located at the s. 47F(1) Immigration Transit Accommodation s. 47F(1).

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Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT F

Process Incorrect

Defective Notification

Family Name

Given Name

Alias

Nationality

DOB

ICSE Client ID

Date of detention

Date of release

Days detained while
not unlawful

s. 47F(1)

Summary

On ^{s. 47F(1)} December 2019, ^{s. 47F(1)} was detained under section 189 of the *Migration Act 1958* (the Act) by the Australian Border Force (ABF), following his release from criminal custody. At the time of his detention, departmental systems showed ^{s. 47F(1)} as an unlawful non-citizen as his ^{s. 47F(1)}) visa (^{s. 47F(1)}), granted in association with ^{s. 47F(1)} application for a ^{s. 47F(1)} , appeared to have ceased.

On ^{s. 47F(1)} January 2020, a determination was made that ^{s. 47F(1)} remained the holder of a ^{s. 47F(1)} visa and ^{s. 47F(1)} .

On ^{s. 47F(1)} January 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa and ^{s. 47F(1)} .

Background

On ^{s. 47F(1)} October 2011, while ^{s. 47F(1)} submitted an application for a ^{s. 47F(1)} ^{s. 47F(1)} visa and on ^{s. 47F(1)} August 2012 ^{s. 47F(1)} was granted ^{s. 47F(1)} visa.

On ^{s. 47F(1)} December 2013, ^{s. 47F(1)} last arrived in Australia as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} visa.

On ^{s. 47F(1)} October 2015, ^{s. 47F(1)} application for a ^{s. 47F(1)} visa was refused. On this same day, ^{s. 47F(1)} was granted a ^{s. 47F(1)} .

On ^{s. 47F(1)} November 2015, ^{s. 47F(1)} appeared to have ceased in departmental systems.

On ^{s. 47F(1)} December 2019, ^{s. 47F(1)} was detained under section 189 of the Act.

Actions

On ^{s. 47F(1)} December 2019, the Department commenced a review of ^{s. 47F(1)} case and identified a potential error in the ^{s. 47F(1)} visa refusal notification.

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On ^{s. 47F(1)} January 2020, the Department determined that the refusal notification of ^{s. 47F(1)} ^{s. 47F(1)} visa application was defective and therefore ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} ^{s. 47F(1)} visa and ^{s. 47F(1)}. The refusal notification incorrectly described ^{s. 47F(1)}.

As this qualification was not correct in relation to the decision, when read as a whole, the notice did not comply with section 66(2)(d)(i) of the Act.

An email was disseminated outlining the specific issues with the defective notification and staff have been instructed to closely scrutinise the specific section of notifications in future cases. The responsible visa processing area was informed of the error, and ^{s. 47F(1)} was provided with a correct notification. The specific error was determined to be unique and not systemic.

Current Status

On ^{s. 47F(1)} January 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} visa and ^{s. 47F(1)}. On the same day, ^{s. 47F(1)} ^{s. 47F(1)} visa and ^{s. 47F(1)} were cancelled under section ^{s. 47F(1)} of the Act and ^{s. 47F(1)} was re-detained.

On ^{s. 47F(1)} January 2020, ^{s. 47F(1)}.

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Medium Risk Case

1 January 2020 – 30 June 2020

ATTACHMENT C

Process Incorrect

Administrative deficiency

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

S. 47F(1)

Days detained while
 not unlawful

Summary

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was detained under section 189 of the *Migration Act 1958* (the Act), upon attending the ^{s. 47F(1)} Department of Home Affairs office. At the time of his detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as ^{s. 47F(1)} appeared to have ceased.

On ^{s. 47F(1)} May 2020, a determination was made that ^{s. 47F(1)} remained the holder of a ^{s. 47F(1)}

Background

On ^{s. 47F(1)} August 2012, ^{s. 47F(1)} arrived in Australia as an ^{s. 47F(1)}

On ^{s. 47F(1)} September 2015, ^{s. 47F(1)} was invited to apply for ^{s. 47F(1)}

Between ^{s. 47F(1)} December 2015 and ^{s. 47F(1)} May 2016, ^{s. 47F(1)} was granted ^{s. 47F(1)} ^{s. 47F(1)} with ^{s. 47F(1)} ceasing on ^{s. 47F(1)} October 2016.

On ^{s. 47F(1)} July 2016, ^{s. 47F(1)} lodged a ^{s. 47F(1)} application.

On ^{s. 47F(1)} August 2016, ^{s. 47F(1)} was granted a ^{s. 47F(1)}

On ^{s. 47F(1)} November 2016, ^{s. 47F(1)} application was refused.

On ^{s. 47F(1)} December 2016, ^{s. 47F(1)} ceased.

On ^{s. 47F(1)} January 2017, the decision to refuse ^{s. 47F(1)} application was referred to the Immigration Assessment Authority (IAA).

On ^{s. 47F(1)} May 2017, the IAA affirmed the decision not to grant ^{s. 47F(1)}

On ^{s. 47F(1)} May 2017, ^{s. 47F(1)} applied for judicial review in the Federal Circuit Court (FCC) of the IAA's decision.

On ^{s. 47F(1)} June 2017, ^{s. 47F(1)} was granted a ^{s. 47F(1)} in association with ^{s. 47F(1)} application for judicial review.

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On ^{s. 47} April 2020, ^{s. 47F(1)} application for judicial review resulted in a Minister's win by the FCC, affirming the decision not to grant ^{s. 47F(1)}. It is at this point, ^{s. 47F(1)} appeared to have ceased.

On ^{s. 47F} May 2020, ^{s. 47F(1)} applied for judicial review in the Full Federal Court (FFC) of the FCC's decision.

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was detained under section 189 of the Act.

Actions

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} legal representation advised the Department via email that a further FFC application was submitted on ^{s. 4} May 2020. As the ^{s. 47F(1)} was granted in association with Federal Court proceedings, this visa would cease 28 days after judicial review proceedings are completed (including any proceedings on appeal). As per ^{s. 47F(1)} legal representatives advice that the FFC application was submitted on ^{s. 47} May 2020, the Department could not take the view the judicial proceedings were completed and therefore ^{s. 47F(1)} continued to hold the ^{s. 47F(1)}.

Upon receiving the email from ^{s. 47F(1)} legal representative, the Australian Border Force officer appropriately referred and escalated the case to the Status Resolution Helpdesk within an appropriate timeframe. No corrective actions have been identified and the error is not considered to be systemic.

Current Status

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and continues to reside lawfully in the community.

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Australian Government
Department of Immigration
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
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s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 16/03/2021 01:08:29 PM

Description:

Reason:

Comments: On s. 47F(1) 02/2021 the SRHD determined that s. 47F(1) acquired a s. 47F(1) visa by operation of s75 on s. 47F(1) 02/2021. As a consequence, s. 47F(1) was released from detention

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

Facility	Area	Unit	Start Date	End Date
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Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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s. 22(1)(a)(ii)

Report Generated by s. 22(1)(a)(ii)
on Tuesday, 11/05/2021,
09:23 AM

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Australian Government
Department of Immigration
and Border Protection

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Summary of Incident

Q1 Date and location client was detained?

On ^{s. 47F(1)} January 2021 ^{s. 47F(1)} criminal detention ^{s. 47F(1)} ceased by operation of law. On this same day, ^{s. 47F(1)} was detained under section 189(1) of the Migration Act 1958 (the Act) following ^{s. 47F(1)} release from criminal custody.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} January ^{s. 47F(1)} lodged an application for a ^{s. 47F(1)} and on ^{s. 47F(1)} February 2021, the application was determined to be invalid on the basis of being affected by a section ^{s. 47F(1)} application bar.

On ^{s. 47F(1)} February 2021, a Status Resolution Officer (SRO) sent a request to the Status Resolution Help Desk (SRHD) seeking advice on the validity of the ^{s. 47F(1)} application. An SRO identified the ^{s. 47F(1)} notification letter as well as the notes on ICSE, indicated that the application was invalid because ^{s. 47F(1)} did not meet section ^{s. 47F(1)}, however ^{s. 47F(1)}.

On this same day at 1740 hours AEST, the SRHD determined the ^{s. 47F(1)} application to be valid as Item 1305 of the Migration Regulations 1994 had been met. As a result, the ^{s. 47F(1)} was taken to have been granted by the operation of section 75 on ^{s. 47F(1)} February 2021.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} February 2021 at 1740 hours AEST, the Department became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the SRHD that ^{s. 47F(1)} was the holder of a ^{s. 47F(1)}.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} February 2021, an SRO referred the case to the SRHD for advice. On this same day, at 1740 hours AEST, the SRHD determined ^{s. 47F(1)} was the holder of a ^{s. 47F(1)}.

Report Generated by ^{s. 22(1)(a)(ii)}

^{s. 47F(1)} on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Q5. What information was provided by the client?

On ^{s. 47F(1)} January 2021, ^{s. 47F(1)} lodged an application for a ^{s. 47F(1)}

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47} February 2021 at 1740 hours AEST, reasonable suspicion ceased upon receipt of advice from the SRHD that ^{s. 47F(1)} was the holder of a ^{s. 47F(1)}.

Q7. To whom did you escalate the case and when?

On ^{s. 4} February 2021, an SRO referred the case to the SRHD for advice. On this same day, at 1740 hours AEST, the SRHD determined ^{s. 47F(1)} was the holder of a ^{s. 47F(1)}

Q8. Where is the client now and what are the current circumstances?

On ^{s. 4} February 2021 at 1821 hours, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} is currently residing in the community as a lawful non-citizen and has lodged an application for a further ^{s. 47F(1)}.

Q9. What is the client's immigration history?

Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 47F(1)} on Tuesday, 11/05/2021,
 09:23 AM

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Department of Immigration
and Border Protection

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Backgrounder:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:

Secretary/Deputy Secretary informed:

Report Generated by S. 22(1)(a)(ii)
on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

State Director:

Programme Area:

National Office Policy Area:

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the January to June 2021 OO release not unlawful report.

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 00005167

Report Generated by s. 22(1)(a)(ii)

on Tuesday, 11/05/2021,
09:23 AM

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

STO: II_S STATUS RESOLUTION CAPABILITY, s. 22(1)(a)(ii)
Date: 16/03/2021 01:08:29 PM

Report Generated by s. 22(1)(a)(ii)
on Tuesday, 11/05/2021,
09:23 AM

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Sent For Approval Decision Date:

Description:

Reason:

Comments: s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) on s. 47F(1)/02/2021.

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details

Facility	Area	Unit	Start Date	End Date
----------	------	------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
--------------------	---------------------------------	-------------------------------

Field Compliance & Criminal Cases	Compliance Field and Removals	s. 22(1)(a)(ii)
-----------------------------------	-------------------------------	-----------------

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} August 2014 ^{s. 47F(1)} visa ^{s. 47F(1)} ceased by operation of law. On this same day, following release from criminal custody, ^{s. 47F(1)} was detained under section 189(1) of the Migration Act 1958 (the Act).

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} February 2021 at 1808 hours AEDT, following advice from the Australian Government Solicitor (AGS), the AAT and Removals Injunctions Section advised ^{s. 22(1)(a)(ii)} Status Resolution that the delegate's decision on 7 January 2013 to refuse to grant ^{s. 47F(1)} visa was a nullity, and his application for a ^{s. 47F(1)} remained outstanding. Advice included that the ^{s. 47F(1)} visa ^{s. 47F(1)} granted to ^{s. 47F(1)} by operation of law on ^{s. 47F(1)} September 1994, was therefore still in effect and ^{s. 47F(1)} was to be released from immigration detention immediately.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} February 2021 at 1808 hours AEDT, the Department became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the AAT and Removals Injunctions section that ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} visa ^{s. 47F(1)}.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} February 2021 at 1808 hours AEDT, the Department became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the AAT and Removals Injunctions Section that ^{s. 47F(1)} is the continued to hold a ^{s. 47F(1)}.

Q5. What information was provided by the client?

On ^{s. 47F(1)} November 2020, ^{s. 47F(1)} lodged an application for Judicial Review at the Federal Circuit Court. By his application ^{s. 47F(1)} sought a declaration that ^{s. 47F(1)} detention was unlawful, an order in the nature of habeas corpus, an order that ^{s. 47F(1)} be released from detention forthwith, and an order for costs.

Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 47F(1)} on Tuesday, 11/05/2021,
09:14 AM

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} February 2021 at 1808 hours AEDT, reasonable suspicion ceased upon receipt of advice from the AAT and Removals Injunctions section that ^{s. 47F(1)} ^{s. 47F(1)} was the holder of a ^{s. 47F(1)}

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} February 2021 at 1808 hours AEDT, following advice from the AGS, the AAT and Removals Injunctions section advised ^{s. 22(1)(a)(ii)} Status Resolution that ^{s. 47F(1)} was the holder of a ^{s. 47F(1)} and was required to be released from immigration detention immediately.

Q8. Where is the client now and what are the current circumstances?

Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 47F(1)} on Tuesday, 11/05/2021,
09:14 AM

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

On ^{s. 47F(1)} February 2021 at approximately 1445 hours CXT (1845 hours AEDT), ^{s. 22(1)(a)(ii)} Status Resolution advised ^{s. 47F(1)} of ^{s. 47F(1)} lawful status. ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} at approximately 1509 hours CXT (1909 hours AEDT) ^{s. 47F(1)} refers). ^{s. 47F(1)} is currently residing in the community as the holder of ^{s. 47F(1)}

Immigration history recorded as not enough space at Q9:

S. 47F(1)

Q9. What is the client's immigration history?

Report Generated by ^{s. 22(1)(a)(ii)}
on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Continued from Q8 as not enough space at Q9.

S. 47F(1)

Attachment(s)

Report Generated by s. 22(1)(a)(ii)
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Current Issues Brief: No Date: Case Backgrounder: No Date:
Situation Report: No Date: Information Update: No Date

Notifications				
Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
Minister's Office:	No			
Secretary/Deputy Secretary informed:	No			
State Director:	No			
Programme Area:	Yes	Email/letter	12/02/2021	s. 22(1)(a)(ii), Acting Director, s. 22(1)(a)(ii) Status Resolution.
National Office Policy Area:	No			
Public Affairs:	No			
Partner Stakeholder Agency	No			
Other	No			
Further Action Required				
Copied to incident report distribution list:	No			

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Incident Report will be cleared by:

s. 22(1)(a)(ii)

Review/Approval

Comments:

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 00005167

STO: II_S STATUS RES PROG MGT & CAPABILITY s. 22(1)(a)(ii)

Date:

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision
Status: Complete

Decision Date: 16/03/2021
01:06:35 PM

Description:

Reason:

Comments:

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details	
Facility	Area

Unit	Start Date	End Date
------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
--------------------	---------------------------------	-------------------------------

s. 47F(1) ABF

Status Resolution Capability

s. 22(1)(a)(ii)

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} February 2021, ^{s. 47F(1)} (date of birth ^{s. 47F(1)}), was detained under section 189(1) of the Migration Act 1958 (the Act) following ^{s. 47F(1)} release from criminal custody.

At the time of ^{s. 47F(1)} detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as ^{s. 47F(1)} visa ^{s. 47F(1)} granted in association with ^{s. 47F(1)} application for ^{s. 47F(1)} and ^{s. 47F(1)} visa, appeared to have ceased on ^{s. 47F(1)} April 2017, following the refusal of ^{s. 47F(1)} April 2016.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} February 2021, the Detention Review Manager (DRM) commenced a review of ^{s. 47F(1)} case and identified a potential error in the ^{s. 47F(1)} ^{s. 47F(1)} visa refusal notification, as the review rights did not appear to be correct.

On the same day, the DRM sought advice from the Status Resolution Helpdesk (SRHD) on whether ^{s. 47F(1)} had been effectively notified of the refusal decision.

On ^{s. 47F(1)} February 2021 at 1119 hours AEDT, following legal advice, the SRHD advised the DRM that the refusal notification of ^{s. 47F(1)} was defective because it did not comply with section 66((2)d)(i) of the Act. The refusal notification stated ^{s. 47F(1)} was entitled to apply for review to the Administrative Appeals Tribunal (AAT) if ^{s. 47F(1)} however this is not a requirement at law (s338(2) and s347(2) of the Act refer).

The SRHD advice included that ^{s. 47F(1)} remained the holder of a ^{s. 47F(1)} granted in association with ^{s. 47F(1)} visa application, and ^{s. 47F(1)} was required to be released from immigration detention as soon as practicable.

Q3. When did you become aware of the client's lawful status?

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^{s. 22(1)(a)(ii)} on Tuesday, 11/05/2021,
09:26 AM

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

On ^{s. 47F(1)} February 2021 at 1119 hours AEDT, the DRM became aware of the client's lawful status upon receipt of advice from the SRHD that ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} due to a defective notification.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F} February 2021, the DRM referred the issue of inappropriate detention to the SRHD.

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information to the Department in relation to ^{s. 47F(1)} case.

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} February 2021 at 1119 hours AEDT, reasonable suspicion ceased upon receipt of advice from the SRHD that ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} due to a defective notification.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} February 2021 at 1134 hours AEDT, the DRM forwarded the SRHD advice to the senior executive including the National Enforcement Commander; Field Operations; the Regional Director; ^{s. 47F(1)}; the Superintendent Field Operations; the Acting ABF Superintendent Detention Operations ^{s. 47F(1)}; the Acting Director General Cancellation Network; and the Director Status Resolution Capability.

Q8. Where is the client now and what are the current circumstances?

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^{s. 22(1)(a)(ii)} on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

On ^{s. 47F(1)} February 2021 at approximately 1215 hours AEDT, ^{s. 47F(1)} was released from immigration detention ^{s. 47F(1)}

On ^{s. 47F(1)} February 2021 at 1537 hours AEDT, ^{s. 47F(1)} was cancelled and ^{s. 47F(1)} was detained under section 189(1) of the Act ^{s. 47F(1)}

Q9. What is the client's immigration history?

S. 47F(1)

Attachment(s)

Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 22(1)(a)(ii)} on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Current Issues Brief: No Date: Case Backgrounder: No Date:
 Situation Report: No Date: Information Update: No Date

Notifications				
Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
Minister's Office:	No			
Secretary/Deputy Secretary informed:	No			
State Director:	Yes	Email/letter	10/02/2021	Regional Director; s. 22(1)(a)(ii)
Programme Area:	Yes	Email/letter	10/02/2021	s. 22(1)(a)(ii) Director Status Resolution Capability
National Office Policy Area:	No			
Public Affairs:	No			
Partner Stakeholder Agency	No			
Other	No			
Further Action Required				
Copied to incident report distribution list:	Yes			

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 s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report
As at 11/05/2021

MCP 8

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the January to June 2021 OO release not unlawful report.

Signature: Electronically Signed

Cleared By:

Position:

STO:

Date: 16/03/2021 01:06:35 PM

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
s. 47F(1)								

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 16/03/2021 01:04:04 PM

Description:

Reason:

Comments:

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
Accommodation Details				
Facility	Area	Unit	Start Date	End Date
Referral Details				
Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report		

s. 22(1)(a)(ii) ,

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} January 2019 ^{s. 47F(1)} visa was cancelled under section ^{s. 47F(1)} of the Migration Act 1958 (the Act) whilst ^{s. 47F(1)} was in criminal custody and as a consequence, ^{s. 47F(1)} became an unlawful non-citizen.

On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was released from criminal custody and detained under section 189(1) of the Act.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} March 2021, the Administrative Appeals Tribunal (AAT) made a decision to set aside the decision to cancel ^{s. 47F(1)} visa and the ^{s. 47F(1)} visa came back into effect.

On ^{s. 47F(1)} March 2021 at 0911 hours AEST, the AAT sent the notification of the decision to the Department ^{s. 47F(1)} refers).

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} March 2021 at 0911 hours AEST, the Department became aware of ^{s. 47F(1)} lawful status when the AAT notified the ^{s. 47F(1)} Immigration Detention Centres ^{s. 47F(1)} staff of the decision to set aside the cancellation of ^{s. 47F(1)} refers).

On ^{s. 47F(1)} March 2021 at 1603 hours AEST, the Detention Review Manager (DRM) became aware of the decision when ^{s. 47F(1)} staff informed the DRM of ^{s. 47F(1)} release time from immigration detention.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} March 2021 at 0911 hours AEST, the Department became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the AAT of the decision to set aside the cancellation of ^{s. 47F(1)} refers).

Q5. What information was provided by the client?

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^{s. 22(1)(a)(ii)} on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Nil s. 47F(1) was unaware of the reinstatement of s. 47F(1) visa until s. 47F(1) was notified of the decision shortly before s. 47F(1) release from immigration detention.

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1) March 2021 at 0911 hours AEST, reasonable suspicion ceased when the AAT notified the Department of the decision to set aside the cancellation of s. 47F(1) s. 47F(1) refers).

At approximately 1550 hours AEST, s. 47F(1) was released from immigration detention.

Q7. To whom did you escalate the case and when?

Not applicable. The process of release had already commenced at the time the case was brought to the DRMs attention.

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1) March 2021 at approximately 1550 hours AEST, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa s. 47F(1) s. 47F(1) currently resides lawfully in the community as the holder of a s. 47F(1) refers).

Q9. What is the client's immigration history?

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Background:	No	Date:
Situation Report:	No	Date:	Information Update:	No	Date:

Notifications

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
09:10 AM

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Australian Government
Department of Immigration
and Border Protection

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
Minister's Office:	No			
Secretary/Deputy Secretary informed:	No			
State Director:	Yes	Email/letter	08/03/2021	email received from AAT
Programme Area:	Yes	Email/letter	08/03/2021	email received from AAT
National Office Policy Area:	No			
Public Affairs:	No			
Partner Stakeholder Agency	No			
Other	No			
Further Action Required				
Copied to incident report distribution list:	No			
Incident Report will be cleared by:	s. 22(1)(a)(ii)			
Review/Approval				
Cleared				
Comments:				

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
09:10 AM

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Inappropriate Detention Release Decision Report

As at 11/05/2021

MCP 8

s. 47F(1) case will be included in the January - June 2021 report to the OO on the detention and later released of not unlawful non-citizens

Signature: Electronically Signed
Cleared By: s. 22(1)(a)(ii)
Position: 00005167
STO: II_S STATUS RES PROG MGT & CAPABILITY, s. 22(1)(a)(ii)
Date: 16/03/2021 01:04:04 PM

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Tuesday, 11/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
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s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 02/10/2020 02:42:25 PM

Description: Release Decision of Inappropriate Detention

Reason:

Comments: Reasonable suspicion can not be maintained as the decision not to revoke s. 47F(1) visa was substituted by AAT on s. 47F(1)/08/2020 and the client was released on s. 47F(1)/09/2020.

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details

Facility	Area	Unit	Start Date	End Date
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Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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SRO - s. 47F(1)	DRM	s. 22(1)(a)(ii)
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Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
02:57 PM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} December 2019 ^{s. 47F(1)} (date of birth ^{s. 47F(1)} was detained under section 189 of the Migration Act 1958 (the Act) following ^{s. 47F(1)} release from criminal custody.

At the time of ^{s. 47F(1)} detention, an officer formed reasonable suspicion that ^{s. 47F(1)} was an unlawful non-citizen because information on departmental systems showed that ^{s. 47F(1)} visa, granted on ^{s. 47F(1)} November 1994, had been cancelled under ^{s. 47F(1)} of the Act on ^{s. 47F(1)} October 2019.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} August 2020 at 1821 hours AEST, AAT & Removal Injunctions section advised relevant stakeholders (including Detention Operations and Status Resolution) that the Administrative Appeals Tribunal (AAT) set aside the delegate's decision not to revoke the mandatory cancellation of ^{s. 47F(1)} visa, and substituted it with a decision that the cancellation be revoked ^{s. 47F(1)}. The AAT & Removal Injunctions section advised that ^{s. 47F(1)} visa was to be reinstated and to release ^{s. 47F(1)} from immigration detention.

On ^{s. 47F(1)} September 2020 at 0746 hours AEST, the Status Resolution Officer (SRO) first sighted the email from AAT & Removal Injunctions section and commenced processing ^{s. 47F(1)} release from immigration detention.

On the same day at approximately 0845 hours AEST, the DRM was informed of the AAT's decision to set aside the decision not to revoke the cancellation of ^{s. 47F(1)} visa.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} August 2020 at around 1821 hours, AAT & Removal Injunctions section advised relevant stakeholders of the AAT's decision to set aside the cancellation decision of ^{s. 47F(1)} visa.

On ^{s. 47F(1)} September 2020, at approximately 0845 hours AEST, the DRM was informed of the AAT's decision to set aside the cancellation decision of ^{s. 47F(1)} visa.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} August 2020 at 1821 hours AEST, AAT & Removal Injunctions section advised relevant stakeholders of the AAT's decision to set aside the cancellation decision of ^{s. 47F(1)} visa.

On ^{s. 47F(1)} September 2020 at 0746 hours AEST, the SRO first sighted the email from AAT & Removal Injunctions section and commenced processing ^{s. 47F(1)} release from immigration detention.

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information in relation to ^{s. 47F(1)} case.

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} August 2020 at 1821 hours AEST, reasonable suspicion ceased upon advice from AAT & Removal Injunctions section of the AAT's decision to set aside the cancellation decision of ^{s. 47F(1)}. The advice included that ^{s. 47F(1)} visa was to be reinstated and to release ^{s. 47F(1)} from immigration detention.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} September 2020 at approximately 0845 hours AEST, the DRM advised the Assistant Director, Status Resolution Capability and the Assistant Director, Status Resolution Helpdesk of the AAT's decision to set aside the cancellation decision of ^{s. 47F(1)} visa and the delay in releasing ^{s. 47F(1)} from immigration detention until the following morning ^{s. 47F(1)}.

Q8. Where is the client now and what are the current circumstances?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

On ^{s. 47} September 2020 at 0850 hours AEST, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa.

On ^{s. 4} September 2020, the cancellation of ^{s. 47F(1)} visa commenced and is still pending. ^{s. 47F(1)} is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Background:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
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Minister's Office:

Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Secretary/Deputy Secretary informed:

State Director:

Programme Area:

National Office Policy Area:

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the July to December 2020 report to the Ombudsman on the detention and later release of not unlawful non-citizens. Included in the report will be specific remedial actions to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Cleared By:

Position:

STO:

Date: 02/10/2020 02:42:25 PM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 31/12/2020 12:37:48 PM

Description:

Reason:

Comments: On s. 47F(1) October 2020 at 1715 hours, the Minister's Office forwarded the Minister's decision to revoke the cancellation of s. 47F(1) visa to the Department. At 1915 hours, the National Character Consideration Centre (NCCC) orally advised the Status Resolution Officer (SRO) at s. 47F(1) Immigration Detention Centres that s. 47F(1) visa had been re-instated and that s. 47F(1) must be released from detention. At 1927 hours, the NCCC sent an email to the SRO to confirm the above and initiated the processes to record the reinstatement of the visa, and to prepare the notification of the decision.

On s. 47F(1) October 2020 at 2040 hours, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. s. 47F(1) is currently residing in the community as a lawful non-citizen.

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Facility	Area	Unit	Start Date	End Date
Referral Details				
Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report		
		s. 22(1)(a)(ii)		

Summary of Incident

Q1 Date and location client was detained?

On ^{s. 47F(1)} November 2019, ^{s. 47F(1)} visa was cancelled under sections ^{s. 47F(1)} of the Migration Act 1958 (the Act) and as a consequence, ^{s. 47F(1)} became an unlawful non-citizen.

On ^{s. 47F(1)} August 2020, ^{s. 47F(1)} was released from criminal custody and detained under section 189 of the Act.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} October 2020, the Minister for Home Affairs made a decision to revoke the cancellation of ^{s. 47F(1)} visa.

On ^{s. 47F(1)} October 2020 at 1715 hours, the Minister's Office sent a scanned copy of the decision to the Department.

On ^{s. 47F(1)} October 2020 at 2040 hours, ^{s. 47F(1)} was released from immigration detention.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} October 2020 at 1715 hours, the Minister's Office forwarded the Minister's decision to revoke the cancellation of ^{s. 47F(1)} visa to the Department. At 1915 hours, the National Character Consideration Centre (NCCC) orally advised the Status Resolution Officer (SRO) a ^{s. 47F(1)} Immigration Detention Centre ^{s. 47F(1)} that ^{s. 47F(1)} visa had been re-instated and that ^{s. 47F(1)} must be released from detention. At 1927 hours, the NCCC sent an email to the SRO to confirm the above and initiated the processes to record the reinstatement of the visa, and to prepare the notification of the decision.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} October 2020 at 1715 hours, the Minister's Office forwarded the decision to revoke the cancellation of ^{s. 47F(1)} visa to the Department.

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information to the Department. ^{s. 47F(1)} was unaware of the Minister's decision to revoke the cancellation of ^{s. 47F(1)} visa until ^{s. 47F(1)} was notified of the decision shortly before ^{s. 47F(1)} release from detention.

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} October 2020 at 1715 hours, reasonable suspicion ceased when the Minister's Office forwarded the Minister's decision to revoke the cancellation of ^{s. 47F(1)} visa to the Department.

At 2040 hours, ^{s. 47F(1)} was released from immigration detention.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} October 2020 at 1915 hours, the NCCC orally advised the SRO at ^{s. 47F(1)} that ^{s. 47F(1)} ' visa had been re-instated and that ^{s. 47F(1)} must be released from detention.

Q8. Where is the client now and what are the current circumstances?

On ^{s. 47F(1)} October 2020 at 2040 hours, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} visa. ^{s. 47F(1)} is currently residing in the community as a lawful non-citizen.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q9. What is the client's immigration history?

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Background:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
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Minister's Office:

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Secretary/Deputy Secretary informed:

State Director:

Programme Area:

National Office Policy Area:

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

s. 47F(1) ' case will be included in the July-December2020 report to the Ombudsman on the detention and later release of not unlawful non-citizens. Included in this report will be any corrective actions implemented by the Department to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Cleared By: s. 22(1)(a)(ii)
Position: 00005167
STO: II_S STATUS RESOLUTION CAPABILITY, s. 22(1)(a)(ii)
Date: 31/12/2020 12:37:48 PM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
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S. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 31/12/2020 12:35:17 PM

Description:

Reason:

Comments:

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

Facility	Area	Unit	Start Date	End Date
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Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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s. 22(1)(a)(ii)

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} December 2013 ^{s. 47F(1)} (date of birth ^{s. 47F(1)}) arrived in Australia a ^{s. 47F(1)} as an ^{s. 47F(1)} . On ^{s. 47F(1)} December 2013, ^{s. 47F(1)} was transferred to the ^{s. 47F(1)} Regional Processing Centre. On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was transferred to Australia for ^{s. 47F(1)} ^{s. 47F(1)} and was detained under section 189(1) of the Migration Act 1958 (the Act).

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} December 2020 the Minister for Home Affairs exercised his powers under section 195A of the Act to grant ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} and a ^{s. 47F(1)} ^{s. 47F(1)} refers). On ^{s. 47F(1)} December 2020 at 0927 hours AEDT, the signed section 195A submission was returned to the Department. At 1210 hours AEDT, ^{s. 47F(1)} was notified of the signed submission and released from immigration detention ^{s. 47F(1)} refers). As the Department was not notified of the signed submission until the morning of ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was not released from immigration detention on the day of the submission being signed.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} December 2020 at 0927 hours AEDT, the signed section 195A submission was returned to the Department. ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and ^{s. 47F(1)} . On ^{s. 47F(1)} December 2020, the Detention Review Manager became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the ^{s. 47F(1)} Detention Status Resolution team that ^{s. 47F(1)} was not released from immigration detention on the same day as the section 195A submissions were signed.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} December 2020 at 0927 hours AEDT, the signed section 195A submission was returned to the Department and arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention ^{s. 47F(1)} refers).

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information to the Department.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} December 2020 at 0927 hours AEDT, reasonable suspicion ceased after Departmental officers received the signed section 195A submission ^{s. 47F(1)} refers). At 1210 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and ^{s. 47F(1)}

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} December 2020 at 0927 hours AEDT, the signed section 195A submission was returned to the Department. Upon receipt of the signed section 195A submission, arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention.

Q8. Where is the client now and what are the current circumstances?

On ^{s. 47F(1)} December 2020, at 1210 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and ^{s. 47F(1)} ^{s. 47F(1)} refers).
^{s. 47F(1)} is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

S. 47F(1)

Attachment(s)

Current Issues Brief:

Date:

Case Background:

Date:

Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

MCP 8

Date

Specific Contact Details

Review/Approval

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Cleared

Comments:

s. 47F(1) case will be included in the July-December 2020 report to the Ombudsman on the detention and later release of not unlawful non-citizens. Included in this report will be any corrective actions implemented by the Department to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 00005167

STO: II_S STATUS RESOLUTION CAPABILITY s. 22(1)(a)(ii)

Date: 31/12/2020 12:35:17 PM

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
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s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 16/03/2021 01:11:12 PM

Description:

Reason:

Comments:

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

Facility	Area	Unit	Start Date	End Date
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Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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Status Resolution Capability	Status Resolution	s. 22(1)(a)(ii)
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Summary of Incident

Report Generated by s. 22(1)(a)(ii)
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} July 2013 ^{s. 47F(1)} (date of birth ^{s. 47F(1)} arrived in Australia at ^{s. 47F(1)} as an ^{s. 47F(1)}. On ^{s. 47F(1)} August 2013, ^{s. 47F(1)} was transferred to the ^{s. 47F(1)} Regional Processing Centre. On ^{s. 47F(1)} July 2019, ^{s. 47F(1)} was transferred to Australia for ^{s. 47F(1)} and was detained under section 189(1) of the Migration Act 1958 (the Act).

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} (refers).
On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department. At 1320 hours AEDT, ^{s. 47F(1)} was notified of the signed submission and released from immigration detention ^{s. 47F(1)} (refers). As the Department was not notified of the signed submission until the morning of ^{s. 47F(1)} December 2020 ^{s. 47F(1)} was not released from immigration detention on the day of the submission being signed.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department and ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and ^{s. 47F(1)}.
On ^{s. 47F(1)} December 2020, the Detention Review Manager became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the Assistant Director, Status Resolution Capability that three people were not released from immigration detention on the same day as the section 195A submissions were signed.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department and arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention ^{s. 47F(1)} (refers).

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information to the Department.

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Australian Government
Department of Immigration
and Border Protection

OFFICIAL: Sensitive

Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, reasonable suspicion ceased after Departmental officers received the signed section 195A submission ^{s. 47F(1)} refers). At 1320 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department. Upon receipt of the signed section 195A submission, arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention.

Q8. Where is the client now and what are the current circumstances?

On ^{s. 47F(1)} December 2020, at 1320 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} refers).
^{s. 47F(1)} is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Background:	No	Date:
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^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Situation Report: No Date: Information Update: No Date

Notifications				
Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
Minister's Office:	No			
Secretary/Deputy Secretary informed:	No			
State Director:	Yes	Email/letter	11/12/2020	s. 22(1)(a)(ii) Acting Assistant Secretary Status Resolution
Programme Area:	Yes	Email/letter	11/12/2020	s. 22(1)(a)(ii) Director Status Resolution Capability
National Office Policy Area:	No			
Public Affairs:	No			
Partner Stakeholder Agency				
Other	No			
Further Action Required				
Copied to incident report distribution list:	Yes			

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

██████████ case will be included in the January to June 2021 OO release not unlawful report.

Signature: Electronically Signed

Cleared By:

Position:

STO:

Date: 16/03/2021 01:11:12 PM

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██████████^{s. 22} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 31/12/2020 11:41:14 AM

Description:

Reason:

Comments: MCP8 cleared by s. 47F(1) - submitted for approval by s. 22(1)(a)(ii)

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details

Facility	Area	Unit	Start Date	End Date
----------	------	------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
--------------------	---------------------------------	-------------------------------

s. 22(1)(a)(ii)

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} August 2019, ^{s. 47F(1)} (date of birth ^{s. 47F(1)}) was transferred from ^{s. 47F(1)} to Australia for ^{s. 47F(1)}. Upon arrival in Australia, ^{s. 47F(1)} was detained under section 189(1) of the Migration Act 1958 (the Act).

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} December 2020 the Minister for Home Affairs exercised his powers under section 195A of the Act to grant ^{s. 47F(1)} a ^{s. 47F(1)} ^{s. 47F(1)} and ^{s. 47F(1)} visa ^{s. 47F(1)}.

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department. At 1452 hours AEDT, ^{s. 47F(1)} was notified of the signed submission and released from immigration detention. As the Department was not notified of the signed submission until the morning of ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was not released from immigration detention on the day of the submission being signed.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department and ^{s. 47F(1)} was released from immigration detention.

On ^{s. 47F(1)} December 2020, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the Assistant Director, Status Resolution Capability that three people were not released from immigration detention on the same day as the section 195A submissions were signed.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department and ^{s. 47F(1)} was released from immigration detention.

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information to the Department.

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^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} December 2020 at 0930 hours AEST, reasonable suspicion ceased after Departmental officers received the signed section 195A submission. At 1452 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department. Upon receipt of the signed section 195A submission, arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention.

Q8. Where is the client now and what are the current circumstances?

On ^{s. 47F(1)} December 2020 at 1452 AEDT ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}. ^{s. 47F(1)} is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

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^{s. 22} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Background:	No	Date:
Situation Report:	No	Date:	Information Update:	No	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:	No			
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Secretary/Deputy Secretary informed:	No			
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State Director:	No			
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Programme Area:	Yes	Email/letter	11/12/2020
National Office Policy Area:	No		
Public Affairs:	No		
Partner Stakeholder Agency	No		
Other	No		

Further Action Required

Copied to incident report distribution list: No

Incident Report will be cleared by: s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the July-December 2020 report to the Ombudsman on the detention and later release of not unlawful non-citizens. Included in this report will be any corrective actions implemented by the Department to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 00005167

STO: II_S STATUS RESOLUTION CAPABILITY, s. 22(1)(a)(ii)

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Date: 31/12/2020 11:41:14 AM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 31/12/2020 12:19:24 PM

Description:

Reason:

Comments: Client was released from detention on s. 47F(1)/12/2020 on a s. 47F(1). Client is currently in the community.

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details

Facility	Area	Unit	Start Date	End Date
----------	------	------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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Compliance Status Resolution	Compliance Status Resolution	s. 22(1)(a)(ii)
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Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} July 2013, ^{s. 47F(1)} (date of birth ^{s. 47F(1)} arrived in Australia at ^{s. 47F(1)} as an ^{s. 47F(1)}. On ^{s. 47F(1)} August 2013, ^{s. 47F(1)} was transferred to the ^{s. 47F(1)} Regional Processing Centre. On ^{s. 47F(1)} August 2019, ^{s. 47F(1)} was transferred to Australia for ^{s. 47F(1)} and was detained under section 189(1) of the Migration Act 1958 (the Act).

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section 195A of the Act to grant ^{s. 47F(1)} a ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} and a ^{s. 47F(1)} ^{s. 47F(1)} (refers). On ^{s. 47F(1)} December 2020 at 0925 hours AEDT, the signed section 195A submission was returned to the Department ^{s. 47F(1)} (refers). On ^{s. 47F(1)} December 2020, at 1155 hours AEDT, ^{s. 47F(1)} was notified of the signed submission and released from immigration detention (^{s. 47F(1)} refers). As the Department was not notified of the signed submission until the morning of ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was not released from immigration detention on the day of the submission being signed.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} December 2020 at 0925 hours AEDT, the signed section 195A submission was returned to the Department (^{s. 47F(1)} refers). On ^{s. 47F(1)} December 2020 at 1155 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and a ^{s. 47F(1)} (^{s. 47F(1)} refers).

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} December 2020 at 0925 hours AEDT, the signed section 195A submission was returned to the Department and arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention (^{s. 47F(1)} refers).

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information to the Department.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} December 2020 at 0925 hours AEDT, reasonable suspicion ceased after Departmental officers received the signed section 195A submission ^{s. 47F(1)} refers). At 1155 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of ^{s. 47F(1)}.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} December 2020 at 0925 hours AEDT, the signed section 195A submission was returned to the Department. Upon receipt of the signed section 195A submission, arrangements immediately commenced to release ^{s. 47F(1)} from immigration detention.

Q8. Where is the client now and what are the current circumstances?

On ^{s. 47F(1)} December 2020, at 1155 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} ^{s. 47F(1)} refers). ^{s. 47F(1)} is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Background:	No	Date:
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Report Generated by ^{s. 22(1)(a)(ii)}
^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Situation Report:	No	Date:	Information Update:	No	Date
Notifications					
Contact Area	Informed	Method Used	Notify Date	Specific Contact Details	
Minister's Office:	No				
Secretary/Deputy Secretary informed:	No				
State Director:	No				
Programme Area:	Yes	Email/letter	17/12/2020	s. 22(1)(a)(ii), Director Status Resolution Operational Support s. 22(1)(a)(ii)	
National Office Policy Area:	No				
Public Affairs:	No				
Partner Stakeholder Agency	No				
Other	No				
Further Action Required					
Copied to incident report distribution list:	Yes				
Incident Report will be cleared by:	s. 22(1)(a)(ii)				

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the July-December report to the Ombudsman on the detention and later release of not unlawful non-citizens. Included in this report will be any corrective actions by the Department to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 00005167

STO: II_S STATUS RESOLUTION CAPABILITY s. 22(1)(a)(ii)

Date: 31/12/2020 12:19:24 PM

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s. 22 on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 25/01/2021 03:18:31 PM

Description: Release Decision of Inappropriate Detention

Reason:

Comments:

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details

Facility	Area	Unit	Start Date	End Date
----------	------	------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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the Assistant Director, Status Resolution Capability DRM

s. 22(1)(a)(ii)

Summary of Incident

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} July 2013, ^{s. 47F(1)} (date of birth ^{s. 47F(1)} arrived in Australia as an ^{s. 47F(1)} and was detained under section 189(3) of Migration Act 1958 (the Act).

On ^{s. 47F(1)} January 2014, ^{s. 47F(1)} was transferred to a Regional Processing Country.

On ^{s. 47F(1)} June 2019, ^{s. 47F(1)} was transferred from ^{s. 47F(1)} to Australia for ^{s. 47F(1)} and was detained under section 189(1) of the Act.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} December 2020, the Minister for Home Affairs exercised his powers under section s195A of the Act to grant ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} and a ^{s. 47F(1)}

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department. At 1050 hours AEDT, ^{s. 47F(1)} was notified of the signed submission and released from immigration detention. As the Department was not notified of the signed submission until the morning of ^{s. 47F(1)} December 2020, ^{s. 47F(1)} was not released from immigration detention on the day of the signed submission.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} December 2020 at 0930hours AEDT, the signed section 195A submission was returned to the Department and ^{s. 47F(1)} was released from immigration detention.

On ^{s. 47F(1)} December 2020, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the Assistant Director, Status Resolution Capability that ^{s. 47F(1)} people were not released from immigration detention on the same day as the section 195A submissions were signed.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department and ^{s. 47F(1)} was released from immigration detention.

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^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q5. What information was provided by the client?

s. 47F(1) did not provide any information to the Department.

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1) December 2020 at 0930 hours AEDT, reasonable suspicion ceased after Department officers received the signed s195A submission. At 1050 hours AEDT, s. 47F(1) was released from immigration detention, as the holder of a s. 47F(1)

Q7. To whom did you escalate the case and when?

On s. 47F(1) December 2020 at 0930 hours AEDT, the signed section 195A submission was returned to the Department. Upon receipt of the signed section 195A submission, arrangements immediately commenced to release s. 47F(1) from immigration detention.

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1) December 2020 at 1050 hours AEDT, s. 47F(1) was released from immigration detention as the holder of s. 47F(1).

s. 47F(1) is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Background:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:

Secretary/Deputy Secretary informed:

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

State Director:

Programme Area:

National Office Policy Area:

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

s. 47F(1) case has been included in the July to December 2020 report to the Ombudsman on the detention and later release of not unlawful non-citizens. Included in this report are corrective actions identified and implemented by the Department to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

Cleared By:

Report Generated by s. 22(1)(a)(ii)
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Position:

STO:

Date: 25/01/2021 03:18:31 PM

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Familv Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete

Decision Date: 02/04/2020
04:50:43 PM

Description:

Reason:

Comments: On s. 47F(1)/02/2020, the Administrative Appeals Tribunal (AAT) made a decision to set aside the decision to cancel s. 47F(1) visa and s. 47F(1) visa came back into effect. On s. 47F(1)/02/2020 at 09:45hrs AEST, the Department became aware of s. 47F(1) lawful status when the AAT forwarded the decision to the s. 47F(1) Immigration Detention Centre s. 47F(1) and the Tribunal Liaison section. s. 47F(1) immediately commenced processes to arrange for s. 47F(1) release from immigration detention and s. 47F(1) was released at approximately 12:50hrs AEST that same day s. 47F(1)

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
Accommodation Details				
Facility	Area	Unit	Start Date	End Date
Referral Details				

Report Generated by s. 22(1)(a)(ii)
s. 22 on Friday, 07/05/2021,
01:56 PM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
--------------------	---------------------------------	-------------------------------

s. 22(1)(a)(ii) ,

Summary of Incident

Q1 Date and location client was detained?

On s. 47F(1)/09/2019 s. 47F(1) visa was cancelled under s. 47F(1) of the Migration Act 1958 (the Act) whilst s. 47F(1) was in criminal custody and as a consequence s. 47F(1) became an unlawful non-citizen.

On s. 47F(1)/09/2019, s. 47F(1) was released from criminal custody and detained under section 189(1) of the Act.

Q2. How did you discover that the client was lawful?

On s. 47F(1) 02/2020, the Administrative Appeals Tribunal (AAT) made a decision to set aside the decision to cancel s. 47F(1) visa and the s. 47F(1) visa came back into effect.

On s. 47F(1)/02/2020 at 09:45hrs AEST, the AAT sent the notification of the decision to the Department s. 47F(1) .

Q3. When did you become aware of the client's lawful status?

On s. 47F(1)/02/2020 at 09:45hrs AEST, the Department became aware of s. 47F(1) lawful status when the AAT forwarded the decision to the s. 47F(1) Immigration Detention Centre s. 47F(1) and the Tribunal Liaison section. s. 47F(1) immediately commenced processes to arrange for s. 47F(1) release from immigration detention and s. 47F(1) was released at approximately 12:50hrs AEST that same day s. 47F(1)

On s. 47F(1)/02/2020 at 9:59hrs AEST, the DRM became aware of the decision when s. 47F(1) informed the DRM that they had received the notification from the AAT and had commenced the process of releasing s. 47F(1) from immigration detention.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

The Department became aware of s. 47F(1) lawful status and therefore the possible inappropriate detention when the AAT sent the set aside decision notification to the Department at 09:45hrs on s. 47F(1)/02/2020.

Q5. What information was provided by the client?

Nil, s. 47F(1) was unaware of the reinstatement of s. 47F(1) visa until s. 47F(1) was notified of the decision shortly before s. 47F(1) release from detention.

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1)/02/2020 at 09:45hrs AEST, reasonable suspicion ceased when the AAT forwarded the notification to the Department.

At approximately 12:50hrs AEST, s. 47F(1) was released from immigration detention.

Q7. To whom did you escalate the case and when?

Not applicable. The process of release had already commenced at the time the case was brought to the DRMs attention.

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1)/02/2020 at approximately 12:50hrs AEST, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1) visa. Arrangements were made for s. 47F(1) to travel from s. 47F(1) to his home in s. 47F(1). He currently resides lawfully in the community as the holder of a s. 47F(1) visa.

Q9. What is the client's immigration history?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Background:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:

Secretary/Deputy Secretary informed:

State Director:

Programme Area:

National Office Policy Area:

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

case will be included in the relevant released not unlawful Omudsman report

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 00005167

STO: II_S STATUS RESOLUTION CAPABILITY, s. 22(1)(a)(ii)

Date: 02/04/2020 04:50:43 PM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 02/04/2020 04:46:16 PM

Description:

Reason:

Comments: On s. 47F 03/2020 at approximately 1535 hours AEDT, s. 47F(1) was released from immigration detention as the holder of a s. 47F(1)

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

Facility	Area	Unit	Start Date	End Date
----------	------	------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
--------------------	---------------------------------	-------------------------------

ISS	Compliance Fields and Removals	s. 22(1)(a)(ii)
-----	--------------------------------	-----------------

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)}/03/2020 at 1440 hours AEDT, ^{s. 47F(1)} (date of birth ^{s. 47F(1)}) was located by the ^{s. 47F(1)} Police at ^{s. 47F(1)} railway station. ^{s. 47F(1)} was referred to Immigration Status Service (ISS) for a status check.
An ISS officer formed reasonable suspicion that ^{s. 47F(1)} was an unlawful non-citizen as ^{s. 47F(1)} visa ^{s. 47F(1)}, granted in association with ^{s. 47F(1)} visa application, had ceased on ^{s. 47F(1)}/05/2012.
^{s. 47F(1)} was detained under section 189 of the Migration Act 1958 (the Act) and transferred to the ^{s. 47F(1)} Immigration Transit Accommodation ^{s. 47F(1)}

Q2. How did you discover that the client was lawful?

On 2/03/2020 at 2008 hours AEDT, ^{s. 47F(1)} case was referred to a Detention Review Manager (DRM).
The DRM identified a potential error in the refusal notification of the ^{s. 47F(1)} visa application, and on ^{s. 47F(1)}/03/2020 at 1206 hours AEDT, the DRM referred ^{s. 47F(1)} case to the Status Resolution Helpdesk (SRHD) for advice ^{s. 47F(1)}.
On ^{s. 47F(1)}/03/2020 at 1231 hours AEDT, the SRHD advised the DRM and Status Resolution Officer (SRO) that ^{s. 47F(1)} was required to be interviewed to establish whether ^{s. 47F(1)} was appropriately notified of ^{s. 47F(1)} visa refusal ^{s. 47F(1)}.
On ^{s. 47F(1)}/03/2020, to expedite the process, the SRHD directly communicated with ^{s. 47F(1)} SRO who confirmed that during the interview, ^{s. 47F(1)} claimed to have never received ^{s. 47F(1)} visa refusal notification. The SRHD provided verbal advice to the SRO that ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} in relation to ^{s. 47F(1)} visa application.,
^{s. 47F(1)} was not correctly notified of ^{s. 47F(1)} visa refusal. This error was due to the involvement of a migration agent ^{s. 47F(1)}.
^{s. 47F(1)} As a result, the Department was unable to rely on ^{s. 47F(1)} deemed receipt in respect of this notice, as it was not given in accordance with s494B(5) of the Act and therefore ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} associated with the ^{s. 47F(1)} visa application.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)}/03/2020 at 1625 hours AEDT, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of email advice from Status Resolution ^{s. 47F(1)} confirming that ^{s. 47F(1)} was released from immigration detention as a holder of a ^{s. 47F(1)}.
The SRO was advised by the SRHD on ^{s. 47F(1)}/03/2020 at approximately 1400 hours AEDT.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} 03/2020 at 1206 hours AEDT, the DRM referred the issue of possible inappropriate detention to the SRHD for advice.

On ^{s. 47F(1)} 03/2020 at 1625 hours AEDT, Status Resolutions ^{s. 47F(1)} advised ^{s. 47F(1)} was released from immigration detention at 1535 hours AEDT.

Q5. What information was provided by the client?

During an interview with a SRO, ^{s. 47F(1)} confirmed that ^{s. 47F(1)} never received his subclass ^{s. 47F(1)} visa refusal notification.

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} 03/2020 at approximately 1400 hours AEDT, reasonable suspicion ceased when the SRHD provided verbal advice to the SRO that ^{s. 47F(1)} continued to hold a ^{s. 47F(1)}.

Q7. To whom did you escalate the case and when?

On ^{s. 47F(1)} 03/2020 at 1605 hours AEDT, the DRM advised relevant stakeholders including Detention Operations ^{s. 47F(1)}; the Commander of Field and Removal Operations; the Superintendent Field Operations; and the Director Status Resolution Capability that ^{s. 47F(1)} case was referred to SRHD for advice.

On ^{s. 47F(1)} 03/2020 at 1016 hours AEDT, the SRHD advice was forwarded to the senior executives to inform them that ^{s. 47F(1)} was released from immigration detention on ^{s. 47F(1)} 03/2020, as the holder of a ^{s. 47F(1)}.

Q8. Where is the client now and what are the current circumstances?

On ^{s. 47F(1)} 03/2020 at approximately 1535 hours AEDT, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}. ^{s. 47F(1)} currently resides in the community lawfully as the holder of a ^{s. 47F(1)}.

Q9. What is the client's immigration history?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Backgrounder:	No	Date:
Situation Report:	Yes	Date: 03/03/2020	Information Update:	Yes	Date: 05/03/2020

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Minister's Office:	No			
Secretary/Deputy Secretary informed:	No			
State Director:	No	Email/letter		
Programme Area:	Yes	Email/letter	05/03/2020	Assistant Secretary and Director Status Resolution Capability Status Resolution Branch
National Office Policy Area:	No			
Public Affairs:	No			
Partner Stakeholder Agency	No			
Other	No			

Further Action Required

Copied to incident report distribution list: No

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

case will be included in the jan to june 2020 released not unlawful ombudsman's report

Signature: Electronically Signed
Cleared By:
Position:
STO:
Date: 02/04/2020 04:46:16 PM

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Department of Immigration
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
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s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 22/01/2020 04:09:57 PM

Description:

Reason:

Comments: On s. 47F(1)/12/2019, s. 47F(1), date of birth s. 47F(1), was located by s. 47F(1) police and referred to ISS for a visa status check.

s. 47F(1) appeared as an unlawful non-citizen on departmental systems as s. 47F(1) granted in association with s. 47F(1) application for a s. 47F(1) visa, appeared to have ceased on s. 47F(1)/06/2009, following the refusal of the s. 47F(1) visa application on s. 47F(1) 04/2009.

On s. 47F(1)/01/2020 at 1422 hours AEDT, the DRM received advice from the SRHD that the refusal notification of s. 47F(1) visa application was defective s. 47F(1) refers) as it was affected by a s. 47F(1). The SRHD advised that as a result of the defective notification, s. 47F(1) continued to hold the associated s. 47F(1), granted on s. 47F(1)/11/2008, and was therefore required to be released from immigration detention as soon as reasonably practicable.

Detention Details

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Detention Type	Start Date	End Date	Release Type	Release Sub Type
Accommodation Details				
Facility	Area	Unit	Start Date	End Date
Referral Details				
Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report		
		s. 22(1)(a)(ii)		

Summary of Incident

Q1 Date and location client was detained?

On s. 47F(1)/12/2019, s. 47F(1), date of birth s. 47F(1) was located by s. 47F(1) police and referred to ISS for a visa status check. s. 47F(1) appeared as an unlawful non-citizen on departmental systems as s. 47F(1) granted in association with his application for a s. 47F(1) s. 47F(1) visa, appeared to have ceased on s. 47F(1) 06/2009, following the refusal of the s. 47F(1) visa application on s. 47F(1) /04/2009. s. 47F(1) was detained under section 189 of the Migration Act 1958 (the Act) and transferred to the s. 47F(1) Immigration Transit Accommodation s. 47F(1).

Q2. How did you discover that the client was lawful?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

On ^{s. 47F(1)} 12/2019 ^{s. 47F(1)} case was referred to a Detention Review Manager (DRM).

On ^{s. 47F(1)} /12/2019, the DRM urgently recalled ^{s. 47F(1)} visa file.

The DRM identified a potential error in the refusal notification of the ^{s. 47F(1)} visa application, and on ^{s. 47F(1)} /01/2020 at 1146 hours AEDT, the DRM sent a request to the Status Resolution Help Desk (SRHD) seeking advice.

On ^{s. 47F(1)} /01/2020 at 1422 hours AEDT, the DRM received advice from the SRHD that the refusal notification of ^{s. 47F(1)} visa application was defective ^{s. 47F(1)} refers) as it was affected by a ^{s. 47F(1)}. The refusal notification did not include the street address of the relevant tribunal in the body of the letter. Further, there was insufficient evidence to infer that a tribunal brochure had been enclosed with the refusal notification letter. Therefore, the notification letter did not comply with Section 66(2)(d)(iv) of the Act.

Section 66(2)(d)(iv) of the Act requires that a notification of a decision to refuse a visa must state where the application for review can be made. In accordance with the decision in ^{s. 47F(1)} v MIAC [2008], when a notification of a reviewable decision fails to state the street addresses of the review tribunal, the notification is defective. In accordance with the decision in SZOFE v MIAC [2010], where the street addresses of the tribunal are not provided in the body of the notification letter, there must be evidence that the tribunal brochure was enclosed with the notification letter. In the absence of such evidence, it is departmental policy that there must be at least two or more separate references to the tribunal brochure being enclosed with the notification letter.

The SRHD advised that as a result of the defective notification ^{s. 47F(1)} continued to hold the associated ^{s. 47F(1)}, granted on ^{s. 47F(1)} 11/2008, and was therefore required to be released from immigration detention as soon as reasonably practicable.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} 01/2020 at 1422 hours AEDT, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the SRHD that ^{s. 47F(1)} continued to hold a ^{s. 47F(1)} granted on ^{s. 47F(1)} 11/2008.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} /01/2020 at 1146 hours AEDT, the DRM referred the issue of possible inappropriate detention to the SRHD for advice.

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information in relation to his case.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1)/01/2020 at 1422 hours AEDT, reasonable suspicion ceased upon receipt of advice from the SRHD that s. 47F(1) continued to hold a s. 47F(1).

Q7. To whom did you escalate the case and when?

On s. 47F(1)/01/2020 at 1430 hours AEDT, the DRM forwarded the SRHD advice to the senior executive including the Regional Director, s. 47F(1) Superintendent Detention Operations, s. 47F(1) and s. 47F(1) Inspector Detention Operations, s. 47F(1) and s. 47F(1) Assistant Director, Status Resolution s. 47F(1) and Acting Director, Status Resolution Capability to inform them that s. 47F(1) was required to be released from immigration detention as soon as practicable.

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1) 01/2020 at approximately 1620 hours AEDT, s. 47F(1) was released from immigration detention. s. 47F(1) is currently residing in the community as the holder of a s. 47F(1).

Q9. What is the client's immigration history?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Backgrounder:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:

Secretary/Deputy Secretary informed:

State Director:

Programme Area:

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

National Office Policy Area:

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the January – June 2020 report to the Ombudsman on the Detention and later release of not unlawful non-citizens. Included in this report will be any corrective actions implemented by the Department in order to mitigate the risk of similar cases occurring in the future with respect to s. 47F(1) circumstances.

Signature: Electronically Signed

Cleared By: s. 22(1)(a)(ii)

Position: 60008776

STO: II_S STATUS RESOLUTION CAPABILITY s. 22(1)(a)(ii)

Date: 22/01/2020 04:09:57 PM

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Australian Government
Department of Immigration
and Border Protection

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

S. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision
Status: Complete

Decision Date: 31/03/2020
07:52:24 AM

Description: MCP 8: Release Decision of Inappropriate Detention

Reason:

Comments: Reasonable suspicion cannot be maintained as s. 47F(1) was deemed to be holder of s. 47F(1) by operation of section 75 of the Act (s. 47F(1) refers).

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
----------------	------------	----------	--------------	------------------

Accommodation Details

Facility	Area	Unit	Start Date	End Date
----------	------	------	------------	----------

Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
--------------------	---------------------------------	-------------------------------

s. 47F(1) BF

DRM

s. 22(1)(a)(ii)

Summary of Incident

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} January 2020, ^{s. 47F(1)} (date of birth ^{s. 47F(1)}) was detained under section 189 of the Migration Act 1958 (the Act) by the ABF. At the time of ^{s. 47F(1)} detention, an officer formed reasonable suspicion that ^{s. 47F(1)} was an unlawful non-citizen because information on departmental systems showed that ^{s. 47F(1)} ^{s. 47F(1)} visa, granted on ^{s. 47F(1)} September 2019, had been cancelled under section ^{s. 47F(1)} of the Act on ^{s. 47F(1)} January 2020.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} March 2020, at approximately 1548 hours AEDT, a Status Resolution Officer (SRO) referred the case to the Status Resolution Helpdesk (SRHD) seeking advice on whether ^{s. 47F(1)} deemed to hold a ^{s. 47F(1)} visa ^{s. 47F(1)} by operation of section 75 of the Act.

On the same day at 1916 hours AEDT, the SRHD provided advice that ^{s. 47F(1)} had been deemed to have been granted a ^{s. 47F(1)} by operation of section 75 of the Act as a delegate of the Minister did not decide the ^{s. 47F(1)} application within two working days ^{s. 47F(1)}. The Detention Review Officer (DRO) was notified in writing on ^{s. 47F(1)} March 2020, following receipt of an email that provided the transaction number reference for the DRO to sight the application form. The ^{s. 47F(1)} was taken to be granted from ^{s. 47F(1)} March 2020 and held for five working days (that is until ^{s. 47F(1)} March 2020). The SRHD advised that as the ^{s. 47F(1)} had not yet ceased, ^{s. 47F(1)} was required to be released from detention as soon as practicable.

At 1934 hours AEDT, the SRHD informed the DRM of ^{s. 47F(1)} lawful status.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} March 2020 at 1934 hours, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the SRHD ^{s. 47F(1)}.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} March 2020 at approximately 1548 hours AEDT, a SRO referred the issue of possible inappropriate detention to the SRHD for advice ^{s. 47F(1)}.

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Department of Immigration
and Border Protection

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q5. What information was provided by the client?

s. 47F(1) did not provide any information in relation to his case.

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1) March 2020 at 1916 hours AEDT, reasonable suspicion ceased upon receipt of advice from the SRHD that s. 47F(1) continued to hold a s. 47F(1) s. 47F(1)

Q7. To whom did you escalate the case and when?

Not applicable. The process of release had already commenced at the time the case was brought to the DRMs attention.

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1) March 2020 at approximately 1920 hours AEDT, s. 47F(1) was released from immigration detention as the holder of a BVE s. 47F(1)

On s. 47F(1) March 2020 at approximately 2322 hours, s. 47F(1) was cancelled under s. 47F(1) of the Act and re-detained under s189(1) s. 47F(1) is currently located at the s. 47F(1) Immigration Transit Accommodation s. 47F(1).

Q9. What is the client's immigration history?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Background:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:

Secretary/Deputy Secretary informed:

State Director:

Programme Area:

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

National Office Policy Area:

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

case will be reported in the Jan-June 2020 Ombudsman's 'released not-unlawful' report

Signature: Electronically Signed

Cleared By:

Position:

STO:

Date: 31/03/2020 07:52:24 AM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision
Status: Complete

Decision Date: 02/10/2020
02:37:27 PM

Description: MCP 8 - DRM - Release Decision of Inappropriate Detention

Reason:

Comments:

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

Facility	Area	Unit	Start Date	End Date
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Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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ABF s. 47F(1)

DRM

s. 22(1)(a)(ii)

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} /05/2020, ^{s. 47F(1)} (date of birth ^{s. 47F(1)}), was detained under section 189 of the Migration Act 1958 (the Act) following ^{s. 47F(1)} release from criminal custody.

At the time of ^{s. 47F(1)} detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as al ^{s. 47F(1)} visas and ^{s. 47F(1)} visa appeared to have ceased naturally. On ^{s. 47F(1)} /02/2019, ^{s. 47F(1)} visa ceased and ^{s. 47F(1)} appeared to be an unlawful non-citizen from this date.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} /05/2020, ^{s. 47F(1)} case was referred to a Detention Review Manager (DRM).

On ^{s. 47F(1)} /05/2020 at 1229 hours AEST, the DRM reviewed the case and sent a request to the Status Resolution Help Desk (SRHD) seeking advice whether the notification of the subclass ^{s. 47F(1)} visa refusal was effective, to ensure the subclass ^{s. 47F(1)} visa ceased correctly due to ^{s. 47F(1)}

On ^{s. 47F(1)} /05/2020 at 1432 hours AEST, the DRM received advice from the SRHD that the refusal decision of ^{s. 47F(1)} subclass ^{s. 47F(1)} visa application was defective due to a jurisdictional error ^{s. 47F(1)} ^{s. 47F(1)}

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)} /05/2020 at 1432 hours AEST, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the SRHD that ^{s. 47F(1)} continued to hold a subclass ^{s. 47F(1)} visa.

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On s. 47F(1)/05/2020 at 1229 hours AEST, the DRM referred the case to the SRHD for advice.

Q5. What information was provided by the client?

s. 47F(1) did not provide any information in relation to s. 47F(1) case.

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1)/05/2020 at 1630 hours AEST, reasonable suspicion ceased upon receipt of advice from the SRHD that s. 47F(1) continued to hold a subclass s. 47F(1) visa s. 47F(1)

Q7. To whom did you escalate the case and when?

On s. 47F(1)/05/2020 at 1111 hours AEST, the DRM advised senior executives, including the Regional Director s. 47F(1) Superintendent Detention Operations, s. 47F(1); Inspector Detention Operations, s. 47F(1) Acting Director, Status Resolution s. 47F(1); Director, General Cancellations Network and Acting Director, Status Resolution Capability that s. 47F(1) case was referred to the SRHD for advice s. 47F(1)

At 1453 hours AEST, the DRM forwarded the SRHD advice to the senior executive to inform them that s. 47F(1) was required to be released from immigration detention as soon as practicable s. 47F(1)

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1)/05/2020 at approximately 1630 hours AEST, s. 47F(1) was released from immigration detention as the holder of a subclass s. 47F(1) visa. s. 47F(1) is currently residing in the community as a lawful non-citizen.

Q9. What is the client's immigration history?

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s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	Date:	Case Background:	Date:
Situation Report:	Date:	Information Update:	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
--------------	----------	-------------	-------------	--------------------------

Minister's Office:

Secretary/Deputy Secretary informed:

State Director:	Yes	Email/letter	15/05/2020
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Programme Area:	Yes	Email/letter	19/05/2020
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National Office Policy Area:	Yes	Email/letter	15/05/2020
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Public Affairs:

Partner Stakeholder Agency

Other

Further Action Required

Copied to incident report distribution list:

Incident Report will be cleared by:

Review/Approval

Cleared

Comments:

██████ case was included in the January to June 2020 report to the Ombudsman on the detention and later release of not unlawful non-citizens. The error in this case was not considered to be systemic and additional quality assurance mechanisms over decision making for similar visa refusals have been implemented to mitigate the risk of similar cases occurring in the future.

Signature: Electronically Signed

Cleared By:

Position:

STO:

Date: 02/10/2020 02:37:27 PM

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

s. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 16/03/2021 01:12:51 PM

Description:

Reason:

Comments: MCP8 cleared by EL1 - s. 22(1)(a)(ii) - to be finalised by EL2s. 22(1)(a)(ii)

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
Accommodation Details				
Facility	Area	Unit	Start Date	End Date
Referral Details				
Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report		

s. 22(1)(a)(ii)

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)} May 2020, ^{s. 47F(1)} (date of birth ^{s. 47F(1)}) attended the ^{s. 47F(1)} Department of Home Affairs office. An officer formed reasonable suspicion that ^{s. 47F(1)} was an unlawful non-citizen because information on departmental systems showed that ^{s. 47F(1)} ^{s. 47F(1)} visa ^{s. 47F(1)} granted on ^{s. 47F(1)} June 2016, had naturally ceased as no further Judicial Review appeal was lodged within 28 days after the Minister Win outcome at the Federal Court on ^{s. 47F(1)} April 2020. ^{s. 47F(1)} appeared on departmental systems as an unlawful non-citizen from the ^{s. 47F(1)} May 2020.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)} May 2020 at 1000 hours WST, ^{s. 47F(1)} was detained under s189(1) of the Migration Act 1958 (the Act).

At 1455 hours AEST, ^{s. 47F(1)} legal representation emailed the Litigations Team and Field Operations ^{s. 47F(1)} to advise that a further Full Federal Court (FFC) application was submitted on ^{s. 47F(1)} May 2020 ^{s. 47F(1)}. Field Operations ^{s. 47F(1)} then contacted the Status Resolution Helpdesk (SRHD) for further advice.

At 1758 hours AEST, the SRHD provided advice ^{s. 47F(1)} that the ^{s. 47F(1)} granted on ^{s. 47F(1)} June 2016, was granted in association with the Federal Court proceedings and therefore will cease in accordance with clause 050.512 which provides in part, that the visa will cease 28 days after the judicial review proceedings are completed (including any proceedings on appeal). As per ^{s. 47F(1)} legal representatives advice that the FFC application was submitted on ^{s. 47F(1)} May 2020, the Department could not take the view the judicial proceedings were completed and it was considered that ^{s. 47F(1)} continued to hold the ^{s. 47F(1)}

At 1923 AEST, Field Operations ^{s. 47F(1)} detention delegate, confirmed in writing they no longer held reasonable suspicion that ^{s. 47F(1)} was an unlawful non-citizen and agreed with the advice of the SRHD ^{s. 47F(1)}. At approximately 1955 hours AEST, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}

Q3. When did you become aware of the client's lawful status?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

On ^{s. 47F(1)} May 2020 at 1923 hours AEST, The Department became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the Field Operations ^{s. 47F(1)} detention delegate they no longer held reasonable suspicion that ^{s. 47F(1)} was an unlawful non-citizen. ^{s. 47F(1)} continued to a ^{s. 47F(1)} granted on ^{s. 47F(1)} June 2017 and was required to be released from immigration detention.

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)} May 2020, at 1000 hours WST, ^{s. 47F(1)} was detained under s189(1) of the Act. At 1455 hours AEST, ^{s. 47F(1)} legal representation emailed the Litigations Team and Field Operations ^{s. 47F(1)} to advise that a further FFC application was submitted on ^{s. 47F(1)} May 2020.

Q5. What information was provided by the client?

^{s. 47F(1)} did not provide any information in relation to his case.

Q6. What date and time did reasonable suspicion cease?

On ^{s. 47F(1)} May 2020 at 1923 hours AEST, reasonable suspicion ceased when the Field Operations ^{s. 47F(1)} detention delegate confirmed they no longer held reasonable suspicion following the advice received from the SRHD at 1758 hours AEST. At 1955 hours AEST, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)}

Q7. To whom did you escalate the case and when?

Following the email from ^{s. 47F(1)} legal representation, Field Operations ^{s. 47F(1)} escalated the case to the SRHD for further advice.

On ^{s. 47F(1)} May 2020 at 1923 hours AEST (following the SRHD's advice at 1758 hours AEST), the Field Operations ^{s. 47F(1)} detention delegate confirmed in writing that they no longer held reasonable suspicion. This email included the SRHD; ^{s. 47F(1)} Field Operations Officers; Detention Review Manager team; ^{s. 47F(1)} Status Resolution Officer; and Director, Status Resolution Capability.

Q8. Where is the client now and what are the current circumstances?

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Inappropriate Detention Release Decision Report

As at 07/05/2021

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On ^{s. 47F(1)} May 2020 at 1955 hours AEST, ^{s. 47F(1)} was released from immigration detention as the holder of a ^{s. 47F(1)} and is currently residing in the community.

Q9. What is the client's immigration history?

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^{s. 22(1)(a)(ii)} on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

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S. 47F(1)

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Background:	No	Date:
Situation Report:	No	Date:	Information Update:	No	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
Minister's Office:	No			
Secretary/Deputy Secretary informed:	No			
State Director:	Yes	Email/letter	12/05/2020	
Programme Area:		Email/letter	12/05/2020	
National Office Policy Area:	No			
Public Affairs:	No			
Partner Stakeholder Agency	No			

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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Other

No

Further Action Required

Copied to incident report distribution list:

No

Incident Report will be cleared by:

s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

s. 47F(1) case will be included in the January to June 2021 OO release not unlawful report.

Signature:

Electronically Signed

Cleared By:

s. 22(1)(a)(ii)

Position:

00005167

STO:

II_S STATUS RESOLUTION CAPABILITY

s. 22(1)(a)(ii)

Date:

16/03/2021 01:12:51 PM

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s. 22 on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Client Details

Service Num	Family Name	Given Name(s)	Alias	ICSE Client Id	Gender	Date of Birth	Citizenship	In Detention
-------------	-------------	---------------	-------	----------------	--------	---------------	-------------	--------------

S. 47F(1)

Decision(s)

Service: Compliance Status Resolution

Decision: MCP 8: Inappropriate Detention Release Decision Status: Complete Decision Date: 17/01/2020 01:52:52 PM

Description:

Reason:

Comments: Sent for approval to s. 22(1)(a)(ii)

Detention Details

Detention Type	Start Date	End Date	Release Type	Release Sub Type
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Accommodation Details

Facility	Area	Unit	Start Date	End Date
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Referral Details

Source of Referral	Responsible DIAC Programme Area	Officer Preparing this Report
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ABF S. 47F(1)

Status Resolution Capability

s. 22(1)(a)(ii)

Summary of Incident

Report Generated by s. 22(1)(a)(ii)
s. 22(1)(a)(ii) on Friday, 07/05/2021,
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Inappropriate Detention Release Decision Report

As at 07/05/2021

MCP 8

Q1 Date and location client was detained?

On ^{s. 47F(1)}/12/2019, ^{s. 47F(1)} date of birth ^{s. 47F(1)} was located by ABF ^{s. 47F(1)} following his release from criminal custody. ^{s. 47F(1)} was detained under section 189 of the Migration Act 1958 (the Act).

At the time of ^{s. 47F(1)} detention, ^{s. 47F(1)} appeared as an unlawful non-citizen on departmental systems as ^{s. 47F(1)} granted in association with ^{s. 47F(1)} application for a ^{s. 47F(1)} ^{s. 47F(1)} and ^{s. 47F(1)} visa appeared to have ceased on ^{s. 47F(1)}/11/2015.

Q2. How did you discover that the client was lawful?

On ^{s. 47F(1)}/4/12/2019, ^{s. 47F(1)} case was referred to a Detention Review Manager (DRM), prior to ^{s. 47F(1)} detention on ^{s. 47F(1)}/12/2019.

On ^{s. 47F(1)}/12/2019 at 1508 hours AEDT, the DRM sent a request to the Status Resolution Help Desk (SRHD) seeking advice on whether the notification of the subclass ^{s. 47F(1)} visa refusal was effective as Decipha were unable to confirm that the notification was dispatched by registered mail within three working days of the date of the notice.

On ^{s. 47F(1)}/01/2020 at 1610 hours AEDT, the DRM received advice from the SRHD that the refusal notification of ^{s. 47F(1)} subclass ^{s. 47F(1)} visa application was defective ^{s. 47F(1)} ^{s. 47F(1)}

^{s. 47F(1)}, when read as a whole, the notice did not comply with section 66(2)(d)(i) of the Act. The SRHD advised that as a result of the defective notification, ^{s. 47F(1)} continued to hold the subclass ^{s. 47F(1)} visa and associated ^{s. 47F(1)} and was therefore required to be released from immigration detention as soon as reasonably practicable.

Q3. When did you become aware of the client's lawful status?

On ^{s. 47F(1)}/01/2020 at 1610 hours AEDT, the DRM became aware of ^{s. 47F(1)} lawful status upon receipt of advice from the SRHD that ^{s. 47F(1)} continued to hold a subclass ^{s. 47F(1)} visa and associated ^{s. 47F(1)}

Q4. At what point was the issue of possible inappropriate detention first raised with DIAC Officer?

On ^{s. 47F(1)}/12/2019 at 1508 hours AEDT, the DRM referred the issue of possible inappropriate detention to the SRHD for advice.

Q5. What information was provided by the client?

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s. 47F(1) did not provide any information in relation to s. 47F(1) case.

Q6. What date and time did reasonable suspicion cease?

On s. 47F(1)/01/2020 at 1610 hours AEDT, reasonable suspicion ceased upon receipt of advice from the SRHD that s. 47F(1) continued to hold a subclass s. 47F(1) visa and associated s. 47F(1)

Q7. To whom did you escalate the case and when?

On s. 47F(1)/01/2020 at 1628 hours AEDT, the DRM forwarded the SRHD advice to the senior executive including the Regional Director, s. 47F(1) Superintendent Detention Operations s. 47F(1) Inspector Detention Operations s. 47F(1); Acting Director, Status Resolution s. 47F(1) Director, General Cancellations Network and Acting Director, Status Resolution Capability to inform them that s. 47F(1) was required to be released from immigration detention as soon as practicable.

Q8. Where is the client now and what are the current circumstances?

On s. 47F(1)/01/2020 at approximately 1436 hours AWST, s. 47F(1) was released from immigration detention. On the same day at 1611 hours AWST, s. 47F(1) subclass s. 47F(1) visa and s. 47F(1) were cancelled under section s. 47F(1) of the Act and s. 47F(1) was re-detained s. 47F(1) is currently in immigration detention at s. 47F(1) IDC.

Q9. What is the client's immigration history?

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S. 47F(1)

Attachment(s)

Current Issues Brief:	No	Date:	Case Backgrounder:	No	Date:
Situation Report:	No	Date:	Information Update:	No	Date:

Notifications

Contact Area	Informed	Method Used	Notify Date	Specific Contact Details
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Minister's Office:	No
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Secretary/Deputy Secretary informed: No

State Director: Yes Email/letter 02/01/2020 Regional Director ^{s. 47F(1)} s. 22(1)(a)(ii)

Programme Area: Yes Email/letter 02/01/2020 Acting Director, Status Resolution Capability, s. 22(1)(a)(ii)

National Office Policy Area: No

Public Affairs: No

Partner Stakeholder Agency

Other No

Further Action Required

Copied to incident report distribution list: Yes

Incident Report will be cleared by: s. 22(1)(a)(ii)

Review/Approval

Cleared

Comments:

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s. 47F(1) case will be included in the January – June 2020 report to the Ombudsman on the Detention and later release of not unlawful non-citizens. Included in this report will be any corrective actions implemented by the Department in order to mitigate the risk of similar cases occurring in the future with respect to s. 47F(1) circumstances.

Signature: Electronically Signed
Cleared By: s. 22(1)(a)(ii)
Position: 60008776
STO: II_S STATUS RESOLUTION CAPABILITY s. 22(1)(a)(ii)
Date: 17/01/2020 01:52:52 PM

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