

S. 42(1)

NZ4Q

- Release

- Third party removal - will that help show intent to removal?

ask permission of NZ4Q.

s. 33(a)(iii)

s. 33(a)(i)

Let s. 47F(1) know who is representing NZ4Q?

S. 42(1)

19/10/2023

NZYQ

Min O'Neill

David
Gavin

David Gavin
s. 33(a)(iii)

*Consider whether an option
↳ including involuntary*

s. 42(1)

*Also conditions that would
apply to a BVE for Mr
LMT*

s. 42(1), s. 47C(1)

s. 47E(d)

Talk to me next week

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

CS - arrange deep dive w Min

Policy discussion on NZYQ (Al Kateb)

Monday, 30 October 2023 3:23 PM

Meeting Date: 31/10/2023 4:00 PM

Location: Microsoft Teams Meeting

Link to Outlook Item: [click here](#)

Invitation Message

OFFICIAL

Good afternoon,

Locking in this meeting as per Clare's email to s. 47F(1). Keen to do a policy deep dive on what the policy options might be if the Commonwealth loses in Al-Kateb.

Please note, papers will follow.

Regards

s. 47F(1)

s. 47F(1)

Executive Assistant to Clare Sharp

Group Manager | Legal Group

Department of Home Affairs

P: s. 47F(1)



The Department of Home Affairs and the Australian Border Force acknowledge the Traditional Custodians throughout Australia and their continuing connection to land, sea and the community. We pay respect to all Aboriginal and Torres Strait Islander peoples, their cultures and to their Elders past and present.

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 477 734 095 419

Passcode: qzCi4T

[Download Teams](#) | [Join on the web](#)

Join with a video conferencing device

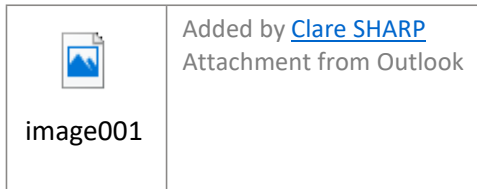
teams@vid.homeaffairs.gov.au

Video Conference ID: 132 367 813 8

[Alternate VTC instructions](#)

[Learn More](#) | [Meeting options](#)

OFFICIAL

Content**Participants**

-  [Clare SHARP](#) (Meeting Organizer)
-  s. 47F(1)
-  s. 47F(1) (Accepted in Outlook)
-  [David GAVIN](#) (Accepted in Outlook)
-  s. 47F(1) (Accepted in Outlook)
-  [Michael THOMAS](#)
-  [Sandra JEFFERY](#) (Accepted in Outlook)
-  [Chad HODGENS](#) (Accepted in Outlook)
-  s. 47F(1)
-  [Meredith BYRON](#)
-  [Alice CRAWFORD](#) (Accepted in Outlook)
-  s. 47F(1) (Declined in Outlook)
-  s. 47F(1)
-  s. 47F(1)

Notes

s. 42(1)

s. 33(a)(iii)

David - s. 33(a)(iii)

Released by the Department of Home Affairs
under the *Freedom of Information Act 1982*

s. 33(a)(iii)

s. 47C(1)

s. 33(a)(i)

s. 42(1)

s. 47C(1)

s. 47C(1)

s. 47C(1)

s. 47C(1), s. 47E(d)

s. 42(1)

s. 47C(1)

Released by the Department of Home Affairs
under the *Freedom of Information Act 1982*

Post the hearing, we will need to engage again as a group and s. 42(1)

Would welcome a further discussion with you.

Minister O'Neill flagged her keenness for a deep dive on this - hasn't been scheduled

Discussion about legal advice

Tuesday, 21 November 2023

10:16 AM

Phone call from Alice Crawford.

s. 47C(1)

This is based on a meeting you had with Minister O'Neil on 19 October 2023.

s. 42(1), s. 47E(d)

s. 47C(1)

Clare - sounds ok. Will need to quickly think about it and will call you back.

s. 47C(1)

Released by the Department of Home Affairs
under the *Freedom of Information Act 1982*

From: [Marian AGBINYA](#)
To: s. 47F(1); s. 47F(1)
Cc: s. 47F(1); s. 47F(1); s. 47F(1); [Stephanie FOSTER](#); [Michael PEZZULLO](#); [Michael OUTRAM](#); [Clare SHARP](#); [Tim FITZGERALD](#); [Sandra JEFFERY](#); [David GAVIN](#); [Chad HODGENS](#); [Justine JONES](#); s. 47F(1); [Steve WEBBER](#); s. 47F(1); s. 47F(1); s. 47F(1); s. 47F(1); [Josefina WELLINGS BOOTH](#); s. 47F(1); s. 47F(1); s. 47F(1); [MO Registration](#); s. 47F(1); s. 47F(1); [Home Affairs Media](#); [General Counsel Executive Support](#)
Subject: NZYQ v Minister - S28/2023 - s. 47F(1) - indefinite detention/ Al Kateb challenge - 7/8 November hearing date. [SEC=PROTECTED, ACCESS=Legal-Privilege]
Date: Tuesday, 19 September 2023 6:59:18 PM
Attachments: s. 22(1)(a)(ii)

PROTECTED
Legal-Privilege

Dear s. 47F(1) and s. 47F(1)

S. 42(1)

S. 42(1)

Third country removal efforts

S. 33(a)(iii)

I will continue to update you as the case develops.

Kind regards,

Marian Agbinya (she/her)

Assistant Secretary

Migration and Citizenship Litigation Branch | Legal Group

Telephone: S. 47F(1)

Mobile: S. 47F(1)

Email: S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)

Legal Professional Privilege

This email may contain legal advice that is subject to legal professional privilege. Care should be taken to avoid unintended waiver of that privilege. Legal Division should be consulted prior to any decision to disclose the existence or content of any advice contained in this email to a third party.

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From: Clare SHARP S. 47F(1) @homeaffairs.gov.au>
Sent: Tuesday, 5 September 2023 7:42 PM
To: S. 47F(1) S. 47F(1) @HOMEAFFAIRS.GOV.AU>; S. 47F(1)
S. 47F(1) @HOMEAFFAIRS.GOV.AU>
Cc: S. 47F(1) @homeaffairs.gov.au>; S. 47F(1)
@homeaffairs.gov.au>; S. 47F(1)
@HOMEAFFAIRS.GOV.AU>; Stephanie FOSTER
S. 47F(1) @homeaffairs.gov.au>; Michael PEZZULLO
S. 47F(1) @homeaffairs.gov.au>; Michael OUTRAM S. 47F(1) @abf.gov.au>; Tim
FITZGERALD S. 47F(1) @abf.gov.au>; Sandra JEFFERY S. 47F(1) @abf.gov.au>; David
GAVIN S. 47F(1) @homeaffairs.gov.au>; Chad HODGENS
S. 47F(1) @homeaffairs.gov.au>; Justine JONES S. 47F(1) @homeaffairs.gov.au>; S. 47F(1)
@homeaffairs.gov.au>; Steve WEBBER
S. 47F(1) @homeaffairs.gov.au>; S. 47F(1) @homeaffairs.gov.au>;
S. 47F(1) @homeaffairs.gov.au>; S. 47F(1)
@homeaffairs.gov.au>; S. 47F(1) @homeaffairs.gov.au>;
Josefina WELLINGS BOOTH S. 47F(1) @homeaffairs.gov.au>; S. 47F(1)
@homeaffairs.gov.au>; S. 47F(1) @homeaffairs.gov.au>; S. 47F(1)
@HOMEAFFAIRS.GOV.AU>; MO Registration
S. 47E(d) @homeaffairs.gov.au>; DLO.Giles S. 47E(d) @homeaffairs.gov.au>; DLO.O'Neil
S. 47E(d) @homeaffairs.gov.au>; Media Operations S. 47E(d) @homeaffairs.gov.au>; General
Counsel Executive Support S. 47E(d) @homeaffairs.gov.au>; Peter FRANK
S. 47F(1) @homeaffairs.gov.au>
Subject: RE: CM: NZYQ v Minister - S28/2023 - S. 47F(1) - indefinite detention/ Al Kateb
challenge S. 42(1) [SEC=PROTECTED,
ACCESS=Legal-Privilege]

PROTECTED
Legal-Privilege

Dear S. 47F(1) and S. 47F(1)

S. 42(1)

Clare Sharp

Group Manager

Legal Group

Department of Home Affairs

P: s. 47F(1) | **M:** s. 47F(1)**E:** s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

-

Executive Assistant – s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au))**Acknowledgement of Country Signature Block Graphic 2022 (1)**

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From: Peter FRANK s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>**Sent:** Tuesday, 22 August 2023 12:52 PM**To:** s. 47F(1) s. 47F(1) [@HOMEAFFAIRS.GOV.AU](mailto:s.47F(1)@HOMEAFFAIRS.GOV.AU)>; s. 47F(1)s. 47F(1) [@HOMEAFFAIRS.GOV.AU](mailto:s.47F(1)@HOMEAFFAIRS.GOV.AU)>**Cc:** s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1)[@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1)[@HOMEAFFAIRS.GOV.AU](mailto:s.47F(1)@HOMEAFFAIRS.GOV.AU)>; Stephanie FOSTERs. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; Michael PEZZULLOs. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; Michael OUTRAM s. 47F(1) [@abf.gov.au](mailto:s.47F(1)@abf.gov.au)>; TimFITZGERALD s. 47F(1) [@abf.gov.au](mailto:s.47F(1)@abf.gov.au)>; Sandra JEFFERY s. 47F(1) [@abf.gov.au](mailto:s.47F(1)@abf.gov.au)>; ClareSHARP s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; David GAVIN s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>;Chad HODGENS s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; Justine JONESs. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>;Steve WEBBER s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1)[@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>;s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1)[@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; Josefina WELLINGS BOOTHs. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>;s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>; s. 47F(1)[@HOMEAFFAIRS.GOV.AU](mailto:s.47F(1)@HOMEAFFAIRS.GOV.AU)>; MO Registrations. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)>; DLO.Giles s. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)>; DLO.O'Neils. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)>; Media Operations s. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)>; GeneralCounsel Executive Support s. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)>**Subject:** CM: NZYQ v Minister - S28/2023 - s. 47F(1) - indefinite detention/ Al Kateb challenge - s. 42(1)

[SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

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Legal-Privilege

Dear ^{s. 47F(1)} and ^{s. 47F(1)} (for visibility ^{s. 47F(1)} and ^{s. 47F(1)})

S. 42(1)

S. 42(1)

Peter Frank

A/g Assistant Secretary
Migration & Citizenship Litigation Branch
Legal Group
Department of Home Affairs
P: 02 S. 47F(1) | M: S. 47F(1)
E: S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)

Legal-Privilege
OFFICIAL: Sensitive

From: Marian AGBINYA S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)>
Sent: Friday, 26 May 2023 10:19 AM
To: S. 47F(1) S. 47F(1) [@HOMEAFFAIRS.GOV.AU](mailto:S.47F(1)@HOMEAFFAIRS.GOV.AU)>
Cc: S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)>; S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)>; S. 47F(1) [@HOMEAFFAIRS.GOV.AU](mailto:S.47F(1)@HOMEAFFAIRS.GOV.AU)>;
Stephanie FOSTER S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)>; Michael PEZZULLO

s. 47F(1) [redacted] @homeaffairs.gov.au>; Michael OUTRAM s. 47F(1) [redacted] @abf.gov.au>; Tim FITZGERALD s. 47F(1) [redacted] @abf.gov.au>; Sandra JEFFERY s. 47F(1) [redacted] @abf.gov.au>; s. 47F(1) [redacted] @abf.gov.au>; Sally MCAULIFFE s. 47F(1) [redacted] @abf.gov.au>; Steve WEBBER s. 47F(1) [redacted] @homeaffairs.gov.au>; s. 47F(1) [redacted] @homeaffairs.gov.au>; Justine JONES s. 47F(1) [redacted] @homeaffairs.gov.au>; s. 47F(1) [redacted] @homeaffairs.gov.au>; Sarah MARSHALL s. 47F(1) [redacted] @homeaffairs.gov.au>; s. 47F(1) [redacted] @homeaffairs.gov.au>; s. 47F(1) [redacted] @abf.gov.au>; s. 47F(1) [redacted] @homeaffairs.gov.au>; s. 47F(1) [redacted] @homeaffairs.gov.au>; s. 47E(d) [redacted] @abf.gov.au>; MO Registration s. 47E(d) [redacted] @homeaffairs.gov.au>; DLO.O'Neil s. 47E(d) [redacted] @homeaffairs.gov.au>; DLO.Giles s. 47E(d) [redacted] @homeaffairs.gov.au>; Media Operations s. 47E(d) [redacted] @homeaffairs.gov.au>; Consular Engagement and Liaison Team s. 47E(d) [redacted] @abf.gov.au>
Subject: NZYQ v Minister - S28/2023 - s. 47F(1) [redacted] - indefinite detention/ Al Kateb challenge. s. 42(1) [redacted]
[redacted] . [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

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S. 42(1)

S. 42(1)

Kind regards,

Marian Agbinya (she/her)
Assistant Secretary

Migration and Citizenship Litigation Branch | Legal Group

Telephone: s. 47F(1)

Mobile: s. 47F(1)

Email: s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

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From: [Clare SHARP](#)
To: [General Counsel Executive Support](#)
Subject: CM: FW: MHA discussion 19 Oct 2023 [SEC=PROTECTED] [Tags: NZYQ, s. 22(1)(a)(ii), Record of conversation]
Date: Thursday, 23 November 2023 6:20:57 PM
Attachments: [MHA discussion 19 Oct 2023.docx](#)

Tags: NZYQ, s. 22(1)(a)(ii), Record of conversation

PROTECTED

This is a useful record of the 19 October 2023 meeting record.

Clare

Clare Sharp

Group Manager

Legal Group

Department of Home Affairs

P: s. 47F(1) | **M:** s. 47F(1)

E: s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

-

Executive Assistant – s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

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From: David GAVIN s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>
Sent: Tuesday, 21 November 2023 2:26 PM
To: Clare SHARP s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>
Subject: FW: MHA discussion 19 Oct 2023 [SEC=PROTECTED]

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For your records

David Gavin
Assistant Secretary
Compliance and Community Protection Policy Branch
Immigration Policy Division, Immigration Group
Department of Home Affairs

P: s. 47F(1) M: s. 47F(1)
E: s. 47F(1) [homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

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From: David GAVIN s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>
Sent: Monday, 20 November 2023 10:16 PM
To: David GAVIN s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>
Subject: FW: MHA discussion 19 Oct 2023 [SEC=PROTECTED]

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David Gavin
Assistant Secretary
Compliance and Community Protection Policy Branch
Immigration Policy Division | Immigration Group
Department of Home Affairs
P: s. 47F(1) M: s. 47F(1)
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From: Clare SHARP s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>
Sent: Thursday, 19 October 2023 12:07 PM
To: David GAVIN s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)>
Subject: RE: MHA discussion 19 Oct 2023 [SEC=PROTECTED]

~~PROTECTED~~

Thanks David – I've expanded the notes a bit to be clear about who said what.

Clare

Clare Sharp

Group Manager

Legal Group

Department of Home Affairs

P: s. 47F(1) | M: s. 47F(1)
E: s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

-

Executive Assistant – S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au))

Acknowledgement of Country Signature Block Graphic 2022 (1)



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From: David GAVIN S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)>

Sent: Thursday, 19 October 2023 11:57 AM

To: Clare SHARP S. 47F(1) [@homeaffairs.gov.au](mailto:S.47F(1)@homeaffairs.gov.au)>

Subject: MHA discussion 19 Oct 2023 [SEC=PROTECTED]

CLARE SHARP OVERVIEW OF CURRENT STATE OF PLAY

s. 33(a)(iii)

- Clare Sharp provided a brief reminder of the facts of s. 47F(1) case (Stateless, Myanmar Rohingya, convicted child sex offender)

s. 42(1), s. 47C(1)

s. 42(1), s. 47C(1)

s. 47C(1)

s. 33(a)(iii), s. 47E(d)

s. 42(1), s. 47E(c)

s. 47C(1), s. 47E(d)

s. 42(1), s. 47C(1), s. 47E(d)

s. 42(1)

From: [David GAVIN](#)
To: s. 47F(1) s. 47F(1)
Cc: s. 47F(1) s. 47F(1) s. 47F(1) s. 47F(1) s. 47F(1) [Stephanie FOSTER](#); [Michael OUTRAM](#); [Clare SHARP](#); [Marian AGBINYA](#); [Tim FITZGERALD](#); [Sandra JEFFERY](#); [Chad HODGENS](#); [Justine JONES](#); s. 47F(1) s. 47F(1) s. 47F(1); [Steve WEBBER](#); s. 47F(1) s. 47F(1) s. 47F(1) s. 47F(1) s. 47F(1) s. 47F(1); [Josefina WELLINGS BOOTH](#); s. 47F(1) s. 47F(1); s. 47F(1); [MO Registration](#); [DLO.Giles](#); [DLO.O"Neil](#); [Home Affairs Media](#); [General Counsel Executive Support](#)
Subject: NZYQ v Minister - S28/2023 - s. 47F(1) - indefinite detention/ AI Kateb challenge - 7/8 November hearing date [SEC=PROTECTED, ACCESS=Legal-Privilege]
Date: Tuesday, 3 October 2023 6:44:28 PM
Attachments: s. 42(1)

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Dear s. 47F(1) and s. 47F(1)

Please find below an update on work underway in response to the NZYQ challenge, and latest developments.

s. 42(1)

s. 33(a)(iii), s. 47E(d)

s. 42(1)

s. 42(1)

Commonwealth submission to the High Court

The Commonwealth's submission in relation to the High Court proceedings were filed on 3 October 2023. Please see [attached](#) for your visibility. s. 42(1)

[REDACTED]

BACKGROUND

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

I hope this is of assistance

Kind Regards

David

David Gavin
Acting General Manager
Immigration Policy
Immigration Group
Department of Home Affairs
P: s. 47F(1) | M: s. 47F(1)
E: s. 47F(1) [@homeaffairs.gov.au](mailto:s.47F(1)@homeaffairs.gov.au)

Lines of Effort Plan – AI -Kateb Challenge – Weekly SES Coordination Meeting – NZYQ vs Minister –S28/2023 – Weekly update 3 October 2023

Matter Update – Hearing Date: Matter Listed to be heard in the High Court on 7 to 8 November 2023. – Third party interveners: On 15 September 2023, the Australian Human Rights Commission, the Human Rights Law Centre and Kaldor Law Centre (jointly) filed Amicus submissions to the High Court (seeking to be heard as friends of the court amicus curiae) in support of NZYQ. – Ministerial Intervention: On 18 September 2023, MICMA declined to intervene in NZYQ’s case under s195A and 197AB of the Migration Act. – S. 42(1) – The Commonwealth’s submission to proceedings, drafted by the Solicitor-General, due today 3 October 2023.			
Activity	Discussion	Next Steps/ Delivery Timeframes (indicative)	Lead
Develop reform options in light of implications to the Detention Framework	S. 42(1)	Workshop placeholder sent out for 11 October 2023	Detention Policy Branch Home Affairs – Chad Hodgens
Data Management	• Profiling the detention cohort for persons likely to be effected by a judgement outcome: for example: o s501 Character history o third country removals’ case list (noting the manual effort required to update and maintain). ▪ persons in detention who are confirmed stateless ▪ persons subject to section 197C(3) - ‘protection finding’ o cases where voluntary removal cannot be effected (not owed protection) but cannot be returned (i.e. due to conflict in country) o involuntary removals – won’t cooperate o average duration in detention of cohorts (available in recent Senate Estimates Briefings). • Profiling of other long term detainees. • Minister’s Office requested advice on detainees with criminal histories who have parole conditions in place if released into the community (potentially a manual data extraction focussing on Tier 1 High Risk criminal cohort).	Develop a Dashboard prototype for collaboration on required data sets and design with stakeholders. First draft to be circulated to stakeholders and MOs week of 3 October 2023.	Status Resolution S. 47F(1) / S. 47F(1)
Community placement of affected detention cohorts	S. 33(a)(i)	Timeframes to be confirmed	S. 47E(d)
S. 42(1)	Operations Plan (OPLAN) - outlining steps to be taken should the plaintiff need to be released from detention at the end of the hearing on the 7 th or 8 th of November 2023.	Provide draft OPLAN, by 6 October 2023 (Detention Operations)	ABF National Detention & Removals – Sandra Jeffry
	S. 47E(d)	Drafting Ministerial Intervention Sub(s) for consultation.	Status Resolution Branch in consultation with Legal Division
	Engage with law enforcement counterparts to manage risks to the community and any conditions of release required to be imposed on certain detainees.	Timeframes to be confirmed	To be confirmed
	S. 47C(1)	Timeframes to be confirmed	Status Resolution Network Status Resolution and Visa Cancellation Division – Justine Jones

Removal and Third Country Resettlement	s. 42(1)		
	The approach to the Bangladeshi High Commission in Canberra on 26 September 2023, confirmed that there were no prospects for any resettlement of this nature. A Third Person Note was sent the Saudi Embassy on 27 September 2023, s. 33(a)(iii)	Approaches to Embassies made	International Division-supported by Legal guidance
	s. 33(a)(iii)		
Communications and Media Management	In readiness for possible media coverage surrounding the listed hearing, prepare a communications plan and Talking Points. ABF to reach out to Media Branch on potential media points surrounding the potential release of NZYQ from detention.	Timeframes to be confirmed	Media in consultation with Legal Division and ABF

S. 42(1)

s. 33(a)(iii)

S. 42(1)

Kind regards,

David Gavin
Acting First Assistant Secretary
Immigration Policy, Integrity and Assurance Division
Immigration Group
Department of Home Affairs
P: s. 47F(1) | M: s. 47F(1)
E: s. 47F(1) @homeaffairs.gov.au

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Lines of Effort – AI -Kateb Challenge – NZYQ vs Minister –S28/2023 – Weekly update 10 October 2023

Key Events Update

– Hearing date: Matter remains listed to be heard in the High Court on 7 to 8 November 2023.

– s. 42(1)

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

– s. 42(1)

Previously reported

– Submission: On 3 October 2023 the Commonwealth’s submission to proceedings, prepared by the Solicitor-General, was submitted to the High Court.

– s. 42(1)

– Ministerial Intervention: On 18 September 2023, MICMA declined to intervene in NZYQ’s case under s195A and 197AB of the Migration Act.

– Third party interveners: On 15 September 2023, the Australian Human Rights Commission, the Human Rights Law Centre and Kaldor Law Centre (jointly) filed Amicus submissions to the High Court (seeking to be heard as friends of the court *amicus curiae*) in support of NZYQ.

Activity Underway	Description	Actions/ Progress/ Timeframes (indicative)	Lead
Develop reform options in light of implications to the Detention Framework	s. 47E(d)	Workshop held on 11 October 2023. Summary and actions to be provided to MO within 14 days.	Detention Policy: Chad Hodgens
Data Management	• Profiling the detention cohort for persons likely to be effected by a judgement outcome: for example: o s501 Character history o third country removals' case list (noting the manual effort required to update and maintain). ▪ persons in detention who are confirmed stateless ▪ persons subject to section 197C(3) - 'protection finding' o cases where voluntary removal cannot be effected (not owed protection) but cannot be returned (i.e. due to conflict in country) o involuntary removals – won't cooperate o average duration in detention of cohorts (available in recent Senate Estimates Briefings). • Profiling of other long term detainees. • Minister’s Office requested advice on detainees with criminal histories who have parole conditions in place if released into the community (potentially a manual data extraction focussing on Tier 1 High Risk criminal cohort).	Initial Dashboard prototype circulated for review. Stakeholders to provide feedback to Tracey Malone	Status Resolution: s. 47F(1) / s. 47F(1)
Community placement of affected detention cohorts	s. 33(a)(i)	Character and Cancellation Branch to provide a summary on the seven security impacted cases. Timeframes to be confirmed Chad Hodgens & Meredith Byron to engage with Intelligence Division.	Character & Cancellation: Meredith Byron

s. 42(1)	Operations Plan (OPLAN) outlining steps to be taken should plaintiff NZYQ need to be released from detention at the end of the hearing on 7-8 November 2023 has been circulated to stakeholders. The specific action items and the various responsible action officers/areas, include:	OPLAN, circulated to stakeholders for awareness and line area action.	ABF National Detention & Removals (Detention Operations)
	- A Signal group to be created, for stakeholders to be advised of developments during the hearing. Stakeholders/attendees of the Weekly Meetings are requested to provide their key points of contact to Jodi Stubbs, who will create the Signal group, by COB 20 October. - The Minister's office have advised at this time that the Minister is available on the hearing dates, and s. 47C(1) SRSS Program will identify and brief a NSW SRSS Service Provider and develop a plan for potential release (to be completed in the w/c 30 October). Detention Operations will engage with the relevant law enforcement agency/agencies in relation to potential release, and seek to confirm requirements / restrictions in respect of a community placement – noting this advice needs to be fed into the SRSS plan. Engagement to occur by 27 October, so advice can be provided to SRSS (and other stakeholders if needed). - Communications – talking points are required for both media and staff who are managing NZYQ and other detainees. Respective business areas to provide media with key talking points relevant to their function/role in the matter – Legal to lead on points regarding the court hearing, legal issues and potential release. Media to coordinate TPs. Talking points to be completed w/c 30 October 2023, email to S. 47F(1) @homeaffairs.gov.au - Should the court order release of NZYQ from detention, s. 42(1)		Respective line areas responsible for specific action item(s) as set out in <i>Action Plan</i> NZYQ doc.
	s. 47E(d)	Drafting Ministerial Intervention Sub(s) for consultation. Timeframes to be confirmed	Status Resolution Branch in consultation with Legal Division
	Engage with law enforcement counterparts to manage risks to the community and any conditions of release required to be imposed on certain detainees.	To be confirmed	Status Resolution Network
Removal and Third Country Resettlement	s. 47C(1)	Timeframes to be confirmed	Status Resolution and Visa Cancellation Division
	s. 42(1)	Letter response received 22 Sept 2023	Legal Division
	The approach to the Bangladeshi High Commission in Canberra on 26 September 2023, confirmed that there were no prospects for any resettlement of this nature. A Third Person Note was sent the Saudi Embassy on 27 September 2023, s. 33(a)(iii)	Approaches to Embassies made	International Division-supported by Legal guidance
	s. 33(a)(iii)	International Division (lead: S. 47F(1)) to provide S. 47F(1) and David Gavin relevant updates/info to support briefing Stephanie Foster	International Division supported by Legal Division and information from Status Resolution Branch – s. 47F(1) and S. 47F(1)

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

From: [David GAVIN](#)
To: s. 47F(1) s. 47F(1) [Clare SHARP](#)
Cc: s. 47F(1) s. 47F(1) ; s. 47F(1) ; [Stephanie FOSTER](#); [Michael PEZZULLO](#); [Michael OUTRAM](#); [Tim FITZGERALD](#); [Sandra JEFFERY](#); [Chad HODGENS](#); [Justine JONES](#); s. 47F(1) ; [Steve WEBBER](#); s. 47F(1) s. 47F(1) s. 47F(1) s. 47F(1) [Josefina WELLINGS BOOTH](#); s. 47F(1) s. 47F(1) s. 47F(1) [MQ Registration](#); [DLO.Giles](#); [DLO.O"Neil](#); [Home Affairs Media](#); [General Counsel Executive Support](#); [Peter FRANK](#)
Subject: RE: CM: NZYQ v Minister - S28/2023 - s. 47F(1) - indefinite detention/ Al Kateb challenge - update on case [SEC=PROTECTED, ACCESS=Legal-Privilege]
Date: Wednesday, 13 September 2023 10:29:38 AM
Attachments: s. 22(1)(a)(ii)

PROTECTED
Legal-Privilege

Good morning s. 47F(1) and s. 47F(1)

Further to Clare Sharp's email of 5 September, the High Court Registry has proposed to list the matter for hearing in Canberra at **10.00am on Tuesday, 7 November** and at **10am on Wednesday 8 November 2023** (noting that the matter would need to be completed by lunchtime on 8 November). The Commonwealth's Counsel team are available during this week, as are the legal team for NZYQ. Accordingly, the parties will very likely respond, confirming these dates.

I also **attach** the timetabling orders showing that the Commonwealth's submissions (in response to NZYQ's **attached** submissions) are due to be filed on **Tuesday 3 October 2023**. We may also see submissions filed this **Friday 15 September** by any interveners in support of NZYQ. We're not currently aware of any interveners (eg such as the UNHCR or the AHRC as has occurred in past cases) at this time, but should know by week's end.

Clare Sharp and her team are the lead contacts should you wish to discuss the legal case or High Court process further.

Please find below a status update on this s. 33(a)(iii)

s. 42(1)

s. 33(a)(iii)

s. 42(1)

s. 42(1)

S. 42(1)

s. 33(a)(iii)

s. 42(1)

S. 42(1)

s. 42(1)

The hearing is likely to be scheduled for November 2023, with a judgement potentially in March-May 2024

s. 33(a)(iii)

S. 33(a)(iii)

S. 42(1)

s. 42(1)

BACKGROUND

s. 42(1)

Best Regards

David

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