

**RESPONSE TO OMBUDSMAN'S REPORTS MADE UNDER
SECTION 4860 OF THE MIGRATION ACT 1958**

STATEMENT TO PARLIAMENT

General Comments

I refer to the Commonwealth Ombudsman's reports tabled in Parliament today. I note that these reports comprise twenty-five assessments relating to twenty-five people.

Of these twenty-five people, eight people have been granted visas and released from detention, five people have been removed, and one person has departed Australia voluntarily.

Responses to Ombudsman's Reports

Statement 509/09

This person remains in immigration detention.

I am currently considering this person's case as part of a review of all cases in detention.

This person continues to be actively case managed. A case manager maintains regular contact with this person.

Statement 510/09

This person voluntarily returned to their home country on Australia on 28 April 2009.

Statement 511/09

This person was included in a review of all cases in detention.

As part of this review, on 2 October 2008, I agreed to the Department continuing to make removal arrangements for this person.

This person was removed from Australia on 24 December 2008.

Statement 512/09

This person remains in immigration detention.

This person was part of my review of long term detainees announced on 12 March 2008.

As part of my review of long term detainees, I agreed to the Department continuing to make removal arrangements for this person.

I am now considering this person's case separately under my public interest powers.

Statement 513/09

This person remains in immigration detention.

This person's case was considered as part of my review of long term detainees announced on 12 March 2008 and subsequently included in a review of all cases in detention.

As part of the latter review, on 9 November 2008, I agreed for this person to remain in community detention.

Statement 514/09

This person was removed from Australia on 12 September 2008.

Statement 515/09

This person was part of my review of long term detainees announced on 12 March 2008.

As part of my review of long term detainees, I agreed to the Department continuing to make removal arrangements for this person.

This person was removed from Australia on 21 November 2008.

Statement 516/09

The Ombudsman's report on this case is most disturbing.

While this person was granted a Temporary Protection Visa and released from detention in July 2005 (and subsequently granted a permanent Protection Visa on 21 April 2008) it is clear that the management of this case and the treatment of Mr X and his child was unacceptable.

As the Ombudsman has noted, this report relates to a time when children were detained in immigration detention centres and highlights difficulties associated with keeping children detained. The intentional removal of a child in the absence of a parent's knowledge or consent cannot be defended.

The Ombudsman's report highlights the adverse impact of long term detention on both the physical and mental health of detainees like Mr X and his child.

I have instructed my Department to respond in a prompt and comprehensive manner to the Ombudsman's recommendations.

- An internal management review of Mr X's case has commenced, and will include consideration of the Code of Conduct issues highlighted by the Ombudsman. A Departmental case manager has been assigned to Mr X to assist him in providing input into the review and to provide any other support, including access to independent advice, that he might find useful in this process.

- Earlier this year, I requested that the Department initiate a review of matters relating to the management of children within the legislative status of “immigration detention” to ensure that the ‘best interests of the child’ principle is at the forefront of all policies and procedures if a minor is taken into immigration detention. The issue of guardianship arrangements is included in this review.
- The Department has issued a formal letter of apology to Mr X, and will issue a formal letter of apology to Ms Y.
- I have asked that my Department proactively assist Ms Y and Mr X’s ex-wife in any endeavour to obtain a visa to migrate to Australia should they wish to.
- The Migration Amendment (Abolishing Detention Debt) Bill 2009 is currently before the Parliament. If this Bill is passed it will extinguish Mr X’s debt which has currently been written off by DIAC but not waived.
- Despite the Ombudsman making no recommendations as to compensation due to the settlement entered into in 2004, in the circumstances of this case I acknowledge that there may be a case to compensate Mr X and Ms Y. Accordingly, I have requested my Department to provide advice on whether compensation may be appropriate in this case.

The Ombudsman notes that instances such as this should not be repeated under this Government’s detention policy. In accordance with that policy, children will not be held in immigration detention centres. While there will be occasions when children will be initially accommodated in low security facilities within the immigration detention framework, the priority will always be that children and their families will be promptly accommodated in community detention following health, identity and security checks.

Statement 517/09

This person remains in immigration detention.

This person’s case was considered as part of my review of long term detainees announced on 12 March 2008 and subsequently included in a review of all cases in detention.

As part of the latter review, on 27 April 2009, I agreed to consider this person for grant of a Former Resident visa subject to Public Interest Criteria checks.

This person is currently undergoing Public Interest Criteria checks for the grant of the Former Resident visa.

Statement 518/09

This person was included in a review of all cases in detention.

As part of this review, on 2 October 2008 I decided to consider granting this person a Global Special Humanitarian visa (GSHV) pending Public Interest Criteria checks.

Public Interest Criteria checks were completed, and this person was granted a GSHV and released from detention on 20 February 2009.

Statement 519/09

I considered this person's case under my s417/48B public interest powers.

On 12 December 2008, I agreed to lift the section 48 bar to allow this person to lodge a further Protection Visa (PV) application.

This person was granted a PV and released from detention on 12 February 2009.

Statement 520/09

On 13 March 2009, I agreed to consider this person for a Global Special Humanitarian Visa (GSHV) subject to Public Interest Criteria checks.

This person was also part of my review of long term detainees announced on 12 March 2008. As part of my review of long term detainees, I agreed to place this person into Community Detention.

This person was placed into Community Detention on 24 April 2008.

This person has now completed the Public Interest Criteria checks for the grant of the GSHV, and the Department is drafting a submission on this person's case for my consideration.

Statement 521/09

This person remains in immigration detention.

This person's case was referred to me on 6 February 2009 for consideration of my public interest powers.

On 26 February 2009, I decided that it was not in the public interest to intervene in this case and agreed to the Department continuing to make removal arrangements for this person.

Statement 522/09

This person was part of my review of long term detainees announced on 12 March 2008.

As part of my review of long term detainees, I agreed to consider this person for a Removal Pending Bridging Visa (RPBV) subject to Public Interest Criteria checks, and to place this person into community detention.

This person was placed into community detention on 29 April 2008.

The Public Interest Criteria checks for the grant of the visa remain ongoing.

This person is receiving support through the Australian Red Cross to ensure their ongoing mental health needs are met.

Statement 523/09

This person's case was considered as part of my review of long term detainees announced on 12 March 2008 and subsequently included in a review of all cases in detention.

As part of the latter review, on 27 February 2009, I agreed that it was not in the public interest to intervene in this person's case.

This person was removed from Australia on 8 May 2009.

Statement 524/09

This person was included in a review of all cases in detention.

As part of this review, on 2 October 2008, I agreed for this person to remain in immigration detention.

This person's circumstances were subsequently assessed by the Department as meeting the requirements for the grant of a Bridging visa. This person was granted a Bridging visa on 19 February 2009, and released from detention pending removal.

This person remains on a removal pathway, and is not eligible for permission to work. This person has a guarantor in the community who is providing this person with support.

Statement 525/09

This person remains in immigration detention.

This person was included in a review of all cases in detention.

I am currently considering this person's case. .

Statement 526/09

This person remains in immigration detention.

This person was included in a review of all cases in detention. As part of that review, on 27 February 2009, I agreed that it was not in the public interest to intervene in this person's case.

This person has an ongoing visa process being considered by the Department.

Statement 527/09

This person was placed into community detention on 22 May 2007.

This person was included in a review of all cases in detention.

As part of this review, on 25 February 2009 I decided to grant this person Removal Pending Bridging Visa (RPBV).

This person was granted a RPBV and released from community detention on 25 February 2009.

Statement 528/09

This person's case was considered as part of my review of long term detainees announced on 12 March 2008 and subsequently included in a review of all cases in detention.

As part of the latter review, on 25 February 2009, I agreed to grant this person a Removal Pending Bridging Visa (RPBV).

This person was granted a RPBV and released from detention on 25 February 2009.

Statement 529/09

This person's case was considered as part of my review of long term detainees announced on 12 March 2008 and subsequently included in a review of all cases in detention.

As part of the latter review, on 30 April 2009, I agreed to grant this person a Removal Pending Bridging Visa (RPBV).

This person was granted a RPBV and released from detention on 30 April 2009.

Statement 530/09

This person was part of my review of long term detainees announced on 12 March 2008.

As part of my review of long term detainees, I agreed to the Department continuing to make removal arrangements for this person. Removal arrangements have been delayed due to difficulties in securing a travel document, which has now been resolved.

This person's removal has been scheduled for 15 May 2009.

Statement 531/09

This person was part of my review of long term detainees announced on 12 March 2008.

As part of my review of long term detainees, I agreed to lift the s48 bar to allow this person to apply for a Protection Visa, and to place this person into community detention.

This person was placed into community detention on 20 June 2008.

This person was granted a permanent Protection Visa and released from detention on 19 February 2009.

Statement 532/09

I considered this person's case as part of a review of all cases in detention.

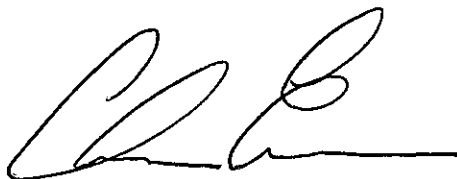
As part of this review, on 2 October 2008, I agreed to the Department continuing to make removal arrangements for this person.

This person was removed from Australia on 8 April 2009.

Statement 533/09

This person was included in a review of all cases in detention.

As part of this review, on 27 April 2009, I decided that it was not in the public interest to intervene in this persons' case and agreed to the Department continuing to make removal arrangements for this person.

A handwritten signature in black ink, appearing to read 'CE', with a horizontal line extending to the right.

CHRIS EVANS
Leader of the Government in the Senate
Minister for Immigration and Citizenship
Dated: 12/05/09.