

Release of Commonwealth Ombudsman Report – *Taking Liberties*

An investigation into the appropriateness of the Department of Home Affairs' and the Australian Border Force's policies and procedures for the timely removal of unlawful non-citizens from Australia

The Commonwealth Ombudsman, Iain Anderson, today published an investigation report, 'Taking Liberties', focussing on whether the Department of Home Affairs (Home Affairs) and the Australian Border Force (ABF) has appropriate policies and procedures in place to ensure unlawful non-citizens are removed from Australia in a timely way.

The Ombudsman found Home Affairs and ABF processes to remove unlawful non-citizens from Australia don't achieve timely outcomes and they should improve and expedite their processes. Delays in removal adversely impact the detained person's physical and mental health, the severity of which may increase over time.

In releasing his report, Mr Anderson said, "I commenced this investigation based upon concerns I raised with Home Affairs and ABF in early 2023 following highly critical comments about Home Affairs' and ABF's inaction in the removals process by the Federal Court in the case of [Sami v Minister for Home Affairs \[2022\] FCA 1513](#)."

"My Office found Home Affairs' and ABF's removals policies and procedures make little acknowledgement that for every passing day, until the person is removed from Australia, the person is being deprived of their liberty. Home Affairs and ABF did not capture learnings following Mr Sami's case and they made no changes to their policies and procedures as a result of this decision."

The Ombudsman's report makes 3 recommendations to Home Affairs and ABF aimed at minimising the time detained persons are deprived of their liberty while awaiting

removal from Australia. These recommendations are designed to ensure Home Affairs and ABF:

- have a prioritised process for removing detained persons from Australia
- review their policies and procedures against every relevant judicial and tribunal decision, and
- review all significant cases taking into account the entirety of the detention and removal period.

"Home Affairs and ABF must have a clear overall roadmap charting a timely process for persons on a removal pathway, beginning with a person's entry into immigration detention and ending with their removal from Australia. Implementation of my recommendations will help achieve this", Mr Anderson said.

Reflecting on the lack of action taken following the judicial criticism in Sami's case, Mr Anderson said, 'As a matter of good public administration, integrity and respect for the rule of law, agencies should actively consider judicial and tribunal criticism of their programs and practices, including what changes or improvements should be made to processes to address those concerns or criticisms. Even if a decision is appealed, an agency needs to actively consider whether it needs to change or vary the criticised practices in the meantime.'

Mr Anderson welcomed the response from the Secretary of Home Affairs and ABF Commissioner which is published in full as an appendix to the report accepting the recommendations. The Ombudsman will monitor Home Affairs' and ABF's implementation of these important recommendations.

[View the full report here.](#)

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