



# Investigation into the circumstances of the detention of Mr G

MAINTAINING REASONABLE SUSPICION THAT A PERSON IS AN  
UNLAWFUL NON-CITIZEN

April 2018

REPORT BY THE COMMONWEALTH OMBUDSMAN,  
MICHAEL MANTHORPE PSM, UNDER THE *OMBUDSMAN ACT 1976*

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## **EXECUTIVE SUMMARY**

The Ombudsman’s Office (the Office) has had a strong focus on oversight of Australia’s immigration detention regime, in particular since 2005, when, in the aftermath of the Cornelia Rau and Vivian Alvarez matters, the (now) Department of Home Affairs (the department) instituted a wide range of reforms to strengthen its governance processes to ensure that such cases could not be repeated.

This oversight includes regular inspections of all onshore immigration detention facilities, regular reporting to the Minister for Immigration and the parliament on all people detained in immigration detention for more than two years, investigating complaints from or on behalf of people in immigration detention, and own motion investigations of matters that the Ombudsman is of the opinion require further assessment or scrutiny or that are referred to the Office by the department.

In August 2017 the Office investigated the circumstances of the detention of Mr G, a national of Country A, who was held in immigration detention for four years before being involuntarily removed in 2017.

Mr G was originally detained in 2013 when his partner visa application was refused and his associated bridging visa was cancelled.

In July 2017, as part of the department’s process of preparing for Mr G’s removal from Australia, it was determined that the notification of the refusal of his partner visa was defective and he in fact still held a valid visa. He was released from detention but on the same day his visa was then cancelled because of his conviction for criminal offences he committed while in detention. He was re-detained and held in detention until his removal from Australia.

In response to the Office’s investigation, the department advised that an error in the partner visa refusal notification process was not known to the department at the time of Mr G’s original detention. This error came to the department’s attention five months after his detention in March 2014.

The department undertook a review of cases that may have been affected by the error in the notification process and Mr G’s case was not picked up. Subsequent monthly reviews of his case did not identify this matter either. It is the view of the department that because it did not apply its knowledge of the refusal notification errors to Mr G’s case it maintained the reasonable suspicion that he continued to be an unlawful non-citizen and that he should remain in immigration detention.

It is the Ombudsman’s view that the department’s suspicion ceased to be reasonable after the department became aware of this issue and through the failure in its governance processes, failed to appropriately apply this knowledge to Mr G’s case.

The department does not consider Mr G’s detention to be unlawful at this time, stating this is a matter that can only be determined by a formal legal review of the case, something the department has commenced but not completed. The Ombudsman is of the view that this matter is of sufficient seriousness to warrant a formal legal review, which is being undertaken, and if such a review determines that his detention was unlawful, then the department should provide an appropriate remedy to Mr G.

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The Ombudsman is also concerned at the ineffectiveness of the department's governance processes as they relate to Mr G's case, and to the broader detention population, noting its regular reports to the Office of people who have been detained and then released as not unlawful, and in particular the recent instances where two Australian citizens were improperly detained.

The Ombudsman makes the following recommendations for action by the Department of Home Affairs:

**Recommendation 1**

The Ombudsman recommends that the department review, with the assistance of external legal counsel if necessary, how it maintains the reasonable suspicion that a person in immigration detention is an unlawful non-citizen.

**Recommendation 2**

The Ombudsman recommends that the department update its relevant policies and procedures in light of the review in Recommendation 1 to ensure the ongoing lawfulness of a person's detention is regularly reviewed, and the steps taken to maintain the suspicion that the detainee is an unlawful non-citizen are appropriately recorded.

**Recommendation 3**

The Ombudsman notes that the department has commenced a formal legal review of the detention of Mr G and recommends that if this review, taking into account the outcome of any review mentioned in Recommendation 1, forms the opinion that his detention was unlawful, it take steps, informed by precedent, to offer Mr G appropriate redress, for example:

- an apology
- a waiver of any debt to the Commonwealth incurred by his removal from Australia, and/or
- an appropriate amount of compensation.

**Recommendation 4**

The Ombudsman recommends that the department, if it has not already taken this step, identify all cases affected by the errors identified in March 2014 in the notification of the refusal of Partner visa applications. It should then take appropriate measures to ensure that such refusals have been correctly notified and the visa status of affected individuals has been regularised.

## Part 1: INTRODUCTION AND SCOPE OF INVESTIGATION

### Introduction

1.1. In July 2017 the Department of Home Affairs, (the department) advised the Ombudsman’s office (the Office) of the circumstances of the unlawful detention<sup>1</sup> of Mr G.

1.2. The information provided by the department prompted further inquiries by the Office. The department’s responses to these inquiries raised serious concerns as to how a person who in fact held a valid visa, could be detained for four years before this came to the attention of the department.

### *Information provided by the Department of Home Affairs*

1.3. Mr G is national of Country A, who entered Australia as a crew member with a Special Purpose Visa in November 2007. This visa was ceased by declaration, on the basis that he had deserted the ship.

1.4. He remained unlawfully in the community until October 2010 and was granted a total of three bridging visas to maintain his lawful status until November 2010 when he lodged an application for a Protection visa and was granted an associated bridging visa. In March 2011 his Protection visa application was refused and in September 2011 the Refugee Review Tribunal affirmed the decision. His bridging visa remained in effect through this process.

1.5. In February 2012 Mr G applied for a partner visa, which is a two stage application process (temporary, 820 visa and permanent, 801 visa). He was granted an associated Bridging visa E the day after he applied.

1.6. In August 2013, the partner visa (820 and 801) application was refused and Mr G was notified. As a result, the bridging visa appeared to cease and he was detained in October 2013.

1.7. Mr G was held in immigration detention since this time and had multiple bridging visa applications refused on the basis that he would not abide by conditions.

1.8. In March 2014 the department identified errors in the notification of the refusal of Partner visa applications and conducted a sweep of the detention population to pick up any such cases. Mr G’s case was not picked up by this sweep.

1.9. While in immigration detention Mr G was convicted of two offences relating to a disturbance at the Christmas Island Immigration Detention Centre. He was sentenced to two concurrent periods of six months imprisonment.

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<sup>1</sup> The department subsequently advised the Office in August 2017 that it in fact did not consider Mr G’s detention to be unlawful, rather it was ‘inappropriate’.

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1.10. In July 2017 as part of the assessment undertaken prior to Mr G being removed from Australia, his case was referred to the Status Resolution Helpdesk by WA Compliance Removals. The case was assessed and content defects were identified in respect of the permanent (801) partner visa refusal decision. This issue was referred to the department's Legal Opinions Helpdesk for advice on the same day.

1.11. Later that day it was confirmed that the refusal decision and notification in relation to the permanent partner visa application was defective. This meant Mr G still held a bridging visa and needed to be released from detention as soon as practicable.

1.12. At approximately 5.30pm on the same day Mr G was advised he still held a bridging visa and was released from immigration detention.

1.13. The department then considered whether his bridging visa should be cancelled under s116(1)(g) of the *Migration Act 1958* (the Act) on the basis that he had been convicted of criminal offences.

1.14. The department cancelled Mr G's visa at 6.45pm and he was re-detained under s189(1) of the Act at 6.55pm on the same day.

1.15. Four days later Mr G was released from immigration detention when he was involuntarily removed from Australia.

***Ombudsman's reporting obligations under s 486O of the Migration Act 1958***

1.16. Section 486O of the Act requires the Ombudsman to provide to the Minister an assessment of the circumstances of a person's detention after the person has been in immigration detention for two years, and then every six months thereafter. A de-identified copy of each assessment is tabled in parliament and is also published on the Ombudsman's website.

1.17. Three such assessments on Mr G were provided to the Minister and were tabled in August 2016, May 2017 and December 2017 respectively.

1.18. These assessments are triggered in the first instance by a report prepared by the department under section 486N of the Act. This report, which forms the basis of the Ombudsman's assessment, provides a chronology of the person's immigration pathway, their detention history and other relevant material, such as medical issues and treatment.

1.19. The first two Ombudsman's assessments made no reference to Mr G's apparent unlawful detention as this had not yet been identified by the department at that time. The third assessment noted that he had been removed from Australia and that our Office was further investigating the circumstances of his detention.

## Part 2: OMBUDSMAN’S INVESTIGATION AND THE DEPARTMENT OF HOME AFFAIRS’ RESPONSE

2.1. The Office reviewed the information provided by the department in July 2017 and decided that further investigation of this matter was warranted. In August 2017, we commenced an investigation into Mr G’s detention and subsequent removal from Australia. This investigation uses the powers in the standing own motion investigation, advised to the department on 2 October 2014 under s 8 of the *Ombudsman Act 1976*, which we use to examine cases where lawful non-citizens have been detained.

2.2. The Office was particularly interested in the department’s view as to why Mr G’s detention was considered to be inappropriate rather than unlawful, and what steps it had taken to maintain, during the period of his detention, a reasonable suspicion that he continued to be an unlawful non-citizen.

### Questions asked of the department, and its responses<sup>2</sup>

2.3. **Is it the department’s official view that Mr G’s detention was inappropriate?**

2.4. ‘Mr G was found to be holding a visa that was in effect while in immigration detention. As a result, Mr G was informed of this and released from immigration detention as a lawful non-citizen. Therefore, the department’s view is that Mr G was ‘released not unlawful’, this is also occasionally referred to as ‘inappropriate’ within the department.’

2.5. **What does the term ‘inappropriate’ mean in the context of a person’s immigration detention?**

2.6. ‘The department may refer to a person’s immigration detention as ‘inappropriate’ when the department becomes aware that the person held a visa that was in effect during their time in immigration detention and as a result, was released from immigration detention as a lawful non-citizen. The other terms used in these circumstances are ‘released not unlawful’ or ‘wrongfully detained’. These terms are generally used where there has not yet been a full review assessing the lawfulness of the detention by Legal Division or an external legal service provider or where legal advice has been provided which indicates that there was a lawful basis for the detention.’

2.7. **Does this term have any legal meaning or standing in this context?**

2.8. ‘The term ‘inappropriate detention’ does not have any legal meaning or standing. However, the term ‘unlawful detention’ does have legal meaning. The reason why the term ‘inappropriate detention’ or ‘released not unlawful’ is used is to distinguish these circumstances from cases in which there is clear legal advice to indicate that there was no lawful basis for the detention. Referring to all instances in which an individual is released from detention because they have been found to have a valid visa that is in effect as ‘unlawful detention’ would not be legally correct.’

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<sup>2</sup> The Office’s questions are in bold and the department’s responses are summarised below each question.

2.9. As articulated by Mr Mick Palmer in his 2005 report on the inquiry into the circumstances of the immigration detention of Cornelia Rau, not only must a reasonable cause to believe exist before a person is detained, but the suspicion on which the detention was originally made must have persisted and still be reasonably held. Noting this point, can the department please provide details of all reviews of Mr G’s detention, including the dates of each review, who conducted it, the matters the review considered and conclusions reached.

2.10. As its response to this question, the department provided:

- copies of 36 monthly case reviews
- a copy of a Senior Officer Review, dated 30 April 2014<sup>3</sup>
- copies of four reports dated 27 October 2015, 16 August 2016, 19 October 2016, and 19 April 2017, sent to the Ombudsman under s 486N of the Act

2.11. The Office notes that all of the case reviews contained the notation that on a specified date in August 2013 Mr G’s Partner visa had been refused. It is apparent that at no stage did any of the reviewing officers turn their mind to the possibility of there being an issue with the notification of the refusal.

2.12. To the question ‘*Is review by a Senior Case Manager required?*’ all 36 case reviews stated ‘No’.

2.13. The Senior Officer review stated *inter alia*:

*Is continued detention appropriate?* Yes

*Mr G is not an Australian citizen or a permanent resident and does not hold a valid visa; therefore the department continues to hold reasonable suspicion that he is an unlawful non-citizen.*

*Is a referral to the Detention Review Manager required?* No

*No new information has been provided to trigger a referral to a detention review manager. The department reasonably suspects that Mr G is an unlawful non-citizen.*

2.14. None of the department’s four s 486N reports to the Ombudsman indicated that there could be a concern with the validity of the notification of the refusal of Mr G’s Partner visa.

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<sup>3</sup> This review was conducted after the date that the department was aware of the defects in the notification of Partner visa application refusals.



**2.15. Please provide copies of any internal legal advice issued regarding the question of the lawfulness of Mr G’s detention**

2.16. ‘Please find attached internal legal advice issued in relation to the lawfulness of Mr G’s detention.’

2.17. The department asked that the specific details of this legal advice be kept confidential. The circumstances of Mr G’s initial detention are not disputed by the Office and are not the subject of consideration in this investigation.

**2.18. Please provide advice as to whether or not the department is of the view that it took all reasonable steps during the nearly four years Mr G was in immigration detention to determine if that detention was lawful.**

2.19. ‘The department reviewed the refusal notification of Mr G’s Partner Combined (Full Fee) (UK 820/BS 801) decision made in October 2013<sup>4</sup>. At that time no error in the notification was detected, noting that various notification errors with the combined Partner (Temporary) and (Permanent) refusal templates had not yet been identified. A review of the detention population was conducted in March 2014, when the Partner issues were discovered, but this case does not appear to have been identified or assessed as part of that process. No further notification checks were conducted during Mr G’s period of time in a correction facility from November 2015 to January 2017, or on his return to an immigration detention facility. The refusal notification was assessed again in July 2017 and action was taken in respect of the notification of the Subclass 801 visa at that time, resulting in cancellation action. As the department had assessed there was no error in the refusal notification on the initial detention, nor as part of the additional review conducted in 2014, the reasonable suspicion that Mr G was an unlawful non-citizen was maintained and no further assessment was required.’

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<sup>4</sup> This is the date Mr G was originally detained.

## Part 3: KEY ISSUES ARISING OUT OF INVESTIGATION

3.1. The Office has a number of concerns with the department's actions it took in reviewing Mr G's case while he was in detention.

### Ineffective case reviews

3.2. The Ombudsman accepts that at the time Mr G was initially detained, the department believed it had properly refused his Partner visa application which resulted in the ceasing of the associated bridging visa. As such, the department held a reasonable suspicion at the time that Mr G was a non-citizen who did not hold a valid visa and was liable for immigration detention.

3.3. However, once the issue of the defective notice became known in March 2014, the department failed to identify Mr G's case as being affected by this, despite it doing a sweep of the detention population, six months after he was originally detained. The department has not explained why this failure occurred.

3.4. In our view, once the notification issue was identified, the department had an obligation to check *all* those individuals in immigration detention who might be affected and to promptly investigate their circumstances and take appropriate action.

3.5. The Ombudsman considers that after this point, the department's suspicion that Mr G was an unlawful non-citizen, was no longer reasonable.

3.6. This issue was not picked up at the time of the Senior Officer Review of Mr G's case in April 2014, nor in the nearly three and a half years after that date that he remained in detention. It also did not come to the attention of case managers in any of the 30 monthly case reviews conducted after the defective notification of Partner visa refusals became known to the department in March 2014.

3.7. It is of significant concern that despite the regular occurrence of these reviews, they were ineffective in identifying that Mr G's case was affected by the defective notice of refusal issue.

### Maintaining a reasonable suspicion that Mr G was an unlawful non-citizen

3.8. The department's view that it maintained a reasonable suspicion that Mr G was an unlawful non-citizen during the entire period of his immigration detention is, in the Ombudsman's view, not sustainable.

3.9. A number of the Ombudsman's review functions, as they apply to immigration detention, came about as a result of the 2005 reports into the circumstances of the cases of Cornelia Rau and Vivienne Alvarez.

3.10. One of the key points made in Mr Mick Palmer's report into Cornelia Rau's detention was that not only must an officer have a reasonable cause to believe a person is an unlawful non-citizen before they can be detained under section 189 of the Act, but the suspicion on which the detention was originally made must have persisted and still be reasonably held.

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3.11. From the department's response, its position appears to be that as long as no information comes to its attention that challenges the view of the reasonableness of the suspicion as it relates to an individual, even if that information is generally known to the department, then that view is maintained. The only Senior Officer Review undertaken of his case contains the simplistic assertion:

*Mr G is not an Australian citizen or a permanent resident and does not hold a valid visa; therefore the department continues to hold reasonable suspicion that he is an unlawful non-citizen.*

3.12. It is the view of the Ombudsman that, to the contrary, the department must regularly review and test all cases of immigration detention to ensure that not only was the person in fact an unlawful non-citizen at the time of detention, but that there has not been a change in circumstances, or information becomes known to the department, that means they are no longer an unlawful non-citizen. This requires regular, positive action on the part of the department.

3.13. In the case of Mr G, information that would lead the department to the view that Mr G in fact was still the holder of a visa and should not be in detention was available five months after his detention. However due to a deficiency in the department's governance processes this information was not brought to bear on his case and he remained in detention for nearly four years.

## Part 4: KEY FINDINGS AND RECOMMENDATIONS

### Key findings

4.1. It is the view of the Ombudsman that the detention of Mr G, and other recent cases that have come to the attention of the Office such as those that were the subject of Dr Vivienne Thom's *Independent review for the Department of Immigration and Border Protection into the unlawful detention of two Australian citizens*, indicate that there have been serious flaws with the review processes the department undertakes in relation to the ongoing detention of unlawful non-citizens.

4.2. It is the view of the department that because it did not apply its knowledge of the refusal notification errors to Mr G's case, it maintained the reasonable suspicion that he continued to be an unlawful non-citizen and that he should remain in immigration detention.

4.3. It is the Ombudsman's view that the department's suspicion ceased to be reasonable after the department became aware of the notification error and failed to apply this knowledge to Mr G's case.

4.4. The department has expressed the view that a person's detention is not usually referred to as unlawful where there has not been a full review of the lawfulness of the detention by its legal division or an external legal service provider. The department has indicated this practice is based on long standing legal advice. It has not stated on what basis such reviews are initiated. The department has indicated that this legal review is now being conducted.

4.5. In Mr G's case, the department has told the Office that at this time, it does not consider that Mr G's detention was unlawful and therefore, is not satisfied that there is a proper basis upon which to offer him an apology.

4.6. It is the view of the Ombudsman that the department did not take appropriate steps to review Mr G's detention, and that consequently it failed to maintain a reasonable belief that he was an unlawful non-citizen.

4.7. Further, the Ombudsman considers that the detention for four years of a person who in fact held a valid visa for that period, and taking into account the inadequacy of the department's reviews of his case, is of sufficient seriousness to warrant a formal legal review. If such a review determines that the detention was unlawful, the department should give proper consideration to the questions of providing compensation and an apology to Mr G.

## **Recommendations**

4.8. Arising from this investigation, the Ombudsman makes the following recommendations for action by the Department of Home Affairs.

### **Recommendation 1**

The Ombudsman recommends that the department review, with the assistance of external legal counsel if necessary, how it maintains the reasonable suspicion that a person in immigration detention is an unlawful non-citizen.

### **Recommendation 2**

The Ombudsman recommends that the department update its relevant policies and procedures in light of the review in Recommendation 1 to ensure the ongoing lawfulness of a person's detention is regularly reviewed, and the steps taken to maintain the suspicion that the detainee is an unlawful non-citizen are appropriately recorded.

### **Recommendation 3**

The Ombudsman notes that the department has commenced a formal legal review of the detention of Mr G and recommends that if this review, taking into account the outcome of any review mentioned in Recommendation 1, forms the opinion that his detention was unlawful, it take steps, informed by precedent, to offer Mr G appropriate redress, for example:

- an apology
- a waiver of any debt to the Commonwealth incurred by his removal from Australia, and/or
- an appropriate amount of compensation.

### **Recommendation 4**

The Ombudsman recommends that the department, if it has not already taken this step, identify all cases affected by the errors identified in March 2014 in the notification of the refusal of Partner visa applications. It should then take appropriate measures to ensure that such refusals have been correctly notified and the visa status of affected individuals has been regularised.

## **Part 5: THE DEPARTMENT'S RESPONSE**

- 5.1 On 31 March 2018 the department responded to the Ombudsman's report.
- 5.2 The department accepted all of the report's recommendations, noting that the implementation of recommendations one, two and three will depend on the outcome of ongoing litigation relating to other individuals that raise similar issues.
- 5.3 The department's full response is at Attachment A.



Australian Government  
Department of Home Affairs

31 March 2018

Mr Michael Manthorpe, PSM  
Commonwealth Ombudsman  
GPO Box 442  
Canberra ACT 2601

Dear Mr Manthorpe

Thank you for your letter of 6 March 2018, enclosing a copy of the draft report of your office's investigation into the circumstances of the detention of Mr [REDACTED].

The Department has reviewed the draft report and provided some comments regarding the circumstances of Mr [REDACTED] case.

The Department appreciates the oversight provided by your office and recommendations to improve our status resolution mechanisms. I would like to highlight that the Department conducted an internal review regarding the detention of Mr [REDACTED]. The findings of the internal review support the recommendations that your office has made in the draft report.

Additionally, the Department's review of the relevant policies and procedures in reference to how it maintains the reasonable suspicion that a person in immigration detention is an unlawful non-citizen may be impacted by the outcome of litigation currently being undertaken in relation to other individuals that raise similar issues.

The matters raised in your draft report are also linked to the findings of the independent review conducted by Dr Vivien Thom into the unlawful detention of two Australian citizens. The Department and the Australian Border Force are currently implementing a range of activities as a result of this review which will support the recommendations outlined in your draft report.

Finally, I note that the Department agrees with the recommendations in your draft report. Our response to the recommendations and comments on the draft report are enclosed.

Yours sincerely

[REDACTED]  
Cheryl-anné Moy  
First Assistant Secretary  
Executive Group



## Investigation into the circumstances of the detention of Mr [REDACTED]

The Department's response to the recommendations follow:

### Recommendation 1:

**The Ombudsman recommends that the department review, with the assistance of external legal counsel if necessary, how it maintains the reasonable suspicion that a person in immigration detention is an unlawful non-citizen.**

#### Response:

The Department agrees to this recommendation, and is undertaking a review of relevant policies and procedures.

However, the Department notes that this review may be impacted by the outcome of ongoing litigation relating to other individuals that raise similar issues.

### Recommendation 2:

**The Ombudsman recommends that the department update its relevant policies and procedures in light of the review in Recommendation 1 to ensure the ongoing lawfulness of a person's detention is regularly reviewed, and the steps taken to maintain the suspicion that the detainee is an unlawful non-citizen are appropriately recorded.**

#### Response:

The Department agrees to this recommendation.

The Department is committed to the continuous improvement of the resources available to departmental officers involved in the detention of unlawful non-citizens. Should the review described in Recommendation 1 identify policies and procedures requiring amendment, the Department will attend to these as a priority. The nature and extent of any changes to policies and procedures are likely to be informed by the outcome of litigation that is currently ongoing.

A recent example of changes to policies and procedures concerning the detention of unlawful non-citizens which the Department has commenced is below.

#### Review of Control Framework for Detention Related Decision Making

In October 2017, the Department's Status Resolution Committee approved a project to update the Control Framework for Detention Related Decision Making. This project includes the development of a new Mandatory Control Point (MCP) on Reasonable Suspicion. The details of the new MCP and its implementation will depend on forthcoming legal advice.



### **Recommendation 3:**

The Ombudsman notes that the department has commenced a formal legal review of the detention of Mr [REDACTED] and recommends that if this review, taking into account the outcome of any review mentioned in Recommendation 1, forms the opinion that his detention was unlawful, it take steps, informed by precedent, to offer Mr [REDACTED] appropriate redress, for example:

- an apology
- a waiver of any debt to the Commonwealth incurred by his removal from Australia, and/or
- an appropriate amount of compensation.

### **Response:**

The Department has commenced a formal legal review into Mr [REDACTED] detention in order to reach a view as to the lawfulness of his continuing detention beyond March 2014, when a sweep of the detention population was conducted. This issue was not addressed in the Department's legal advice of August 2017. This review will include a complete assessment of the circumstances of Mr [REDACTED] detention, including details of how the sweep was conducted.

However, as mentioned above, the outcome and timing of the finalisation of the legal review may be impacted by ongoing litigation.

If the formal legal review results in a finding that there is a meaningful prospect of liability in accordance with the *Legal Services Directions 2017* (Cth), the Department will consider appropriate options for redress in consultation with other relevant Commonwealth agencies.

### **Recommendation 4:**

The Ombudsman recommends that the department, if it has not already taken this step, identify all cases affected by the errors identified in March 2014 in the notification of the refusal of Partner visa applications. It should then take appropriate measures to ensure that such refusals have been correctly notified and the visa status of affected individuals has been regularised.

### **Response:**

The Department identified 36 additional cases that contained notification errors in applications originally refused between 2009 and 2014. Of the 36 cases, 18 required re-notification of a decision to refuse. The remaining 18 required further consideration of the application, and a fresh decision. 22 cases have been finalised, including 17 re-notifications. The remaining 14 cases have been investigated and are progressing towards finalisation. None of the affected applicants were identified as being in detention.

Complexities in locating and engaging with some of the identified individuals have resulted in the finalisation of these cases being delayed. However, due to the notification error, each applicant's associated Bridging visa continued to be in effect and departmental systems have been updated to reflect this, pending finalisation.

Applicants whose cases have been finalised were able to access the same review rights that would have applied had the notification errors not occurred.

Partner visa notification templates were amended accordingly in mid and late 2014. All decisions makers were instructed to use the updated templates from this time.

As outlined above, the formal legal review will include an assessment into the details of how the sweep was conducted. Based on the findings of this assessment, the Department will consider if any further steps are required.