

## Associate Minister of Immigration's private secretary reasonably triages AMOI intervention requests

<b>Legislation</b>	Ombudsmen Act 1975, Immigration Act 2009
<b>Ombudsman</b>	Peter Boshier
<b>Case number(s)</b>	447210 (previously unpublished)
<b>Date</b>	2017

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*Whether Private Secretary for Associate Minister of Immigration (AMOI) acted unreasonably by not referring the complainant's request for intervention to the AMOI—Ombudsman concludes AMOI practice for Private Secretary to triage, reasonable*

The complainant requested the AMOI to intervene in her case regarding her family's deportation from New Zealand. The AMOI declined the request for intervention and the complainant's husband was deported. The complainant subsequently made another request to the new AMOI for intervention. The Private Secretary indicated that as the previous AMOI had declined to intervene the new AMOI did not wish to review the matter.

The complainant made a complaint to the Ombudsman about this decision. INZ advised the Ombudsman that the AMOI does not generally wish to consider an individual's case if the individual has made a request for ministerial intervention which has been declined in the last 12 months. On this basis the Private Secretary appeared to have acted within the parameters set down by the AMOI in determining cases to be referred to the AMOI. It was noted that the long-standing practice of the AMOI in relying on Private Secretaries to manage the flow of correspondence has resulted in a formalised arrangement, setting out clear parameters when a Private Secretary should refer matters to the AMOI (or INZ delegated decision-makers).

In such cases, the Private Secretary is not making a decision on whether intervention is warranted – the Private Secretary is making a decision on whether to refer a request for intervention to the AMOI based on the parameters that have been set down by the AMOI. Ultimately the decision not to consider a request is one that belongs to the AMOI, with the Private Secretary undertaking an initial triage on the AMOI's behalf.

It was also apparent that the submissions made by the complainant in the second submission were not materially different to the issues previously considered by the AMOI.

The Ombudsman advised the complainant that an Ombudsman's jurisdiction does not extend to Ministers of the Crown, and therefore, any decision made by the Associate Minister of Immigration would not be a matter that an Ombudsman could investigate. On this basis, any direction by the AMOI as to the particular cases they do not wish to consider is not a matter that an Ombudsman could investigate. In this particular case, the Ombudsman could only consider whether the Private Secretary had acted reasonably in making the decision not to refer the complainant's request for intervention to the AMOI.

The Ombudsman did not uphold the complaint and took no further action on it, for the reasons explained.

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