

Immigration New Zealand officials' poor record keeping resulted in unreasonable intervention in appeal process

Legislation	Ombudsmen Act 1975, Immigration Act 2009
Ombudsman	Beverley Wakem
Case number	W56217 (previously unpublished)
Date	2009

Immigration New Zealand (INZ)—incorrect advice given to complainant based on misunderstanding of complainant's situation—misunderstanding caused by lack of proper record keeping by INZ—failure to refer complainant to her legal advisor before she made a significant change to her immigration situation—removal order cancelled, person returned to NZ with ongoing permits

The complainant alleged that at an interview with an immigration officer the complainant was incorrectly advised and there was a failure to refer the complainant to her legal advisor before she made a significant change to her immigration situation by withdrawing her appeal to the Residence Review Board. The advice was based on a misunderstanding of complainant's situation (a misunderstanding caused by lack of proper record keeping by INZ).

The Ombudsman sustained the complaint that the immigration officer incorrectly advised the complainant on her situation, and that the officer failed to have sufficient regard to the appeal process that was underway. The Ombudsman expressed concern about the deficiencies in recording information and the problems that INZ employees had in accurately interpreting the information held by INZ. The Ombudsman was also concerned that a subsequent application for a temporary permit by the complainant was declined, and a decision was made to remove her from New Zealand, when the immigration officers concerned were unaware/misinformed of the Ministerial direction and the domestic violence issues.

The Ombudsman found that this 'highlights how problems can compound over time where record keeping is inadequate'. In effect, INZ had unreasonably intervened in the appeal process

that had been entered into on the basis of correspondence between the complainant's lawyer and the Associate Minister of Immigration.

The Ombudsman recommended that INZ cancel the complainant's removal order, waive the costs associated with her removal; reopen the complainant's application for residence (thereby affording her the opportunity of appealing to the RRB should the application be declined); facilitate the process in a timely manner which would include considering the suitability of her case for referral to the Associate Minister of Immigration); and to tender an apology to the complainant for interviewing her in her home country when a complaint from this Office had been received.

INZ agreed to the recommendations which were also accepted by the complainant.

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