

CASE SUMMARY

Complaint against the Security Branch (SB) for Delay in Handling an Immigration Appeal

The complainant's brother submitted an application for a student visa to the Immigration Department (Imm D) in May 1995. On 18 September 1995, he was informed by the Imm D that his application was refused. He then lodged a written appeal to the Chief Secretary (CS) against the refusal decision of the D of Imm on 11 October 1995. However, it was not until 4 December 1996 that the Secretary for Security (S for S) gave a written reply informing him that he had decided to uphold the decision of the D of Imm. He was dissatisfied with the unduly long time taken by the SB to handle his appeal. Feeling aggrieved, he authorized the complainant, who was the sponsor of his application for a student visa, to lodge a complaint with The Ombudsman against the SB.

2. This Office notes from the information provided by the SB that the appeal in question was lodged to the CS on 11 October 1995 and referred to the SB on 21 October 1995. The SB then passed the appeal and all relevant information subsequently received to the Imm D for comments. On 24 February 1996, the Imm D submitted their comments on the appeal to the SB. Having examined the comments from the Imm D, the Appeals Team of the SB submitted its recommendation through the Principal Assistant Secretary for Security of Division C (PAS(S)C) to the S for S for consideration on 10 May 1996. The recommendation was supported by the Principal Assistant Secretary for Security (Special Duty) (PAS(S)SD) who took over the processing of appeals from the PAS(S)C on 3 December 1996. The S for S informed the complainant's brother of his decision to uphold the D of Imm's decision to refuse his application on 4 December 1996.

3. The SB admitted the delay in processing the appeal. They explained that there was a significant increase in the number of immigration appeals which were also becoming more and more complexed since mid-1995. The Appeals Team, with an establishment of one Senior Executive Officer and two

Executive Officers I, had difficulty in coping with the continual increase in caseload, resulting in delay for some immigration appeals.

4. This Office appreciates that it took time for the SB to process the appeal, particularly at a time when the workload of the Appeals Team was fast building up. However, this should not be taken as an excuse for the delay in handling the appeal in question. In fact, this Office notes that the appeal had been left unattended during the period from 10 May 1996 to 3 December 1996. Had the appeal been closely monitored and promptly reviewed, the complainant's brother would probably have been advised of the outcome of his appeal much earlier. The inordinate period of inaction of the SB had caused inconvenience to him. His dissatisfaction with the SB is understandable.

5. This Office further notes that the SB had not issued any interim reply to the complainant's brother, though they were well aware that they could not give an early reply to him due to heavy workload of the Appeals Team. This is again unsatisfactory from the customer service point of view.

6. Having considered the above findings, The Ombudsman concludes that this complaint is substantiated.

7. The Ombudsman recommends the S for S to -

- (a) send the complainant's brother a letter of apology for the delay in processing his appeal;
- (b) look into ways to streamline the procedures in handling appeal cases and prioritise the work relating to appeal cases so as to cope with the continual increase in caseload;
- (c) remind his staff to give proper attention to all appeal cases which should not be left unattended and issue interim reply to the appellant if the case could not be concluded within a short period of time; and
- (d) consider working out a performance pledge on the time taken to

process immigration appeals so as to provide better service to the public.

8. The S for S accepted the recommendations in para. 7(a) and 7(c). He had reservations about the recommendations in para. 7(b) and (d) and had in fact given his comments. With due regard to the S for S' s comments, The Ombudsman considers that all the recommendations should stand as they are.

(Note : The titles of the Chief Secretary and Security Branch have been changed to Chief Secretary for Administration and Security Bureau respectively with effect from 1 July 1997.)

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