

## The 2018 Heron Review and 2019 Report

Following publicity concerning the exercise of ministerial discretion (cancellation of deportation liability) with regard to a Czech citizen named Jan Antolik (under his false identity of Karel Sroubek), MBIE in 2018 commissioned Mike Heron QC to undertake an independent review of both the processes used by the INZ Resolutions team to prepare files for decision-makers who make deportation decisions under the Act, and the question of whether those processes were fit for purpose.

Mr Heron's review was completed in 2019. It concluded that the process and operational practices used by INZ were sound in the current settings, but that there was some room for improvement. The report noted that that deportation liability decisions can bring intense pressure on the Minister, who should remain "above the fray", but able to intervene as necessary to suit the policy of the Government of the day.

With regard to aspects of the process that could be improved, the report made five main recommendations to strengthen the existing processes for preparing files for decision-makers, namely:

- a) The Minister should be able to request advice from INZ in complex cases and INZ should develop further guidance for the Minister on the types of cases warranting specific advice from officials
- b) INZ's Resolutions team should have a limited inquiry function to check or corroborate the veracity of information provided to INZ
- c) A simplified two-stage process could be applied to criminal cases where the offence is relatively minor
- d) Consideration should be given to shifting the DDM process in cases involving more serious offending, that consideration is carried out only after an appeal to the Immigration and Protection Tribunal (IPT) has been exercised or has lapsed
- e) Other process changes could be made, including sending copies of relevant evidence to a client who faces deportation, obtaining a final Summary of Facts in relation to all criminal cases and streamlining certain administrative processes.

MBIE accepted the recommendations and has implemented all but d) on the basis that d) would reduce efficiency and increase costs for clients. This was because an appeal to the IPT attracts a substantial fee, while determination by a DDM does not attract a fee and, if successful, means there is no need for an IPT appeal.