



Notice of Independent Review

John McMillan AO to conduct independent review of action taken by Federal Court following potential non-compliance with section 91X of the *Migration Act 1958*

28 April 2020

John McMillan AO has been appointed to conduct an independent investigation into the issues surrounding potential non-compliance with section 91X of the *Migration Act 1958* (Cth) (the Migration Act) relating to the Commonwealth Courts Portal and Federal Law Search.

John McMillan is a highly respected and experienced former Commonwealth Ombudsman, Inspector-General of Intelligence and Security, Integrity Commissioner, Privacy Commissioner and legal practitioner.

Terms of reference have been established and a full report is expected to be provided to the Court in June 2020.

In late March 2020, the Court, through its senior officers, became aware that the names of some litigants, who had commenced protection visa proceedings in the Federal Court and the Federal Circuit Court, could be accessed on the Commonwealth Courts Portal through Federal Law Search.

The access to the names of some litigants was, or could be, if obtained, contrary to s 91X of the Migration Act. The Act provides that a federal court must not publish (in electronic form or otherwise) the name of a person in a proceeding relating either to their application for a protection visa or related bridging visa, or to the cancellation of such a visa.

On becoming aware of the potential non-compliance, the Court immediately disabled online access to information about individual court proceedings, while the cause and scope of the issue was further examined. Limited and modified online access and search functions have since been restored, however some of the former online search functions remain disabled. Steps have been taken by the Court to identify specific proceedings that may be affected and to ensure compliance with s 91X. A [notice](#) about the potential non-compliance was previously published on the Court's website. The potential non-compliance was also brought to the attention of the Law Council, the Presidents of the Bar Associations and Law Societies.

