fore, not a genuine visitor. The officer cancelled her visa and placed her in detention prior to deportation.

Mr D sought a legal injunction to prevent her departure. DIMA's Canberra office reviewed the case and overturned the cancellation of her visa.

Mr D later approached my office to complain about Ms B's treatment. He also sought reimbursement of his expenses.

My inquiries led me to the view that, in the circumstances, the officer had too quickly concluded that Ms B was entering Australia improperly. Ms B had a valid visa and although she had a relationship with Mr D, marriage was not yet planned — especially because Mr D had not divorced his former wife.

Outcome

The Department apologised to Ms B for the distress it had caused and reimbursed Mr D for his legal and other expenses.

Exercising Ministerial discretion

Under the Migration Act, visas are issued in strict compliance with legislation and officers have relatively little discretion.

However, the Minister has a personal discretion under five separate sections of the Act which allow him to substitute his own decision for that of the Department or a Tribunal. This discretion is important in those cases with unusual or difficult circumstances; where humanitarian claims are made which fall short of refugee status; and in cases where the law has failed to anticipate a situation.

This year we received a significant number of complaints about the administration of requests for the exercise of Ministerial discretions. Of particular concern were letters from the former Minister's Senior Adviser which told applicants that their cases had been considered against guidelines but were not submitted to the Minister for consideration. I provided the Minister with a detailed paper on this issue in February.

I understand that the new Minister is considering new arrangements for administering requests for Ministerial discretion.