

Information on the Federal Court Data Breach

Who is this Infosheet for?

If you have made an application at the Federal Circuit Court ('FCC') or Federal Court of Australia (FCA) and have received a letter or an email from the court stating that you have been affected by the data breach.

What is the Federal Court data breach?

On 31 March 2020, the Federal Court of Australia (FCA) confirmed that the names and details of several hundred people with cases currently or previously in the FCA and the Federal Circuit Court (FCC) were publicly disclosed on the Commonwealth Courts Portal, making the information accessible to the public. The Commonwealth Courts Portal was closed down so the problem could not continue.

The data breach means that the names and details of several hundred people have been disclosed on the Commonwealth Courts Portal, meaning anyone searching the internet, from any country prior to the end of March 2020, may have visited the Portal and accessed the names and details of a person seeking asylum and information about their claim. While pseudonyms are usually used to protect the identity of people seeking asylum or applying for judicial review, the data breach means that the actual names and details of some of those people have been accidentally made public.

Under section 91X of the *Migration Act 1958* (Cth), Courts are prohibited from publishing the names of people who have applied for judicial review of a protection visa decision (or related decisions). This means that the **disclosure of your information was unlawful**.

Who is impacted by the data breach?

People who have made an application with the FCC and FCA could have been affected by the data breach. The FCA has sent letters to people they believe may have been affected. They are using the last known contact address to send these letters.

If you have had an application with the FCC or FCA in the past and you changed address since your case was active at Court, the Court might not be able to contact you to let you know you have been affected.

It is currently not known exactly what information has been released, or for how long it has been available. The FCA is undertaking an investigation to understand the full extent of the breach, but it is still not known which names or details have been accessed, or who might have accessed them.

The FCA has contacted the people (or their lawyers) whose details may have been disclosed. If you have been affected, you may have already received a letter or email from the FCA about the data breach.

I have received a letter from the FCA advising me that I may have been affected

If you have received a letter from the FCA advising you that your personal information might have been disclosed due to this data breach, you should seek legal advice about what your options are.

It is important you do not consider withdrawing any current court application as a result of receiving this letter.

If your name or details have been disclosed as a result of the data breach, it is possible this may affect your claim for protection or asylum in Australia. If you have an ongoing case at any stage, the data breach may provide additional grounds in your case, including a basis for asking the Minister to intervene in your situation. This is why it is important to get legal advice about how the data breach may affect your individual case before taking any action.

You may also want to consider making a complaint about the breach to the Australian Office of the Information Commission (AOIC) through their website on <https://www.oaic.gov.au/privacy/privacy-complaints/>. The AOIC does not have the power to order that you be granted a visa but complaints can result in compensation for financial or non-financial harm or loss caused by the unlawful breach of privacy.

Where can I get legal help?

Asylum Seeker Resource Centre (ASRC)

The ASRC may be able to provide you with legal advice or assistance in relation to this data breach. You can contact us by calling our Legal Triage helpline:

Legal Triage Helpline: 0478 700 605 – available Mondays & Thursdays from 10:30am to 12:00pm

Refugee Legal (formerly RILC)

Refugee Legal specialises in free legal advice and representation in relation to refugee and general immigration matters. Refugee Legal provides free legal advice and representation in relation to protection visa applicants and other general immigration matters at primary and merits review stages, as well as in visa cancellation matters.

Advice line: (03) 9413 0100 – available Wednesdays & Fridays from 10am to 2pm

Paid Legal Services

The lawyers listed below may help you with your immigration matter. They will charge fees for their assistance, called legal fees or professional fees.

A lawyer must give you a 'costs agreement.' This document is your legal contract with your lawyer and explains how much money you must pay, when you must pay it, and what you can expect from your lawyer.

The ASRC recommends the lawyers below for assistance in relation to:

- Protection visa applications and interviews at the Department of Immigration;
- Administrative Appeals Tribunal review applications;
- Federal Circuit Court, Federal Court and High Court;
- Humanitarian requests to the Minister of Immigration;

- Family visas, skilled visas, work visas and student visas;
- Complex health and character matters.
- Visa cancellations and responses to adverse information.

Name	Phone	Email	Location
Carina Ford Immigration Lawyers	(03) 9396 0207	office@carinafordlawyers.com	Footscray
Clothier Anderson & Associates	(03) 9347 4022	info@clothieranderson.com.au	Carlton
PB & B Immigration Lawyers	(03) 9381 0770 0411 612 247	enquiries@pbblawyers.com.au	Brunswick
Mary Hanna Lawyers	(03) 9077 6362	info@hjlawyers.com.au	Coburg
Abode Migration Lawyers	(03) 9607 8362	info@abodemigration.com.au	Melbourne CBD or Springvale
Kerdo Legal	(03) 9416 7760	admin@migration-lawyers.net.au	Preston
Playfair Visa and Migration Services	(03) 8763 3040	info@playfair.com.au	Dandenong
Erskine Rodan & Associates	(03) 9329 8744	info@erskinerodan.com.au	North Melbourne
WLW Migration Lawyers	(03) 9088 6264	info@wlwlawyers.com.au	West Melbourne

Migration agents and lawyers who practise in immigration must be registered with the Office of Migration Agents Registration Authority to give you advice. See <https://www.mara.gov.au/>
Only use a registered migration agent.

Disclaimer: This fact sheet provides general information to people seeking asylum in Australia through the onshore protection visa application process according to the law in February 2020. This fact sheet is not legal advice. You should not rely on this fact sheet to make decisions about your immigration matter. We strongly recommend that you get independent legal advice from a registered migration agent. For information about registered migration agents please visit: <https://www.mara.gov.au/>. **Date: August 2020.**