

# PROTECTION: Permanent protection for refugees stuck on temporary visas

Refugees in Australia should have permanent protection and a clear resettlement pathway. Our current system is overly bureaucratic and punitive, hurting the most vulnerable.

ASRC is calling for the abolition of harmful visas such as Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs) as well as reforming the application process as an integral step to establishing a fair refugee system.

## Recommendations

1. Abolish Temporary Protection Visas and Safe Haven Enterprise Visas and converted them into permanent protection visas, including family reunion.
2. End 'Fast Track' and have applications, even those previously rejected, accessed by an independent process

## Policy Background

### Temporary Protection Visas and Safe Haven Enterprise Visas

Between October 2013 and December 2014 the Abbott Government amended Australia's migration processes to ensure that people who sought asylum by sea would no longer be eligible for a permanent protection visa. Making Australia the only country in the world where refugees are granted only temporary protection.

This would affect some 31,000 people who sought asylum by sea between August 2012 and December 2013, people who sought asylum by sea before this period but did not have their applications for protection finalised and the children born to the families in this cohort. This group would come to be collectively known as the 'Legacy Caseload'.

Both SHEV and TPV were introduced as part of the Abbott Government's 2014 migration amendments and last five and three years respectively, at which point they need to be renewed and the person reassessed. TPV offers no pathway to permanency, and while SHEV, in theory, offers a limited pathway to permanency the bar is set so high that it is functionally impossible.

*Student on a SHEV - "Because of these visas my family and I are going through a mental health crisis, we are being treated as second class citizens. I have no certainty about my future in Australia. I want to give back to the community, I want to contribute, but I feel as if Australia has disregarded me." - [source](#)*

As of February 2022, 28,788 people in Legacy Caseload had submitted a protection visa application, of this number 19,155 are living on temporary visas (TPV or SHEV) and 9,633 had their applications rejected. After nearly a decade there were still 2,409 people in the legacy caseload whose application was still being reviewed.

There is also no evidence that TPV/SHEV act as a deterrent to people seeking asylum by sea, and the previous version of TPV under the Howard Government was abolished for this very reason.

## End 'Fast Track'

'Fast Track' is a very misleading phrase used to describe the slow and unique determination process that seems set up for these thousands of people to fail. While this determination process also affects those subjected to offshore detention and later came to Australia, it mainly impacts the 'Legacy Caseload'.

The introduction of Fast Track was intended to give people less time to make their claims for protection as well as reduce the level of independent oversight, as a result of people being denied the right to present their case before a tribunal. Instead, cases are heard before a subsidiary body of the Administrative Appeals Tribunal, the Immigration Assessment Authority (IAA).

Not only is the system unfair, but it is bureaucratic and slow, with people already successfully assessed having to reapply every three to five years.

The IAA is also designed for people to fail with a 94% rejection rate, due largely to the fact that it does not require it to observe minimum standards of procedural fairness and lack of legal representation. This has meant between 2018-2021 38% of cases reviewed by courts were either remitted or found to be unlawful.

The AAT currently has a backlog of over 35,000 cases the vast majority of these concerning migration, up from 5,400 in 2015, with a current median waiting time of 116 weeks. This means veterans trying to access entitlements, parents seeking support and Australians having their citizenship processed are waiting three years because time and resources are being diverted into reassessing refugees every few years through a broken system for no reason.

## Why change these policies?

- People on TPV/SHEV are recognised refugees who need permanent protection.
- The Government is purposefully keeping people from building their lives in Australia and reuniting with family.
- TPV/SHEV are in no way related to deterring people from seeking asylum by sea.
- The backlogs and bureaucracy that 'Fast Track' creates affects other groups such as veterans, parents and recent citizens.
- 'Fast Track' denies legal right to a fair process, access to justice and separates families.