

# REPORT FOR TABLING IN PARLIAMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN

*Under s 486O of the Migration Act 1958*

*Personal identifier: 162/07*

## **Personal details**

1. Mr X is aged 43 and is a citizen of Bangladesh.

## **Detention history**

2. Mr X was detained for a brief period in November 2002 and then again from October 2003 until June 2006 when he was granted a Bridging Visa (BV).

## **Visa applications**

3. Mr X entered Australia on a Tourist Visa in October 1993. The Department's (DIAC) decision to refuse his initial application for a Protection Visa (PV) in May 1994 was affirmed by the Refugee Review Tribunal in June 1996. Judicial review was unsuccessfully sought in June 1997. Mr X was granted a permanent PV in December 2006.

## **Ombudsman consideration**

4. DIAC's reports to the Ombudsman under s 486N of the *Migration Act 1958* are dated 24 October 2005 and 13 April 2006.
5. Ombudsman staff considered a range of documents related to Mr X and interviewed him on 20 February 2006.


## **Key issues**

### *Forfeiture of bond*

6. DIAC detained Mr X in October 2003 when it received notification he was allegedly working in breach of his BV conditions and, in the process, Mr X forfeited a \$10,000 bond which had been lodged at the time he was granted his BV. DIAC has confirmed that neither Mr X nor his guarantor were notified that the bond was to be forfeited. They were therefore unaware they could appeal the decision. The Ombudsman's investigation into the circumstances of the forfeiture indicates that DIAC's decision making process appears to have been deficient, including a failure to record and take into account a response from Mr X's lawyers to a DIAC letter regarding forfeiture of the bond, failure to notify Mr X or his guarantor of the decision to forfeit the bond, and a failure to advise Mr X of his review and appeal rights.

## **Ombudsman assessment/recommendation**

7. The Ombudsman **recommends** that DIAC, in consultation with the Ombudsman's Office, review its decision that the \$10,000 bond be forfeited and give consideration to whether it should be reimbursed.

  
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Dr Vivienne Thom  
Acting Commonwealth and Immigration Ombudsman

*23 May 2007*  
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Date