

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

*Under s 486O of the Migration Act 1958*

*Personal identifier: 269/07*

## Case overview

1. Mr X is aged 21 and is a citizen of Afghanistan. He is of Hazara ethnicity and a Shi'a Muslim. He claims that his parents, two brothers and sister live in Afghanistan.
2. Mr X arrived in Australia by boat in April 2001 aged 15. He was detained under s 189(2) of the *Migration Act 1958* and placed at Woomera Immigration Reception and Processing Centre (IRPC). Mr X escaped in April 2002 and was re-detained in June 2002 and held at a police station before being transferred back to Woomera IRPC in July 2002. He was later transferred to Baxter Immigration Detention Centre.
3. The Department's (DIAC) decision to refuse Mr X's application for a Protection Visa (PV) in October 2001 was affirmed by the Refugee Review Tribunal in January 2002. A s 48B request resulted in the Minister allowing Mr X to lodge a further PV application. On 4 July 2005 Mr X was granted a Temporary Protection Visa (TPV) and released from detention.

## Ombudsman consideration

4. DIAC's report to the Ombudsman under s 486N is dated 5 December 2005.
5. Ombudsman staff interviewed Mr X on 28 November 2006.

## Key issues

### *Health and welfare*

6. DIAC advises that in January 2002 Mr X commenced a two-week period of voluntary starvation, however no other medical conditions were noted during his detention period.
7. Mr X told Ombudsman staff of the anxiety he felt about being indefinitely detained, *'I am feeling that I am going crazy and that I am losing my temper and losing my control. What is going on? What are they doing with us and how long they put us in detention? If someone does the wrong thing, broke the law, he will know he will go to jail for one year, two year or three year'*.
8. Mr X expressed concern about being on a TPV, as he is unable to see his family.

## Ombudsman assessment/recommendation

9. The Ombudsman notes that Mr X is now the holder of a TPV and makes no recommendations in this report.



Prof. John McMillan  
Commonwealth and Immigration Ombudsman

*2 November 2007*  
Date