

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

*Under s 486O of the Migration Act 1958*

*Personal identifier: 346/07*

## Case overview

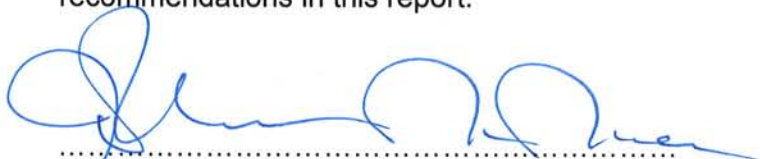
1. Mr X is aged 53 and is a citizen of the People's Republic of China (PRC).
2. Mr X arrived in Australia on a Short Stay Business Visa (BV) in September 1996. In August 2005 he was detained under s 189(1) of the *Migration Act 1958* and placed at Villawood Immigration Detention Centre. Mr X was on a hunger strike and had been on Suicide and Self Harm observations 11 times between April and May 2007 and the Department (DIAC) advises that his health was in a critical condition. He agreed to end his strike on 24 May 2007 and was hospitalised on 26 May 2007. On 6 June 2007 Mr X was transferred to Sydney Immigration Residential Housing.
3. DIAC's decision in April 1997 to refuse Mr X's initial application for a permanent Protection Visa (PV) was affirmed by the RRT in October 1997. He unsuccessfully sought judicial review at the Federal Magistrates Court (FMC). A request under s 48B resulted in the Minister allowing Mr X to lodge another PV application in December 2006. DIAC's decision in January 2007 to refuse him a PV was affirmed by the RRT in March 2007. He successfully sought judicial review at the FMC and the matter was remitted to the RRT. In September 2007, the RRT remitted the matter to DIAC with a direction to grant Mr X a PV. On 21 September 2007 Mr X was granted a PV.

## Ombudsman consideration

4. The DIAC report to the Ombudsman under s 486N is dated 14 August 2007.
5. Ombudsman staff sighted a number of documents but were unable to interview Mr X.

## Ombudsman assessment/recommendation

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



Prof. John McMillan  
Commonwealth and Immigration Ombudsman



Date