
Permanent protection for all refugees in Australia

June 2021

Background

Successive Federal Governments have enacted policies that have left people seeking asylum living in limbo and uncertainty for years. In particular, people seeking asylum who arrived in Australia by boat have been effectively denied access to permanent protection in Australia.

This includes the so-called “Legacy Caseload” of approximately 30, 000 people who sought asylum by boat prior to 1 January 2014. Individuals in this cohort were subject to the “no advantage” policy, which excluded them from lodging applications for protection visas and denied them the right to work or study whilst living in the community on bridging visas.

The majority of this group have been recognised as refugees under the “fast-track” process, yet have now spent many years on temporary visas with little or no opportunity to secure permanent protection.

Two types of temporary protection visas have been available to people classified as part of the “Legacy Caseload”; Temporary Protection Visas (TPVs), or a Safe Haven Enterprise Visas (SHEVs).

A **Temporary Protection Visa (TPV)** provides protection for three years. As long as an applicant meets the appropriate health, security, character and identity checks, TPV holders are allowed to work, study and access services such as Centrelink. Following the initial three-year visa period, a TPV holder’s only option is to reapply for a subsequent TPV or for a SHEV.

The **Safe Haven Enterprise Visa (SHEV)** provides protection for five years. The visa holder must intend to work or study at an approved institution, in regional Australia. SHEV holders may be eligible to apply for a skilled visa within Australia’s migration program if they have worked or studied full time in an approved institution in a regional area for at least 42 out of 60 months.

Although meeting these requirements technically offers a pathway to a permanent visa and citizenship in Australia, the skilled visa pathway language and documentary requirements are onerous, and waiting periods are significant. Applying for a skilled visa also forces refugees on SHEVs to make the difficult decision to forego their refugee status without being certain that they will be granted a permanent visa.

As of 31 January 2021, of the 12,504 people on SHEVs only 72 people had applied for a permanent visa, and only six had been granted permanent visas. [i]

Key Statistics

As of May 2021 [ii], the Department of Home Affairs reported:

- 4,120 people who were part of the legacy caseload were still waiting for their applications or reviews to be processed and 27, 022 had their applications finalised.
- 68.86% of all SHEV applicants and 65.45% of all TPV applicants were recognised by The Department of Home Affairs as refugees. [iii]
- Victoria has the highest number of finalised TPV or SHEV grants with 6,556 cases finalised, followed by New South Wales with 6,293 cases finalised.
- The top five main citizenships of finalised grants in order are Iran, Afghanistan, Stateless, Sri Lanka and Pakistan.
- The top five main citizenships of those waiting for their application to processed or reviewed in order are Iran, Sri Lanka, Stateless, Afghanistan and Vietnam.

Key Issues

Although TPV and SHEV holders have the right to work, have access to Medicare, and have access to some social security payments, they face a number of unique challenges that refugees on permanent protection visas (PPVs) do not. For example, unlike PPV holders, TPV and SHEV holders must pay international student fees to enrol in higher education courses and also face restrictions (Condition 8570) on overseas travel. TPV and SHEV holders must contend with the uncertainty of temporary protection, and the prospect that they may be returned to potential situations of persecution or significant harm.

As a result, TPV and SHEV holders experience significantly high anxiety, depression and post-traumatic stress disorder, compared to permanent protection visa holders. [iv] This is further exacerbated by the lack of access to family reunification, meaning that temporary visa holders are often separated from their families for long or indefinite periods of time.

People on SHEV visas who have physical or mental disability are further disadvantaged when seeking permanent protection, as they are less able to meet associated work and/or study requirements. The same applies to people who have been unable to meet the 42-month work requirements for other reasons, including those may be unaccompanied minors or have caring responsibilities.

The use of TPVs and SHEVs for a particular cohort of people seeking asylum potentially breaches a range of international human rights laws, particularly related to non-discrimination, and to the right to family and freedom from arbitrary interference of family

life. [v] It must be noted that there is little evidence to suggest that temporary protection visas have a deterrent effect. [vi]

Our Recommendation

The Australian Government should give people on Temporary Protect Visas (TPVs) or Safe Haven Enterprise Visas (SHEVs) a realistic and timely pathway to permanent protection.

The Australian Government should also reinstate permanent protection visas for all recognised refugees, regardless of their method of arrival to Australia.

Further Resources

[Australian Human Rights Commission \(2019\), Lives On Hold: Refugees and Asylum Seekers in the 'Legacy Caseload'](#).

[The Andrew & Renata Kaldor Centre for Refugee Law \(2020\), Temporary Protection Visas \(TPVs\) and Safe Haven Enterprise Visas \(SHEVs\) Fact Sheet](#).

[The Andrew & Renata Kaldor Centre for Refugee Law \(2020\), Research Brief: Temporary Protection Visas \(TPVs\) and Safe Haven Enterprise Visas \(SHEVs\)](#).

[Refugee Council of Australia \(2020\), Information About Temporary Protection Visas \(TPVs\) and Safe Haven Enterprise Visas \(SHEVs\)](#).

[Refugee Council of Australia \(2021\), Fast tracking and 'Legacy Caseload' Statistics, May 2021](#).

[i] Refugee Council of Australia (2021), What We Have Learnt From The Latest Responses to Senate Questions on Notice, June 2021

[ii] Australian Government: Department of Home Affairs (2021), IMA Legacy Caseload – Report on Processing Status and Outcomes, May 2021.

[iii] Refugee Council of Australia (2021) Fast Tracking and 'Legacy Caseload' Statistics, May 2021

[iv] Andrew & Renata Kaldor Centre for Refugee Law (2020) Temporary Protection Visas (TPVS) and Safe Haven Enterprise Visas (SHEVS)

[v] Andrew & Renata Kaldor Centre for Refugee Law (2020) Research Brief: Temporary Protection Visas (TPVS) and Safe Haven Enterprise Visas (SHEVs)

[vi] Andrew & Renata Kaldor Centre for Refugee Law (2020) Research Brief: Temporary Protection Visas (TPVS) and Safe Haven Enterprise Visas (SHEVs)