



Dot points for letters to politicians re the flawed Fast Track process and the up to 12,000 people failed by it.

- The announcement by the government that 19,000 people who hold Temporary Protection Visas (TPV) or Safe Haven Enterprise Visas (SHEV) will be transitioned to permanent visas is a welcome one.
- However, up to 12,000 additional people have had their TPV or SHEV applications rejected in what Labor agrees is a flawed and unfair system. The 2021 Labor Policy Platform states:

“The existing fast track assessment process under the auspices of the Immigration Assessment Authority and the limitation of appeal rights does not provide a fair, thorough and robust assessment process for persons seeking asylum.

Labor will abolish this fast track assessment process.”

- When the Abbott Government introduced Fast Track, it scrapped access to funded legal services. Many asylum seekers therefore chose the most inexpensive representation they could find; often Migration Agents who were not experienced in refugee applications, or free refugee legal services which did not provide lawyers to attend interviews. This significantly reduced their chances of success. The Fast Track system does not provide a opportunity for people to present their cases again.
- The rate of acceptance for asylum applicants who arrived by boat was consistently around 90% prior to the Fast Track process (Australian Human Rights Commission). Since the implementation of the Fast Track process, that figure has fallen to 66.7% (Refugee Council of Australia).
- The Labor Policy Platform states:

“Labor will create an independent Refugee Review Tribunal and abolish the Immigration Assessment Authority. The Tribunal will allow for procedurally fair, simple, affordable and accessible processes and procedures, including in relation to adverse credibility findings, for the review of refugee related decisions.”

However, no information about reinstating the Refugee Review Tribunal, or offering any kind of review mechanism, was announced when the transition to permanent visas was announced.

- Immigration Minister Andrew Giles has stated that people who had received negative determinations should continue with court processes and Ministerial Intervention Requests. This is contrary to the statements in the Labor policy platform.
- *[Include this dot point if you are writing to a Labor MP or Senator from a Labor held electorate]* The people of [insert your electorate] voted for Labor based on the Labor policy platform. If it is not honoured, then they are likely to shift their votes to Greens or Independent candidates in the next election.
- The court process is inadequate and unsustainable:
 - The process is lengthy (taking years to complete) and the courts are overloaded with cases and waitlists.
 - Court appeals are very expensive. It costs over \$3,000 just to lodge an appeal in the Federal Circuit Court, and then over \$10,000 for representation.
 - The Government is spending enormous amounts of taxpayer funds contesting appeals.

- Appeal rights are very limited. Courts can only consider procedural fairness. New information about the individual or their homeland cannot be presented.
- Some people are winning their Federal Circuit Court cases, only to have their case referred back to the Immigration Assessment Authority (IAA) where it is rejected again.
- Ministerial Intervention Requests (MIRs) are difficult and inaccessible for most people in the Fast Track system:
 - The process can take years.
 - Current guidelines state that people must continue to hold a valid visa throughout the course of their MIR process. However, people who arrived to seek asylum by boat are subject to a bar preventing them from applying for further visas. People whose Bridging Visas have been cancelled after court appeal losses therefore appear to be ineligible for MIRs.
 - The Migration Act provides the Minister with the power to substitute a decision of the Administrative Appeals Tribunal (AAT) with a more favorable decision, but this does not apply to applicants in the Fast Track system with its IAA. Access to MIRs is therefore discriminatory, based on mode of arrival.
 - MIRs are being blocked by Home Affairs staff and are not being passed on to the Minister.
 - People who have applied for MIRs, and who are living in the community on short term “Departure Pending” visas while they wait for an outcome, are repeatedly contacted by Home Affairs staff and pressured to return to their homelands
 - It costs around \$3,500 for an individual to obtain legal assistance for an MIR. This is on top of the approximately \$30,000 people will have spent on initial applications, IAA submissions, court fees, court representation and the government’s court expenses.
- The group of up to 12,000 people with rejected cases includes many people from Iran (where the situation has deteriorated) and from persecuted minority groups in Afghanistan and Pakistan for whom persecution and violence has escalated since the return of the Taliban in Afghanistan.
- Many others in this group are Tamils from Sri Lanka, like the Nadesalingam family from Biloela. Many were victims of torture when living in Sri Lanka. Tamils continue to be at risk under the current Sri Lankan Government whose Cabinet and Parliament are dominated by allies of the previous Rajapaksa regime. The United Nations and other non-government agencies continue to report the ongoing persecution of the Tamil minority by the current government. The Nadesalingam family were granted permanent visas because of this. Others must be given the same consideration.
- Without a robust review process for these cases, people with genuine claims for protection will not receive it and will face further persecution and violence if returned to their homelands.
- People caught up in the flawed and unfair Fast Track system have been held in uncertainty, and at the same time have contributed to Australian communities, for more than 10 years. The government should also consider “lifting the bar” to allow them to apply for other visas (such as partner visas for those who share their lives with partners who have permanent residency).

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