

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the fifth s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 66 months (five and a half years). The previous assessment 1000980-O was tabled in Parliament on 24 May 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1976
Ombudsman ID	1000980-O1
Date of department's reports	21 May 2017 and 18 November 2017
Total days in detention	2,004 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Yongah Hill Immigration Detention Centre.	
20 April 2017	Transferred to Facility B.

Recent visa applications/case progression

16 May 2017	Mr X's case was referred on a ministerial submission for consideration under s 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
26 July 2017	The Minister lifted the bar under s 48B.
3 August 2017	Found not to meet the guidelines for referral to the Minister under s 417 for the grant of a permanent visa.
18 August 2017	Found not to meet the guidelines for referral to the Minister under s 195A for the grant of a bridging visa.
7 September 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X was monitored by a psychiatrist for an adjustment disorder and detention fatigue. In February 2017 he presented to a psychiatrist with low mood, poor appetite and sleeping difficulties as a result of his prolonged immigration detention. It was reported in July 2017 that Mr X's mood had improved following his transfer to Facility B as his sister was able to visit him. The psychiatrist recommended a trial of medication and ongoing psychological counselling, both of which Mr X declined. Treating psychiatrists in February and July 2017 recommended that a community placement and the prompt resolution of Mr X's immigration status was essential in preventing further deterioration in his mental health.</p> <p>IHMS further advised that Mr X received treatment for shoulder pain. He underwent investigative testing after he reported that his shoulder pain had not been relieved from prescribed medication. Mr X received an injection treatment in September 2017 and improvement in his condition was noted.</p>
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Other matters

The department advised that Mr X has a sister who is residing temporarily in Australia with her husband and three children.

Ombudsman assessment/recommendation

Mr X was detained on 25 May 2012 following the cancellation of his visa under ss 116 and 103 and has remained in immigration detention for more than five and a half years.

On 26 July 2017 the Minister lifted the bar under s 48B to allow Mr X to apply for a temporary visa. On 7 September 2017 Mr X lodged an application for a SHEV.

The Ombudsman's previous assessment recommended that Mr X be considered for placement at an immigration detention facility that is closer to his family while he awaits the resolution of his immigration status.

On 21 May 2017 the department advised that Mr X had been transferred to Facility B on 20 April 2017 in accordance with the Ombudsman's recommendation. On 24 May 2017 the Minister advised that Mr X had been transferred to an immigration detention facility closer to his family.

The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.

IHMS has advised that treating psychiatrists recommended in February and July 2017 that a community placement and the prompt resolution of Mr X's immigration status was essential in preventing further deterioration in his mental health.

In light of the significant length of time Mr X has remained in detention, the adverse impact of the detention facility environment on his mental health, and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X's case be referred to the Minister for consideration under s 197AB for the grant of a community placement.