

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in restricted immigration detention for more than 48 months (four years).

The first assessment 1002663 was tabled in Parliament on 14 September 2015 and the second assessment 1003149 was tabled in Parliament on 31 August 2016. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1001489-O
Date of DIBP's reviews	4 August 2016 and 2 February 2017
Total days in detention	1,458 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003149), Mr X remained at Yongah Hill Immigration Detention Centre (IDC).

Recent visa applications/case progression

23 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a new Safe Haven Enterprise visa (SHEV) application or providing supporting information for his existing application. He accepted the offer on 24 February 2016 and was assigned a provider.
2 March 2016	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> for the grant of a Bridging visa.
19 September 2016	SHEV application refused. Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
12 December 2016	The Minister declined to intervene under s 195A.

Health and welfare

International Health and Medical Services advised that Mr X had not required treatment for any major physical or mental health issues since its previous report to the Ombudsman.

Information provided by Mr X

During an interview with Ombudsman staff at Yongah Hill IDC on 24 May 2017 Mr X advised that following the refusal of his SHEV application by the Department of Immigration and Border Protection (the department) and the IAA he requested judicial review by the Federal Circuit Court (FCC). He later withdrew his request with the FCC in order to commence a voluntary removal process. Mr X reported feeling distressed and confused regarding inconsistent information provided by the department in relation to his eligibility to receive support from the International Organization for Migration if he returned to Country A voluntarily.

Mr X stated that his mental health had deteriorated due to his ongoing placement in restricted detention and although he attended regular mental health assessments, he didn't find the support very helpful.

Mr X further stated that he is concerned for his safety if he returns to Country A, however he signed voluntary removal forms due to personal circumstances relating to his family.

Ombudsman assessment/recommendation

Mr X was detained on 5 February 2013 after arriving in Australia by sea and has been held in restricted detention for more than four years.

Mr X's SHEV application was refused on 19 September 2016 and his case was referred to the IAA for review.

The Ombudsman notes with concern the Government's duty of care to detainees and the serious risk to physical and mental health prolonged restricted immigration detention may pose. In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural or security concerns, the Ombudsman recommends that Mr X be referred to the minister for consideration under s 195A for the grant of a Bridging visa while his immigration status is finalised.