

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the second s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 42 months (three and a half years).

The first assessment 1003421 was tabled in Parliament on 31 August 2016. This assessment provides an update and should be read in conjunction with the previous assessment.

Name	Mr X
Citizenship	Country A
Year of birth	1980
Ombudsman ID	1002151-O
Date of DIBP's reviews	8 September 2016 and 9 March 2017
Total days in detention	1,276 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003421), Mr X has remained at Christmas Island Immigration Detention Centre (IDC).

Recent visa applications/case progression

20 June 2016	Lodged a Safe Haven Enterprise visa (SHEV) application and withdrew his existing Temporary Protection visa (TPV) application.
27 June 2016	Attended an interview in relation to the SHEV application.
29 August 2016	Provided post-interview submissions in relation to the SHEV application.
1 December 2016	The Federal Court dismissed Mr X's application to quash his adverse security assessment and to restrain the Minister from having regard to it in any decision concerning him under the <i>Migration Act 1958</i> .
21 December 2016	Appealed to the Full Federal Court (FFC).
9 March 2017	The Department of Immigration and Border Protection (the department) advised that Mr X remained the subject of an adverse security assessment.
11 July 2017	The FFC allowed Mr X's appeal and quashed his adverse security assessment.

Health and welfare

International Health and Medical Services advised that Mr X did not require treatment for any major physical or mental health issues during this assessment period.

Information provided by Mr X

During a telephone conversation with Ombudsman staff on 1 August 2017 Mr X advised that following the decision by the FFC on 11 July 2017 to quash his adverse security assessment, arrangements had been made for him to be interviewed by an external agency.

Mr X expressed the desire to be transferred to an immigration detention facility in Melbourne as his uncle resided there and he would be closer to friends in Sydney. He also thought he would feel better if he were on the mainland because of the change in environment and he would be able to communicate with his family via video calls which were not available at Christmas Island IDC.

He advised that he suffered from insomnia and some nights he would not sleep at all. He said that his body clock was not functioning and he had tried sleeping medication but it did not work in his case.

Ombudsman assessment/recommendation

Mr X was detained on 1 November 2012 after arriving in Australia by sea and has been held in restricted detention for more than three and a half years.

On 20 June 2016 Mr X lodged a SHEV application and withdrew his existing TPV application. At the time of the department's latest review Mr X was awaiting the outcome of proceedings in the FFC in which he was seeking to quash his adverse security assessment. On 11 July 2017 the FFC quashed the adverse security assessment.

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.

- 1. In light of the significant length of time Mr X has remained in detention and the absence of any recent behavioural concerns, the Ombudsman recommends that he be considered under s 195A for the grant of a bridging visa.**
- 2. If Mr X is not granted a bridging visa, the Ombudsman recommends that he be considered for transfer to an immigration detention facility in Melbourne to be closer to his support network.**