

Our ref: 486N-1000785-03

10 August 2019

The Hon David Coleman MP
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

Assessments under s 486O of the *Migration Act 1958*

In accordance with s 486O of the *Migration Act 1958* (the Act) I am forwarding my assessment of 10 cases on the schedule (Attachment A) regarding 12 individuals who fall within the reporting and assessment obligation imposed by Part 8C of the Act.

My Office has assessed the appropriateness of the immigration detention arrangements of the 10 cases on the schedule and has made one recommendation in relation to one case (Attachment B).

The Act also requires that I prepare this de-identified statement for tabling in Parliament.

As part of this assessment my Office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. When required, further information was requested under s 486Q of the Act or s 8 of the *Ombudsman Act 1976*.

Yours sincerely



Michael Manthorpe PSM
Commonwealth Ombudsman

Influencing systemic improvement in public administration

SCHEDULE

Assessments of people placed in immigration detention for more than two years

When coming to this assessment, the Office reviewed information relating to each individual's case progression, detention placement, legal matters and health and welfare. When required, further information was requested under s 486Q of the Act or s 8 of the *Ombudsman Act 1976*.

No	Ombudsman ID	Recs	Comments	Name	No. of People	Year of birth	Days in detention ¹	Detention status ²	Date of 486N report	Date last assessment tabled
1	1000785-O3	N	N	Mr X	1	1953	2,927	SHEV	20 March 2019	21 February 2019
2	1001820-O3	N	N	Mr X	1	1983	2,017	SHEV	16 July 2018 and 23 January 2019	25 June 2018
3	1002687-O2	N	N	Mr X	1	1988	1,466	IDF	26 November 2018 and 3 June 2019	13 February 2019
4	1002873-O2	N	N	Mr X	1	1982	1,097	SHEV	11 April 2019	31 July 2019
5	1002912-O2	N	N	Mr X	1	1995	1,105	Deceased	5 June 2019	31 July 2019
6	1002974-O	N	N	Mr X	1	1985	730	Deceased	7 September 2018	First Assessment
7	1002991-O	1	N	Mr X Ms X (wife) Master X (son)	3	1975 1980 2005	730 730 730	CD CD CD	29 October 2018 and 30 April 2019	First Assessment
8	1003055-O	N	N	Mr X	1	1972	735	IDF	19 February 2019	First Assessment
9	1003082-O	N	N	Mr X	1	1984	740	IDF	17 April 2019	First Assessment
10	1003088-O	N	N	Mr X	1	1983	742	IDF	26 April 2019	First Assessment

¹ At date of the Department's latest report.

² Immigration Detention Facility (IDF), Community Placement (CD), Safe Haven Enterprise visa (SHEV).

**RECOMMENDATIONS BY THE COMMONWEALTH OMBUDSMAN TO
THE MINISTER FOR IMMIGRATION, CITIZENSHIP, MIGRANT SERVICES AND MULTICULTURAL AFFAIRS**
Under s 486O of the Migration Act 1958

Name	Mr X Ms X (wife) Master X (son)
Ombudsman ID	1002991-O
<p>Mr X, Ms X and their son were detained in July 2013 after arriving in Australia by sea. The family has remained in immigration detention, in a detention facility and in the community, for a cumulative period of more than two and a half years.</p> <p>Mr X, Ms X and their son were transferred to a Regional Processing Country (RPC) and returned to Australia for medical treatment. Mr X and Ms X's second son was born in Australia following their temporary transfer and is not yet due for reporting under s 486N of the <i>Migration Act 1958</i>.</p> <p>The Department of Home Affairs' (the Department) report advised that because Mr X, Ms X and their first son arrived after 19 July 2013 the family remains liable for transfer back to an RPC on completion of their treatment.</p> <p>The Department's report advised that the family has undergone a Refugee Status Determination by the Government of an RPC and were found to be refugees.</p> <p>The Department's report further advised that, while they have a child under the age of five who is not yet attending school, the family will not be considered for the grant of Final Departure Bridging visas under s 195A.</p> <p>The International Health and Medical Services report advised that the family required treatment for significant mental health concerns.</p> <p>The Ombudsman notes with concern that the family's ongoing uncertainty about their immigration status poses a significant risk to their health and welfare.</p> <p>Recommendation</p> <p>The Ombudsman recommends that the Department:</p> <ol style="list-style-type: none">1. Explore options to address the prolonged detention of Mr X, Ms X and their son.	