

ASSESSMENT BY THE COMMONWEALTH AND IMMIGRATION OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is third s 486O assessment on Mr X who has remained in restricted immigration detention for more than 54 months (four and a half years).

The first assessment 1001957 was tabled in Parliament on 27 May 2015 and the second assessment 1003231 was tabled in Parliament on 14 September 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	1986
Ombudsman ID	1001981-O
Date of DIBP's reviews	17 October 2016 and 17 April 2017
Total days in detention	1,640 (at date of DIBP's latest review)

Recent detention history

Since the Ombudsman's previous assessment (1003231), Mr X remained at Wickham Point Alternative Place of Detention.	
16 June 2016	Transferred to Yongah Hill Immigration Detention Centre

Recent visa applications/case progression

11 July 2016	Safe Haven Enterprise visa (SHEV) application refused.
13 July 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.
27 July 2016	The Department of Immigration and Border Protection advised that Mr X's case was referred to an external agency after an allegation was made against him. On 24 October 2016 the external agency advised that Mr X was not of interest to them.
19 September 2016	The IAA affirmed the decision to refuse Mr X's SHEV application.
18 October 2016	Applied to the Federal Circuit Court for judicial review.
13 February 2017	The Minister declined to intervene under s 195A of the <i>Migration Act 1958</i> to grant Mr X a Bridging visa.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health concerns, including hepatitis B and hypertension. His condition continued to be monitored by a general practitioner and he was awaiting a gastroenterology review.

Information provided by Mr X

Mr X was offered the opportunity to discuss his detention circumstances with Ombudsman staff but declined to do so.

Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the Refugee Convention and the complementary protection criterion and has been held in restricted detention for more than four and a half years. At the time of the department's latest review Mr X was awaiting the outcome of judicial 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's case be referred to the Minister for consideration under s 195A for the grant of a Bridging visa.