

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the first s 486O assessment on Mr X who has remained in restricted immigration detention for a cumulative period of more than 30 months (two and a half years).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1991
<b>Ombudsman ID</b>	1002529-O
<b>Date of DIBP's reviews</b>	12 October 2016 and 12 April 2017
<b>Total days in detention</b>	912 (at date of DIBP's latest review)

### Detention history

20 September 2012	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to an Alternative Place of Detention (APOD), Christmas Island.
10 October 2012 – 2 November 2012	Transferred three times between Christmas Island Immigration Detention Centre (IDC) and an APOD, Christmas Island.
4 November 2012	Transferred to Wickham Point IDC.
14 February 2013	Granted a bridging visa and released from detention.
9 March 2015	Re-detained under s 189(1) after being released from criminal custody. He was transferred to Villawood IDC.
16 June 2015	Transferred to Wickham Point APOD.
16 June 2016	Transferred to Yongah Hill IDC.

### Visa applications/case progression

14 February 2013	Granted a Temporary Safe Haven visa with an associated bridging visa.
14 August 2013	Bridging visa ceased.
18 August 2015	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.
30 September 2015	Lodged a Temporary Protection visa (TPV) application.
22 February 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application or providing supporting information for his existing application. He accepted the offer on 29 February 2016 and was assigned a provider.
6 May 2016	Lodged a Safe Haven Enterprise visa (SHEV) application and withdrew his existing TPV application.
2 September 2016	SHEV application refused.
8 September 2016	Mr X's case was referred to the Immigration Assessment Authority (IAA) for review.

27 September 2016	Mr X's case was referred on a first stage ministerial submission for consideration under s 195A for the grant of a bridging visa.
12 December 2016	The Minister agreed to consider Mr X's case on a further ministerial submission under s 195A.
3 January 2017	The IAA affirmed the decision to refuse Mr X's SHEV application.
8 February 2017	Applied to the Federal Circuit Court (FCC) for judicial review.
16 March 2017	The FCC rejected Mr X's application as it was incomplete.
31 March 2017	Mr X signed a request for voluntary removal. The Department of Immigration and Border Protection (the department) advised that his case was not referred on a further ministerial submission under s 195A as a result.
12 April 2017	The department advised that it was processing Mr X's voluntary removal.

### Other legal matters

19 October 2014	Mr X was charged with assault and an Apprehended Domestic Violence Order (ADVO) was granted against him.
8 March 2015	Mr X was arrested and charged with destroying and damaging property and contravening the conditions of his ADVO. He appeared before a court the following day and received a 12-month good behaviour bond and was fined \$1000.

### Health and welfare

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

### Other matters

Mr X holds a Country A passport valid until 10 January 2022.

### Information provided by Mr X

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

### Case status

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 a cumulative period of more than two and a half years. He has no matters before the department, the courts or tribunals and is on a removal pathway.