

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 immigration detention for a cumulative period of more than 24 months (two years).

Name	Mr X
Citizenship	Country A
Year of birth	1991
Ombudsman ID	1002637-O
Date of department's report	5 April 2017
Total days in detention	730 (at date of department's report)

Detention history

16 June 2013	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.
20 June 2013	Transferred to Facility B.
28 June 2013	Transferred to Nauru Regional Processing Centre (RPC). ¹
2 August 2013	Returned to Australia and re-detained under s 189(1). He was transferred to Facility C.
21 August 2013	Transferred to Facility D.
23 November 2013	Transferred to Facility C.
18 December 2013	Transferred to Facility E.
26 March 2014	Granted a bridging visa and released from immigration detention.
11 December 2015	Re-detained under s 189(1) following his release from a correctional facility. He was transferred to Facility E.
5 July 2016	Transferred to Facility B.
26 August 2016	Transferred to Facility F.
27 August 2016	Transferred to Facility E.
13 April 2017	Granted a Safe Haven Enterprise visa (SHEV) and released from immigration detention.

Visa applications/case progression

26 March 2014	Granted a bridging visa with an associated Temporary Humanitarian Concern visa.
13 January 2015	Issued with a Notice of Intention to Cancel his bridging visa after he was charged with a criminal offence. His bridging visa was cancelled on the same day.

¹ Time spent at an RPC is not counted towards time spent in immigration detention in Australia for the purposes of reporting under s 486N.

22 January 2015	Applied to the Migration Review Tribunal (MRT) for merits review. On 20 February 2015 the MRT found that it did not have jurisdiction.
18 April 2016	The Minister lifted the bar under ss 46A and 46B to allow Mr X to lodge a temporary visa application.
26 April 2016	Mr X was notified that he was eligible to receive the Primary Application Information Service to assist him with lodging a temporary visa application. He accepted the offer on 27 April 2016.
20 June 2016	Lodged a SHEV application.
5 April 2017	The Department of Home Affairs advised that Mr X had been identified for a possible referral to the Minister under s 195A for the grant of a bridging visa.
13 April 2017	Granted a SHEV.

Other legal matters

3 January 2015	Charged with causing grievous bodily harm and remanded in custody.
February 2017	Appeared before a court and found not guilty of the charge.

Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X has a history of torture and trauma and regularly attended specialist counselling. A treating psychologist reported that Mr X's placement in an immigration detention facility exacerbated his anxiety and depression and advised that his mental health would benefit from being placed in the community.</p> <p>Mr X also received treatment for post-traumatic stress disorder (PTSD) with dissociative episodes and an adjustment disorder with depressed mood. He was placed on Supportive Monitoring and Engagement observations on multiple occasions for extended periods after displaying high risk self-harm behaviour. In August 2013 Mr X was admitted to a psychiatric hospital for the management of acute reactive psychosis, PTSD and an adjustment disorder. He received cognitive therapy and improvements in his condition were noted. However, following his transfer to a secure psychiatric hospital, Mr X's condition deteriorated and he refused food and fluid and attempted self-harm. He was subsequently returned to Facility D and monitored by the mental health team (MHT).</p> <p>IHMS advised that Mr X's condition deteriorated while he resided in the community as he was non-compliant with medication and experienced flashbacks and nightmares. Following his re-detention in December 2015 Mr X received ongoing support from a psychiatrist, psychologist and the MHT.</p> <p>Mr X was transferred to hospital in September 2016 following an alleged assault and was provided with treatment for head and facial injuries. He was again transferred to hospital in December 2016 following another alleged assault and received treatment for facial and finger injuries. He was subsequently reviewed by a specialist surgical clinic on 28 December 2016 and 4 January 2017 and was awaiting a further appointment at the time of IHMS's report.</p> <p>Mr X also received treatment for multiple physical health concerns, including gastro-intestinal issues, knee pain and a blood disorder.</p>	
2 October 2013 and 17 November 2013	Incident Reports recorded that Mr X threatened self-harm.
9 November 2016	An Incident Report recorded that Mr X self-harmed and was transferred to hospital.

Detention incidents

September 2016	An Incident Report recorded that Mr X was allegedly assaulted by another detainee at Facility E and was transferred to hospital for treatment. The matter was referred to the police for investigation.
December 2016	An Incident Report recorded that Mr X was allegedly assaulted by another detainee at Facility E and was transferred to hospital for treatment. Mr X declined to report the incident to police as he feared repercussions from other detainees.

Case status

<p>Mr X was detained on 16 June 2013 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than two years.</p> <p>On 18 April 2016 the Minister lifted the bar under ss 46A and 48B to allow Mr X to apply for a temporary visa and on 20 June 2016 Mr X lodged an application for a SHEV.</p> <p>Mr X was granted a SHEV on 13 April 2017 and released from immigration detention.</p>
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