

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the third s 486O assessment on Mr X who has remained in immigration detention for more than 54 months (four and a half years). The previous assessment 1001805-O was tabled in Parliament on 1 March 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

Name	Mr X
Citizenship	Country A
Year of birth	1981
Ombudsman ID	1001805-O1
Date of DIBP's reports	22 February 2017 and 23 August 2017
Total days in detention	1,640 (at date of DIBP's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X remained at Yongah Hill Immigration Detention Centre (IDC).	
12 July 2017	Transferred to Christmas Island IDC.

Recent visa applications/case progression

11 November 2016	The Immigration Assessment Authority (IAA) affirmed the decision to refuse Mr X's Safe Haven Enterprise visa (SHEV) application.
13 December 2016	Applied to the Federal Circuit Court (FCC) for judicial review.
23 February 2017 – 11 August 2017	Appeared at the FCC on six occasions. A further hearing was scheduled for 11 October 2017.
10 May 2017	Found not to meet the guidelines for referral to the Minister under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X continued to attend routine mental health assessments and presented with symptoms of detention fatigue in August 2017. Mr X also continued to await an appointment with an ear nose and throat specialist in relation to his chronic nasal condition. IHMS advised that he was regularly provided with updates on the progress of his referral and received treatment as required. IHMS further advised that Mr X was provided with treatment for additional physical health concerns, including a benign tumour. He was transferred to hospital for investigative testing in April 2017 and requires annual ultrasounds to monitor his condition.	
23 April 2017	Transferred to hospital after presenting with abdominal pain.

Recent detention incidents

28 March 2016	An Incident Report recorded that Mr X allegedly assaulted a Serco officer and the matter was referred to the police. On 22 February 2017 the Department of Immigration and Border Protection (the department) advised that the investigation had been finalised.
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Ombudsman assessment/recommendation

<p>Mr X was detained on 25 February 2013 after arriving in Australia by sea and has been held in an immigration detention facility for more than four and a half years.</p> <p>Mr X's SHEV application was refused on 9 August 2016 and on 11 November 2016 the IAA affirmed the refusal. At the time of the department's latest report Mr X was awaiting the outcome of judicial review.</p> <p>The Ombudsman's previous assessment noted that Mr X has been awaiting a specialist appointment for his nasal condition for more than two years and that he had to be re-referred to a new specialist twice as a result of his transfer between detention facilities. In light of these concerns, the Ombudsman recommended that the department follow up with IHMS to ensure that Mr X is allocated a specialist appointment as soon as possible and that any pending medical appointments are taken into account when making placement decisions for Mr X.</p> <p>On 1 March 2017 the Minister advised that the department has requested that IHMS prioritise Mr X's medical appointment and that his pending medical appointments were taken into account when considering his placement.</p> <p>The Ombudsman notes that Mr X has continued to await a specialist appointment during this assessment period and was regularly provided with updates on the progress of his referral.</p> <p>The Ombudsman notes with concern the government's duty of care to detainees and the serious risk to physical and mental health prolonged immigration detention may pose.</p> <p>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 be considered under s 195A for the grant of a bridging visa.</p>
