

## 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).

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1990
<b>Ombudsman ID</b>	1002776-O
<b>Date of department's report</b>	4 October 2017
<b>Total days in detention</b>	730 (at date of department's report)

### Detention history

11 June 2013	Detained under s 189(3) of the <i>Migration Act 1958</i> after arriving in Australia by sea. He was transferred to Facility B.
21 July 2013	Transferred to Facility C.
7 August 2013	Granted a bridging visa and released from immigration detention.
1 December 2015	Re-detained under s 189(1) following the cancellation of his visa under s 116. He was transferred to Facility D.
13 September 2016	Transferred to Facility E.
2 February 2017	Transferred to Facility D.

### Visa applications/case progression

7 August 2013	Granted a bridging visa that ceased on 7 August 2014, after which he remained unlawfully in the community.
8 January 2015	The Minister lifted the bar under ss 46A and 91L to allow Mr X to lodge a bridging visa application.
16 January 2015	Granted a bridging visa.
1 December 2015	Issued with a Notice of Intention to Consider Cancellation of his bridging visa under s 116 following criminal convictions. Bridging visa cancelled under s 116.
11 December 2015	The Administrative Appeals Tribunal affirmed the original decision.
13 January 2016, 21 July 2016 and 17 February 2017	Lodged bridging visa applications which were deemed invalid.
18 April 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.

21 April 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. He accepted the offer on 22 April 2016 and was assigned a provider.
1 July 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
19 August 2016	SHEV application refused.
7 October 2016	The Minister declined to intervene under s 195A for the grant of a bridging visa.
4 November 2016	The Immigration Assessment Authority (IAA) affirmed the decision to refuse Mr X's SHEV application.
24 November 2016	Applied to the Federal Circuit Court for judicial review. The matter was adjourned on 2 August 2017.

### **Criminal history**

January 2015 – September 2015	Convicted on three occasions for driving related offences and disqualified from holding a driver's licence for two years.
March 2016	Convicted on two counts of driving a motor vehicle while disqualified and sentenced to a two-year good behaviour bond.

### **Health and welfare**

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for multiple physical health issues, including abdominal pain and liver and weight concerns. Investigative testing in April and July 2016 indicated elevated liver function tests and Mr X was encouraged to lose weight and implement healthy lifestyle modifications. In June 2017 Mr X disclosed that he was experiencing abdominal pain and investigative testing indicated that he had a bacterial stomach infection. He was prescribed with medication and in a subsequent review the issue was noted to be resolved.</p> <p>IHMS further advised that in June 2017 Mr X was diagnosed with situational anxiety and a depressive disorder related to his prolonged detention. He attended a mental health assessment and reported experiencing sleeping difficulties and feelings of anxiety and frustration about his immigration situation. He declined to receive further mental health support and continued to be monitored by the mental health team.</p>	
20 June 2017	An Incident Report recorded that Mr X was transported to hospital by ambulance with abdominal pain.

### **Case status**

<p>Mr X has been found not to be owed protection under the <i>Migration Act 1958</i> and has remained in an immigration detention facility for a cumulative period more than two years.</p> <p>On 18 April 2016 the Minister lifted the bar under s 46A to allow Mr X to apply for a temporary visa and on 1 July 2016 Mr X lodged an application for a SHEV.</p> <p>Mr X's SHEV application was refused on 19 August 2016 and on 4 November 2016 the IAA affirmed the refusal.</p> <p>At the time of the Department of Home Affairs' latest report Mr X was awaiting the outcome of judicial review.</p>	
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