

## ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

*Under s 486O of the Migration Act 1958*

This is the fifth s 486O assessment on Mr X who has remained in immigration detention for more than 96 months (eight years). The previous assessment 1000153-O was tabled in Parliament on 6 September 2017. This assessment provides an update and should be read in conjunction with the previous assessments.

<b>Name</b>	Mr X
<b>Citizenship</b>	Country A
<b>Year of birth</b>	1992
<b>Ombudsman ID</b>	1000153-01
<b>Date of department's reports</b>	1 August 2017 and 30 January 2018
<b>Total days in detention</b>	2,914 (at date of department's latest report)

### Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Yongah Hill Immigration Detention Centre.

### Recent visa applications/case progression

3 August 2016, 12 December 2016 and 9 February 2017	Mr X's case was referred on a ministerial submission for consideration under s 195A of the <i>Migration Act 1958</i> for the grant of a bridging visa. On each occasion the submission was returned unactioned.
2 June 2017	Withdrew his Temporary Protection visa application.
3 June 2017	The Department of Home Affairs (the department) allocated a Primary Application Information Service provider to assist Mr X with lodging a temporary visa application.  On the same day Mr X lodged a Safe Haven Enterprise visa (SHEV) application.
23 June 2017	SHEV application refused.
17 November 2017	The Administrative Appeals Tribunal affirmed the refusal decision.
21 November 2017	The department determined that Mr X no longer met the guidelines for referral to the Minister under s 195A. As a result he was withdrawn from a submission.
6 December 2017	Applied to the Federal Circuit Court for judicial review. A hearing was scheduled for 31 January 2018.
18 January 2018	Mr X was identified for an assessment against the guidelines under s 195A for possible referral to the Minister.

## Health and welfare

International Health and Medical Services (IHMS) advised that Mr X presented with symptoms of situational depression, including low mood, poor motivation and increased stress following negative immigration news and fear of being removed from Australia. He attended a group therapy session in February 2017 and was referred for review by a psychiatrist.

## Ombudsman assessment/recommendation

Mr X has been found not to be owed protection under the *Migration Act 1958* and has remained in immigration detention, both in a detention facility and the community, for more than eight years.

At the time of the department's latest report Mr X was awaiting the outcome of judicial review.

The Ombudsman's previous assessment recommended that Mr X's case be referred to the Minister for the grant of a bridging visa under s 195A.

On 6 September 2017 the Minister advised that the department was preparing a submission for his consideration of Mr X's case.

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. IHMS advised that Mr X presented with low mood, poor motivation and increased stress and was referred for review by a psychiatrist.

The Ombudsman further notes that the criminal charges that led to the revocation of Mr X's community placement in April 2014 had been withdrawn as of December 2014.

In light of the significant length of time Mr X has remained in detention and the absence of any behavioural or security concerns, the Ombudsman recommends that the Minister consider Mr X's case under s 195A and grant him a bridging visa while he awaits the outcome of judicial review.