

## 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 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, born in Country B
<b>Year of birth</b>	1994
<b>Ombudsman ID</b>	1002630-O
<b>Date of department's report</b>	24 March 2017
<b>Total days in detention</b>	730 (at date of the department's report)

### Detention history

8 August 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.
2 September 2013	Transferred to Christmas Island Immigration Detention Centre (IDC).
8 October 2014	Transferred to Wickham Point IDC.
11 December 2014	Granted a bridging visa and released from immigration detention.
27 July 2016	Re-detained under s 189(1) following the cancellation of his visa. He was remanded in criminal custody.
29 July 2016	Transferred to Facility B.
30 July 2016	Transferred to Facility C.
26 May 2017	Granted a bridging visa and released from immigration detention

### Visa applications/case progression

11 December 2014	Granted a bridging visa.
11 December 2015	Bridging visa expired.
16 February 2016	Granted a further bridging visa.
27 July 2016	Bridging visa cancelled under s 116 following criminal charges.
30 July 2016	Applied to the Administrative Appeals Tribunal (AAT) for merits review of the Department of Home Affairs' (the department) decision to cancel his bridging visa.
9 August 2016	The AAT determined that it did not have jurisdiction to review the matter.
7 September 2016	The Minister lifted the bar under s 46A to allow Mr X to lodge a temporary visa application.

22 September 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 September 2016 and was assigned a provider.
30 November 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
24 March 2017	The department advised that Mr X was in immigration detention on 31 January 2014 and may have been affected by the unintentional release of personal information. <sup>1</sup>  The department further advised that Mr X's case had been identified for an assessment against the guidelines under s 195A for the grant of a bridging visa.

### Other legal matters

22 May 2016	Charged with driving-related offences and remanded in criminal custody.
March 2017	Appeared before a magistrates court and all charges were dismissed.

### Health and welfare

<p>International Health and Medical Services (IHMS) advised that Mr X received treatment for a history of torture and trauma, sleeping difficulties and emotional stress. He was prescribed with medication for sleeping concerns in March 2014 and attended specialist counselling in November and December 2014.</p> <p>Following his re-detention, Mr X presented with further sleeping concerns and in September 2016 a general practitioner (GP) noted that he displayed drug-seeking behaviour. In January 2017 he was reviewed by a psychiatrist and diagnosed with emotional stress and cluster B personality traits. He was awaiting follow-up reviews at the time of IHMS's latest report.</p> <p>IHMS further advised that Mr X underwent knee surgery prior to his arrival to Australia and presented with knee pain while held in immigration detention. In July 2014 an orthopaedic specialist noted issues with the metal pins in Mr X's knee and recommended surgical removal. Further investigative testing in 2016 identified abnormalities and Mr X was referred to an orthopaedic specialist. He was prescribed with pain relief medication and continued to be monitored by a GP.</p>	
14 July 2014	An Incident Report recorded that Mr X threatened self-harm.

### Other matters

The department advised that Mr X has a cousin who resides in Melbourne.
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<sup>1</sup> In a media release dated 19 February 2014 the Minister advised that an immigration detention statistics report was released on the department's website on 11 February 2014 which inadvertently disclosed detainees' personal information. The documents were removed from the website as soon as the department became aware of the breach from the media. The Minister acknowledged this was a serious breach of privacy by the department.

### **Information provided by Mr X**

During an interview with Ombudsman staff on 22 May 2017 Mr X advised that his visa had been cancelled following criminal charges, but that the charges had been withdrawn and the case was dismissed. He stated that he did not know why he remained in immigration detention given that the charges were dismissed.

Mr X advised that he had lodged a SHEV application and was awaiting the outcome. He stated that he used to speak with his case manager often, but the last time he had spoken to them was over a month ago, and they were now waiting for his visa application to be processed. He said that he had been interviewed by the department three months ago and that his friends assisted him in interpreting documents that are written in English.

Mr X advised that he experiences pain related to arm and knee conditions. He said that he had been to the GP about his concerns but that they only provided him with Panadol. He stated that his mental health had been much better when he resided in the community on a bridging visa, but now he needed medication to help him to sleep.

Mr X said that he does not have family in Australia, but speaks to his family on the telephone every few months. He advised that he sometimes speaks with friends on the telephone and was visited by a community organisation.

### **Case status**

Mr X was detained on 8 August 2013 after arriving in Australia by sea and remained in an immigration detention facility for a cumulative period of more than two years.

Mr X was granted a bridging visa on 26 May 2017 and released from immigration detention.