

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 more than 30 months (two and a half years).

Name	Mr X
Citizenship	Country A
Year of birth	1994
Ombudsman ID	1002722-O
Date of department's reports	22 July 2017 and 22 January 2018
Total days in detention	914 (at date of department's latest report)

Detention history

23 July 2015	Detained under s 189(1) of the <i>Migration Act 1958</i> after arriving as an unauthorised air arrival and being refused immigration clearance. He was transferred to Maribyrnong Immigration Detention Centre.
7 August 2015	Transferred to Wickham Point Alternative Place of Detention.
16 June 2016	Transferred to Melbourne Immigration Transit Accommodation (ITA).

Visa applications/case progression

27 August 2015	Lodged a Temporary Protection visa (TPV) application.
7 April 2016	Mr X was notified that he is eligible to receive the Primary Application Information Service to assist him with lodging a new temporary visa application or providing supporting information for his existing application. He accepted the offer on 8 April 2016 and was assigned a provider.
6 May 2016	TPV application withdrawn.
9 May 2016	Lodged a Safe Haven Enterprise visa (SHEV) application.
7 March 2017	SHEV application refused.
10 March 2017	Applied to the Administrative Appeals Tribunal (AAT) for merits review.
14 June 2017 and 7 November 2017	An identity assessment determined that Mr X's identity was not supported.
9 October 2017	AAT affirmed original decision.
8 November 2017	Applied to the Federal Circuit Court for judicial review. The matter was adjourned on 19 December 2017 and a hearing was scheduled for 16 May 2018.
17 November 2017	Mr X's case was identified for possible referral to the Minister for an assessment against the guidelines under s 195A for the grant of a bridging visa.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X was prescribed with medication and attended specialist counselling for the treatment of a history of trauma, post-traumatic stress disorder (PTSD) and depression. He reported experiencing symptoms of PTSD including nightmares, insomnia, low mood, anxiety and intrusive thoughts and memories.

Following his transfer to Melbourne ITA, IHMS advised that Mr X witnessed a detainee's suicide attempt and reported that this incident triggered nightmares and flashbacks related to his past trauma. A treating counsellor recommended that Mr X be granted a community placement to avoid deterioration of his mental health.

IHMS further advised that Mr X underwent pathology testing and was referred for specialist review of a chronic cough. An appointment was pending at the time of IHMS's latest report.

17 November 2015

An Incident Report recorded that Mr X collapsed and was transported to hospital by ambulance.

Ombudsman assessment/recommendation

Mr X was detained on 23 July 2015 after arriving as an unauthorised air arrival and has remained in an immigration detention facility for more than two and a half years.

On 9 May 2016 Mr X lodged a SHEV application and on 7 March 2017 his SHEV application was refused.

The AAT affirmed the decision to refuse Mr X's SHEV application on 9 October 2017. At the time of the Department of Home Affairs' (the department) latest report, Mr X was awaiting the outcome of judicial review.

On 17 November 2017 Mr X's case was identified for possible referral to the Minister for an assessment against the guidelines under s 195A for the grant of a bridging visa.

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 received treatment for complex mental health concerns and a treating counsellor recommended that he be granted a community placement in order to prevent deterioration of his mental health.

In light of these concerns, Ombudsman recommends that the department expedite the consideration of Mr X's case under s 195A for the grant of a bridging visa.