

ASSESSMENT BY THE COMMONWEALTH OMBUDSMAN FOR TABLING IN PARLIAMENT

Under s 486O of the Migration Act 1958

This is the sixth s 486O assessment on Mr X who has remained in immigration detention for a cumulative period of more than 78 months (six and a half years). The previous assessment 1000881-O was tabled in Parliament on 6 September 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	1980
Ombudsman ID	1000881-O1
Date of department's reports	16 August 2017 and 14 February 2018
Total days in detention	2,368 (at date of department's latest report)

Recent detention history

Since the Ombudsman's previous assessment, Mr X has remained at Facility B.

Recent visa applications/case progression

July 2017	The Minister lifted the bars under ss 46A and 48B of the <i>Migration Act 1958</i> to allow Mr X to lodge a temporary visa application.
September 2017	Lodged a Safe Haven Enterprise visa (SHEV) application.
October 2017	SHEV application refused.
December 2017	The Immigration Assessment Authority (IAA) remitted Mr X's case to the Department of Home Affairs (the department) for reconsideration with the direction that Mr X is owed complementary protection as there are substantial grounds for believing that, as a necessary and foreseeable consequence of Mr X being returned to Country A, there is a real risk he will suffer significant harm.
January 2018	Mr X's case was referred on a ministerial submission for consideration under s 195A for the grant of a bridging visa.
February 2018	The department advised that reconsideration of Mr X's SHEV application remained ongoing. The department further advised that Mr X remained a person of interest to an external agency.

Health and welfare

International Health and Medical Services (IHMS) advised that Mr X received treatment for sleeping difficulties and a depressed mood. In April 2017 a general practitioner noted that Mr X presented as detached and depressed and a treating psychologist referred him to a psychiatrist. The psychiatrist diagnosed him with a depressed mood related to his situational circumstances and Mr X continued to engage with the mental health team as required.

IHMS further advised that Mr X was awaiting an appointment with a general surgeon for gastroenterological concerns.

November 2017

An Incident Report and IHMS recorded that Mr X refused food.

Ombudsman assessment/recommendation

Mr X was detained in April 2009 after arriving in Australia by sea and has remained in an immigration detention facility for a cumulative period of more than six and a half years.

In July 2017 the Minister lifted the bar under ss 46A and 48B to allow Mr X to lodge a temporary visa application and in September 2017 Mr X lodged an application for a SHEV.

Mr X's SHEV application was refused in October 2017. The IAA reviewed the decision and in December 2017 the application was remitted to the department with the direction that Mr X is owed complementary protection.

At the date of the department's latest report reconsideration of Mr X's SHEV application remained ongoing.

The Ombudsman's previous assessment recommended that in light of the significant length of time Mr X has remained in immigration detention, the department prioritise the resolution of his immigration status.

On 6 September 2017 the Minister advised that he had intervened under ss 46A and 48B to lift the bars to allow Mr X to lodge a further temporary visa application.

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 has advised that Mr X was diagnosed with a depressed mood related to his situational circumstances.

In light of the significant length of time Mr X has remained in detention, the Ombudsman recommends that the department expedite the reconsideration of his SHEV application.